

REGULAR MEETING
OCTOBER 16, 2019

Board Members Present: Mayor Richard Frost
Trustee Carol Horlacher
Trustee Art Miller 4:32
Trustee Bryan Woleben
Trustee Craig Miller

Board Member Absent:

Present: Scott Jagoda, Village Clerk/Treasurer
Nancy Furman
MJ Stafford, Observer 4:37
Rich Lewis, WWTP
Phil Gerace, Fire Chief
Tammy Thompson
Jim and Dawn Hemmis
Dave Hazelton (left at 4:58)

Mayor Frost opened the regular meeting with the pledge to the flag at 4:30 p.m.

Public Comments: The Hemmis' noted that the water pressure is down at Crestview Estates after the new hotbox was installed. Crestview maintains their own lines and it may be a landlord issue. Mayor Frost will check with Drew Smith to see if there is anything we can do. Dave Hazelton inquired about how things are going with the code enforcement office regarding Signe and the future of the position. Tammy Thompson inquired about the campers/tents that have been around town and this has been ongoing issue and continues to be addressed.

Department Reports:

Scott Jagoda, Village Clerk/Treasurer – The Clerk introduced the dog control report for September 2019.

The Clerk introduced a letter from Chautauqua County Fair requesting a donation. The board declined.

A motion was made by Trustee Craig Miller with a second by Trustee Art Miller to remove the fencing around 10 E. Main, voting was 3 ayes and 1 nay (Trustee Horlacher), motion carried. The barricades that were previously there will be put back up and will check with Joe Majkowski to see if they can build some sort of fencing at a reasonable price to replace the current fencing. The Clerk noted that PESH was in for an inspection and will continue to get at all the village buildings. A few minor violations were found in the office and the Clerk has begun to remedy these situations.

Village Attorney Peter D. Clark – No report.

Ken Becker, Streets Dept. – No report.

Alan Gustafson, Code Enforcement Officer – The board discussed the shared services potential of the code enforcement officer with the Town of Portland. A motion was made by Trustee Bryan Woleben with a second by Trustee Carol Horlacher to agree in principle to share the services of a new code enforcement officer with the Town of Portland with the costs being split two-thirds by the Town and one-third by the Village, voting was unanimous, motion carried. The Town will be the lead agency and the position is meant to be a full-time position with wages being negotiated upon hire.

Rich Lewis - Wastewater Treatment Plant – A motion was made by Trustee Art Miller with a second by Trustee Bryan Woleben to transfer the old sewer truck to all village employees/general account, voting was unanimous, motion carried. This truck is to be available to all employees on an as needed basis.

Fire Department – Phil Gerace, Fire Chief – The Chief introduced the monthly report. Chief Gerace pleaded to the Observer and Village as a whole to try to start taking care of each other again like the old days. The fire dept. is getting worn out with “nuisance” calls such as general soreness and things of this nature. He requested residents call friends or family before calling 911 when it is not an emergency.

Electric Department – Joe Majkowski, Electric Lineman – The Clerk re-introduced a list of electric write-offs from customers who have not paid their bills for numerous reasons. They are nearly impossible to collect because people flee the area without warning and the cost to have a collection agency would be too significant. A motion was made by Trustee Craig Miller with a second by Trustee Bryan Woleben to write off \$3000.50 of open electric accounts that have become uncollectable, voting was unanimous, motion carried.

A voucher request was re-introduced by the Clerk from a village resident requesting the village pay for the electric service they installed after an electric pole fell and required maintenance. This matter was tabled for further discussion.

Committee Reports:

Trustee Bryan Woleben – Trustee Bryan Woleben asked the board if they would like to continue discussion with the Town of Portland regarding the combination of EMS districts for the fire departments. The board agreed it was worth consideration and discussions will continue.

Trustee Art Miller – Trustee Art Miller thanked Jim Dolce and Patrick McCloskey for the work they have done this summer on sidewalks.

Trustee Craig Miller – No report.

Trustee Carol Horlacher – No report.

Mayor Report: - The Mayor noted Ken Becker said the clear wells at the water plant will begin to be filled with “spoils” from the clearing out of ditches. He also stated the County approved and Trustee Woleben requested a letter confirming this from the County just to be safe.

