

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 Hamburg

FILED
STATE RECORDS

JAN 05 2017

DEPARTMENT OF STATE

Local Law No. 8 of the year 2016

A local law Mobile Food Vending
(Insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Hamburg

as follows:

(See attached)

(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. 8 of 2016 of the ~~(County)(City)(Town)~~(Village) of Hamburg was duly passed by the Board of Trustees on December 19 2016, 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.)

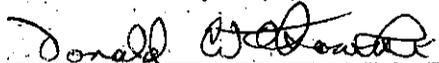
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 1 above.


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

Date: 12/30/16

(Seal)

LOCAL LAW NO. 8 OF 2016

A LOCAL LAW TO AMEND the Code of the Village of Hamburg by adding Chapter 161 thereof, entitled **MOBILE FOOD VENDING**.

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

§161-1 Purpose.

The purpose of this chapter is to promote and protect the health, safety and general welfare of the Village of Hamburg and its residents.

§161-2 Definitions.

The following phrases shall have the meanings set forth:

MOBILE FOOD VEHICLE

A mobile food unit either self-powered or towed, other than a work site concession vehicle, which prepared food is offered for sale to the public.

MOBILE FOOD VENDING

The act of vending prepared food through the utilization of a mobile food vehicle.

PRIVATE CATERED EVENT

Mobile food vending limited to serving the owners, occupants and guests of just a single or two family dwelling as defined in §250-6 of this code, a school, club, church, professional office, studio, fire station, medical building, nursing home, or any building offering personal services as defined in §250-6, and where the owner and/or occupants have given their written permission for the event.

RESTAURANT

A building where meals are served to customers.

WORK SITE CONCESSION VEHICLE

A motor vehicle with a maximum gross weight as reflected upon its registration of not more than 8600 pounds in which food is not cooked, baked, grilled, broiled or fried.

§161-3 Permit Required.

No mobile food vehicle shall be used for mobile food vending unless a permit issued pursuant to the provisions of this chapter shall first have been obtained, which permit shall at all times be displayed in a conspicuous location that is visible from the outside of the vehicle.

§161-4 Permit Application.

The owner of a mobile food vehicle who wishes to engage in mobile food vending within the Village of Hamburg shall make a written application to the Village Clerk for one or more mobile food vehicle permits on a form provided by the Village Clerk. The application for such permit(s) shall be signed and dated by the owner or by a corporate officer of the owner, shall identify the signor and shall include the following:

- A. Name, address and telephone number of each owner of the mobile food vehicle and in the case of the corporate owner, the name, address and telephone number of each corporate officer.
- B. As to each mobile food vehicle for which a permit is requested, a valid and current Erie County Department of Health certification of a successful health inspection as to both the vehicle to be used and the facility where the food is prepared.

- C. As to each self-powered mobile food vehicle for which a permit is requested, a valid insurance certificate, New York State Department of Motor Vehicles Registration, and certificate of inspection.
- D. As to each mobile food vehicle for which a permit is requested, a valid and current certification of a successful fire inspection conducted within the prior 12 months by the County of Erie, by a municipality or fire department within the County of Erie, or by the Village of Hamburg Fire Inspector.
- E. A signed statement that the vendor shall indemnify and hold harmless the Village 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 or under the terms of the permit.

§161-5 Fees.

As to each permit application, the fee and renewal fee for a mobile food vending permit shall be \$150.00 for the first mobile food vehicle, and \$50.00 for each additional mobile food vehicle.

§161-6 Permit Term and Restrictions.

- A. The Village Board of Trustees of the Village of Hamburg retains the right, for good cause, to revoke any permit.
- B. Each mobile food vending permit shall expire on April 1 of every year.
- C. The permit shall not be transferrable without the written approval of the Village of Hamburg.

§161-7 Permit Revocation.

The Village Clerk may, upon any of the following causes revoke any permit issued pursuant to the provisions of this chapter:

- A. There has been a development, or a discovery that the information provided in the permit application is incorrect, untrue, false, or misleading.
- B. The Erie County Commissioner of Health has advised that the vendor has violated a provision of law, or the sanitary code of the County of Erie.

Should the Village Clerk revoke the permit pursuant to this chapter, the Clerk shall notify the Village Board and the Village Code Enforcement Officer.

§161-8 Regulations.

