



LEGISLATIVE BRANCH ▪ CITY OF BINGHAMTON

*Phil Strawn, City Council President
Leighton Rogers, City Clerk*

**COUNCIL OF THE CITY OF BINGHAMTON
Business Meeting Agenda
City Hall, 38 Hawley Street, Binghamton, NY 13901
Wednesday, June 8, 2022**

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. ACKNOWLEDGEMENTS AND RECOGNITIONS

V. REPORTS FROM COMMITTEES AND APPROVAL OF MINUTES

Approval of Minutes

Approve the Minutes from the May 18, 2022 Business Meeting.

City Council Finance Committee: Scaringi (Chair), Scanlon, Burns

No items to report.

City Council Planning & Community Development Committee: Scanlon (Chair), Scaringi, Friedman

No items to report.

City Council Municipal & Public Affairs Committee: Scaringi (Chair), Resciniti, Riley

MPA Committee Meeting June 14th at 5:15pm virtually via Zoom.

City Council Public Works/Parks & Recreation Committee: Scanlon (Chair), Resciniti, Riley

No items to report.

City Council Employees Committee: Resciniti (Chair), Scaringi, Burns

No items to report.

City Council Rules & Procedures/Special Studies Committee: Resciniti (Chair), Scanlon, Friedman

No items to report.

VI. APPROVAL OF APPOINTMENTS

VII. PUBLIC HEARING

The City of Binghamton will hold a Public Hearing regarding RL22-140 entitled "A Local Law amending the City Code regarding property and building nuisance reform."

Residents wishing to submit comments may do so electronically by emailing their comments prior to 1:00pm on the day of the meeting to clerk@cityofbinghamton.com or virtually via zoom during the meeting. For any questions, please contact the City Clerk's Office at (607) 772-7005.



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VIII. SET PUBLIC HEARINGS

1. The City of Binghamton will hold a Public Hearing regarding RL22-156 entitled “A Resolution authorizing the Mayor to submit the FY48 Annual Action Plan and accept any and all funds allocated by HUD from CDBG, ESG, and HOME entitlement programs.”

This public hearing will take place during the next regular City Council Business Meeting at 6pm on Wednesday, June 22, 2022, at City Hall.

Residents wishing to submit comments may do so electronically by emailing their comments prior to 1:00pm on the day of the meeting to clerk@cityofbinghamton.com or in person during the meeting. For any questions, please contact the City Clerk’s Office at (607) 772-7005.

IX. PUBLIC COMMENT/COMMUNICATION

Residents wishing to submit public comment may do so electronically by emailing their comments prior to 1:00pm on the day of the meeting to clerk@cityofbinghamton.com or in person during the meeting.

X. REVIEW OF MAYORAL VETO

XI. SECOND READING LEGISLATION

XII. FIRST READING LEGISLATION

A. PREFERRED AGENDA

Introductory Ordinance 22-89. Considered in Finance: Scaringi

An Ordinance to amend the 2022 Parks budget to adjust the temporary services line

Introductory Ordinance 22-90. Considered in Finance: Scaringi

An Ordinance to amend the 2022 Fee Schedule to remove swimming pool fees at Recreation Park, Southside Veterans Memorial Pool, and the North Side Veterans Memorial Pool

Introductory Ordinance 22-91. Considered in Planning: Scanlon

An Ordinance to amend the 2022 Capital budget to create revenue and expense budget lines to account for program income and expenses in the Cities RISE Sustainable Neighborhood Stabilization program

Introductory Ordinance 22-92. Considered in Finance: Scaringi

An Ordinance to amend the 2022 Binghamton-Johnson City Joint Sewage Board budget for CN event professional services and equipment lease

Introductory Ordinance 22-93. Considered in Planning: Scanlon

An Ordinance to amend the Charter and Code of the City of Binghamton Chapter 18, Boards, Commissions, and Committees, regarding the demolition of accessory structures



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Introductory Resolution 22-55. Considered in Planning: Scanlon

A Resolution authorizing the Mayor to enter into supplemental agreement No. 2 with CPL Architects, Engineers, Landscape Architect and Surveyor, DPC for additional design services for the Riverfront Amenities project

