

PURSUANT TO CALL A REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF HENRIETTA, COUNTY OF MONROE, STATE OF NEW YORK, WAS DULY HELD AT THE HENRIETTA TOWN HALL, 475 CALKINS ROAD, HENRIETTA, NEW YORK ON THE 16<sup>TH</sup> DAY OF OCTOBER 2013 AT 7:00 P.M.

RESOLUTION #19-171/2013

On Motion of  
Councilman Page

Seconded by  
Councilman Moore

WHEREAS, upon proper notice a Public Hearing was held on the 2<sup>nd</sup> day of October, 2013, where all persons wishing to speak regarding Proposed Local Law No. 2 of 2013 were heard by the Town Board, and

WHEREAS, after consideration of all information presented and available it is the determination of the Town Board that the Town Code should be amended to allow food trucks in the Town of Henrietta.

THEREFORE, BE IT RESOLVED, that the Henrietta Town Board hereby enacts Proposed Local Law No. 2 of 2013, A Local Law to Amend Chapter 295 of the Code of the Town of Henrietta to Allow Food Trucks in the Town of Henrietta.

BE IT FURTHER RESOLVED, that as it is the first Local Law to be acted on in 2013, that said Local Law be designated Local Law No. 1 of 2013.

BE IT FURTHER RESOLVED, that the Town Clerk shall file with the Secretary of State, as soon as possible, and in any event no later than twenty (20) days from this date, one (1) Certified copy of said Local Law No. 1 of 2013, and that said Law shall take effect immediately upon filing with the Secretary of State.

Duly put to a vote:

Councilman Mulligan	voting	Aye
Councilwoman Zinck	voting	Absent
Councilman Moore	voting	Aye
Councilman Page	voting	Aye
Supervisor Yudelson	voting	Aye

Carried

## Local Law Filing

www.dos.state.ny.us/corps

(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.

**Town of Henrietta**

Local Law No. 1 of the year 2013

**A local law to amend Chapter 295, Zoning, of the Code of the Town of Henrietta.**

**Be it enacted by the Town Board of the Town of Henrietta as follows:**

SECTION 1. The following definitions are added to § 295-2, Word usage and definitions, in proper alphabetical sequence:

**MOBILE FOOD VEHICLE APPROVED LOCATION** (hereinafter referred to as "approved location") – Private property zoned commercial or industrial that has an approved special use permit from the Henrietta Town Board; said approval includes designation of one or more area(s) within that property that have been approved by the Town Board, on the recommendation of the Director of Building/Fire Marshal in which properly licensed mobile food vehicles may operate.

**MOBILE FOOD VEHICLE** – A commercially manufactured, self-contained, motorized mobile food unit in which ready-to-eat food is cooked, wrapped, packaged, processed or portion for service, sale or distribution.

**MOBILE FOOD VEHICLE VENDOR** – The owner of a mobile food vehicle or the owner's agent; hereinafter referred to as "MFV vendor."

SECTION 2. Chapter 295, Article XI, Miscellaneous Regulations, is amended to add the following new section:

### **§. Food trucks.**

#### **A. General provisions.**

(1) 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 Henrietta.

(2) It shall be unlawful for any person to operate a mobile food vehicle on private property without first having obtained a valid mobile food vending license as prescribed in this section. Operation of a mobile food vehicle on private property shall be regulated in accordance with all applicable provisions of the Town Code.

(3) Mobile food vehicles with a valid mobile food vending license as prescribed in this section shall be allowed to operate on private property within an area that has been designated by the Town of Henrietta as an approved location.

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

**B. Approved locations.**

- (1) To be considered an approved location for mobile food vehicles, owners of private land zoned commercial or industrial must make application to the Town Board of the Town of Henrietta for a special use permit, according to the provisions of Article XII of this chapter. The application for such license shall be on forms provided by the Director of Building/Fire Marshal or the Director's designee.
- (2) Approved locations may not be adjacent to or within a radius of 100 feet of the nearest edge of any building or section of a building comprising a licensed food establishment, excluding any patio, awning or temporary enclosure attached thereto, the kitchen of which is open for serving food to patrons. This requirement may be waived if the application is submitted together with the written consent of the proprietor of the adjacent licensed food establishment.
- (3) Approved locations may not conflict with any parking and vehicle and traffic laws, ordinances, rules and regulations of the Town of Henrietta, County of Monroe or State of New York.
- (4) Neither the vendor nor the property owner may provide seating intended primarily to accommodate patrons of the food vehicle, except that the property owner may provide a reasonable amount of seating to be used by employees of a business that is located on that property.
- (5) The initial license shall be subject to approval by the Town Board of the Town of Henrietta. The permit holder must appear before the Town Board to request changes to the special use permit that increase the number of approved locations on that permit holder's properties. Changes to the location or dimensions of a designated area within an approved location are subject to the approval of the Director of Building/Fire Marshal.

