

CITY OF LOCKPORT
CORPORATION PROCEEDINGS

Lockport Municipal Building

Regular Meeting
Official Record

December 14, 2022
6:30 P.M.

Mayor Michelle M. Roman called the meeting to order.

ROLL CALL

The following Common Council members answered the roll call:

Aldermen Barnard, Beakman, Devine, Fogle, & Kantor. Alderman Pasceri was absent.

INVOCATION

MAYOR'S UPDATE

RECESS

Recess for public input.

121422.1

APPROVAL OF MINUTES

On motion of Alderman Beakman, seconded by Alderman Kantor, the minutes of the Regular Meeting of December 7, 2022 are hereby approved as printed in the Journal of Proceedings. Ayes 5. Carried.

PUBLIC HEARING

The Mayor announced a public hearing on the submission of an application for Restore NY Communities Initiative funding for the F&M building.

The Mayor asked the City Clerk if any petitions or communications relative to said policy have been received.

Recess for public input.

The Mayor closed the public hearing.

PUBLIC HEARING

The Mayor announced a public hearing on the submission of an application for Restore NY Communities Initiative funding for the Harrison Place building.

The Mayor asked the City Clerk if any petitions or communications relative to said policy have been received.

Recess for public input.

The Mayor closed the public hearing.

PUBLIC HEARING

The Mayor announced a public hearing on a proposed Local Law amending the City of Lockport Hotel Occupancy Tax Law.

The Mayor asked the City Clerk if any petitions or communications relative to said Local Law have been received.

Recess for public input.

The Mayor closed the public hearing

Appointments:

12/14/22 Under and by virtue of the authority conferred on me by the Charter of the City of Lockport, I, Michelle M. Roman, Mayor of the City of Lockport, do hereby make the following appointments:

For the term of one year beginning 1/1/23 and expiring on December 31, 2023.

President of Common Council	Paul Beakman
Corporation Counsel	Laura Miskell Benedict
Deputy Corporation Counsel	Jason Cafarella
Deputy Corporation Counsel	Patricia McGrath
Traffic Advisory Committee	Patricia McGrath
Niagara Community Action Program	John Lombardi, III
<u>Police Board</u>	Alderman Mark Devine
<u>Fire Board</u>	Alderman Paul Beakman
<u>Community Cable Commission</u>	Alderman Mark Devine

2023 Common Council Standing Committees:

Finance Committee - Alderman Beakman, Chairman
Members: Aldermen Barnard, Devine, Fogle, Kantor, Pasceri
City Treasurer, Principal Account Clerk, Director of Finance

Public Health & Safety Committee - Alderman Barnard, Chairman
Members: Fire Chief, Police Chief, and Chief Building Inspector, Aldermen Beakman, Devine, Fogle, Kantor, Pasceri

Highways & Parks Committee - Alderman Pasceri, Chairman
Members: City Engineer, Director of Streets and Parks

Water & Sewer Committee - Alderman Devine, Chairman
Members: City Engineer, Sr. Building Inspector, Chief Operator/WWTP, Chief Operator Water, Water Distribution Supervisor

Youth Board - Alderman Kantor, Chairman; Members: Alderman Fogle, Personnel Director, and mayor appointed community members

Personnel Committee - Alderman Beakman Chairman
Members: Aldermen Barnard, Devine, Fogle, Kantor, Pasceri
City Clerk, Personnel Director

Washington Hunt Committee - Mayor Roman, Chairman
Members: Alderman Kantor, Corporation Counsel Laura Miskell Benedict

Board of Estimate & Apportionment – Director of Finance- Chair, Members: Treasurer, Mayor, Finance Committee Chair, Corporation Counsel, City Clerk

License Revocation Board - Alderman Kantor- Chairman
Members - Chief Building Inspector, Mayoral appointed residents

Buildings & Grounds Accessibility Committee-(Ad-Hoc) - Alderman Barnard, Chairman
Members: City Clerk, Mayoral appointed community members

Tree Advisory Committee-(Ad-Hoc) - Alderman Fogle, Chairman

12/13/22 Roxanne M. Devine, 114 Maple Street, Lockport – re-appointed to the Zoning Board effective November 15, 2022. Said term expires on November 15, 2025.

12/13/22 Nancy Babis, 138 Grant Street, Lockport – re-appointed to the Zoning Board effective November 15, 2022. Said term expires November 15, 2025.

12/13/22 Meghan Lutz, 207 Washington Street, Lockport – re-appointed to the Zoning Board effective November 15, 2022. Said term expires November 15, 2025.

FROM THE CITY CLERK

The Clerk submitted payrolls, bills for services and expenses, and reported that the Department Heads submitted reports of labor performed in their departments.
Referred to the Finance Committee.

Communications (which have been referred to the appropriate City officials)

12/9/2022 214 Green St. - Ambulance Service

12/12/2022 735 Walnut St – Ambulance Service

12/13/2022 – 454 Willow St – Ambulance Service

12/14/2022 – 5932 Corinne Lane, Clarence, NY – Ambulance Service

Referred to the Corporation Council

Notice of Complaint:

12/8/22 225 Lincoln Avenue - tree

Referred to the Director of Highways, Parks and Water Distribution.

MOTIONS & RESOLUTIONS

121422.2

By Alderman Beakman:

Resolved, that the Mayor and City Clerk be authorized to issue orders in favor of the claimants for payrolls, bills, and services to be paid on December 15, 2022 as follows:

General Fund	Fund A	\$91,315.29
Water Fund	Fund FX	\$47,371.87
Sewer Fund	Fund G	\$65,000.37
Capital Projects	Fund H	\$564,550.32
Refuse Fund	Fund CL	\$101,805.91
Payroll	Pay Date 12/15	\$691,866.91

Seconded by Alderman Barnard and adopted. Ayes 5.

121422.3 – WITHDRAWN

By Alderman Barnard:

Resolved, that the readings of the foregoing resolution be and the same is hereby waived.

Seconded by Alderman Devine, and adopted. 5 Ayes.

121422.4

By Alderman Barnard:

Whereas: The Corporation Council, together with the Chief Building Inspector, prepared a Local Law relative to Establishing the City of Lockport Code Enforcement Program amending Section 4 (Building Permits); Section 9 (Unsafe Buildings, Structures and Equipment and Conditions of Immanent Danger) and Section 10 (Operating Permits);

Whereas: The Lockport City Common Council conducted a public hearing at the Common Council meeting of Wednesday, December 7, 2022, in the Common Council Chambers, Lockport Municipal Building, One Locks Plaza, Lockport, NY relative to said Local Law and Amendment; and

NOW, THEREFORE, BE IT RESOLVED THAT:

The Common Council hereby adopts the attached City of Lockport Code Enforcement Program amending Sections 4, 9 and 10. Said Law is incorporated herein and attached hereto.

