

REGULAR MEETING
SEPTEMBER 16, 2020

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

Board Member Absent:

Present: Scott Jagoda, Village Clerk/Treasurer
Peter Clark, Attorney
Rich Lewis, WWTP (left at 7:12)
Natasha Mattelliano 6:02 (left at 7:12)
Ken Becker, Streets Supervisor (left at 7:12)
Dave Hazelton 6:01 (left at 6:30)

Mayor Frost opened the workshop/regular meeting with the pledge to the flag at 6:00 p.m. Meeting was held in person with social distancing and masks required.

Workshop: No discussion, Mayor Frost moved directly into regular meeting.

Public Comments: No comments.

Department Reports:

Scott Jagoda, Village Clerk/Treasurer – The Mayor introduced dog control reports from February-August.

A motion was made by Trustee Bryan Woleben to set Halloween “trick or treat” hours from 5-8, second by Trustee Art Miller, voting was unanimous, motion carried. The fire dept. will not be participating as usual due to concerns over gatherings during the pandemic.

The Clerk noted that the state is requiring each employer to have a pandemic operations plan in place by April 1, 2021. Trustee Art Miller said he would work with Scott on developing this plan.

The Clerk noted that the health insurance renewal was upcoming and reminded Trustees Horlacher and Art Miller they are on the committee.

Village Attorney Peter D. Clark – Peter noted he is waiting on title search for Bear lake property as discussed previously.

Ken Becker, Streets Dept. – Ken noted they are pouring sidewalks recently.

Wendy Spinuzza, Code Enforcement Officer – The mayor introduced the code enforcement report for August 2020. There was 1 complaint and 11 permits issued.

Rich Lewis - Wastewater Treatment Plant – No report.

Fire Department – Phil Gerace, Fire Chief – The monthly fire department report was presented, they had a total of 25 calls in August. The board thanked the fire department for their service especially during the pandemic.

A motion was made by Trustee Bryan Woleben to transfer the unspent budget from 2019-2020 of the fire department in the amount of \$50,980.09 to the Capital Fund 9501.9, second by Trustee Craig Miller, voting was unanimous, motion carried.

It was noted the fire dept. will not be holding the fire prevention class at the school this due to COVID-19.

Electric Department – Joe Majkowski, Electric Lineman – The clerk noted the billing software upgrade has been on hold due to a Microsoft update that has wreaked havoc on the networking between computers.

Committee Reports:

Trustee Bryan Woleben – No report.

Trustee Art Miller – No report.

Trustee Craig Miller – No report.

Trustee Carol Horlacher – No report.

Mayor Report: - The Mayor noted the demolition of 10-14 East Main Street is scheduled for October 5.

New Business:

RESOLUTION 27-2020

ADOPT (LGS-1) AS VILLAGE OF BROCTON RETENTION AND DISPOSITION SCHEDULE

RESOLVED, By the Board of Trustees of the Village of Brocton that Retention and Disposition Schedule for New York Local Government Records (LGS-1), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein.

FURTHER RESOLVED, that in accordance with Article 57-A:

(a) only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1), after they have met the minimum retention periods described therein;

(b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

Resolution introduced by Trustee Carol Horlacher and second by Trustee Bryan Woleben, with vote as follows:

__4__ ayes __0__ nays __0__ absent

Dated: September 16, 2020

Scott Jagoda
Village Clerk/Treasurer

VILLAGE OF BROCTON

RESOLUTION 28-2020

INTRODUCING Proposed Local Law No. 1 of 2020, with the new proposed sewer rates.

Introduced by Trustee Bryan Woleben

Seconded by Trustee Carol Horlacher

AND calling for a public hearing on said Local Law to be held on October 21st, 2020 at 6:00 p.m. at the Portland Town Hall.

VILLAGE OF BROCTON

PROPOSED LOCAL LAW NO. 1 OF 2020

A local law amending Section B of Article V of Local Law No. of 1983 as previously amending with a new Section B in place thereof.

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

SECTION ONE: Purpose

The Village Board of the Village of Brocton desires pursuant to the authority vested in it by the Local Law hereby amends the Local Law setting sewer rates charged by the Village of Brocton.

SECTION TWO:

Section B of Article V of Local Law No. 2 of 1983 is hereby amended as follows:

Section B. The two components of sewer rates referred to in Article III of this local law are hereby fixed quarterly as follows:

1. On all real property within the Village of Brocton as follows effective November 1, 2020:

- 1a. \$5.00 per unit charge for vacant parcel.
- 1b. \$25.00 per unit charge for residential customers.
- 1c. \$75.00 per unit charge for commercial customers.
- 1d. \$10.00 per each unit for multi-unit customers.

