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File No. 1666

KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

August 3, 2022

Edward J Spencer III
Mackenzie Hughes LLP
440 S Warren St, Suite 400
Syracuse NY 13202

RE: Village of Fayetteville, Local Law 3 2022, filed on July 28 2022

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**

July 25, 2022



NYS Department of State
State Records and Law Bureau
Suite 600
99 Washington Avenue (1 Commerce Plaza)
Albany, NY 12231

Re: Local Law 3, 2022 amending Chapter 122 (Peddling and Soliciting) of the Village of Fayetteville Code to add Article IV Seasonal Sale of Food from fixed outdoor locations.

Dear Sir/Madam:

I am enclosing for filing purposes Village of Fayetteville Local Law No. 3 2022.

Very truly yours,

MACKENZIE HUGHES LLP

Edward J. Spencer III

EJS/eg
Enc.

cc: Lorie Corsette

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{M0909289.1}

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(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.

Village of Fayetteville Local Law No. 3 of the year 2022.

A local law amending Chapter 122 (Peddling and Soliciting) of the Village of Fayetteville Code to add Article IV Seasonal Sale of Food From Fixed Outdoor Locations

Be it enacted by the Board of Trustees of the Village of Fayetteville as follows:

Chapter 122 Peddling and Soliciting

Article IV. Seasonal Sale of Food From Fixed Outdoor Locations

Section 122-23. Applicability.

This article shall apply to the seasonal sale of food from fixed outdoor locations within the Village of Fayetteville. Restaurants, as defined in Chapter 187 of the Code of the Village of Fayetteville, shall not be required to obtain a license pursuant to this article. Concession sales at school-sponsored events on school property shall also not be required to obtain a license pursuant to this article.

Section 122-24. Definitions.

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

FOOD VENDOR

Includes any person, either principal or agent, who from any fixed location, by use of a temporary or moveable structure, or a motor vehicle of any kind, sells or barter, offers to sell or barter, or exposes for sale food products. This shall include, but not be limited to, hot dog sales, snow cone or ice cream sales, funnel cake or fried dough sales, produce sales, and other similar sales.

INDIVIDUAL

A natural person of either sex.

PERSON

One or more natural persons, corporations, partnerships, organizations, associations, societies and all other entities of any kind.

VILLAGE

The Village of Fayetteville.

Section 122-25. License Required.

It shall be unlawful for any person or individual within the corporate limits of the Village to act as a food vendor without first having obtained and paid for, and having in force and effect, a license therefor.

Section 122-26. Application for license.

A. Any person or individual desiring to act as a food vendor in the Village shall file with the Village Clerk a written application upon a form furnished by the Village Clerk, and shall file at the same time the following information:

- (1) The Type of structure or motor vehicle to be used by the food vendor, including license plate number, if applicable. A color photograph of the structure or motor vehicle must be provided.
- (2) The kind of food to be sold.
- (3) The full legal name, street address, telephone number and date of birth of the food vendor and each individual who will be working for the food vendor in the Village.
- (4) A cellular telephone number for each individual working at the structure or motor vehicle while food is being sold.
- (5) The length of time for which the food vendor desires the license.
- (6) A copy of the driver's license for the food vendor and each individual who will be working for the food vendor in the Village.
- (7) A signed waiver, in a form acceptable to the Village, authorizing a criminal history records check for the food vendor and each individual who will be working for the food vendor in the Village.
- (8) Proof of consent to locate at the location from the property owner.
- (9) Such other information as may be required by the Village Board.

B. Food vendors shall provide the Village with all necessary certifications and approvals from the Onondaga County Health Department.

C. It shall be unlawful to make false statements on a license application.

Section 122-27. Issuance or refusal of license.

A. Upon the filing of the application and required information as provided in the preceding section, the Village Clerk shall, upon approval of such application, issue to the applicant a license, unless the license is refused pursuant to Subsection B below.

- B. The Village Clerk shall refuse a license to any person or individual who fails to comply with Sec. 122-27. A license shall also be refused if the person or individual is required to be registered as sex offender. A license pursuant to this article may also be refused to a person or individual that has been convicted of a misdemeanor or felony which, in the opinion of the Village Clerk, makes the person or individual unsuited to be awarded a license pursuant to this article. If an individual working for a person has been refused a license due to conviction of a misdemeanor or felony, or because the individual is required to be registered as a sex offender, that individual shall not be permitted to work as a food merchant in the Village; however, the status of that individual shall not prohibit the person, or other employees of the person, from obtaining a license.
- C. A person or individual who has been refused a license by the Village Clerk may apply to the Village Board for a license, and the same may be granted or refused by the Village Board, except as prohibited by applicable provisions of law.
- D. Each license granted shall contain the name of the food vendor; the date of issuance; the date of expiration; the purpose for which the license was issued; and a license number assigned by the Village Clerk. The license shall contain the seal of the Village. A copy of the food vendor's driver's license or other legal form of photograph identification, also containing the seal of the Village, shall be attached to the license.
- E. The Code Enforcement Officer shall approve of each license granted under this article. Notwithstanding any provision elsewhere in the Code of the Village of Fayetteville to the contrary, an open flame may be utilized by a food vendor who has obtained a valid license under this article upon review and approval by the Code Enforcement Officer.

