

**PROPOSED
ORDINANCE NO. 2024-04**

Whereas, the Plan Commission has reviewed Chapter 176 of the Code of the Town of St. Joseph regarding Transient Merchants; and

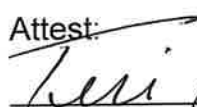
Whereas, the Plan Commission met on January 3, 2024, and has determined that Chapter 176 needs updating and has recommended that the Town Board adopt revisions to Chapter 176;

NOW THEREFORE, the Town Board, having reviewed the proposed Transient Merchants Ordinance recommended by the Plan Commission, hereby adopts Ordinance No. 2024-04 as the Town of St. Joseph Transient Merchants Ordinance.


Passed and adopted by the Town Board of the Town of St. Joseph this 8th day of February, 2024.



Theresa Johnson, Town Chair

Attest:


Teri Kelly, Town Clerk/Treasurer



Chapter 176

Transient Merchants

[HISTORY: Adopted by the Town Board of the Town of St. Joseph 7-1-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Sale of fireworks — See Ch. **104**, Art. **I**.

§ 176-1 Definitions.

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

TRANSIENT MERCHANT

Includes any peddler, solicitor or transient merchant, or agent or employee, who engages in, does or transacts any temporary or transient business in the town, either in one location or by moving their place of business from place to place in the town, selling goods, services, wares or merchandise or soliciting for such trade, and whether or not for the purpose of carrying on such business such individual hires, leases, occupies or uses a building, structure, vacant lot or vehicle for the exhibition or sale of such goods, wares and merchandise.

§ 176-2 Exceptions.

This chapter shall not include:

- A. Any sale required by statute or by order of any court or any bona fide auction sale pursuant to law.
- B. The acts of persons selling personal property at wholesale to dealers in such articles.
- C. Delivery of newsprint
- D. The acts of merchants or their representatives in taking orders at the houses of their customers for goods held by them in stock at established places of business nor the acts of said merchants or their representatives in delivering such goods in the regular course of business.
- E. Vendors of dairy products, fruit products, bakery goods, groceries, frozen products, or prepared food to regular customers on established routes.
- F. Any church, charitable or fraternal organization who has a local chapter, or who is recognized as a charitable organization as provided in Wis Stat §440.41 (1).
- G. Merchants at events authorized by the Town Board such as festivals, small or large gatherings, or farmers markets.

- H. Solicitors or canvassers engaged in political activities.
- I. Any person who has an established place of business where goods or services are sold on a regular basis, where the purchaser of such goods or services has initiated contact, and where the purchaser has requested a home or business visit.

§ 176-3 License required.

No transient merchant shall sell, offer to sell, vend or dispose of goods, wares or merchandise, solicit services, or intend to sell at a later date, within the town without first having obtained a license. No transient merchant shall make contact with residents of the town without first obtaining a license unless exempted in § 176-2.

§ 176-4 Application for license.

A. Form and contents. Any person desiring to engage in business as aforesaid shall obtain a license application form from the Town Clerk. They shall fill out this application form stating:

- (1) The name of the applicant.
- (2) The permanent address of the applicant.
- (3) The nature of business.
- (4) The name and address of the person, firm or corporation the applicant represents.
- (5) A general description of the things intended to be sold.
- (6) The length of time for which the license is desired.
- (7) The place where the business is to be carried on.
- (8) The place or places of residence of the applicant for the two previous years.
- (9) Year make model license plate of vehicle to be used.
- (10) Any other information the Town Clerk may deem necessary

B. Requirements.

- (1) All applications must be signed by the applicant.
- (2) Certificate of liability insurance of an amount determined by the Town Board

§ 176-5 Fees.

At the time of filing the application an investigation fee, as set by the Town Board, for each person to be covered by the license shall be paid to the Town Clerk to cover the cost of investigation of the facts stated in the application. The application shall be referred to the Zoning Administrator, who may require additional information for the effective enforcement of this chapter and the safeguarding of the residents of the town from fraud, misconduct or abuse.

§ 176-6 Investigation.

Upon receipt of each such application, the Zoning Administrator shall institute such investigation of the applicant's business and moral character as they deem necessary for the protection of public good and shall endorse approval or disapproval to the Town Board for consideration.

§ 176-7 Bond.

If the Town Board determines from the investigation of said application that the interests of the town or of the inhabitants of the town require protection against possible misconduct of the licensee, may require the applicant to file a bond in an amount determined by the Town Board, with surety acceptable to the Town Clerk, and laws of the state relating to peddlers, canvassers, solicitors or transient merchants.

§ 176-8 Issuance of license; conditions.

- A. Upon compliance with §§ **176-4** through **176-7** and approval of the Town Board, the Town Clerk shall issue to the applicant a license. All licenses shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, the kinds of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license, the fee paid and the name of the licensee.
- B. Licenses shall automatically expire on January 1 following the date of issuance of such license, but such licenses may specifically state and provide for an earlier expiration date.
- C. No license shall be granted to a person under 18 years of age, and no applicant to whom a license has been refused or who has had a license revoked shall make further application until at least six months shall have elapsed since the last previous rejection or revocation, unless they can show that the reason for such rejection or revocation no longer exists.
- D. Every licensee, while exercising their license, shall post the license in a conspicuous place and shall exhibit the same upon demand of any officer or customer or prospective vendee. A license shall not be assignable, and any holder of such license who permits it to be used by any other person, and also any person who uses a license granted to any other person, shall be guilty of a violation of this chapter.
- E. Whenever a license shall be lost or destroyed a duplicate in lieu thereof under the original application may be issued by the Town Clerk upon the filing by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery and upon the payment of a fee as set by the Town Board.
- F. On the expiration of the license, the licensee shall surrender the same to the Town Clerk. No person shall alter or change in any manner any license issued under the provisions of this chapter.

§ 176-9 Prepayments.

All orders taken by a licensee who receives payment or a deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid.

§ 176-10 Duties of merchants.

A licensed transient merchant shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted food or foodstuffs.

- B. Not use the license provided by the town after the expiration or revocation of the license.
- C. Keep the licensed premises in a clean and sanitary condition and any foodstuffs offered for sale well covered and protected from dirt, dust and insects.
- D. Keep the place occupied in a clean and sanitary condition and before leaving such place remove all paper, debris and rubbish.

§ 176-11 **Violations and penalties. [1]**

Any person who violates this chapter shall forfeit a fine determined by the Town Board, pursuant to State, County or local ordinance, plus the costs of the prosecution for the violation.