2a. \$7.75 for each 1000 gallons if metered water.

2. On all real property outside of the Village of Brocton, (except Lakeview Shock prison which is under contract with the Village) as follows effective November 1, 2020:

- 1a. \$50.00 per unit charge for residential customers.
- 1b. \$100.00 per unit charge for commercial customers.
- 1c. \$20.00 per each unit for multi-unit customers.
- 2a. \$9.75 for each 1000 gallons of metered water.

3. Water consumption shall be determined by actual water meter reading by CBI which will be taken quarterly where practicable. Where actual water meter readings cannot be made or are not practicable due to a faulty meter or other reason, water consumption may be estimated by CBI on prior water metered consumption or any other reasonable method.

SECTION THREE- Effective Date

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

 4 ayes

 0 nays

 0 absent

Dated: September 16, 2020

Scott Jagoda
Village Clerk/Treasurer

VILLAGE OF BROCTON

RESOLUTION 29-2020

INTRODUCING Proposed Local Law No. 2 of 2020. A Local Law to regulate peddling, soliciting, transient businesses and mobile food vending.

Introduced by Trustee Bryan Woleben

Seconded by Trustee Art Miller

AND calling for a public hearing on said Local Law to be held on October 21st, 2020 at 6:15 p.m. at the Portland Town Hall.

VILLAGE OF BROCTON

PROPOSED LOCAL LAW NO. 2 OF 2020

A local law to regulate peddling, soliciting, transient businesses and mobile food vending.

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

SECTION ONE: Purpose

The Village Board of the Village of Brocton desires to promote the health, safety and general welfare of the community, and the preservation and protection of property in the Village of Brocton and its residents by regulating peddling, soliciting, transient businesses and mobile food vending.

SECTION TWO: Definitions

The following words and phrases shall have the meaning set forth herein, unless the context of their use in this local law clearly indicates otherwise.

Applicant - Any person by or for whom an application is made under this local law.

Charitable Organization -

- A. Any benevolent, philanthropic, patriotic, military veterans, not-for-profit, educational or religious association, society or other organization or any other association, society or organization qualified as tax-exempt organization under Section 501 of the Internal Revenue Code.
- B. Any governmental entity or organization, including, without limitation, a school district, fire district and fire company.

Mobile Food Vehicle - A self-contained mobile food unit in which ready-to-eat food is prepared, cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

Peddling -

- A. Selling or offering for sale, barter or exchange any property or service, either for immediate or future delivery or performance upon any street, road or highway or from house to house in the Village, and including, without limitation, activities commonly known as "hawking".
- B. Delivery or distribution of advertising matter, literature, pamphlets, samples or handbills house to house or on any of the streets, roads or highways or by going from place to place in the Village, but not including the delivery or distribution of newspapers, magazines or political or religious materials.

Person - A natural person, corporation, partnership, association, joint venture, society or other organization or association of any kind, whether acting as principal, agent, employer, or employee.

Property - Any goods, wares, merchandise or other article or thing of every kind or nature, except newspapers.

Soliciting -

- A. Seeking, taking, or offering contracts or orders for any property for future sale or delivery or performance of any service upon any street, road, or highway or from house to house in the Village.
- B. Seeking or taking subscriptions or contributions of money or property, upon any street, road or highway or from house to house in the Village.

Solicitor - A person who engages in soliciting.

Village - The Village of Brocton.

Transient Business - A retail or wholesale business, other than a mobile food vehicle vendor (as regulated separately in this Local Law), conducted from a temporary structure or tent, truck, van or trailer, stand, parking lot or vacant parcel of land, in a public right-of-way or in or on any other place in the Village, but not (1) outdoor sales of property or services accessory to a business conducted within a permanent structure on a same premises or (2) the sale of food products raised or produced on the same premises from a temporary or seasonal stand, provided that the principal structure or activities otherwise comply with the zoning and other ordinances of the Village.

SECTION THREE: Permit or Registration Required

- A. No person shall engage in peddling, soliciting, mobile food vehicle vending or a transient business without first obtaining a permit or registering or both as required by this local law.
- B. No motor vehicle shall be used for peddling, mobile food vehicle vending or conducting a transient business unless a permit shall first have been obtained.
- C. All mobile food preparation vehicles shall comply with the 2020 Fire Code of New York State Section 319 Mobile Food Preparation Vehicles as presently existing and amended in the future.

