

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
~~CITY~~ of Niagara
~~TOWN~~
~~VILLAGE~~
Local Law No. 5 of the year 19 95

A local law Establishing Code Enforcement for the County of Niagara
(Insert Title)

Be it enacted by the Legislature of the
(Name of Legislative Body)

County
~~CITY~~ of Niagara
~~TOWN~~
~~VILLAGE~~ as follows:

**A LOCAL LAW ESTABLISHING CODE
ENFORCEMENT FOR THE COUNTY OF NIAGARA**

SECTION 1. Purpose and Scope

Adoption of the New York State Uniform Fire Prevention and Building Code is hereby accepted by and made applicable to the County of Niagara in accordance with the provisions of Article 18 of the Executive Law of the State of New York.

SECTION 2. Administration and Enforcement

1. There is hereby established in the County of Niagara the Department of Code Enforcement, the head of which shall be a public officer to be known as the Director of Code Enforcement who shall be appointed by the Niagara County Legislature and who shall, at the time of appointment, have a New York State Basic Code Enforcement Training Certificate, New York State Training Certificate for Child Care Services, the Uniform Code, and for inspection procedures for School Facilities and otherwise be qualified to issue Building Certificates and conduct plan reviews.

2. The Director of Code Enforcement is hereby charged with the duty of administering and enforcing the New York State Fire Prevention and Building Code with jurisdiction only over buildings or premises under the control of the County of Niagara and/or Niagara County Industrial Development Agency-approved structures. For such purpose the Director is authorized to enter any building or premises under County jurisdiction at all

reasonable hours. The Director shall order the removal or remedying of all violations and is authorized to issue and serve or caused to be served all orders, notices and other processes that may be necessary in the enforcement of such code.

SECTION 3. Liability

No official or employee of the Office of Code Enforcement shall, while acting pursuant to the provisions of this ordinance, be personally liable for any damage that may accrue to persons or property as the result of any act required or permitted in the discharge of his or her official duties, providing that such acts are performed in good faith and without gross negligence.

SECTION 4. Right of Entry

All officials of the Office of Code Enforcement, so far as it may be necessary for the performance of their respective duties, shall have the right to enter any structure or premises under county jurisdiction at any reasonable hour, and no one shall interfere with or prevent such entry.

SECTION 5. Application for Building Permit

1. No person, firm or corporation shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a building permit from the Office of Code Enforcement for such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature or for alterations to existing buildings, provided that the alterations:

- a. cost less than \$10,000.00;
- b. do not materially affect structural features;
- c. do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
- d. do not involve the installation or extension of electrical systems or plumbing; and
- e. do not include the installation of solid fuel burning heating appliances and associated chimneys and flues.

2. Application for a building permit shall be made to the Director of Code Enforcement on forms provided by the Office of Code Enforcement and shall contain the following information:

- a. Three sets of completed plans and general specifications which:
 - (1) must have an original stamp and signature of a New York State licensed architect or professional engineer on each sheet;
 - (2) must include all floor plans, elevations, cross sections, structural, plumbing, mechanicals, HVAC, electrical and sprinkler drawings complying to the New York State Uniform Fire Prevention and Building Code;
 - (3) must include data showing compliance with New York State Energy Conservation Construction Code;
 - (4) must include a site plan showing contours, building location, landscaping utilities, paved land, park areas and any other related physical improvements; and
 - (5) must include a location map.

3. Application shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that proposed work is authorized by the owner and that the applicant is authorized to make such application.

4. Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of a Code Enforcement Official.

5. The Director of Code Enforcement may waive the requirements for filing plans.

SECTION 6. Issuance of Building Permit

1. The Director of Code Enforcement shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. The Director shall approve or disapprove the application within a reasonable time.

2. Upon approval of the application and upon receipt of the legal fees therefor, The Director shall issue a building permit to the applicant upon the form prescribed by the Director and shall affix his or her signature or cause his or her signature to be affixed thereto.

3. If the application together with plans, specification and other documents filed therewith describe proposed work which does not conform to all the requirements of the applicable building codes, the Director of Code Enforcement shall disapprove the same and shall return the plans and specification to the applicant. The Director of Code Enforcement shall cause such refusal, together with the reasons therefore, to be transmitted to the applicant

in writing.

