

# REGULAR MEETING OF THE COMMON COUNCIL

Tuesday, December 22, 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, December 8, 2020 at 6:30 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; Fred Saradin, City Auditor; Bob Ring, Director of Public Works; Tim Richardson, Fire Chief; Jeff Rowley, Police Chief; Ron Richardson, Police Sergeant, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

## 5. COMMITTEE REPORTS AND UNFINISHED COUNCIL BUSINESS

## 6. COMMUNICATIONS FROM THE MAYOR

## 7. MISCELLANEOUS COMMUNICATIONS

## 8. CITY OFFICIAL REPORTS

Monthly Report of the City Auditor, month ended November 2020

Quarterly Report of the City Auditor, six months ended November 30, 2020

## 9. PROPOSED LEGISLATION & REFERRALS

PL #82-20: (Aiello) To authorize the creation of one permanent full time Electrician Assistant position. *Referred to Regular Meeting Tuesday, December 22, 2020 for Resolution by Council President.*

PL #83-20: (Aiello) To adopt the 2021 Cattaraugus County Hazard Mitigation Plan as the City of Olean’s Natural Hazard Mitigation Plan. *Referred to Regular Meeting Tuesday, December 22, 2020 for Resolution by Council President.*

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

## 11. FINANCE-BILLS

By Alderman \_\_\_\_\_ Seconded by Alderman \_\_\_\_\_

The Auditor has processed bills and claims against the City of Olean as per list submitted to each Alderman and recommends payment thereof.

**WHEREAS**, the Auditor has presented to the Common Council, bills and claims against the City of Olean totaling \$2,585,628.10 for the budget and recommends payment thereof.

**NOW, THEREFORE, BE IT RESOLVED**, that the same be and are hereby audited and allowed, and the Auditor is hereby authorized and directed to draw warrants for the payment thereof at the amounts set opposite each respective claim.

## 12. RESOLUTIONS

### **RESOLUTION #85-20**

### **PL #61-20**

By Alderman Crawford, Seconded by Alderman Gonzalez

### **TO AMEND THE CITY OF OLEAN CODE OF ORDINANCES CHAPTER 12, HOUSING CODE, TO INCLUDE ARTICLE IV, SHORT-TERM RENTAL REGISTRATION AND LICENSING**

**RESOLVED**, that the City of Olean Code of Ordinances is hereby amended to include the following:

Article IV Short-Term Rental Registration and Licensing

Sec. 12-87 Purpose.

- A. The City recognizes that one of our largest industries is tourism. The tourism market supports many different types of businesses including the hospitality market, the restaurant/dining market, the shopping and retail market as well as a host of others. The city believes that the tourism industry will continue to grow.
- B. The City recognizes that a major part of the tourism industry is the short-term rental or vacation rental marketplace. This marketplace has grown exponentially with the increasing use of online booking websites, and it will most likely continue to grow as surrounding municipalities limit, restrict or eliminate the practice.
- C. The City needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property owner, surrounding neighbors and emergency responders. The character of residential zoning districts must also be preserved.

