

**TOWN OF NIAGARA  
TOWN BOARD MEETING  
7105 Lockport Road  
Niagara Falls, NY 14305  
MINUTES  
Tuesday, July 19, 2022  
6:30 PM**

**PUBLIC HEARING**

1. Local Law No. 2022-3 revising sections in Chapters 155 and 121 of the Town Code to comply with changes to the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Code as mandated by the State. (Risman)

**Opened at 6:30 pm closed at 6:31 pm no speakers.**

**OPEN MEETING (Pledge, Roll Call)**

Supervisor Lee Wallace called the meeting to order with the Pledge of Allegiance. Attached is a Memorial Page of all the deceased Town residents who passed away recently.

Roll Call:

Present: Supervisor Lee S. Wallace, Deputy Supervisor Charles F. Teixeira,  
Councilman Richard A. Sirianni, Councilman Samuel Gatto, Councilman Marc M.  
Carpenter

Absent: None

Excused: None

Also, present Sylvia Virtuoso, Town Clerk

**PRIVILEGE OF THE FLOOR** (Announce changes to agenda, if any)

(§50-3 Privilege of the floor. Only members of the public sector are allowed to speak at this time and may address any agenda or non-agenda item. (3-minute limit)

Chris Voccio, 31<sup>st</sup> Street Niagara Falls, Kory Schuler, 3211 Inducon Drive Niagara USA Chamber, Michael Casale on behalf of Chris Robins Legislator, Johnny Parks 4613 John Street all spoke in favor of the project citing the best project in over 40 years, tax revenue, more opportunity for local business, etc. and Henry Krawczyk, Marcy Richner 3601 Crestview Lane, Tom Weber Packard Road, Rob Taylor 8150 Packard Road spoke against the project for reasons of traffic, danger, pollution, poor jobs, etc.

**APPROVAL OF MINUTES**

1. Town Board Meeting of **June 21, 2021**

Motion to approve by Councilman Carpenter, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter

Noes – none

Abstain – none

Motion carried.

**PAYMENT OF BILLS**

General Fund prepay vouchers [A] \$20,155.23

General Fund vouchers [A] \$221,301.63

Sewer Fund prepay vouchers [G] \$1,534.95

Sewer Fund vouchers [G] \$177,265.33

Water Fund vouchers [F] \$92,604.82

Water Fund vouchers prepay [F] \$597.69

Highway Fund vouchers [DA] \$130,219.31

Highway Fund prepay vouchers [DA]

Fire Protection prepay vouchers [SF]

Fire Protection [SF] \$459.64  
Street Lighting vouchers [SL] \$7,839.66  
Street Lighting Pre-Pay vouchers [SL]  
Trust & Agency Pre-Pay vouchers [TA] \$17,807.59  
Trust & Agency vouchers [TA] \$16,681.92  
Capital Projects prepay vouchers [H] \$257,330.23  
Capital Projects vouchers [H] \$594,160.27  
Motion to approve by Councilman Sirianni, second by Councilman Gatto  
Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

## AGENDA

1. Resolution on the final site plan request to include the consolidation of lots of Phillips Lytle LLP, Agent for JB2 Partners LLC 8995 Lockport Road/Tax Map #132.18-1-2, #146.05-1-9, #146.06-1 & 2. (Haseley)

Motion to approve by Councilman Gatto, second by Councilman Sirianni.  
Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

2. Resolution authorizing the Town of Niagara to grant a Conservation Easement to Buffalo Niagara River Land Trust to preserve and limit the uses of development of vacant land owned by the Town along Cayuga Creek and to permanently protect the improvements to the property made by Buffalo Niagara Waterkeeper and to authorize the Town Supervisor to sign the attached Conservation Easement and any additional documents required to file the easement.

