

Council Chambers
Tonawanda, New York
June 6, 2017

A Regular Meeting of the Common Council

Present: Council President Koch

Present Councilmembers: Gilbert, Smilinich, Rautenstrauch, Toth

Pledge of Allegiance and Prayer led by Chief Chaplin Sam Ciffa

A Moment of Silence was observed on the passing of retired firefighter, Timothy Fedeson

Youth Board Book Award Scholarship Awards

Recipients

Stacey Williams

Hannah Strassburg

Maria Armenia

Councilmember Gilbert- Every year the Youth Board gets together and we do a lot of fund raising as much as we possibly can and we do events like Youth Days where the kids only pay \$5.00 for the week and they do a lot of sporting events. All that money goes right back to the kids. This year we were graced enough to have three local awards which is pretty good for us. We usually only get one or two at best but this year we have three. Everyone is working with everybody on the Youth Board (inaudible) they put their heart and soul into it. It's real important that we thank them and give them a round of applause. This year's book awards go to Hannah Strassburg, Stacey Williams, and Maria Armenia. Please come up and get your awards.

COMMUNICATIONS FROM THE MAYOR

Communication from the Mayor to the City Attorney requesting a lease agreement be drawn for the American Legion Post 264 to have use of the Veterans Park Building adjacent to the Remember Vietnam Memorial

Letter to Ms. Elaine Grisanti, 75 Niagara Shore Drive appointing her to the Visual and Performing Arts Board with a term to expire December 31, 2019

COMMUNICATIONS FROM CITY OFFICIALS AND CORRESPONDENCE

May Minutes of the Traffic and Safety Committee.

May Minutes of the Board of Appeals

May Report of the City Clerk

Letter from Captain Josh Lapham, Fire Department in regards to moving the fire hydrant at the corner of Seymour Street and Niagara Street

May Building Inspector Monthly Report

Referred to the Committee of the Whole

Ordered filed

Council President Koch- We will not be going into Executive Session. On page 30, for those of you who have a copy of the agenda, there is an amendment to 4 (b) and we are going to add whichever is less. So it will read an area of one-third of the lot width, or twenty-foot wide, whichever is less including the existing driveway will be paved and used as open off-street parking.

COMMENTS BY THE PUBLIC ON RESOLUTIONS

No comments by the Public

The Tonawanda Common Council, in an effort to conduct business in a timely fashion and maintain an open line of communication with the public, welcomes comments on resolutions and other City business.

- Persons wishing to speak and be recognized by the President of the Common Council are to be courteous, respectful, non-repetitive and brief.
- All questions and/or comments should be addressed to the President of the Common Council.
- Please state your name and address clearly for inclusion in the Common Council minutes. In the event any person wishes a response outside the confines of the Common Council meeting, please leave all necessary contact information with the City Clerk after the meeting.
- Persons may address the Common Council during (2) separate sessions of the meeting for a total of 30 minutes per session. Once prior to the resolutions and also after the resolutions prior to Common Council comments.
- Individuals may speak a total of (3) minutes per speaker per session. The President of the Common Council will adhere to this (3) minute guideline in an effort to allow everyone an opportunity to speak who wishes to do so.
- The President of the Common Council reserves the Council's right to limit or expand upon these limits as he/she may deem necessary and prudent.
- Usage of cell phones other than for emergency is prohibited during all Council Sessions.

MOTIONS AND RESOLUTIONS

123. By the Council seconded by the Council
 Resolved, that the Common Council minutes from May 16, 2017 be accepted as filed.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
 Nays: None

Resolution declared adopted

124. By Councilmember Gilbert seconded by Councilmember Smilinich
 Resolved, that the reading of the resolutions be waived.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
 Nays: None

Resolution declared adopted

125. By Councilmember Toth seconded by Councilmember Gilbert
 Resolved that Sharon R. Stuart, 778 Fletcher St, Dawn M. Kammerdeiner, 17 Hillcrest, George E. Koch Jr., 431 Adam Street, Elizabeth A. Koch, 431 Adam Street, Nicholas W. Haskill, 149 Delton Street, Lynn M. Casal, 69 Grant Street and Eric C. Foels, 196 William Street, Blake R. Boyle, 245 William Street, David R. Mileham, 72 Gath Terrace, Jon E. Sampson, 28 Luksin Drive be appointed Commissioners of Deeds in and for the City of Tonawanda with a term to expire December 31, 2018.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
 Nays: None

Resolution declared adopted

126. By Councilmember Gilbert seconded by Councilmember Smilinich
 Resolved that Mayor Rick Davis is hereby authorized and directed to execute the proposed Agreement for Payments in Lieu of Taxes by and between the City of Tonawanda, the County of Erie and Highland Avenue Housing Development Fund Company, Inc. Said Agreement is on file in the office of the City Clerk.

Ayes: Gilbert, Rautenstrauch, Toth, Koch
 Nays: Smilinich

Resolution declared adopted

127. By Council President Koch seconded by Councilmember Toth

Resolved, that the Annual Fireman's Day Parade to be held on Saturday June 17th, 2017 at 2:00 P.M. is hereby authorized and approved. The Parade route will start at Payne Avenue and Thompson Streets in North Tonawanda and disband at Broad and William Streets in Tonawanda with companies marching back to their respective Company Quarters.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

128. By Councilmember Toth seconded by Councilmember Gilbert
Resolved that the residents of Gath Terrace be authorized to conduct a block party on August 19, 2017 from noon until 5:00 P.M

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

129. By the Council seconded by the Council
Whereas, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

Now, therefore be it resolved that Chapter 14 of the Code of the City of Tonawanda entitled Buildings and Building Regulations, Article 1. Division 4. Permits, Sec. 14-71. entitled Building or plumbing permits required which now reads as follows:

Except as otherwise provided in subdivision (a) of this section, a building permit and/or a plumbing 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 and/or plumbing permit is required without first having obtained a building permit from the building inspector or a plumbing permit from the plumbing inspector or both if required.

Shall be amended to read as follows:

Except as otherwise provided in subdivision (a) of this section, a building permit and/or a plumbing 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 and/or plumbing permit is required without first having obtained a building permit from the building inspector or a plumbing permit from the plumbing inspector or both if required. In the event that work requiring a permit is commenced prior to the issuance of the permit, the fee for the permit shall be

double the regular rate or \$50, whichever is greater. This charge shall be in addition to any other penalty provided for commencement of work without a permit.

Be it further resolved, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

Be it further resolved that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

130. By Councilmember Toth seconded by Councilmember Gilbert
Whereas, Niagara Mohawk Power Corporation d/b/a National Grid provides power to both the Town of Tonawanda and City of Tonawanda, and is currently proposing to construct a new substation on Two Mile Creek Road that spans the Town and City boundary line, in order to enhance electric capacity, safety and reliability for the surrounding area (the Project); and

Whereas, an Inter Municipal Cooperation Agreement has been proposed whereby the parties agree upon the appropriate municipal approvals process (es) for the Project, and the way in which the Project will be treated for tax and municipal services purposes.

Now, therefore be it resolved, that the Common Council hereby approves the proposed Inter municipal Cooperation Agreement and further hereby authorizes and directs Mayor Rick Davis to execute the Agreement on behalf of the City and further execute any and all other documents deemed necessary to complete the Project.

