

**VILLAGE OF CHURCHVILLE**

*INTRODUCTORY*

**LOCAL LAW NO. 2-2012**

**A LOCAL LAW TO ADD A NEW CHAPTER 82,  
“SEASONAL VENDORS; SIDEWALK CAFES,”  
TO THE CODE OF THE VILLAGE OF CHURCHVILLE**

**Section I. Amendments.**

The Code of the Village of Churchville, is hereby amended to add a new Chapter 82, Seasonal Vendors; Sidewalk Cafes, reading as follows:

**Chapter 82**

**SEASONAL VENDORS; SIDEWALK CAFES**

**§ 82-1. Purpose and Intent.**

This chapter is intended to regulate and permit the outdoor vending and service of prepared foods in areas where it is appropriate, so as to maintain free and unimpeded pedestrian use of sidewalks and other public areas, to prevent obstruction of traffic on village streets, and to otherwise promote and protect the public health, safety and general welfare. Specific purposes of this legislation are:

- A. To ensure adequate space for pedestrians on the sidewalk adjacent to the location of outdoor vendors or service.
- B. To preserve and enhance the character of the area within which such outdoor service is permitted in the Village and to protect the adjacent areas.
- C. To promote the most desirable use of land.

**§ 82-2. Definitions.**

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

CART -- Any wheeled vehicle or device used by a food vendor, other than a motor vehicle or trailer, which may be moved with or without the assistance of a motor and

which does not require registration by the Department of Motor Vehicles.

**COMMUNITY EVENT** -- A parade, celebration of a national, state or local designated holiday, or a civic event, sponsored by one or more not-for-profit or community organizations recognized by the Board of Trustees as a community event.

**DEPARTMENT OF HEALTH** -- The Department of Health of the County of Monroe.

**FOOD** -- Any raw, cooked or processed edible substance or beverage, or ice cream, ice cream products or frozen desserts.

**FOOD VENDOR or VENDOR** -- A person who vends, peddles, sells or offers food for sale at retail in any public space or park, or a concession stand situated in a park or regulated area, as defined herein.

**PARK** -- Any area owned by the Village and designated as a public park on the Village Map, including any driveways or access roads, sidewalks and structures therein, and also including the grounds of the Village Hall.

**PUBLIC SPACE** -- All publicly owned roadways, streets or sidewalks.

**SIDEWALK** -- Any sidewalk maintained by the Village for pedestrian traffic.

**SIDEWALK CAFÉ** – Any use of a sidewalk or other public space for the location of tables and chairs, benches or other seating arrangements for the outdoor service and consumption of food and/or beverages. For the purpose of this chapter, a “sidewalk café” may only be located immediately adjacent to a building occupied by the restaurant or establishment serving such food or beverage, and operating in compliance with the Village Zoning Code, for the use and convenience of the patrons of such restaurant or establishment.

**STAND** -- A movable, portable or collapsible structure, framework, device, container or other contrivance used by a food vendor for displaying, keeping or storing any food or article required in acting as such a vendor.

**STREET** -- Any street or public thoroughfare maintained by the Village for vehicular traffic. A "street" shall include all state and county highways within the village and approved by the state and county as being within the scope of this chapter.

**STREET CORNER** -- The area within the intersection of two streets from the pavement and/or curb edge to the edges of the sidewalk farthest from the pavement or curb edge.

**VEHICLE** -- A motor vehicle or trailer as defined in the Vehicle and Traffic Law.

**VEND** -- To hawk, peddle, sell or offer food in a public space or park delivered immediately for consumption or purchase for consumption elsewhere.

**§ 82-3. Area within which food vendors or sidewalk cafes permitted.**

Food vendors and sidewalk cafes are permitted to locate and operate, in accordance with the provisions of this chapter, only within the area of the Village designated as the VCD Village Center District, as shown on the official Village Zoning Map, except for community events for which the Board of Trustees designates certain areas and times during which temporary permits may be issued.

**§ 82-4. Permit required; exemptions.**

It shall be unlawful to act as a food vendor or to vend food from any vehicle, pushcart or concession stand, or other structure or device, in a public space or park or area, or to locate or maintain any sidewalk café, without first having obtained a permit in accordance with the provisions of this chapter and paid the fee established for such permit. Charitable, religious, educational, recreational, civic or other not-for-profit, community organizations located within the Village are required to obtain permits for activities regulated by this chapter, but shall, upon submission of documentation to the Board of Trustees verifying that the proceeds derived from such activities will go to and be used by such organization for charitable or not-for-profit purposes, be exempt from the payment of the permit fee.