Motion to approve by Councilman Teixeira second by Councilman Gatto.  
Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

3. Resolution to increase the mileage rate for operating a personal vehicle for Town business from .50/mile to .60/mile. (Wallace)

Motion to approve by Councilman Carpenter, second by Councilman Sirianni.  
Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

4. Resolution to approve the purchase of one John Deere Z950R ZTrak 72” side discharge lawn mower from the NY State Landscaping Ground PC68131 (PGXNCG22) Contract for the total amount of \$14,862.37. This replaces old mower. (Herman)

Motion to approve by Councilman Carpenter, second by Councilman Gatto.  
Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

5. Resolution to approve the Annual Special Use Permit request of:  
Gene’s Wholesale Tire, 2924 Military Road  
Hair Care by Toni, 2113 Robert Drive

Goodyear Auto Service, 1755 Military Road  
Joe Ceconis Chrysler Complex, 2380 Military Road  
David Chevrolet Buick, 10255 Niagara Falls Blvd.  
Empire Emergency Apparatus

Motion to approve by Councilman Gatto, second by Councilman Sirianni.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

6. Resolution to accept the resignations of PT Police Officers Michael Lee and Travis Maggard effective 6/21/2022. (Suitor)

Motion to approve by Councilman Carpenter, second by Councilman Gatto.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

7. Resolution to approve Local Law No. 2022-3 deleting Chapter 155, sections 155-1 through 155-25 of the current Town Code and adding new sections 155-1 through 155-21, and also amending section 121-8 of the Town Code. (Risman)

Motion to approve by Councilman Teixeira, second by Councilman Sirianni.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

8. Resolution to add the following to the active roster of Niagara Active Fire Company:

Sandra Dysard  
Tyler Fending  
Zachary Weneck  
Brian Garber  
Ezechial Almager  
Thomas Weber

Motion to approve by Councilman Carpenter, second by Councilman Sirianni.

Ayes – Wallace, Teixeira, Sirianni, Gatto, Carpenter  
Noes – none  
Abstain – none

Motion carried.

## **TABLED**

1. Resolution to declare a negative declaration on the associated SEQRA for the combination of lots/final site plan request of Wayside Nursery Inc., 7431 Porter Road, Tax Map #'s 145.12-32, 33 and 34. (Haseley)
2. Resolution to approve the combination of lots and final site plan request of Wayside Nursery Inc., 7431 Porter Road, Tax Map #145.12-32, 33, 34. (Haseley)
3. Discussion on security concerns on town property and access/entrance into town buildings. (Wallace)
4. Discussion on the progress of the LED Street Light project. (Carpenter)

## **COMMENTS**

Councilman Gatto states the Board is doing what is best for the Town and the area with Amazon.

Councilman Carpenter states the traffic directly impact him but is happy with the traffic mitigation put forth by Amazon and if needed will continue to have discussions with Amazon on traffic issues. An exit on the 190 is the ideal scenario and not dismissed. The right turning lane onto Military Rd has been a long time request that DOT is just not approving yet.

Supervisor Wallace understands the concerns but does not live there so not completely, this is definitely an economic impact to the Town who will foresee many financial burdens in the future with garbage pickup, etc the jobs are great, all of Niagara County will benefit.

## **ADJOURNMENT**

Motion to adjourn by Councilman Carpenter second by Councilman Gatto. All in favor. Meeting adjourned at 7:15 pm.

**Respectfully submitted,**

**Sylvia Virtuoso  
Town Clerk**

THE MONTHLY AGENDA IS ON THE TOWN WEBSITE

[www.townofniagara.com](http://www.townofniagara.com)

## **IN MEMORIAM**

**Robert J. Dorato Sr.**

**Nancy W. Terhaar**

**John Ivan Lozina**

**Charles William Falbo**

**Barbara Ann Walker**

**Patricia F. Crotty**

**Joseph Bresko**

**Chester Roszczypala**

**Bernetta B. Kraatz**

**Arthur Wheeler**

**TOWN OF NIAGARA**

**LOCAL LAW NO. 2022-3**

The Town of Niagara hereby adopts the following local law by repealing existing sections numbered Chapter 155, section 155-1 through section 155-25, and replacing those sections with the following:

## **Article 1 Uniform Fire Prevention and Building Code (the Uniform Code) and a State Energy Conservation Construction Code**

### **SECTION 155-1. PURPOSE AND INTENT**

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Town of Niagara. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

### **SECTION 155-2. DEFINITIONS**

In this local law, the following terms shall have the meanings shown in this section:

“Assembly Area” shall mean an area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

“Building Permit” shall mean a building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term “Building Permit” shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.

“Certificate of Compliance” shall mean a document issued by the Town of Niagara stating that work was done in compliance with approved construction documents and the Codes.

“Certificate of Occupancy” shall mean a document issued by the Town of Niagara certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town of Niagara, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors. “Codes” shall mean the Uniform Code and Energy Code.

