



Charter Township of Brandon
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ORDINANCE # 195-24

AMENDMENT TO CHAPTER 6,
Amusements and Entertainments,
Charter Township of Brandon Code of Ordinances,
adding Article IV, Sections 6-138 to 6-150,
Mobile Food Establishments

PREAMBLE

The Board of Trustees of The Charter Township of Brandon has determined that the public health, safety and general welfare will be served if the Code of Ordinances, Chapter 6, Amusements and Entertainments, is amended to add Article IV, Mobile Food Establishments, Sections 6-138 to 6-150, inclusive.

THE CHARTER TOWNSHIP OF BRANDON, OAKLAND COUNTY, MICHIGAN

ORDAINS:

Sec. 6-138 Short title.

This chapter shall be known and may be cited as the Charter Township of Brandon Mobile Food Establishment Ordinance.

Sec. 6-139. Definitions.

As used in this chapter, the following terms and phrases shall have the following meanings. Except as explicitly defined below, terms and phrases shall have the meanings as defined in this Code.

Alcoholic liquor means as defined in Chapter 4 of this Code.

Days means calendar days, unless stated otherwise.

Food cart means a small, pulled cart that parks and engages in the service, sale, or distribution of ready-to-eat foods for individual-portion service directly from the cart.

Food trailer means a trailer that parks and engages in the sale, service, or distribution of ready-to-eat foods for individual-portion service directly from the trailer.

Food truck means a motorized vehicle that parks and engages in the service, sale, or distribution of ready-to-eat foods for individual-portion service directly from the truck.

Mobile food establishment means a food establishment operating from a food truck, food trailer, or food cart, and includes entities described in MCL 259.1109(q)..

Mobile food vending unit means a motorized or non-motorized vehicle, trailer, cart, or other device designed to be portable and not permanently attached to the ground and in which food or drink is prepared for direct consumption through service on the premises or elsewhere, including a food truck, food trailer, or food cart.

Person means an individual, corporation, association, partnership, trust, firm, or similar entity.

Private event means an event not open to the general public, including, but not limited to, private parties, private fundraisers, block parties.

Township means the Charter Township of Brandon.

Township event means events coordinated or sponsored by the Township and located within the Township or designated as such by resolution of the Township Board.

Sec. 6-140. Statement of purpose.

The intent and purpose of this chapter is to ensure the safe and orderly operation of mobile food establishments within the Township.

Sec. 6-141. Scope.

- (a) *Applicability.* This chapter shall apply to mobile food establishments engaged in the business of cooking, preparing, or distributing food or beverages with or without charge upon or in public or private spaces. This chapter does not apply to vehicles that dispense food and that move from place to place and are not stationary in the same location for more than 15 minutes, such as ice cream trucks.
- (b) *No establishment of vested rights.* Approvals under this chapter do not establish any vested rights.

Sec. 6-142. General provisions.

Mobile food establishments shall comply with the following standards:

- (a) *Property owner permission.* Mobile food establishments operating on private or public property must receive advance written consent of the property owner.
- (b) *Alcoholic liquor.* Mobile food establishments shall not serve alcoholic liquor or allow the consumption of alcoholic liquor in their service area(s) or dining area(s), unless specifically approved by the Township Board, pursuant to Chapter 4 of this Code.
- (c) *Hours of operation.* Mobile food establishments shall not operate before 6:00 a.m. or after 11:00 p.m., unless otherwise permitted as part of a Township event.
- (d) *Service area.* The area(s) where customers stand in line to place or pick up an order ("service area(s)") for mobile food establishments shall not be located in a street or road, (exception if the road is closed to traffic for an event), and, if in a parking lot, shall be in a delineated safe location away from the travel lanes.
- (e) *Dining areas.* The area(s) where customers may sit or stand at tables to consume food or beverages ("dining area(s)") shall be at least ten feet away from mobile food vending units, shall not be located in a street, road, or road shoulder (exception if the road is closed to traffic for an event), and, if in a parking lot, shall be in a delineated safe location away from the travel lanes.
- (f) *Preparation and storage.* All units must follow Oakland County Health Department requirements.
- (g) *Obstructions.* Mobile food establishments operating from mobile food vending units, and their respective service areas and dining areas, shall not obstruct or impede vehicular travel or movement nor create visual obstructions for vehicular traffic.
- (h) *Awnings.* Any awning shall have a minimum clearance of seven feet between the ground and the lowest point of the awning when fully extended.

