



**CHARTER TOWNSHIP OF INDEPENDENCE
APPLICATION FOR LICENSE: Floating Retail Sales
Code of Ordinances: Chapter 36; Article II**

RETURN TO: Township Clerk's Office: 6483 Waldon Center Dr. – Clarkston, MI 48346
PHONE: (248) 625-5114; **FAX:** (248) 625-2585

Date Received by Clerk's Office: _____ Time _____ By: _____

ALL SECTIONS OF THIS APPLICATION MUST BE COMPLETED by the person applying for the floating retail sales license. Attach an additional sheet if additional space is required for any response.

1. Select **ONE** of the following types of organization: Charitable Non-Profit
Organization must comply with definition in Section 36-20. Religious

I HAVE ATTACHED acceptable proof of charitable, non-profit or religious status.

2. Formal Name of Organization: _____

3. Address of Organization's Primary Office: _____

4. Phone # of Organization's Primary Office: _____

5. BELOW LISTS names for all officers and/or principals of the organization:

a. _____	b. _____
c. _____	d. _____
e. _____	f. _____

6. Select **ONE** of the below options:

BELOW IS A WRITTEN STATEMENT describing the intended use of sale proceeds:

I HAVE ATTACHED ALL floating sale promotional materials to this application.

7. BELOW IS A DESCRIPTION of each floating sale good or service to be sold:

8. **BELOW IS A LISTING OF PROPOSED days, dates and hours for floating sale:**

Floating sales shall be conducted between the hours of 9:00 a.m. & 4:30 p.m.; M-F and during daylight hours on Saturday and Sunday [Section 36-21 c].

	<u>DAY</u>	<u>DATE</u>	<u>HOURS</u>
a.	_____	_____	UNTIL _____
b.	_____	_____	UNTIL _____
c.	_____	_____	UNTIL _____
d.	_____	_____	UNTIL _____
e.	_____	_____	UNTIL _____

9. **FLOATING SALES ARE PROPOSED TO TAKE PLACE ON: SELECT ALL THAT APPLY**

- Public Streets / Roads / Intersection*
 Private Property**
 Public Sidewalk***
 Right-of-Way***
 Shopping Center or Mall***

* **At least 30 days' advance notice and additional approvals are required.**

** Written authorization signed by occupant of property specifying dates, times & hours.

*** Written authorization signed by all occupants of any residence or business within 25 feet of the proposed location specifying dates, times & hours.

Refer to Sections 36-22 & 36-56 for additional information

11. **BELOW IS A DESCRIPTION of the reflective safety gear to be worn by each person soliciting in public streets and roads:**

12. **BELOW IS A LIST OF PROPOSED locations including boundaries where applicable:**

13. **LISTING OF NAMES & ADDRESSES FOR PERSONS ENGAGED IN FLOATING SALES**

I HAVE ATTACHED A LISTING of names & addresses for persons engaged in floating sales.

BELOW LISTS names & addresses for persons engaged in floating sales:

<u>NAME</u>	<u>ADDRESS</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

NAME

ADDRESS

14. APPLICATION SUBMITTED BY:

NAME: _____

TITLE: _____

PHONE #: _____

ADDRESS: _____

(Signature of Person Submitting Application)

DATE: _____

FOR CLERK'S OFFICE USE ONLY

- Application is properly completed
- Confirmation of charitable, non-profit or religious status as required in Sections 36-20 & 36-56
- Received ALL *Soliciting in Right-of-Way Indemnification/s*: N/A YES NO
- Received *Law Enforcement Review Report*: N/A APPROVED DENIED

APPROVED **BY:** _____
(Name of Authorized Clerk Staff)

Date: _____

DENIED

Permit #: _____

REASON FOR DENIAL: _____



CHARTER TOWNSHIP OF INDEPEDENCE

SOLICITING IN RIGHT-OF-WAY LAW ENFORCEMENT REVIEW REPORT

Instructions: This Report is for the purpose of reviewing a non-profit organization's request for special approval to allow soliciting activities at certain intersections in the Township under Chapter 36 Article II. Floating Retail Sales, Sec. 36-19 through 36-23 of the Independence Township Code of Ordinances. The Township has provided a request with certain general information regarding the solicitor and the proposed solicitation activities (i.e., location, dates, times, etc.) to assist in this review. This Report should be filled-out and used as a supplement to any other or additional law enforcement reviews/reports requested by the Township in connection with an application for a Solicitation/License for Floating Retail Sales.