“Energy Code” shall mean the New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

“FCNYS” shall mean the current Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

“Fire Safety and Property Maintenance Inspection” shall mean an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

“Hazardous Production Materials” shall mean a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 3 of this local law.

“Mobile Food Preparation Vehicles” shall mean vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

“Operating Permit” shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 17 of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“PMCNYS” shall mean the current Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

“RCNYS” shall mean the current Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

“Repair” shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this local law.

“Sugarhouse” shall mean a building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

“Temporary Certificate of Occupancy” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

“Town” shall mean the Town of Niagara.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

### **SECTION 155-3. CODE ENFORCEMENT OFFICER AND INSPECTORS**

(a) The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The Code Enforcement Officer shall have the following powers and duties:

- (1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;
  - (3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this local law;
  - (4) to issue Stop Work Orders;
  - (5) to review and investigate complaints;
  - (6) to issue orders pursuant to subdivision (a) of section 17 (Violations) of this local law;
  - (7) to maintain records;
  - (8) to collect fees as set by the Town Board of the Town of Niagara;
  - (9) to pursue administrative enforcement actions and proceedings;
  - (10) in consultation with this the Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law; and
  - (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.
- (b) The Code Enforcement Officer shall be appointed by the Town Board of the Town of Niagara. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- (c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by the Town Board of the Town of Niagara to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.
- (d) One or more Inspectors may be appointed by the Town Board of the Town of Niagara to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

- (e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of the Town of Niagara.

#### **SECTION 155-4. BUILDING PERMITS.**

- (a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the town of Niagara.
- (b) Exemptions. No Building Permit shall be required for work in any of the following categories:
  - (1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;
  - (2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;
  - (3) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (4) installation of partitions or movable cases less than 5'-0" in height;
  - (5) painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
  - (7) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications of a single-family dwelling; or
  - (8) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.
- (c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code and/or any Town Zoning ordinance, Town Local Law or any other section of the Town Code.
- (d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work



complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least three sets of construction documents (drawings and/or specifications), one of which has been generated in an acceptable electronic format for such documents, which
  - (i) *describe the location, nature, extent, and scope of the proposed work;*
  - (ii) *show that the proposed work will conform to the applicable provisions of the Codes;*
  - (iii) *show the location, construction, size, and character of all portions of the means of egress;*
  - (iv) *show a representation of the building thermal envelope;*
  - (v) *show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information;*
  - (vi) *show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;*
  - (vii) *include a written statement indicating compliance with the Energy Code;*
  - (viii) *include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and*
  - (ix) *evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.*

- (e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an

indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

- (f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- (g) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- (h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- (i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within three (3) months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- (j) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that:
  - (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and
  - (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- (k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law shall be paid at the time of issuance of a Building Permit, an amended Building Permit, or for renewal of a Building Permit. Fees charged by the Town may be changed from time to time by resolution of the Town Board.

## **SECTION 155-5. CONSTRUCTION INSPECTIONS.**

- (a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision(b) of this section is ready for inspection.

- (b) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
- (1) work site prior to the issuance of a Building Permit;
  - (2) footing and foundation;
  - (3) preparation for concrete slab;
  - (4) framing;
  - (5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
  - (6) fire resistant construction;
  - (7) fire resistant penetrations;
  - (8) solid fuel burning heating appliances, chimneys, flues, or gas vents;
  - (9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
  - (10) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
  - (11) a final inspection after all work authorized by the Building Permit has been completed.
- (c) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- (d) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, re-inspected, and found satisfactory as completed.
- (e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

## **SECTION 155-6. STOP WORK ORDERS.**

- (a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:
- (1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.
- (b) Content of Stop Work Orders. Stop Work Orders shall
- (1) be in writing,
  - (2) be dated and signed by the Code Enforcement Officer,
  - (3) state the reason or reasons for issuance, and
  - (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- (c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail or certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail or certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.
- (d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the Stop Work Order.
- (e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 17 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

## **SECTION 155-7. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE**

- (a) Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.
- (b) Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:
  - (1) a written statement of structural observations and/or a final report of special inspections,
  - (2) flood hazard certifications,
  - (3) a written statement of the results of tests performed to show compliance with the Energy Code, and
  - (4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.
- (c) Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:
  - (1) the Building Permit number, if any;
  - (2) the date of issuance of the Building Permit, if any;
  - (3) the name (if any), address and tax map number of the property;
  - (4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;
  - (5) the use and occupancy classification of the structure;
  - (6) the type of construction of the structure;
  - (7) the occupant load of the assembly areas in the structure, if any;
  - (8) any special conditions imposed in connection with the issuance of the Building Permit; and

- (9) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.
- (d) Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines
  - (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely,
  - (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and
  - (3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure.

A Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- (e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- (f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

#### **SECTION 155-8. NOTIFICATION REGARDING FIRE OR EXPLOSION.**

The chief of any fire department providing firefighting services for a property within the Town of Niagara shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

#### **SECTION 155-9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER**

Unsafe buildings, structures, and equipment and conditions of imminent danger in the Town of Niagara shall be identified and addressed in accordance with the procedures established by Chapter 121 of the Town of Niagara Town Code, as now in effect or as hereafter amended from time to time.

## SECTION 155-10. OPERATING PERMITS.

- (a) Operation Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:
- (1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;
  - (2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:
    - (i) *Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;*
    - (ii) *Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;*
    - (iii) *Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;*
    - (iv) *Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;*
    - (v) *Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;*
    - (vi) *Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;*
    - (vii) *Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;*
    - (viii) *Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;*
    - (ix) *Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;*
    - (x) *Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;*
    - (xi) *Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;*
    - (xii) *Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and*
    - (xiii) *Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements established by Local Law Number 2022-3, as now in effect or as hereafter amended from time to time.*



- (3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.
- (4) buildings containing one or more assembly areas;
- (5) outdoor events where the planned attendance exceeds 1,000 persons;
- (6) facilities that store, handle or use hazardous production materials;
- (7) parking garages as defined in subdivision (a) of section 13 of this local law;
- (8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of the Town of Niagara; and
- (9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Board of the Town of Niagara.

**Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.**

- (b) **Applications for Operating Permits.** An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- (c) This subdivision is intentionally omitted.
- (d) **Inspections.** The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Town of Niagara sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.
- (e) **Multiple Activities.** In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in their discretion, issue a single Operating Permit to apply to all such activities.



- (f) Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:
- (1) 30 days for tents, special event structures, and other membrane structures;
  - (2) 60 days days for alternative activities at a sugarhouse;
  - (3) three (3) years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and
  - (4) one (1) year year for all other activities, structures, and operations identified in subdivision (a) of this section.

The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

- (g) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- (h) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

## **SECTION 155-11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS**

- (a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:
- (1) at least once every twelve (12) months for buildings which contain an assembly area;
  - (2) at least once every twelve (12) months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
  - (3) at least once every thirty-six (36) months for multiple dwellings and all nonresidential occupancies.
- (b) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

- (c) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:
  - (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
  - (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
  - (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

- (d) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.
- (e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

## **SECTION 155-12. COMPLAINTS**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance, or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- (a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 17 (Violations) of this local law;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

## SECTION 155-13. CONDITION ASSESSMENTS OF PARKING GARAGES.

(a) Definitions. For the purposes of this section:

- (1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
  - (i) *buildings in which the only level used for parking or storage of motor vehicles is on grade;*
  - (ii) *an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and*
  - (iii) *a townhouse unit with attached parking exclusively for such unit;*
- (4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;
- (5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.
- (6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and
- (7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Town of Niagara, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

- (c) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:
- (1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
  - (2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
    - (i) *if originally constructed prior to January 1, 1984, then prior to October 1, 2019;*
    - (ii) *if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and*
    - (iii) *if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.*
  - (3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to six (6) months after the effective date of this local law.
- (d) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.
- (e) Additional Condition Assessments.
- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
  - (2) If the Town of Niagara becomes aware of any new or increased deterioration which, in the judgment of the Town of Niagara, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Town of Niagara to be appropriate.
- (f) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Town of Niagara within thirty (30) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:
- (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

- (2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
  - (3) an evaluation and description of the unsafe conditions;
  - (4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (7) the responsible professional engineer's recommendation regarding preventative maintenance;
  - (8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
  - (9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.
- (g) Review Condition Assessment Reports. The Town of Niagara shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town of Niagara shall, by Order to Remedy or such other means of enforcement as the Town of Niagara may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town of Niagara to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.
- (h) The Town of Niagara shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Town of Niagara with a written statement attesting to the fact that he or she has been so engaged, the Town of Niagara shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town of Niagara shall be permitted to require the owner or operator of

the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

- (i) This section shall not limit or impair the right or the obligation of the Town of Niagara:
  - (1) to perform such construction inspections as are required by section 5 (Construction Inspections) of this local law;
  - (2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this local law; and/or
  - (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Town of Niagara by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