New Business:

VILLAGE OF BROCTON

RESOLUTION 42-2019

INTRODUCING Proposed Local Law No. 1 of 2019. A Local Law enacting regulations for solar energy systems in the Village of Brocton.

Introduced by Trustee Art Miller

Seconded by Trustee Craig Miller

AND calling for a public hearing on said Local Law to be held on November 6, 2019 at 4:30 p.m. at the Village Hall.

 4 ayes

 0 nays

 0 absent

Date: October 16, 2019

Scott Jagoda
Village Clerk/Treasurer

VILLAGE OF BROCTON

PROPOSED LOCAL LAW NO. 1 OF 2019

A LOCAL LAW ENACTING REGULATIONS FOR SOLAR ENERGY SYSTEMS

Be it enacted by the Village Board of the Village of Brocton, County of Chautauqua and State of New York, as follows:

SECTION 1. AUTHORITY.

This local law is promulgated pursuant to the authority granted by:

1. New York Municipal Home Rule Law, § 10(1)(i) and (ii) and § 10(1)(a), (11), (12), and (14);

SECTION 2. SOLAR ENERGY SYSTEM REGULATIONS.

A new Section 370-73 is hereby added to the Village of Brocton Zoning Code, which shall provide as follows:

Section 370-73 SOLAR ENERGY SYSTEMS

A. Purpose.

The Village Board of the Village of Brocton, exercising the authority granted to under the Village Law of the State of New York to protect the health, safety, and welfare of the residents and property owners of the Village of Brocton does hereby enact this Section to regulate the construction, maintenance and placement of solar energy systems and equipment in the Village of Brocton. The purpose of this regulation is to balance the potential impact on neighbors when solar collectors may be installed near their property, while preserving the rights of property owners to install solar collection systems without excess regulation. The Village of Brocton recognizes the importance of solar systems in generating electricity for on-premise and off-premise use, the reduction of greenhouse gas emissions and support for emerging solar system economic development.

B. Definitions.

As used in this Section, the following terms shall have the meaning indicated:

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) - A solar energy system that consists of integrating photovoltaic modules into the building structure. Technologies include PV shingles or tiles, PV laminates and PV Glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings and roofs

COLLECTIVE SOLAR - Solar Installations owned collectively through subdivision homeowner associations, college student groups, "adopt a solar panel" programs similar arrangements or commercial entities.

GROUND MOUNTED SYSTEMS - A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

LARGE-SCALE SYSTEM - Solar energy systems located on land in the Village of Brocton used primarily to convert solar energy into electricity for off-site consumption or sale and/or systems that have the capacity to produce more than 25KW per hour of energy.

NET-METERING - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

ROOF-MOUNTED SYSTEM - A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush mounted system or as modules fixed to frames which can be tilted toward the sun at an optimal angle. Roof mounted systems shall be located on a roof of a permitted principal use or accessory structure.

SMALL-SCALE SOLAR: Small Scale Solar means a solar energy system that installed and placed for the production of energy for consumption only on site, and that has the capacity to produce less than 25KW per hour of energy.

SOLAR EASEMENT- An easement recorded pursuant to the New York State Real Property Law 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

SOLAR ENERGY EQUIPMENT - Energy storage devices, materials, hardware, or electrical equipment and conduit associated with the production of electrical energy.

SOLAR ENERGY PRODUCTION FACILITY - Energy Generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of wholesale or retail sales of electricity.

SOLAR ENERGY SYSTEM - Includes a combination of both solar panels and solar energy equipment.

SOLAR PANEL - A device capable of collecting and converting solar energy into electrical energy.

SOLAR STORAGE BATTERY - A device that stores energy from the sun and makes it available in an electrical form.

SOLAR THERMAL SYSTEMS - Solar Thermal Systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

C. **Applicability.**

1. The requirements of this Section shall apply to all Solar Energy Systems installed or modified after the effective date of the local law by which it was adopted, excluding general maintenance and repair.

2. All Solar Energy Systems shall be designed, erected and installed or modified in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Town Code as well as the National Electrical Code (NEC), National Fire Protection Code 70 (NFPA 70), and local regulations.