**CITY OF LOCKPORT CODE
ENFORCEMENT PROGRAM**

- Section 4 (“Building Permits”) imposes the requirement that a building permit be obtained before any work is performed. If a local government wishes to exempt certain categories

of work from the building permit requirement, the local government should use the Alternative 1 versions of subdivisions (a), (b), and (c) of Section 4, and should include in subdivision (b) only those categories of work that the local government wishes to exempt from the building permit requirement. (Note that the Alternative 1 version of Section 4, subdivision (b), lists all of the categories of work that a local government is allowed to exempt from the building permit requirement – the local government may not exempt any category of work not listed there.) If a local government does not wish to exempt any category of work from the building permit requirement, the local government should use the Alternative 2 versions of subdivisions (a), (b), and (c) of Section 4.

- Section 9 (“Unsafe Buildings, Structures, and Equipment and Conditions of Imminent Danger”) requires the local government to make reference to another local law that establishes the local government’s procedures for identifying and addressing unsafe buildings, structures, and equipment and conditions of imminent danger (Alternative 1) or to draft and insert such provisions in Section 9 (Alternative 2).
- Section 10 (“Operating Permits”) imposes the requirement that an operating permit be obtained for operating certain buildings and/or conducting certain activities. If a local government wishes to allow exemptions from the operating permit requirement, the local government should use the Alternative 1 version of subdivision (c) of Section 10. If a local government does not wish to allow exemptions from the operating permit requirement, the local government should use the Alternative 2 version of subdivision (c) of Section 10.

NOTE 3: The local government’s provisions for identifying and addressing unsafe buildings, structures, and equipment and conditions of imminent danger, whether in another local law (Section 9, Alternative 1) or in this local law (Section 9, Alternative 2), must recognize and protect the right of all persons and entities to due process of law. In particular, but not by way of limitation, provisions authorizing the local government to post, placard, or condemn any building or structure and/or to remove any owner or occupant or cause any owner or occupant to be removed from any building or structure should (1) require the local government to first give such notice and opportunity to be heard (and, if applicable, right to appeal) as may be required under the applicable circumstances by applicable Federal and/or New York State Constitutional Provisions; (2) provide that in cases of imminent danger, posting, placarding, and condemning a building or structure and/or removing owners and occupants or causing owners and occupants to be removed without first providing an opportunity to be heard shall be permitted but only to the extent consistent with applicable Federal and New York State Constitutional provisions; and (3) provide that in any case of imminent danger where posting, placarding, and condemning a building or structure and/or removing owners and occupants or causing owners and occupants to be removed does occur without first providing an opportunity to be heard, the local government shall afford the affected persons and entities the opportunity for a post-action hearing to the extent required

by applicable Federal and/or New York State Constitutional provisions. The local governments should consult with its own attorney for further information and for legal advice regarding the applicable Federal and New York State Constitutional provisions and the drafting of provisions that recognize and protect due process rights.

NOTE 4: With respect to inspections referred to in this model local law, the local government should bear in mind that in most cases, in the absence of consent from the building owner or other authorized person, the local government must obtain a warrant or court order before performing the inspection. The local government should consult with its own attorney for further information and for legal advice regarding the need for a warrant or court order in any given situation.

NOTE 5: Section 14 (“Climatic and Geographic Design Criteria”) requires the code enforcement official to determine the climatic and geographic design criteria for buildings and structures constructed within the jurisdiction as required by the Uniform Code. Please see Technical Bulletin TB-1009-RCNYS entitled “Requirements for Completing Table R301.2(1) in the 2020 Residential Code of New York State” and note that some values could be a range depending upon the boundaries of the jurisdiction.

Local Law #8 of 2022.

Be it enacted by the **Common Council** of the **City of Lockport**, in the County of Niagara, as follows:

SECTION 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 this **City of Lockport**. 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 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 **City of Lockport** stating that work was done in compliance with approved construction documents and the Codes.

"Certificate of Occupancy" shall mean a document issued by the **City of Lockport** certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the **City of Lockport**, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.
["City" shall mean the City of Lockport.]

"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 2020 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 endproduct, 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 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

“RCNYS” shall mean the 2020 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.

“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 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

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 **Common Council** of this **City**;
 - (9) to pursue administrative enforcement actions and proceedings;
 - (10) in consultation with this **City'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 Mayor of the City of Lockport. 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 Mayor of the City of Lockport** 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 Mayor 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 Common Council of this City of Lockport.

SECTION 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 City.
- (b) Exemptions. No Building Permit shall be required for work in any of the following categories:
 - (1) construction of temporary sets and scenery associated with motion picture, television, and theater uses;
 - (2) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (3) installation of partitions or movable cases less than 5'-9" in height;
 - (4) painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (5) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(6) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(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.

(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 2 sets of construction documents (drawings and/or specifications) 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 firmname (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 **6 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 must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 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, reinspected, 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 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 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 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 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 six (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 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The Chief of the Fire Department providing firefighting services for a property within this City shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

SECTION 9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER

Unsafe buildings, structures, and equipment and conditions of imminent danger in this City shall be identified and addressed in accordance with the procedures established by City Code Chapter 72, as now in effect or as hereafter amended from time to time.

SECTION 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 sparking 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 this Local Law, 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. 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 City 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) not to exceed 180 days for tents, special event structures, and other membrane structures;
 - (2) not to exceed 60 days for alternative activities at a sugarhouse;
 - (3) not to exceed one (1) 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 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. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:
- (1)** the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);
 - (2)** the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

- (3) such inspections are performed no less frequently than once a year;
 - (4) a true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and
 - (5) upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by section 17 (Violations) of this local law.
- (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 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 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 City, 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 March 1, 2023.

(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 City becomes aware of any new or increased deterioration which, in the judgment of

the City, 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 City 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 **City** within fourteen 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 City 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 City shall, by Order to Remedy or such other means of enforcement as the City 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 City 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 City 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 City with a written statement attesting to the fact that he or she has been so engaged, the City shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The City 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 City:
 - (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 City 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 14. PARKING LOTS.

A. Applications and plans.

(1) All applications for a building permit shall show the required off-street parking pursuant to the area requirements of the Zoning Ordinance of the City of Lockport. If off-street parking is not required, a statement to that effect shall be endorsed on said application by the Code Enforcement Officer.

(2) Parking areas and parking lots not included in an application for a building permit require an application to be filed accompanied by plans for a permit to construct same and shall show the layout and location of off-street parking and loading areas, layout of the individual parking spaces, type and thickness of pavement, landscaping, drainage, details, fences, barricades, drives, aprons, sidewalks, signs and public lighting.

B. Restrictions.

(1) No part of any street right-of-way shall be included in a parking lot.

(2) Individual parking spaces shall be marked on the pavement when the lot is complete.

(3) Parking lots at all times shall be clean and orderly and free of rubbish and weeds and shall not be used for the storage of vehicles and materials of any description.

C. Applicability. The provisions of this section will not apply to single-family dwellings in the R-1- and R-2-zoned Districts unless there exists an accessory use which requires more than a normal residential parking area.