Section 122-28. Use of license by another person prohibited.

Any holder of any license issued under this article who permits it to be used by any other person or individual, and any person or individual who uses such license granted to any other person or individual, shall each be guilty of a violation of this article as well as applicable provisions of the New York Penal Code.

Section 122-29. Lost or destroyed licenses; issuance of duplicate.

- A. Whenever a license shall be lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof, under the original application and certification(s), may be issued by the Village Clerk upon the filing with the Village Clerk by the licensee an affidavit setting forth the circumstances of the loss, and what search effort has been made for its recovery.
- B. A fee for the replacement of lost or destroyed licenses shall be established by separate resolution of the Village Board.

Section 122-30. Contents and form of license.

All licenses shall be issued from a property bound book with proper reference stubs kept for that purpose,

numbered in that order in which they are issued, and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of his or her license, the date of issuance and expiration of the license, fee paid and the name and address of the licensee.

Section 122-31. Term of license.

A license under this article may be granted for a term of three days or one year.

Section 122-32. Exhibition of license.

Every licensee, while exercising his or her license, shall clearly exhibit the license.

Section 122-33. Fees.

- A. The license fee for each food vendor shall be an amount as established in a separate resolution of the Village Board.
- B. The license fees for criminal background checks for each individual obtaining a license pursuant to this article shall be established by separate resolution of the Village Board.

Section 122-34. Suspension and revocation of license.

- A. A license may be suspended pending a public hearing as set forth in Subsection B below, upon discovery that a food vendor who has been issued a license is in violation of this article. The license may be suspended by the Village Clerk upon reasonable suspicion of a violation of this article.
- B. The Village Clerk shall promptly notify the Town Police Department, Code Enforcement Officer and the Village Board of any license suspension. The Village Board shall hold a public hearing, upon five days' notice in the official Village newspaper, as soon as possible after the Village Clerk has suspended a license. After such public hearing, at which the licensee shall have the opportunity to be heard, the Village Board may revoke any license issued under this article to any applicant whom the Village Board shall determine to be an undesirable person or incapable of properly conducting the trade or business previously licensed. The granting, refusal or revocation of such license by the Village Board shall be subject to review by certiorari.

Section 122-35. Prohibited acts.

- A. No food vendor shall sell food between the hours of 9:00 p.m. and 10:00 a.m., except during festivals in the Village or Village-sponsored events.
- B. No food vendor shall sell food within 200 feet of any place occupied exclusively as a public or private school or for school purposes. This prohibition shall not apply to concession sales during school-

sponsored events.

- C. No food vendor shall falsely or fraudulently misrepresent the quantity, character or quality of any food offered for sale.
- D. No food vendor shall violate Chapter 114, Noise, of the Code of the Village of Fayetteville, as amended.
- E. No food vendor shall obstruct any street or sidewalk for the purpose of selling or exposing for sale any food or other merchandise.
- F. No food vendor shall, in order to effectuate or assist in any sale or solicitation, represent that he or she is engaged in any contest or in any way attempt to induce a sale or solicitation by appealing to the sympathies of the person so solicited.
- G. No food vendor shall sell food from a location that, in the opinion of the Town of Manlius Police Chief or Code Enforcement Officer, obstructs traffic or otherwise creates an impediment to the public's health and safety.
- H. No food vendor shall operate in a manner not approved by the Village Code Enforcement Officer.
- I. No food vendor shall commence food sales until the Code Enforcement Officer has conducted an inspection and has certified that there are no violations of applicable laws, codes, rules and regulations.
- J. no food vendor shall display any sign, as defined in the Code of the Village of Fayetteville unless such sign has been approved by the Code Enforcement Officer.

Section 122-36. Records.

The Village Clerk shall keep a record of all applications and of all licenses granted under the provisions of this article, giving the number and date of each license, the fee paid and the date of any license.

Section 122-37. Penalties for offenses.

See Chapter 113. Penalties for Offenses.

Section 122-38. Previous licenses.

A valid license issued prior to the effective date of this legislation shall remain in full force and effect. Any renewal or subsequent license application shall be subject to the requirements of this legislation.

2. This local law is effective immediately upon filing with the Secretary of State.

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law 3 of 2022 of the Village of Fayetteville was duly passed by the Board of Trustees on July 18, 2022, in accordance with the applicable provisions of law.

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 the above paragraph.




Lorie Corsette, Village Clerk

Date: July 21, 2022

STATE OF NEW YORK
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Village Attorney