

277 Vending, Peddling, and Soliciting

277-1 Authority

- A. Pursuant to Article IX of the New York State Constitution, home rule authority is granted to local municipalities.
- B. Municipal Home Rule Law § 10, Subdivision 1(ii)a(12), authorizes adoption of local laws for the government, protection, order, conduct, safety, health and well-being of persons or property, including but not limited to local laws to regulate or license occupations or businesses that engage in Vending and related activities.
- C. Municipal Home Rule Law Articles 2 and 3 authorize adoption of local laws to regulate activities that take place on Streets, public parks, and private property.

277-2 Purpose

The purpose of this chapter is to regulate Vending in order to:

- A. Promote the health, safety, and general welfare of the Village;
- B. Provide standards for Vending that enhance the downtown culture and economy;
- C. Protect and enhance Village property, streetscapes, and scenic views; and
- D. Preserve the historic character of the Village.

277-3 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

FACADE – A building's vertical surfaces, including all permanent architectural details.

FIXED-LOCATION BUSINESS — A business operated on a Long-Term basis from a building.

GENERAL VENDING — Vending occurring apart from a Special Vending Event.

LONG-TERM – 30 consecutive days or more.

MERCHANDISE — the commodities or goods that are bought and sold or leased in business.

MOTOR VEHICLE — Any conveyance, including by not limited to cars, trucks, trailers, and RVs, that is required to be registered by the Department of Motor Vehicles of any state or foreign country.

MUNCIPAL PARKING LOT — An area devoted to outdoor, off-street, Motor Vehicle storage owned by or leased to the Village of Cooperstown.

OUTDOOR EATING AREA — An exterior space accessory to a restaurant, cafe, tavern, or retail food establishment that provides tables and chairs or similar equipment for outdoor table service or self-service dining.

PUBLIC SPACE — All municipally-owned property, including parks, parking lots, areas surrounding public buildings, and property within the Street right-of-way, including any roadways and Sidewalks, which is legally open to public use.

SERVICES — Intangibles offered for sale, including but not limited to accounting, cleaning, beauty treatments, tutoring, touring, exercise programs, or transportation.

SIDEWALK — All that area legally open to public use for pedestrian traffic, whether publicly or privately owned, between the curb line and the Facade of the adjoining building.

SPECIAL VENDING EVENT — Any occasion approved by the Village of Cooperstown Board of Trustees for which provisions are in place for Vending on Village Streets, Sidewalks, and Municipal Parking Lots.

STREET — For the purposes of this chapter, all that area legally open to public use for vehicular passage and parking.

STREET FURNITURE — Miscellaneous objects not directly related to Vending or an Outdoor Eating Area that are placed in the right-of-way, including but not limited to benches, trash receptacles, pet stations, flower boxes and plant containers, lampposts and flag poles, and other decorative items.

TENT — A freestanding, temporary enclosure that is supported by poles and serves the purpose of sheltering people or Merchandise by providing a covering of canvas, nylon, vinyl, or a similar material; the sides of a Tent may be open or closed.

VENDING — The act of displaying or offering Merchandise or Services for sale or lease on public property; Vending may involve a Vending Stand or stationary Vending Conveyance.

VENDING CONVEYANCE — Any public or privately owned vehicle, whether or not mounted on wheels, which provides a means of transporting Vending Merchandise but remains stationary during Vending, including but not limited to a bicycle, Motor Vehicle, nonmotorized vehicle, handcart, pushcart, or lunch wagon.

VENDING LOCATION — A specific site assigned by the Village Clerk upon which a Vending Stand or Conveyance may be situated and/or Vending may take place.

VENDING STAND — Any freestanding, nonmobile case, table, rack, Tent, or other device that is used for the purpose of displaying, exhibiting, storing, sheltering, selling, or offering for sale or lease any Vending Merchandise upon a Sidewalk or other Public Space.

VENDOR — A person engaged in Vending.

