

REVISED AGENDA
ENVIRONMENTAL COMMITTEE & ORDINANCE COMMITTEE
Tuesday, February 18, 2020
7:00 PM
Council Chambers- The Hurley Building

Environmental Committee: Karen White, Chair
Robert O'Brien
Renée Sutton
Dan Unrath

1. Kershaw Park Concession

The lease of the Kershaw Park Bathhouse Concession expired on December 31, 2019. An RFP was published in mid-December and two proposals were received on January 31, 2020. City Staff has reviewed the proposals and recommends awarding the lease to Woodard Rentals LLC for a bid amount of \$1,288.

2. Kayak License Agreement

There are two businesses, Canandaigua Sailboard and Seager Marine & Freedom Boat Club of Canandaigua, who would like to utilize the City small craft boat launch area on the west end of Kershaw Park to operate their kayaks and paddleboard rentals. In the past, kayaks and paddleboards have taken up a great deal of the public park for the operation of the rental business without any compensation for the use of the park land. To correct this and to be fair to other adjacent businesses, At the January 21st Environmental Committee meeting, City staff recommended a lease of the kayak rack located at this location that would have involved each business being allowed to use the kayak rack at the launch for storage during the day, while all other equipment must be stored on their own property and transported to and from the launch site. City Council appreciated the intent of the proposal, but felt a license agreement on the space being utilized was a better approach. Council requested that Staff generate a draft licensing agreement, and that agreement will be presented and discussed at the meeting.

3. Pesticide Regulations

New York State Environmental Conservation Law states that jurisdiction "in all matters pertaining to the distribution sale, use and transportation of pesticides" is vested exclusively with the NYSDEC Commissioner. As a result, the NYSDEC has full regulatory control and preempts the City from regulating the use of pesticides. The City Council adopted a moratorium on the use of pesticides applied by City staff on City owned property which remains in effect. The City Council cannot regulate the use of pesticides by residents or commercial enterprises. The City Council via Resolution #2019-80, directed the City Manager to request legislation from New York State Senator Pam Helming and New York State Assemblyman Brian M. Kolb to allow the City to regulate the use of pesticides. Assemblyman Kolb responded that that the Chair of the Assembly Environmental Conservation Committee had a bill to allow local governments the ability to regulate pesticides, but that bill stalled in his own committee for 19 years (1997-2016) and has not reintroduced. As such, Assemblyman Kolb stated that he did not see introducing legislation as an effective course of action. Senator Pam Helming believes that the regulation should remain with the NYSDEC for uniform pesticide rules across the State. The City has continued to partner with the Canandaigua Lake Watershed Association to promote the Lake Friendly Lawncare Program. This program asks residents and businesses to pledge to and adopt lake friendly lawn care by reducing and/or eliminating the use of fertilizers, planting rain gardens or vegetative buffers and tolerating weeds and pests before considering pesticides and herbicides. This item was added to the agenda at the request of Councilmember White and Sutton for general discussion.

Ordinance Committee: Renée Sutton, Chair
Robert O'Brien
Karen White
Erich Dittmar

1. Snow Removal Fee

§600-12 of City Code "Snow and Ice Removal" requires that property owners and occupants keep adjoining sidewalks free from snow and ice within 24 hours after the end of a snowfall. Whenever the owner or occupant fails to remove the snow and ice from the sidewalk within the 24 hour period, the Department of Public Works may remove the snow or ice with the expense incurred by the amount of labor, equipment, materials used as well as administrative overhead charged to the adjoining property owner in an amount not less than one (1) hours cost. Pictures of the sidewalk are taken before and after work is completed. Prior to 2019, enforcement of the ordinance was complaint drive, but in response to resident feedback, the City began proactively enforcing the ordinance last year. Currently, the fee for snow removal is \$80, but now that the City proactively enforces the ordinance and can identify multiple violations at the same time some believe the \$80 fee for snow removal is excessive and should be adjusted. It should be noted that the ordinance also provides for the ability to issue violations in addition to the fee which have not been issued. This item has been added to the agenda for further discussion.

2. Executive Session – Attorney-Client Privilege

Next Meeting: March 24, 2020

REVOCABLE LICENSE AGREEMENT
(for Use of Municipal Park)
CITY OF CANANDAIGUA

1. Name of Applicant/Licensee:

A. Applicant is a: Corporation
 Partnership
 Individual
 Other (Explain): _____

B. If an individual:

Date of Birth: _____ Social Security Number: _____
Permanent Home Address: _____
Telephone Number: _____

C. Contact information of the person directly in charge of the gathering:

Name: _____
Address: _____
Phone: _____
Email Address: _____

2. Type of Use: **Portion of Kershaw Park for kayak and paddle board launching**

Usage Dates: **May 1st through, October 31**

Daytime Only

From: **8:00** AM To: **8:00** PM

EXCEPTION: Thursdays no use until after 3:30 PM

Overnight: Arrival Date: ____/____/____ Time: ____ AM / PM

 Departure Date: ____/____/____ Time: ____ AM / PM

Applicant use the west small craft launch of Kershaw Park as a launch for rented kayaks and paddleboards.

