



# Agenda

## Jamestown City Council

Monday, August 26, 2024

7:30 P.M.

Council Chambers, Second Floor  
Municipal Building, Jamestown, New York

### STANDING COMMITTEES

#### Finance, et. al., Committee

1. Resolution authorizing payment of the regular audit.
2. Resolution authorizing the City Administration to take all reasonable and appropriate actions to obtain full restitution, including hiring outside legal counsel and the commencement of litigation if necessary, as it pertains to taxpayer-subsidized City retiree benefits.
3. Resolution authorizing the Mayor to execute the purchase of Hybrid Exchange Server Online Setup and Microsoft Office 365 services with Brite, 7647 County Road 42, Victor, NY.
4. Resolution authorizing the Mayor and Deputy Fire Chief to enter into a purchase agreement with Barmore-Sellstrom, Inc. 1403 East 2<sup>nd</sup> Street, Jamestown, NY for one (1) Winter Traction Package in an amount not to exceed One Thousand, Eight Hundred Fifty-One Dollars and Seventy-Eight Cents (\$1,851.78).
5. Resolution authorizing the Mayor and Deputy Fire Chief to enter into an on-line sales agreement with ewz-surplus for the purchase of three (3) Motorola mobile radios in an amount not to exceed Four Hundred Forty-Nine Dollars and Ninety-Seven Cents (\$449.97).
6. Resolution lifting the hiring freeze to allow for the hiring of one (1) Clerk II in the Jamestown Police Department.
7. Resolution authorizing the Mayor and Deputy Fire Chief to execute an agreement with Chautauqua Sign Company, 2164 Allen St. Ext., Falconer, NY for the installation of one (1) Vehicle Graphics Package in an amount not to exceed Five Thousand, Six Hundred Ten Dollars and No Cents (\$5,610.00).
8. Resolution authorizing the Mayor to execute an agreement with Colliers Engineering and Design, 18 Corporate Woods Blvd., Albany, NY for engineering services for the inspection of three (3) city-owned parking garages in an amount not to exceed Twenty-Two Thousand, Five Hundred Dollars and No Cents (\$22,500.00).

**Finance, et. al., Committee (cont'd)**

9. Resolution authorizing the Mayor to execute an agreement with Active Fence Co., Inc., 2429 W. Lake Road, Ashville, NY to provide and install new fence with gates at the Fleet Maintenance Building in an amount not to exceed Forty-Three Thousand, Five Hundred Dollars and No Cents (\$43,500.00).
10. Resolution lifting the hiring freeze to allow for the hiring of one (1) Laborer in the Department of Public Works.
11. Resolution authorizing the Mayor to execute an agreement with R. Patti Concrete Excavating, LLC, Jamestown, NY for Jefferson Street Reconstruction: 3<sup>rd</sup> St. to 4<sup>th</sup> St. in an amount not to exceed Eighty-Three Thousand, Three Hundred Thirty Dollars and No Cents (\$83,330.00).
12. Resolution authorizing the Mayor to execute Change Order #6 with Building Innovation Group, 107 Lincoln Parkway, East Rochester, NY for a total decrease of One Thousand, Seven Hundred Eighty-Four Dollars and No Cents (\$1,784.00).
13. Resolution authorizing the Mayor to execute Change Order #7 with Building Innovation Group, 107 Lincoln Parkway, East Rochester, NY for a total decrease of Nineteen Thousand, Seven Hundred Ninety-Two Dollars and No Cents (\$19,792.00).
14. Resolution authorizing the Mayor to execute Change Order #1 with S. Tabone Construction Co., Inc., 3712 Straight Rd., Fredonia, NY for Price Street Reconstruction in an amount not to exceed Twenty-Five Thousand, Six Hundred Five Dollars and Fifty Cents (\$25,605.50).

**Public Safety, et. al., Committee**

15. Ordinance establishing Mobile Food Vendors in and for the City of Jamestown.

**New Business**

16. Resolution designating One Hundred Thousand Dollars and No Cents (\$100,000.00) in American Rescue Plan Act Healthy Neighborhoods funds for the purpose of funding the Jackson-Taylor Park and Allen Park Splash Pad projects.