Name of Applicant: _____

List proposed location(s) of soliciting:

- | | |
|----------|----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |

Proposed dates & times of Soliciting:

Date: _____	Times: _____
Date: _____	Times: _____
Date: _____	Times: _____
Date: _____	Times: _____

TO BE COMPLETED BY OAKLAND COUNTY SHERIFF'S OFFICE

Based on your information and knowledge, are there any safety concerns, traffic congestion issues or conflicts with other events affecting traffic in the area of the proposed solicitation, and, if so, please describe:

Comments and recommendations regarding the proposed intersection soliciting activities:

Signed: _____

Date: _____

Print Name: _____



CHARTER TOWNSHIP OF INDEPENDENCE

SOLICITING IN RIGHT-OF-WAY INDEMNIFICATION AGREEMENT

For and in consideration and satisfaction of the Charter Township of Independence's lawful Township Ordinance requirement for the provision of this Agreement as a condition for issuance of a certificate of registration allowing the undersigned solicitor to engage in soliciting activities in public streets and roads within the Township ("right-of-way"), the solicitor identified below:

(1) Agrees that the Township, and its officers, employees, agents, representatives and contractors, shall not be liable and/or responsible for any damages, death, and/or injuries that occur to or are suffered by any person (be it the undersigned solicitor or any other person), property and/or other item which is caused by or results from the undersigned solicitor's activities in the right-of-way.

(2) Agrees to indemnify and hold harmless the Township and its officers, employees, agents, representatives and contractors from any and all damages, injuries, liability, claims, actions, losses, demands and/or lawsuits, including attorney fees and costs that arise out of the undersigned solicitor's activities in the right-of-way.

SOLICITOR: _____

Signed: _____

Dated: _____

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND)

The foregoing Indemnification Agreement was acknowledged before me this _____ day of _____, 20____, by _____.

Notary Public, Oakland County, Michigan
My Commission Expires: _____
Acting in _____ County

Chapter 36 - PEDDLERS AND SOLICITORS

FOOTNOTE(S):

State Law Reference: Home Solicitation Sales, MCL 445.111 et seq.; Transient Merchants, MCL 445.371 et seq.; Charitable Organizations and Solicitations Act, MCL 400.271 et seq.; Public Safety Solicitation Act, MCL 14.301 et seq.; Veteran's License For Peddlers, MCL 35.441 et seq.

ARTICLE I. - IN GENERAL

Sections 36-1-36-18. - Reserved.

ARTICLE II. - FLOATING RETAIL SALES

Section 36-19. - Intent, purpose.

It is the intent of the Township Board to insure that persons engaged in floating retail sales shall not conduct a commercial, for-profit business for which a permanent premises, approved following submission and approval of a site plan, would normally be required in the Township. It is the further intent and purpose of this chapter to provide an informational record with regard to the persons and entities who will be engaged in floating retail sales activities in the interest of avoiding irresponsible and/or fraudulent sales activities.

(Code 1982, § 9.5-1; Ord. of 4-26-1989)

Section 36-20. - Definitions.

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

Charitable group and/or **nonprofit group** mean a group, entity, association or individual which is, or is part of, a bona fide, religious, charitable or nonprofit activity of a type that would not be required to pay real property taxes on property if the activity were conducted at a specified premises.

Floating retail sales and/or **floating sales** mean the sale to the public of products or services from a location which is not a permanent location for which a certificate of occupancy has been issued for such use under applicable codes and ordinances. A floating sale shall not mean a sale made at a private residence or to a business customer at a fixed premises.

Public place means any public right-of-way, publicly owned property, and/or any outdoor place to which the general public is invited.

Sale means a retail transaction in which goods or services are offered or sold to the public, in person and in a public place, in exchange for money or other property or the promise to pay money or other property.

(Code 1982, § 9.5-2; Ord. of 4-26-1989)

Section 36-21. - Regulations.

- a) There shall be no floating retail sale conducted in the township unless and until a license for such activity is applied pursuant to this chapter.