D. Paving. Every parking lot shall be paved with the type material and thickness sufficient to support the loads to be imposed and with a surface not subject to excessive dusting.

E. Drainage.

(1) All parking lots shall be so graded that stormwater will flow away from any building and will not drain upon abutting properties, sidewalks and pavements.

(2) Drainage for all parking lots shall be designed in accordance with standards and recommendations in the Storm Drainage Manual, published by the Erie and Niagara Counties Regional Planning Board, using the rational method and a minimum recurrent storm of 10 years, and shall lead to an approved public outfall.

(3) All drainage pipes and appurtenances shall be installed by a licensed master plumber and only after receiving a permit from the Senior Plumbing Inspector and paying the prescribed fee.

F. Barricades.

(1) Every parking space that abuts a property line shall be provided with a barricade to prevent the encroachment of vehicles over the property line.

(2) The following barricades are approved for use in parking lots in the City of Lockport:

(a) The following, provided that they are located four feet from any property line and installed in accordance with Drawing No. 1:^[1]

[1] City of Lockport standard concrete curb.

[2] Reinforced concrete bumper.

[3] Reinforced timber bumper.

[1] *Editor's Note: Drawing No. 1 is on file in the office of the Building Inspector.*

(b) The following, provided that they are located two feet from any property line and installed in accordance with Drawing No. 1:^[2]

[1] Guardrail bumper.

[2] Welded four-inch-pipe bumper.

[3] Pole and timber bumper.

[2] *Editor's Note: Drawing No. 1 is on file in the office of the Building Inspector.*

(3) The color of all barricades shall be such that they contrast with the pavement and are readily discernible at all times of the day or night.

(4) Barricades other than the typical barricades listed above may be installed upon approval of the Code Enforcement Officer. A buffer zone, shrubs, fencing, etc., shall be installed and maintained for privacy of adjoining properties.

G. Aprons.

(1) All aprons installed on driveways connecting to a City street shall conform to the City of Lockport Engineering Department Specifications available at the Engineering Department of the City of Lockport.

(2) All apron widths connecting to a City street or a state arterial shall be installed in accordance with approved plans and City and state laws, rules and regulations.

SECTION 15. SIDEWALKS.

A. General requirements.

(1) Sidewalks will be required along the entire street frontage of a lot or parcel that abuts a major collector or local street when the lot or parcel is developed and along the entire frontage of such other lots or parcels as the Planning Board or Common Council shall direct. Walks along City streets shall be located in accordance with Figure 1.^[1] If the street is a state highway, the walks shall be located in accordance with the work permit issued therefor.

[1] *Editor's Note: Figure 1 is on file in the office of the Building Inspector.*

(2) The Planning Board, as a part of the site plan approval, or the Common Council may waive the requirement for a street walk on a given parcel or development.

(3) Sidewalks need not be installed on new collector and local streets unless required by the Planning Board as part of an approved site plan or by the Common Council, in which event they shall be located in accordance with Figure 1.^[2]

[2] *Editor's Note: Figure 1 is on file in the office of the Building Inspector.*

(4) Sidewalks shall be installed at the time of development along the entire street frontage of any lot or parcel abutting a collector or local street existing on the effective date of this chapter, unless waived by resolution of the Planning Board as a part of the approved site plan or by the Common Council.

(5) "Site plan," as used in this chapter, shall mean the document and/or procedure as defined in the Zoning Ordinance.^[3] The determination of whether a particular street is a major collector, arterial or local street shall be made by the Planning Board either as part of the site plan review or as a separate determination. (See Subdivision Regulations.^[4])

[3] *Editor's Note: See Ch. 190, Zoning.*

[4] *Editor's Note: See Ch. 162, Subdivision of Land.*

B. Construction standards.

(1) Sidewalks shall be a minimum of four feet wide and a maximum of five feet wide in all residential areas. In all other areas, the sidewalk width shall be determined by the Planning Board.

(2) Elevation and grading.

(a) The elevation of the sidewalk shall be the curb elevation, plus 1/4 inch to one foot for the distance measured from the curblines to the outer line of the sidewalk. Where no curb exists, the elevation of the crown of the street shall be used in place of the curb elevation. Drives shall be so graded that the portion occupying the space reserved for sidewalks shall meet the requirements for sidewalks.

(b) Where no grades have been established or where local conditions warrant a deviation from the foregoing, the Engineering Department shall establish lines and elevations.

(3) Within the street right-of-way where any sidewalks(s) and/or drives exist in the same block, additional sidewalk(s) and/or drives shall conform to those existing in such blocks or to the ruling of the Code Enforcement Officer.

C. Maintenance of sidewalks and snow removal.

(1) The owner or occupant of any premises fronting or abutting on any street shall repair, keep and maintain the sidewalk of such premises free and clear of snow, ice, dirt and other obstructions. Any such owner or occupant shall be liable for any injury or damage by reason of omission, failure or negligence to repair, keep and maintain such sidewalk or to remove snow, ice or other obstructions therefrom.

(2) No person shall plow, shovel, sweep or pile snow, ice or other materials in or beyond the right-of-way of any street or public thoroughfare, or cause such to be done, so as to interfere with the safety and convenience of public travel.

SECTION 16. ELECTRICAL STANDARDS.

A. Licensing.

(1) License; when required. No person shall conduct electrical inspections pursuant to applicable codes unless the person undertaking such inspections has obtained a license to inspect from the Chief Building Inspector.

(2) Application for license.

(a) Applications for licenses shall be made at the Building Inspection Office. Such applications shall be made on forms prescribed by the Chief Building Inspector and shall contain such information as he or she may require.

(b) Persons seeking a license must submit documentation and certify that they meet the standards for an electrical inspection agency established by the Chief Building Inspector. The standards shall be filed in the office of the Commissioner and the City Clerk.

(3) Issuance of license. The Chief Building Inspector shall issue a license if, in his or her judgment, the applicant meets the standards for an electrical inspector and is competent to conduct electrical inspections. The City shall maintain a minimum of one and a maximum of three licensed inspectors.

(4) Licensee. No person licensed under this chapter shall be deemed as an employee, officer or independent contractor of the City of Lockport.

(5) Revocation and expiration.

(a) The Chief Building Inspector, at any time subsequent to the issuance of a license, if he or she has reason to believe that the licensee no longer meets the standards for an electrical inspector or is no longer competent to conduct electrical inspections, shall, after a hearing before the City's Corporation Counsel, have the power to suspend or revoke the license.

(b) All licenses, unless sooner revoked, shall expire on the last day of December after the date of issuance, and application for a new license shall be made in the same manner as for the original license by the last day of November.

B. Inspections.

(1) Conformance with standards. All electrical installations, alterations and repairs of wiring for electrical, light, heat and power shall be made in conformity with the requirements of the edition of the National Electrical Code, published by the National Fire Protection Association, designated by order or regulation of the Code Enforcement Officer.

(2) Inspections.

(a) Inspections shall only be conducted by individuals licensed by the Chief Building Inspector.