Introductory Resolution 22-56. Considered in Finance: Scaringi

A Resolution providing additional information regarding Permanent Resolution 22-39 for the First Ward Inflow and Infiltration Study

Introductory Resolution 22-57. Considered in Finance: Scaringi

A Resolution authorizing the Mayor to accept a CDBG CARES Program Award Grant and assign the Binghamton Housing Authority as a grant sub-recipient

B. NON PREFERRED AGENDA

Introductory Local Law 22-02. Considered in Municipal & Public Affairs: Scaringi

A Local Law amending the Code of the City of Binghamton, Chapter 315, Property and Building Nuisance Reform

Introductory Ordinance 22-94. Considered in Planning: Scanlon

An Ordinance to nullify Permanent Ordinance 21-98 and authorizing the sale of 26 and 28 Lyon St., 29, 31, and 33 Munsell St. to Greater Opportunities for Broome and Chenango, Inc. for \$1 each to support the North Side Rehabilitation Affordable Housing Project

XIII. COMMUNICATIONS FROM COUNCIL MEMBERS

XIV. ADJOURNMENT



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Finance

ORDINANCE

entitled

**AN ORDINANCE TO AMEND THE 2022 PARKS
BUDGET TO ADJUST THE TEMPORARY
SERVICES LINE**

WHEREAS, the Commissioner of Parks & Recreation and the Comptroller of the City of Binghamton find it proper and necessary to amend the 2022 Parks budget to adjust the temporary services line for laborers; and

WHEREAS, such budget amendments were approved by the Board of Estimate and Apportionment on June 8, 2022.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That the Comptroller and City Treasurer of the City of Binghamton are hereby authorized and directed to amend the 2022 Parks budget to (i) decrease the Laborers position at \$12.50/hour by \$10,000; (ii) create a new detail line under A7110.51800 (Temp.Ser.Labor \$15) Laborers position at \$15.00/hour; and (iii) fund the Laborers position at \$15.00/hour in the amount of \$10,000 as follows:

Transfer From (Decrease):

Transfer To (Increase):

\$10,000 A7110.51800 (Temp.Ser.Labor \$12.50)

\$10,000 A7110.51800 (Temp.Ser.Labor \$15)

Section 2. That this Ordinance shall take effect immediately.

I HEREBY CERTIFY that the above described funds are unencumbered and available

Chuck Shager, Comptroller



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Finance

ORDINANCE

entitled

AN ORDINANCE TO AMEND THE 2022 FEE
SCHEDULE TO REMOVE SWIMMING POOL
FEES AT RECREATION PARK, SOUTHSIDE
VETERANS MEMORIAL POOL, AND THE
NORTH SIDE VETERANS MEMORIAL POOL

WHEREAS, the Commissioner of Parks and Recreation and Comptroller of the City of Binghamton find it proper and necessary to amend the 2022 City fee schedule, Appendix C, to remove swimming pool fees at Recreation Park, Southside Veterans Memorial Pool, and the North Side Veterans Memorial Pool.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That the 2022 City fee schedule, Appendix C, is hereby amended to remove swimming pool fees at Recreation Park, Southside Veterans Memorial Pool, and the North Side Veterans Memorial Pool.

Section 2. That this Ordinance shall take effect immediately.



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Planning

ORDINANCE

entitled

AN ORDINANCE TO AMEND THE 2022
CAPITAL BUDGET TO CREATE REVENUE
AND EXPENSE BUDGET LINES TO ACCOUNT
FOR PROGRAM INCOME AND EXPENSES IN
THE CITIES RISE SUSTAINABLE
NEIGHBORHOOD STABILIZATION PROGRAM

WHEREAS, pursuant to Permanent Resolution 20-03, dated February 5, 2020, the City of Binghamton received a grant from Enterprise Community Partners in the amount of \$585,000 for the Cities RISE Innovation Program, including a Sustainable Neighborhood Stabilization Program; and

WHEREAS, the Director of Housing and Community Development and Comptroller of the City of Binghamton find it proper and necessary to amend the 2022 Capital budget to create revenue and expense budget lines to account for program income and expenses in the Cities RISE Sustainable Neighborhood Stabilization Program; and

WHEREAS, the program income received is from the sale of repaired City owned properties and must be reinvested for rehabilitation of City owned properties for re-sale to eligible individuals.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That the Comptroller and City Treasurer of the City of Binghamton are hereby authorized and directed to amend the 2022 Capital budget to (i) create revenue budget line H.42175 (Neighborhood Stabilization-Program Income); (ii) create expense budget line H8997.539018 (Neighborhood Stabilization-Program Expenses); and (iii) account for such revenue and expenses as may be applicable in the Sustainable Neighborhood Stabilization Program under the aforesaid created budget lines.

