

**TOWN OF CAMBRIA TOWN BOARD**

**May 8, 2014**

The regular meeting of the Town of Cambria Town Board was held at 8:00 pm on the 8<sup>th</sup> day of May 2014 at the Town of Cambria Town Hall, 4160 Upper Mountain Road, Town of Cambria, NY

**BOARD MEMBERS PRESENT:**

Wright H. Ellis, Supervisor  
Matthew Foe, Councilman  
Jeffrey S. Hurtgam, Councilman  
Joseph Ohol, Councilman  
Randy Roberts, Councilman

**ALSO PRESENT:**

Tamara J. Cooper, Town Clerk  
Jon MacSwan, Highway Superintendent  
Robert Roberson, Attorney  
Randy Roeseler, Wendel Engineers  
Jaime Davidson, Wendel Engineers  
James McCann, Building Inspector  
4 interested individuals

Following salute to the flag, Supervisor Ellis opened the public hearing.

**PUBLIC HEARING – LOCAL LAW NO. 1, 2014,  
‘A LOCAL LAW PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW  
YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE’ FOR THE TOWN OF  
CAMBRIA, NIAGARA COUNTY, NEW YORK”**

The Clerk read the following Notice of Public Hearing:

**TOWN OF CAMBRIA  
NOTICE OF PUBLIC HEARING**

**PLEASE TAKE NOTICE** that the Town Board of the Town of Cambria will conduct a Public Hearing at the Cambria Town Hall, 4160 Upper Mountain Road, Sanborn, New York 14132, on the 8th day of May, 2014, at 8:00 p.m. to hear and consider the adoption of a proposed local law: Town of Cambria Local Law No. 1 - 2014, A Local Law entitled A Local Law providing for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code.

A description of the Local law contents:

Section 1 - Purpose and Intent  
Section 2 - Definitions  
Section 3 - Code Enforcement Officer and Inspectors  
Section 4 - Building Permits  
Section 5 - Construction Inspections  
Section 6 - Stop Work Orders  
Section 7 - Certificate of Occupancy/Certificate of Compliance  
Section 8 - Notification regarding fire or explosion  
Section 9 - Unsafe Building and Structures  
Section 10 - Operating Permits  
Section 11 - Fire Safety and Property Maintenance Inspections  
Section 12 - Complaints  
Section 13 - Record Keeping  
Section 14 - Program Review and Reporting  
Section 15 - Violations  
Section 16 - Fees  
Section 17 - Inter-municipal Agreements  
Section 18 - Partial Invalidity  
Section 19 - Effective Date

A copy of proposed Local Law No. 1 - 2014 is on file in the office of the Town Clerk at the above address where it is available for inspection/copying during regular office hours. All interested parties will be heard.

Supervisor Ellis gave a brief background on the proposed local law. Local Law #1 A Local Law Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code was proposed by James McCann, Building Inspector, in an effort to align the building code regulations for the Town of Cambria with the New York State codes. The current law on file with the Town is dated 1984 and was revised in 1985, therefore very outdated. Supervisor Ellis indicated that Mr. McCann used guidelines from the state codes along with a few modifications to fit within the Town of Cambria's needs for the proposed update. Once put into effect, the Town's code will be in line with state code.

Mr. McCann indicated that since 1984, this law has progressed and that the intent of he and the Town Board is to bring it up to current standards.

As there was no one present desiring to be heard, Supervisor Ellis closed the public hearing.



## SECTION 1. PURPOSE AND INTENT

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

## SECTION 2. DEFINITIONS

In this local law:

“Building Permit” shall mean a permit issued pursuant to section 4 of this local law. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

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

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

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Compliance Order” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter Amended from time to time.

