

II. Attorney

April 20, 2006

**Hon. Mayor and Common Council
City Hall, 216 Payne Ave.
North Tonawanda, NY 14120**

**RE: Local Law #2 for 2006 – Providing for the Registration of Certain
Convicted Sex Offenders within the City of North Tonawanda**

Dear Honorable Body:

Attached for your consideration is Local Law No. 2 for 2006, to provide for registration of convicted sex offenders within the City of North Tonawanda. This local law is designed to fill certain gaps in the state law and to provide protections for residents of the City as well as assistance for employers to protect children who may come into proximity with sex offenders in the scope of employment.

As with all local laws, it is necessary that this local law be formally laid on the table for a period of at least 7 days, wherein it must stay in its final form prior to adoption by the Common Council. After such adoption, this local law must be referred to the mayor's office for a public hearing on its provisions. After said public hearing and formal filing with the Secretary of State, this local law will become effective.

Consistent with state law then, the appropriate motion for today's action would be to formally lay this Local Law on the table and allow it to remain so in its final form for at least seven (7) days prior to adoption.

**Very Truly Yours,
Shawn P. Nickerson
City Attorney**

**MOVED by Alderman Brick SECONDED by Alderman Sommer
That the Common Council Lays Local Law #2 for 2006 on the table for seven days.**

Chapter 74A

1. The Common Council of the City of North Tonawanda finds that one of the highest priorities of local government is the protection of the health and safety of its citizens. This is especially true of children and other vulnerable members of society. The Common Council further finds that convicted sex offenders pose a significant continuing risk to society. Moreover as the tragic murder of Jessica Lunsford in Florida in spring, 2005, and other such events have shown, recidivism among convicted sexual offenders is a continuing problem.

Recently, residents of the city have been advised that there are residing in the city of number of convicted sex offenders. At least some of these sex offenders have registered as required by Article 6-C of the Corrections Law of the State of New York, commonly known as Megan's Law. Some of these individuals have been categorized by the state Department of Corrections as Level II sex offenders who have been determined to be of moderate risk of committing another sex crime. Some of these individuals have been categorized as Level III sex offenders who have been determined to be of a high risk to commit another sexual crime. However, the Common Council finds that some sex offenders fail to register or fail to update their registration information when they move from one location to another.

The Common Council finds that the protection of the victims and potential victims of sexual offenders in North Tonawanda is a matter of unique local concern not fully and adequately addressed by state law. The Common Council finds that the disclosures required and the limitations contained herein will protect the citizens of North Tonawanda and will provide to employers who contract with North Tonawanda information that will assist these employers in protecting children who may come into proximity with a sex offender in the scope of employment.

The Common Council finds that the City of North Tonawanda has not assessed and cannot

assess the risk of recidivism of any particular sex offender or class of sex offenders and has made no determination of dangerousness of any particular sex offender or class of sex offenders. Rather, the council finds that this local law is remedial in nature and designed to fill certain gaps in state law as well as to provide protections for residents of the city who receive certain services from the city. The council further finds this local law to be the most narrowly tailored means of fulfilling its compelling interest in the safety of its citizens. Finally, the council does not intend for any person to use the information required by this chapter to harm or injure any registrant under the law.

74A-2. DEFINITIONS.

ADULT – Any person 17 years of age or older.

CHILD or CHILDREN – Persons under 17 years of age. The singular and plural shall include one another. If the applicable statute defining a crime against a child refers to a child younger than 18, the younger age shall control.

DAY CARE – Any lawful form of care for a child, as defined by Federal and State law and regulation, for less than twenty-four hours per day.

DEPARTMENT OF CORRECTIONS – New York State Department of Corrections.

EMPLOYER – Any individual, partnership, association, corporation, business trust, legal representative or organized group of persons paying wages or any form of compensation to any person for services that directly or indirectly benefit the individual, partnership, association, corporation, business trust, legal representative or organized group of persons.

EXTENDED STAY ESTABLISHMENT – Any hotel, motel, rooming house, inn, rooming unit, bed and breakfast, residence in, country inn, motor court, R-V park or motor lodge that lets or provides any space for occupancy by any person. Any place of business that provides services or utilities to motor-homes, recreational vehicles, trucks with campers or any other motor vehicle in which an individual does or may sleep overnight is an **EXTENDED STAY ESTABLISHMENT** under this chapter.

HIS – His or her.

