

REGULAR MEETING OF THE COMMON COUNCIL

Tuesday, November 10, 2020

via Zoom – 6:30 p.m.

1. ROLL-CALL

2. INVOCATION

3. PLEDGE

4. READING, CORRECTING, AND APPROVAL OF THE MINUTES OF THE PREVIOUS REGULAR MEETING:

“The Regular Meeting of the Olean Common Council was held on Tuesday, October 27, 2020 at 6:45 p.m.”

PRESENT: Aldermen Gonzalez, Witte, Panus, Dougherty, Crawford, Robinson, and Anastasia

ABSENT: None

OFFICIALS: Mayor William Aiello; Lens Martial, City Clerk; Nicholas DiCerbo, Jr., City Attorney; Keri Kerper, Community Development Program Coordinator; Bob Ring, Director of Public Works; Jeff Rowley, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

5. COMMITTEE REPORTS AND UNFINISHED COUNCIL BUSINESS

Report from Public Safety Committee on PL #61-20, to amend the City of Olean Code of Ordinances Chapter 12, Housing Code, to include Article VI, Short-Term Rental Registration and Licensing. Committee recommends approval. Referred to City Attorney for Resolution.

Report from Public Safety Committee on PL #68-20, to amend the City of Olean Code of Ordinances Section 24-81 to include a 20 mph speed limit on portions of Main Street and Hamilton Avenue when school is in session. Committee recommends approval. Referred to City Attorney for Resolution.

Report from Public Safety Committee on PL #69-20, to authorize the installation of school zone, speed reduction and pedestrian crossing signs on Main Street and Hamilton Avenue in the vicinity of the Boardmanville School building. Committee recommends approval. Referred to City Attorney for Resolution.

6. COMMUNICATIONS FROM THE MAYOR

7. MISCELLANEOUS COMMUNICATIONS

Renewal of a Liquor License – Steven J. Marra AAZA Inc, (Tito’s Restaurant) – 310 West State Street, Olean

8. CITY OFFICIAL REPORTS

Monthly Report of the City Auditor – month ended October 2020

9. PROPOSED LEGISLATION & REFERRALS

PL #71-20: (Crawford) To amend the City of Olean Charter Article III, Division 4, to include Section 3.090 containing specifications for the City Auditor. *Referred to Strategic Planning Committee by Council President.*

PL #72-20: (Aiello) To authorize the transfer of funds from General Fund Contingency to line item 1680.443 for costs associated with Zoom Meetings. *Referred to Regular Meeting Tuesday, November 10, 2020 for Resolution by Council President.*

10. PUBLIC COMMENT/INPUT (5 MINUTE LIMIT PER SPEAKER)

11. FINANCE-BILLS

12. RESOLUTIONS

RESOLUTION #76-20

PL #49-20

By Alderman Witte, Seconded by Alderman Robinson

TO AMEND THE CITY OF OLEAN CODE OF ORDINANCES CHAPTER 15, NOISE

RESOLVED, that the City of Olean Code of Ordinances is hereby amended as follows:

Chapter 15. Noise

Article I. Noise Declaration

Sec 15-1. Declaration of policy.

It is hereby declared to be the policy of the City to reduce the ambient noise level in the City, so as to preserve, protect and promote the public health, safety and welfare and the peace and quiet of the inhabitants of the City, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants and facilitate the enjoyment of the natural attractions of the City. It is the public policy of the City that every person is entitled to ambient noise levels that are not detrimental to life, health, and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive or unreasonable noises with the City affects and is a menace to the public health, comfort, convenience, safety, welfare and the prosperity of

the people of the City. The provisions and prohibitions hereinafter contained and enacted are for the above-mentioned purpose.

Article II. Time Frame

Sec 15-2. Defined Time Frame.

The hours between 7:00 a.m. and 10:00 p.m., except Friday and Saturdays, when the evening hours shall be 11:00 p.m.

Article III. Ambient Noise Definition & Interpretation of Unnecessary Noises

Sec 15-3. Ambient Noise Definition.

Any noise associated with the natural sounds surrounding that environment and can be from near and far.

Sec. 15-4. Interpretation of Loud & Unnecessary Noises

1. Any **loud, unnecessary, unreasonable, and unusual noises** that disturb the peace or quiet within the geographical boundaries of the City of Olean, or which cause discomfort or annoyance to any reasonable person of normal sensitivity.
2. Motor Vehicles - (Automobiles, Motorcycles, Bus or other vehicles)
 - a) Engine Revving & Tire Squealing - The operating of a motor vehicle or motorcycle in such a manner as to cause unreasonable noise by excessive spinning or squealing noise of the tires or by causing the engine/motor of such vehicle or motorcycle to rev producing excessive motor roar.
 - b) Radio - The playing of any radio, music player, or audio system in a motor vehicle at such volume as to disturb the quiet, comfort or repose of other persons. The operation of any of the above in such a manner as to be plainly audible from the vehicle at which it is located shall be prima facie evidence of a violation of the chapter.
3. Lawn Care Machinery
 - a) Any lawn care equipment run by gas/fluids and otherwise muffled.
 - (1) Operation of lawn care machinery to include: lawn mowers, lawn tractors, trimmers, edgers, power-driven hedge shears, leaf blowers and other lawn care power machines shall NOT be used between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Saturday.
 - (a) Golf courses are exempt from these provisions.

- (b) Operations of city, county, state or other governmental equipment otherwise in compliance are exempt from these provisions.

4. Animals

- a) No animal or bird owner shall permit any animal to cause annoyance, alarm or noise disturbance for more than fifteen (15) minutes at any time of the day or night by repeated barking, whining, bellowing, crying, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owners property.