Ayes: Gilbert, Rautenstrauch, Toth, Koch

Nays: Smilinich

Resolution declared adopted

131. By Councilmember Rautenstrauch seconded by Councilmember Toth
Whereas, a Special Events application was received by the City Clerk on May 11th, 2017 from the Inner Harbor Yacht Club for their IHYC Boat Blessing

Whereas, the application was reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents and

Whereas, the City Clerk polled the Mayor and Common Council for approval of the event due to late submission,

Therefore, be it resolved that permission was granted to the Inner Harbor Yacht Club to conduct their annual Blessing of the Boats on June 4th, 2017 between noon and 3:45 P.M and said event was coordinated with Parks and Recreation Director Amanda Lofft and Captain Fred Foels

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

132. By Councilmember Gilbert seconded by Councilmember Smilinich

Whereas, a Special Events application was received by the City Clerk from Son Ray Ministries, Inc. for the Anne Puscheck Miller Walk for Life on July 29th, 2017

Whereas, said Event was approved by resolution of May 2, 2017 and

Whereas, Son Ray Ministries has requested that the event be changed to August 5, 2017 and

Whereas, the changed application was reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents, and

Therefore, be it resolved that permission is granted to Son Ray Ministries, Inc. to conduct their Miller Walk for Life on August 5, 2017 starting at 7:30 A.M. until 12:30 P.M and said event to be coordinated with Captain Fred Foels Police Department and Parks and Recreation Director Amanda Lofft.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

133. By Councilmember Gilbert seconded by Councilmember Smilinich

Whereas Mayor Rick Davis has proposed that the use of the building at the North end of Veterans park next to the Helicopter Memorial be utilized by American Legion Post 264 for the purpose of a museum type setting to tie into the monuments that are on the site now, and

Whereas, the Common Council of the City of Tonawanda recognizes the contributions to the City by the American Legion Post 264 and all of its members, now

Therefore, be it resolved that the Common Council hereby authorizes and directs The Mayor Rick Davis and City Attorney Ronald C. Trabucco to draft a lease agreement with the American Legion Post 264 for the use of said building with those terms and conditions they determine appropriate and furthermore authorizes the Mayor to execute said agreement.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

134. By Council President Koch seconded by Councilmember Rautenstrauch

Be it Resolved, that the City of Tonawanda has established Standard Work Days for Elected and Appointed Officials and will report the following days worked to the New York State and Local Employees Retirement System based on the record of activities maintained and submitted by the following officials to the clerk of this body:

Title	Name	Standard Work Day (hrs/day)	Term Begins/Ends	Participates in Employer Time Keeping System	Days/Month (based on Record of Activities)
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Elected Officials

City Atty	Ronald Trabucco	7	1/1/16-12/31/19	N	21.00
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Budget Impact: None

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

135. By Councilmember Smilinich seconded by Councilmember Toth
Resolved, that the 2017 General Fund Budget be amended to account for Grant Funds received and expended in 2017 from the United States Department of Homeland Security for the 2016 Port Security Grant #EMW-2016-PU-00049.

EXPENSE 001-3120-202	Police Dept Equipment	ADD \$25,000
REVENUE 001-0001-4002	Federal DHS Port Security Grant	ADD \$25,000

NET BUDGET EFFECT -\$0

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

136. By Councilmember Smilinich seconded by Councilmember Gilbert
WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) is offering financial incentives to municipalities that adopt a uniform New York State solar permit process, and

WHEREAS, the City of Tonawanda Code Enforcement Officer has advised the City of Tonawanda Common Council that the New York State uniform process is consistent and compatible with City of Tonawanda Zoning Code and permitting practices, and

WHEREAS, the City of Tonawanda Common Council supports the use of solar energy as a renewable energy source.

NOW THEREFORE, IT IS HEREBY RESOLVED that the City of Tonawanda Common Council fully and formally adopts the New York State Unified Solar Permit process for NY - Sun Solar Powering New York, and establishes the permit fee at \$ 100.

FURTHER RESOLVED, the City of Tonawanda Common Council, in regular session duly convened, does hereby authorize and direct the Mayor Rick Davis to execute such other and additional documents as may be required for to perfect the resolutions herein;

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

137. By Councilmember Gilbert seconded by Councilmember Rautenstrauch
WHEREAS, buildings are the single largest user of energy in the State of New York; the poorest performing buildings typically use several times the energy of the highest performing buildings for the exact same building use; and

WHEREAS, collecting, reporting, and sharing building energy data on a regular basis allows municipal officials and the public to understand the energy performance of municipal buildings relative to similar buildings nationwide, and equipped with this information the City of Tonawanda is able to make smarter, more cost-effective operational and capital investment decisions, reward efficiency, and drive widespread, continuous improvement; and

WHEREAS, the City of Tonawanda Common Council desires to use Building Energy Benchmarking, a process of measuring a building's energy use, tracking that use over time, and comparing performance to similar buildings, to promote the public health, safety, and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce pollution in the City of Tonawanda; and

WHEREAS, as such the City of Tonawanda Common Council desires to establish procedure or guideline for the City of Tonawanda staff to conduct such Building Energy Benchmarking; and

NOW THEREFORE, IT IS HEREBY RESOLVED AND DETERMINED, that the following specific policies and procedures are hereby adopted and imposed as active and affirmative financial internal control procedures of the City of Tonawanda;

BUILDING ENERGY BENCHMARKING POLICY/PROCEDURES

§1. DEFINITIONS

(1) "Benchmarking Information" shall mean information generated by Portfolio Manager, as herein defined including descriptive information about the physical building and its operational characteristics.

(2) "Building Energy Benchmarking" shall mean the process of measuring a building's Energy use, tracking that use over time, and comparing performance to similar buildings.

(3) "Commissioner" shall mean the head of the Department.

(4) "Covered Municipal Building" shall mean a building or facility that is owned or occupied by the City of Tonawanda that is 1,000 square feet or larger in size.

(5) "Department" shall mean the City of Tonawanda Clerk's Office.

(6) "Energy" shall mean electricity, natural gas, steam, hot or chilled water, fuel oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, as reflected in Utility bills or other documentation of actual Energy use.

(7) "Energy Performance Score" shall mean the numeric rating generated by Portfolio Manager that compares the Energy usage of the building to that of similar buildings.

(8) "Energy Use Intensity (EUI)" shall mean the kBtus (1,000 British Thermal Units) used per square foot of gross floor area.

(9) "Gross Floor Area" shall mean the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

(10) "Portfolio Manager" shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide, or successor.

(11) "Utility" shall mean an entity that distributes and sells Energy to Covered Municipal Buildings.

(12) "Weather Normalized Site EUI" shall mean the amount of Energy that would have been used by a property under 30-year average temperatures, accounting for the difference between average temperatures and yearly fluctuations.

§2. APPLICABILITY

(1) This policy is applicable to all Covered Municipal Buildings as defined in Section 2 of this policy.

(2) The Commissioner may exempt a particular Covered Municipal Building from the benchmarking requirement if the Commissioner determines that it has characteristics that make benchmarking impractical.

§3. BENCHMARKING REQUIRED FOR COVERED MUNICIPAL BUILDINGS

(1) No later than May 1 every year, the Commissioner or his or her designee from the Department shall enter into Portfolio Manager the total Energy consumed by each Covered Municipal Building, along with all other descriptive information required by Portfolio Manager for the previous calendar year.

(2) For new Covered Municipal Buildings that have not accumulated 12 months of Energy use data by the first applicable date following occupancy for inputting Energy use into Portfolio Manager, the Commissioner or his or her designee from the Department shall begin inputting data in the following year.

§4. DISCLOSURE AND PUBLICATION OF BENCHMARKING INFORMATION

(1) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

(a) no later than September 1 each year for Covered Municipal Buildings; and

(2) The Department shall make available to the public on the internet and update at least annually, the following Benchmarking Information:

(a) Summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information; and

(b) For each Covered Municipal Building individually:

(i) The status of compliance with the requirements of this Policy; and

(ii) The building address, primary use type, and gross floor area; and

(iii) Annual summary statistics, including site EUI, Weather Normalized Source EUI, annual GHG emissions, and an Energy Performance Score where available; and

(iv) A comparison of the annual summary statistics (as required by Section 5(2)(b)(iii) of this Policy) across calendar years for all years since annual reporting under this Policy has been required for said building.

