

PROPOSED

NEW YORK STATE DEPARTMENT OF STATE

162 WASHINGTON AVENUE, ALBANY, NY 12231

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City of Cooperstown

Town

Village

Local Law No. 6 of the year 2015

A local law amendment to Village Vending Law

(Insert Title)

Be it enacted by the Board of Trustees of the

(Name of Legislative Body)

County

City of Cooperstown as follows:

Town

Village

To Amend Local Law 5 of 1995 as follows, with Local Laws 9 of 2007 and 3 of 2014 remaining intact:

PURPOSE

The purpose of this Local Law regulating vending is as follows:

- (1) To promote the health, safety, and general welfare of the village;
- (2) To provide standards for vending, which enhance and add to the cultural and economic vitality of the downtown;
- (3) To protect and enhance village property, streetscapes, and scenic views;
- (4) To insure compliance with vending standards by requiring registration by all vendors.

DEFINITIONS

- (1) Fixed-location business – a business operated on a long-term basis from a building.
- (2) General vending – vending that occurs during a non special event period.
- (3) Motor vehicle – any conveyance that is required to be registered by the department of motor vehicles of any state.
- (4) Outdoor eating area – an exterior space accessory to a restaurant, cafe, tavern, or retail food establishment that allows for tables and chairs or similar equipment for outdoor table service or self-service dining. Up to two benches without any table(s) does not constitute an outdoor eating area.
- (5) 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 are legally open to public use.
- (6) Parking lot – an area devoted to outdoor, off-street, long- or short-term vehicle storage.
- (7) Services – intangible products including but not limited to accounting, cleaning, beauty treatments, tutoring, touring, exercise programs, or transportation.
- (8) Sidewalk – all that area legally open to public use for pedestrian traffic between the curb line and the legal building line of the abutting property.
- (9) Special Event – any occasion approved by the Village of Cooperstown Board of Trustees including but not limited to a fair, concert, festival, or ceremony for which special event vending provisions are in place.

- (10) Street – all that area legally open to public use for vehicular passage as well as the adjoining right-of-way.
- (11) 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, lamp posts and flag poles, and other decorative items.
- (12) Tent – a free-standing, 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.
- (13) Vending—the act of displaying or offering vending merchandise or services for sale or lease on public property; vending may involve a vending stand or stationary vending conveyance.
- (14) 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, motorized or non-motorized vehicle, handcart, pushcart, or lunch wagon.
- (15) 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.
- (16) Vending merchandise – items offered by a vendor.
- (17) Vending stand – any free-standing, non-mobile case, table, rack, tent, or other fixture 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
- (18) Vendor – a person engaged in vending.

GENERAL VENDING (NON-SPECIAL EVENTS)

- (1) Vending locations shall be established by the Village Board of Trustees and assigned by the Village Clerk.
- (2) Vending may be permitted in village parks, excluding Council Rock Park, and in public areas adjoining public buildings and adjoining Doubleday Field.
- (3) Vendors shall be allowed to engage in the business of vending only between the hours of 8:00 a.m. and 10:00 p.m. Additional restrictions on day and time may be set appropriate to the location.
- (4) 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.

SPECIAL EVENTS

- (1) All the provisions related to general vending also apply during special events.
- (2) Additionally, the Board of Trustees may permit vending during established special event periods in defined areas on village streets or sidewalks in the business or commercial districts and/or in municipal parking lots.
- (3) The Board of Trustees may consider an application for a “blanket permit” to include multiple vendors made by a sponsoring organization during a special 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.
- (5) In establishing a special event, the Board of Trustees may allow the renting of spaces for off-street parking on private property by property owners in residential zones. Property owners must complete a special event parking application for each event, pay the application fee as established by the Board of Trustees, and receive a permit from the Village Clerk. No vehicle may be parked less than three feet from any property line. 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.

PERMIT REQUIREMENTS

- (1) It shall be unlawful for any person to engage in the business of vending unless he or she has first obtained a permit from the Village Clerk, except in cases when the Board of Trustees specifically waives the permit requirement. No provision of this law shall be applied so as to impose any unlawful burden on either interstate commerce or any activity of the state or federal government.

- (2) This section shall not apply to:
- (a) Persons conducting business activities that are exempt under New York State law.
 - (b) 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. Property owners are requested to contact the Village Clerk's Office to register their yard sale.
 - (c) Vending stands located on private property and used for the sale of food/drink solely by individuals under 16 years of age.
 - (d) Exhibition/sale of agricultural or horticultural products.
 - (e) The placement on public property of street furniture available for use by the public provided it does not impede upon an eight-foot wide unobstructed pedestrian passageway, provides a minimum of 2.5-feet of clear space from the curb, provides five feet of access to the sidewalk at least every ten feet, 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.
 - (f) Restaurants with an outdoor eating area located entirely on private property or approved under Local Law # 3 of 2014.
 - (g) Outdoor displays of merchandise on private property upon approval by the Board of Trustees in accordance with Local Law #9 of 2007.
 - (h) Non-profit service organizations, including but not limited to fire department, public school, or organized church-sponsored fairs, exhibitions or sales including concessions, of not more than three days' duration, conducted on private property. Such organization is requested to notify the Village Clerk's office of each event.