#### **SECTION 155-14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.**

- (a) The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within the Town of Niagara as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:
  - (1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
  - (2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
  - (3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
    - (i) *the accompanying Flood Insurance Rate Map (FIRM);*
    - (ii) *Flood Boundary and Floodway Map (FBFM); and*
    - (iii) *related supporting data along with any revisions thereto.*
- (b) The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

#### **SECTION 155-15. RECORD KEEPING.**

- (a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:
  - (1) all applications received, reviewed and approved or denied;

- (2) all plans, specifications and construction documents approved;
  - (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
  - (4) all inspections and tests performed;
  - (5) all statements and reports issued;
  - (6) all complaints received;
  - (7) all investigations conducted;
  - (8) all condition assessment reports received;
  - (9) all fees charged and collected; and
  - (10) all other features and activities specified in or contemplated by sections 4 through 14, inclusive, of this local law.
- (b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

## **SECTION 155-16. PROGRAM REVIEW AND REPORTING**

- (a) The Code Enforcement Officer shall annually submit to the Town Board of the Town of Niagara a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 14 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.
- (b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of the Town of Niagara, on a form prescribed by the Secretary of State, a report of the activities of the Town of Niagara relative to administration and enforcement of the Uniform Code.
- (c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials the Town of Niagara is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

## **SECTION 155-17: VIOLATIONS**

- (a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that



violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

- (b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- (c) Penalties. In addition to such other penalties as may be prescribed by State law,
  - (1) any Person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be punishable by a fine of not more than Two Hundred and Fifty Dollars (\$250.00) per day of violation, or imprisonment not exceeding fifteen (15) days in jail, or both; and
  - (2) any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than \$250.00 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of the Town of Niagara.
- (d) Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Niagara, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or



other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town of Niagara, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of the Town of Niagara.

- (e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

#### **SECTION 155-18: FEES**

A fee schedule shall be established by resolution of the Town Board of the Town of Niagara. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

#### **SECTION 155-19. INTERMUNICIPAL AGREEMENTS**

The Town Board of the Town of Niagara may, by resolution, authorize the Town Supervisor of the Town of Niagara to enter into an agreement, in the name of the Town of Niagara, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

#### **SECTION 155-20. PARTIAL INVALIDITY**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

#### **SECTION 155-21. EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

The Town of Niagara hereby further adopts the following amendment to Section 121-8 of the Town Code.

In cases where it reasonably appears that there is immediate danger to the life, health, or safety of any person, the Code Enforcement Officer shall report such facts to the Town Board, and the Town Board shall cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation, or demolition of such dangerous building shall be collected in the same manner as provided in Section 121-6E hereof. In the event of emergency repairs, vacation, or demolition of a dangerous building, the property owner or another party with a legal interest in the property may bring a New York State Civil Article 78 proceeding in New York State Supreme Court, Niagara County, to review the determination to take emergency action with respect to the subject building within 120 days of the Town Board determination to take such action.

RESOLUTION OF THE TOWN OF NIAGARA TOWN BOARD  
CONCERNING THE FINAL SITE PLAN AND LOT CONSOLIDATION  
APPLICATION FOR PROJECT FIFI

WHEREAS, JB2 Partners, LLC ("**Applicant**") proposes development of an approximately 216 acre site located at 8995 Lockport Road (SBL: 132.18-1-2; 146.05-1-9; 146.06-1-1; 146.06-1-2) ("**Site**") in the Town of Niagara, New York, for construction and operation of an approximately 3,075,950 square foot e-commerce storage and distribution facility ("**Facility**") for consumer products ("**Project**"); and

WHEREAS, the Site is owned by Gotham Homes 18, LLC ("**Owner**"), which has authorized the Applicant to file all applications necessary for the development, construction and operation of the Project at the Site; and