***COUNCIL MEMBERS: PLEASE CONTACT THE COUNCIL PRESIDENT OR CITY CLERK IF UNABLE TO ATTEND THE WORK SESSION AT 7:00 P.M. OR THE REGULAR MEETING AT 7:30 P.M.***

BY COUNCIL:

**Resolution**  
**Seeking Restitution from Frederick A. Larson for Unlawful Participation in the City Retiree Dental Program**

WHEREAS, the City of Jamestown operates a health and dental program for active and retired employees pursuant to which the City employees and retirees contribute a portion of the costs and the City taxpayers pay the balance of the costs, and

WHEREAS, Frederick A. Larson, who served as City Court Judge from 2014 to the end of 2021, was an employee of the State of New York and not an employee of the City of Jamestown, and

WHEREAS, upon his retirement as an employee of the State of New York, Mr. Larson enrolled in the City of Jamestown employee retirement dental benefits program, even though he was not a City retiree and was not eligible for City retiree dental benefits, and

WHEREAS, on March 1, 2022, the City administration cancelled his dental coverage because he was not eligible for City retiree benefits, and

WHEREAS, on April 8, 2022, Mr. Larson then signed a confidential agreement with former Mayor Edward Sundquist allowing Mr. Larson and his wife to rejoin the City retiree dental program, and

WHEREAS, this confidential agreement expressly acknowledged that “the City erroneously allowed Judge Larson to obtain City dental insurance at the time of his separation from the Jamestown City Court as Judge,” and

WHEREAS, Mr. Larson and former Mayor Sundquist attempted to hide this confidential agreement from the City Council and the general public, in direct contravention of the New York State Freedom of Information Law, by stating that “this agreement shall not be made public by either party for any reason,” and

WHEREAS, the Jamestown City Council was not aware of this confidential agreement, did not approve of this confidential agreement, and did not approve of any other agreement that would allow Mr. Larson, a retired employee of the State of New York, to participate in the City of Jamestown retiree dental program, and

WHEREAS, this confidential agreement violates section 20(6) of the New York State General City Law, which states that a city “shall have no power ... to grant extra compensation to any public officer, servant, or contractor” beyond any amount that constitutes a legally binding obligation, and

WHEREAS, this confidential agreement also violates Article VIII, section 1 of the New York State Constitution, which prohibits a municipality from making a gift of any money to any individual, and

WHEREAS, the anti-gift provision of New York Constitution was intended to curb raids on the public purse for the benefit of politically-favored individuals, and

WHEREAS, Mr. Larson, as a former City Council member, former County Attorney, former City Court Judge, and a practicing attorney for over 40 years, knew or should have known that his confidential participation in a taxpayer-subsidized dental program for City retirees was unlawful and inappropriate, especially after having been so-advised in writing, and

WHEREAS, it appears that Mr. Larson, acting in concert with former Mayor Sundquist, engaged in a course of conduct with the intent to defraud the City of Jamestown and obtain an unlawful benefit pursuant to a confidential agreement in the amount of the unreimbursed costs of dental care for he and his wife, fully knowing that he was not eligible for City retiree dental coverage because he was not a retiree of the City of Jamestown, and

WHEREAS, despite numerous requests in writing, Mr. Larson has refused to reimburse the City for unlawful expenses incurred on his behalf or otherwise make restitution, and

WHEREAS, the New York State Comptroller is committed to fighting public corruption involving the unlawful or improper use of public funds, it is therefore,

RESOLVED, that the New York State Comptroller be requested to investigate the receipt by Mr. Larson of these taxpayer-subsidized City retiree benefits, and it is further,

RESOLVED, that the City administration take all reasonable and appropriate actions to obtain full restitution from Mr. Larson, including the hiring of outside legal counsel and the commencement of litigation if necessary.

August 26, 2024  
Resolution #3

BY COUNCIL:

RESOLVED, That the Mayor be and she hereby is authorized to execute the purchase of Hybrid Exchange Server Online Setup & Microsoft Office 365 services with Brite, 7647 County Road 42, Victor, NY 14564 utilizing ARPA funds to cover costs for both 2024 and 2025 based on the Proposal dated June 19, 2024 in the following amounts:

Cost Breakdown:

- Consulting Fee: \$11,250.00
- Exchange Online & Microsoft Teams: \$32,206.80 annually
- Total Cost for 2024 and 2025: \$54,193.00

Deductions:

- 2024 IT Budget Allocation: \$17,000.00
- Net Amount to be Covered by ARPA Funds: \$37,200.00

for a decrease amount of Seventeen Thousand Dollars and No Cents (\$17,000.00) from the 2024 IT Budget Allocation and a decrease of Thirty-Seven Thousand Two Hundred Dollars and No Cents (\$37,200.00) from ARPA funds subject to the approval of Corporation Counsel as to form.