(b) The inspector shall make inspections and reinspections of electrical installations within the City of Lockport upon the written request of the Building Inspections Department pursuant to this chapter.

(c) In the event of any emergency, the inspector shall make electrical inspections upon the oral request of an official or officer of the City of Lockport.

(3) Applicability. The provisions of this chapter shall not apply to the electrical installations in mines, ships, railway cars, automotive equipment or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility and located outdoors or in buildings exclusively for that purpose.

(4) Reporting. The inspector shall issue a written report to the Chief Building Inspector within 72 hours after conducting an inspection. The Chief Building Inspector shall enforce all the provisions of this chapter, the electrical provisions of the National Electric Code, all local laws and ordinances, and the Building Code, insofar as any of the same apply to electrical wiring.

(5) Certificate of compliance. The inspector shall issue a certificate of compliance when the electrical installations and equipment are completed and are in conformity with this chapter. The inspector shall cause a copy of the certificate of compliance to be filed with the Chief Building Inspector in the City of Lockport within 72 hours from the completion of the inspection. The certificate of compliance shall be in writing, on the licensee's letterhead, and shall contain the address of the premises and a description of the work approved.

(6) Additional provisions. This § **66-19**, entitled "Electrical Standards," is a supplement to the Electrical Ordinance of the City of Lockport that was approved by Common Council and effective September 30, 1964, along with any additional amendments. For further information regarding electrical inspections, permits and other pertinent information, refer to Chapter **89**, Electrical Standards.

(7) Penalties for offenses. Any person found to be in violation of the provisions under this chapter by the Chief Building Inspector shall be subject to penalties as determined by the Chief Building Inspector. Penalties shall include written warnings, license suspension or license revocation. The inspector shall have the right to request a hearing in the event that its license is suspended or revoked. Said hearing shall be conducted before the City Corporation Counsel.

SECTION 17: CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this City 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 18. DEFINITIONS; BUILDING PERMIT FEES.

A. Definitions. For purposes of this section, the following definitions apply:

FLOOR AREA

The habitable floor, using exterior building dimensions, plus the floor area of any accessory structure, such as a garage, shed, tennis court, etc.

B. Building permit fees. The following fees shall be payable to the Department of Building Inspection before the issuance of a building permit, certificate of occupancy or home occupation:

- (1)** One- and two-family dwellings and additions.
 - (a)** Six hundred fifty square feet or less: \$250.
 - (b)** Each additional square foot: \$0.15.
- (2)** Multiple dwellings.
 - (a)** Multiple dwelling, including three or more dwelling units, townhouses, apartment buildings and additions.
 - [1]** First five units: \$0.15 per square foot.
 - [2]** Next 10 units: \$50 each.
 - [3]** Additional units: \$25 each.
- (3)** Detached residential storage buildings, porches, decks and miscellaneous structures/buildings.

- (a) One hundred forty-four square feet or less: \$40.
 - (b) One hundred forty-four square feet to 360 square feet: \$75.
 - (c) Each additional square foot: \$0.10.
- (4) Residential alterations and repairs.
 - (a) Up to \$1,000 of cost: \$35.
 - (b) For each \$1,000 over \$1,000 of cost: \$2.
- (5) Swimming pools: \$50.
- (6) Solid-fuel-burning devices and/or chimneys: \$50.
- (7) Residential driveways.
 - (a) Not included with building permit: \$30.
 - (b) Resurface driveway: \$30.
- (8) Nonresidential buildings, including buildings and structures accessory thereto and additions.
 - (a) Zero to 1,000 square feet of floor space: \$350.
 - (b) each additional square foot of floor space: \$0.25 per square foot.
- (9) Nonresidential alterations and repairs.
 - (a) Up to \$1,000: \$100.
 - (b) For each \$1,000 over \$1,000: \$2.
- (10) Demolition of buildings.
 - (a) Residential.
 - [1] Up to 1,000 square feet: \$50.
 - [2] Over 1,000 to 2,000 square feet: \$75.
 - [3] Over 2,000 square feet: \$100.
 - [4] Detached accessory structure: \$25.
 - (b) Nonresidential.
 - [1] From zero to 5,000 cubic feet: \$75.
 - [2] Five thousand one to 10,000 cubic feet: \$100.
 - [3] Ten thousand one to 20,000 cubic feet: \$125.
 - [4] Twenty thousand one to 50,000 cubic feet: \$150.
 - [5] Fifty thousand one to 100,000 cubic feet: \$175.
 - [6] One hundred thousand one to 200,000 cubic feet: \$225.
 - [7] Two hundred thousand one to 500,000 cubic feet: \$300.
 - [8] Over 500,000 cubic feet: \$1,000.
- (11) Fences: \$20.
- (12) Signs.
 - (a) Permanent sign (12 square feet or under), per face: \$25.
 - (b) Permanent sign (13 square feet and up), per face: \$50.
 - (c) Alteration to or relocation of existing signs: \$30.
 - (d) Temporary signs:
 - [1] Thirty-day permit: \$50.
 - (e) A-frame sign: \$50.

- (13)** Plumbing fixtures.
 - (a)** One to five: \$60.
 - (b)** Six to ten: \$85.
 - (c)** Eleven to fifteen: \$135.
 - (d)** Sixteen to twenty: \$225.
 - (e)** each additional fixture: \$10.
- (14)** Sewer laterals.
 - (a)** First 100 feet: \$50.
 - (b)** For each additional 50 feet: \$10.
- (15)** Water laterals.
 - (a)** First 100 feet: \$50.
 - (b)** For each additional 50 feet: \$10.
- (16)** Hot water tanks and furnaces: \$30.
- (17)** Tanks.
 - (a)** Aboveground: \$0.05 per gallon.
 - (b)** Underground: \$0.05 per gallon.
 - (c)** Removal of residential tanks: \$50
 - (d)** Removal of commercial tanks: \$100
- (18)** Home occupation application fee: \$100.
 - (a)** Annual fee: \$50.
- (19)** Temporary building or trailers: \$100.
- (20)** Certificates of compliance.
 - (a)** Single family: \$100.
 - (b)** Two-family: \$125.
 - (c)** Multiple-family, each dwelling unit or sleeping room: \$25, with a minimum fee of \$150.
 - (d)** Commercial, per tenant: \$75, with a minimum fee of \$250.
 - (e)** Industrial, per tenant: \$125, with a minimum fee of \$500.
 - (f)** Copy of any certificate: \$25.
- (21)** Recreation fees.
 - (a)** Single-family dwelling or building lot: \$50.
 - (b)** Two-family dwelling: \$75.
 - (c)** Multiple-family (per unit): \$35.
 - (d)** Multiple-family development (per acre or portion thereof): \$150.
- (22)** Parking lot: \$200.
 - (a)** Resurface parking lot: \$100.
 - (b)** Less than 25% of total area (i.e., patch): \$50.
- (23)** Operating permits:
 - (a)** Tents: \$25
 - (b)** Food Trucks: \$25 annually (January 1 through December 31)
 - (c)** All others: \$50

(24) Marking property lines and curb box location: \$20.