277-4 General Vending on Public Property

A. Vending may be permitted in:

1. Village-owned parks within the Village, excluding Council Rock Park;

2. Village-owned parks outside of the Village, subject to the regulations in the jurisdiction in which the park is located;
 3. Public Space adjoining public buildings;
 4. Public Space adjoining Municipal Parking Lots;
 5. Public Space adjoining Doubleday Field, excluding designated parking areas.
- B. The Village of Cooperstown Board of Trustees, at duly noticed and convened meetings, reviews applications for General Vending and may issue permits for the same.
- C. Vending Restrictions – Vending Conveyances and Vending Stands shall:
1. Not block access to any pedestrian crosswalk, loading zone, bus loading zone, or parking space or access ramp designated for persons with disability.
 2. Maintain at all times at least a five-foot-wide public passageway on all Sidewalks, which is unobstructed by Vending Stands, Conveyances, Merchandise, and customer lines.
 3. Not block the view of traffic signals or regulatory signs.
 4. Not operate within 10 feet of any Street intersection, driveway, or fire hydrant.
 5. Not restrict or interfere with the use of adjacent properties.
 6. Not operate within three feet of a Fixed-Location Business's building entrance or on the Sidewalk within three feet in front of a Fixed-Location Business's display window(s) unless the business owner has granted written permission.
 7. Not obstruct adequate access to emergency and sanitation vehicles.
- D. Design standards.
1. Vending Conveyances and Vending Stands shall be clean, of sound construction, and orderly in appearance.
 2. A Vending Conveyance or Stand shall not be attached to Village property or to private property without the owner's permission.
 3. A Vending Conveyance, when fully loaded with Vending Merchandise, shall be easily moved and maintained under control by the Vendor or law enforcement personnel or first responders.
 4. Supplies, stored Vending Merchandise, and equipment associated with Vending shall be screened from public view.
 5. Merchandise shall not be displayed on Street Furniture, umbrellas, awnings, or building Facades.
 6. Signage is limited to 40 square feet and shall not project outside the space occupied by the Vending Conveyance or Vending Stand.
 7. All signage must be securely fixed, but no sign or sign hanger shall be attached to any tree, shrub, utility pole, guywire, street sign, or Street Furniture.
 8. Street Furniture, Tents, table skirts, and umbrellas shall not include any advertising for any Vending Merchandise, product, service, Vendor, or brand that is not sold, leased, or offered by the Vendor.

E. Operation and service requirements.

1. Vendors may engage in Vending only between the hours of 8:00 a.m. and 10:00 p.m.
2. Vending shall not create a nuisance, increase traffic congestion or delay, or constitute a hazard to life or property.
3. Vending shall not cause any damage to Village property, including paved surfaces.
4. Venders shall not obstruct Motor Vehicle traffic.
5. Vending Conveyances and Vending Stands shall be attended at all times.
6. No Vending Location shall use sound amplification or employ devices that produce raucous sound except when a permit or variance has been issued under the Village of Cooperstown's Noise Ordinance.
7. Vendors shall keep the area within and adjacent to their Vending Location clean and free of refuse of any kind. The Vendor is responsible for collecting and removing Vending-related trash and debris. All trash or debris accumulating within five feet of any Vending Location shall be collected and removed by the Vendor.
8. Persons engaged in food Vending shall provide at their Vending Conveyance or Vending Stand a receptacle for trash that shall be maintained and emptied regularly.
9. No Vending Conveyance shall be located in any Public Space during non-vending hours except for a Motor Vehicle parked in a lawful parking place.
10. Seating or standing spaces on public property may not be sold or leased by a non-municipal entity.

277-5 Vending on Public Property during Special Vending Events

- A. All the provisions related to General Vending as outlined in 277-4 (C), (D) and (E) also apply during Special Vending Events. Additional restrictions on day and time may be established for Special Vending Events.
- B. The Village of Cooperstown Board of Trustees may permit Vending during established Special Vending Event periods in all areas in which General Vending is permitted as well as additional designated areas in:
 1. Village Streets;
 2. Public Sidewalks and rights of way;
 3. Municipal Parking Lots.
- C. When a Special Vending Event has been declared by the Village of Cooperstown Board of Trustees, applications for permits to vend during that period will be processed and Vending Locations assigned by the Village Clerk.

277- 6 Parking of Vehicles on Private Property during a Special Vending Event

- A. In establishing a Special Vending Event, the Village of Cooperstown Board of Trustees may, with a permit, allow for the renting of spaces for off-street parking on private property by property owners.
- B. No vehicle may be parked less than three feet from a public Sidewalk.