August 26, 2024  
Resolution #4

BY COUNCIL:

RESOLVED, That the Mayor and Deputy Fire Chief be hereby authorized to enter into a purchase agreement with Barmore-Sellstrom, Inc., 1403 East Second Street, Jamestown, NY 14701 for the procurement of one (1) Winter Traction Package, for a total amount not to exceed One Thousand Eight Hundred Fifty-One Dollars and Seventy-Eight Cents (\$1,851.78), subject to the approval of Corporation Council as to form.

August 26, 2024  
Resolution #5

BY COUNCIL:

RESOLVED, That the Mayor and Deputy Fire Chief be hereby authorized to enter into an on-line sales agreement with ewz-surplus for the purchase of three (3) Motorola CDM1250 UHF mobile radios, for a total amount not to exceed Four Hundred Forty-Nine Dollars and Ninety-Seven Cents (\$449.97), subject to the approval of Corporation Council as to form.

July 29, 2024  
Resolution #6

BY COUNCIL:

WHEREAS, on January 22, 2002 the Jamestown City Council adopted resolution number 200201C03 that effective immediately and until further notice instituted a hiring freeze for the City of Jamestown, and

WHEREAS, on November 20, 2006 the Jamestown City Council adopted resolution number 200611B17 to extend the freeze to any change in employment from Part-Time to Full-Time status, and

WHEREAS, it has become apparent that within the Jamestown Police Department, an effort to effectively manage the city's day-to-day responsibilities in a cost-efficient manner, it is in the City of Jamestown's best interest to lift the hiring freeze for a certain position, now therefore be it

RESOLVED that effective immediately the Jamestown City Council hereby suspends the hiring freeze instituted by resolution number 200201C03 and authorized the filling of the following position due to the essential nature of the position.

- One Clerk II in the Jamestown Police Department

August 26, 2024  
Resolution #7

BY COUNCIL:

RESOLVED, That the Mayor and Deputy Fire Chief be hereby authorized to enter into an agreement with Chautauqua Sign Company, 2164 Allen Street Extension, Falconer, NY 14733 for the installation of one (1) Vehicle Graphics Package, for a total amount not to exceed Five Thousand, Six Hundred Ten Dollars and No Cents (\$5,610.00), subject to the approval of Corporation Council as to form.

July 29, 2024  
Resolution #8

BY COUNCIL:

RESOLVED, that the Mayor be and she hereby is authorized to execute an agreement with Colliers Engineering and Design, 18 Corporate Woods Blvd, Suite 400, Albany, NY 12211 in an amount not to exceed Twenty-Two Thousand, Five Hundred Dollars and No Cents (\$22,500.00) for Engineering services for the inspection of three city-owned parking garages subject to approval by the office of the Corporation Counsel as to form.

August 26, 2024  
Resolution #9

BY COUNCIL:

RESOLVED, That the Mayor be and she hereby is authorized to execute an agreement with Active Fence Co., Inc., 2429 W. Lake Road, Ashville, NY 14710 for Fleet Maintenance Building: New Fence with Gates based on the bid opening August 14, 2024 in the following amount:

Provide and install new fence with gates per the specifications, description of bid items and site plan

for a total bid amount of Forty-Three Thousand, Five Hundred Dollars and No Cents (\$43,500.00) subject to the approval of Corporation Counsel as to form.

August 26, 2024  
Resolution #10

BY COUNCIL:

WHEREAS, on January 22, 2002 the Jamestown City Council adopted resolution number 200201C03 that effective immediately and until further notice instituted a hiring freeze for the City of Jamestown, and

WHEREAS, on November 20, 2006 the Jamestown City Council adopted resolution number 200611B17 to extend the freeze to any change in employment from Part-Time to Full-Time status, and

WHEREAS, it has become apparent that within the Department of Public Works an effort to effectively manage the city's day-to-day responsibilities in a cost-efficient manner, it is in the City of Jamestown's best interest to lift the hiring freeze for a certain position, now therefore be it

RESOLVED that effective immediately the Jamestown City Council hereby suspends the hiring freeze instituted by resolution number 200201C03 and authorized the filling of the following position due to the essential nature of the position.

Laborer in the Department of Public Works.

This position is vacant as the result of a resignation.

August 26, 2024  
Resolution #11

BY COUNCIL:

RESOLVED, That the Mayor be and she hereby is authorized to execute an agreement R. Patti Concrete Excavating, LLC, P.O. Box 3081, Jamestown, NY 14701 for Jefferson Street Reconstruction 2024: 3<sup>rd</sup> Street to 4<sup>th</sup> Street.