- A. It shall be unlawful for a mobile food vendor to conduct business in a location within 100 feet of the primary entrance of a restaurant that is open to the public. This requirement shall be waived if written permission for the mobile food vending operation is first obtained from the owner of the restaurant.
- B. In the central business district, commercial district, professional office district, light industrial district and industrial district, it shall be unlawful for a mobile food vendor to conduct business at a single location within a public right-of-way for duration exceeding three hours.
- C. It shall be unlawful for a mobile food vendor to conduct business at a single location upon a public right-of-way within the residential one, residential two and residential three zoning district for a duration exceeding 20 minutes, except at the time and place of a block party approved by the Village of Hamburg Board of Trustees or for a private catered event. In the case of a block party approved by the Village of Hamburg Board of Trustees, it shall be unlawful for a mobile food

vendor to conduct business at single location upon a public right-of-way within the residential one, residential two or residential three zoning districts for a duration exceeding the duration of the block party. In the case of a private catered event, it shall be unlawful for a mobile food vendor to conduct business at a single location upon a public right-of-way within the residential one, residential two or residential three zoning districts for a duration of more than two hours or as permitted by §161-8(M) of this chapter, whichever is less.

- D. Mobile food vendors must comply with all applicable federal, state and local statutes and ordinances.
- E. All signage associated with the mobile food vendor must be permanently affixed to the mobile food vehicle. Accessory signage placed outside or around the mobile food vehicle is prohibited.
- F. All mobile food vendors must provide trash receptacles of sufficient capacity to contain all trash and waste generated in association with the business of the mobile food vendor. All waste and trash shall be placed in the trash receptacles. All trash, waste, litter and debris shall be removed from the site of the vending operation at the end of each daily operation.
- G. It shall be unlawful to discharge liquid waste, fats, oils or grease anywhere in the Village of Hamburg. Such discharges shall be held in appropriate containers and then disposed in a legally permissible manner.
- H. Mobile food vendors shall not conduct operation from a site that contains a gasoline service.
- I. When parked on the public right-of-way mobile food vendors shall not dispense products from the street side of the mobile food vehicle.
- J. A self-powered mobile food vehicle shall not be operated in reverse in order to attempt or make a sale.
- K. Mobile food vending shall not be conducted within 60 feet of an intersection of two or more public highways/roads.
- L. It shall be unlawful for any mobile food vendor to conduct business in a location within 500 feet of the boundary line of any fair, carnival, circus, festival, special event or civic event that is licensed and/or approved by the Village of Hamburg; except when the vendor has obtained a permit to so operate from the Village Clerk of the Village of Hamburg, with notice to the operator of the fair, carnival, circus, festival, special event or civic event. Permission may be conditioned upon the payment of fees charged other vendors with respect to said event.
- M. Other than as permitted by §161-8(C) with respect to a block party approved by the Village of Hamburg Board of Trustees, mobile food vending shall not be conducted before 7:00 a.m. or after 11:00 p.m. In residential one and/or residential two and/or residential three zoning districts, mobile food vending shall not be conducted before 9:00 a.m. or after 8:00 p.m.

§161-9 Enforcement.

- A. A mobile food vehicle, while within the Village of Hamburg, may be inspected at any time for violations of this chapter by the Village of Hamburg Police Department, any Health Inspector with jurisdiction within the Village of Hamburg, and the Code Enforcement Officer of the Village of Hamburg.
- B. Enforcement of the mobile food vending rules and regulations set forth in this chapter shall be the responsibility of the Village of Hamburg Police Department and/or the Village of Hamburg Code Enforcement Officer. The Village of Hamburg Police Department and/or the Village of Hamburg

Code Enforcement Officer shall administer this chapter and be authorized to issue appearance tickets for any violations of this chapter.

§161-10 Penalties for Offences.

- A. The penalty for engaging in mobile food vending without properly obtaining and/or displaying a permit shall be \$250 for the initial offense within a twelve-month period and \$1,000 for every subsequent offense within said twelve-month period. A permit shall be revoked after the second offense. One who is found guilty more than once within a twelve-month period of engaging in mobile food vending without properly obtaining a permit shall in addition to applicable fines be barred from obtaining a permit for 24 months.

- B. Except for violations of the New York State Vehicle and Traffic Law which shall be prosecuted as such, penalties for all other violations of this chapter not referenced in the preceding subsection shall be punishable by a minimum fine of \$250.00 or by a term of imprisonment not to exceed 15 days or both.