- C. Permit holders may place on their property no more than one two-sided sign, not greater than six square feet in area per side to advertise parking.

277-7 Outdoor Display of Merchandise on Private Property

- A. A permit is required for a Fixed-Location Business in the Business District or the Commercial District to display Merchandise outdoors on private property.
- B. Outdoor display of Merchandise is limited to private property adjacent to a Village public Street or Sidewalk directly in front of the Fixed-Location Business.
- C. Merchandise may not be displayed in driveways that provide access to parking or access for emergency vehicles or personnel to the side or rear of a building.
- D. Merchandise display is permitted only during the Fixed-Location Business's normal business hours.
- E. Signage associated with outdoor display of Merchandise on private property is subject to Village Code Chapter 227, Signs.
- F. A Fixed-Location Business shall not be required to have a permit for Merchandise displayed between the Facade and entrance to the building, including alcoves and existing porches. Awnings projecting from the Facade do not constitute an alcove or a porch.

277-8 Hawking, Peddling, and Soliciting

A. Prohibited activities

1. It shall be unlawful to hawk, or to call out or verbally entreat or to use bells, horns, or other sound-producing devices, for the purpose of seeking to attract persons for commercial purposes on public rights-of-way, including Streets and Sidewalks, and on private property adjacent to such public rights-of-way.
2. It shall be unlawful for any person to peddle handbills, pamphlets, tracts, or other like materials for commercial purposes on public rights-of-way, including Streets and Sidewalks, and on private property adjacent to such public rights-of-way.

B. Permitted activities

1. A Village permit is required to solicit house-to-house within the Village of Cooperstown for any commercial purpose, including but not limited to soliciting the purchase, sale, or lease of Merchandise or Services.
 1. It shall be unlawful for any person to enter upon private property for any commercial solicitation before the hour of 9:00 a.m. of any day or after 1/2 hour before sunset of any day, except upon the invitation of the householder or occupant.
 3. It shall be unlawful for any solicitor in plying his trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents," or other wording the purpose of which is to prohibit peddling or soliciting on the premises.

277-9 Permit Requirements and Procedures

- A. It shall be unlawful for any person to engage in the business of the above enumerated activities unless they have first obtained a permit from the Village Clerk, except in cases when the Village of Cooperstown Board of Trustees specifically waives the permit requirement. No provision of this chapter shall be applied so as to impose any undue burden on either interstate commerce or any activity of the state or federal government.
- B. Permit applications under this law shall be submitted to the Village Clerk. Permit applications for General Vending must be received five days before the 4th Monday of the month for consideration by the Village of Cooperstown Board of Trustees. All other applications must be submitted seven days prior to Vending, Display of Merchandise, Parking, or Soliciting for processing by the Village Clerk.
- C. Fees for permits shall be as specified by the Village of Cooperstown Board of Trustees. In the event there is a request to use Village-provided electricity in public locations, or other Village services such as Village trash and recycling receptacles, a separate fee established by the Village of Cooperstown Board of Trustees will be required to be paid in advance.
- D. The application for a permit shall contain, at minimum, the following:
 - 1. The applicant's full name, address, telephone number, and e-mail address, accompanied by a valid government-issued proof of identity.
 - 2. The dates for which the permit is sought and indication of whether that period includes any designated Special Vending Events is applicable.
 - 3. A brief description of the nature and character of Merchandise and/or Services to be offered for sale or lease.
 - 4. A photograph, sketch, brochure, or other graphic rendering of the proposed Vending Stand or Conveyance if applicable.
 - 5. The location sought and if within three feet of the entrance to a Fixed-Location Business or on the Sidewalk within three feet in front of a Fixed-Location Business's display window(s), written permission from the business owner for Vending.
 - 6. Any requests for Village services, including electricity, trash removal, etc.
 - 7. If a Motor Vehicle is to be used, a description of the vehicle, together with the Motor Vehicle registration number, state of registration, and license number.
 - 8. If for the sale of food or beverages, a Health Department permit indicating compliance with all applicable regulations.
 - 9. If Village property is to be used, a hold harmless agreement and a certificate of insurance naming the Village of Cooperstown as an additional insured in an amount as stipulated by the Village of Cooperstown Board of Trustees.
 - 10. A permit application for outdoor display of Merchandise on private property shall include a copy of a survey of the property.
- E. The Village of Cooperstown Board of Trustees may consider an application for a blanket permit to include multiple Vendors made by a sponsoring organization during a Special Vending Event. The sponsoring organization must provide a list of Vendors under the permit to the Village Clerk seven days prior to the event. The sponsoring organization is responsible