200 SY Production Cold Milling @ \$7.50 SY  
25 SY Miscellaneous Cold Milling @ \$15.00 SY  
20 GAL Tack Coat @ \$30.00 Gal  
22 TON Purchase and Place, Warm Mix Asphalt 9.5 mm Top Course @ \$220.00 TON  
7 TON Purchase and Place, Hot Mix Asphalt 19 mm @ \$220.00 TON  
100 LF Joint Sealant @ \$18.00 LF  
75 SF Flatwork 4" @ \$15.00 SF  
125 SF Flatwork 6" @ \$16.00  
345 LF 18" Concrete Curb & Gutter Includes 18" wide street repair @ \$80.00 LF  
160 SY Brick Pavement Repair @ \$200.00 SY  
70 CY Additional Excavation @ \$35.00 CY  
1 Lump Sum Landscaping Restoration @ \$7,500.00

for a total bid amount of Eighty-Three Thousand, Three Hundred Thirty Dollars and No Cents (\$83,330.00), subject to the approval of the Corporation Counsel as to form. The project will be funded through CHIPS funds.

August 26, 2024  
Resolution #12

BY COUNCIL:

RESOLVED, that the Mayor be and she hereby is authorized to execute Change Order #6 with Building Innovation Group, 107 Lincoln Parkway, East Rochester, NY 14445 for the New Vehicle Maintenance Facility, based on the Proposal dated May 23, 2024, in the following amounts:

Deductions:

Building Innovation Group \$1,784.00

for a total decrease amount of One Thousand, Seven Hundred Eighty-Four Dollars and No Cents (\$1,784.00) subject to the approval of Corporation Counsel as to form.

August 26, 2024  
Resolution #13

BY COUNCIL:

RESOLVED, that the Mayor be and she hereby is authorized to execute Change Order #7 with Building Innovation Group, 107 Lincoln Parkway, East Rochester, NY 14445 for the New Vehicle Maintenance Facility, based on the Proposal dated July 16, 2024, in the following amounts:

Deductions:

Building Innovation Group    \$19,792.00

for a total decrease amount of Nineteen Thousand, Seven Hundred Ninety-Two Dollars and No Cents (\$19,792.00) subject to the approval of Corporation Counsel as to form.

August 26, 2024  
Resolution #14

BY COUNCIL:

RESOLVED, that the Mayor be and she hereby is authorized to execute Change Order #1 with S. Tabone Construction Co., Inc., 3712 Straight Rd., Fredonia, NY 14063, for Price Street Reconstruction 2024, based on the Change Order dated July 31, 2024 in the following amounts:

Increase:

1197 SF 4" Flatwork @ \$14.75 SF  
331 LF Curb and Gutter @ \$65.00 LF  
1 Terrace Steps @ \$300.00 EA

Decrease:

319 SF 6" Flatwork @ \$15.50 SF  
4.05 SY Brick Replacement @ \$150.00/SY  
2 SY Brick Relay @ \$140.00/SY  
1104.75 SF Warm Mix Asphalt @ \$7.00/SF

for a total increase of Twenty-Five Thousand, Six Hundred Five Dollars and Fifty Cents (\$25,605.50) subject to the approval of Corporation Counsel as to form.

**ORDINANCE ESTABLISHING MOBILE FOOD VENDORS**

**BY COUNCIL:**

**August 26, 2024**

WHEREAS, mobile food vending is a popular and diverse part of local economies across the United States;

WHEREAS, the City of Jamestown desires to support economic development, foster opportunities for small businesses and encourage mobile food vending;

WHEREAS, the City of Jamestown seeks to increase consumer access to desired local foods;

WHEREAS, the City of Jamestown aspires to simplify food vending regulations; and

WHEREAS, the City of Jamestown seeks to protect public health and safety by ensuring mobile food vendors follow clear, narrowly tailored regulations that address demonstrable health and safety risks.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMESTOWN AS FOLLOWS:

**SECTION 1. PURPOSE.**

The purpose of this chapter is to promote and protect the health, safety and general welfare of the community and the preservation and protection of property of the City of Jamestown and its residents.

**SECTION 2. DEFINITIONS.**

The following words and phrases in this section shall have the meanings given, except where the context clearly indicates a different meaning:

- A. Applicant:  
A person applying to the City of Jamestown to operate as a mobile food vendor.
- B. Customer:  
Any person with whom a mobile food vendor conducts business, or any person who stops to contemplate conducting business with a mobile food vendor.
- C. Mobile Food Vending Unit:  
Any vehicle used to sell food or beverages by a mobile food vendor including, but not limited to, “food truck”, “food cart”
- D. Mobile Food Vendor:  
Any person who dispenses and sells food or beverages from a food vending unit.