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

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

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

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

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

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

“Town” shall mean the Town of Cambria.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

## SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

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

1. To receive, review, and approve or disapprove application for Building Permits, [*Certificates of Occupancy / Certificates of Compliance*], Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;
2. Upon approval of such applications, to issue Building Permits, [*Certificates of Occupancy / Certificates of Compliance*], Temporary Certificates and Operating Permits, and to include in Building Permits, [*Certificates of Occupancy / Certificates of Compliance*], Temporary certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
3. To conduct construction inspections, inspections to be made prior to the issuance of [*Certificates of Occupancy / Certificates of Compliance*], Temporary Certificates and Operating Permits, fire safety and property, maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;
4. To issue Stop Work Orders;
5. To review and investigate complaints;
6. To issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;
7. To maintain records;

8. To collect fees as set by the Town Board of the Town of Cambria;
  9. To pursue administrative enforcement actions and proceedings;
  10. In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the energy Code or this local law; and
  11. To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.
- (B) The Code Enforcement Officer shall be appointed by Town of Cambria Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- (C) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town of Cambria Town Board to serve as Acting Code enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.
- (D) One or more Inspectors may be appointed by the Town of Cambria Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- (E) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of the Town of Cambria.

#### SECTION 4. BUILDING PERMITS

- (A) **Building Permits Required.** Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.
- (B) **Exemptions.** No Building Permit shall be required for work in any of the following categories:
1. Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses).
  2. Installation of swimming pools associated with one- or two-family dwelling or multiple single-family dwellings (townhouse) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
  3. Construction of retaining walls unless such walls support or impound Class I, II or IIIA liquids;
  4. Construction of temporary motion picture, television and theater stage sets and scenery;
  5. Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouse);
  6. Installation of partitions or movable cases less than 5'9" in height;
  7. Painting, wallpapering, tiling, carpeting or other similar finish work;
  8. Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
  9. Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
  10. Repairs, provided that such repairs do not involve (i) the removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

- (C) **Exemption not deemed authorization to perform non-compliant work.** The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- (D) **Applications for Building Permits.** Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
1. A description of the proposed work;
  2. The tax map number and the street address of the premises where the work is to be performed;
  3. The occupancy classification of any affected building or structure;
  4. Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
  5. At least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- (E) **Construction documents.** Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.
- (F) **Issuance of Building Permits.** An application for Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- (G) **Building Permits to be displayed.** Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- (H) **Work to be in accordance with construction documents.** All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- (I) **Time limits.** Building Permits shall become invalid unless the authorized work is commenced within [ 6 ] months following the date of issuance. Building Permits shall expire [ 12 ] months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- (J) **Revocation or suspension of Building Permits.** If the Code Enforcement Officer determines that a Building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and Energy Code.
- (K) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

## SECTION 5. CONSTRUCTION INSPECTIONS.

- (A) **Work to remain accessible and exposed.** Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.
- (B) **Elements of work to be inspected.** The following elements of the construction process shall be inspected made, where applicable:
1. Work site prior to the issuance of a Building Permit;
  2. Footing and foundation;
  3. Preparation for concrete slab;
  4. Framing;
  5. Building systems, including underground and rough-in;
  6. Fire resistant construction;
  7. Fire resistant penetrations;
  8. Solid fuel burning appliances, chimneys, flues or gas vents;
  9. Energy Code compliance; and
  10. A final inspection after all work authorized by the Building Permit has been completed.
- (C) **Inspection results.** After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- (D) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

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

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

authority to pursue any other remedy or impose any other penalty under section 15 (Violations) of this local law or under any other applicable local law or State law. Any such remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order

**SECTION 7. [CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE]**

(A) *[Certificates of Occupancy / Certificates of Compliance]* required. A *[Certificate of Occupancy / Certificate of Compliance]* shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a *[Certificate of Occupancy / Certificate of Compliance]*.