Section 2. That this Ordinance shall take effect immediately



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Finance

ORDINANCE

entitled

AN ORDINANCE TO AMEND THE 2022
BINGHAMTON-JOHNSON CITY JOINT
SEWAGE BOARD BUDGET FOR CN EVENT
PROFESSIONAL SERVICES AND EQUIPMENT
LEASE

WHEREAS, the City of Binghamton (the “City”) is a joint owner of the Binghamton-Johnson City Joint Sewage Treatment Facilities (the “BJCJSTF”) with the Village of Johnson City (the “Village”); and

WHEREAS, the BJCJSTF is operated and maintained by the Binghamton-Johnson City Joint Sewage Board (the “JSB”) under a series of inter-municipal agreements between the City and the Village; and

WHEREAS, the Council of the City and the Board of Trustees of the Village approve the BJCJSTF budget; and

WHEREAS, the JSB has requested an amendment to the 2022 BJCJSTF budget to (i) increase the Insurance Recovery Revenue for ongoing rehabilitation work; (ii) increase the appropriations for Professional Services; and (iii) increase the Equipment Lease.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That the Council approves and directs the Comptroller/JSB Fiscal Officer to amend and make journal budget entries in the 2022 BJCJSTF budget to (i) increase the Insurance Recovery Revenue for ongoing rehabilitation work; (ii) increase the appropriations for Professional Services; and (iii) increase the Equipment Lease as follows:

- (i) \$400,000 increase revenue budget line J.42680.CNBAF (Insurance Recovery – CNBAF)
- (ii) \$350,000 increase expense budget line J8130.54410.CNBAF (Professional Services – CNBAF)
- (iii) \$ 50,000 increase expense budget line J8130.54520.CNBAF (Equipment Lease – CNBAF)

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STATE OF NEW YORK**

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Section 2. That this Ordinance shall be effective when also approved by sufficient members of the Board of Trustees of the Village.

I HEREBY CERTIFY that the above described funds
are unencumbered and available

Chuck Shager, Comptroller/JSB Fiscal Officer



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Planning

ORDINANCE

entitled

**AN ORDINANCE TO AMEND THE CHARTER
AND CODE OF THE CITY OF BINGHAMTON
CHAPTER 18, BOARDS, COMMISSIONS AND
COMMITTEES, REGARDING THE
DEMOLITION OF ACCESSORY STRUCTURES**

WHEREAS, the Historic Preservation & Neighborhood Planner of the City of Binghamton has recommended an amendment to Chapter 18-38, *Definitions*; and Chapter 18-84.1, *Procedure for Determination of Historical Significance for Demolition*, regarding the demolition of accessory structures.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That Chapter 18-38, *Definitions* of the Code of the City of Binghamton is hereby amended to add Accessory Structure as follows:

§ 18-38 Definitions. [Amended 12-4-2019 by Ord No. 19-125; **Amended 6-8-2022 by Ord No. _____**].

ACCESSORY STRUCTURE: Whenever the term “Accessory Structure” is used in this article it shall be defined as follows:

1. “Accessory Structure” means a subordinate structure located on the lot, the use of which is clearly incidental to and associated with the principal structure.
2. Where an accessory structure is attached to the principal structure in a substantial manner, as by a roof, such accessory structure shall normally be considered as a part of the principal structure.
3. Examples of accessory structures are barns, garages, carports, playhouses, sheds, private greenhouses, gazebos, storage buildings, boathouses and docks, wind-generating devices, swimming pool pump houses, radio and television receiving antenna towers and dishes and, storage containers.