PERMIT PROCEDURES

- (1) Anyone wishing to vend shall apply to the Village Clerk for a non-transferable vending permit at least 31 calendar days in advance. Fees for vending permits for general vending and special events shall be as specified by the Village of Cooperstown Board of Trustees. In the event there is a request to utilize Village provided electricity in vending locations, or other village services such as village trash and recycling receptacles, a separate fee established by the Board of Trustees will be required to be paid in advance from the vendor.
- (2) The application for a vending permit shall contain, at minimum, the following:
 - (a) The applicant's full name, local address, telephone number, and email address accompanied by a valid government-issued proof of identity;
 - (b) The dates for which the permit is sought, up to 150 days, and indication of whether that period includes any designated special events;
 - (c) A brief description of the nature, character, and quality of vending merchandise and/or services to be offered for sale;
 - (d) A photograph, sketch, brochure, or other graphic rendering of the proposed vending stand or conveyance;
 - (e) The vending location from which the vendor is applying to conduct business 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;
 - (f) Any requests for Village services including electricity, trash removal, etc.
 - (g) 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;
 - (h) If for the sale of food or beverages, a health department permit indicating compliance with all applicable regulations.
 - (i) 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 Board of Trustees.
- (3) The applicant shall be notified in writing by the Village Clerk of the decision to issue or deny the vending permit.
- (4) Any permit issued by the 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 vending business.

- (5) All vendors shall immediately notify the Village Clerk of any changes to the information provided on the application prior to the commencement of vending, or if vending is already underway, by noon the following business day. Notification must be delivered in writing to the Village Office to the attention of the Village Clerk by mail, fax, or email.

LOCATION

Vending conveyances and vending stands shall be located in such a way that they do not:

- (1) Unduly obstruct the sidewalk. Vendors shall maintain at all times at least a five-foot wide passageway for pedestrians, which is unobstructed by vending stands, conveyances, merchandise, and customers lines on all sidewalks;
- (2) Block access to any pedestrian crosswalk, loading zone, bus loading zone, or parking space or access ramp designated for persons with disability;
- (3) Block the view of traffic signals or regulatory signs;
- (4) Operate within ten feet of any street intersection, driveway, or fire hydrant;
- (5) Restrict or interfere with the ingress or egress of the abutting property owner or tenant;
- (6) Obstruct adequate access to emergency and sanitation vehicles;
- (7) Operate within three feet of a fixed-location building entrance or on the sidewalk within three feet in front of fixed-location business's display window(s) unless the business owner has granted written permission;

DESIGN STANDARDS

- (1) Vending conveyances and vending stands shall be clean, of sound construction, orderly in appearance, and free of debris.
- (2) A vending conveyance or stand shall not be attached to village property or to private property without the owner's permission.
- (3) Vending shall not cause any damage to village property including paved surfaces.
- (4) During special events vending stands shall be limited to tables, which must have single-color skirts if used for merchandise display or autograph signing, and tents which must have single-color coverings.
- (5) A vending conveyance when fully loaded with vending merchandise shall be easily moved and maintained under control by the permit holder, another attendant, or a member of the police or fire department.
- (6) Supplies, stored vending merchandise, and equipment associated with vending shall be screened from public view.
- (7) Merchandise shall not be displayed on street furniture or umbrellas.
- (8) Signage is limited to forty square feet and shall not project outside the space occupied by the vending conveyance or vending stand.
- (9) All signage must be securely fixed, but no sign shall be attached to any tree, shrub, utility pole, wire, or street sign.
- (10) Street furniture, tents, table skirts, and umbrellas shall not include any advertising for any vending merchandise, product, service, vendor, or brand.

OPERATION AND SERVICE REQUIREMENTS

- (1) Vending shall not create a nuisance, increase traffic congestion or delay, or constitute a hazard to life or property.
- (2) Venders shall not obstruct motor vehicle traffic flow, except for up to ten minutes to load and unload vending stand and/or vending merchandise.
- (3) Vending conveyances and stands shall not be left unattended at any time.
- (4) Devices that produce a loud and/or raucous noise are prohibited.
- (5) Vendors shall keep the area within and adjacent to their vending location clean and free of refuse of any kind. All trash or debris accumulating within five feet of any vending location shall be collected by the vendor and deposited in a trash container.
- (6) 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.

ENFORCEMENT AND PENALTIES

- (1) Officers and employees of the police department shall have the power to enforce all laws, rules and regulations relating to vending. This provision shall in no way restrict any other power granted by law to an officer or employee of any other agency.
- (2) Upon a finding that an applicant has violated any provision of this law, 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 4 hours of the verifiable delivery of such notice to the vender or the local address provided on the application, the Village Clerk shall revoke the applicant's permit to vend, and the vendor must vacate the vending location and cease vending immediately. If the Village Clerk revokes the permit, the fee already paid shall be forfeited.
- (3) In addition to the revocation of the permit, the penalty for violating any provision of this local law or any other applicable section of the municipal code shall be, in addition to any other sanctions provided, a fine not exceeding \$250 dollars for each violation. Each day of violation shall be deemed a separate offense.
- (4) Applicants who violate provisions of this local law, or local zoning, outdoor eating area, and/or merchandise display laws, shall be prevented from applying for a vending permit for a period of one year from the date of the violation.

CONSTRUCTION

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

SEVERABILITY

If any part of this law is held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State of NYS.