WHEREAS, the Facility includes 55 loading docks, 414 trailer parking stalls (469 total trailer locations), and 1,755 car parking stalls (including 16 motorcycle parking spaces), two water tanks, two guard buildings, stormwater management basins and improvements, accessory site driveways, lighting, landscaping, signage, and other related improvements as per the Project Site Plans dated February 15, 2022 and revised April 15, 2022, May 25, 2022 and July 12, 2022 ("**Site Plans**") and, and will employ approximately 1,000 people;

WHEREAS, the Site is a New York State Empire State Development certified "Shovel-Ready" property located in the HI - Heavy Industrial District, which authorizes a storage and distribution facility as a permitted use as well as freight forwarding, long-distance trucking terminals and distribution facilities;

WHEREAS, in connection with the Project, on February 15, 2022 Applicant submitted an application to the Town Board of the Town of Niagara ("**Town Board**"), Town of Niagara Zoning Board of Appeals ("**ZBA**"), and Town of Niagara Planning Board ("**Planning Board**") to request Site Plan approval and resubdivision/lot consolidation in accordance with Town of Niagara Code ("**Code**") § 245 Appendix B and 135-126/132, and area variances in accordance with Code § 245 Appendix A, 245-33(D), 204-5(B)(2); § 204-5(C)(1), 204-5(C)(3)(a); and § 204-5(B)(1) ("**Requested Variances**") (collectively with the supplemental materials submitted on April 12, June 2, June 20, 2022, and July 18, 2022, the "**Application**") all as described in the Town Building Inspector's April 13, 2022 memorandum on the Project; and

WHEREAS, pursuant to Code § 245 Appendix B(B2)(A) and Code § 135-126/132, prior to any final decision on a site plan or lot consolidation the Planning Board is authorized to review and recommend to the Town Board approval, approval with modification, or disapproval of such site plans or lot consolidations; and

WHEREAS, at a public meeting held on March 21, 2022 held pursuant to General Municipal Law §§ 239-m, the Niagara County Planning Board recommended approval of the Application to the Town Board and Zoning Board of Appeals; and

**G. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.**

As detailed in the Site Plans, the Project has been designed to ensure sufficient fire lanes, emergency zones, and the provision of necessary fire hydrants across the Site to service the Project. The Applicant has consulted with the Town Fire Department and related Town staff to solicit input on the Project, with such feedback incorporated into the design of the Site Plans. Accordingly, the Project adequately addresses the above site plan considerations.

**H. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.**

As noted in the Environmental Assessment Form submitted with the Application, the Site includes various wetlands and other areas prone to water accumulation. Notably, hydraulic and hydrologic analysis at the Site indicates that impacts to the waterbodies on site, including the existing wetlands, will not adversely impact flood conditions. Rather, additional flood storage will be provided through the creation of adjacent floodplain wetlands and oversized stormwater basins that will provide additional flood storage under certain conditions. Thus, the Project will actually increase the flood storage capacity at the Site and will help to alleviate existing drainage issues. As shown in the SWPPP, permanent and temporary stormwater control measures will be used to minimize stormwater runoff during construction and operation of the Project. The Applicant's proposed measures to control erosion during construction and operation as found in the SWPPP will further mitigate any potential impacts. In total, the Project proposes to impact approximately 2.75 acres of federal wetlands/waters on the Site for the construction of parking areas, access roads, utilities, the Facility and stormwater basins. The remaining approximately 42.809 acres of wetlands will remain undisturbed. No New York State regulated water bodies or wetlands will be impacted. The Project has been designed to limit impacts to wetlands to the greatest extent practicable, including modifications to the Facility's prototypical design. Areas of wetlands to be impacted are limited to agriculture wetlands and ditches with low ecological value/function. Furthermore, upon completion of construction, areas of wetlands and uplands that remain, which are currently farmed, will be allowed to naturally succeed. These areas are expected to revert to a natural condition that will provide an ecological uplift to the Site and region, providing habitat for local wildlife and enhancing the functions and value of the wetlands on-Site. Other than an underground natural gas line, no portion of the Project is proposed to be located in the floodway itself. Further, the Applicant is proceeding with obtaining a permit from the US Army Corps of Engineers pursuant to Section 404 of the Clean Water Act for the limited wetland impacts proposed for the Project, and an application has been submitted to obtain the same. Accordingly, the Project adequately addresses the above site plan considerations.