- E. Mobile Food Distributor  
Any person who distributes food or beverages from a mobile unit at no cost to consumer.
- F. Prepackaged Food:  
Any commercially labeled and processed food that is prepackaged to prevent direct human contact with the food product upon distribution from the manufacturer, a food facility, or other approved source.
- G. Private Property:  
All property that is not public property.
- H. Public Property
  - a. Any property owned and operated by the City of Jamestown.
  - b. Public property includes all rights-of-way except public sidewalks and rights-of-way in city-owned parks.
- I. Sell:  
To transfer or exchange for value, to expose or offer for sale or exchange, or to procure, store, keep or have in one's possession or control for the purpose of selling.
- J. Person:  
Any individual, group of individuals, firm, partnership, company, corporation, trustee, association, or any public or private entity and includes the individual or entity's employees or agents.

### **SECTION 3. MOBILE FOOD VENDING BUSINESS PERMITTED.**

- A. A person or business entity may operate as a mobile food vendor in the City of Jamestown with mobile food vending permit under this chapter and any other licenses or permits that may be required by other applicable state or county law.
- B. A separate mobile food vending permit shall be required for each Food vending unit operated by a mobile food vendor.
- C. A violation of this Chapter may result in the suspension or revocation of a mobile food vending permit and civil penalties.

### **SECTION 4. PERMIT APPLICATION**

- A. Type
  - 1. Annual/Yearly - seasonal
  - 2. One-Day/Single-Use
- B. Application requirements:
  - 1. Proof of valid driver's license or non-driver's ID for owner-operation and all employees that will be working in the food truck
  - 2. proof of vehicle registration
  - 3. Photographs and/or detailed sketches, designs, plans, etc. of truck
  - 4. List of Employee/s: Name and Address
  - 5. Signed Hold Harmless Agreement
  - 6. Certificates of Insurance
  - 7. New York State Sales Tax Certificate
  - 8. Jamestown Fire Department Approved Inspection

9. A signed OPERATIONAL REGULATIONS form
10. An Initialed FOOD TRUCK SAFETY fact sheet
11. Chautauqua County Health Department Permit
12. Confirmation of application completion from Department of Development
13. City of Jamestown Registration of Business
14. Paid Fee/s

C. Additional application information:

1. The applicant's name, address and telephone number;
2. The name, address and telephone number of any associated entities or organizations that the applicant is representing and copies of documents verifying that relationship;
3. The applicant's primary residence and/or business addresses for the past five years;
4. A list of all vehicle license numbers, vehicle descriptions, vehicle identification numbers, and vehicle registration for the Food vending unit(s);
5. *[If the state or municipality requires a special license or permit for commercial vehicles]*
6. A copy or proof of any additional licenses or permits required by the State or municipality for the Food vending unit(s).

D. Requirements for Food vending unit drivers.

Any person who drives a Food vending unit shall hold a current [classification/level required by this state for Food vending units] driver's license.

E. Compliance of information.

1. The applicant shall complete the application and submit any and all additional information requested by the City of Jamestown as allowed by this section.
2. The applicant may submit one application for all vehicles which require a permit but shall pay a separate permitting fee for each permit.
3. Failure to submit a complete application may result in denial of a permit.

F. Health inspection.

Operator must obtain Chautauqua County Health Permit prior to submitting City of Jamestown permit application.

G. Issuance of Permit.

1. The City of Jamestown Clerk's office shall issue a mobile food vending permit to the applicant upon receipt of:
  - a) Complete application
  - b) Payment of fee
  - c) Departmental approvals
2. Annual permits shall be valid for one year from date of permit issue indicated.

H. Substitution of permitted Food vending units:

1. Permits are not transferable, nor shall a license authorize the activities licensed by any person other than the licensee, except that the sale of a Food vending unit identified in a license application, when replaced by another Food vending unit on a one-for-one basis, will not invalidate the original license nor require a new license application.
2. When replacing a Food vending unit with another vehicle, the licensee shall provide the City of Jamestown the information required by subdivision B of this section.

I. Transfer of assets.

If a mobile food vendor transfers its mobile food vending business assets, the recipient of the assets shall, before operating, apply for and obtain a new mobile food vending license from the City of Jamestown.

J. Fees.

1. The City of Jamestown is authorized to establish a reasonable schedule and classifications of fees.
2. An applicant shall pay the permit fee established by the City of Jamestown unless otherwise exempted.
3. Fees are waived for mobile food operators who are acting as distributors and not vendors.