SECTION FOUR: Exemptions

No permit under this Local Law shall be required.

- A. By any charitable organization or its agents or employees or veterans licensed pursuant to General Business Law Section 32.

- B. By any business, service or activity licensed under any other ordinance or law of the Village of Brocton.
- C. For lawn cutting, leaf raking and snow shoveling services for residential property.
- D. By political parties and candidates for public office.
- E. For peddler and solicitors not over sixteen (16) years old.

SECTION FIVE: Requirements for Charitable Organization

No charitable organization shall engage in soliciting before it files with the Village Clerk a list of the names, addresses and dates of birth of the persons who will conduct the activity on its behalf and a statement of the time period during which the solicitations shall occur. The Clerk shall provide a copy of the list to the Code Enforcement Officer. No person shall engage in soliciting on behalf of a charitable organization until this information has been provided to the Village Clerk.

SECTION SIX: Hours

No peddling, soliciting or transient business activities, whether or not exempt from the permit requirements of this chapter, shall be conducted before 9:00 a.m. or after 8:00 p.m. Mobile food vending shall not be conducted before 9:00 a.m. or after 9:00 p.m. on a residential property.

SECTION SEVEN: Application Requirements

- A. An application for a permit under this Local Law shall contain the following:
 - 1. The name, home address and local address, if any, of the applicant.
 - 2. A physical description of the applicant, giving date of birth, height, weight and color of hair and eyes. A photograph may be required.
 - 3. The name and address person, if any, by whom the applicant is employed and for whom or through whom orders are to be solicited, cleared, filled or delivered.
 - 4. A description of the business or activity in which the applicant intends to engage and of the nature of any property or services involved.
 - 5. For peddlers or solicitors, a list of crimes for which the applicant has been arrested or convicted, including the dates and places.
 - 6. A statement as to the period of time during which the applicant intends to engage in the business or activity regulated under this Local Law.
 - 7. Proof that the applicant, or his or her employer or principal, is registered for sales tax purposes, if the business or activity to be conducted is subject to sales or use tax.
 - 8. A description of any motor vehicle that will be used for pickup or delivery of property or for the purpose of bringing any such property into the Village for peddling, soliciting or transient business purposes, or from which a transient business will be conducted, to

include the name of manufacturer, year, type of vehicle, vehicle identification number, registration plate number, title holder and name of the person other than the title holder to whom the vehicle is registered, if any.

9. The location where a transient business or mobile food vending operation is to be conducted, if known.
 10. Further information required by the Village Clerk or the Code Enforcement Officer.
- B. The application shall be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.
- C. If mobile food vending or a transient business is to be conducted on private property, the written consent of the property owner, if other than the applicant, shall be filed with the application or shall be prominently displayed on the mobile food vending vehicle or at the transient business site.

SECTION EIGHT: Fees

Fees for application and permits under this Local Law shall be paid to the Village Clerk. All application and permit fees under this Local Law shall be set by resolution of the Village Board of the Village of Brocton, and as from time to time amended.

SECTION NINE: Permit Regulations

- A. Solicitors', peddlers' or transient business permits issued pursuant to this chapter automatically expire ninety (90) days after issuance. Mobile food vendor permits shall automatically expire one (1) year after the date of issuance.
- (1) Mobile food vendor permit that is renewed prior to the date of expiration or within thirty (30) days after the date of expiration shall be eligible for the renewal fee.
- B. Permits issued under this Local Law shall not be transferable.
- C. A permit issued pursuant to this Local Law may be revoked for any violation of this local law committed after its issuance.
- D. A transient business permit shall be limited to a single location. If the location is in a public right-of-way, it must be approved by the state, county or town authority having jurisdiction.
- E. For Mobile Food Vendors:
1. It shall be unlawful to conduct business from a mobile food vehicle within a public right-of-way or on private property within the Village without having first obtained a valid mobile food vendor permit for each mobile food vehicle.
 2. It shall be unlawful for a mobile food vendor to conduct business in a location within one hundred (100) feet of the primary entrance of an establishment that is open to the

public and where read-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale, or distribution. This requirement shall be waived if permission for the mobile food vending operation is obtained from the owner of the property that contains the establishment where ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale or distribution.