(B) **Issuance of *[Certificates of Occupancy / Certificates of Compliance]*.** The Code Enforcement Officer shall issue a *[Certificate of Occupancy / Certificate of Compliance]* if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a *[Certificate of Occupancy / Certificate of Compliance]*. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the *[Certificate of Occupancy / Certificate of Compliance]*, shall be provided to the Code Enforcement Officer prior to the issuance of the *[Certificate of Occupancy / Certificate of Compliance]*:

1. A written statement of structural observations and/or a final report of special inspections, and
2. Flood hazard certifications

(C) **Contents of *[Certificates of Occupancy / Certificates of Compliance]*.** A *[Certificate of Occupancy / Certificate of Compliance]* shall contain the following information:

1. The Building Permit number, if any;
2. The date of issuance of the Building Permit, if any;
3. The name, address and tax map number of the property;
4. If the *[Certificate of Occupancy / Certificate of Compliance]* is not applicable to an entire structure, a description of that portion of the structure for which the *[Certificate of Occupancy / Certificate of Compliance]* is issued;
5. The use and occupancy classification of the structure;
6. The type of construction of the structure;
7. The assembly occupant load of the structure, if any;
8. If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
9. Any special conditions imposed in connection with the issuance of the Building Permit; and
10. The signature of the Code Enforcement Officer issuing the *[Certificate of Occupancy / Certificate of Compliance]* and the date of issuance.

(D) **Temporary Certificate.** The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to the completion of the work which is the subject of a Building Permit.

However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed [ 6 ] months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of

effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code

- (E) **Revocation or suspension of certificates.** If the Code Enforcement Officer determines that a [*Certificate of Occupancy / Certificate of Completion*] or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- (F) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a [*Certificate of Occupancy / Certificate of Compliance*] or for Temporary Certificate.

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

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

#### **SECTION 9. UNSAFE BUILDING AND STRUCTURES**

Unsafe structures and equipment in the *Town of Cambria* shall be identified and addressed in accordance with the procedures established in Section 1125 of the Zoning Ordinance, as now in effect or as hereafter amended from time to time.

#### **SECTION 10. OPERATING PERMITS.**

- (A) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:
1. Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Table 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;
  2. Hazardous processes and activities, including but not limited to, commercial and industrial operation which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
  3. Use of pyrotechnic devices in assembly occupancies;
  4. Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
  5. Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the *Town Board* of the *Town of Cambria*.

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

- (B) **Application for Operating Permits.** An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such test or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- (C) **Inspections.** The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.
- (D) **Multiple Activities.** In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- (E) **Duration of Operating Permits.** Operating Permits shall remain in effect until reissued, renewed, revoked, or suspended.

- (F) **Revocation or suspension of Operating Permits.** If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- (G) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

#### SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

- (A) **Inspections required.** Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:
1. Fire Safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
  2. Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
  3. Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every *thirty-six (36) months*].
- (B) **Inspections permitted.** In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or and Inspector designated by the Code Enforcement Officer at any time upon:
1. The request of the owner of the property to be inspected or an authorized agent of such owner;
  2. Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
  3. Receipt by the Code Enforcement Officer of any information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

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

- (C) **OFPC Inspections.** Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (öOFPCö) and the New York State Fire Administrator under Executive Law Section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:
1. The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
  2. The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
  3. The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspection of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and
  4. The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.]

- (D) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

## **SECTION 12. COMPLAINTS**

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

- (A) Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (B) If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;
- (C) If appropriate, issuing a Stop Work Order;
- (D) If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction and filing such report with the complaint.