Sec. 12-88 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. *City*. The department, officer or individual designated by the Mayor or City Council to administer all or any part of the permitting and inspection programs under this chapter.
- B. *Bedroom*. A room intended for sleeping or placement of a bed, separated from other spaces in dwelling unit by one or more functional doors. The following spaces, which must be included in every dwelling unit, do not qualify as bedroom: (i) kitchens; (ii) dining areas; (iii) gathering spaces such as family rooms, dens, or living rooms; and (iv) attics or basements without egress meeting standards in applicable building, residential, and fire codes. To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in Chapter 4, Section 404.4 of the New York State 2020 Property Maintenance Code.
- C. *Local Agent*. An individual or legal entity designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the city; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal paper's relating to the unit on the owner's behalf. The local agent must live or maintain a physical place of business within 20 miles of the rental unit used for short-term rentals. A property owner who meets these criteria may be the local agent.
- D. *Occupant*. An individual who is living in, sleeping in, or otherwise having possession of a space. An individual present in a dwelling unit during the term of a short-term rental shall be presumed to be an occupant unless circumstances clearly indicate that the individual is visiting between the hours of 8:00 a.m. and 10:00 p.m. and will not stay overnight.
- E. *Off-Street Parking Space*. Shall mean a parking space that is provided on the same lot as the short-term rental unit that satisfies the requirements to count toward the minimum-parking calculation in Article 10 of the City of Olean Zoning Ordinance.
- F. *Owner*. The individual or entity who is the legal or equitable titleholder and who controls the premises occupied by one or more rental units.
- G. *Short-Term Rental Unit*. A dwelling unit or portion thereof rented for a term of less than one month. The term short-term rental unit does not include the use of transitional housing operated by a nonprofit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance abuse rehabilitation clinic, mental health facility, or other health care related clinic. Dwelling units owned by a business entity and made available on a temporary basis to employees of that business entity or employees of a contractor working for that business entity are not short-term rental units.
- H. *Short-Term Rental Unit Permit*. A written document issued by the city indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental in accordance with this chapter. A short-term rental unit permit shall be valid for one year from the date

of the inspection that found the rental unit in compliance, absent newly or later detected violations of the city's property maintenance code, fire code, this chapter or other applicable laws, rules or regulations, or a revocation of the permit pursuant to this chapter within that time, and the expiration date shall be shown on the permit. A permit shall be valid for one year from date of issuance unless terminated due to a violation and shall be renewed annually.

Sec. 12-89 Permit Applications.

- A. *Permits required.* All dwelling units used for short-term rentals must be registered with and have a short-term rental unit permit issued by the Code Enforcement Office of the City. The short-term rental of a dwelling unit without a permit is prohibited.
- B. *Application.* To apply for a short-term rental unit permit, the owner shall:
  1. Provide and certify as true the following on a form provided by the City:
    - a. Name, address, email address, and telephone numbers (local and cell phone) of the owner and any agent for the owner.
    - b. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.
    - c. The number of short-term rental units in the building, if more than one.
    - d. The number of bedrooms in each short-term rental unit.
    - e. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit.
    - f. The length of the typical rental period for which the applicant intends to rent the property.
    - g. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner or local agent will check on those devices at least every 90 days.
    - h. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
    - i. A statement certifying that the property owner consents to inspections by the City and will make the dwelling unit available to inspections upon request.
    - j. A brochure or other document to be given to each group of occupants containing all the information required in the subsections above.
    - k. A statement certifying proof of hazard insurance on the property.
    - l. Such other information as the City requests.
  2. Sign the application form and provide the signature of the local agent.

3. Pay an administrative fee of \$150.00 for review of the application and inspection of the property.
  4. Submit the property to annual inspection for compliance with applicable codes and ordinances. Annual inspection fee shall be \$60.00. Should a premises fail inspection, the initial re-inspection shall be free of charge; however, each subsequent re-inspection thereafter necessary to issue said certificate shall result in a re-inspection fee of \$25 per re-inspection. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void.
- C. *Changes in information.* The owner shall notify the City in writing within 30 days of any change in the information provided on the application form. An owner of a short-term rental unit shall notify the City in writing within ten days of any change in the designated local agent.
- D. *Procedure.* The Code Enforcement Office shall refer any application for a Short Term Rental Unit located in an R1, R2 or R3 to the Zoning Board to determine the suitability of the Short Term Rental Unit at the proposed location.

