

RESOLUTION OF 11/10/15

WHEREAS, the attached amendments to Chapter 89 Sidewalk Sales was introduced by the Board of Trustees of the Village of Rhinebeck on September 8, 2015; and

WHEREAS, a public hearing was held on October 13, 2015, 2015 at 7:00 p.m. at the Village Hall, 76 East Market Street, Rhinebeck, New York, notice of said hearing duly published and at which time all interested parties had an opportunity to be heard; and

WHEREAS, after hearing the public comment the Board of Trustees adjourned the public hearing to November 10, 2015, modified the proposed Code provisions and on November 10, 2015 conducted a further hearing on the revised proposal at which time all persons interested had an opportunity to comment further; and

WHEREAS, the Board of Trustees of the Village of Rhinebeck determined this action to be a Type II action based on the criteria found in 6 NYCRR, § 617.5 (c) (27) and therefore has determined that there are no adverse environmental impacts associated with the adoption of this Local Law; and

WHEREAS, the revised local law has been in final form on the desks of the Trustees of the Village of Rhinebeck for at least seven (7) days exclusive of Sundays;

NOW THEREFORE BE IT ENACTED, by the Board of Trustees of the Village of Rhinebeck the following:

VILLAGE LAW OF RHINEBECK  
LOCAL LAW NO. OF 2015  
SIDEWALK SALES

Chapter 89

Sidewalk Sales

§ 89-1 Title.

This article shall be entitled "A Local Law Regulating Sidewalk Sales and Displays of Merchandise Within the Village of Rhinebeck."

§ 89-2 Legislative intent.

The Village of Rhinebeck recognizes that the Village merchants must have an

opportunity to conduct sidewalk sales, and other displays of merchandise, outside their business premises in order to remain economically viable. However, the Village also recognizes that such sales and displays have the potential to disrupt pedestrian traffic, produce litter and otherwise negatively impact the character of the Village. The Village Board of Trustees, by this article, seeks to reach an accommodation between the needs of the merchants and the needs of the community by allowing, but regulating, sidewalk sales and other displays of merchandise by Village merchants.

#### § 89-3 Definitions.

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

##### APPLICANT

The organization applying to the Village Clerk for a sidewalk sale license.

##### LICENSE

The license obtained from the Clerk of the Village of Rhinebeck upon completion, submission and approval of the application to the Village Clerk for the conduct of a sidewalk sale.

##### LICENSEE

The organization to which a sidewalk sale license has been issued by the Village Clerk.

##### MERCHANT

Any person or business entity lawfully occupying a store in the Village of Rhinebeck.

##### SIDEWALK SALE

Any sidewalk sale sponsored, organized and/or supervised by an organization such as the Rhinebeck Chamber of Commerce, Businessman's Association or Merchant's Association.

##### PUBLIC SERVICE FACILITY

A public telephone, mailbox, bench or other facility provided for use by the general public.

##### SIDEWALK

Any area between the curblineline and a structure, whether publicly or privately owned, which is used by the public, or open to use by the public, for pedestrian purposes. In cases where there is no curblineline within 10 feet of the structure, the sidewalk shall be deemed to extend 10 feet perpendicular from the structure.

##### SIDEWALK DISPLAY

The tables, carts and/or racks used to exhibit merchandise at a sidewalk sale or outside a business premises.

VILLAGE ATTORNEY

The Village Attorney, or attorney to the Village, as the case may be.

§ 89-4 Sidewalk sale licensing requirements and procedures.

The Village Clerk is hereby authorized to grant licenses for sidewalk sales within the Village Center District upon the following terms and conditions:

A. The application for an sidewalk sale shall be on a form provided by the Village Clerk and approved by the Board of Trustees and Village Attorney which shall provide the following additional information:

- (1) The name, address and telephone number of the sponsoring organization;
- (2) The dates requested for the organized sidewalk sale;
- (3) The proposed hours for the conduct of such sale; and
- (4) The name and address of each merchants who will be participating in the sidewalk sale as part of the sponsoring organization.
- (5) Identification of a rain date or dates for the sidewalk sale;
- (6) Indemnification on a form provided by the Village Clerk, and approved by the Village Board and Village Attorney, indemnifying and saving harmless the Village of Rhinebeck, its officers, agents, attorneys and employees from and against any claims of loss, liability or damage by any person arising as a result of the applicant's operation of the sidewalk use, including indemnification for attorneys fees incurred by the Village.
- (7) Such license application fee as shall be established by the Village in its Fee Schedule.  
Editor's Note: The Fee Schedule is on file in the Village offices.

B. The application shall be approved, or disapproved, within a period of 10 days from the date of submission of all required documentation and information. In the event the application is denied, the applicant may appeal the determination to the Village Board of Trustees. Such review shall be conducted by the Village Board at the next regularly scheduled meeting of the Village Board and shall not require conduct of a public hearing. The Village Board shall have the authority, after review, to issue, or further deny, the application.

C. No license shall be issued until such time as the applicant shall provide proof of the existence of a policy of general liability insurance, which such policy shall name the Village of Rhinebeck as additional insured and have a combined single limit of not less than \$1,000,000. The applicant shall file with the Village Clerk, prior to the issuance of a license, the certificate of insurance evidencing the requisite insurance coverage.