3. Within non-residential zoning districts, it shall be unlawful for a mobile food vendor to conduct business at a single location within a public right-of-way for a duration exceeding three (3) hours. Within residential zoning districts, it shall be unlawful for a mobile food vendor to conduct business within a public right-of-way except for mobile food vehicles that operate for less than twenty (20) minutes at a single location or that operate within an area where a block party is being conducted.
4. At all times, mobile food vendors must abide by the New York State Transportation Law and all applicable Parking, Vehicle and Traffic Laws, Ordinances, Rules and Regulations.
5. All signage associated with a mobile food vendor must be permanently affixed to the mobile food vehicle. No accessory signage shall be placed outside or around the mobile food vehicle.
6. 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.
7. It shall be unlawful to discharge liquid waste, fats, oils, or grease on the land. Such discharges shall be held in appropriate containers and then disposed in a legally permissible manner.
8. Mobile food vendors shall not conduct operation from a site that contains a gasoline fueling service.
9. All required permits shall be posted conspicuously on the mobile food vehicle.
10. Each mobile food vehicle shall be registered as a commercial vehicle with the New York State Department of Motor Vehicles.
11. When parked on a public or private right-of-way, products shall not be dispensed from the street side of the mobile food vehicle.
12. A mobile food vehicle shall not be operated reverse in order to attempt or make a sale.
13. When parked on a public or private right-ofway, a mobile food vehicle shall not be parked within sixty (60) feet of an intersection with another public or private right-of-way.

SECTION TEN: Prohibited Acts

- A. No person shall use private real property for any activity requiring a permit under this Local Law without the written consent of the owner, and in compliance with Section Seven.

- B. No person regulated by this Local Law shall hawk or cry property, offers, contracts or services upon any location in the Village, or use any loudspeaker, horn or other sound making or amplifying device.
- C. No person holding a permit under this Local Law shall engage in any activity regulated hereunder unless he or she has the permit on his or her person or as it pertains to a mobile food vendor on the mobile food vehicle.

SECTION ELEVEN: Trespassing

- A. The owner or occupant of a residential building may post a notice prohibiting peddlers and solicitors. The notice shall be placed in a conspicuous place adjacent to the entrance door of the building. The letters of the notice shall be at least ½ inch in height and shall contain a statement saying in substance that "peddlers or solicitors are prohibited." No person shall engage in any activity regulated by this Local Law by attempting to enter a building or ringing a doorbell or knocking on an entrance door to any residence building at which entrance such a notice has been posted.
- B. Any person engaged in an activity regulated under this Local Law, whether that person is exempt or not, who has entered upon private property, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by any occupant.

SECTION TWELVE- Penalties for Offenses

Any person who violates any provision of this Local Law shall be guilty of a violation. Each violation shall be punishable by a fine not to exceed \$250.00 or by imprisonment for a period not to exceed fifteen (15) days, or both.

SECTION THIRTEEN- Enforcement

This Local Law shall be enforced by the Code Enforcement Officer of the Village of Brocton, and the Chautauqua County Sheriff's Department providing police services to the Village of Brocton. Primary enforcement of the Mobile Food Vending regulations contained in this Local Law shall be the responsibility of the Code Enforcement and Zoning Officer of the Village of Brocton. Matters concerning the Vehicle and Traffic Law, the New York State Transportation Law, illegal parking, and trespassing shall be the responsibility of the Chautauqua County Sheriff's Department providing local police services to the Village of Brocton.

SECTION FOURTEEN- Conflict

In the event of any conflict between this Local Law and the Village of Brocton Zoning Law, the terms of this Local Law shall prevail.

SECTION FIFTEEN- Severability

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision of this Local Law.

SECTION SIXTEEN- Effective Date

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

__4__ ayes __0__ nays __0__ absent

Dated: September 16, 2020

Scott Jagoda

Village Clerk/Treasurer

Old Business:

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

A motion was made by Trustee Carol Horlacher, seconded by Trustee Craig Miller to approve September 2nd special meeting minutes as presented in written form. Vote was unanimous, motion carried.

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

A motion was made by Trustee Craig Miller, seconded by Trustee Bryan Woleben to enter in executive session with Scott Jagoda to discuss his employment history at 7:12, voting was unanimous, motion carried.

A motion was made to enter back into regular session at 7:28 by Trustee Bryan Woleben, seconded by Trustee Carol Horlacher, voting was unanimous, motion carried.

With no further business brought before the Board, a motion was made to adjourn the meeting at 7:29p.m. by Trustee Carol Horlacher seconded by Trustee Craig Miller. Vote was unanimous, motion carried.

Respectfully submitted by,

Scott Jagoda
Village Clerk/Treasurer