K. Renewal.

1. Yearly permits shall be renewed annually.
2. If a renewal request has been submitted to the City prior to the current permit's expiration, the mobile food vendor may continue operations while an application for renewal is pending with the City of Jamestown.
3. Permit renewals are subject to current application fee/s for annual and/or one-day/single-use permits.
4. Permit renewals are *not* contingent upon a full re-application or re-approvals

L. Unlawful conduct.

It is unlawful for any person to intentionally provide false information or to intentionally omit information on an application for a license under this Chapter.

M. Application guide.

1. The City of Jamestown shall provide a guide for applicants.
2. The guide shall include instructions for applying for, obtaining, maintaining, and renewing a mobile food vending license and shall describe the standards used to inspect Food vending units.

3. The guide shall be made available to applicants at the Department of Development and on the City of Jamestown's website.

## **SECTION 5. MOBILE FOOD VENDING UNIT OPERATIONS.**

- A. Compliance with state and local law.
  1. Mobile food vendor shall follow any applicable state/county/local laws, including without limitation all
    - a) fire codes, zoning codes
    - b) occupational tax codes
    - c) any other applicable state or local code provisions.

- B. Approved Locations and Conditions

A mobile food vendor may operate in the following locations:

1. Public property.
  - a. Food vending unit must be parked more twenty (20) feet of an intersection.
  - b. FVU may operate from metered spaces upon payment of appropriate fees and may not remain in the same spaces in perpetuity, but must by definition, operate the FVU as a mobile unit (see Section 5. h).
  - c. When operating on public property, a mobile food vendor is subject to the same parking rules, restrictions, and obligations that a commercial vehicle would be subject to if not used by a mobile food vendor.
  - d. FVU may not set up any closer than 150 linear feet from the nearest brick-and-mortar restaurant, unless authorized by the Public Safety Committee.

2. Private property.

A mobile food vendor may operate on private property under the following circumstances:

- a. The property is in an Industrial, Commercial or Institutional Zoning District
  - b. The vendor has provided documented permission of the property owner and/or his or her designee to the Department of Development.
  - c. The property is in a R-1 or R-2 district and the mobile food vendor has been invited by a resident in that district to operate on their property for the purpose of serving food to that resident or their guests.
  - d. Insuring there is no interference with pedestrians or vehicles.

A mobile food vendor shall not interfere with or obstruct the passage of pedestrians or vehicles along any street, sidewalk or parkway.
  - e. FVU may not set up any closer than 150 linear feet from the nearest brick-and-mortar restaurant, unless authorized by the Public Safety Committee.
3. Private/Community Organization Event
    - a. Public Market
    - b. Public Parks
    - c. Special Events

C. Operating requirements

When operating, a mobile food vendor shall:

1. Maintain a Food vending unit in **good operating order and visual appearance**, including but not limited to, i.e.,
  - a) The absence of graffiti that is not a part of the overall design or art featured on the vehicle;
  - b) If a City of Jamestown official reports a FVU to be out of “good operating order” and/or “visual appearance”, that FVU is subject to a reinspection by the City.
2. Park with service window oriented to the sidewalk;
3. Serve customers through its service window;
4. Provide a waste receptacle for customers which is clearly marked and request its use by customers;
5. Pick up, remove and dispose of all refuse within 25 feet of the vendor’s operating area at the conclusion of service;
6. Display its mobile food vendor license and health certificate in a conspicuous location in its operating window for public view.

D. Rulemaking authority.

1. The City of Jamestown may promulgate administrative rules regulating mobile food vendors and mobile Food vending units to implement this Chapter.
2. Any rule adopted by the City of Jamestown must be narrowly tailored to address a demonstrable health or safety risk.
3. Rules adopted pursuant to this section *may not*:
  - a) Impose operating hours that differ from the operating hours imposed on restaurants;
  - b) Require a mobile food vendor to enter into any agreement with a commercial establishment or restaurant;
  - c) Require a mobile food vendor that only serves prepackaged food to have a handwashing sink in the vendor’s Food vending unit;
  - d) Require a mobile food vendor to obtain licenses or permits for the vendor’s employees;
  - e) Require a mobile food vendor to associate with a commissary if the vendor carries all the equipment necessary to comply with health and safety standards and [the state food code];
  - f) Limit the number of mobile food vendor permits issued;
  - g) Require the mobile food vendor to obtain any additional permits from the City of Jamestown unless special circumstances are identified by, or reported to and confirmed by the City
  - h) Require a mobile food vendor to stay in constant motion except for when serving customers;
  - i) Require a mobile food vendor to submit to inspections beyond the number and scope of the health inspections conducted by the City of Jamestown unless there is an investigation of a reported foodborne illness.