#### Sec. 12-90 Short-Term Rental Regulations.

- A. *Advertising regulations.* No short-term rental unit may be occupied or advertised for rent unless the city has issued a valid short-term rental unit permit pursuant to this chapter. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section.
- B. *Local agent required.* All short-term rental units must have a designated local agent. If the owner of a short-term rental unit does not qualify as a local agent, the owner shall designate a local agent and authorize the agent in writing to act as the owner's agent for any acts required of the owner or the owner's agent under this chapter.
- C. *Permit issuance and validity.* A short-term rental unit permit shall be granted only if the requirements in this ordinance for short-term rental units and applications for a short-term rental unit permit are met. However, the city may issue a short-term rental unit permit prior to the successful completion of an inspection, if the property owner is not responsible for the delay in the inspection and if the permit is made contingent on successful completion within a reasonable time. Short-term rental unit permits are valid for a period of 1-year from the date of issuance and must be renewed annually.
- D. *Delinquent payments.* No permit shall be issued to any owner unless that owner is current on the payment of all real property taxes, utility rates, fees, charges, special assessments and other amounts due to the city. Delinquencies on any such payments to the city, regardless of whether they relate to the rental unit for which a rental unit permit is sought shall result in denial of the permit.
- E. *Maximum occupancy.* Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated by the Code Enforcement Office of Olean.

The owner, local agent, and occupants shall be in violation of the chapter if the number of occupants in the short-term rental unit exceeds the maximum occupancy stated on the permit. The maximum occupancy shall be stated in the lease or other rental document.

F. *Duty to provide permit.* Upon request by any occupant or prospective occupant, the owner or agent shall provide the occupant or prospective occupant with a copy of the short-term rental unit permit, as well as a copy of the lease or other document containing the required disclosures. The owner of each short-term rental unit must prominently display a full-sized copy of the short-term rental unit permit in each short-term rental unit.

G. *Permit transfers.* A valid short-term rental unit permit may be transferred to a new owner of a short-term rental unit upon the city's prior written consent once the new owner files an application meeting all the requirements of this ordinance.

H. *Applicable codes.* Compliance with applicable zoning, construction, fire, and property maintenance codes of New York State shall be a condition of all rental unit permits. Violations of any of those codes shall also be a violation of this ordinance.

I. *Basement/Attic regulations.* No basement or attic space can be used for a bedroom unless it has an egress window approved by the City Code Enforcement Office and found in compliance with local and state code requirements.

J. *Curbside refuse pickup.* The owner must make provisions to have refuse picked up (curbside) on at least once per week when the short-term rental unit is being rented. Where curbside pickup is not reasonably available, this requirement may be satisfied by provision of a communal dumpster available for use by occupants of the short-term rental unit.

K. *Renter turnover procedure.* For short-term rental units, the local rental agent shall, at least once per month, inspect the premises (or ensure inspection by a designee of the agent) using a city designated checklist and shall ensure that all smoke detectors, carbon monoxide detectors, lights in common areas and stairways, egress doors, and railings are in a safe and working condition; any defects discovered shall be corrected promptly. Upon inspection, the agent shall sign and date that checklist and shall maintain it for city inspection and copying for a period of at least one year.

L. *Hazard Insurance.* The owner must maintain adequate hazard insurance on the property throughout the duration of operation as a short-term rental unit.

M. *Excluded districts.* Short-term rental units are not permitted in the following districts: R1, R2 and R3's without prior approval granted by the Zoning Board.

#### Sec. 12-91 Inspections.

A. *Scheduling.* Upon written notice from the city, it shall be the owner's responsibility to schedule and allow the city's inspection of the short-term rental unit. Inspections shall occur during the city's regular business hours, unless the city agrees to other arrangements, and all fees shall be paid prior to the inspection.

B. *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner shall be

provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.

C. *Additional inspections.* The city may conduct additional inspections as it deems necessary, upon reasonable notice to the owner or agent, such as when:

1. A complaint is filed with the City; or
2. The City otherwise has reasonable cause to believe a short-term rental unit is in violation of any city ordinance.

D. *Changes in conditions following inspection.* The owner shall notify the City in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the City.

#### Sec. 12-92 Safety Equipment.

A. *Smoke detectors.* The owner and local agent of each short-term rental unit shall be responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, hard wired, and shall be installed in accordance with the provisions of the NYS Residential Building Code and the household fire warning equipment provisions of the National Fire Protection Association (NFPA) Standards § 72.