5. Public Disturbances

- a) Shouting and crying of peddlers, hawkers and vendors, which disturb the peace and quiet of the neighborhood.
- b) Yelling, shouting, hooting, whistling or singing on public streets shall NOT be allowed between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Saturday, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

6. Musical Instruments & Devices

- a) No person shall operate or play any radio, phonograph or any musical instrument in such manner or with such volume at any time, shall NOT be allowed between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Saturday, or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.
- b) No person shall use or operate any musical instrument or device such as steam whistles, horns, gongs, and bells (church bells are exempt) which disturbs the quiet or repose in the vicinity thereof.
- c) No person shall use, operate or be permitted to be played, used or operated any radio receiving set, musical instrument, broadcasters, loud speakers, amplifiers, sound producing instruments, or other machine or device in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.

7. Construction/Demolition

- a) Any person erecting (including excavating) demolition, grading, alteration or repair of any building, shall NOT be allowed between the hours of 10:00 p.m. and 7:00 a.m.

Sunday through Saturday unless specially permitted by the Department of Public Works.

- b) Any person operating any pile driver, pneumatic hammer, dredging, derrick, steam or electric hoist or other such appliance, the use of which is attended by loud or unusual noise, shall NOT be allowed between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Saturday unless specially permitted by the Department of Public Works as emergency work.
- c) Any person desiring to engage in the aforesaid activity beyond the stated hours of limitations, based upon cases of urgent necessity or upon the interests of public health, safety, and convenience, may apply to the Department of Public Works for a special permit allowing such activity. The Department of Public Works shall weigh all facts and circumstances and shall determine whether the reasons given for the urgent necessity are valid and reasonable, whether the public health, safety and ultimate convenience will be protected or better served by granting the permit requested and whether the manner and amount of loss or inconvenience the the party in interest imposes a significant hardship.
 - (1) The permits, if granted, shall be limited to a period of up to three (3) days duration.
 - (2) The permits may be renewed for additional periods of up to three (3) days each if the emergency or need continues.

8. Fireworks

- a) Existing Law - NYS Article 405 Penal Law - Licensing and other Provisions Relating to Fireworks
http://ypdcrime.com/penal.law/article405.htm?zoom_highlight=fireworks

9. Local Taverns, Bars, Pubs, Restaurants with outdoor spaces

- a) All businesses that fall under this provision are allowed operation with a 2 a.m. curfew.

Article IV. Distance Limitation

Sec 15-5. Distance Limitation - Prima facie

Any loud, unnecessary, unreasonable, and unusual noises which is plainly audible off the premises from which the sound originates and from a distance of at least fifty (50) feet from the source of such sound or building or structure from which such sound originated during the hours of 10:00 p.m. and 7:00 a.m., shall be prima facie evidence that such sound is unreasonable noise.

Article V. Exemptions

Sec 15-6. Exemptions from Chapter

1. The provisions of this chapter shall NOT apply to noise generated by police department, law enforcement agency, code enforcement, and health department.
2. The provisions of this chapter shall NOT abridge or be construed to abridge the powers and responsibilities of any police department, law enforcement agency, code enforcement, and health department.
3. The provisions of this chapter shall NOT apply to noise generated by municipality-sponsored concerts or permitted special events, as well as noise generated by events held at or within the confines of stadiums, arenas, parks, or fields designed specifically and primarily for sporting events and which are open to the public.
4. The provisions of this chapter shall NOT apply to or construed to prevent the production of music in connection with any military, civic, or authorized parade, funeral procession, or religious ceremony, nor to prevent any musical performance or fireworks displays conducted under the consent of municipal authorities, or noncommercial events conducted by the national, states, county, or municipal government.
5. The provisions of this chapter shall NOT abridge or be construed to abridge the responsibilities of any trash or debris collection agency including the handling of trash, garbage cans, either loading or unloading and whether full or empty within the City of Olean.
6. The provisions of this chapter shall NOT abridge or be construed to abridge the responsibilities of local business deliveries & operations within the City of Olean.

Article VI. Peace Order

Sec 15-7. Peace Order – Schools, Hospitals, Courts, Places of Religion

1. The operation of any sound-producing device or noise within two-hundred fifty (250) feet of any school, institute of learning, hospital, healthcare facility, clinic, courthouse, church, religious service, funeral, burial or memorial service, while the same is in session or conducting business therein to the safety and welfare of the public is prohibited and considered a violation of this chapter.
2. The provision of this chapter shall NOT abridge or be construed to abridge nor infringe upon the right to assemble.

Article VII. Penalties

Sec 15-8. Penalties for Offenses

1. First offense - Verbal Warning with acknowledgement of understanding the ordinance.

2. Second & subsequent offense - A \$100 fine. Fine shall not be suspended, waived, or otherwise reduced below this amount.

RESOLVED, that this Resolution is hereby effective immediately.

RESOLUTION #88-20

PL #72-20

By Alderman _____, Seconded by Alderman _____

RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS FROM GENERAL FUND CONTINGENCY TO LINE ITEM 1680.443, INFORMATION TECHNOLOGY – COMPUTER MAINTENANCE CONTRACTS, FOR COSTS ASSOCIATED WITH ZOOM MEETINGS

RESOLVED, that the following transfer be authorized for costs associated with the replacement of Dispatch computers:

<i>Account #</i>	<i>Description – General</i>	<i>Transferred From</i>	<i>Transferred to</i>
<i>A-01-5-1990.590</i>	<i>General Fund Contingency</i>	<i>\$2,500.00</i>	
<i>A-01-5-3120.235</i>	<i>Information Technology – Computer Maintenance Contracts</i>		<i>\$2,500.00</i>

BE IT FURTHER RESOLVED, that this Resolution is effective immediately.

13. ADJOURNMENT