SECTION 20. EXCAVATIONS ; DRAINAGE ; CHIMNEYS.

A. Natural ponds, excavations, quarries and gravel pits. Owners of property upon which ponds, excavations, quarries and gravel pits excavated or formed by natural causes exist shall be responsible for the posting of "no trespassing" signs.

B. Yard drainage.

(1) Yards and areas must always be properly drained and connected to a storm sewer or other approved outfall. Where storm- or roof water connects to four-inch drain tile under curb or open gutter, there must be a four-inch T just inside of curb or gutter and a four-inch cast-iron pipe brought three inches above grade capped with a mushroom vent cap for overflow.

(2) The rear yard of all lots upon which a structure is to be constructed shall be drained either:

(a) By grading of the lot with a one-percent grade pitching from the rear lot line toward the front property line, using the curb level or the crown of the road as the base level; or

(b) With an approved swale system that will direct all water to an approved outfall without spilling any on adjacent property and only after filing of an appropriate deed restriction to prevent the altering of the swales; or

(c) By a stormwater drainage system designed to drain a minimum ten-year recurrent storm at such a rate that water will not enter the lowest architectural opening of a building on the lot. This system must have appropriate provisions for cleaning and maintenance.

C. Chimneys, gasvents and smokepipes. If a fire or related heating problem should occur, as referenced in the New York State Uniform Fire Prevention and Building Code Section 1163.9e, in any chimney, smokestack flue, gasvent, smoke-pipe or connector, then that item shall be inspected for safety of operation, unhealthful emission of smoke, structural and fire safety by the Code Enforcement Official or his designated representative before any further use. Any cost connected to this inspection shall be the responsibility of the property owner. If any equipment is found unsafe, the device shall be withdrawn from service until the necessary repairs have been made and the device reinspected.

SECTION 20. BUILDING CONTRACTORS.

A. License required; definitions.

(1) It shall be unlawful to engage in business in the City of Lockport as a building contractor without first having obtained a license therefor as hereinafter provided

(2) As used in this section, the following terms shall have the meanings indicated:

BUILDING CONTRACTOR

Includes anyone engaged in the business of cement or concrete contracting, either flat form or wall work, or as a masonry contractor or as a carpenter contractor or as a general building

contractor and any person engaged in the construction, alteration or repair of buildings or other structures or sidewalks or street pavements or demolition of buildings or any other similar activity requiring a permit from the City of Lockport.

LICENSE REVOCATION BOARD

A Board that will meet periodically at the request of the Chief Building Inspector when he feels the need to remove or suspend a license from a person or corporation doing business within the City of Lockport. This Board shall consist of the Chief Building Inspector, one Council member, two contractors and one citizen, all appointed by the Mayor for two-year terms.

B. License. Any person desiring to engage in the contracting business shall make application for a license to the Building Inspector on a form prescribed by him. The application shall be signed and verified under oath by the applicant if an individual and by a duly authorized agent if a partnership or by a duly authorized officer of a corporation. The application shall contain the following information:

- (1)** If a person, the name, residence and business address of the applicant.
- (2)** If a partnership, the name, residence and business address of each partner.
- (3)** If a domestic corporation, the name and business address of the corporation, the name and residence address of the principal officer of the corporation; if a foreign corporation, the date it was authorized to do business in the State of New York, together with the names of the particular officers and local agents and their residence and business addresses.
- (4)** The number of years the applicant has engaged in the contracting business.
- (5)** The specific type of business or work performed by the applicant.
- (6)** The approximate number of persons to be employed by the applicant.
- (7)** Satisfactory evidence that employees of the applicant are covered by workmen's compensation and disability insurance.
- (8)** Satisfactory evidence that the applicant is covered by general liability, personal injury and property damage insurance.
- (9)** Such other information as the Building Inspector may require.

C. Issuance of license; fees. The Building Inspector, upon satisfactory proof of the above requirements, shall issue a license. Any application so approved shall be issued by the Building Inspector upon payment to him of the fee required by this section.

D. Duration; posting; renewal; duplicates; transferability; fees.

- (1)** All licenses shall expire each year on the 31st day of December.
- (2)** Each license issued shall be posted in a conspicuous place on the contracting establishment.
- (3)** Any license which has not been suspended or revoked may, upon the payment of a fee prescribed by this section, be renewed for an additional period of one year from its

expiration upon the filing of an application for renewal on a form to be prescribed by the Building Inspector.

(4) A duplicate license may be issued for a lost, destroyed or mutilated license upon application therefor to the Building Inspector upon payment of the fee prescribed therefor by this section.

(5) No license shall be assignable or transferable.

(6) The fee for a license or for a renewal thereof to conduct a contracting business shall be \$200.

E. Compliance with regulations. It shall be the duty of all building contractors to comply with all ordinances relating to the construction of buildings or other structures, to the construction of streets or sidewalk pavement and all laws or ordinances pertaining to or regulating the activities engaged in.

F. Revocation of license. Any building contractor's license may be revoked by the License Board for repeated violations of any ordinance relating to the construction of buildings, building permits, the use of streets or the replacing of streets, sidewalks or parkways or any other ordinance relating to the work performed by such contractor. The Building Inspector shall also revoke any license upon the building contractor's failure to keep insurance coverage in force. Such revocation may be in addition to any fine imposed for violating this section.

G. Insurance. No permit shall be issued for the construction of a building or structure in the City or for the repair or alteration of the interior or exterior of any building or structure unless a certificate or other proof is filed showing that the contractor carried workmen's compensation insurance and public liability insurance with limits of at least \$100,000 for each person. \$300,000 for each accident or bodily injury liability and \$10,000 on property damage liability.

H. Penalties for offenses. Any person, firm or corporation violating any provision of this section shall be guilty of a violation and subject to a fine not to exceed \$250 or imprisonment for a period not exceeding 15 days, or both.

SECTION 21. 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 22. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to the Common Council of this City 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 this City, on a form prescribed by the Secretary of State, a report of the activities of this City 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 this City 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 23: 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 \$250.00 per day of violation, or imprisonment not exceeding fifteen (15) days, 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 this City.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this City, 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 City, 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 Common Council of this City.

(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 24: FEES

A fee schedule shall be established by resolution of the Common Council of this City. 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 25. INTERMUNICIPAL AGREEMENTS

The Common Council of this City may, by resolution, authorize the Mayor of this City to enter into an agreement, in the name of this City, 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 26. 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 27. 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.

Seconded by Alderman Devine. A roll call vote was taken which resulted as follows

Alderman Barnard VOTING	YES
Alderman Beakman VOTING	YES
Alderman Devine VOTING	YES
Alderman Fogle VOTING	YES
Alderman Kantor VOTING	YES

The Local Law was thereupon declared duly adopted.

By Alderman Barnard:

Resolved, that the readings of the foregoing resolution be and the same is hereby waived.

Seconded by Alderman Devine, and adopted. 5 Ayes.