Section 2. That Chapter 18-84.1, *Procedure for Determination of Historical Significance for Demolition* of the Code of the City of Binghamton is hereby amended to add subsection F as follows:

§ 18-84.1. Procedure for Determination of Historical Significance for Demolition [Amended 4-21-10 by Ord. No. 19-2010; **Amended 6-8-2022 by Ord No. _____**].

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F. If the Supervisor of Building Construction & Code Enforcement has issued a determination letter that an accessory structure is unsafe, then the Historic Preservation & Neighborhood Planner II may perform a staff level review determination of Historical Significance Review. The Historic Preservation & Neighborhood Planner II's determination of Historical Significance shall be based on § 18-83 *Criteria for Determination of Historical Significance for Demolition*. No demolition permit shall be issued for such a structure until a negative determination of Historic Significance has been issued by the Historic Preservation & Neighborhood Planner II. The determination of significance required by this act shall be in addition to and not in lieu of any demolition permit that may be required by another Ordinance of the City of Binghamton. The Historic Preservation & Neighborhood Planner II shall issue a determination of Historical Significance within forty-five (45) days of receipt of the completed application, unless an extension of this deadline is agreed upon by both the Historic Preservation & Neighborhood Planner II and the applicant. If it is determined by the Historic Preservation & Neighborhood Planner II that the demolition of the unsafe accessory structure is likely to have a significant impact upon the historic character of the property, the Historic Preservation & Neighborhood Planner II shall be authorized to forward the application to the Commission for full review at the next available meeting. Staff level determinations of historical significance for the demolition of unsafe accessory structures shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Planning Department for public inspection. The decision shall state the reasons for positive or negative determination of Historical Significance. If the Historic Preservation & Neighborhood Planner II position is vacant, then determinations of Historical Significance for Demolition of Unsafe Accessory Structures will be forwarded to the Commission on Architecture and Urban Design for review.

Section 3. That this ordinance shall take effect immediately.



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Planning

RESOLUTION

entitled

A RESOLUTION AUTHORIZING THE MAYOR
TO ENTER INTO SUPPLEMENTAL
AGREEMENT NO. 2 WITH CPL ARCHITECTS,
ENGINEERS, LANDSCAPE ARCHITECT AND
SURVEYOR, D.P.C FOR ADDITIONAL DESIGN
SERVICES FOR THE RIVERFRONT
AMENITIES PROJECT

WHEREAS, pursuant to Permanent Resolution 18-96, dated September 5, 2018, the City of Binghamton accepted a \$350,000 grant from the Dormitory Authority of the State of New York (DASNY) to fund improvements to the Chenango and Susquehanna riverfronts; and

WHEREAS, pursuant to Permanent Resolution 20-11, dated March 4, 2020, the City entered into a Professional Services agreement with the CPL Architects, Engineers, Landscape Architect and Surveyor, D.P.C for design of riverfront amenities in association with DASNY and the Appalachian Regional Commission for services not to exceed \$75,000; and

WHEREAS, pursuant to Permanent Resolution 20-123, dated December 23, 2020, the City entered into Supplemental Agreement No. 1 with CPL Architects, Engineers, Landscape Architect and Surveyor, D.P.C to include a NYSDEC mandated mussel survey, as well as construction administrative services at an additional cost not to exceed \$26,000; and

WHEREAS, the City wishes to enter into Supplemental Agreement No. 2 with CPL Architects, Engineers, Landscape Architect and Surveyor, D.P.C for additional design services for the Riverfront Amenities project at a cost not to exceed \$10,000.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE that the Mayor, or his designee, is hereby authorized to enter into Supplemental No. 2 for professional services, approved as to form and content by the Office of Corporation Counsel, with CPL Architects, Engineers, Landscape Architect and Surveyor, D.P.C for additional design services for the Riverfront Amenities project at a cost not to exceed \$10,000; and that funds

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shall be deducted from budget line H8510.555555.C0041 (DASNY Riverfront) for this purpose.