§5. MAINTENANCE OF RECORDS

The Department shall maintain records as necessary for carrying out the purposes of this Policy, including but not limited to Energy bills and other documents received from tenants and/or Utilities. Such records shall be preserved by the Department for a period of three (3) years.

§6. ENFORCEMENT AND ADMINISTRATION

(1) The Commissioner or his or her designee from the Department shall be the Chief Enforcement Officer of this Policy.

(2) The Chief Enforcement Officer of this Policy may promulgate regulations necessary for the administration of the requirements of this Policy.

(3) Within thirty days after each anniversary date of the effective date of this Policy, the Chief Enforcement Officer shall submit a report to the City of Tonawanda including but not limited to summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information, a list of all Covered Municipal Buildings identifying each Covered Municipal Building that the Commissioner determined to be exempt from the benchmarking requirement and the reason for the exemption, and the status of compliance with the requirements of this Policy.

FURTHER RESOLVED, the City of Tonawanda Common Council, in regular session duly convened, does hereby authorize and direct the Mayor Rick Davis to execute such other and additional documents as may be required for to perfect the resolutions herein;

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

138. By the Council

seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 14 of the Code of the City of Tonawanda entitled Buildings and Building Regulations, Article 3. Division 1. Generally, Sec. 14-231. entitled Penalties. which now reads as follows:

(a) Any person who shall violate any of the provisions of the code adopted by this article, or who fails to comply therewith, or who shall violate or fail to comply with any order made hereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved hereunder or any certificate or permit issued hereunder, or who shall fail to comply with such an order as affirmed by the common council or by a court of competent jurisdiction within the time fixed therein, shall severally, for each and every such violation and noncompliance respectively, be punished as provided in section 1-7. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time as determined by the building inspector. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the penalty in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

Shall be amended to read as follows:

(a) Any person who shall violate any of the provisions of the code adopted by this article, or who fails to comply therewith, or who shall violate or fail to comply with any order made hereunder or who shall build in violation of any detailed statement of specifications or plans submitted and approved hereunder or any certificate or permit issued hereunder, or who shall fail to comply with such an order as affirmed by the common council or by a court of competent jurisdiction within the time fixed therein, shall severally, for each and every such violation and noncompliance respectively, be punished as provided in section 1-7. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time as determined by the building inspector. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the penalty in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(c) In the event that work requiring a permit is commenced prior to the issuance of the permit, the fee for the permit shall be double the regular rate. This charge shall be in addition to any other penalty provided for commencement of work without a permit.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

139. By the Council

seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 14 of the Code of the City of Tonawanda entitled Buildings and Building Regulations, Article 3. Division 2. Administration and Enforcement, Sec. 14-254. entitled Application for permit and inspection; connection of power supply which now reads as follows:

It shall be a violation of this article for any person to install or cause to be installed or to alter electrical wiring for light, heat or power in or on properties in the city until an application for inspection has been filed and a permit issued by the City of Tonawanda Building Inspector. It shall be a violation of this article for a person to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the City of Tonawanda Building Inspector.

Shall now read as follows:

It shall be a violation of this article for any person to install or cause to be installed or to alter electrical wiring for light, heat or power in or on properties in the city until an application for inspection has been filed and a permit issued by the City of Tonawanda Building Inspector. It shall be a violation of this article for a person to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the City of Tonawanda Building Inspector. All electrical work requiring an electrical permit, completed on non-owner occupied property must be completed by a City of Tonawanda Licensed Electrical Contractor.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

140. By the Council

seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 14 of the Code of the City of Tonawanda entitled Buildings and Building Regulations, Article 3. Division 3. Licensing of Electricians, Sec. 14-256. entitled Licensing application and procedure; restrictions; fees which now reads as follows:

(a) The building inspector shall issue an electrician's license to any qualified person, firm or corporation upon presentation of a duly completed and executed application, payment of the fee as required herein and filing of the certificate of insurance as required herein. The information required in the application shall be determined by the building inspector.

- (b) An applicant for an electrician's license shall be deemed qualified as follows:
- (1) If a person, such person or at least one full-time employee of that person must hold a master electrician certificate.
 - (2) If a firm, in the case of a partnership, at least one active partner or full-time employee thereof holds a master electrician certificate or, in the case of a sole proprietorship, the owner or at least one full-time employee holds a master electrician certificate.
 - (3) If a corporation, such corporation has at least one full-time employee holding a master electrician certificate.
- (c) An application for an electrician's license shall be duly completed when the following requirements are met:
- (1) A qualified person states his name and address, the name and address of his business establishment and the name and address of the master electrician in his employ.
 - (2) A qualified firm or corporation states the name and address of the business establishment and the names and addresses of its partners in the case of a partnership, its owner's name and address in the case of a sole proprietorship or the names and addresses of its officers and directors in the case of a corporation; in addition, such firm, corporation, partnership or sole proprietorship shall also disclose the name and address of the master electrician in its employ.
 - (3) Such qualified person, firm or corporation shall complete and execute an application for an electrician's license in such form as may be prescribed and amended from time to time by the building inspector and furnish such information as the building inspector shall require.
- (d) The fee for a master electrician's license or for any renewal thereof to conduct an electrical business shall be as established in section 30-133(b).
- (e) The licensee shall file with the building inspector a policy or certificate of insurance evidencing coverage for the licensee's operations and naming the City of Tonawanda, New York, as an additional insured in the amount of \$1,000,000.00 combined single limit for bodily injury and property damage liability.
- (f) Such license shall be valid from the date of issue to December 31 of the year issued. The licensee may renew the license by submitting to the building inspector within 30 days preceding expiration of the license, such documentation and information as the building inspector may require, paying the required fee and furnishing the certificate of insurance required by this chapter.
- (g) Restriction on use of license.
- (1) Except as herein provided, no licensed person, firm or corporation duly licensed pursuant to this chapter shall allow his name to be used by any other person, firm or corporation, either for the purpose of obtaining a license under this chapter, a permit under Chapter 14, Buildings and Building Regulations, of the Code of the City of Tonawanda, New York, or doing any work under his license.

(2) This restriction shall not prohibit a person, firm or corporation, duly licensed pursuant to this chapter, from subletting an electrical job or portion thereof to another person, firm or corporation, provided that such arrangement is disclosed on the application for an electrical permit as prescribed by [Chapter 14](#), Buildings and building Regulations, of the Code of the City of Tonawanda, New York, and that the licensed person firm or corporation subletting such work shall be responsible for all such work.

(3) A license is not transferable or assignable to any successor in the business or to any person whosoever under any circumstances.

(h) Within seven days of the change, any licensed person, firm or corporation, as applicable, shall notify the building inspector, in writing, of the following:

- (1) A change with respect to the employment status of a master electrician.
- (2) A change with respect to the slate of officers and/or directors of a corporation.
- (3) A change with respect to the partners comprising a partnership.
- (4) A change with respect to the owner of a sole proprietorship.

(i) During any license year, it shall be the obligation of every licensed person, firm or corporation to be in continuous compliance with the qualifications and requirements needed to obtain an electrician's license and in the event of a failure to do so, the license issued shall become null and void and the licensee shall immediately surrender such license to the building inspector.

(j) Such license shall be subject to revocation, in the discretion of the building inspector, upon conviction of the licensee or any master electrician in the employ of a licensee of a violation of this article or [Chapter 14](#), Buildings and Building Regulations, of the Code of the City of Tonawanda, New York. Such license shall not be restored for one year after conviction and thereafter only by the discretion of the building inspector, provided that he is satisfied that the applicant has taken steps to assure that such violation will not occur again.