121422.5

By Alderman Kantor:

City of Lockport
Local Law No. 9 of the year 2022

A local law amending the City of Lockport Hotel Occupancy Tax Law

Be it enacted by the Common Council of the City of Lockport as follows:

SECTION 1

TITLE

This local law shall be known as the City of Lockport Hotel Occupancy Tax Law.

SECTION 2

DEFINITIONS

When used in this enactment the following terms shall mean:

“Hotel or Motel” A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" or "motel" includes an apartment hotel, a motel, boarding house or club, bed and breakfast, inns, and tourist homes, whether or not meals are served.

“Occupancy” The use or possession, or the right to the use or possession, of any room in a hotel.

“Occupant” A person who, for consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

“Operator” Any person operating a hotel.

“Permanent resident” Any occupant of any room or rooms in a hotel for at least ninety consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

“Rent” The consideration received for occupancy valued in money, whether received in money or otherwise.

“Room” Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

SECTION 3

IMPOSITION OF SALES TAX

On and after December 1, 2022, for a period of three years from the date of the enactment of this Local Law, there is hereby imposed and there shall be paid a tax of 5 percent upon the rent for every occupancy of a room or rooms in a hotel in this state, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of two dollars per day.

The tax imposed herein shall be paid upon any occupancy on and after December 1, 2022, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly or other term basis, the rent shall be subject to the tax imposed herein to the extent that it covers any period on and after December 1, 2022 and such rent shall be apportioned on the basis of the ratio of the number of days falling within said period to the total number of days covered thereby.

SECTION 4 EXEMPT ORGANIZATIONS

Except as otherwise provided in this section, any occupancy by any of the following shall not be subject to the tax imposed under this enactment:

- (1) The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement of compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;
- (2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private person;
- (3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;
- (4) Any corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of section five hundred one of the United States internal revenue code of nineteen hundred fifty-four, as amended), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;
- (5) A post or organization of past or present members of the armed forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization:
 - (a) organized in this state,
 - (b) at least seventy-five percent of the members of which are past or present members of the armed forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the armed forces of the United States or of cadets, and

- (c) no part of the net earnings of which inures to the benefit of any private shareholders or individual.
- (6) The following Indian nations or tribes residing in New York State: Cayuga, Oneida, Onondaga, Poospatuck, Saint Regis Mohawk, Seneca, Shinnecock, Tonawanda and Tuscarora, where it is the purchaser, user or consumer.
- (7) A not-for-profit corporation operating as a health maintenance organization subject to the provisions of article forty-four of the public health law.
- (8) Cooperative and foreign corporations doing business in this state pursuant to the rural electric cooperative law.

**SECTION 5
TERRITORIAL LIMITATIONS**

Any tax imposed under the authority of this enactment shall apply only within the territorial limits of the City of Lockport except that any establishment located partially within the City of Lockport and partially within a town or towns and receiving any services or utilities provided by the City of Lockport shall be deemed to be wholly within the City of Lockport for the purposes of the taxes imposed herein.

**SECTION 6
REGISTRATION**

Within ten days after the effective date of this local law or amendment, or in the case of operators commencing business after such effective date, within three days after such commencement or opening, every operator shall file with the City Clerk a certificate of registration in a form prescribed by the City Clerk. The City Clerk shall, within five days after such registration, issue, without charge to each operator, a certificate of authority empowering such operator to collect the tax from occupant and duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the City Clerk upon the cessation of business at the hotel named or upon its sale or transfer.

**SECTION 7
ADMINISTRATION AND COLLECTION**

- (1) The tax imposed by this local law shall be administered and collected by the City Treasurer.
- (2) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the City, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this local law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession,

repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant.

- (3) The City Treasurer may, wherever he deems it necessary for the proper enforcement of this local law, provide by regulation that the occupant shall file returns and pay directly to the City Treasurer the tax herein imposed, at such times as returns are required to be filed and payment over made by the operator.
- (4) For the purpose of the proper administration of this local law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant. Where an occupant claims exemptions from the tax under the provisions of section four hereof, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a copy of a certificate issued by the City Treasurer certifying that the corporation or association therein named is exempt from the tax under section four hereof, together with a certificate duly executed by the corporation or association named in the certificate of the City Treasurer certifying that the occupant is its agent, representative or employee and that his occupancy is paid or to be paid by, and is necessary or required in the course of or in connection with the affairs of said corporation or association.

SECTION 8 RECORDS TO BE KEPT

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the City Treasurer may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the City Treasurer or his duly authorized agent or employee and shall be preserved for a period of three years, except that the City Treasurer may consent to their destruction within that period or may require that they be kept longer.

SECTION 9 RETURNS

- (1) Every operator shall file with the City Treasurer a return of occupancy and of rents, and of the taxes payable thereon for the periods ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first of each year. Such returns shall be filed within twenty days from the expiration of the period covered thereby. The City Treasurer may permit or require returns to be made by other periods and upon such dates as he may specify. If the City Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law, he may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he may specify.
- (2) The forms of returns shall be prescribed by the City Treasurer and shall contain such information as he may deem necessary for the proper administration of this local law. The City Treasurer may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice.

- (3) If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient on its face, the City Treasurer shall take the necessary steps to enforce the filing of such a return or of a corrected return.

**SECTION 10
PAYMENT OF TAX**

At the time of filing a return of occupancy and of rents each operator shall pay to the City Treasurer the taxes imposed by this local law upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions in this local law. Even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the City Treasurer on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon. Where the City Treasurer in his discretion deems it necessary to protect revenues to be obtained under this local law he may require any operator required to collect the tax imposed by this local law to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to the solvency and responsibility, in such amount as the City Treasurer may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the City Treasurer determines that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless within such five days the operator shall request in writing a hearing before the City Treasurer at which the necessity, propriety and amount of the bond shall be determined by the City Treasurer. Such determination shall be final and shall be complied with within fifteen days after the giving of notices thereof. In lieu of such bond, securities approved by the City Treasurer or case in such amount as he may prescribe may be deposited which shall be kept in the custody of the City Treasurer who may at any time without notice to the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

**SECTION 11
DETERMINATION OF TAX**

If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient the amount of tax due shall be determined by the City Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale or rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed within thirty days after giving of notice of such determination, shall apply to the City Treasurer for a hearing, or unless the City Treasurer of his own motion shall redetermine the same. After such hearing, the City Treasurer shall give notice of his determination to the person against whom the tax is assessed. The determination of the City shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the Civil Practice Law and Rules, provided however, that such proceeding is instituted in the Supreme Court within thirty days after the giving of the notice of such determination. A proceeding under article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless (a) the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and

responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding or (b) at the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, penalties and interest as a condition precedent to the application.