B. *Smoke detector locations.* Smoke detectors/alarms shall be installed in the following locations:

1. In each sleeping room;
2. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and
3. On each additional story of the rental unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In rental units with split levels and without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.

C. *Carbon monoxide detectors.* The owner of each short-term rental unit shall be responsible for the installation of a carbon monoxide detector in each rental unit. All carbon monoxide detectors shall be according to the NYS Fire Code.

D. *Fire extinguisher.* The owner of each short-term rental unit shall be responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.

E. *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section.

#### Sec. 12-93 Minimum Occupancy Calculation.

A. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

B. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof. except that where the occupants of such room are all less than 15 years of age, a room having at least 120 square feet of floor space may be occupied by additional persons, provided that the floor space per occupant does not become less than 35 square feet. (Delete Red)

C. No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment. except that where such a dwelling unit is occupied only by a husband and wife, or a husband and wife and child or children under the age of 13, this section shall not apply. (Delete Red)

D. No cellar space shall be used as a habitable room or dwelling unit.

E. No basement space shall be used as a habitable room or dwelling unit unless the floor and walls are impervious to leakage of underground and surface water and are insulated against dampness; the total of window area in each room is equal to at least the minimum window area sizes as required in this chapter; Such required minimum window area is located entirely above the grade of the ground and adjoining such window area.

#### Sec. 12-94 Conditions Required for Occupancy.

All of the following are provided:

- a. A parking site plan allowing sufficient access for emergency vehicles.
- b. An interconnected smoke alarm system.
- c. Fire-rated corridors.
- d. Fire-rated stairwell enclosures on all stairways providing the means of egress for one or more bedrooms.
- e. A sufficient number of emergency exits, suitably placed in relation to the designated bedrooms, as determined in the discretion of the Code Enforcement Division.

#### Sec. 12-95 Penalties for Offenses.

- A. Any violation of any provision of this article, or any provision of any rule or regulation adopted by the enforcement officer pursuant to authority granted by this chapter, shall be deemed an offense and any person found guilty thereof shall be liable to a fine which shall



not be less than \$250 and not to exceed \$1,000, or to imprisonment not to exceed 15 days, or to both such a fine and imprisonment, and each day's failure to comply with such provision, rule or regulation shall constitute a separate violation.

1. The fine for any offense which is a first repeat offense shall not be less than \$250 plus costs and other sanctions.
2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall not be less than \$1,000 plus costs and other sanctions,
3. A repeat offense means a second (or any subsequent) violation of this ordinance:
  - a. Committed by a person within any 12-month period; and
  - b. For which the person admits responsibility or is determined to be responsible.

*B. Permit Revocation.*

1. The City may revoke the short-term rental permit for any short-term rental which is the site of at least three (3) separate incidents (occurring on three separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or a court's determination of responsibility or guilt by the owner, local agent, or any renter for a violation of one or more of the following:
  - a. Any provision of this ordinance;
  - b. The City noise and nuisance ordinance; and
  - c. Any violation of the zoning ordinance or any permit or approval issued pursuant to the zoning ordinance.
2. Upon a determination by the City that the short-term rental permit is subject to revocation, the City shall issue a notice to the property owner and the local agent stating that the City intends to revoke the short-term rental permit. The notice shall inform the owner and local agent of a right to a hearing to show cause as to why the short-term rental permit should not be revoked, if a hearing is requested within fourteen (14) days of the service of the notice. If a hearing is timely requested, the City shall schedule the hearing before the Fire Chief. The City shall notify the owner and the local agent in writing of a time and place for that hearing. At the hearing, the owner and local agent may present evidence that the requirements for revocation provided are not satisfied, or that the property owner and local agent should not be held responsible for one or more of the three (3) requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as: (i) the violation was committed by a non-renter and the renter(s) attempted to prevent or halt the violation; (ii) the violation resulted from an act of God; or (iii) other circumstances that the owner or the owner's agent could not reasonably anticipate and prevent, and could not reasonably control.