**C. Vendors.**

- (1) To operate in an approved location, the vendor must have written permission of the owner of the property specifying the days, times and specific location(s) for which permission has been granted. Such written permission must be in a form acceptable to the Town Attorney.
- (2) Mobile food vehicles may only be parked in areas indicated on the permit application submitted to the Town by said property owner and approved by the Director of Building/Fire Marshal.
- (3) Mobile food vehicles with a valid mobile food vending license may be operated by the vendor during hours as approved by the property owner. 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.
- (4) Mobile food vehicles must be parked within the boundaries of the designated area of the approved locations, as approved by the Town Board. The Town Board designates that Director of Building/Fire Marshal (or his designee) as the person authorized to make the determination of whether the mobile food vehicle is in compliance.
- (5) Each and every mobile food vehicle must at all times carry on the vehicle a "measuring wheel" with a measuring capability of no less than 500 feet as a condition of its licensure. The failure of any mobile food vehicle to carry such a "measuring wheel" or abide by the proximity distance restrictions included in this article shall constitute a violation of this section pursuant to Subsection H.
- (6) All mobile food vehicle vendors must abide by all parking and vehicle and traffic laws, ordinances, rules and regulations at all times.

(7) It shall be unlawful for any mobile food vehicle vendor to operate within 500 feet of the boundary line of any fair, carnival, circus, festival, special event or civic event.

(8) All signage must be permanently affixed to the mobile food vehicle. No accessory signage shall be placed outside or around the mobile food vehicle.

(9) 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. Each mobile food vehicle vendor shall be responsible for abiding by Chapter 234, Solid Waste, Part 1, of this Code, any violation of which shall be punished in accordance with § 234-12 of this Code.

(10) No alcohol may be sold or dispensed from mobile food vehicles.

**D. License required; application.**

(1) Any person desiring to operate a mobile food vehicle shall make a written application for such license to the Director of Building/Fire Marshal. The application for such license shall be on forms provided by said Director or the Director's designee, and shall include the following:

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

(b) A valid copy of all necessary licenses, permits or certificates required by the County of Monroe, 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.

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

(d) Insurance.

[1] The vendor shall furnish a certificate of insurance evidencing that the vendor possesses and maintains such public liability, food products liability, and property insurance as will protect the vendor and the Town from all claims for 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 Henrietta Office of Licenses. 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 Henrietta.

[2] 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.

(2) All license applicants and applicants for renewals thereof shall present each vehicle to the Fire Marshal to determine that the vehicle meets all applicable New York State Fire Codes.

(3) The initial license shall be subject to approval by the Town Board of the Town of Henrietta.

**E. Form and condition of license. Every mobile food vehicle vending license shall contain the following conditions:**

(1) Each mobile food vehicle vending license shall expire on April 1 of every year.

(2) The license shall not be transferable from person to person.

(3) The license is valid only for the vehicle for which it was issued.

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

**F. License fee.**

(1) All vendors shall pay an initial application fee in an amount set from time to time by the Town Board, which shall include the first year's license fee.

(2) All vendors holding a license that has been revoked or permitted to lapse shall pay an annual renewal fee as set by the Town Board.

**G. Compliance with other regulations.**

(1) The owner/operator of any mobile food vehicle licensed by the Town of Henrietta shall comply with all provisions of federal, state and local laws and ordinances.

(2) The owner/operator of any mobile food vehicle licensed by the Town of Henrietta shall comply with all notices, orders, decisions and rules and regulations made by the Henrietta Building Department, the Henrietta Code Enforcement Office, the Monroe County Sheriff's Office, the Monroe County Health Department, or any other Town of Henrietta department and/or agency.

**H. Penalties for offenses.**

(1) Any person, firm or corporation violating the provisions of this section shall, upon conviction or a plea of guilty, be subject to the penalties set forth in § 295-66 of this chapter.

(2) Closure for operation without license. Any mobile food vehicle operating without the required Town of Henrietta license shall be immediately closed by order of the Town of Henrietta. Every day of operation without a license shall constitute a separate violation and shall be punishable by a fine of \$1,500 per violation.

**SECTION 3. REPEALER.**

All local laws or ordinances and parts thereof inconsistent with this local law are hereby repealed.

**SECTION 4. SEVERABILITY.**

If any clause, sentence, paragraph, section, article 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, article or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**SECTION 5. WHEN EFFECTIVE.**

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