SECTION 12 REFUNDS

- (1) In the manner provided in this section the City Treasurer shall refund or credit without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the City Treasurer for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the City Treasurer, he shall state his reason therefore in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application when made by an operator who has collected and paid over such tax to the City Treasurer, provided that the application is made within one year of the payment by the occupant to the operator, shall be acted upon and refunded any moneys due, only after such operator shall first establish to the satisfaction of the City Treasurer, under such regulations as the City Treasurer may prescribe, that he has repaid or will simultaneously repay to the occupant the amount for which the application for refund is made. The City Treasurer may, in lieu of any refund required to be made, allow credit therefore on payments due from the petitioner.
- (2) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the City Treasurer, and such City Treasurer shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that final determination of tax due was not previously made, and that an undertaking be filed with the City Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.
- (3) A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of section thirteen of this local law where he has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the City Treasurer made pursuant to section thirteen of this local law unless it be found that such determination was erroneous or unconstitutional or otherwise improper by the City Treasurer after a hearing or of his own motion or in a proceeding under article seventy-eight of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event or refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

SECTION 13 DISPOSITON OF REVENUES

All revenues from the imposition of the tax under this local law shall be paid into the treasury of the City of Lockport and shall be credited to and deposited in the General Fund Account of the City of Lockport. Four percent (4%) of said revenue shall be retained by the City of Lockport for administration and collection costs. The disposition of the remaining "net" revenues shall be as follows: Twenty-five percent (25%) of the net revenue from the tax shall be used for the promotion of community and economic development in the City of Lockport; Seventy-five percent (75%) of the net revenue shall be allocated and paid to a not-for-profit Corporation under contract with the County for the promotion of tourism in the County. The terms "economic development" and "tourism" may be defined by resolution of the Lockport City Council. Upon approval of the Governor, the additional 1% of such revenue of this tax shall be dedicated to the operation of the Discover Niagara Shuttle.

SECTION 14 RESERVES

In cases where the occupancy or operator has applied for a refund and has instituted a proceeding under article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to him on his application for refund, the City Treasurer shall set up appropriate reserves to meet any decision adverse to the City.

SECTION 15 REMEDIES EXCLUSIVE

The remedies provided in this local law shall be exclusive remedies available to any person for the review of tax liability imposed by this local law; and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under article seventy-eight of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he institutes suit within thirty days after a deficiency assessment is made and pays the amount of the deficiency assessment to the City Treasurer prior to the institution of such suit and posts a bond for costs as provided in this local law.

SECTION 16 PROCEEDING TO RECOVER TAX

- (1) Whenever any operator or any officer of a corporate operator or any occupancy or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this local law as therein provided, the Corporation Counsel shall, upon the request of the City Treasurer bring or cause to be brought an action to enforce the payment of the same on behalf of the City of Lockport in any court of the State of New York or of any other state or of United States. If, however, the City Treasurer in his discretion believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.
- (2) As an additional or alternate remedy, the City Treasurer may issue a warrant, directed to the sheriff commanding him to levy upon and sell the real and personal property of the operator or officer of a corporate operator or of the occupant or other person liable for the tax, which may be found within the City for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to

the City Treasurer and to pay to him the money collected by virtue thereof within sixty days after the receipt of such warrant. The sheriff shall within five days after the receipt of the warrant file with the County Clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon any interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the City Treasurer a warrant of like terms, force and effect may be issued and directed to any officer or employee of the City Treasurer and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the City Treasurer may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the City has recovered judgment therefore and execution thereon has been returned unsatisfied.

- (3) Whenever an operator shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or his lease, license or other agreement or right to possess or operate such hotel, apartment hotel, or of the equipment, furnishings, fixtures, supplies or stock of merchandise, of the said premises or lease, license or other agreement or right to possess or operate such hotel, apartment hotel and the equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of such hotel, otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall at least ten days before taking possession of the subject of said sale, transfer or assignment, or paying therefore, notify the City Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor, has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this local law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Whenever the purchaser, transferee or assignee shall fail to give notice to the City Treasurer as required by the preceding paragraph or whenever the City Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the county, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or choses in action to the extent of the amount of the City's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of the Uniform Commercial Code, shall be personally liable for the payment to the City of any such taxes theretofore or thereafter determined to be due to the City from the seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this local law.

SECTION 17
GENERAL POWERS OF THE CITY TREASURER

In addition to the powers granted to the City Treasurer in this local law, he is hereby authorized and empowered:

- (1) To make, adopt and amend rules and regulations appropriate to the carrying out of this local law and the purposes thereof;
- (2) To extend for cause shown, the time of filing any return for a period not exceeding thirty days; and for cause shown, to waive penalties but not interest computed at the rate of six percentum per annum; and to compromise disputed claims in connection with the taxes hereby imposed;
- (3) To request information from the tax commission of the State of New York or the Treasury Department of the United States relative to any person, any other provision of this local law to the contrary notwithstanding;
- (4) To delegate his functions hereunder to a Deputy City Treasurer or any employee or employees of the office of City Treasurer;
- (5) To prescribe methods for determining rents for occupancy and to determine the taxable and non-taxable rents;
- (6) To require any operator within the City to keep detailed records of the nature and type of hotel maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this local law, and to furnish such information upon request to the City Treasurer.
- (7) To assess, determine, revise and readjust the taxes imposed under this local law.

SECTION 18
ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY

- (1) The City Treasurer or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this local law. The City Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this local law and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or excused from attendance.
- (2) A justice of the Supreme Court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called from by the subpoena of the City Treasurer under this local law.

- (3) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the City Treasurer under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of no more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.
- (4) The officers who serve the summons or subpoena of the City Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his duly appointed deputies or any officers or employees of the City Treasurer, designated to serve such process.

**SECTION 19
PENALTIES AND INTEREST**

- (1) Any person failing to file a return or to pay or pay over any tax to the City Treasurer within the time required by this local law shall be subject to a penalty of five percentum of the amount of tax due plus interest at the rate of one percentum of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.
- (2) Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this local law, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information testimony or statement required or authorized by this local law, which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to this local law, or failing to file a registration certificate and such data in connection therewith as the City Treasurer may by regulation or otherwise require or to display or surrender the certificate of authority as required by this local law or assigning or transferring such certificate or authority and any operator and any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant, and any operator failing to keep the records required by section nine of this local law, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this local law, and subject to the penalties herein above imposed.
- (3) The certificate of the City Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this local law, shall be presumptive evidence thereof.

SECTION 20

RETURNS TO BE SECRET

Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the City Treasurer or any officer or employee of the office of City Treasurer to divulge or make known in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this local law. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the City Treasurer in an action or proceeding under the provisions of this local law, or on behalf of any party to any action or proceeding under the provisions of this local law when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the Corporation Counsel or other legal representatives of the City or by the District Attorney of Niagara County, of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the City Treasurer permits them to be destroyed.

SECTION 21

NOTICES AND LIMITATIONS OF TIME

- (1) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a post paid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this local law, or in any application made by him or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this local law by the giving of notice shall commence to run from the date of filing of such notice.
- (2) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the City to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this local law. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.
- (3) Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

SECTION 22

CONSTRUCTION AND ENFORCEMENT

This enactment shall be construed and enforced in conformity with articles twenty-eight and twenty-nine of the tax law of the State of New York pursuant to which the same is enacted.