for providing a certificate of insurance naming the Village of Cooperstown as additional insured at the established limits. It is also responsible for obtaining signed hold harmless agreements from its Vendors to be provided to the Village and any other required certificates, including but not limited to a Health Department certificate in the event of food sales.

- F. The applicant shall be notified, in writing, by the Village Clerk of the decision to issue a permit or deny the Vending application.
- G. Any permit issued by the Village of Cooperstown Board of Trustees or Village Clerk shall be carried with the permit holder whenever he or she is engaged in Vending and shall be presented upon request from a law enforcement officer or Village official. Certificates of health inspection shall also be properly and conspicuously displayed at all times during operation of the business.
- H. All permits issued hereunder shall be nontransferable.

277-10 Activities Exempt from Permit Requirements

This section shall not apply to:

- A. Persons conducting business activities that are exempt under New York State law.
- B. The holder of a permit granted pursuant to Article 4 of the General Business Law.
- C. The distribution of newspapers.
- D. Yard or garage sales of used personal/household goods conducted wholly on the owner's property and at least three feet from the property line for not more than three days per event and not exceeding three events per year.
- E. Vending Stands located on private property and used for the sale of food/drink solely by individuals under 18 years of age.
- F. The door-to-door solicitation by individuals under 18 years of age to support educational, civic, sports, or other non-profit organizations.
- G. Exhibition/sale of agricultural or horticultural products.
- H. The placement against a building Facade of privately-owned Street Furniture available for use by the public, provided it does not impede upon a five-foot- wide unobstructed pedestrian passageway, is maintained by its owner, and is removed between November 1 and April 1. Street Furniture for seating is limited to two benches per frontage per business establishment. A certificate of insurance naming the Village as an additional insured is required if benches or other Street Furniture are located on public property.

- I. Restaurants with an Outdoor Eating Area located entirely on private property or approved under Chapter 178 of the Village Code.
- J. Fairs, exhibitions, or sales, including concessions, sponsored by nonprofit service organizations, including but not limited to the Fire Department, public schools, and religious organizations, of not more than three days' duration, conducted on private property.
- K. Commercial information displayed by the Cooperstown Area Chamber of Commerce at the information booth/kiosk in Pioneer Park.
- L. Walking tours that use Village parks, Sidewalks, and/or rights of way to convey architectural, historical, and/or folkloristic information about the Village of Cooperstown provided they do not inhibit vehicular or pedestrian traffic.

277-11 Enforcement

- A. Officers and employees of the Police Department shall have the power to enforce all laws, rules and regulations relating to Vending and related activities. This provision shall in no way restrict any other power granted by law to an officer or employee of any other agency.
- B. Upon a finding that an applicant has violated any provision of this chapter, an officer or employee of the Police Department shall deliver written notice to the applicant to correct such violation. Upon failure to correct said violation within four hours of the verifiable delivery of such notice to the Vendor or the address provided on the application, the Village Clerk may revoke the applicant's permit to vend, upon which revocation the permit fee shall be forfeited, and the Vendor shall cease Vending and vacate the Vending Location immediately.
- C. In addition to the revocation of the Vending permit and forfeiture of the permit fee, the Vendor shall be subject to not exceeding \$250 for each violation. Each day of violation shall be deemed a separate offense.
- D. Applicants who violate provisions of this chapter or local zoning or Outdoor Eating Area laws shall be prohibited from applying for a Vending permit for a period of thirteen months from the date of the violation.

277-12 Construal of provisions

No part of this chapter or the chapter itself shall be construed to be an amplification or derogation of the rights or responsibilities of property owners. Any remedies, rights, obligations, or penalties provided to such property owners or their successors in interest hereunder shall be in addition to the remedies, rights, obligations, or penalties provided under the laws of the State of New York.