3. Under SEQRA regulations, actions are classified as Type I, Type II, or Unlisted Actions. Type II Actions are exempt from review and include actions such as the construction, expansion or placement of minor or accessory structures. The Village of Brocton considers Building-integrated solar components and Small-scale systems to be Type II Actions and therefore exempt from all SEQRA requirements, including the submission of an EAF (Environmental Assessment Form). Large Scale Systems and solar production facilities that meet thresholds contained in the SEQRA regulations and are considered more likely than others to have a significant adverse impact shall be considered Type I Actions. However, the need for a complete Environmental Impact Statement (EIS) shall be determined by the permitting board on a case-by-case basis in accordance with the significance of the potential adverse environmental impact.

D. Solar as an Accessory Use/Structure.

This Section governs the placement and installation of Small-scale Solar systems as defined herein. The installation of Small-scale Solar systems does require the applicant to obtain a building permit from the Village of Brocton.

1. Roof-mounted Systems

Roof-mounted Systems are permitted as an accessory use in all zoning districts when attached to a lawfully-permitted principal structure and/or accessory structure, subject to the following requirements:

a. Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district and are provided the same height exemptions granted to building-mounted mechanical devices and equipment.

b. Setback. Solar energy systems are subject to the setback requirements of the underlying zoning district.

c. Aesthetics. Solar energy equipment shall incorporate the following design requirements:

(1) Solar energy equipment shall be installed outside the primary residence or accessory structure and as close to a public utility electrical meter as possible.

(2) Roof-mounted Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.

(3) Access and Pathways (NFPA Section 324.7) Roof access, pathways, and spacing requirements for solar photovoltaic systems shall be provided in accordance with NFPA Sections R324.7.1 through R324.7.6

EXCEPTIONS:

(a) Roof access, pathways and spacing requirements need not be provided where an alternative ventilation method has been provided, or where vertical ventilation techniques will not be employed.

(b) Detached garages and accessory units.

(4) Size of solar photovoltaic array (324.7.1). Each photovoltaic array shall not exceed 150 feet in any direction. (45,720 mm).

(5) Roof Access Points (324.1.2). Roof access points shall be located:

(a) In areas that establish access pathways which are independent of each other and as remote from each other as practicable so as to provide escape routes from all points along the roof.

(b) In areas that do not require the placement of ground ladders over openings such as windows or doors or areas that may cause congestion or create other hazards.

(c) At strong points of building construction, such as corners, pilasters, hips, and valleys and other areas capable of supporting the live load from emergency responders.

(5) Where the roof access point does not conflict with overhead obstructions such as free limbs, wires or signs.

(6) Where the roof access point does not conflict with ground obstructions such as decks, fences or landscaping.

(7) In areas that minimize roof tripping hazards such as vents, skylights, satellite dishes, antennas, or conduit runs.

(6) Ground access areas (324.7.3). Ground access areas shall be located directly beneath access roofs and roof access points. The minimum width of the ground access area shall be the full width of the access roof or roof access point, measured at the eave. The minimum depth shall allow for the safe placement of ground ladders for gaining entry to the access roof.

(7) Single ridge roofs (324.7.4). Panels, modules or arrays installed on roofs with a single ridge shall be located in a manner that provides two (2), 36 inches wide (914mm) access pathways extending from the roof access point to the ridge. Access pathways on opposing roof slopes shall not be located along the same plane as truss, rafter, or other such framing system that supports the pathway.

EXCEPTIONS:

(a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) and less.

(b) Structures where an access roof fronts a street, driveway or other area readily accessible to emergency responders.

(c) One access pathway shall be required when a roof slope containing panels, modules or arrays is located not more than 24 inches (610 mm) vertically from an adjoining roof which contains an access roof.

(8) Hip roofs (324.7.5). Panels, modules and arrays installed on dwellings with hip roofs shall be located in a manner that provides a clear access pathway not less than 36 inches (914mm), extending from the roof access point to the ridge or peak, on each roof slope where panels, modules or arrays are located.

EXCEPTIONS:

(a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.

(b) Structures where an access roof fronts a street, driveway or other area readily accessible to emergency responders

(9) Roofs with valleys (324.7.6), Panels and modules shall not be located less than 18 inches (457 mm) from a valley.

EXCEPTIONS:

(a) Roofs with slopes of 2 units vertical in 12 units horizontal (16.6 percent) or less.

(10) Allowance for smoke ventilation operations (324.7.7). Panels and modules shall not be located less than 18 inches (457 mm) from a ridge or peak.