**SECTION 23
SEPARABILITY**

If any provision of this enactment or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this enactment but shall be confined in its operation to the provisions thereof directly involved in the controversy in which such judgment shall have been rendered and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 24
EFFECTIVE DATE**

This enactment shall take effect on the first day of December, two thousand twenty-two, and continue for a period of three years from the date of said enactment, except that certificates of registration may be filed and certificates of authority to collect tax may be issued prior to said date.

Seconded by Alderman Beakman. A roll call vote was taken which resulted as follows

Alderman Barnard VOTING	YES
Alderman Beakman VOTING	YES
Alderman Devine VOTING	YES
Alderman Fogle VOTING	YES
Alderman Kantor VOTING	YES

The Local Law was thereupon declared duly adopted.

121422.6

By Alderman Kantor:

WHEREAS, the City of Lockport desires to apply for \$5,000,000 in financial assistance under the Restore New York Communities Initiative; and

WHEREAS, the application proposes funding to rehabilitate two properties in downtown Lockport, the Harrison Place Complex, located at 160 Washburn, 190 Walnut, 171 Washburn, 17 Works Place and 280 Walnut.

WHEREAS, the proposed funding will contribute to ongoing community revitalization efforts; and

WHEREAS, the proposed financing is appropriate for the specific project; and

WHEREAS, the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and preservation of community resources; and

WHEREAS, the project develops and enhances infrastructure and/or other facilities in a manner that will attract, create and sustain employment opportunities; and

WHEREAS, the applicant requests the approval and endorsement of the governing body of the municipality in which the project will be located.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Lockport approves and endorses the 2022 Restore New York Communities Initiative Grant Application to be submitted by the City of Lockport.

Seconded by Alderman Barnard and adopted. Ayes 5.

121422.7

By Alderman Devine:

Whereas, the City of Lockport desires to apply for \$2,000,000 in financial assistance under the Restore New York Communities Initiative; and

Whereas, the application proposes funding to rehabilitate two properties in downtown Lockport, the Historic F&M Building, located at 116 Main Street and Adjacent Property, located at 120 Main Street.

Whereas, the proposed funding will contribute to ongoing community revitalization efforts; and

Whereas, the proposed financing is appropriate for the specific project; and

Whereas, the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and preservation of community resources; and

Whereas, the project develops and enhances infrastructure and/or other facilities in a manner that will attract, create and sustain employment opportunities; and

Whereas, the applicant requests the approval and endorsement of the governing body of the municipality in which the project will be located.

Now, therefore, be it resolved, that the Common Council of the City of Lockport approves and endorses the Restore New York Communities Initiative Grant Application to be submitted by the City of Lockport.

Seconded by Alderman Kantor and adopted. Ayes 5.

121422.8

By Alderman Kantor:

Whereas, the Greater Lockport Development Corporation is developing a rehabilitation project at the Harrison Place Complex and

Whereas, the Greater Lockport Development Corporation has completed a Short Environmental Assessment Form that the Council has reviewed; and

Whereas, the Greater Lockport Development Corporation is requesting that the City review the Assessment Form and declare the project a Type 2 Impact (no to small impact); and

Now therefore, be it

Resolved, that the Council has reviewed the Short Environmental Assessment Form and is confident that the project will have minimal or no impact if effectuated as described, and hereby permits the Mayor to sign the Part 3 of the Short Environmental Assessment Form.

Seconded by Alderman Beakman and adopted. Ayes 5.

121422.9

By Alderman Barnard:

Whereas, the Greater Lockport Development Corporation is developing a rehabilitation project at the Historic F&M Building and Adjacent Property Project and

Whereas, the Greater Lockport Development Corporation has completed a Short Environmental Assessment Form that the Council has reviewed; and

Whereas, the Greater Lockport Development Corporation is requesting that the City review the Assessment Form and declare the project a Type 2 Impact (no to small impact); and

Now therefore, be it

Resolved, that the Council has reviewed the Short Environmental Assessment Form and is confident that the project will have minimal or no impact if effectuated as described, and hereby permits the Mayor to sign the Part 3 of the Short Environmental Assessment Form.

Seconded by Alderman Devine and adopted. Ayes 5.

121422.10

By Alderman Barnard:

Resolved, that pursuant to their request, the Shamus Restaurant, is hereby granted permission to conduct a wedding reception on Saturday July 29, 2023, and be it further

Resolved, that permission is hereby granted to barricade Hawley Street from Genesee Street to West Avenue on Friday, July 28th and Saturday July 29th for said event be it further

Resolved, that permission is hereby granted to allow live music, food and alcoholic beverages during said event, and be it further

Resolved, that permission to erect tents be granted, and be it further

Resolved, that said permission is subject to The Shamus Restaurant filing a certificate of insurance with the City Clerk naming the City of Lockport as additional insured, and be it further

Resolved, that said permission is subject to obtaining proper permits from the City of Lockport Building Inspection, and be it further

Resolved, that the Director of Streets and Parks is hereby authorized and directed to arrange for delivery of barricades, traffic cones, and street closed signs to the area prior to the event.

Seconded by Alderman Kantor and adopted. Ayes 5.

121422.10A

By Alderman Devine:

Resolved, that the Mayor and Common Council do hereby extend condolences to the family of Robert (Bob) Symes Jr, a retired assistant chief who worked at the City of Lockport Fire Department from 1960-1993, who recently passed away.

Seconded by Beakman and adopted. Ayes 5.

121422.10B

By Alderman Fogle:

Whereas: The City of Lockport is a member of the Niagara County Emergency Services Mutual Aid Plan; and

Whereas, in order to address public need in the Community, the City of Lockport has utilized said mutual aid agreements with various local fire companies in the County; and

Whereas, the City does not currently pay reimbursement costs for said services; and

Whereas, the City of Lockport Common Council wishes to offer mileage reimbursement at a total maximum cap of \$5,000, for the 2022 fiscal year, on a first-come-first-serve basis. Any fire company looking for reimbursement must first submit a detailed invoice containing dates and miles driven, and charge at the IRS mileage rate. However, should the City get multiple invoices simultaneously that exceed the allotted \$5,000, the City shall pay said invoices on a pro-rata basis; and

Whereas, the City has not budgeted funds in the FY 2022 fiscal year to accommodate the reimbursements; and

NOW, THEREFORE, BE IT RESOLVED THAT:

The FY 2022 General Fund budget is hereby amended as follows:

Expenditures

Decrease

A.1900.54775	Contingency	\$5,000
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Increase

A.3410.54055	Professional Services	\$5,000
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Seconded by Devine and adopted. Ayes 5.

121422.11

ADJOURNMENT

At 8:10 P.M. Alderman Beakman moved the Common Council be adjourned until 6:30 P.M., Wednesday, January 11, 2023

Seconded by Alderman Kantor and adopted. Ayes 5.

SARAH K. LANZO
City Clerk