- (i) *Waste.* Waste associated with mobile food establishments shall be managed as set forth below:
 - (1) *Waste container.* Mobile food establishments must be equipped with sufficient garbage or refuse containers to handle their waste, including service areas and dining areas.
 - (2) *Daily cleaning.* All waste, spilled food, food byproducts, and litter associated with each mobile food vending unit (collectively "waste") must be cleaned up and collected and thereafter properly and lawfully disposed of by the mobile food establishment operator, upon closing the day's operation and at any time that accumulated waste is in violation of Chapter 18, Article III. of this Code. In no event shall a mobile food establishment leave an operation site prior to complete clean up and collection of waste.
 - (3) *Dumping of fluids.* Dumping of gray water, grease, or any other fluid onto land or any street or into any storm sewer is prohibited.
- (j) *Noise.* Mobile food establishments shall not make or cause any unreasonable or excessive noise.
 - (1) *Noise standards.* The operation of mobile food vending units, including generators, shall be subject to the noise standards in Chapter 28, section 219.
 - (2) *Other sounds.* Also, loud music, horns, sirens, amplified announcements, or other high-decibel or shrill sounds associated with operation of the mobile food establishment are prohibited.
- (k) *Odors.* Mobile food establishments shall not create offensive odors of such intensity and character as to be detrimental to the health and welfare of the public, or that interfere unreasonably with the comfort of the public, or that are noticeable on adjacent properties or public spaces.
- (l) *Lighting.* Lighting associated with mobile food establishments shall not cause distractions for motorists or create negative impacts for surrounding properties.
 - (1) *Non-steady lights.* Flashing, blinking, or moving lights are prohibited when a mobile food vending unit is parked or serving customers.
 - (2) *Shielding.* All exterior lights greater than 800 lumens, equivalent to a 60 watt incandescent light bulb, shall have an opaque shield to direct illumination downwards.
- (m) *Signage.* Only signs attached to or mounted on the mobile food vending unit are allowed. Freestanding signs are prohibited.
- (n) *Fire code.* Mobile food establishments shall comply with fire code standards, including, but not limited to standards required for fire extinguishers, fire extinguishing systems, compressed gas/liquid propane gas, generators, electrical, location, and general fire safety.
- (o) *Water.* Mobile food vending units shall not be temporarily connected to a water source, unless the applicant provides verification to the Township that it is a potable water source.
- (p) *Sewer.* Mobile food vending units shall not be connected to sanitary or storm sewer facilities.
- (q) *Wheel chocks.* Mobile food vending units shall use wheel chocks while parked to prepare or distribute food.
- (r) *Registration and insurance.* All mobile food vending units shall have proper vehicle registrations and current/valid registration plates. All vehicles shall be properly insured in accordance with Michigan state law. All operators must process a valid driver's license.
- (s) *Overnight parking and equipment storage.*
 - (1) Overnight parking of vending units and equipment storage is prohibited In any zoning district other than commercial or industrial zones, unless stored entirely within an enclosed building, or

as permitted for a Township event. Outside overnight storage of any equipment associated with a mobile food establishment, including, but not limited to,

Tables, chairs, waste receptacles ("associated equipment") is prohibited, except as may be expressly permitted for a Township event.

(2) if allowed by the terms of its permit, a mobile food vending unit may be parked outside overnight. Overnight storage of a mobile food establishment's associated equipment outside of an enclosed building, or outside of a food truck or food trailer, is prohibited.

(t) *Display of permits.* Mobile food establishments shall prominently display any required permits and licenses.