(k) A violation of this article [or] [Chapter 14](#) committed by any agent, servant or employee of a licensee shall also be deemed a violation by the licensed person, firm or corporation and the master electrician under whose employ or supervision such violation occurred.

Shall now read as follows:

(a) The building inspector shall issue an electrician's license to any qualified person, firm or corporation upon presentation of a duly completed and executed application, payment of the fee as required herein and filing of the certificate of insurance as required herein. The information required in the application shall be determined by the building inspector.

(b) An applicant for an electrician's license shall be deemed qualified as follows:

- (1) If a person, such person or at least one full-time employee of that person must hold a master electrician certificate.
- (2) If a firm, in the case of a partnership, at least one active partner or full-time employee thereof holds a master electrician certificate or,

in the case of a sole proprietorship, the owner or at least one full-time employee holds a master electrician certificate.

- (3) If a corporation, such corporation has at least one full-time employee holding a master electrician certificate.

(c) An application for an electrician's license shall be duly completed when the following requirements are met:

- (1) A qualified person states his name and address, the name and address of his business establishment and the name and address of the master electrician in his employ.
- (2) A qualified firm or corporation states the name and address of the business establishment and the names and addresses of its partners in the case of a partnership, its owner's name and address in the case of a sole proprietorship or the names and addresses of its officers and directors in the case of a corporation; in addition, such firm, corporation, partnership or sole proprietorship shall also disclose the name and address of the master electrician in its employ.
- (3) Such qualified person, firm or corporation shall complete and execute an application for an electrician's license in such form as may be prescribed and amended from time to time by the building inspector and furnish such information as the building inspector shall require.

(d) The fee for a master electrician's license or for any renewal thereof to conduct an electrical business shall be as established in section 30-133(b).

(e) The licensee shall file with the building inspector a policy or certificate of insurance evidencing coverage for the licensee's operations and naming the City of Tonawanda, New York, as an additional insured in the amount of \$1,000,000.00 combined single limit for bodily injury and property damage liability.

(f) Such license shall be valid from the date of issue to December 31 of the year issued. The licensee may renew the license by submitting to the building inspector within 30 days preceding expiration of the license, such documentation and information as the building inspector may require, paying the required fee and furnishing the certificate of insurance required by this chapter. Any license renewed after January 31 of the year issued shall be subject to a \$25 late fee. Any license not renewed for one (1) full calendar year shall be considered abandoned and a new certificate of competency will be required.

(g) Restriction on use of license.

- (1) Except as herein provided, no licensed person, firm or corporation duly licensed pursuant to this chapter shall allow his name to be used by any other person, firm or corporation, either for the purpose of obtaining a license under this chapter, a permit under Chapter 14, Buildings and Building Regulations, of the Code of the City of Tonawanda, New York, or doing any work under his license.
- (2) This restriction shall not prohibit a person, firm or corporation, duly licensed pursuant to this chapter, from subletting an electrical job or portion thereof to another person, firm or corporation, provided that such arrangement is disclosed on the application for an electrical permit as prescribed by Chapter 14, Buildings and building Regulations, of the Code of the City of Tonawanda, New

York, and that the licensed person firm or corporation subletting such work shall be responsible for all such work.

- (3) A license is not transferable or assignable to any successor in the business or to any person whosoever under any circumstances.

(h) Within seven days of the change, any licensed person, firm or corporation, as applicable, shall notify the building inspector, in writing, of the following:

- (1) A change with respect to the employment status of a master electrician.
- (2) A change with respect to the slate of officers and/or directors of a corporation.
- (3) A change with respect to the partners comprising a partnership.
- (4) A change with respect to the owner of a sole proprietorship.

(i) During any license year, it shall be the obligation of every licensed person, firm or corporation to be in continuous compliance with the qualifications and requirements needed to obtain an electrician's license and in the event of a failure to do so, the license issued shall become null and void and the licensee shall immediately surrender such license to the building inspector.

(j) Such license shall be subject to revocation, in the discretion of the building inspector, upon conviction of the licensee or any master electrician in the employ of a licensee of a violation of this article or [Chapter 14](#), Buildings and Building Regulations, of the Code of the City of Tonawanda, New York. Such license shall not be restored for one year after conviction and thereafter only by the discretion of the building inspector, provided that he is satisfied that the applicant has taken steps to assure that such violation will not occur again.

(k) A violation of this article [or] [Chapter 14](#) committed by any agent, servant or employee of a licensee shall also be deemed a violation by the licensed person, firm or corporation and the master electrician under whose employ or supervision such violation occurred.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

141. By the Council

seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 14 of the Code of the City of Tonawanda entitled Buildings and Building Regulations, Article 3. Division 3. Licensing of Electricians, Sec. 14-257. entitled Master electrician certificate; fee which now reads as follows:

(a) A master electrician shall be a natural person who holds a master electrician certificate issued pursuant to this chapter.

(b) A master electrician certificate shall be issued by the building inspector if a person has qualified for and received a grade of at least 75 percent on an examination as provided by Prometric, or an approved testing agency entitled master electrician within three years of the date of application for a master electrician certificate

(c) Such examination shall be the sole responsibility of the applicant. In order to qualify to receive an application to take such examination, a person must:

- (1) Satisfactorily demonstrate to the building inspector that he has worked under the supervision of a licensed master electrician as a journeyman electrician for a period of 5,000 hours, performing the following: the installation, maintenance, extension and alteration of wiring, fixtures, appliances and appurtenances in connection with all of the following: electrical distribution, wiring and protection, methods and materials, special occupancies, grounding, motors and controllers, transformers, fire protection systems, optical fiber systems, communications systems and any other type of installation as required by the National Electrical Code, as amended from time to time.
- (2) Satisfactorily demonstrate to the building inspector that he has a thorough knowledge and understanding of the National Electrical Code, as amended from time to time.
- (3) The fee for a master electrician's certificate shall be as established in [section 30-133\(a\)](#).
- (4) Satisfactorily demonstrate to the building inspector that applicant is of good moral character.

(d) Any person who fails, upon demand by the building inspector, his duty or assistants to produce a master electrician certificate within a reasonable time shall be presumed not to be the holder of a master electrician certificate.

(e) It shall be unlawful for any person to hold himself out as a master electrician unless he is the holder of a valid master electrician certificate.

(f) Waiver of examination.

- (1) The building inspector is empowered to waive the examination requirement for any person who currently holds a valid 2010 master electrician's license issued by a city, town or village which has comprehensive competency examination requirements for the issuance of a master electrician license.
- (2) Such person must comply with all of the requirements associated with this chapter.
- (3) In the event that the building inspector waives the requirement for an examination as provided herein, the person receiving such waiver shall pay a fee of \$100.00 in order to receive his master electrician's certificate.
- (4) The building inspector shall not issue any waivers of examination after December 31, 2010.