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- b) A license under this chapter shall be issuable only to a charitable or nonprofit group.
- c) Floating sales shall be conducted between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday, and during daylight hours on Saturday and Sunday.
- d) No floating sales activities shall be conducted within the improved portion of a public street, road or highway, nor within ten feet of same, without the expressed, advanced authorization from the Township Board. Such authorization may be granted to floating sales activities that have been conducted in such right-of-way areas by the group making application at least once in each of the past five years.
- e) Each person engaged in floating sales shall have identification on his person.
- f) Floating sales by any individual or group may be conducted not more often than five days in any six-month period.
- g) At each location where floating sales are conducted, there must be a copy of the license issued under this chapter for display upon request of a police officer and/or other township ordinance enforcement official.
- h) If floating sales activity is to be conducted on private property, such activity must be a permitted use on such property in accordance with the codes and ordinances of the township.
- i) If a promotional or advertising sign is to be utilized, such sign may not be larger than one-square foot.
- j) Floating sales activity shall not be conducted in a location which is within a residential zoning classification under the zoning ordinance.

(Code 1982, § 9.5-3; Ord. of 4-26-1989)

Section 36-22. - License.

- a) **Application procedure.** A person seeking a license under this article shall, at least 14 days prior to issuance of a license, submit all of the following:
 - 1. If a floating sales activity is to be conducted on private property, there must be a written authorization signed by the occupant of the property, specifying the days, dates and hours for which the authorization has been granted;
 - 2. If a floating sales activity is to be conducted on a public sidewalk or right-of-way, and/or a shopping center or mall, there must be a written authorization signed by the occupant of any residence and/or business establishment within 25 feet of the location at which such floating sale activity is proposed, specifying the days, dates and hours for which the authorization has been granted;
 - 3. Proof that the person or group or entity is a charitable and/or nonprofit group, including, but not limited to:
 - a. The name, address and phone number of the principal office of the group or entity;
 - b. The officers and/or principals;
 - c. The intended use of sale proceeds; or

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- d. Any and all written promotional materials utilized in connection with the floating sales activity.
 4. A description of each and every good or service to be sold;
 5. The name and address of each person to be engaged in the floating sales;
 6. The days, dates and hours floating sales are proposed to be conducted; and
 7. The location where the floating sales are proposed to be conducted.
- b) **Exception; advanced notice.** The supervisor/superintendent may permit an application to be presented less than 14 days in advance upon good cause shown for the inability to comply with such advance notice requirement, and if there is time to scrutinize the application materials.
- c) **Review and issuance.** The township clerk shall review the application and issue a license if all requirements for licensure are met, as provided in this article. If, upon review, the clerk determines that an application does not comply with this article, the clerk shall inform the applicant of the reason or reasons for denial of licensure.
- d) **Required information.** The license issued under this chapter shall contain the following information:
1. The name of the charitable or nonprofit group;
 2. The address and phone number of the principal office of the group;
 3. The days, dates and time the floating sales activity may be conducted;
 4. The location at which the floating sale activity may be conducted, including as specifically as possible the boundaries of such activity;
 5. A description of each and every service or goods authorized to be sold; and
 6. The name and address of each person to be engaged in the floating sales.

(Code 1982, § 9.5-4; Ord. of 4-26-1989; Ord. No. 2012-01, § 12, 1-25-2012)

Section 36-23. - Penalties.

Any person, firm or corporation determined to have been in violation of the provisions of this chapter shall be responsible for a municipal civil infraction and subject to the provisions of Section 1-9.

(Code 1982, § 9.5-5; Ord. of 2-10-1998, § 10)

Sections 36-24-36-49. - Reserved.

Section 36-56. - Solicitation in public streets and roads prohibited; exceptions.

It shall be unlawful, and shall constitute a nuisance for any person, whether registered under this article or not, to engage in soliciting activities in public streets and/or roads, except recognized nonprofit charitable or religious organizations that have provided prior written notification to the clerk at least 30 days prior to the date of commencing soliciting activities including verifiable proof that the sponsoring organization is a legitimate nonprofit charitable or religious organization, shall be permitted to engage in soliciting within designated intersections in the township, subject to all of the following specific requirements and regulations:

1. The 30-day notification to the clerk, as specified in this section, and the application submitted under Section 36-87 shall include the following additional information:
 - a. Identification of each and every intersection at which Identification of each and every intersection at