EXCEPTIONS:

- (a) Where an alternative ventilation method has been provided or where vertical ventilation methods will not be employed between the uppermost portion of the solar photovoltaic system and the roof ridge or peak.
 - (b) Detached garages and accessory structures.
- d. Notification to the Fire Service. Notification in writing to the Fire Department having operational authority at the location where the system will be installed shall be made no later than ten (10) days following installation:
- 1. Notification shall include a site map showing the location of the solar energy electrical panel, as well as the proper operation of the disconnect switch(s) in the event of a fire or other emergency situation where the homeowner, tenant or other personnel is not available or familiar with the safe shut down operation of unit so as to have the ability to cut power from the solar panels.
 - 2. In addition, a proper written statement showing the method of shut down shall be posted inside the main electrical panel of the unit which can be readily accessible for and to firefighting personnel.
 - 3. Notification shall be sent to the following address:

Brocton Fire Company
80 Lake Avenue
729
Brocton, NY 14716

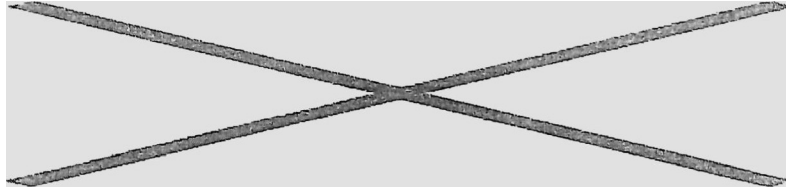
Portland Volunteer Fire Dept.
6481 W Main Road, PO Box

Portland, NY 14769-0729

E. Ground Mounted Systems

- a. Ground mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the requirements set forth in this section.
- b. All ground mounted solar panels in residential districts shall be installed in the rear yard. If a side yard installation is applied for, it shall be subject to all setback requirements of the underlying zoning district, and such an application for side yard shall require site plan review by the Village of Brocton Planning Board.
- c. Setback(s): Ground mounted solar panels are subject to setback requirements of the underlying zoning district.
- d. Height: Solar panels are restricted to a height of fifteen (15) feet when located with a minimum set back distance of ten (10) feet from a lot line; a height of twenty (20) feet when located with a minimum set back distance of fifteen (15) feet from a lot line; and maximum height of twenty five (25) feet when located

with a setback distance of twenty five (25) feet or greater. All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.



- e. Lot Coverage: The surface area of ground mounted solar panels shall be included in lot coverage and impervious surface calculations and shall not exceed thirty percent (30%) of the lot size.
- f. Other:
 - (1) Any application for installation and placement of small scale solar energy system under this section in a side yard location shall require an application containing a site plan showing the location of all solar energy system components, their location on the premises, their location on the premises in relation to the property line and any and all structures on the premises, and the nearest structure located on the premises adjacent thereto.
 - (2) The site plan for such installation shall be reviewed by the Planning Board of the Village of Brocton, and approval of the site plan for the placement in a side yard by affirmative vote of a majority of the Planning Board of the Village of Brocton is required.

F. Violations.

- 1. Any violations of any provisions of this Section shall be punishable by penalty of \$50.00 per day or a term of imprisonment up to 15 days.
- 2. Notwithstanding the above, the Village Board of the Village of Brocton hereby reserves the right to proceed to enforce the provisions of this Section by civil action, injunction, and any other remedy afforded to it by the laws of the State of New York or the United States.

SECTION 3. VALIDITY AND SEVEDRABILITY.

If any part or provision of this Local Law shall be declared invalid, void, unconstitutional or unenforceable by a court of law, all unaffected provisions hereby shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enactment.