Shall now read as follows:

- (a) A master electrician shall be a natural person who holds a master electrician certificate issued pursuant to this chapter.
- (b) A master electrician certificate shall be issued by the building inspector if a person has qualified for and received a grade of at least 70 percent on an examination as provided by Prometric, or an approved testing agency entitled master electrician within three years of the date of application for a master electrician certificate
- (c) Such examination shall be the sole responsibility of the applicant. In order to qualify to receive an application to take such examination, a person must:
 - (1) Satisfactorily demonstrate to the building inspector that he has worked under the supervision of a licensed master electrician as a journeyman electrician for a period of 5,000 hours, performing the following: the installation, maintenance, extension and alteration of wiring, fixtures, appliances and appurtenances in connection with all of the following: electrical distribution, wiring and protection, methods and materials, special occupancies, grounding, motors and controllers, transformers, fire protection systems, optical fiber systems, communications systems and any other type of installation as required by the National Electrical Code, as amended from time to time.
 - (2) Satisfactorily demonstrate to the building inspector that he has a thorough knowledge and understanding of the National Electrical Code, as amended from time to time.
 - (3) The fee for a master electrician's certificate shall be as established in [section 30-133\(a\)](#).
 - (4) Satisfactorily demonstrate to the building inspector that applicant is of good moral character.
- (d) Any person who fails, upon demand by the building inspector, his duty or assistants to produce a master electrician certificate within a reasonable time shall be presumed not to be the holder of a master electrician certificate.
- (e) It shall be unlawful for any person to hold himself out as a master electrician unless he is the holder of a valid master electrician certificate.
- (f) Waiver of examination.
 - (1) The building inspector is empowered to waive the examination requirement for any person who currently holds a valid 2010 master electrician's license issued by a city, town or village which has comprehensive competency examination requirements for the issuance of a master electrician license.
 - (2) Such person must comply with all of the requirements associated with this chapter.
 - (3) In the event that the building inspector waives the requirement for an examination as provided herein, the person receiving such waiver shall pay a fee of \$100.00 in order to receive his master electrician's certificate.
 - (4) The building inspector shall not issue any waivers of examination after December 31, 2010.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

142. By the Council

seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 30 of the Code of the City of Tonawanda entitled Fees, Article 5. Sec. 30-131. entitled Plumber's license and exams, which now reads as follows:

(a) *License.* The fee for a license required by [section 14-268](#) shall be \$50.00.

(b) *Exams.*

(1) Regularly scheduled examsô Exams given on the second Wednesday in April or Novemberô The fee shall be as follows:

a. Journeyman plumber's exam\$25.00

b. Master plumber's exam\$100.00

(2) Special examsô Exams given at any other timeô The fee shall be as follows:

a. Journeyman plumber's exam\$100.00

b. Master plumber's exam\$250.00.

Shall now read as follows:

(a) *License.* The fee for a license required by [section 14-268](#) shall be \$50.00.

(b) *Exams.*

(1) Regularly scheduled examsô Exams given on the second Wednesday in April or Novemberô The fee shall be as follows:

a. Journeyman plumber's exam\$50.00

b. Master plumber's exam\$100.00

(2) Special examsô Exams given at any other timeô The fee shall be as follows:

a. Journeyman plumber's exam\$100.00

b. Master plumber's exam\$100.00.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

143. By the Council seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, that Chapter 30 of the Code of the City of Tonawanda entitled Fees, Article 5. Sec. 30-133. entitled Electrical Fees, which now reads as follows:

(a) *Master electrician certificate.* The fee for a certificate required by subsection [14-257\(c\)\(3\)](#)\$100.00.

(b) *Master electrician license.* The fee for a license required by subsection [14-256\(d\)](#)\$100.00.

(c) *Electrical permit fees.* The fee for an electrical permit required by section 14-247 is as follows:

- (1) Residential buildings (not including air conditioning or special equipment):
 - a. Original electrical installation of a one- or two-family dwelling, including townhouses not exceeding 2,000 sq. ft. floor area, without air-conditioning or special equipment, per dwelling unit\$200.00
 - b. Original electrical installation of a one- or two-family dwelling, including townhouses in excess of 2,000 sq. ft. floor area, without air-conditioning or special equipment, per dwelling unit\$275.00
 - c. Multiple residences, per dwelling unit\$170.00
 - d. Hotels and motels, sleeping rooms only, per room\$75.00
 - e. Alterations, repairs, modifications, additions, deletions, etc., to the electrical system includes detached accessory buildings:
 1. One to ten outlets only\$50.00
 2. Exceeding ten outlets\$70.00
 3. Service installation only\$100.00
 4. One to ten outlets, including one service installation\$130.00

5. Exceeding ten outlets, including one service installation\$170.00
 6. Whole house generator with or without generator panel\$100.00
 7. Generator panel\$50.00
 8. Air conditioning and other special equipment, part of original installation, per system, device or equipment\$40.00
 9. Air conditioning and other special equipment, not part of original installation, per system, device or equipment\$65.00
 10. Swimming pool, above ground\$40.00
 11. Swimming pool, in-ground\$70.00
- f. All other electrical permit fees for work which is not stipulated in any of the items listed in this section shall be at cost as determined by the building inspector, with a minimum fee of \$45.00.

(2) Commercial and industrial:

- a. *Original installation.*
 1. Less than 25,000 watts, without special equipment\$300.00
 2. In excess of 25,000 watts, includes hotels and motels not listed above, with a minimum fee not less than \$55.00 per sleeping room/kilowatt \$8.00
 3. Additional fee for each special equipment (HVAC, emergency power, fire protection, etc.)\$50.00
- b. Alterations, repairs, modifications, additions, deletions, etc., to the electrical system, including detached accessory buildings:
 1. Minimum fee\$120.00
 2. Maximum fee\$300.00
 3. One to ten fixtures or outlets only\$120.00
 4. In excess of ten fixtures or outlets/each\$4.00
 5. Service installation only\$120.00
 6. One to ten outlets, including one service\$200.00
 7. In excess of ten outlets, including one service\$300.00

- 8. Additional fee for each special equipment (HVAC, emergency power, fire protection, etc.)\$85.00
- c. The fees applicable to new electrical work shall be applicable to electrical work on, additions, alterations and repairs when the cost of alterations, additions or repairs made within any six-month period exceeds 50 percent of the cost for the replacement of the existing electrical system at the beginning of that six-month period.
- d. Signs\$85.00
- e. All other electrical permit fees for work which is not stipulated in any of the items listed in this section shall be at a cost as determined by the building inspector with a minimum fee of \$50.00.
- f. Each inspection in excess of two inspections, for each required inspection\$50.00.

Shall now read as follows:

(a) *Master electrician certificate.* The fee for a certificate required by subsection [14-257\(c\)\(3\)](#)\$100.00.

(b) *Master electrician license.* The fee for a license required by subsection [14-256\(d\)](#)\$100.00.

(c) *Electrical permit fees.* The fee for an electrical permit required by section 14-247 is as follows:

- (1) Residential buildings (not including air conditioning or special equipment):
 - a. Original electrical installation of a one- or two-family dwelling, including townhouses not exceeding 2,000 sq. ft. floor area, without air-conditioning or special equipment, per dwelling unit\$200.00
 - b. Original electrical installation of a one- or two-family dwelling, including townhouses in excess of 2,000 sq. ft. floor area, without air-conditioning or special equipment, per dwelling unit\$275.00
 - c. Multiple residences, per dwelling unit\$170.00
 - d. Hotels and motels, sleeping rooms only, per room\$75.00
 - e. Alterations, repairs, modifications, additions, deletions, etc., to the electrical system includes detached accessory buildings:
 - 1. One to ten outlets only\$50.00
 - 2. Exceeding ten outlets\$70.00
 - 3. Service installation only\$100.00

4. One to ten outlets, including one service installation\$130.00
 5. Exceeding ten outlets, including one service installation\$170.00
 6. Whole house generator with or without generator panel\$100.00
 7. Generator panel\$50.00
 8. Air conditioning and other special equipment, part of original installation, per system, device or equipment\$40.00
 9. Air conditioning and other special equipment, not part of original installation, per system, device or equipment\$65.00
 10. Swimming pool, above ground\$40.00
 11. Swimming pool, in-ground\$70.00
 12. Service reconnect inspectioní . \$65.00
- f. All other electrical permit fees for work which is not stipulated in any of the items listed in this section shall be at cost as determined by the building inspector, with a minimum fee of \$45.00.

