

**CHARTER TOWNSHIP OF WATERTOWN
CLINTON COUNTY, MICHIGAN**

**ORDINANCE NO. 38
VENDORS ORDINANCE**

AN ORDINANCE TO ADD CHAPTER 27 – VENDORS – AND ARTICLE I – GENERALLY, SECTIONS 27-1, 27-2, 27-3, 27-4, 27-5, 27-6, 27-7, AND 27-8, AND ARTICLE II – LICENSE – SECTIONS 27-31, 27-32, 27-33, 27-34, 27-35, 27-36, 27-37, 27-38, AND 27-39 TO THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF WATERTOWN, CLINTON COUNTY, MICHIGAN, TO DEFINE, REGULATE, AND LICENSE VENDORS.

ARTICLE I

GENERALLY

The Charter Township of Watertown ordains:

Chapter 27, Article I, Sections 27-1, 27-2, 27-3, 27-4, 27-5, 27-6, 27-7, and 27-8, and Article II, Sections 27-31, 27-32, 27-33, 27-34, 27-35, 27-36, 27-37, 27-38, and 27-39 of the Code of Ordinances, Charter Township of Watertown, Clinton County, Michigan, are hereby created to read as follows:

Sec. 27-1. Short title.

This chapter shall be known as the "Watertown Township Vending Ordinance."

Sec. 27-2. Purpose.

It is the purpose of this chapter to regulate vendors, peddlers, solicitors, etc., as defined herein; to require and provide licensing for same; and to provide a penalty for violations in order to protect the public health, safety and welfare.

Sec. 27-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sales activity means the act of offering merchandise for immediate sale, or for sale by sample, description or otherwise for delivery or sale at a future time, by going door to door, house to house, person to person, car to car, or the exchange of goods or services in any other manner related to the vending activity.

Special event means an organized activity, held on public property, specific to an identifiable place, occurring for a limited period of time, and for which appropriate permission has been obtained from the township, and shall be in accordance with Sec. 28-566.

Vending license or license means a license which allows a person to conduct an approved vending activity within the township, as permitted under this chapter.

Vending means the act of offering merchandise for sale from a fixed place not within a building, from a vehicle or from a fixed place in a tent, canopy or similar shelter, not including merchants offering merchandise for sale upon commercial premises permanently occupied by them; and the act of offering merchandise for immediate sale, or for sale by sample, description or otherwise for delivery or sale at a future time, by going from door to door, house to house, person to person, car to car, or by any other closely related manner; not including the act of offering merchandise for wholesale to retailers or for resale to manufacturers for use in their processes; also not including regular route delivery persons delivering products.

Vendor means any person engaged in the act of vending as defined herein. For the purposes of this chapter, the terms "canvasser," "drummer," "hawker," "huckster," "itinerant merchant," "itinerant vendor," "peddler," "solicitor," "transient merchant," and other closely related terms shall be included as persons herein defined as "vendors."

Sec. 27-4. Rules of conduct.

- (a) Identification shall be presented by the vendor upon request of any citizen, law enforcement officer, or representative of the township or the county.
- (b) The vendor's township vending license and state sales tax license shall be displayed at all times by the vendor so as to be conspicuous during the time of the vending operation.
- (c) Vending, soliciting or peddling, as defined herein, is prohibited at a private residence prior to 9:00 a.m. and after 7:00 p.m., and shall not be conducted on property zoned B-1, B-2 or LI under township ordinance after 7:00 p.m. and prior to 9:00 a.m.
- (d) Vending is not permitted on property where the owner or occupant thereof has displayed a "no soliciting" or similar sign on such premises.
- (e) The proposed vending activity shall not create a fire hazard and may be subject to approval by the township fire marshal.
- (f) The proposed vending activity shall not create a structural safety hazard and may be subject to approval by the township building official.
- (g) The proposed vending activity shall not create traffic circulation and/or parking problems, and may be subject to approval by the township zoning administrator.
- (h) Upon termination of the vending activity, which shall mean cessation of sales activity or expiration of vendor permit, whichever shall come first, all items generated or used by the vending activity shall be removed from the site, including any and all litter, debris, refuse, signs, display tables, etc., which were related to the vending activity on the site.
- (i) The vendor shall comply with any special conditions which may be imposed upon the license by

the township board.