SECTION 4. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

RESOLUTION 43-2019 DATA BREACH NOTIFICATION POLICY

Cyber Security Citizens' Notification Policy

- A. This policy is consistent with the State Technology Law, § 208 as added by Chapters 442 and 491 of the Laws of 2005. This policy requires notification to affected New York residents and non-residents. New York State values the protection of *private information* of individuals. The municipality **Village of Brocton** is required to notify an individual when there has been or is reasonably believed to have been a compromise of the individual's *private information* in compliance with the Information Security Breach and Notification Act and this policy.
- B. The municipality, after consulting with the State's Office of Cyber Security and Critical Infrastructure Coordination (CSCIC) to determine the scope of the breach and restoration measures, must notify an individual when it has been determined that there has been, or is reasonably believed to have been a compromise of the individual's *private information* through unauthorized disclosure.
- C. A compromise of *private information* means the unauthorized acquisition of unencrypted computerized *data* with *private information*.
- D. If encrypted *data* is compromised along with the corresponding encryption key, the *data* is considered unencrypted and thus falls under the notification requirements.
- E. Notification may be delayed if a law enforcement agency determines that the notification impedes a criminal investigation. In such case, notification will be delayed only as long as needed to determine that notification no longer compromises any investigation.
- F. The municipality will notify the affected individual directly by one of the following methods:
1. Written notice;
 2. Electronic notice, provided that the person to whom notice is required has expressly consented to receiving notice in electronic form and a log of each notification is kept by the municipality that notifies affected persons in such form;
 3. Telephone notification, provided that a log of each notification is kept by the municipality that notifies affected persons; or
 4. Substitute notice, if the municipality demonstrates to the state Attorney General that the cost of providing notice would exceed \$250,000, that the affected class of persons to be notified exceeds 500,000, or that the municipality does not have sufficient contact information. The following constitute sufficient substitute notice:
 - a. E-mail notice when the municipality has an e-mail address for the subject persons;
 - b. Conspicuous posting of the notice on the municipality's web site page, if the municipality

maintains one; and

c. Notification to major statewide media.

G. The municipality must notify, CSCIC as to the timing, content and distribution of the notices and approximate number of affected persons.

H. The municipality must notify the Attorney General and the Consumer Protection Board, whenever

notification to a New York resident is necessary, as to the timing, content and distribution of the notices and approximate number of affected persons.

I. Regardless of the method by which notice is provided, the notice must include contact *information* for the municipality making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of *personal information* and *private information* were, or are reasonably believed to have been, so acquired.

J. This Policy also applies to *information* maintained on behalf of the municipality by a *third party*.

K. When more than 5,000 New York residents must be notified at one time, then the municipality must notify the *consumer reporting agencies* as to the timing, content and distribution of the notices and the approximate number of affected individuals. This notice, however, will be made without delaying notice to the individuals.

Definitions

Consumer Reporting Agency: Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. The state attorney general is responsible for compiling a list of consumer reporting agencies and furnishing the list upon request to the municipality.

Data: Any *information* created, stored (in temporary or permanent form), filed, produced or reproduced, regardless of the form or media. *Data* may include, but is not limited to personally identifying *information*, reports, files, folders, memoranda, statements, examinations, transcripts, images, communications, electronic or hard copy.

Information: The representation of facts, concepts, or instructions in a formalized manner suitable for communication, interpretation, or processing by human or automated means.

Personal Information: Any *information* concerning a natural person which, because of name, number, personal mark or other identifier, can be used to identify such natural person.

Private Information: *Personal information* in combination with any one or more of the following *data* elements, when either the *personal information* or the *data* element is not encrypted or encrypted with an encryption key that has also been acquired:

1. social security number; or
2. driver's license number or non-driver identification card number; or
3. account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account

“Private information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

Third Party: Any non-municipal employee such as a contractor, vendor, consultant, intern, other municipality, etc.

Resolution was introduced by Trustee Bryan Woleben, second by Trustee Craig Miller with vote as follows:

__4__ ayes

__0__ nays

__0__ absent

Date: October 16, 2019

Scott Jagoda
Village Clerk/Treasurer

A motion was made by Trustee Bryan Woleben with a second by Trustee Art Miller to change the start time of regular meetings to 6:30 beginning November 20, 2019, voting was unanimous, motion carried.

Old Business:

A motion was made by Trustee Craig Miller, seconded by Trustee Carol Horlacher to authorize payment of signed and approved vouchers. Vote was unanimous, motion carried.

A motion was made by Trustee Bryan Woleben, seconded by Trustee Carol Horlacher to approve October 2nd workshop meeting minutes as presented in written form. Vote was unanimous, motion carried.

A motion was made by Trustee Carol Horlacher, seconded by Trustee Craig Miller to approve the written reports as presented. Vote was unanimous, motion carried.

With no further business brought before the Board, a motion was made to adjourn the meeting at 6:09 p.m. by Trustee Carol Horlacher seconded by Trustee Art Miller. Vote was unanimous, motion carried.

Respectfully submitted by,

Scott Jagoda
Village Clerk/Treasurer