(2) Commercial and industrial:

a. *Original installation.*

1. Less than 25,000 watts, without special equipment\$300.00
2. In excess of 25,000 watts, includes hotels and motels not listed above, with a minimum fee not less than \$55.00 per sleeping room/kilowatt\$8.00
3. Additional fee for each special equipment (HVAC, emergency power, fire protection, etc.)\$50.00

b. Alterations, repairs, modifications, additions, deletions, etc., to the electrical system, including detached accessory buildings:

1. Minimum fee\$120.00
2. Maximum fee\$300.00
3. One to ten fixtures or outlets only\$120.00
4. In excess of ten fixtures or outlets/each\$4.00
5. Service installation only\$120.00

- 6. One to ten outlets, including one service\$200.00
 - 7. In excess of ten outlets, including one service\$300.00
 - 8. Additional fee for each special equipment (HVAC, emergency power, fire protection, etc.)\$85.00
 - 9. Service reconnect inspectioní . \$90.00
- c. The fees applicable to new electrical work shall be applicable to electrical work on, additions, alterations and repairs when the cost of alterations, additions or repairs made within any six-month period exceeds 50 percent of the cost for the replacement of the existing electrical system at the beginning of that six-month period.
 - d. Signs\$85.00
 - e. All other electrical permit fees for work which is not stipulated in any of the items listed in this section shall be at a cost as determined by the building inspector with a minimum fee of \$50.00.
 - f. Each inspection in excess of two inspections, for each required inspection\$50.00.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

144. By the Council seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, Chapter 82 of the Code of the City of Tonawanda entitled Zoning, Article 5., Division 1. Generally, Sec. 82-244. entitled Location of Accessory uses and open parking areas, which now reads as follows:

- (a) *Open off-street parking facilities.*
 - (1) In any C or M district, open off-street parking may occupy any required yard or exterior side yard except as otherwise provided for visibility and screening and except that it shall not be permitted within ten feet of a street line or ten feet of a lot in any R district; but when such parking is accessory to residential use, it shall be governed by the regulations pertaining to parking in R districts in subsections (a)(2) and (3) of this section.
 - (2) In any R district, no open off-street parking shall be permitted in any required front yard or exterior side yard, except in driveways.

- (3) In any R district, no open off-street parking in connection with any principal use other than a dwelling or in connection with any accessory use carried on for gain or profit shall be located in any exterior side yard or within five feet of any side or rear lot line.
- (b) *Accessory structures.*
- (1) No accessory structure shall be located in a front yard or a required side yard, except that an attached one-story garage not over 12 feet in height may extend into a required side yard or rear yard in the case of a corner lot provided that it shall not be nearer any side or rear lot line than five feet.
 - (2) In a C or M district, no processing or storage shall be permitted in any required yard except for gasoline pumps, and no accessory structure shall be located in a required rear yard, except that dwellings shall be governed by R district regulations.
 - (3) In any R district, roofed projections or buildings shall not occupy more than 30 percent of a required rear yard of an interior lot or more than 40 percent of a required rear yard of a corner lot.
 - (4) In any R district, no part of an accessory structure shall be nearer than two feet to a lot line. When a rear lot line of a corner lot abuts a side lot line of a lot in an R district, no part of an accessory structure shall be nearer than ten feet to such rear lot line.
 - (5) In an R district, a detached accessory building shall not be located so that any part thereof is nearer than ten feet to any dwelling or other building, except that a distance separation of five feet will be allowed when all exterior walls of the accessory building have a minimum fire rating of one-half hour and meet all other provisions of this chapter.
 - (6) Except for corner visibility provisions (section [82-443](#)), access drives or walks, flagpoles, unenclosed steps or terraces not extending more than one foot above the adjoining finished grade may be located in any required open area, notwithstanding any of the provisions of this section.
 - (7) Any private garage or accessory structure located in any R district or on the same lot as a dwelling shall have a height of no greater than 12 feet from finished grade.

Shall now read as follows:

- (a) *Open off-street parking facilities.*
- (1) In any C or M district, open off-street parking may occupy any required yard or exterior side yard except as otherwise provided for visibility and screening and except that it shall not be permitted within ten feet of a street line or ten feet of a lot in any R district; but when such parking is accessory to residential use, it shall be governed by the regulations pertaining to parking in R districts in subsections (a)(2) and (3) of this section.
 - (2) In any R district, no open off-street parking shall be permitted in any required front yard or exterior side yard, except in driveways.
 - (3) In any R district, no open off-street parking in connection with any principal use other than a dwelling or in connection with any

accessory use carried on for gain or profit shall be located in any exterior side yard or within five feet of any side or rear lot line.

- (4) In any R district, new driveways may be created for open off-street parking in any required front yard when the following criteria are met:
 - (a) A space a minimum of nine-foot wide by twenty-foot long can be provided entirely on the property perpendicular to the roadway.
 - (b) An area of one-third of the lot width, or twenty-foot wide, whichever is less including the existing driveway will be paved and used as open off-street parking.
 - (c) The City of Tonawanda Planning Board has reviewed and approved the proposed parking plan.

- (b) *Accessory structures.*
 - (1) No accessory structure shall be located in a front yard or a required side yard, except that an attached one-story garage not over 12 feet in height may extend into a required side yard or rear yard in the case of a corner lot provided that it shall not be nearer any side or rear lot line than five feet.
 - (2) In a C or M district, no processing or storage shall be permitted in any required yard except for gasoline pumps, and no accessory structure shall be located in a required rear yard, except that dwellings shall be governed by R district regulations.
 - (3) In any R district, roofed projections or buildings shall not occupy more than 30 percent of a required rear yard of an interior lot or more than 40 percent of a required rear yard of a corner lot.
 - (4) In any R district, no part of an accessory structure shall be nearer than two feet to a lot line. When a rear lot line of a corner lot abuts a side lot line of a lot in an R district, no part of an accessory structure shall be nearer than ten feet to such rear lot line.
 - (5) In an R district, a detached accessory building shall not be located so that any part thereof is nearer than ten feet to any dwelling or other building, except that a distance separation of five feet will be allowed when all exterior walls of the accessory building have a minimum fire rating of one-half hour and meet all other provisions of this chapter.
 - (6) Except for corner visibility provisions (section [82-443](#)), access drives or walks, flagpoles, unenclosed steps or terraces not extending more than one foot above the adjoining finished grade may be located in any required open area, notwithstanding any of the provisions of this section.
 - (7) Any private garage or accessory structure located in any R district or on the same lot as a dwelling shall have a height of no greater than 12 feet from finished grade.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

145. By the Council

seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, Chapter 82 of the Code of the City of Tonawanda entitled Zoning, Article 10., Sec. 82-444. entitled Automotive use areas, which now reads as follows:

Any portion of a lot used for open off-street parking or reservoir space or for open sales, service or storage areas for motor vehicles, contractor's equipment or boats shall be deemed to be an automotive use area. New automotive use areas or enlargements of existing automotive use areas shall be subject to the following requirements:

- (1) *Surfacing and drainage.* Every automotive use area and access driveway thereto shall be surfaced with a durable and dustless material and shall be so graded and drained as to prevent surface water accumulation, except in accordance with a stormwater pollution prevention plan approved by the city in accordance with [Chapter 52](#) of this Code.
- (2) *Lighting.* Any fixture used to illuminate any automotive use area shall be installed and maintained so as to direct the light away from the street and from adjoining premises in any R district.
- (3) *Screening.* Every automotive use area, except off-street parking areas for fewer than five vehicles, shall be screened from any adjoining lot in any R district, including lots situated across the street, as follows:
 - a. Along a street line, by a planting strip five feet wide; provided, however, that no shrub planting or tree foliage shall be placed or maintained which obstructs vision at an elevation between three and seven feet above the street level. Such screening may be interrupted by normal entrances or exits.
 - b. Along a rear line or an interior side lot line, by a compact evergreen hedge which will reach a height of five feet within three years or by a solid fence or unpierced masonry wall five feet in height. Such screening shall be maintained in good condition at all times.
- (4) *Access.* No entrance or exit to any automotive use area shall be permitted within 30 feet of any intersecting street lines and, except for off-street parking areas for uses permitted in any R district requiring fewer than ten parking spaces, no entrance or exit shall be permitted within ten feet of a lot in any R district. Access to automotive use areas, except for off-street parking areas in R districts, for fewer than ten vehicles shall be approved by the city engineer and shall be so arranged that vehicles shall not be required to back into a street.

