

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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 Town Village
(Select one:)

of CHAUTAUQUA

Local Law No. 3 of the year 2022

A local law REGULATING MOBILE FOOD VENDORS
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of CHAUTAUQUA as follows:

SEE ATTACHED (4 Pages)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2022 of the (County)(City)(Town)(Village) of CHAUTAUQUA was duly passed by the TOWN BOARD on June 13, 2022, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)


I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.


Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: July 13, 2022

(Seal)

**TOWN OF CHAUTAUQUA
LOCAL LAW NO. 3 FOR THE YEAR 2022
REGULATING MOBILE FOOD VENDORS**

Be it enacted by the Town of Board of the Town of Chautauqua, County of Chautauqua, and State of New York, as follows:

SECTION 1. AUTHORITY

This local law is promulgated pursuant to the authority granted by:

1. Article IX of the New York State Constitution, §2(c)(10);
2. New York Statute of Local Governments, §10(1) and (7);
3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10(1)(a), (11), (12), and (14);
4. New York Town Law §130 (11)(peace, good order and safety), (15)(promotion of public welfare); and
5. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(general powers).

SECTION 2.

A new Chapter 133 is hereby inserted into the Town of Chautauqua Code, which shall provide as follows:

Chapter 133 Mobile Food Vendors

- § 133-1 Title
- § 133-2 Purpose
- § 133-3 Definitions
- § 133-4 General provisions
- § 133-5 Approved locations
- § 133-6 License required; application; conditions
- § 133-7 Conditions of operation
- § 133-8 Compliance with other regulations
- § 133-9 Penalties for offenses
- § 133-10 Hardship

§ 133-1 Title.

This Chapter shall be known as the “Law to Regulate Mobile Food Vendors.”

§ 133-2 Purpose.

It is the purpose of this Chapter to protect the health, safety, welfare, and environment of the residents and property owners of the Town of Chautauqua. This section regulates the mobile food vendor industry and use and operation of mobile food vehicles within the Town of Chautauqua. The purpose of this regulation is to balance the potential impact on neighbors when Mobile Food Vehicles are in use and to protect other commercial businesses within the Town of Chautauqua.

§ 133-3 Definitions.

For purposes of this Chapter, the following terms shall have the meanings indicated:

MOBILE FOOD VEHICLE

A self-contained cart, trailer, or motorized vehicle in which ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale, or distribution.

MOBILE FOOD VENDOR

The owner of a mobile food vehicle or the owner's agent.

§ 133-4 General provisions.

- A. It shall be unlawful for any person to operate a mobile food vehicle within the Town of Chautauqua outside the Village of Mayville without first having obtained a valid mobile food vending license from the Town of Chautauqua as prescribed in this Chapter.
- B. It shall be unlawful for any person to operate a mobile food vehicle within the public rights-of-way or on public property anywhere within the Town of Chautauqua, except as permitted herein.

§ 133-5 Approved locations.

- A. A mobile food vendor may operate anywhere in the Town of Chautauqua outside the Village of Mayville except for the following:

(1) Adjacent to or within a radius of 100 feet of the nearest edge of any parcel on which is located a licensed food establishment, the kitchen of which is open for serving food to patrons. This requirement may be waived if the proprietor of the adjacent food establishment gives written consent, and such consent is visibly displayed within the mobile food vehicle.

(2) In any location that conflicts with any parking and vehicle and traffic laws, ordinances, rules and regulations of the State of New York, County of Chautauqua, and Town of Chautauqua.

(3) On any private property, unless the owner of such property gives written consent, and such consent is visibly displayed within the mobile food vehicle.

§ 133-6 License required; application; conditions.

- A. Any person desiring to operate a mobile food vehicle shall make a written application for such license to the Code Enforcement Officer, on forms provided, which shall include the following:

(1) Name, signature and address of each applicant and each corporate officer of the mobile food vehicle vending corporation.

(2) A valid copy of all necessary licenses, permits or certificates required by the County of Chautauqua, the State of New York or any subsidiary enforcement agencies or departments thereof, including, but not limited to, a valid New York State Department of Motor Vehicles registration and certificate of inspection and valid driver's licenses of all vehicle operators.

(3) A signed statement that the vendor shall hold harmless the Town and its officers and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the license.

(4) Insurance.

(a) The vendor shall furnish a certificate of insurance evidencing that the vendor possesses and maintains such public liability, food products liability, and damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000 per occurrence. The policy shall further provide that it may not be canceled except upon 30 days' written notice served upon the Town of Chautauqua. A license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Town of Chautauqua.

(b) In addition to the above-required certificate of insurance, the vendor shall also endorse, maintain and include the Town as an additional named insured on its underlying business commercial general liability policy.

B. Code Inspection. The Code Enforcement Officer will conduct a fire safety inspection of the mobile food vehicle as part of the process of issuing or renewing a mobile food vendor license.

C. Fee. The fee for a mobile food vendor license shall be \$100.00 per year, which amount may be adjusted from time to time by the Town Board. All vendors holding a license that has been revoked or permitted to lapse shall pay a renewal fee as set by the Town Board.

D. Conditions of License.

(a) A mobile food vendor license shall expire on January 1 of each year.

(b) A license shall not be transferable.

(c) Each license is valid only for the particular vehicle for which it was issued.

§ 133-7 **Conditions of operation.**

A. If operating on private property, the vendor must obtain and display in or on the vehicle evidence of permission granted by the owner of the property, in writing, specifying the days, times and specific location(s) for which permission has been granted.

B. Mobile food vehicles with a valid mobile food vending license may be operated by the vendor during hours as approved by the property owner.

(1) However, vendors may not operate mobile food vehicles:

(a) Before 9:00 a.m.; or

(b) After 9:00 p.m., Sunday through Thursday; or

(c) After 10:00 p.m. on Friday and Saturday for events open to the public or after midnight for private events..

- C. All signage must be permanently affixed to the mobile food vehicle except each vehicle may use one sandwich board sign no larger than six square feet per side.
- D. All mobile food vehicles must be equipped with trash receptacles of a sufficient capacity and shall be changed as necessary to prevent overflow or the creation of litter or debris.
- E. No alcohol may be sold or dispensed from mobile food vehicles.

§ 133-8 Compliance with other regulations.

- A. The owner/operator of any mobile food vehicle licensed by the Town of Chautauqua shall comply with all provisions of federal, state, and local laws and ordinances.
- B. The owner/operator of any mobile food vehicle licensed by the Town of Chautauqua shall comply with all notices, orders, decisions and rules and regulations made by the Code Enforcement Office, the Chautauqua County Sheriff's Office, the Chautauqua County Health Department, or any other Town of Chautauqua department and/or agency.

§ 133-9 Penalties for offenses.

- A. Any person who violates any provision of this chapter shall be guilty of a violation. Each violation shall be punished by a fine not to exceed \$250 per violation.
- B. Closure for operation without license. Any mobile food vehicle operating without the required Town of Chautauqua license shall be immediately closed by order of the Town of Chautauqua. Every day of operation without a license shall constitute a separate violation and shall be punishable by a fine of \$250 per violation.

§ 133-10. Hardship.

Should any person affected by this Chapter suffer an unnecessary hardship in the carrying out of the strict letter of this chapter, such person may apply to the Town of Chautauqua Board in writing for a variance from strict compliance with this Chapter, with proof of such unnecessary hardship. For the purposes of this Chapter, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a permit.

SECTION 3.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional, unenforceable by a court of law, all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

SECTION 4.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.