**I. Overall impact on the neighborhood, including compatibility of design considerations.**

The Application documentation provided, including the Project's Analysis of Environmental Impacts, includes a detailed analysis of the Project's potential impacts on the neighborhood. The Site has Shovel-Ready Certification and has been targeted for development given its location and zoning classification. The Project design includes extensive mitigation to alleviate potential impacts to the neighborhood, including mitigation specifically tailored in response to comments

**C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Town specifications, which may be obtained from the Town Building Department.**

As depicted on the Site Plans, and as detailed in the Town Building Inspector's April 13, 2022, memorandum regarding the Project, the Applicant proposes to construct all improvements to conform to the Town's specifications. Accordingly, the Project adequately addresses the above lot consolidation considerations.

**D. Stormwater management. Subdivisions that are subject to the requirements of Article XIV of Chapter 245, Zoning, of the Town Code, shall comply with the performance and design criteria and standards set forth in such article, in order to minimize stormwater runoff pollution, flooding, and erosion.**

As detailed above, a SWPPP has been prepared for the Project. The SWPPP complies with the performance and design criteria and standards set forth in the Code and the New York State Stormwater Management Design Manual. Accordingly, the Project adequately addresses the above lot consolidation considerations.

**A. Lots to be buildable. The lot arrangement shall be such that, in constructing a building in compliance with the Zoning Law, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.**

As shown on the Site Plans, the Site's topography and other natural conditions do not pose a difficulty for compliance with the Code. No development (other than an underground gas line) is proposed within the designated floodway (and a floodplain development permit has been applied for by the Applicant), and the Project has been designed to avoid wetland impacts to the greatest extent possible. As detailed in the Application, certain variances are required for the Project [and have been issued], however, the lot consolidation does not exacerbate or otherwise impact the scale of the variances. Further, the lot consolidation and size of the Site allows for significant setbacks to mitigate potential impacts from the Facility. Accordingly, the Project adequately addresses the above lot consolidation considerations.

**B. Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.**

The side lines of the consolidated lot will not change since only a lot consolidation is proposed. The Site Plans shows that the side lines will remain at right angles to street lines. Accordingly, the Project adequately addresses the above lot consolidation considerations.

**C. Corner lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.**

as the Town Board's approval of the Site Plans and lot consolidation/resubdivision for the Project, and is issued by the Town Board pursuant to and in accordance with the Code, and shall take effect immediately.

My Name is Johnny Parks I reside at 4613 John street, and lived there for 10 years where I have worked for K-Mart in 80's and Valu 90's as a Manager and seen this town grow and believe that we have more room to grow.

First, I would like to thank The Town of Niagara police on a great job of helping with the case of damage to our property.

Secondly, I would love to see the Amazon project go forward to help bring some positive economy impact to our town with bring the 1000 jobs to this area not including the building trades that will put up the warehouse which they are going to bring in the construction, electricians, plumbers and basic carpentry workers. While these workers are here, they will need something to eat and drink which will help out our local restaurants.

If you have not seen and heard of the shootings that have taken place in malls and shopping centers most people do not want to go out to shop now, they would rather, do it from their homes where they know that they are safe. Our Factory outlet mall is closing every night at 7 because people are afraid to shop.

If you have not been to Tops Walmart and Sam's club, what are we seeing more Selfless checkouts where and less people doing the work. Here we have a company willing to hire people to do the work. Years ago, we used to have used to have all good manufacturing jobs in this area and now OXY, DuPont and many more have left the area and took away better paying jobs. How can our kids raise their family or buy a new house in this area if we do not let companies like Amazon come in and bring in jobs what hope do we have for our kids families and this area.

What side affects that we will have more traffic on Lockport road, Noise while they are building.

I believe that our Town committee has done their work and we need to support their decision on making this plan go forward for everyone.

Comments from Legislator Chris Robins

First, I send my regrets at not being able to attend this evening's Town Board Meeting. I have asked Niagara County Economic Development Commissioner Mike Casale to read my comments into the record regarding Amazon. Let me say first and foremost I am support of the project and urge the Town Board to complete the approval process in the affirmative this evening.

Also, I want to commend Supervisor Wallace and the entire Town Board for how this approval process has been conducted. You have been transparent throughout. You have encouraged public input. And you have clearly listened to all opinions. It is clear you have tried hard to strike a balance between different interests and concerns.