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- which the soliciting is proposed to occur;
- b. Identification of the number and location of the solicitors to be stationed at each such intersection;
 - c. Identification of the days and hours during which such solicitation is proposed to occur; and
 - d. A description of the reflective safety gear to be worn by the solicitors;
2. No more than four solicitors shall occupy the same intersection at a time;
 3. Solicitors shall at all times stay a reasonably safe distance from all moving vehicles;
 4. Solicitors shall not harass occupants of vehicles or pedestrians in the area, and shall not make physical contact with a vehicle unless requested by the vehicle occupants;
 5. Solicitors shall not directly address a vehicle or its occupants unless requested by the vehicle occupants;
 6. Solicitors shall not restrict or interfere with the free and unrestricted flow of traffic;
 7. Solicitors shall wear reflective gear at all times;
 8. The solicitors shall register and comply with all other provisions of this article to the extent such provisions do not conflict with the additional, specific or more restrictive requirements of this section;
 9. Notwithstanding any other time restrictions stated in this chapter, soliciting at intersections shall commence no earlier than the official times for sunrise in Metropolitan Detroit as published in a newspaper of general circulation in the township and shall cease no later than the official times for sunset in Metropolitan Detroit as published in a newspaper of general circulation in the township, or such other more restricted time period established by the township pursuant to Subsection (11) of this Section;
 10. Notwithstanding any other provisions in this chapter, certificates of registration for soliciting at intersections shall be valid for a period of no more than five consecutive days in any calendar year, with the ability of any valid registrant to petition in writing to the clerk for one additional period of up to five days during such calendar year, which petition may be granted by the clerk upon a showing of good cause in the petition for the requested additional period and verification that the petitioner complied with all township ordinances during the initial period of soliciting;
 11. The proposed soliciting at intersections under this section shall be reviewed and reported upon by the township law enforcement agency in terms of safety issues, traffic congestion and conflicts with other events or previously approved soliciting affecting traffic in the township, and soliciting shall only occur at such intersections, at such times and upon such conditions as have been approved and identified in writing by the township supervisor/superintendent based upon the information contained in applications submitted pursuant to this section and Section 36-87, the recommendations contained in the report of the township law enforcement agency, and information otherwise known to the supervisor/superintendent concerning safety issues, traffic congestion and conflicts with other events or previously approved soliciting affecting traffic;
 12. The township and its officers, employees, agents, and representatives shall not be liable and/or responsible for any damages and/or injuries that occur to and/or are suffered by any person, property and/or other item which are caused by or results from a solicitors activities in the public streets and/or roads, and as a condition to being issued a certificate of registration by the township, the applicant shall execute and deliver to the township an indemnification agreement in a form

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approved by the township attorney, in which the applicant agrees to indemnify and hold harmless the township and its officers, employees, agents, and representatives from any and all damages, injuries, liability, claims, actions, losses, demands and/or lawsuits, including attorney fees and costs, that arise out of the soliciting activities in the public streets and/or roads;

13. In addition to the reasons for denial stated in Section 36-88, a nonprofit charitable or religious organization requesting a certificate of registration, including approval to engage in soliciting in the streets and/or roads pursuant to this section, may be denied based upon noncompliance with subsections (1)-(12) of this section, or safety issues, traffic congestion or conflicts with other events or previously approved soliciting affecting traffic; and
14. In addition to the grounds for revocation stated in Section 36-92, and for purposes of suspending a certificate of registration under Section 36-93(b) pending a revocation hearing, noncompliance with subsections (1)-(12) of this section shall constitute grounds for revocation of the certificate of registration, and the township's receipt of ten or more verifiable complaints from the general public stating that the soliciting is creating a public nuisance or danger shall constitute a legal presumption that grounds for revocation of the certificate of registration exist.

(Code 1982, § 17-7; Ord. No. 2012-01, § 13, 1-25-2012)

Sections 36-57-36-85. - Reserved.

DIVISION 2. - REGISTRATION

Section 36-86. - Required.

- a) It is unlawful and shall constitute a nuisance for any person to engage in soliciting unless such person is registered in accordance with the terms of this article.
- b) It is unlawful and shall constitute a nuisance for any person under the age of 18 years old to engage in soliciting unless such person is registered in accordance with the terms of this article and is accompanied by a supervising adult over the age of 18 years old who has been fully identified on an approved application for a certificate of registration as required by Section 36-87.
- c) It is unlawful for any person identified as a supervising adult on an application for a certificate of registration filed with the township clerk to fail to accompany a person under the age of 18 engaged in soliciting; and such supervising adult shall be responsible and held separately accountable for the solicitor's compliance with the provisions of this article.
- d) It shall be unlawful for any adult to knowingly allow or permit a person under the age of 18 to engage in soliciting without first being registered pursuant to this article or without being accompanied by a supervising adult identified on an approved application for a certificate of registration.
- e) It shall be unlawful for a person who is not identified on an approved application for a certificate of registration to accompany a person under the age of 18 years old engaging in soliciting.