(j) The display of goods, merchandise, vehicles, services or other items permitted by this chapter are prohibited upon any public property located within the township, except during a special event in and around the location of the special event, or within the limits of the public road right-of-way of any street or highway located within the township. Tents, canopies, and other similar shelters relating to the vending activity are also prohibited upon any public property located within the township, except during a special event in and around the location of the special event, or within the limits of the public road right-of-way of any street or highway located within the township.

(k) The use of any sign, banner, flag, or similar device intended to attract attention to the vending activity shall be prohibited within the road right-of-way, and shall be in compliance with chapter VI of Chapter 28.

(l) The display of goods, merchandise, vehicles, services or any other items permitted by this chapter shall be conducted at a minimum of 20 feet setback from the edge of any road right-of-way or from the edge of the property line if said property does not border a roadway. This section shall also apply to tents, canopies or similar shelters, or any manner whatsoever of display relating to vending activity.

(m) If the proposed vending activity intends to use a tent, canopy or similar shelter, vendors shall be in compliance with all applicable laws, township ordinances and regulations, including but not limited to the township fire code. The vendor may be required to obtain a permit for said tent, canopy or similar shelter and allow for an inspection by the township fire department official. Any permit fee associated with this section shall be in addition to the vending permit fee of this article.

(n) The use of any temporary structure, building, stand, booth, trailer or similar structure shall be in accordance with Sec. 28-566.

(o) The use of any portable or vehicle mounted generator, or any similar portable energy producing device shall comply with all applicable township ordinances.

(p) Vendor shall hold property owners harmless for any harm, damage or injury to vendor or vendor's property when accessing real property.

Sec. 27-5. Vending in township parks.

Vending in township parks shall be in accordance with Sec. 22-43 and this chapter.

Sec. 27-6. Administration.

It shall be the responsibility of the township clerk to administer the terms of this chapter.

Sec. 27-7. Enforcement.

It shall be the responsibility of the county sheriff's department, the township supervisor, or a township official appointed by the township supervisor, to enforce the terms of this chapter. The sheriff's department,

township manager, or township official appointed by the township manager, shall have the authority to issue cease and desist orders immediately upon evidence that a vending activity is being conducted within the township prior to the issuance of a vending license by the township clerk or that licensed vending activities are occurring in violation of any of the terms of this chapter.

Sec. 27-8. Violations and penalties.

(a) Violation of the provisions of this chapter shall be punishable as a municipal civil infraction as prescribed within the township code of ordinances.

(b) The charter township shall hold the legal property owner responsible for the clean-up and/or repair of any property within the township due to debris or damage caused by the vending activity. The property owner shall be notified by first class mail of the township's concerns regarding the cleanup and/or repair of any property due to a vending activity, and shall be given 14 days to clean up and/or repair the property to its original condition.

Sec. 27-9 – 27.30. Reserved.

ARTICLE II

LICENSE

Sec. 27-31. Required.

No person, either as principal, agent or representative, shall engage in vending as defined in this chapter within the township without first having obtained a vending license in compliance with the provisions of this chapter except those persons identified under section 27-32 - exceptions.

Sec. 27-32. Exceptions from license requirement.

Persons identified under this section shall not be required to obtain a vending license under the terms of this chapter. In addition, all fees associated with the granting of such license shall also be waived. It is expected that persons operating in the capacities listed below shall respect the terms of this chapter in good faith, and shall otherwise comply with the regulations outlined herein.

- (1) No vending license shall be required for those persons operating yard sales, garage sales, bakes sales, home grown garden stands or other similar types of activities from their own residentially zoned property, or from property on which they currently legally reside. These activities must be temporary in nature so as to comply with all applicable township ordinances, including Sec. 28-566.
- (2) No vending license shall be required for retail sales of produce grown on the premises, including commercial U-pick operations, when conducted as an accessory use to a farm. An activity permitted by this subsection must comply with all other applicable township ordinances.

- (3) No vending license shall be required for regular route delivery persons not including ice cream peddlers and similar vendors.
- (4) No vending license shall be required for licensed food catering trucks that visit multiple private commercial and/or industrial properties on a daily basis and which remain at each property for no more than 30 minutes on any day. For purposes of this section "multiple" shall mean at least three.
- (5) No vending license shall be required for students under the age of 18 fundraising for school, non-profit organizations and similarly related clubs.
- (6) Any persons operating a vending activity, as defined herein, by attempting to solicit sales of goods, wares or merchandise thereafter to be transported to the customer in interstate commerce.
- (7) Any person obtaining a vending license as the duly authorized representative or agent of any political group seeking funds or membership.
- (8) Veterans who have been issued a vending license under State of Michigan Act 359 of 1921, as amended.