**§ 82-5. Application; required information.**

- A. Application for a permit hereunder shall be made in writing to the Village Clerk by the person to be permitted, on forms to be furnished by said Clerk, and shall contain or be accompanied by the information and documentation listed in Paragraph B of this section, and such other information as said Clerk may reasonably require. A separate permit shall be required for each vending unit or location.
- B. The application shall, at a minimum, contain or be accompanied by the following information:
  - 1) Name, address, telephone number(s) and e-mail address for applicant.
  - 2) Emergency contact number for the applicant.
  - 3) If the applicant is applying on behalf of someone other than himself or herself, the name and address of the person, firm or corporation the applicant represents.
  - 4) The address or location at which the applicant intends to operate.
  - 5) If the permit is for the conduct of activities and operations during a recognized community event, the dates for which the permit is sought.
  - 6) If different than the applicant's, the name of the owner of the premises on which the applicant intends to locate or operate and a signed statement from the owner granting the applicant permission to locate or operate on the property and during what period the permission is in effect.

- 7) A brief description of the nature of the activity or business to be conducted, and the types of food to be sold.
- 8) A description of the structures, vehicles, equipment, furnishings, appliances and fixtures to be used, and how and where such personal property is to be stored or secured during non-operational hours.
- 9) A sketch map of the property where the activities or operations are to be located, indicating the address and name (if any) of adjacent properties, and designating any properties which are Village owned, and showing the proposed location of any structures, vehicles, equipment, furnishings, appliances and fixtures to be used in the activity or operation.
- 10) Whether or not the applicant or the person, firm or corporation the applicant represents has ever been convicted of a felony, misdemeanor or violation of any municipal ordinance or local law, except traffic violations, and if so, the offense of which convicted, date, court and sentence. No license shall be denied by reason of the applicant's having been previously convicted of one or more criminal offenses except pursuant to § 752 of the New York State Correction Law as amended from time to time.
- 11) Whether a valid permit has been issued by the Monroe County Health Department indicating that the proposed activities and operations, and the structures, vehicles, equipment, furnishings, appliances and fixtures to be used, comply with applicable provisions of the State and County regulations.
- 12) If the application involves the use of a vehicle, proof of a valid state motor vehicle registration for the vehicle to be used.
- 13) Proof that the applicant holds a New York State sales tax identification number.
- 14) In the event that any other license or permit shall be required by any other governmental agency in connection with the applicant's proposed activities or operation, proof that such license or permit has been obtained.
- 15) Proof of insurance as required by § 82-7B of this chapter.

#### **§ 82-6. Investigation.**

Upon receipt of an application for a license, the Village Clerk shall refer such application to the Code Enforcement Officer for investigation to determine whether the applicant meets the requirements of this chapter.

#### **§ 82-7. Requirements for issuance of license.**

No license shall be issued by the Village Clerk until the Code Enforcement Officer has determined that:

- A. The applicant has provided a valid copy of a food service permit issued by the Monroe County Department of Health.
- B. The applicant has provided a binder, endorsement or unconditional certificate of

insurance (or other proof of insurance satisfactory to the Village Attorney) clearly providing for comprehensive general liability coverage, naming the Village of Churchville as additional insured, for combined single limits of no less than \$1,000,000 per occurrence and \$1,000,000 general aggregate. The same shall provide that no cancellation or material modifications shall occur except upon 30 days' prior written notice to the Village.

- C. The applicant has submitted proof of compliance with the Fire Prevention Code requirements acceptable to the Code Enforcement Officer in the event that a liquefied propane gas tank heat-producing device or any open flame is to be used in conjunction with the applicant's food vending.
- D. The location of the proposed food vending operation, or the location of any sidewalk café, will not interfere with pedestrian or vehicular traffic, or with access to or egress from any building, will not otherwise be detrimental to public health and safety. The Code Enforcement Officer shall, in the case of any location on a village sidewalk, park or other public area, meet with the applicant to identify and mark the exact location for the food vendor or sidewalk cafe operation.
- E. There is adequate provision for parking and seating.

**§ 82-8. Fees; expiration; assignability.**

- A. The fee for permits issued under this chapter shall be as set by resolution of the Board of Trustees, for seasonal permits, community event permits, and sidewalk café permits.
- B. Unless sooner revoked, seasonal and sidewalk café permits shall expire on December 31 each year, regardless of when issued. Community event permits shall be valid only for the dates for which the permit is issued.
- C. Permits are not assignable.