## **SECTION 6. FOOD SAFETY; HEALTH INSPECTIONS AND CERTIFICATES**

A. Food hygiene standards. Mobile food vendors shall follow New York State Department of Health guidelines and regulations as stated in SubPart 14-4 - Mobile Food Service Establishments and Pushcarts of the NYS Health Code

1. Food safety certification. At all times, at least one person working in a Food vending unit must hold a current food safety certification.

### **B. Mobile food vendor classifications.**

Upon receipt of a complete permit application, the City of Jamestown shall classify a mobile food vendor into one of the following three classifications for the purpose of conducting inspections:

1. Mobile Food Type I Vendor.

A vendor who dispenses prepackaged foods and/or non-time/temperature control for safety (non-TCS) beverages or poses a low risk of harm to the public shall be classified as a Mobile Food Type I Vendor.

2. Mobile Food Type II Vendor.

A vendor who dispenses food that requires limited handling and preparation shall be classified as a Mobile Food Type II Vendor.

3. Mobile Food Type III Vendor.

A vendor who prepares, cooks, holds and serves food from the Food vending unit shall be classified as a Mobile Food Type III Vendor.

### **C. Health inspections.**

For the purpose of protecting public health and safety, the City of Jamestown shall ensure that mobile food vendors are inspected on an ongoing, randomized basis pursuant to the frequency set forth in subdivision H of this section based on their classification and inspection grade.

### **D. Recordkeeping.**

The City of Jamestown shall establish and maintain a database to record the names of licensees, inspections, inspection reports and public complaints.

The database shall also allow mobile food vendors to provide periodic itineraries to the City of Jamestown.

E. Inspection criteria and grading.

1. Health inspections shall be conducted by Chautauqua County Department of Health using inspection criteria based on the state food code and a score-based grading system established by City of Jamestown based on objective factors.
2. The inspection criteria shall provide a letter-grade format that rates the vendor with an "A," "B," "C," or "F" grade, based on the score received during the inspection.
3. If a vendor receives two consecutive "A" grades, it shall be given a certificate of excellence.
4. If a vendor receives an "F" grade, the City of Jamestown must suspend the vendor's license until the vendor corrects the violations, is re-inspected and receives a grade of "A," "B," or "C."

F. Health Inspection certificate.

Upon completion of an inspection, Chautauqua County shall issue a health certificate to the mobile food vendor ***displaying the vendor's letter grade or achievement of excellence and record the grade in the database.***

G. Frequency of Inspections.

Health inspections shall occur on a randomized basis, pursuant to the following frequency, based on the mobile food vendor's classification.

1. Mobile Food Type I Vendors.

- a) A Mobile Food Type I Vendor shall be inspected only upon the City of Jamestown being notified of a public health or safety complaint regarding the vendor.
- b) If the inspection reveals a violation of law, the vendor shall become subject to inspections at the frequency set for a Mobile Food Type II Vendor until the vendor obtains a certificate of excellence.

2. Mobile Food Type II Vendors.

- a) A Mobile Food Type II Vendor shall be inspected once per calendar year.
- b) If a Mobile Food Type II Vendor receives a certificate of excellence, it shall become subject to inspections at the frequency set for Mobile Food Type I Vendors.
- c) If a Mobile Food Type II Vendor holding a certificate of excellence receives a score lower than an "A" on a subsequent inspection, the vendor shall lose its certificate of excellence and return to being inspected once per year.

3. Mobile Food Type III Vendors.

- a) A Mobile Food Type III Vendor shall be inspected twice per calendar year.
- b) If a Mobile Food Type III Vendor receives a certificate of excellence, it shall be inspected at the frequency set for Mobile Food Type II Vendors.

- c) If a Mobile Food Type III Vendor holding a certificate of excellence receives a score lower than an “A” on a subsequent inspection, the vendor shall lose its certificate of excellence and return to being inspected twice per calendar year.

H. Changing classifications.

1. The City of Jamestown shall specify the categories of foods or beverages that mobile vendors in each classification may serve.
2. If a mobile food vendor seeks to serve food or beverages that may require the vendor to be reclassified, the mobile food vendor shall notify the Chautauqua County Health Department of the nature of the food or beverages to be sold, and the City of Jamestown shall reclassify the mobile food vendor.