- (5) *Use restrictions.* No automotive use area shall be used for auto wrecking or for the storage of wrecked, partially dismantled or junked vehicles or equipment or motor vehicles which do not qualify for New York state motor vehicle registration.

Shall now read as follows:

Any portion of a lot used for open off-street parking or reservoir space or for open sales, service or storage areas for motor vehicles, contractor's equipment or boats shall be deemed to be an automotive use area. New automotive use areas or enlargements of existing automotive use areas shall be subject to the following requirements:

- (1) *Surfacing and drainage.* Every automotive use area, access driveway, entrance and exit thereto shall be surfaced with a durable and dustless material and shall be so graded and drained as to prevent surface water accumulation, except in accordance with a stormwater pollution prevention plan approved by the city in accordance with [Chapter 52](#) of this Code. Materials such as loose stone or gravel are not acceptable. All work completed on property owned by the City of Tonawanda shall comply with applicable City of Tonawanda design standards.
- (2) *Lighting.* Any fixture used to illuminate any automotive use area shall be installed and maintained so as to direct the light away from the street and from adjoining premises in any R district.
- (3) *Screening.* Every automotive use area, except off-street parking areas for fewer than five vehicles, shall be screened from any adjoining lot in any R district, including lots situated across the street, as follows:
 - a. Along a street line, by a planting strip five feet wide; provided, however, that no shrub planting or tree foliage shall be placed or maintained which obstructs vision at an elevation between three and seven feet above the street level. Such screening may be interrupted by normal entrances or exits.
 - b. Along a rear line or an interior side lot line, by a compact evergreen hedge which will reach a height of five feet within three years or by a solid fence or unpierced masonry wall five feet in height. Such screening shall be maintained in good condition at all times.
- (4) *Access.* No entrance or exit to any automotive use area shall be permitted within 30 feet of any intersecting street lines and, except for off-street parking areas for uses permitted in any R district requiring fewer than ten parking spaces, no entrance or exit shall be permitted within ten feet of a lot in any R district. Access to automotive use areas, except for off-street parking areas in R districts, for fewer than ten vehicles shall be approved by the city engineer and shall be so arranged that vehicles shall not be required to back into a street.
- (5) *Use restrictions.* No automotive use area shall be used for auto wrecking or for the storage of wrecked, partially dismantled or junked vehicles or equipment or motor vehicles which do not qualify for New York state motor vehicle registration.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

146. By the Council

seconded by the Council

WHEREAS, the title of this Resolution/Ordinance has been published at least once in a newspaper of general circulation on May 17, 2017, in accordance with Section 2.047 of the City Charter.

NOW, THEREFORE, BE IT RESOLVED, Chapter 82 of the Code of the City of Tonawanda entitled Zoning, Article 10., Sec. 82-447. entitled Fences, which now reads as follows:

(a) *Height restrictions in residential districts.* Fences in R districts shall not be erected in excess of five feet in height above the surface of the ground, except that in a rear yard, when in compliance with all other requirements of this chapter, the height may be six feet.

(b) *Regulations applicable in all zoning districts.*

(1) *Materials and construction standards.*

- a. All fences shall be constructed of steel or wood posts supported and braced by top and bottom rails that will be located on the inside of the fenced enclosure. Except as otherwise permitted by the building inspector, all posts for solid fence erection are to be firmly imbedded in concrete 42 inches in depth, with a minimum thickness of three inches on all sides. Fencing shall consist of steel or wood pickets, wire mesh or solid boards. Barbed wire shall not be permitted.
- b. Mechanical devices approved by the building inspector may be used to secure posts in the ground when open-mesh fencing is used.
- c. A picket fence shall be considered a solid fence when erected in any yard other than a rear yard.

(2) *Location.*

- a. No fence shall be erected nearer than two feet from the inside line of the sidewalk, and, in the case of any corner lot, [section 82-443](#), pertaining to visibility, shall govern the erection of fences.
- b. The definition in [section 82-1\(b\)](#) shall be used in determining a rear yard.

(3) *Visibility.* No solid fence in excess of 30 inches in height shall be erected or allowed in any yard within 15 feet of the street right-of-way.

(4) *Separation from dwellings; hazardous conditions; maintenance.*

- a. No fence shall be erected in any yard that will shut off light or ventilation to any window or opening in a habitable

space of a dwelling. A minimum distance of three feet shall be maintained between any solid fence and any such opening in a dwelling in determining such light and ventilation.

- b. It shall be a violation of this chapter to place or drive metal, wood or other types of stakes along a lot line, or to place any material along any lot line that may act as a barricade, or to string along any lot line any wire or other material that may cause tripping or other dangerous or hazardous conditions. Any construction determined to be a fence under the provisions of this section shall not be subject to this subsection (b)(4)b.
- c. Every fence erected shall be maintained by the owner in such a way that it will remain plumb and in good repair.

(c) *Permit required.*

- (1) Any person making an application for a fence permit must pay a permit fee and present a survey of the premises so that a true and valid location of the proposed fence erection can be determined.
- (2) It shall be a violation of this chapter to commence to erect a fence without first obtaining a fence permit. Fence permits may be obtained in the building inspector's office.

(d) *Contractors to be licensed.* Contractors that erect fences within the city must have a contractor's license issued by the city.

(e) *Failure to correct violation; continuing violations.* A person shall be subject to the penalties imposed by [section 1-7](#) in any case where an order to remove any violation of any of the provisions of this section has been served by the building inspector upon the owner, general agent, lessee or tenant of the building, other structure or tract of land or any part thereof or upon the architect, builder, contractor or anyone who commits or assists in any such violation and where such person shall fail to comply with such order within ten days after the service thereof. Each week's continued violation shall constitute a separate additional violation and shall be punishable under this subsection.

Shall now read as follow:

(a) *Height restrictions in residential districts.* Fences in R districts shall not be erected in excess of five feet in height above the surface of the ground, except that in a rear yard, when in compliance with all other requirements of this chapter, the height may be six feet.

(b) *Regulations applicable in all zoning districts.*

(1) *Materials and construction standards.*

- a. All fences shall be constructed of steel or wood posts supported and braced by top and bottom rails that will be located on the inside of the fenced enclosure. Except as otherwise permitted by the building inspector, all posts for solid fence erection are to be firmly imbedded in concrete 42 inches in depth, with a minimum thickness of three inches on all sides. Fencing shall consist of steel or wood pickets, wire mesh or solid boards. Barbed wire shall not be permitted.

- b. Mechanical devices approved by the building inspector may be used to secure posts in the ground when open-mesh fencing is used.
- c. A picket fence shall be considered a solid fence when erected in any yard other than a rear yard.