## **SECTION 13. RECORD KEEPING.**

- (A) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:
1. All applications received, reviewed and approved or denied;
  2. All plans, specifications and construction documents approved;
  3. All Building Permits, [*Certificates of Occupancy / Certificates of Compliance*], Temporary Certificates, Stop Work Orders, and Operating Permits, issued;
  4. All inspections and tests performed;
  5. All statements and reports issued;
  6. All complaints received;
  7. All investigations conducted;
  8. All other features and activities specified in or contemplated by sections 4 through 12, inclusive of this local law, including; and
  9. All fees charged and collected.
- (B) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

## **SECTION 14. PROGRAM REVIEW AND REPORTING**

- (A) The Code Enforcement Officer shall submit to the Town Board of the Town of Cambria a monthly written report and summary of all business conducted by the Code Enforcement Office and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.
- (B) The Code Enforcement Officer shall annually submit to the Secretary of State on behalf of the Town of Cambria, on a form prescribed by the Secretary of State, a report of the activities of the Town of Cambria relative to administration and enforcement of the Uniform Code.
- (C) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide the New York State Department of State, from the records and related materials the Town of Cambria is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town of Cambria in connection with administration and enforcement of the Uniform Code.

## SECTION 15: VIOLATIONS

- (A) **Compliance Order.** The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by [*registered mail / certified mail*]. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or agents, or any other Person taking part or assisting in work being performed at the affected property personally or by [*registered mail / certified mail*]; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.
- (B) **Appearance Tickets.** The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- (C) **Civil Penalties.** In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, [*Certificate of Occupancy / Certificate of Compliance*], Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town of Cambria.
- (D) **Injunctive Relief.** An Action or proceeding may be instituted in the of the Town of Cambria, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, [*Certificate of Occupancy / Certificate of Compliance*], Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of the Town of Cambria, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of this building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of the Town of Cambria.
- (E) **Remedies Not Exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be Opursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of the local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with or after pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

## SECTION 16: FEES

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



## TOWN CLERK REPORTS

The Town Clerk reported receipt of the following:

Town Clerk Reports:

- Town Clerk Report April: Total Receipts: \$75,441.72
- Building Inspector Report April: Total fees collected: \$ 716.00  
Total estimated value of construction: \$6,000.00

---

***In April the Town Clerk received an incorrect Monthly Building Inspector Report and it was recorded on the April 10, 2014, Town Board minutes as follows:***

- Building Inspector Report March: Total fees collected: \$ 1,530.00  
Total estimated value of construction: \$1,500.00

***In May, an amended report was received from the Building Inspector's office and the correction should be noted as follows:***

- Building Inspector Report March: Total fees collected: \$ 1,530.00  
Total estimated value of construction: \$15,000.00

## HIGHWAY / WATER SEWER REPORTS

The Highway Superintendent, Jon MacSwan, reported as follows:

*In 2004, the FCC (Federal Communications Commission) mandated that all private land mobile radio systems including municipal government and state and local public safety systems migrate to narrow-banding systems. Most current public safety radio systems use 25 kHz and the new mandate will move this to 12.5 kHz. Using narrowband channels will ensure that agencies take advantage of more efficient technology and, by reducing channel width, it will allow additional channels to exist within the same spectrum space*

- The Highway Department is in receipt of the first batch of narrowband programmed radios supplied by the County. Additional radios will be received upon completion of programming. The installation of the radios must be performed by a licensed installer, therefore, municipal vehicles and equipment will be furnished with them as soon as the County chooses a licensed installer.

Councilman Foe asked if the radios will be installed in mobile equipment / vehicles. Mr. MacSwan indicated that they will be installed in roadside mowers and pick-up trucks. He will look into installation in other equipment as a safety precaution.

- The EPA (Environmental Protection Agency) conducted their first inspection at the Municipal Building. No violations were reported. Mr. MacSwan and Supervisor Ellis have copies of the inspection report on file.
- Five new trees were planted in the Town Park, three of which are memorial trees.

Supervisor Ellis inquired as to the status of the disputed Cummins Northeast invoice (generator service). Mr. MacSwan reported that the issue is being resolved and the Town will be receiving a credit. Councilman Foe asked if he would renew the service contract with this vendor when it expires. Mr. MacSwan indicated that he would consult the Town Attorney. The generator has a computerized system so any company considered will have to be qualified to work on such a system.