I HEREBY CERTIFY that the above described funds
are unencumbered and available

Chuck Shager, Comptroller



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Finance

RESOLUTION

entitled

A RESOLUTION PROVIDING ADDITIONAL
INFORMATION REGARDING PERMANENT
RESOLUTION 22-39 FOR THE FIRST WARD
INFLOW AND INFILTRATION STUDY

WHEREAS, pursuant to Permanent Resolution 22-39, dated April 20, 2022, the City of Binghamton entered into an agreement with the New York State Environmental Facilities Corporation (NYSEFC) for the First Ward Inflow and Infiltration Study under the Engineering Planning Grant (EPG); and

WHEREAS, the City of Binghamton has received an Engineering Planning Grant in the amount of \$50,000 for completing an investigation of its sanitary sewer collection system, and wishes to enter into agreement with the New York State Environmental Facilities Corporation (NYSEFC) for said grant; and

WHEREAS, the grant is awarded and administered by the New York State Environmental Facilities Corporation (NYSEFC), and requires the City to provide a local match of not less than twenty-percent (20%) of the awarded grant; and

WHEREAS, Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Section 617.5 under the State Environmental Quality Review Act (SEQRA) provides that certain actions identified in subdivision (c) of that section are not subject to environmental review under the Environmental Conservation Law; and

WHEREAS, the NYSEFC is requesting further information regarding such approval.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE that the Mayor, or his designee, is hereby authorized to execute a Grant Agreement with the NYS Environmental Facilities Corporation and any and all other contracts, documents, and instruments necessary to bring about the project and to fulfill the City of Binghamton's obligations under the Grant Agreement; and be it further

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RESOLVED that the City of Binghamton authorizes and appropriates a minimum 20% local match as required by the Engineering Planning Grant Program for the City of Binghamton First Ward Inflow and Infiltration Study. Under the EPG program, this local match must be at least \$10,000 (20% of the EPG grant award of \$50,000). In-kind services totaling a minimum of \$10,000 in value will be used to meet the local match requirement. The City Mayor may increase the in-kind service local match above \$10,000 without further approval from the City of Binghamton, and the Comptroller shall be authorized to create associated budget lines accordingly without further approval from City Council; and be it further

RESOLVED that the City of Binghamton hereby determines that the proposed City of Binghamton First Ward Inflow and Infiltration Study is a Type II action in accordance with 6 NYCRR Section 617.5(c)(27) which constitutes conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action; and is therefore not subject to further review under 6 NYCRR Part 617; and be it further

RESOVLED that the City of Binghamton is authorized to take all actions reasonable and necessary to file the Negative Declaration and discharge the City's responsibility as lead agency for this action.



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Finance

RESOLUTION

entitled

A RESOLUTION AUTHORIZING THE MAYOR
TO ACCEPT A CDBG CARES PROGRAM
AWARD GRANT AND ASSIGN THE
BINGHAMTON HOUSING AUTHORITY AS A
GRANT SUB-RECIPIENT

WHEREAS, the City of Binghamton has received a Community Development Block Grant (CDBG) Coronavirus Aid, Relief, and Economic Security Act (CARES) Program Award, #2100CVHR59-22, from the New York State Homes and Community Renewal (NYSHCR) in the amount of \$450,000; and

WHEREAS, the grant application was specifically for elevator replacement at the North Shore Tower, located at 35 Exchange Street, Binghamton, New York, owned and operated by the Binghamton Housing Authority; and

WHEREAS, the City of Binghamton wishes to assign the CDBG CARES Program Award Grant to the Binghamton Housing Authority as a sub-recipient.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE that the Mayor, or his designee, is hereby authorized to accept a CDBG CARES Program Award Grant from the NYSHCR; and be it further

RESOLVED that the Mayor, or his designee, is hereby authorized to enter into a grant agreement, approved as to form and content by the Office of Corporation Counsel, with the New York State Homes and Community Renewal (NYSHCR) for the CDBG CARES Program Award Grant; and be it further

RESOLVED that the Comptroller may amend the budget and create associated budget lines accordingly; and be it further

RESOLVED that the Mayor, or his designee, is hereby authorized to enter into a sub-recipient agreement, approved as to form and content by the Office of Corporation Counsel, with the Binghamton Housing Authority to assign the CDBG CARES Program Award Grant for elevator replacement at the North Shore Tower, located at 35 Exchange Street, Binghamton, New York.