Sec. 27-33. Application.

Applicants for a license under this chapter shall submit a verified written application on a form to be provided by the township clerk containing the following information:

- (1) The applicant's name, date of birth, social security number, driver's license number, home address, vehicle description, license plate number, home and work phone number.
- (2) If the applicant intends to have persons other than himself participate in the proposed vending activity, a list of such persons, including the information listed in subsection (1) of this section, shall also be submitted to the township clerk prior to the approval of the vending license.
- (3) The name of the business represented, if different than the applicant, together with the address of the business, phone number, and name of the owner or representative for the service of legal process.
- (4) A description of the nature of the business represented, indicating the goods to be sold, method of delivery, date the permit is desired, hours of operation, location, and the name and phone number of the property owner.
- (5) If a lot, tent, canopy or similar shelter is to be used, or if a vehicle is to be placed upon property that is not owned by the applicant, the name, phone number and signature of the legal owner of the property shall be provided on the application.
- (6) The names, addresses and phone numbers of three local references. If the applicant has never lived or done business within the township, then references from where the applicant lives or has

done business may be used.

- (7) A statement as to whether or not the applicant has ever had any occupational license revoked by any other municipal authority. If so, the name of the municipality and the circumstances of the revocation shall be submitted.
- (8) The signature of the applicant acknowledging his understanding of the regulations contained within this chapter, and acknowledging that failure by the applicant to comply with any of these regulations may result in revocation of the vending license.
- (9) The signature of the property owner granting permission for the proposed vending activity and acknowledging his understanding that the township shall hold the property owner responsible for the clean up and/or repair of the site to its original condition prior to commencement of the vending activity.
- (10) The applicant shall also submit a copy of his valid current state sales tax license or, if exempt, a copy of a current exemption certificate, for all goods or services sold other than nonprepared food for human consumption.
- (11) If prepared food for human consumption is to be sold, the applicant shall submit a copy of the certificate of approval issued by the Mid-Michigan District Health Department.

Sec. 27-34. Investigation of applicant.

- (a) Upon receipt of an application, the township clerk shall cause an investigation of the applicant to be made, which is intended to ensure the protection of the public health, safety and welfare.
- (b) The investigation of the applicant may include the following:
 - (1) Verification of the applicant's identification, driving record and criminal history by the sheriff's department.
 - (2) Contact with the references listed on the application for background information regarding the applicant.
 - (3) Review of the proposed vending activity by the township fire marshal, building official and zoning administrator.
 - (4) Verification of the property owner's consent for the applicant to operate the proposed vending activity.
- (c) The township clerk may contact any other source deemed necessary by the clerk to help determine the applicant's business responsibility and/or criminal history.
- (d) The township clerk or designee shall photograph the location of the proposed vending activity. The photograph is for the purpose of documenting the condition and appearance of the subject property prior to

the establishment of the vending activity.

Sec. 27-35. Nonrefundable application fee; renewal fee.

Before considering any application submitted in accordance with the requirements of this chapter, a nonrefundable fee shall be collected by the township clerk, except from those persons exempt from the license fee as identified by section 27-32, in order to defray the cost of the investigation of the applicant as mandated. The application fee shall be set from time to time by the township board by resolution. There shall be two fees established, one being an application fee and the other being a renewal fee. The renewal fee shall be charged to renew any vending license for the same applicant to conduct the same activity at the same site within six months of the issuance of the original license. In all other instances, the full application fee shall be charged for the investigation of the applicant as mandated by section 27-34.

Sec. 27-36. Issuance; display; denial; appeal process.

(a) If, as a result of the clerk's investigation, the business responsibility and/or criminal history of the applicant are satisfactory, the clerk shall approve the license and issue a certificate bearing the words "licensed vendor" having the signature of the township clerk or deputy township clerk. The license and certificate shall be issued within ten business days from the day the application was originally filed. The certificate shall also stipulate the period for which the license is valid and the license number. The certificate shall be displayed by the vendor so as to be conspicuous during the time of the vending operation.