I. Notice of location for inspections; administrative warrant.

1. The mobile food vendor may provide the locations where the vendor operates on social media.
2. A mobile food vendor who does not provide the locations where the vendor operates on social media shall submit an itinerary for the current week to City of Jamestown completing the Microsoft form online.
3. The mobile food vendor may request the City of Jamestown obtain an administrative warrant prior to conducting an inspection.

J. Inspection costs.

- 1) The City of Jamestown shall determine the average cost of conducting a health inspection.
- 2) The City of Jamestown shall charge the mobile food vendor an inspection fee at the time the mobile food vendor applies for or renews a license, based on the average cost of conducting an inspection, multiplied by the number of annual inspections required for the upcoming year as required by this section.

**SECTION 7. LICENSE DENIAL, SUSPENSION, REVOCATION AND APPEALS**

A. The City of Jamestown may deny, suspend or revoke a license issued under this Chapter. A license may be denied, suspended or revoked only for the following reasons:

1. Fraud, misrepresentation or a false statement contained in the application for a license.
2. Fraud, misrepresentation or a false statement made in connection with the selling of food.
3. Any facts or conditions that would justify the denial of the original application.
4. Three (3) or more violations of this chapter over a period of 12 months.
5. The receipt of an “F” grade during an inspection or an investigation in response to a complaint.

- B. Any person who has been notified regarding the denial of their mobile food vending application or the possible suspension or revocation of their mobile food vending license may appeal to the City of Jamestown within 14 calendar days of receipt of said notice.
  - 1. Other than as described in subdivision C of this section, no license shall be suspended or revoked prior to a hearing if a mobile food vendor requests a hearing within the 14-day period required.
  - 2. Upon receipt of a request for a hearing, the City of Jamestown shall hold a hearing within 14 calendar days and issue findings of fact, conclusions of law and a decision.
- C. When circumstances demonstrate that continued operation by a mobile food vendor poses an imminent threat to the public's health and safety, the City of Jamestown may immediately suspend or revoke a mobile food vending license.
  - 1. The mobile food vendor may request a hearing before City of Jamestown regarding the suspension or revocation within 14 calendar days of receiving notice of the suspension or revocation.
- D. Any hearing regarding the summary suspension or revocation of a license shall be given priority over all potential license denial, suspension or revocation proceedings and shall be held within seven (7) calendar days from the date the City of Jamestown receives a mobile food vendor's request for a hearing.

The City of Jamestown shall issue:

- 1. findings of fact
  - 2. conclusions of law and a
  - 3. decision.
- E. It is unlawful for a mobile food vendor whose license has been suspended or revoked to operate. If the City of Jamestown suspends or revokes a license, the mobile food vendor shall immediately cease all food vending operations.
  - F. A mobile food vendor aggrieved by an order issued by the City of Jamestown may appeal the order to state district court.

August 26, 2024  
Resolution #16

BY COUNCIL:

RESOLVED, That the Jamestown City Council designates One Hundred Thousand Dollars and No Cents (\$100,000) in American Rescue Plan Act Healthy Neighborhoods funds for the purpose of funding the Jackson-Taylor Park and Allen Park Splash Pad projects.



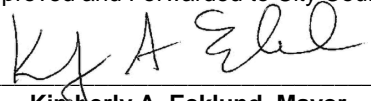
CITY OF  
**JAMESTOWN**  
NEW YORK

Agenda Date: \_\_\_\_\_

Agenda Item: \_\_\_\_\_

**STAFF REPORT**

**DATE:** 8/21/2024  
**TO:** Kimberly A. Ecklund, Mayor  
**FROM:** Mark Roetzer, Jr., P.E. – Acting Director of Public Works  
**SUBJECT:** Allen and Jackson-Taylor Splash Pads

Approved and Forwarded to City Council  
  
\_\_\_\_\_  
Kimberly A. Ecklund, Mayor

**ACTION:**  Resolution       Ordinance/Local Law       Informational/Report

**ISSUE STATEMENT:** The two splash pads at Allen Park and Jackson-Taylor Park are complete and have been operating since July. The grant from New York State Assemblyman Andrew Goodell’s office has not been received, but the funds have been spent.

**BACKGROUND:** The splash pads were originally budgeted for \$500,000 from ARPA funds. When this was voted on by City Council the amount of ARPA funds allocated to them was cut by \$100,000, because there was a grant available from New York State Assemblyman Andrew Goodell for that amount. Now that the splash pads are complete and we are still waiting on confirmation of the grant.

**FISCAL IMPACT:** \$100,000 from ARPA funds

**RECOMMENDATION:** Allocate \$100,000 from ARPA funds

**ATTACHMENT(S):** 1. Resolution