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Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Burns, Scanlon, Strawn

Introduced by Committee: MPA

LOCAL LAW NO. 2 OF 2022

entitled

A LOCAL LAW AMENDING THE CODE OF THE
CITY OF BINGHAMTON, CHAPTER 315,
PROPERTY AND BUILDING NUISANCE
REFORM

WHEREAS, the Council of the City of Binghamton wishes to amend Chapter 315, *Property and Building Nuisance Reform* to reinstate the City of Binghamton's "Lockdown Law"; and

WHEREAS, the Council of the City of Binghamton wishes to amend §315-3, *Definitions*, regarding "Conviction," "Public Nuisance," and "Violation"; and

WHEREAS, the Council of the City of Binghamton wishes to amend §315-3 to add a Severability Clause; and

WHEREAS, the Council of the City of Binghamton wishes to remove §315-4 in its entirety.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follows:

Section 1. That the Charter of the City of Binghamton §315-3, *Definitions*, regarding "Conviction," "Public Nuisance," and "Violation" is hereby amended as follows:

§ 315-3. Definitions. [Amended 5-21-07 by Ord. No. 16-2007; Amended 3-17-10 by Local Law 1-2010; **Amended 6-8-2022 by Local Law 2-2022**]

CONVICTION -- A conviction for an offense in a court of competent jurisdiction or an administrative bureau shall not be required. Instead, the City shall prove by a preponderance of the evidence that the violations have occurred. However, a conviction as defined and applied in accordance with the provisions of § 1.20 of the Criminal Procedure Law, in any court of competent jurisdiction, or a plea of guilty shall constitute conclusive proof of a violation. Conviction of an attempt to commit a violation of any of the specified provisions shall be considered a conviction for a violation of the specified provision.

Notwithstanding the foregoing, under no circumstances shall a conviction or a plea of guilty constitute a violation under this chapter where said conviction or plea stemmed from a crime or City Code violation committed at the building, property or place in issue, where such crime or violation was first reported by an owner or tenant of the property, place, building or, in the case of a multi-unit building, the specific building unit where the crime occurred. Nor shall a conviction or a plea of guilty constitute a

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violation under this chapter where said conviction or plea stemmed from a violation, crime, or mental health emergency that occurred at the building unit, building, property or place in issue, which was first reported by the victim thereof, including, but not limited to, victims of domestic violence and/or stalking, or mental health emergencies.

PUBLIC NUISANCE -- For the purposes of Article III, a public nuisance shall be deemed to exist whenever, through violations of any of the following provisions resulting from separate incidents at a building, erection or place, or immediately adjacent to the building, erection or place as a result of the operation of the business, 12 or more points are accumulated within a period of six (6) months, or 18 or more points within a period of twelve (12) months, in accordance with the following point system. Where more than one violation occurs during a single incident, the total points for the incident shall be the highest point value assigned to any single violation.

Notwithstanding any contrary provisions of this chapter, under no circumstances shall points accumulate toward a Public Nuisance determination where violations are discovered during the course of an investigation by law enforcement or code enforcement personnel in response to a request for assistance by an owner or tenant of the property, place, building or, in the case of a multi-unit building, the specific building unit where the violation occurred. Nor shall points accumulate toward a Public Nuisance determination where violations are discovered during the course of such an investigation in connection with a report of a violation, crime, or mental health emergency that occurred at the building unit, building, property or place in issue, which was first reported by the victim thereof, including, but not limited to, victims of domestic violence and/or stalking, or mental health emergencies. Notwithstanding the above, an owner, manager, or tenant who participates in or persistently condones or allows such Public Nuisance to occur shall not be entitled to the protection of this paragraph.

VIOLATION -- Conduct, or evidence of conduct, prohibited under this chapter. A violation does not require criminal prosecution and conviction but only a preponderance of evidence that the prohibited conduct is occurring or has occurred. Evidence of prohibited conduct may include, but is not limited to, police reports, investigative reports, execution of search warrants, results of police surveillance, arrest and/or conviction of local and state and federal laws, activities associated with trafficking of controlled substances, finding of weapons and/or controlled substances on or near the property, increased volume of traffic associated with the property.