▪ **Sec. 6-143. Licenses and permits.**

It shall be a violation of this chapter to operate a mobile food establishment without the following licenses, permits, and approvals.

(a) *Fire Inspection.* All mobile food establishments must obtain an annual Fire Inspection, which shall be valid for the remaining portion of the calendar year in which it is issued, provided that the applicant remains in compliance with the license requirements.

(b) (1) *Mobile food establishment permit.* Mobile food establishments open to the general public or associated with Township events must obtain a permit as set forth in more detail below, which, depending on the type of permit requested, shall be valid either for the remaining portion of the calendar year in which it is issued or for the duration of the single event or events for which a permit is sought, provided that the applicant remains in compliance with the permit requirements.

(2) *Exception for private events.* Mobile food establishments serving a private event, not open to the general public, and located on private property, are not required to obtain a mobile food establishment permit for such event.

(c) *Oakland County Health Department permit.* All mobile food establishments must obtain and maintain any permits and approvals required by the Oakland County Health Department.

(d) *State of Michigan.* All mobile food establishments must obtain and maintain any permits, licenses, and approvals required by the Michigan Department of Agriculture and Rural Development.

(e) *Others.* All mobile food establishments must obtain and maintain any other permits, approvals, or licenses required by law.

(f) *Transferability.* A license or permit issued under this chapter shall not be transferred from person to person or to another vehicle, trailer, or cart.

Sec. 6-144. Township Mobile Food Establishment permit.

It shall be unlawful for any person to operate a mobile food establishment within the Charter Township of Brandon without first obtaining a permit from the Township.

(a) *Annual Permit application.* An annual permit application shall include the following materials:

(1) A signed and completed application form.

(2) Contact information for the applicant.

(3) Description of the mobile food establishment.

(4) Description of the location and event

- (5) A sketch of the location, including where the mobile food vending unit will be located, where any service and/or dining areas will be located, and, if in a parking lot, how the service/dining areas will be delineated for safety purposes; (may be waived).
 - (6) Evidence of written permission from property owners.
 - (7) Other permits and licenses.
 - (8) Proof of all required insurance.
 - (9) A fee, as adopted by the Township Board.
 - (10) Any additional information necessary to determine compliance with this chapter and other applicable ordinances, laws, permits, and regulations.
- (b) *Complete and accurate.* Submission of an application constitutes a representation that all of the information is complete and accurate.
 - (c) *Issuance.* Licenses and mobile food establishment permits shall be issued by the Township after review whenever the application is consistent with the provisions of this chapter and other applicable ordinances, permits, regulations, and laws. The review shall be conducted in consultation with the fire chief, or designee, and other applicable entities and agencies.
 - (d) *Withholding permit.* Issuance of any license or permit may be withheld pending verification that any other necessary approvals have been granted.
 - (e) *Conditions.* Reasonable conditions may be placed on approvals, as outlined below:
 - (1) *Health, safety, and welfare.* Conditions shall be designed to protect the health, safety, and welfare of the patrons, vendors, adjacent property owners, and the community as a whole.
 - (2) *Police power.* Conditions shall be related to the valid exercise of the police power and purposes that are affected by the activity.
 - (3) *Compliance.* Conditions shall be designed to ensure compliance with the provisions of this chapter, other Township ordinances, county requirements, and state and federal law.
 - (f) *Suspension and revocation.* An approval may be suspended temporarily, immediately, or permanently, as outlined below:
 - (1) *Notice.* The applicant shall receive written notice of the possible suspension or revocation, including the time and place the suspension or revocation will be considered, the reason for the suspension or revocation, and actions necessary, if any, to prevent the suspension or revocation.
 - (2) *Decision criteria.* In order to suspend or revoke an approval, one of the following shall be found to be true:
 - a. *Threat.* A severe and imminent threat exists to the health, safety, or welfare of persons or neighboring properties.
 - b. *Chapter provisions.* The approval was not consistent with this chapter as it existed at the time of approval.
 - c. *Approval and conditions.* The applicant has violated or currently fails to comply with any condition of its license or permit, or with any applicable Township ordinance, county requirement, or state or federal law; or
 - d. *Fraud.* The approval was a result of fraud or misrepresentation of facts by applicant.
 - (3) *Effect.* Upon revocation of an approval, all activity shall cease immediately, except for work related to securing the site or correcting a violation, as determined by the enforcing officer.

