

**A LOCAL LAW TO PERMIT AND REGULATE THE VENDING OF REFRESHMENTS
FROM A MOBILE CART OR MOTOR VEHICLE**

Section 1. Scope and Purpose

The purpose of this Local Law is to regulate the outdoor commercial sale of food and beverages from a mobile food cart or motor vehicle to the general public for takeout or on - premises consumption within the Village of Naples.

The Board of Trustees hereby finds and declares that the business of outdoor vending of refreshments should be regulated to protect the health, safety, and general welfare of the citizens of the Village of Naples, and to prevent the congestion of traffic and pedestrian travel.

Section 2. Definitions

As used in this Local law, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

LICENSE: A license issued pursuant to this chapter.

LICENSEE: Any person holding a license.

HEALTH INSPECTOR: Any employee or agent of the New York State Health Department assigned to perform the duties of Health Inspector contemplated by this Local Law.

MOTOR VEHICLE: Any vehicle that is powered by other than human or animal means.

MOBILE CART: Any cart or similar device which is capable of being moved from place to place and from which refreshments are sold.

NONPROFIT ORGANIZATION: Shall mean any church, church society, school, school association, political party, private club, social club, civic organization, or any nonprofit or not for profit organization of a religious, philanthropic, civic improvement, social or political nature.

PERSON: Shall include any individual, society, club, firm, partnership, corporation, limited liability company, or association of persons.

REFRESHMENTS: Any food, fruit or other edible commodity or soft drink or carbonated beverage.

VEND: The act of selling or offering for sale refreshments from a motor vehicle or mobile cart.

VENDOR: Any person engaged in the selling or offering for sale of refreshments from a motor vehicle or mobile cart.

VILLAGE: The Village of Naples.

Section 3. License Required. No person shall vend within the Village unless a license to do so shall have been obtained and shall be in force.

Section 4. Application for License; Fees.

A. An application for a license to vend permit shall be made to the Village Clerk upon forms to be provided by the Village Board. The applicant shall pay to the Village at the time of filing, a license application fee in the amount as set from time to time by resolution of the Village Board.

B. The license shall be effective for no more than a calendar year, and only for the date and location stated in the permit.

C. The application shall set forth the following:

1. The name and address of the vendor.

2. The place where and the time when the vending will be conducted.

3. The kind of refreshment to be sold during the license period.

4. A copy of the vendor's current New York State Department of Health permit if applicable.

Section 5. Issuance of License; Contents.

A. Upon the filing of the application and payment of the fee, the Village Clerk may approve the issuance of such license to the vendor who may then vend refreshments in accordance with the terms of the license.

B. The license shall state:

1. The name of the person to whom it is granted and the person who is responsible for compliance with the license and this Local Law.

2. The place, date, and time when such vending may be conducted.

3. The kind of food in which the holder of the license may deal.

4. The license shall not be transferrable.

5. No vendor may conduct activities in a manner which which blocks or impedes pedestrian or vehicular passage.

C. The Village Clerk shall provide notice to the Village Board of all permits that have been granted in the preceding month.

D. An application for a license may be denied by the Village Clerk if, for any reason, in the opinion of the Village Clerk, the conduct proposed by the vendor is deemed detrimental to the best interests of the general public, or if the application for the license is insufficient on its face.

Section 6. Inspections. Upon issuing a license, the Village Clerk may direct the Health Inspector to inspect the equipment to determine whether the vendor is in compliance with all applicable laws, regulations, and ordinances.

Section 7. Signs. No more than one sign having up to 50 square feet in area or no more than two signs, neither of which may exceed 25 square feet in area may be erected on the premises upon which the vending occurs on the date(s) permitted by the license.

Section 8. General Requirements

A. No vendor shall directly or indirectly cause or permit the public streets, sidewalks or places to be littered with papers, wrappings, or other debris or refuse where the littering results from the conduct of his business.

B. No vendor shall vend between the hours of 9 P.M. and 9 A. M. of the following day, unless otherwise specified.

C. No vendor shall use or operate any loudspeaker, public address system, sound amplifier or other similar device to attract the attention of the public.

D. No vendor shall vend within 1,000 feet of the grounds of any elementary or secondary school between one-half hour prior to the start of the school day and one-half hour after the dismissal at the end of the school day.

E. The license issued to the vendor shall specify the location within the commercial zone from which vending is permitted and shall be valid for vending only at that location. There shall be only one motor vehicle or mobile cart in a designated location.

F. The license may limit the amount of space to be occupied by the vendor.

Section 9. Exemptions.

The following persons shall not be required to obtain a license:

A. Individuals under the age of 16 years who vend Girl Scout Cookies, candy, or lemonade or similar items.

B. Any vendor who conducts an operation during the periods of time in which a festival or other gathering sanctioned or permitted by either the Naples Town Board or the Naples Village Board is being held.

C. Any vendor which is a nonprofit organization.

Section 10. Term and Form of License.

A. If the Village Clerk approves an application, the license shall be valid for one year with the specific seasonal term and/or particular dates set and determined annually by the Village Clerk upon the advice and consent of the Village Board.

B. A license shall be in a form prescribed by the Village Board.

Section 11. Non issuance of License.

A. No license shall be issued to any applicant if the business sought to be licensed does not comply with all applicable federal, state, and local laws, ordinances, rules and regulations. If the application is rejected, the Village Clerk shall notify the applicant, in writing, stating the reasons for rejection.

Section 12. Display of License.

A. All licenses shall be displayed in a conspicuous place at all times during the operation of the vending business.

Section 13. Transfer of License.

A. A license may not be transferred or assigned or its location changed without prior approval of the Village Clerk. If the Village Clerk approves the transfer assignment or location change, this action shall be endorsed on the original license.

Section 14. Suspension or Revocation of License.

A. A license may be suspended or revoked by the Village Clerk only after notice, in writing, to the vendor, and only after the vendor has been given an opportunity to be heard before the Village Board. However, the license may immediately be suspended by the Village Clerk if, in her or his opinion the operation of the vendor constitutes an immediate threat to the health, safety, or welfare of the general public.

B. Written notice of intent to suspend or revoke shall be given by registered or certified mail to the address of the vendor, given on his application.

C. The Village Clerk shall suspend or revoke the license of any vendor found to have violated or to have permitted a violation of any provision of this chapter or any other ordinance, rule, or regulation or state or federal law pertaining to the operation of his business.

D. Upon a determination that a license should be suspended or revoked, the Village Clerk shall notify the vendor in writing, setting forth the reasons for such suspension or revocation.

Section 15. Effect of License Revocation

A. When a license has been revoked, no other license shall be issued to the same vendor until after the expiration of one year from the date of such revocation.

B. Upon revocation of any license, the application fee shall be forfeited.

Section 16. Penalties For Offenses.

A. Any person failing to comply with any of the provisions of this chapter shall, upon conviction, be guilty of a violation and shall be punished by a fine not to exceed \$250.00 or imprisonment not exceeding 15 days, or by both such fine and imprisonment.

Section 17. Severability.

A. If any provision of this chapter shall be declared unconstitutional or otherwise void and ineffective, the validity of the remainder of the provisions hereof and their application shall not be affected.

Section 18. Effective Date.

A. This Local Law shall become effective upon its filing with the Secretary of State.