

TOWN OF HARPERSFIELD

RESOLUTION NO. 014 OF THE YEAR 2020

TITLE: RESOLUTION OF THE TOWN BOARD OF THE TOWN OF HARPERSFIELD AUTHORIZING PAYMENT FOR THE REMOVAL OF OBSTRUCTIONS LOCATED IN THE TOWN'S RIGHT-OF-WAY ON TITUS LAKE ROAD.

WHEREAS, the Town Board of the Town of Harpersfield ("Town Board") has received complaints regarding abandoned vehicles located in and obstructing the Town's Right-of-Way at and around 253 Titus Lake Road; and

WHEREAS, on August 26, 2020, the Town of Harpersfield Code Enforcement Officer, Thomas Little conducted a site visit and determined that the vehicles located in the Right-of-Way along Titus Lake Road are owned by John A. Maiolo and that the location of such vehicles constitutes an interference with the use of the highway for public travel, and is a danger to the health, welfare, and safety of motorists and the Town's residents; and

WHEREAS, by letter dated September 18, 2020, Young/Sommer LLC, Attorneys for the Town of Harpersfield, on behalf of the Town, Sent Mr. Maiolo a Notice of Violation and Demand for Removal of Debris in Town Right-of-Way on Titus Lake Road ("Notice of Violation and Demand to Remedy"), demanding that Mr. Maiolo remove the vehicles from the Right-of-Way within 48 hours of receipt of the Notice of Violation and Demand to Remedy; and

WHEREAS, the Notice of Violation and Demand to Remedy further informed Mr. Maiolo that in the event he failed or refused to remove the vehicles from the Town's Right-of-Way within forty-eight (48) hours from his receipt of the Notice, that the Town would arrange for the removal of the vehicles from the Right-of-Way and that Mr. Maiolo would be liable for any and all payments incurred by the Town for such removal; and

WHEREAS, the Notice of Violation and Demand to Remedy was sent to Mr. Maiolo by Certified Mail Return Receipt Requested, which was signed and received by Mr. Maiolo on September 21, 2020 at 11:53 AM; and

WHEREAS, on November 11, 2020, the Town Superintendent of Highways conducted a site visit, surveyed the width of the Right-of-Way on Titus Lake Road, and determined that six (6) cars, (1) farm tractor, and (1) roll off truck were located in the Town's Right-of-Way on Titus Lake Road. Specifically, the vehicles and equipment located in the Right-of-Way are as follows: 3 Jeep Cherokees, 1 GMC Blazer, 1 blue Chrysler, 1 Oliver farm tractor, 1 roll off truck, 1 brown Ford sedan (hereinafter "Obstructions"). Each Obstruction is encroaching between 5 – 10 feet into the Town's Right-of-Way; and

WHEREAS, Mr. Maiolo has failed or refused to remove the vehicles owned by him and located in the Right-of-Way along Titus Lake Road within forty-eight (48) hours from his receipt of the Notice of Violation and Demand to Remedy; and

WHEREAS, pursuant to New York State Highway Law Section 319(2) “[i]t shall be the duty of each owner or occupant of lands along the highway, to remove all obstructions within the bounds of the highway, which have been placed there, either by themselves or by their consent” and that “[i]f temporary obstructions such as ... machinery, vehicles and similar obstructions are not removed within forty-eight hours after the service of a notice, personally or by mail, upon such owner or occupant, requesting the same be done, the town superintendent shall remove such obstructions.”.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS BY THE TOWN BOARD OF THE TOWN OF HARPERSFIELD, DELAWARE COUNTY, NEW YORK:

That the Town Board hereby determines that the aforementioned Obstructions located in the Town’s Right-of-Way along Titus Lake Road constitute an interference with the use of the highway for public travel, and is a danger to the health, welfare and safety of motorists and the Town’s residents; and

IT IS FURTHER RESOLVED, that it is in the best interest of the health, welfare and safety of the Town that such Obstructions are removed out of the Town’s Right-of-Way; and

IT IS FURTHER RESOLVED, that the Town Board hereby authorizes the Town Superintendent of Highways to arrange for the removal of the Obstructions out of the Town’s Right-of-Way, located along Titus Lake Road, which expense thereby incurred shall be paid in the first instance by the Town, and later charged against Mr. Maiolo as authorized by the applicable provisions of New York’s Highway Law; and

IT IS FURTHER RESOLVED, that the Town Clerk and the Town Attorney are hereby directed to take such actions as are necessary to implement this resolution.

WHEREUPON, the Resolution was put to a vote and recorded as follows:

Town Board Member Patrick F. Funk so moved, Town Board Member Matthew J. Taylor seconded and the Town Board voted as follows:

Supervisor	James Eisel Sr.	Aye.
Board Member	Robert Reeve Jr.	Absent.
Board Member	Harry Peterson	Absent.
Board Member	Matthew J. Taylor	Aye.
Board Member	Patrick F. Funk	Aye.

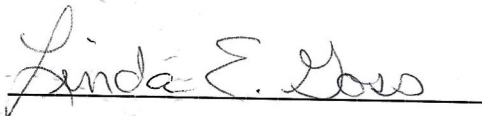
STATE OF NEW YORK }

COUNTY OF DELAWARE }

TOWN OF HARPERSFIELD }

I, Linda E. Goss, Town Clerk of the Town of Harpersfield have compared the proceeding copy with the original Resolution on file in this office adopted by the Town Board of the Town of Harpersfield at a regular meeting held on December 9, 2020, and I DO HEREBY CERTIFY the same to be a correct transcript therefrom and of the whole of the original.

Witness my hand and seal of the Town of Harpersfield, this 18<sup>th</sup> day of December 2020.



Linda E. Goss

Linda E. Goss, Town Clerk

Town of Harpersfield