3. Anticipated Number of Persons Attending: N/A

REVOCABLE LICENSE AGREEMENT

1. No alcoholic beverages are allowed on City property.
2. All trash, garbage, and recyclables will be properly disposed of by Applicant. In the event that the City must provide clean-up the Applicant will be responsible to reimburse the City for all documented costs associated with this service.
3. The City will determine the specific area and space to be utilized by Applicant for their kayaks and paddle boards. Any damage to the Park property will be corrected by the Applicant to the standards required by the Director of Public Works.
4. The Applicant will provide the City with a current copy of its certificate of insurance evidencing \$2,000,000 in commercial general liability coverage and listing the City of Canandaigua as additional insured against liability for damage to person or property to accompany this Revocable License Agreement.

NOTE: A certificate evidencing said insurance must be filed with the City Clerk's office at least 15 days prior to event date.

Name of Insurance Company: See Insurance Certificate

Address: _____

Telephone Number: _____

5. Special Conditions of Revocable License Agreement:
 - A. The Applicant agrees to hold the City of Canandaigua harmless and free from any and all damages and claims arising under or by virtue of use of said facilities, particularly including, but not limited to, use of the Kershaw Park and/or the municipal parking lots, but excluding damages and claims which result from the City's reckless or deliberate behavior or the reckless or deliberate behavior of the City's agents or employees.
 - B. The Applicant agrees to indemnify the City of Canandaigua against any claim for damage or injury suffered or incurred as the result of the use of the demised premises by the Applicant and others permitted to use the demised premises by the Applicant, other than claims which result from the City's reckless or deliberate behavior or the reckless or deliberate behavior of the City's agents or employees.
 - C. Applicant shall not make or permit any disturbing noises on the premises or do or permit anything to be done therein which will interfere with the rights, comfort, or convenience of the general public.
 - D. Portions of the park devoted to Applicant's activities shall be designated by the Director of the Department of Public Works, or his designee, and only such designated areas shall be utilized by the Applicant. No fence, tent or sign stakes shall be driven into the City property without prior City approval.

- E. Public use of the designated portion of Kershaw Park shall be restricted between **May 1st and October 31st**. The Applicant shall have use of the designated portion of the park between and including the abovementioned dates.
- F. The Applicant shall be responsible for all required inspections and compliance with all laws, rules and regulations of New York State and the City of Canandaigua Municipal Code applicable to its use of park property.
- G. Medical staff and Emergency First Aid Treatment are NOT stationed at the City park. If Applicant requires designated coverage, arrangements should be made by Licensee to have appropriate personnel on the grounds. In case of an emergency – dial 911.
- H. The Applicants must reimburse the City of Canandaigua for any and all documented damage or injury to any real or personal property of the City of Canandaigua to the extent arising, directly or indirectly, from the negligence, acts, or omissions of the Applicant, its officer, members, agents, or employees.
- I. This Revocable License Agreement is not intended to grant to the Applicant the exclusive use of the City of Canandaigua property.
- J. The provisions regarding indemnification, shall survive the termination of this Revocable License Agreement.
- K. The Applicant may not assign this Revocable License Agreement or its right, title, or interest therein except in the event of corporate merger or consolidation.
- L. No modification or amendment of this Revocable License Agreement shall be valid unless in writing and signed by the City of Canandaigua and the Applicant.
- M. In entering into this Revocable License Agreement the Applicant acknowledges and agrees that nothing herein shall be construed as creating any right or ownership interests in the City of Canandaigua property. This Revocable License Agreement will constitute permission to Applicant to gain access to the City of Canandaigua property for the purposes set herein.
- N. This Revocable License Agreement can be revoked by the City of Canandaigua upon 10 days prior written notice for any park purpose or in the event of violation of the terms and conditions of this license by the Applicant, but may be revoked upon 24 hours' notice in the event of a public works related emergency. Upon receipt of verbal or written notice of such termination and expiration of the notice period Applicant shall vacate the City of Canandaigua premises if Applicant is so occupying the premises, or if revocation occurs prior to the event dates, Applicant shall be precluded from such occupation of the Park.
- O. Neither party shall at any time use the name(s), trademark(s), or trade name(s) (whether registered or not) of the other in publicity releases or advertising or in any other manner, including customer lists, without securing the prior written approval of the other party which. Solely for purposes of this paragraph and publicity releases and advertising specifically related to the courses and tours provided in this agreement as agreed to by the parties, written approval includes approval via e-mail.