(b) If, as a result of the clerk's investigation, the business responsibility and/or criminal history of the applicant are unsatisfactory, the clerk shall deny the application within ten business days from the day the application was originally filed. The clerk shall notify the applicant in writing of the specific reason(s) why the application was denied. The notice shall be sent by certified mail, return receipt requested, postage prepaid, to the address as stated on the application.

(c) The denial of the license by the clerk may be appealed to the township board if so desired by the applicant provided that a written request to appeal is filed with the clerk within 20 days of the receipt of license denial. A failure to file a request for appeal within 20 days shall be deemed to constitute a waiver of appeal. Upon proper filing of a timely request for appeal by the applicant, the clerk shall take the appropriate steps necessary to place the applicant's appeal on the next township board agenda. The township board shall deny, approve, or approve with conditions the application as determined by the board to be in the best interests of the public health, safety and welfare.

(d) If after an appeal to the township board the application is approved, the clerk shall issue a certificate bearing the words "licensed vendor" and the signature of the township clerk or deputy township clerk. The license and certificate shall be issued on the next business day following the township board meeting. The certificate shall stipulate the period for which the license is valid, the number of the license, and shall note any special conditions the board may have attached to the issuance of the license. The certificate shall be displayed by the vendor so as to be conspicuous during the time of the vending operation.

(e) If the township board denies the application, the township clerk shall notify the applicant thereof in writing by certified mail, return receipt requested, postage prepaid, sent to the address as stated on the

application with a statement of the specific reason(s) for denial. Any decision made by the township board shall be final.

Sec. 27-37. Transferability.

No vending license issued to any person under the provisions of this chapter shall be used by any person other than the person to whom it was issued.

Sec. 27-38. General conditions.

(a) *Term.* Vending licenses shall be valid for a maximum of 15 consecutive days from the day the license was originally issued, except as provided by section 27-39.

(b) *Number per person and property.* No more than two 15-day vending licenses shall be issued to the same person, firm, corporation or other entity including any agent or representative thereof, and vending shall not be allowed to be conducted upon property zoned B-1, B-2 or LI under township ordinance for longer than the terms of two 15-day vending licenses, within a one-year time period. The prescribed fee shall be required to be paid for each license, as determined by section 27-35.

(c) *Number per site.* No more than one license may be issued for the same site for the same time period by the township clerk. The issuance of more than one license for a site shall be as determined by the township board. The following criteria shall be used by the township board to reach its decision:

- (1) Size and location of site.
- (2) Availability of parking.
- (3) Type of vending activity.
- (4) Hours of operation of the vending activity.

(d) *Copies to be filed.* A copy of the vending license application and a copy of the state sales tax license issued by the county treasurer shall be mailed to the registration section of the state department of treasury by the township clerk within ten days of the issuance of the vending license.

Sec. 27-39. Suspension and revocation.

(a) The township clerk may suspend any license issued under the provisions of this chapter upon evidence being presented to the clerk alleging any of the following:

- (1) A violation of any of the regulations or provisions outlined within this chapter.
- (2) Fraud, misrepresentation or false statement contained in the application for the license.
- (3) Fraud, misrepresentation or false statement made in the course of carrying on the vending activity.

(4) Conviction of a felony.

(5) Operation of the vending activity in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the public health, safety and welfare.

(b) The township clerk shall notify the sheriff's department of the suspension and request that a certified letter drafted by the clerk notifying the licensee of his license suspension with a statement of the specific reason(s) for same be delivered to the licensee.

(c) Upon notice of license suspension by the township clerk, all vending activity on the site must cease immediately. If the person aggrieved by such action fails to contact the township clerk within five days from the day of the license suspension, the vending license shall be revoked.

(d) The person aggrieved by the suspension of the license shall have the right to a hearing before the township board, provided that a written request thereof is filed with the township clerk within five days of the receipt of the notice of license suspension. The hearing shall be conducted at the next township board meeting.

(e) The township board shall, after the holding of a hearing, reinstate, reinstate with conditions, or revoke the vending license. Any decision made by the township board shall be final.

(f) Upon revocation of the license, the application fee shall not be refunded.

(g) If the license is reinstated by the township board, the aggrieved licensee shall be credited with the number of days during which the license was suspended, such that the licensee will not lose any business days permitted by the issuance of the original license.

(h) No person whose vending license has been revoked shall be eligible to receive another vending license to do business within the township for five years from the date of license revocation.