3. Upon revocation of a permit, a new permit will not be issued for a period of eighteen (18) months, and cannot be used for short-term rentals until a new permit is obtained.

**RESOLVED**, that current Article IV of Chapter 12, Designation of Unfit Dwellings, shall hereby be renamed as Article V.

**RESOLVED**, that current Article V of Chapter 12, Recreational Fires, shall hereby be renamed as Article VI.

**RESOLVED**, that remaining Articles shall be designated as follows:

Article V Designation of Unfit Dwellings;

Article VI Recreational Fires.

**RESOLVED**, that this Resolution is hereby effective immediately.

**RESOLUTION #89-20**

**PL #71-20**

By Alderman Crawford, Seconded by Alderman Robinson

**TO AMEND THE CITY OF OLEAN CHARTER ARTICLE III, DIVISION 4, TO INCLUDE SECTION 3.090 CONTAINING QUALIFICATIONS FOR THE CITY AUDITOR**

**RESOLVED**, that the City of Olean Charter Article III, Division 4 is hereby amended to include the following:

Sec. 3.090. Qualifications

The City Auditor shall be a Certified Public Accountant (CPA), admitted to practice in the state.

**RESOLVED**, that this Resolution is hereby effective immediately.

**RESOLUTION #94-20**

**PL #77-20**

By Alderman Robinson, Seconded by Alderman Crawford

**TO AUTHORIZE THE INSTALLATION OF A HANDICAPPED PARKING SPACE AND RELATED SIGNAGE ON WEST STATE STREET IN THE FIRST PARKING SPOT ON THE NORTHEAST CORNER OF ITS INTERSECTION WITH NORTH 12<sup>TH</sup> STREET**

**RESOLVED**, that the City of Olean Code of Ordinances Section 24-113, subsection (e) is hereby amended to include the following:

**Street**

**Location**

State Street, West

First parking spot on the northeast corner of its intersection with North 12<sup>th</sup> Street

**RESOLVED**, that this Resolution is hereby effective immediately.

**RESOLUTION #95-20 REVISED**

**PL #78-20**

By Alderman Robinson, Seconded by Alderman Dougherty

**TO AUTHORIZE THE INSTALLATION OF FOUR “DEAF CHILD AREA” SIGNS NEAR THE INTERSECTION OF HENLEY STREET AND SOUTH 14<sup>TH</sup> STREET**

**RESOLVED**, that the Common Council hereby authorizes the installation of four “Deaf Child Area” signs on Henley Street and South 14<sup>th</sup> Street near their intersection.

**RESOLVED**, that this Resolution is effective immediately.

**RESOLUTION #98-20**

**PL #82-20**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

**RESOLUTION ESTABLISHING A PERMANENT FULL TIME ELECTRICIAN ASSISTANT POSITION**

**RESOLVED**, that the Olean Common Council hereby creates one additional permanent full time Electrician Assistant position to supplement the one (1) position currently within the City of Olean.

**RESOLVED**, that this Resolution is effective immediately.

**RESOLUTION #99-20**

**PL #83-20**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

**TO ADOPT THE 2021 CATTARAUGUS COUNTY HAZARD MITIGATION PLAN**

**WHEREAS**, the City of Olean, with the assistance of Tetra Tech, Inc., has gathered information and aided in the preparation of the 2021 Cattaraugus County Hazard Mitigation Plan; and

**WHEREAS**, the 2021 Cattaraugus County Hazard Mitigation Plan has been prepared in accordance with the Disaster Mitigation Act of 2000; and

**WHEREAS**, the City of Olean is a local unit of government that has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

**WHEREAS**, the City of Olean has reviewed the plan and affirms that the Plan will be updated no less than every five years;

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Olean that the City of Olean adopts the 2021 Cattaraugus County Hazard Mitigation Plan as this jurisdiction’s Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

**RESOLVED**, that this Resolution is effective immediately.

**13. ADJOURNMENT**