(Code 1982, § 17-21; Ord. No. 78, § 5.1, 9-2-1980; Ord. of 7-2-1996, § 1)

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Section 36-88. - Reasons for denial.

An application for a certificate of registration shall be denied if the applicant or an identified supervising adult:

1. Has ever been convicted of a criminal offense under state or federal law which involved: homicide, criminal sexual conduct, kidnapping, larceny, robbery, assault/battery, use of a firearm, fraud, extortion, dishonesty, false statements, illegal entry into a residential structure, or damage of real or personal property;
2. Has been convicted within the past ten years of a felony offense under state law or any criminal offense under federal law and/or remains on probation or parole with respect to any such offense;
3. Has ever had a certificate of registration revoked, following issuance under this article; or
4. Has ever been convicted of a violation of any of the provisions of this article.

(Code 1982, § 17-23; Ord. No. 78, § 3.4, 9-2-1980; Ord. of 1-18-1994, § 1; Ord. of 7-2-1996, § 1)

Section 36-89. – Issuance

Upon the compliance of the terms of this division, any person bearing a certificate of registration shall be entitled to solicit, so long as the solicitations are otherwise in compliance with applicable local ordinance and state and federal law.

(Code 1982, § 17-24; Ord. No. 78, § 3.7, 9-2-1980)

Section 36-92. - Grounds for revocation.

A certificate of registration issued under this article shall be revoked if the holder or a person identified as a supervising adult in an approved application for a certificate of registration:

1. Has ever been convicted of a criminal offense under state or federal law which involved: homicide, criminal sexual conduct, kidnapping, robbery, larceny, assault/battery, use of a firearm, fraud, extortion, dishonesty, false statement, illegal entry into a residential structure, or damage of real or personal property;
2. Has been convicted of a violation of any of the provisions of this article;
3. Has falsified the information, or has provided misleading information or statements, as part of the application for a certificate of registration submitted under this division; or
4. Has otherwise become disqualified for the issuance of a certificate of registration in accordance with the terms of this division.

(Code 1982, § 17-27; Ord. No. 78, § 3.5, 9-2-1980; Ord. of 7-2-1996, § 1)

Section 36-93. - Revocation hearing, suspension.

- a) No certificate shall be revoked until after a public hearing before the township board to determine just cause for such revocation.
- b) Pending such hearing, the township clerk shall suspend any certificate of registration issued under this division upon determining that there is reasonable cause to believe that one or more grounds for revocation exist, as such grounds are identified in Section 36-92
- c) Notice of such revocation hearing shall be given in writing and served at least five days prior to the date of the hearing. Such written notice shall be given by the township clerk to the holder of the certificate, in person or by first class mail, addressed to his residence address as set

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forth in the application. The notice shall state the grounds of the complaint against the holder of the certificate, and shall state the time and place where the hearing shall be held. The suspension pending such hearing shall be effective immediately upon the giving of such notice, or the mailing thereof, as aforesaid.

- d) At such revocation hearing, the holder of the certificate shall be given the opportunity to be heard and present facts in the certificate holder's support, and the township board shall give such facts consideration in making a determination relative to the revocation of the certificate of registration.

- e) At the conclusion of such revocation hearing, if the grounds for revocation of a certificate of registration have been demonstrated, the township board shall order the certificate revoked and shall state the reasons for such revocation in the minutes of the hearing.

(Code 1982, § 17-28; Ord. of 7-2-1996, § 1)

Section 36-94. - Appeal of denial.

Any person denied a certificate of registration by the township clerk pursuant to this article may appeal to the township board in writing, stating reasons why the certificate should be granted. The township board may grant or deny the certificate after a public hearing, and such decision shall be final. Also, the township board may elect on its own motion to review any determination of the township clerk granting or denying a certificate of registration. Notice of any such hearing shall be given in writing to the applicant and served at least five days prior to the date of the hearing. Such written notice shall be given by the township clerk to the applicant for the certificate of registration in person or by first class mail addressed to his residence address as set forth in the application. At the hearing, the applicant shall be given the opportunity to be heard and present facts in the applicant's support, and the township board shall give such facts consideration in making a determination relative to the applicant's appeal of the denial of the application for a certificate of registration. If, at the conclusion of the public hearing, the township board upholds the denial of the application for a certificate of registration, the township board shall state the reasons for such denial in the minutes of the hearing.

(Code 1982, § 17-29; Ord. of 7-2-1996, § 1)