SECTION 7. Performance of Work Under the Permit

1. A building permit shall be effective to authorize the commencement of work in accordance with the application for the permit and the plans and specifications on which the permit is based for a period of three (3) years. The permit may, upon written request, be renewed for successive one (1) year periods provided that:

- a. the permit has not been revoked or suspended at the time the application for renewal is made;
- b. the relevant information in the application is up to date; and
- c. the renewal fee is paid.

2. The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with all applicable building codes. All work shall conform to the approved application, plans and specifications, except that no building permit shall be valid insofar as it authorizes the performance of work in the use of materials which are not in accordance with the requirements of the applicable building codes.

SECTION 8. Revocation of Building Permit

1. The Director of Code Enforcement may revoke a building permit theretofore issued and approved in the following instances:

- a. where he or she finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based;
- b. where he or she finds that the building permit was issued in error and should not have been issued in accordance with the applicable laws;
- c. where he or she finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications; or
- d. where the person to whom a building permit has been issued fails or refuses to comply with a stop work order issued by the Director of Code Enforcement.

SECTION 9. Stop Work Order

Whenever the Director of Code Enforcement has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable building code, or not in conformance with the provision of an application, plans or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner, the Director shall notify the owner of the property or owner's agent or person performing the work to suspend all work, and any such persons shall forthwith stop work and suspend all building activities until the stop work order has been rescinded. Such notice and order shall be in writing, shall state the conditions under which the work may be resumed, and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail.

SECTION 10. Certificate of Occupancy Required

1. No building hereafter erected shall be occupied in whole or in part until a Certificate of Occupancy shall have been issued by the Director of Code Enforcement.

2. No building hereafter extended or altered, or upon which work has been performed which requires the issuance of a building permit shall continue to be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a Certificate of Occupancy shall have been issued by the Director of Code Enforcement.

3. No change shall be made in the use or type of occupancy of an existing building unless a Certificate of Occupancy authorizing such change shall have been issued by the Director of Code Enforcement.

4. The owner or his agent shall make application for a Certificate of Occupancy. Accompanying this application and before the issuance of a Certificate of Occupancy, there shall be filed with the Director of Code Enforcement an affidavit of the registered architect or licensed professional engineer who filed the original plans, or of the registered architect who supervised the construction or the project manager who supervised the work and who by reason of experience, is qualified to supervise the work for which the Certificate of Occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a Certificate of Occupancy is sought and that the structure has been erected, in compliance with laws governing building construction except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.

SECTION 11. Inspection Prior to Issuance of Certificate

1. Before issuing a Certificate of Occupancy, the Director of Code Enforcement shall examine or cause to be examined all buildings, structure and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use of occupancy, and the Director may conduct such inspections as he or she deems appropriate from time to time during and upon completion of the work for which a building permit has been issued.

2. Existing buildings, not subject to inspection under subdivision 1 of this section, shall be subject to periodic inspections for compliance with the Code in accordance with the following schedule:

- a. all areas of public assembly defined in the Code - every twelve (12) months;
- b. the common areas of multiple dwellings - every eighteen (18) months;
- c. all buildings or structures open to the general public - every twenty-four (24) months; and
- d. all other buildings - as regulations require. Notwithstanding any requirement of this subdivision to the contrary, no regular, periodic inspections of occupied dwelling units shall be required provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant, or owner or where conditions on the premises threaten or present a hazard to public health, safety or welfare or when in the judgement of the Department, such inspections become necessary.

3. There shall be maintained in the Office of Code Enforcement a record of all such examinations and inspections, together with a record of findings of violations of the law.

SECTION 12. Issuance of Certificate of Occupancy or Certificate of Compliance

1. When, after a final inspection, it is found that the proposed work has been completed in accordance with the applicable building code, and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Director of Code Enforcement shall issue a Certificate of Occupancy or Compliance upon the form provided by him or her. If it is found that the proposed work has not been properly completed, the Code Enforcement Office shall refuse to issue a Certificate of Occupancy or Compliance and shall order the work completed in conformity with the building permit and in conformity with the applicable building codes.

2. The Certificate of Occupancy or Compliance shall certify that the work has been completed and that the proposed use and occupancy are in conformity with the provisions of the applicable building codes, and shall specify the use or uses and the extent thereof which the building or structure or its several parts may be put.

