

I move the adoption of Local Law ____ of 2012 .

The Town Board hereby repeals Article 200-49 in its entirety and replaces it with the following:

200-49 Vending of refreshments

A. License requirements.

- (1) It shall be unlawful to operate a refreshment stand in the Town of Milan without a license.
- (2) Licenses shall be valid from the date of issue through December 31 of the calendar year in which issued.
- (3) License fees. License fees shall be payable in full, for the entire period of the license, upon application for said license and shall be set in the Town's fee schedule, Chapter A208. License fees shall be nonrefundable and shall not be prorated.
- (4) Application requirements.
 - (a) Applicants for a license to operate a refreshment stand or a renewal thereof shall file with the Code Enforcement Officer a verified application upon a form supplied by the Building Department and the application processing fee and license fee as set forth in the Town's fee schedule, Chapter A208.
 - (b) The Town Board may by resolution prepare and amend the application for a vending license.
- (5) Any honorably discharged veteran of the Armed Services of the United States who has obtained a veteran's license from the Dutchess County Clerk under § 32 of the General Business Law, to hawk, peddle, vend or solicit trade on the streets and highways within the County of Dutchess, shall be exempt from the fee provisions of this section. Upon approval of the veteran's application, the Zoning Enforcement Officer will issue the license to the veteran to operate a refreshment stand, subject to all other provisions of this section.
- (6) The license shall specify the lot where the refreshment stand is to be located and shall be valid for that lot only. Only one licensed refreshment stand may operate on a lot at any given time.
- (7) The license shall be in a form prescribed by the Code Enforcement Officer.
- (8) No license shall be issued to any applicant if the business sought to be licensed does not comply with all applicable federal, state, and local laws, ordinances and regulations.
- (9) Within a reasonable time of receiving the application, the Code Enforcement Officer shall either issue the license or deny the application. If the application is denied, the Code Enforcement Officer shall notify the applicant, in writing, giving the reasons for the rejection.

- (10) All licenses shall be displayed in a conspicuous place at all times during the operation of the refreshment stand.
- (11) A license may not be transferred or assigned and the lot for which it is valid shall not be changed.
- (12) The provisions of this section shall not apply to the selling of farm produce by farmers and/or their employees or persons who produce and sell goods on their own property in the Town of Milan. Farm produce shall be interpreted only to mean edible farm products.
- (13) The provisions of this section shall not apply to individuals under the age of 18 years who vend Girl Scout cookies, candy, or similar items.
- (14) It shall be lawful for any resident under the age of 18 to sell beverages and pastries in any zoning district in the Town of Milan, provided that the sale is held on residential or commercial property owned by a parent or legal guardian. Such sale shall not require a vending application or the payment of a vending fee.

B. Suspension or revocation of license.

- (1) A license may be revoked by the Code Enforcement Officer only after notice, in writing, and an opportunity to be heard by the Zoning Board of Appeals is given to the operator of the refreshment stand.
- (2) Written notice of intent to suspend or revoke shall be given by certified mail, return receipt requested, to the licensee at his, her or its last known address of record. Notice of a hearing for the revocation of a license shall be given by the Code Enforcement Officer, in writing, setting forth specifically the grounds of the complaint and the time and date of hearing. Such notice shall be mailed, certified mail, return receipt requested, to the licensee at his, her or its last known address at least 10 days prior to the date set for hearing.
- (3) The Code Enforcement Officer shall suspend or revoke the license of any operator of a refreshment stand found to have violated or to have permitted a violation of any provision of this chapter or any other ordinance, rule or regulation or state or federal law pertaining to the operation of the refreshment stand or for any of the following causes:
 - (a) Fraud, misrepresentation or false statement contained in an application for a license.
 - (b) Fraud, misrepresentation or false statement made in the course of operating a refreshment stand.
 - (c) Conviction for any criminal offense for which a license could have been denied pursuant to § 752 of the New York State Correction Law.
 - (d) Operating a refreshment stand in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

(e) Upon the recommendation of the Dutchess County Department of Health that the sale of food or food products or other edibles is being conducted under unsanitary conditions or that there is a violation of law, regulation, code or ordinance cited by the Dutchess County Department of Health.

- (4) Upon a determination that a license should be suspended or revoked, the Code Enforcement Officer shall notify the vendor, in writing by certified mail, return receipt requested, setting forth reasons for such suspension or revocation.
- (5) Upon receipt of a notice from the Code Enforcement Officer that the vendor's license is to be suspended or revoked, the vendor shall have ten (10) days to appeal the proposed action of the Code Enforcement Officer to the Zoning Board of Appeals. The Zoning Board of Appeals shall set a date and time for hearing the appeal within thirty (30) days from the receipt of the notice of appeal. The Zoning Board of Appeals may reverse or sustain the action of the Code Enforcement Officer.
- (6) When a license has been revoked, no other license shall be issued to the same person or business entity until after the expiration of at least one year.
- (7) Upon revocation of any license, the license fee shall be forfeited.

C. Operating requirements.

- (1) Refreshment stands shall be permitted to operate on any day or days during the calendar year.
- (2) Refreshment stands are only permitted in the Hamlet District and Highway Business District.
- (3) Refreshment stands may only be operated on private property with the written permission of the owner. It shall be unlawful to operate a refreshment stand on any county road within the Town or in the Town right-of-way.
- (4) Pursuant to § 1157, Paragraph (c), and § 1800 of the New York State Vehicle and Traffic Law, no person shall occupy any part of a state highway in any manner for the purpose of selling or soliciting, except a veteran holding a peddler's license under §§ 32 and 35 of the General Business Law.
- (5) Notwithstanding any other provisions of this Chapter, a refreshment stand shall be considered a permissible accessory use in the Hamlet District and Highway Business District. A refreshment stand shall require a license but shall not require a special permit.
- (6) Notwithstanding any other provisions of this chapter, a refreshment stand shall be allowed one portable sign on the property on which it is located to identify the refreshment stand. Said sign shall be removed when the refreshment stand is not in operation. No signs shall be permitted along the highway advertising the refreshment stand other than the one portable sign provided for herein.
- (7) Only one refreshment stand shall be allowed to operate on a lot at any given time.

- (8) There shall be adequate space for the safe ingress and egress of cars, which shall be verified by the Code Enforcement Officer prior to issuing the license.
 - (9) There shall be adequate parking for at least two customer's cars on the property where the refreshment stand is located, which shall be verified by the Code Enforcement Officer prior to issuing the license.
 - (10) No refreshment stands shall be operated in a manner that interferes with pedestrian or vehicular traffic.
 - (11) No refreshment stand shall be operated from one hour before sunset until one hour after sunrise of the following day.
 - (12) At the end of operation each day and not later than one hour before sunset, the refreshment stand shall be removed, and the area where it is located shall be cleared of all trash and debris.
- D. Replacement of license. If a refreshment stand license is lost or stolen, such shall be reported to the Code Enforcement Officer within 10 days. Upon notification, the Code Enforcement Officer shall issue a replacement refreshment stand license at the cost provided for in the Town's Fee Schedule.
- E. Nontransferability. No license issued under the provisions of this section may be used or displayed at any time by any person or business entity other than the person or entity whose name appears on the license.
- F. Penalties for offenses. Any person who violates any provision of this section shall be subject to the penalty provisions of § 200-55 of this chapter and the recourse provisions of § 200-56 of this Chapter.