- P. All notices under this Revocable License Agreement will be in writing and sent by regular mail or certified U.S. Mail, return receipt, to the parties at their respective addresses as noted above or at such other addresses as shall be specified in writing by either party to the other in accordance with this paragraph. Notices will be effective upon receipt or refusal.
 - Q. Except for disputes for which only injunctive relief is sought, and excluding administrative actions by the City, any disputes between the parties (which are not otherwise resolved by the parties) will be submitted to binding arbitration.
- 6. Revocable License Fee: anticipate designated area to be 15-foot by 15-foot area. \$500
 - 7. Applicant shall adhere to any other regulations that the City Manager or the City Police Department shall establish to insure the health and safety of Canandaigua residents and visitors throughout this event.

This Revocable License Agreement constitutes the entire agreement between the parties.

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Signature

**PERMISSION IS HEREBY GIVEN TO APPLICANT TO UTILIZE THE REQUESTED FACILITIES OF THE CITY OF CANANDAIGUA IN STRICT ACCORDANCE WITH THE INFORMATION DESCRIBED IN THIS APPLICATION.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Manager

**City Council Authorizing Resolution #**

## Chapter 600. Streets and Sidewalks

### § 600-12. Snow and ice removal.

[Added 5-6-2004 by Ord. No. 2004-005]

- A. Purpose. The purpose of this section shall be to preserve the public peace and good order in the City and to contribute to the public welfare, safety and good order of its people and to contribute to the safe conveyance of its people over the streets and sidewalks of the City by establishing certain regulations for the removal of snow and ice from the streets and sidewalks of the City that are consistent with the rights and privileges of other residents of the City.
- B. Duty of property owner and occupant. It shall be the duty of the owner and occupant, jointly, of every parcel of real estate adjoining a public sidewalk, whether the parcel of real estate is occupied by a structure or not, to keep such sidewalks adjoining such property free from snow and ice for the full paved width of such sidewalk.
- C. Time limit. Snow and ice shall be removed within 24 hours after the end of a snowfall. In addition, sidewalks in front of commercial establishments and commercial parking lots shall be kept free of snow and ice at all times between the hours of 9:00 a.m. and 5:00 p.m.
- D. Severe icing. In case snow and ice on any sidewalk shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall, within the time specified in Subsection C, be strewn and kept strewn with ashes, sand, or other suitable material, so as to be no longer dangerous to life and limb. As soon as practical thereafter, the sidewalk shall be completely cleared of snow, ice and other materials strewn thereon, as provided in this section.
- E. Removal by City. Whenever the owner or occupant of a parcel of real estate adjoining a public sidewalk fails to remove the snow and ice from such sidewalk adjoining such property within the time specified in this section or within 24 hours after notice by the Director of Public Works to remove same, the Director of Public Works, may, in his discretion, cause said snow or ice to be removed from such sidewalk and notify the City Clerk/Treasurer of the expense incurred by the amount of labor, equipment, materials used as well as administrative overhead. The charge shall be not less than the equivalent of one hour's cost.
- F. Collection of costs for removal by City. The City Clerk/Treasurer shall promptly present to the owner or occupant of each parcel a bill for the removal of snow and ice as certified by the Director of Public Works. If not paid within 30 days, the cost thereof shall be assessed against the property added to their tax bill and become a lien thereon, collectible in the same manner as delinquent City taxes.
- G. Snow, ice and water falling from buildings. The owners or occupants of buildings adjacent to public sidewalks shall take measures to protect the public from the falling snow, ice or water from such buildings.
- H. Placing of snow and ice on another's property. No person, firm, corporation, property owner or occupant shall remove snow or ice from any parcel of real estate and place it upon another parcel of real estate without the express permission of the owner of the parcel of real estate upon which the snow or ice is to be placed.<sup>[1]</sup>  
*[1] Editor's Note: Original Subsection I, Penalties for offenses, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See § 600-26.*
- I. Tort liability. Such owner or occupant and each of them, shall be liable for any injury or damage by reason of omission, failure or negligence to keep such sidewalks adjoining such property free from snow and ice.

City of Canandaigua  
 Average cost for Snow Violation

|                                  |            |        |        |       |
|----------------------------------|------------|--------|--------|-------|
| Snowblower and Truck or Bobcat   |            | 15.00  | 1      | 15.00 |
| Park Personnel Average Hrly Rate |            | 24.05  | 1      | 24.05 |
| Benefit Rate                     | Medical    |        |        |       |
|                                  | /Dental    | 24.75% | 56.78% | 13.66 |
|                                  | FICA       | 7.65%  |        |       |
|                                  | Retirement | 19.80% |        |       |
|                                  | W/C        | 4.58%  |        |       |
|                                  | GASB 45    |        |        |       |
| Admin fee                        |            | 30.00  |        | 30.00 |
| Estimated Average Fee            |            |        |        | 82.71 |

**Recommended Rate for Snow Violation**

**Minimum Charge for 1 Hour** \$ 80.00

**After one hour charge, calculation will be based on 1/2 hour increments times minimum charge.**

**Input times below to see what the billing will be.**