SECTION 13. Temporary Certificate of Occupancy

Upon written request, the Director of Code Enforcement may issue a temporary Certificate of Occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed, if such portion or portions as have been completed may be occupied safely without endangering life or public welfare.

SECTION 14. Tests

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building code, the Director of Code Enforcement may require the same to be subjected to tests in order to furnish proof of such compliance.

SECTION 15. Unsafe Buildings

1. All buildings or structures which are structurally unsafe, unsanitary, or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are severally for the purpose of this Section, unsafe buildings. All such unsafe buildings are hereby declared illegal and subject to correction of defects by repair and improvements or by demolition in accordance with the procedure of this Section.

2. The Director of Code Enforcement shall examine or cause to be examined by a Code Enforcement Officer buildings reported as unsafe or damaged, and shall make a written record of such examination.

3. Whenever the Director of Code Enforcement shall find any building or structure, or portion thereof, to be an unsafe building as defined in this Section, the Director shall, in the same manner as provided for the service of stop work order, give to the owner or agent, or person in control of such building or structure written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements, or to demolish and remove the building, or structure or portion thereof.

4. If the Director of Code Enforcement finds that there is actual and immediate danger of failure or collapse so as to endanger life, safety or welfare such notice shall also require the building, structure or portion thereof to be vacated and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Director of Code Enforcement. The Director of Code Enforcement shall cause to be posted at each entrance to such building a notice "**THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE OFFICE OF CODE ENFORCEMENT.**" Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents or other servants to remove such notice without written permission of the Director of Code Enforcement, or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.

5. In case the owner, agent, or person in control cannot be found within sixty (60) days, or if such owner, agent, or person in control shall fail, neglect, or refuse to comply with the Notice and Order, to repair, rehabilitate, or to demolish and remove said building, or structure or portion thereof, the County Attorney shall institute an appropriate action.

6. In case of emergency which, in the opinion of the Director of Code Enforcement, involve imminent danger to human life or health, the Director shall promptly cause such building, structure, or portion thereof to be removed, For this purpose the Director may at once enter such structure or land on which it stands, or as may be necessary. The Director may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a public or private way. The Director of Code Enforcement is hereby authorized and empowered to employ such labor or demolition of the building or structure and take such steps as in his or her judgement may be necessary to make the building safe.

7. Costs incurred under paragraphs five (5) and six (6) of this Section shall be paid out of the County Purchasing Department on Certificate of the Director of Code Enforcement. Such costs shall be charged to the owner of the premises involved and shall be collected in the manner provided by law.

SECTION 16. Department Records and Reports

The Department shall keep permanent official records of all transactions and activities conducted by it, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the County and Notices and Orders issued. All such reports shall be public information, open to public inspection, during normal business hours.

SECTION 17. Penalties for Offenses

In accordance with 382 of Article 18 of the Executive Law of the State of New York:

1. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provision of law or codes promulgated by the Office of Code Enforcement in accordance with applicable codes, or to fail in any manner to comply with a notice, directive or order of the Director of Code Enforcement, or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or Certificate of Occupancy.

2. Any person who shall fail to comply with a written Notice and Order of the Director of Code Enforcement within the time fixed for compliance therewith, and any owner, builder, architect, engineer, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of the code or any lawful order, notice, directive, permit, or certificate of the Director of Code Enforcement made there under, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) per day of violation or by imprisonment not exceeding one (1) year, or both.

SECTION 20. Savings clause

If any provision of this Local Law or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Local Law which can be given effect without the invalid provision or application and to this end the provisions of this Local Law are declared severable.

SECTION 21. Effective date

This Local Law shall take effect immediately, after which it shall become a law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 1995 of the (County)~~(City)(Town)(Village)~~ of Niagara was duly passed by the County Legislature on December 5, 1995, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

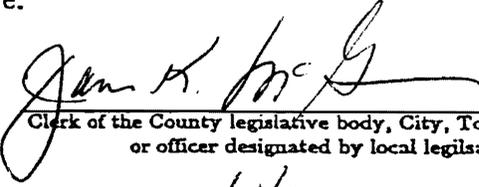
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Date: 12/8/95

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Niagara

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

Assistant County Attorney
Title

County
~~City~~
~~Town~~ of Niagara
~~Village~~

Date: _____