HOMELESS ADULT – Any adult who has been in the City of North Tonawanda for more than 24 hours or intends to be in the city for more than 24 hours without residence or place of lodging.

HOMELESS SHELTER – Any structure that provides temporary housing to a homeless adult.

INTERNET – An interactive computer service or system or an information service, system or access software provider that provides or enables computer access by multiple users to a computer server and includes, but is not limited to, an information service, system or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to, a World Wide Web page, newsgroup, message board, mailing list, or chat area on any interactive computer service or system or other on-line service. The NTPD website shall mean any Internet site made available by the NTPD to the public, including any link to the website of the City of North Tonawanda.

NTPD – The North Tonawanda Police Department.

OUTSIDE NEW YORK – Anywhere outside the geographical borders of the state of New York or any federal enclave, Indian trust lands or reservations located inside the geographical borders of New York.

REGISTRANT – Any person required to register under this chapter.

REGISTRATION YEAR – Any year from the date of first registration under this chapter.

RESIDENT – Any person who (1) lives in the City of North Tonawanda in any apartment or home, (2) has a usual place of abode in the City, (3) is domiciled in the City or (4) temporarily present in the City and staying at a homeless shelter or an extended stay establishment.

RESPONSIBLE ADULT – An adult who is not a sex offender.

SCHOOL – A licensed or accredited public, charter, private or religious school that offers instruction to students in pre-school through any grade up to grade twelve.

SEX OFFENDER – Shall have the same meaning as the term is defined in Sec. 168-a(1) of the Corrections Law of the State of New York.

SEX OFFENSE – Shall have the same meaning as that term is defined in Sec. 168-a(2) of the Corrections Law of the State of New York.

SEX OFFENDER VIOLATION – A violation of any law defined as a sex offense of the Corrections Law of the State of New York.

74A-3. REGISTRATION REQUIREMENTS FOR SEX OFFENDERS.

(A). Sex offenders who reside in the City of North Tonawanda and who are required to register with the Department of Corrections pursuant to Article 6-C of the Corrections Law of the State of New York must register with the North Tonawanda Police Department.

(B). A sex offender must register with the North Tonawanda Police Department within ten days after being released from incarceration, or ten days from the date of sentencing if not incarcerated for a sex offender violation. A registrant under this section must provide the North Tonawanda Police Department with the following information:

- (1). His legal name, any other names or aliases he has used or is using and any new names he has applied for in the last year.
- (2). His date of birth.
- (3). His social security number.
- (4). His current address, the address of any other residences he owns or the address of any other real property he owns or leases and the address of any other locations or places of lodging where the sex offender intends to stay or does in fact stay for more than three consecutive days at any time or an aggregate of ten or more days in a registration year. Homeless shelters and extended stay establishments must be included in the disclosure required pursuant to this paragraph. Pursuant to this paragraph, the registrant must provide a description and location of any and all rented or owned spaces to which the registrant claims a right to privacy or a right to exclude others including but not limited to storage buildings.
- (5). His place of employment and the name and telephone number of a contact person who knows his location at any and all times during employment hours or other times he performs work in the scope of his employment duties.
- (6). His driver's license number and the license plate number, vehicle identification number and description by make and model of all vehicles registered to him, owned by him, driven by him during employment or otherwise available to him with regularity by consent from another.
- (7). A list of any and all sex offense violations of which he has been convicted or to which he has entered a plea of guilty.

(C). As an alternative to the registration information to be gathered in Paragraph B above, the North Tonawanda Police Department may rely on such information as is gathered and provided by the State of New York to the City of North Tonawanda pursuant to Article 6-C of the Corrections Law of the State of New York.

74A-4. – REGISTRANT REGULATIONS.

(A). Any sex offender who provides inaccurate information to the NTPD commits a separate violation of this chapter.

(B). In the event of any change in registration information or addition of new information that would have been required in the initial or subsequent registration other than a change of address or employment governed by paragraphs (c) or (d) below, the registrant must notify the NTPD and provide new valid information within ten days after the change.

(C). A sex offender who is required to register under this chapter and elects to change the address of any place of lodging including but not limited to a residence, extended stay establishment or homeless shelter, must notify the NTPD of the prospective change within ten days after the change occurs.

(D). A sex offender who is required to register under this chapter and changes his place of employment, must notify the NTPD ten days after the voluntary change. Sex offenders must provide the name and telephone number of a new contact person within ten days of the time new work begins.