(2) *Location.*

- a. No fence shall be erected nearer than two feet from the inside line of the sidewalk, and, in the case of any corner lot, [section 82-443](#), pertaining to visibility, shall govern the erection of fences.
- b. The definition in [section 82-1\(b\)](#) shall be used in determining a rear yard.

(3) *Visibility.* No solid fence in excess of 36 inches in height shall be erected or allowed in any yard within 15 feet of the street right-of-way.

(4) *Separation from dwellings; hazardous conditions; maintenance.*

- a. No fence shall be erected in any yard that will shut off light or ventilation to any window or opening in a habitable space of a dwelling. A minimum distance of three feet shall be maintained between any solid fence and any such opening in a dwelling in determining such light and ventilation.
- b. It shall be a violation of this chapter to place or drive metal, wood or other types of stakes along a lot line, or to place any material along any lot line that may act as a barricade, or to string along any lot line any wire or other material that may cause tripping or other dangerous or hazardous conditions. Any construction determined to be a fence under the provisions of this section shall not be subject to this subsection (b)(4)b.
- c. Every fence erected shall be maintained by the owner in such a way that it will remain plumb and in good repair.

(c) *Permit required.*

- (1) Any person making an application for a fence permit must pay a permit fee and present a survey of the premises so that a true and valid location of the proposed fence erection can be determined.
- (2) It shall be a violation of this chapter to commence to erect a fence without first obtaining a fence permit. Fence permits may be obtained in the building inspector's office.

(d) *Contractors to be licensed.* Contractors that erect fences within the city must have a contractor's license issued by the city.

(e) *Failure to correct violation; continuing violations.* A person shall be subject to the penalties imposed by [section 1-7](#) in any case where an order to remove any violation of any of the provisions of this section has been served by the building inspector upon the owner, general agent, lessee or tenant of the building, other structure or tract of land or any part thereof or upon the architect, builder, contractor or anyone who commits or assists in any such violation and where such person shall fail to comply with such

order within ten days after the service thereof. Each week's continued violation shall constitute a separate additional violation and shall be punishable under this subsection.

BE IT FURTHER RESOLVED, that all other Sections of said Ordinance shall remain unchanged and in full force and effect; and

BE IT FURTHER RESOLVED, that the above amendments shall take effect upon publication of its title in an official newspaper of the City of Tonawanda.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

147. By Councilmember Rautenstrauch seconded by Councilmember Smilinich
Whereas, a Special Events application was received by the City Clerk from Caitlin Rech to use a portion of Elmwood Park for a birthday party on June 17, 2017,
Whereas, the application was reviewed and commented on by all appropriate department heads to insure the safety and well being of our residents, and
Whereas, that a Certificate of Insurance naming the City of Tonawanda as additional insured be filed with the City Clerk no later than June 15, 2017,
Therefore, be it resolved that permission is granted to Caitlin Rech to use a portion of Elmwood Park for a birthday party on June 17, 2017 starting at 4:00 P.M. until 6:30 P.M.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch

Nays: None

Resolution declared adopted

COMMENTS BY THE PUBLIC AFTER RESOLUTIONS

No comments by the Public

COMMENTS BY THE COUNCILMEMBERS AFTER RESOLUTIONS

Councilmember Smilinich- Okay, now I'm going to explain my no votes tonight since I didn't do them during comments. The first one on the Pilate, we have a building in the City of Tonawanda that pays \$30,000 in a Pilate. They had a 166 fire calls alone in one year. We don't have a 100 houses on any street that has that many. A Pilate does not give the City, I know its State regulated but it does not give the City what the City needs in taxes just to provide the minimal services that we are required to provide by the fire and police. The second one I voted for was just a statement that I voted no for was just a statement that I'm trying to make because three years ago the City went to National Grid and we asked that they replace the lights downtown with something that was more in line along the canal and they just blew us off. Three weeks ago the Benevolent Association went to National Grid and asked that the pole behind their building be taken down because it is just a wooden pole and their lines are all under the building. They were told they would be charged anywhere from \$10,000 to \$100,000. National Grid is not a good neighbor. That is all I have to say tonight. Thank-you.

Councilmember Gilbert- I just wanted to thank the council for supporting my resolution. The bathrooms up there are usually not being used at all and its kind of falling apart so its a good thing that we gave that to the American Legion to use that as a museum for our memorabilia for of all the veterans that served. Thank you to the council.

Councilmember Rautenstrauch- Nothing at this time.

Councilmember Toth- I have two things Madam President. The first thing is I think we had recognized her back in May but I just want to again recognize Cassie Butzer. She was recently awarded the Liberty Medal by Senator Chris Jacobs for her unselfish act of alerting one of our neighbors to a house fire. I think that is a very nice honor for her and its very well deserved. The second thing is I just want to welcome Tim Oldenburg as the new superintendent of schools here in the City. The Oldenburg name is synonymous with the City of Tonawanda and the area. I think that Mr. Oldenburg is going to be an asset to the community and I look forward to working with him in the future. I think he is going to do a fine job up there even though Dr. Newton is going to be very hard to

replace and he is very well liked by everybody in the community I think that Tim is going to do an outstanding job.

Mayor Rick Davis- I would like to thank Angela Johnson Renda for her help at the chamber. The small business seminar that we hosted a few weeks ago, we had over thirty people there so it was very well attended. I would like to thank Senator Jacobs once again for finding the \$15,000 for our Police Department. It seemed to get lost in the shuffle for quite a number of years. I would like to thank the Grand Island Toll people for asking me to be a guest speaker at their meeting as far as removing the Grand Island tolls and the source of pollution that could be impacting our City. Congratulations to Detective Burke and Officer Foels; Detective Burke on being promoted and Officer Foels on joining the force. Many thanks to everybody that helped with the Helmet that decided to give their money to the VVA and to the Legion. The kickball game was fun. I haven't ran that much in years. Chuck was a good pitcher. He talked more than he did anything else. The proceeds went to the Teen program at the Boys and Girls Club. I thank Jennifer for getting that up and going. The EBC Slow Roll Pedal Party is this Friday. The registration starts at 6:00P.M.. The Slow Roll Pedal Party starts at 7:00P.M. Also, Food Truck Thursdays starts this week. A Street Dance is Saturday from 5:00 P.M. to 11:00 P.M. The St. Francis Funfest this Saturday from 12:00 P.M. to 9:00 P.M. and Happy Father's Day everyone!

Council President Koch- As Councilmember Toth said I just want to give a special shout out to COT resident who alerted the homeowner and called 911. Her quick actions resulted in containing the fire to the front porch and I certainly hope we get to meet her soon. The 137 Annual TNT Fireman's Inspection Day Parade will take place June 17, 2017 at 11:45 and hopefully you can all join us. Warriors Walk Wednesday will resume tomorrow. We are going to meet at Vets Park at 6:30 P.M. and we will have a special guest on hand. So please come and join us. On June 14th the Historical Society of the Tonawandas invites you to join them for an unveiling of the new historical signage, a small display of community artifacts, and socializing. That will be at the Pavilion and it starts at 5:00 P.M. I would like to thank everyone who participated in the kickball tournament versus the Tonawanda teams. I'm happy to hear that we won. Barely won. The event will benefit the Teen program at the Boys and Girls Club. Lastly, I would also like to welcome Tim Oldenburg as our new superintendent. He certainly has big shoes to fill and I look forward to working with him. I would also like to wish Dr. Newton all the best in his future. We will be meeting in the caucus room for a little bit. Thank you.

ADJOURNMENT

148. By the Council _____ seconded by the Council
Resolved, that this Common Council adjourn until June 20, 2017.

Ayes: Gilbert, Smilinich, Rautenstrauch, Toth, Koch
Nays: None

Resolution declared adopted

City Clerk

Mayor

Date Filed