D. No more than six sidewalk sales may be approved by the Village Clerk within a calendar year.

E. In the event a licensed sidewalk sale cannot be conducted in whole or in part because of rain or other inclement weather, the Village Clerk may issue a license to conduct the sidewalk sale on another selected date or dates rain date(s) and such license shall not be counted against the six sale limitation period in Subsection D herein.

G. The sidewalk sale shall be open to participation by all retail merchants within the Village Center District, whether or not they are part of the sponsoring organization.

H. For sidewalk sales, the following provisions shall apply:

(1) Food and drink may be sold in conjunction with such sidewalk sales. In the event permits are required for such sale of food from the Dutchess County Department of Health, such permits shall be secured and copies provided to the Village Clerk prior to the issuance of the license for the organized sidewalk sale.

(2) The applicant shall have the consent of the owner and lessee, if any, of the premises in front of which the sidewalk sale is to be conducted.

(3) No individual merchant shall be issued a license for sidewalk sales.

(4) No sidewalk display shall be set up in such proximity to the curb as to create a danger to pedestrians or persons exiting or entering their motor vehicles and in no event shall a sidewalk display be set up less than one foot from the curb.

(5) No sidewalk display may extend more than three feet from the facade of the premises. The licensee shall ensure that all participating merchants at all times maintain, free and clear from all obstructions, an aisle not less than four (4) feet in width providing for pedestrian movement and access to any establishment fronting on the said sidewalk. The sidewalk sale shall be conducted in a manner which does not unreasonably interfere with pedestrian traffic or with any other business establishment or residences.

(7). No permanent structure may be affixed to the sidewalk or any building. The licensee shall be responsible for any damage caused to any public sidewalk or public property as a direct result of the conduct of the sidewalk sale.

(8) The use of the sidewalk for sidewalk sale purposes shall not interfere with access to any public service facility.

(9) Outdoor lighting and/or music shall be permitted in conjunction with the sidewalk sale, provided that the same are low-keyed and do not create objectionable noise or light.

(10) No sidewalk display shall be permitted after the business entity with which it is associated is closed to the public. No sidewalk sale shall commence prior to 7:00 a.m. or continue past 9:00 p.m. The sidewalk display items shall be removed from the sidewalk after hours.

(11) The display area shall at all times be kept free and clear of litter, debris and any substance that may damage the sidewalk or cause pedestrian injury.

(12) Small signs may be displayed within the display area.

I. The application for the sidewalk sale must identify all proposed sale of food and drink and provision of music.

J. The application shall be accompanied by such fees as may be established by the Village in its Fee Schedule.

Editor's Note: The Fee Schedule is on file in the Village offices.

#### § 89-5 License exemption for certain displays.

Any merchant who desires to set out on the sidewalk a single rack for the display of clothing or other merchandise or a single table for the display of clothing or other merchandise, in conjunction with the operation of his or her business, shall not be required to obtain a license. The rack shall not, however, exceed three feet in length, and the table shall not exceed 15 square feet of tabletop area. The rack and/or table shall be located within the entrance alcove to the premises or within three feet of the facade of the building. All other provisions set forth in §§ 89-4 (4) through (13) of this article shall apply to such displays. The merchant shall also be permitted to locate plantings and/or a single bench outside of the premises, provided that the plantings and bench are not used for the display of merchandise and are located within three feet of the facade of the building.

#### § 89-6 Reservation of rights.

Neither the adoption of this article nor the granting of any license pursuant hereto shall be construed as a waiver of any right, privilege or immunity of the Village of Rhinebeck with respect to streets and sidewalks, whether express or implied.

#### § 89-7 Enforcement; penalties for offenses.

A. The provisions of this article shall be enforced by the Village's Code Enforcement Officer and/or Village Police Department. The Code Enforcement Officer shall have the power to issue a notice of violation and order to remedy to any licensee who violates the provisions of this article. In the event the licensee does not cure the violation within the

time specified in the notice of violation, the Zoning Enforcement Officer, in addition to the remedies set forth in Subsection B of this section, may notify the Village Board of the unremedied violation. The Village Board shall have the power to revoke or suspend the license of the licensee after providing the licensee with an opportunity to be heard.

B. Any person who shall violate the provisions of this Chapter shall be liable to prosecution in the Village Justice Court either by the Code Enforcement Officer or by the Village Police Department and shall, upon conviction thereof, be liable for a fine that shall not exceed \$200 for a first offense. For a second offense, the fine shall not exceed \$500, and for a third offense, the fine shall not exceed \$500 and/or imprisonment for not more than 15 days.

C. The Village shall, in addition to other remedies, have the right to bring a civil action against any business, licensee or merchant who violates the provisions of this article, seeking injunctive relief. In any such action, the Village shall be entitled to recovery of legal fees, costs and expenses in the prosecution of any such civil action, as awarded by the Court.

D. Notwithstanding these provisions, it shall be expected that the merchants and/or sponsoring organizations shall self-police themselves in the conduct of sidewalk sales to ensure that the provisions of this article are adhered to.

§ 89-8 Legislative authority; supersession of inconsistent laws.

A. This article is enacted under the authority of Subparagraphs (a)(1)(2)(d)(iii) of the Municipal Home Rule Law § 10(1)(ii) and Municipal Home Rule Law § 22.

B. To the extent that any law of the Village of Rhinebeck is inconsistent with this article, it is the intent of the Village Board to supersede such sections of the law by virtue of this article.