## WATER / SEWER

Mr. MacSwan indicated that a water leak was identified at BOCES located on Saunders Settlement Road. The water department employees were able to isolate the leak by shutting down certain sections of the water line and then reading the meters. Once the isolated branch was located, Lockport came out to the site with their detection equipment and it was able to pinpoint the location leak within the branch. It is scheduled to be fixed on Saturday.

## TOWN POLICY/PROCEDURES REVIEW COMMITTEE

Councilman Foe indicated that the Town Policy and Procedures Review Committee will meet soon to clean up some loose ends while waiting for the Comprehensive Review Committee's recommendations.

## ATTORNEY REPORTS

No reports presented.

## CONCERNS OF CITIZENS

There was no one present desiring to be heard on any particular matter.

## RECREATION

Sally Marotta-Reed, Recreation Director reported as follows:

### Town Park

- Three quotes were received for outfield fence for baseball diamond number two. The lowest quote was from Fox Fence and Mrs. Reed is recommending the Town Board accept this proposal.
- Veteransø Memorial area at the Town will need flowers and foliage in order to separate this area from the residentø yards. She will be considering utilizing volunteers, such as cub scouts, boy scouts and summer recreation workers to help with the upkeep.
- Exploring Miracle Recreation Equipment for the purchase of swings to add to the playground equipment currently installed. As this company was the original supplier and installer of the equipment, Mrs. Reed would like to continue using their services. If swings are purchased this year, wood chips may have to be used underneath for safety and to stay within budget, however, she will plan to allocate funds for next year to purchase crushed rubber to replace the chips.
- The Baseball Diamond/Soccer Field striping paint is running low. The cost of the paint has increased since the last purchase and Mrs. Reed is exploring her options relating to cost effectiveness and compatibility with striping machine.
- Soccer shots is in its third week and is well attended considering the weather. Soccer benches have been purchased and will be installed soon.
- Recommending some sort of surveillance in the Town Park to cut down on the vandalism.

Councilman Ohol recommended the gates to the park be closed in the evening to curtail the vandalism. Mr. MacSwan indicated that people will go around the gates. Mrs. Reed said she would close the gates at dusk and open them at dawn if need be. Michelle Kauhler, Diller Road, offered suggestions to address this issue. A brief discussion ensued, and it was agreed that all options with regard to decreasing vandalism at the Town Park will be investigated.

- A Town resident is interested in selling concessions at the Town Park during tournaments, etc. He has 30 yearsø experience in the restaurant business. Mrs. Reed requested he develop a contract between he and the Town for the Town Board and Town Attorney to review.

### Summer Recreation

- In the hiring/re-hiring process for summer employees. Mrs. Reed is developing several training programs for the workers including safety and first aid.

## EMPLOYEE BENEFIT ACCRUED LIABILITY RESERVE FUND

Supervisor Ellis explained that the purpose of the Employee Benefit Accrued Liability Reserve Fund is to accumulate monies to pay for any accrued employee benefit due an employee on termination of the employeeø services. At the present time there is no way to set money aside for those who plan to retire, etc.

RESOLVED, by the Town Board of the Town of Cambria, that pursuant to section 6-p of the General Municipal Law, there is hereby established a reserve fund to be known as the øemployee benefit accrued liability reserve fundö (hereinafter øreserve fundö). The purpose of this reserve fund is to accumulate monies to pay for any accrued employee benefit due an employee on termination of the employeeø services. Expenditures from this reserve fund are authorized for the payment of all or part of the cost, of:

- (A) the cash payment of the monetary value of accumulated or accrued and unused sick leave, holiday leave, vacation leave, time allowance granted in lieu of overtime compensation and other forms of payment for accrued leave time and benefits due to municipal employee upon termination of municipal employment and separation from service ðas required by ordinance, local law, collective bargaining agreement or Section Six of the Civil Service Lawö
- (B) the reasonable cost of the administration of the reserve fund
- (C) expert professional services rendered in connection with the investigation, adjustment or settlement of claims, actions or judgments relating to claims for accrued employee benefits.