To those opposed to the project, I respect your opinion and hope you can appreciate the efforts that have been made to mitigate your concerns. A project the size and scope of Amazon is clearly going to impact the surrounding community much differently than a vacant plot of land. But the improvements that have been made since the original proposal are a huge step in the right direction and we will continue to look for ways to make necessary improvements going forward.

From my point of view, this project is just the sort of economic boost our community needs. The level of investment, the construction jobs and ultimately the permanent jobs create opportunities that the Town of Niagara needs. The tax revenue is an investment in our collective future, providing funds for our schools, for our emergency services and for the day to day functioning of our town. This is not some pie in the sky project filled with overblown promises....this is real economic development, the likes of which many of us have not seen locally in our lifetime.

And I want to stress that this project is slated for a parcel of land this has been deemed shovel-ready. That point should not be lost. The town, in conjunction with the Niagara County Center for Economic Development, has been working to attract a major project to this site for more than a decade. And you are to be lauded for having succeeded.

The fact is, any project slated for this site would upset the status quo. That happens with growth and development. But that cannot be a reason not to go forward. This project is too important to our future. Again, I urge you to approve it tonight.

Thank you.



**Empire State Development**

RECEIVED

AUG 16 2012

Niagara Co. Economic Development August 9, 2012

Mr. Samuel M. Ferraro, Commissioner  
Niagara County Center for Economic Development  
6311 Inducon Corporate Drive  
Sanborn, NY 14132-9099

Dear Samuel Ferraro:

I am pleased to inform you that after evaluating the documentation submitted, and sharing respective parts of the complete application with representatives of the U.S. Army Corp. of Engineers, the New York State Departments of Environmental Conservation, Agriculture and Markets, and Transportation, and the State Office of Parks, Recreation and Historic Preservation, New York State's Empire State Development has determined that the Airport Commercial Park in the Town of Niagara has met all of the criteria of the program, and as such is designated a **Build-Now NY Shovel Ready Certified Site**.

Congratulations on achieving Shovel Ready status! Empire State Development will be adding the Niagara Airport Commercial Park to the list of Shovel Ready certified sites promoted on its web site in the very near future. We look forward to hearing about future investment at the property. I will be in touch with you shortly to discuss a formal Shovel Ready Certificate presentation event.

Sincerely,



Brenda Grober  
Directory of Industry Development

cc: Christina Orsi, Director, ESD Western NY Regional Office  
Jeff Janiszewski, ESD Vice President, Strategic Business Development

New York State Department of Economic Development  
30 South Pearl Street Albany New York 12245 Tel 518 292 5100  
Web Site: [www.empire.state.ny.us](http://www.empire.state.ny.us)



Nov 19

June 21, 2022

To Whom It May Concern,

The Niagara USA Chamber is the county-wide business advocacy organization in Niagara County, representing more than 800 members. We are committed to promoting investment in our community that creates jobs and contributes to our overall economic growth.

As such, we believe the proposed Amazon warehouse project in the Town of Niagara, which represents hundreds of millions of dollars of investment and 1,000 new jobs, is a great step forward for our community. The proposed site for this project is already properly zoned and is deemed shovel-ready (please see attached letter; August 2012).

*and from a survey of area users*

Of course, a project of this size and scope will always raise questions and concerns, especially from those in the immediate vicinity. Certainly, the issue of truck traffic along Lockport Road has been mentioned several times. It is the position of the Niagara USA Chamber that we have public processes to address such issues. There must be ample opportunity for concerns to be raised, questions answered and mitigation measures discussed.

To the extent agencies like the Town of Niagara Planning Board, the state Department of Transportation the Niagara County IDA and county Public Works Department are reviewing different aspects of the project, we encourage as much transparency as possible. In this manner, the public can then be assured that this project received a rigorous and thorough vetting.

Niagara USA Chamber

6311Inducon Corporate Drive  
[Type here]

Sanborn, NY 14132  
[Type here]



At the same time, we must all recognize that there is a difference between consensus and unanimous approval. Said another way, it is impossible to make everyone happy. Decision-makers must balance competing interests and do what is best for our overall community.

The Amazon warehouse project represents a significant step forward for Niagara County in attracting jobs and investment from businesses that are part of the new economy. Our economic development partners are to be commended for their tremendous efforts. Now, we must allow the multiple stages of the public approval process to work as designed and hopefully conclude with a project that is right for Niagara County and its residents.