(E). When a sex offender registers under this chapter, NTPD may take and retain their photograph and a set of fingerprints. Additionally, NTPD may record and retain the person's shoe size, a DNA sample, dental imprints and a description of tattoos, scars and other identifying features that would assist in identifying the sex offender, as determined by the NTPD. As an alternative, the NTPD may rely on DNA and other identifying information on data bases provided by the State of New York.

(F). Following the initial registration, registrants, except homeless adults, are required to annually renew the registration annually, as arranged by the NTPD. Homeless adults residing from time to time in homeless shelters must verify registration data in writing every 90 days as long as they are in town on a form provided by the NTPD. Sex offenders who have been convicted of two or more sex offenses must register for life.

74A-5. NOTIFICATION.

NTPD shall maintain a local registry of sex offenders registered under this chapter. The City of North Tonawanda will maintain a data base of sex offenders distinct from any registry of sex offenders maintained by the State of New York. Registration under any registration program maintained by the State of New York does not exempt a sex offender from registration under this chapter. The City of North Tonawanda will make available and disseminate sex offender registration information as authorized by New York law.

74A-6. GENERAL PROVISIONS AND OFFENSES.

(A). **Address Verification Checks.** NTPD may conduct address verification checks to substantiate that registrants are living where they claim to live. The check shall verify that the registrant in fact lives at the claimed address. If the NTPD is unable to verify the address, the registrant may be prosecuted pursuant to this chapter and Corrections Law §168. NTPD may contact and interview any person living or located near the claimed address. The provisions of this paragraph are in addition to any other lawful investigation NTPD may undertake.

(B). **Sex Offender Location.** After the effective date of this chapter, sex offenders shall not newly occupy any real property, acquire any real property by lease or otherwise or establish a place of lodging within one-quarter of a mile radius of a school, day care center, playground or park.

(C). Within five days from the effective date of this chapter, a sex offender employed by an employer located in the City of North Tonawanda shall notify his current employer that he is a registered sex offender. At the time a sex offender applies or receives an offer of employment by an employer where the sex offender will be working substantially within the City of North Tonawanda, the sex offender shall notify the employer that he is a registered sex offender. All sex offenders shall provide the employer or prospective employer with the current conditions of probation in writing including, if applicable, any conditions of probation that require the sex offender to stay away from vulnerable populations or conditions the sex offender's contact with vulnerable populations.

74A-7. IMMUNITY.

Nothing in this chapter creates or shall create a cause of action against the City of North Tonawanda not already authorized under existing law. Without limitation, the city is not liable to any person harmed who claims that notice under this chapter may have prevented the harm.

74A-8. PENALTY.

Each violation of this chapter by a sexual offender shall be punishable by a fine of \$250.00 and/or fifteen (15) days in jail. Each day that a registrant should have registered or supplemented his registration, but failed to do so, shall constitute a separate offense. It is the intent of the common council that violations of this chapter should not be treated by the courts

a lesser included offenses that merge into a violation of Article 6-C of the Corrections Law of the State of New York. The city shall also be entitled to injunctive relief to enforce the provisions of this chapter.

Section 2: Effective date. This local law shall take effect after filing with the Secretary of State as required by Section 27 of the Municipal Home Rule Law.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

VII. Accountant

April 27, 2006

Honorable Lawrence V. Soos, Mayor
and Common Council
City Hall
North Tonawanda, New York 14120

Dear Honorable Body:

In accordance with Article V, Division 1, Section 5.002 and 5.003 of the City Charter, an Abstract Sheet, comprised of a Warrant of Claims, has been submitted by this office for your review and approval.

Accordingly, please authorize for payment the current Warrant of Claims for Common Council audit, dated May 3, 2006, and further authorize the Mayor and City Clerk to respectively sign and countersign said Warrant.

Very truly yours,
David R. Jakubaszek
City Accountant

MOVED by Alderman Brick

SECONDED by Alderman Donovan

That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated May 3, 2006 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$218,442.07
02	Water Fund	41,079.22
04	Sewer Fund	79,816.56
06	Capital Project Fund	62,595.45
07	Trust & Agency Fund	4,318.18
08	Community Development	781.81
10	Economic Development Loan	21,811.20
11	General Fund Encumbered	1,146.99
16	Action Grant Urban Development	7,389.00
19	Bishop Gibbons	<u>1,600.00</u>
	Final Total	<u>\$438,980.48</u>