The Chief Fiscal Officer is hereby directed to deposit and secure the monies of this reserve fund in a manner provided by Section 10 of the General Municipal Law. The Chief Fiscal Officer may invest the monies in the reserve fund in the manner provided by Section 11 of the General Municipal Law, and consistent with the

investment policy of the Town Board of the Town of Cambria. Any interest earned or capital gains realized on the money so deposited or invested shall accrue to and become part of the reserve fund. The Chief Fiscal Officer shall account for the reserve fund in a manner which maintains the separate identity of the reserve fund, shows the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdraw from the fund and the total assets of fund, showing cash balance and schedule of investments, and shall, at the end of each fiscal year, render to the Board a detailed report of the operation and condition of the reserve fund.

No expenditure shall be made from the reserve fund for any employee benefit for which a reserve fund has already been established under any other provision of law. However, if Town of Cambria has previously established a reserve fund for a type of accrued employee benefit for which expenditures may be made from the Employee Benefit Accrued Liability Reserve Fund, the Town Board may, by resolution, discontinue such other reserve fund and transfer any unexpended balance to this reserve fund, subject to limitations imposed by law.

Except as otherwise provided by law, expenditures for this reserve fund shall be made only for the purpose for which the reserve fund is established. No expenditure shall be made from this reserve fund without the approval of the Town Board and such additional actions or proceedings as may be required by section 6-c [6-p] of the General Municipal Law and any other law.

**Upon a motion duly made by Councilman Ohol and seconded by Councilman Foe, it was resolved to approve the resolution establishing Employee Benefit Accrued Liability Reserve Fund.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts**

**-Motion Carried-**

Councilman Foe noted that the Town Board recognized that some Town employees are approaching retirement age and the Town must be prepared to appropriately fund those employees at retirement time without having to use other funds to do so.

#### **CHIPS FUNDING -The Consolidated Local Street and Highway Improvement Program**

Supervisor Ellis reported that he is in receipt of a letter from the State of New York indicating that funding for the CHIPS program has increased by \$7,960.98 making the total amount \$78,627.78.

#### **PROCUREMENT POLICY OUTFIELD FENCING AROUND BASEBALL DIAMOND #2**

Three proposals were received for the installation of outfield fencing around baseball diamond # 2 at the Town Park. The lowest proposal was received by Fox Fence in the amount of \$10,396.00. This was \$1,080.00 less than budgeted.

**Upon a motion duly made by Councilman Hurtgam and seconded by Councilman Roberts, it was resolved to accept the proposal from Fox Fence 2637 Lockport Rd., Niagara Falls, NY, in the amount of \$10,396.00 for the installation of outfield fencing around baseball diamond # 2 at the Town Park.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts**

**-Motion Carried-**

#### **PROCUREMENT POLICY LASER INSTRUMENT FOR EXCAVATOR**

Three proposals were received for the purchase of a laser instrument for the excavator. It is the recommendation that proposal from Admar for a TopCon Laser and Tripod in the amount \$2,050.00. This is not the lowest price by \$55.00. The justification for not taking the lower proposal is that this model has rechargeable batteries and can run on standard D batteries if needed and is self-leveling. A brief discussion ensued.

**Upon a motion duly made by Councilman Foe and seconded by Councilman Roberts, it was resolved to accept the proposal from Admar, 1394 Military Rd., Buffalo, NY, for a TopCon Laser and Tripod in the amount \$2,050.00 for excavator.**

**Ayes: Ellis, Foe, Hurtgam, Ohol, Roberts**

**-Motion Carried-**

#### **ADJOURNMENT**

The meeting was adjourned by motion made by Councilman Foe and seconded by Councilman Roberts.  
Time: 9:00 pm

Respectfully submitted,

Tamara J. Cooper  
Town Clerk