- (g) *Appeal.* Appeals Of decisions made in the administration of this chapter shall be heard and decided by the Township board or its designee at the next regularly scheduled meeting.
- (h) *Interpretation.* The following shall apply to interpretation of the language in this chapter:
 - (1) *Language.* If the meaning of the language of this chapter is unclear in a particular circumstance, the individual or body charged with interpreting or applying this chapter shall construe the meaning in a manner consistent with the intent of this chapter.
 - (2) *Meanings of words and phrases.* Words and phrases defined in this chapter shall be construed and understood according to the definitions contained in this chapter and this Code. Technical words and phrases that have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning. Except as described above, all words and phrases shall be construed and understood according to the common preferred use of the language.
 - (3) *Particular and general.* The particular shall control the general. For terms used in this chapter, the use of a general term shall not be taken to be the same as the use of any other specific term.
 - (4) *Successors and amendments.* Reference to a specific agency or department in this chapter shall include any successor to that agency or department. Reference to any law, act, ordinance, or regulation shall include any amendments thereto.

- **Sec. 6-145 Enforcement.**

A violation of this chapter or of any license, permit, or condition issued under this chapter is a municipal civil infraction and subject to enforcement, as set forth below.

- (a) *Nuisance per se.* A violation of this chapter shall be a nuisance per se.
- (b) *Party to violation.* Any person who violates this chapter or fails to comply with its terms or with any of the conditions of any license or permit shall be responsible for a municipal civil infraction. Any property owner who violates or allows a violation of this chapter on his, her, or its property shall be responsible for a municipal civil infraction.
- (c) *Each day.* Each day that any violation exists or continues shall be deemed a separate offense.
- (d) *Fines.* A person found responsible for a violation of this chapter is subject to a civil fine as set forth in Chapter 1 of this Code.
- (e) *Costs.* A violator shall be subject to pay costs to the Township, including all expenses, direct and indirect, which the Township incurs in connection with enforcement, including attorney and consultant fees.
- (f) *Other relief.* The Township may seek injunctive relief against any person in violation of this chapter and any other relief as may be provided by law.
- (g) *Enforcement authority.* This chapter may be enforced by the Code Enforcement Officer, fire chief, any sworn law enforcement officer, or designees.

- **Sec. 6-146 Balance of Ordinance Remains in Effect.** Chapter 6, of the Brandon Code of Ordinances is hereby affirmed and remains in full force and effect, except as specifically modified herein.

- **Sec. 6-147 Severability.** If any subsection, clause, phrase or portions of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance and such holding shall not affect the validity of the remaining portions of this ordinance.

- **Sec. 6-148 Savings.** All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.
- **Sec. 6-149. Notice to Be Published.** The Township Clerk for the Charter Township of Brandon shall publish this ordinance in the manner required by MCL 42.22.
- **Sec. 6-150 Effective Date.** This Ordinance section will be in effect as an Ordinance of the Charter Township of Brandon immediately upon its Publication.

Adopted: 4/1/2024

Published: 4/13/2024

Effective: 4/13/2024

Jayson W. Rumball, signed with permission
Jayson W. Rumball, Supervisor

Stacy Lawrence
Deputy Supervisor

Roselyn Blair

Roselyn Blair, Clerk

CERTIFICATION

The forgoing Ordinance was duly adopted by the Board of Trustees of the Charter Township of Brandon at its regular meeting called and held on the 1ST day of April, 2024 and was ordered to be given publication in the manner required by law.

Roselyn Blair

Roselyn Blair, Clerk
Charter Township of Brandon