**§ 82-9. Posting of permit.**

Every vendor shall affix to his vehicle, pushcart or stand, in a conspicuous place where the same may be plainly seen at all times, the permit issued bearing an identification number and the year of the issuance of such permit. In the case of sidewalk cafes, the permit shall be displayed in a conspicuous place on the building to which such space is adjacent.

**§ 82-10. Restrictions.**

- A. Location restrictions. No permit shall be issued to a food vendor to locate or

conduct business:

- (1) Within 10 feet of a sidewalk corner.
  - (2) Within the lines extending from the sides of a building doorway or entrance to the curb and perpendicular to said lines for a distance of 10 feet.
  - (3) Within 100 feet of any restaurant or establishment serving or selling food, church or funeral home, unless affiliated with such restaurant or establishment serving or selling food.
- B. Sidewalk clearance. At all times, a vendor or operator of a sidewalk café shall maintain a minimum of three feet, clear space, of sidewalk width clearance to provide adequate and unobstructed pedestrian movement, such width to be measured from the outermost point of the vendor or cafe area.
- C. Maintenance of area. All vendors conducting business from a vehicle, pushcart or stand, and all operators of sidewalk cafes, must regularly pick up all papers, cartons, rubbish or any debris in any form which is deposited within a radius of 50 feet from the vendor's stand, pushcart or vehicle, or the outer perimeter of the sidewalk café, and shall otherwise maintain the area in a clean, orderly condition.
- D. Waste containers. Each vendor conducting business at a public place, park or area, and the operator of any sidewalk café, shall maintain a suitable waste container adjacent to such operation for the placement of litter by customers or any other person, and shall properly dispose of said litter at the end of each day of operation or at such times as the container becomes full.
- E. Area of use. No vendor shall occupy more than 20 square feet of area.
- F. Alcoholic beverages. The service and consumption of alcoholic beverages of any and all types and kinds is prohibited within the permitted area, except, for sidewalk cafes in which service is by the adjacent establishment having a state license for the outdoor service of alcoholic beverages, and where the service and consumption of alcoholic beverages is accessory to the principal service and consumption of food. It is the responsibility of the owner and/or operator of the premises adjacent to such sidewalk café to ensure compliance with this provision.
- G. Noise. No vendor shall carry on his business in a loud or boisterous manner, such as by calling or shouting out; by ringing any gong or bell; by playing or causing to be played any mechanical or electrical sound device.
- H. Lights. No vendor shall attach or have attached to any stand, cart or vehicle used in the business any flashing or revolving light or lights, except those permitted by law. Any lighting provided in connection with a stand, cart or vehicle, or a sidewalk café, shall be minimal and shall be installed so that no point source shall be observed from any neighboring property, There shall not be any direct or indirect illumination from such point source which causes an illumination level in excess of 0.5 footcandles on any abutting property.

- I. Hours. The hours of operation by any vendor, or of any sidewalk café, shall be limited to 9:00 am to 9:00 pm each day.
- J. Equipment. No stand, cart, equipment, appliance, furniture or fixture shall be left or stored on any sidewalk, park or other public area during non-operational hours. Furniture and fixtures used in conjunction with outdoor service must be of a temporary nature and must be brought in at closing time.
- K. Signage. Each vending unit, stand or cart shall be permitted one sign, not more than four (4) square feet in area, permanently mounted on the vending unit, stand or cart, and one “A-frame” or “sandwich board” sign located within five feet of the unit and otherwise complying with the provisions of the Village Zoning Code (see § 108-78.6D).

**§ 82-11. Limitations on number and location of vendors.**

The Board of Trustees may, by resolution, limit the number of vendors to be permitted on or in Village sidewalks, parks and public areas, and the locations within which vendor’s stands, carts or vehicles are permitted. In the case of applications in excess of any such limits, preference shall be given to residents of the village and owners or operators of businesses within the Village.

**§ 82-12. Revocation of permit.**

Any license or permit issued pursuant to the provisions of this chapter may be revoked by the Village Clerk upon notice and hearing for any of the following causes:

- A. The Village Clerk has been advised by the Department of Health that such vendor has violated any of the provisions of applicable state or county law, code or regulation.
- B. A false or fraudulent statement is contained in the application for any permit.
- C. A fraudulent or false statement is made in connection with the selling of any food item.
- D. The vendor violates any provision of this chapter.

**§ 82-13. Penalties for offenses.**

Any person violating any of the provisions of this chapter shall be punishable as provided in § 1-15 of Chapter 1, General Provisions, of the Code of the Village of Churchville.

**Section II.**      **Severability.**

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section III.**      **Effective Date.**

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