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

XVII. Traffic Safety Committee

April 25, 2006

Hon. Mayor and City Council
City Hall, 216 Payne Avenue
North Tonawanda, NY 14120

Re: Traffic Safety Committee Recommendations**Dear Honorable Body:**

The Traffic Safety Committee met on Monday, April 17, 2006 and approved the following requests (copy of minutes attached):

- 1) A request for a "Handicap Parking" sign on Ransom Street near the side entrance of 379 Niagara due to a legally blind resident living at that address. The Committee recommends that the space be no larger than that which is needed for one handicapped van.
- 2) A request from Ohio Street School for a "No Parking or Standing from 8 AM to 5 PM on School Days" to be installed on the north side of Ohio Street from Abington Drive to 620 Ohio Street.
- 3) A request from Pane's Restaurant to extend the 15 minute parking area on the north side of Sixteenth Avenue to extend east and end 20 feet from Payne Avenue.

The Committee recommends that the above requests be granted and if you concur please authorize the Department of Public Works Traffic Division to erect the signs accordingly.

Very truly yours,
 Thomas R. Tussing
 Traffic Safety Committee Chairman

MOVED by Alderman Sommer**SECONDED by Alderman Brick**

That the Common Council hereby authorizes the Department of Public Works to erect a "Handicap Parking Sign" on Ransom Street near the side entrance of 379 Niagara due to a legally blind resident living at that address. The Committee recommends that the space be no larger than that which is needed for one handicapped van. The Common Council Tables the remaining two recommendations from the Traffic Safety Committee for further study.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer**(5)****Nays: None****(0)****CARRIED.****XIX. Building Inspector****To: Mayor and Common Council****Date: April 3, 2006**

From: Cosimo R. Capozzi
Building Inspector

Re: Weed Cutting Contract

Attached please find copies of bid proposals received by this department for brush and weed cutting of private property for the 2006 season.

We sent fourteen (14) requests for bid quotations to local landscaping contractors, see enclosed sample copy of request and list of contractors. Requests were sent on January 27, 2006, with a March 1, 2006 deadline for response.

As of today we have received one bid proposal for grass cutting and clean up of private property. I therefore request that the 2006 weed contract be awarded to Deering Landscape Contractors of 310 Warner Avenue, North Tonawanda.

Please put this on the agenda for resolution of approval.

Cosimo R. Capozzi
Building Inspector

MOVED by Alderman Rizzo**SECONDED by Alderman Brick**

That the Common Council hereby awards the contract for weed cutting to Deering

Landscape Contractors, 310 Warner Avenue, North Tonawanda pending approval by the City Attorney.

Ayes: Brick, Rizzo, Schwandt, Donovan, Sommer (5)

Nays: None (0)

CARRIED.

XXV. Monthly Reports

.1 Treasurer

.2 Treasurer Investments

MOVED by Alderman Rizzo

SECONDED by Alderman Schwandt

That the Common Council hereby receives and files the aforementioned Monthly Reports.

CARRIED.

COMMUNICATIONS FROM OTHERS

A.

Columbia Hook & Ladder - Re: Removal from Fire Rolls

Steven D. Hume

MOVED by Alderman Schwandt

SECONDED by Alderman Brick

To remove Steven D. Hume from the City Fire Rolls.

CARRIED.

B.

Habitat for Humanity

April 28, 2006

Mr. Thomas M. Jaccarino

City Clerk of North Tonawanda

216 Payne Avenue

North Tonawanda, New York 14120

Re: Niagara Area Habitat for Humanity, Inc. and
1444 Sherwood Avenue, North Tonawanda, NY

Dear Mr. Jaccarino:

Niagara Area Habitat for Humanity, Inc. previously received a waiver of certain permit fees from the City of North Tonawanda pursuant to a Common Council resolution on February 15, 2006. It applied for the permits on April 27, 2006 as we are about to proceed.

At a meeting with Mr. David Martin, the Plumbing Inspector, he inquired whether this waiver would cover any permit fee(s) that might be required if it were necessary to connect a new water line to the main in Sherwood Avenue. As none of us had contemplated that, we would request a waiver of that fee and any other fees that may be required to start, build and furnish this home.

For the Council's information, there is overwhelming support for this project as soon as all the permits are issued and demolition is to begin, we will advise the Council members as we want to invite the individual members to a modest ground breaking.

We certainly appreciate their consideration in this regard.

Very truly yours,
Brick, Brick & Elmer, P.C.
Daniel E. Brick, Esq.