Notwithstanding the foregoing, evidence obtained during the course of responding to a request for assistance made by an owner or tenant of the at issue property, place, building or, in the case of a multi-unit building, the specific building unit where the violation occurred, shall not constitute evidence of prohibited conduct under this chapter. Notwithstanding the above, an owner, manager, or tenant who participates in or persistently condones or allows such Public Nuisance to occur shall be not entitled to the protection of this paragraph.

Section 2. That the Charter of the City of Binghamton §315-3, *Definitions*, regarding “Public Nuisance,” specifically Subsection 3(c) regarding Article 221 of the Penal Law (Offenses Involving Marijuana), shall be stricken and subsection (d) through (k) shall be renumbered accordingly.

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Section 3. That the Charter of the City of Binghamton Chapter 315 to add a Severability Clause is as follows:

§ 315-15. Severability Clause. [Added 6-8-2022 by Local Law 2-2022]

The provisions of this Local Law are severable and if any provision, clause, sentence, subsections, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or part of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 4. That the Charter of the City of Binghamton, §315-14, *Powers of Mayor with respect to Public Nuisances*, is hereby removed in its entirety, as this provision provides for “administrative review” as opposed to review by a court, such administrative review has been held to be unconstitutional.

Section 5. That the remaining Sections in Chapter 315 shall be renumbered accordingly, including any references thereto.

Section 6. That this Local Law shall take effect upon filing with the Secretary of State.



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Planning

ORDINANCE

entitled

AN ORDINANCE TO NULLIFY PERM. ORD 21-98 AND AUTHORIZING THE SALE OF 26 AND 28 LYON ST., 29, 31, AND 33 MUNSELL ST. TO GREATER OPPORTUNITIES FOR BROOME AND CHENANGO, INC. FOR \$1 EACH TO SUPPORT THE NORTH SIDE REHABILITATION AFFORDABLE HOUSING PROJECT

WHEREAS, the City of Binghamton is the owner of certain real property located at 26 Lyon Street, Binghamton, New York, Tax Parcel No. 144.83-1-17; 28 Lyon Street, Binghamton, New York, Tax Parcel No. 144.83-1-18; 29 Munsell Street, Binghamton, New York, Tax Parcel No. 144.83-1-26; 31 Munsell Street, Binghamton, New York, Tax Parcel No. 144.83-1-25; and 33 Munsell Street, Binghamton, New York, Tax Parcel No. 144.83-1-24 (collectively the “Premises”); and

WHEREAS, the City received an Offer to Purchase the Premises from Greater Opportunities for Broome and Chenango, Inc. (the “Applicant”), for \$1 each to use the Premises for accessory parking and open space for the North Side Rehabilitation Affordable Housing Project located at 39 Munsell Street (a/k/a 39-49 Munsell Street); and

WHEREAS, pursuant to Permanent Ordinance 21-98, dated September 22, 2021, the City previously approved a sale of 28 Lyon Street only to the Applicant subject to a merger provision; and

WHEREAS, the City wishes to nullify Permanent Ordinance 21-98 to eliminate the merger condition and to place consistent restrictions on the Premises; and

WHEREAS, the City has no public use for the Premises; and

WHEREAS, the Assessor of the City of Binghamton has determined the sale price to be fair and equitable; and

WHEREAS, the Board of Estimate and Apportionment approved and recommended sale of the Premises on June 8, 2022.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain by at least a three-fourths vote as follows:

**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: June 8, 2022

Section 1. That Permanent Ordinance 21-98, dated September 22, 2021, is hereby declared null and void.

Section 2. That the Mayor of the City of Binghamton is hereby authorized to enter into a contract of sale and to execute all necessary and appropriate documentation, approved as to form and content by the Office of Corporation Counsel, to transfer the Premises to Greater Opportunities for Broome and Chenango, Inc., by Quitclaim Deed for \$1 each to be paid by cash, certified, or local bank check.

Section 3. This sale is subject to the following conditions (i) the Premises may only be used for accessory parking and open space to support the North Side Rehabilitation Affordable Housing Project located at 39 Munsell Street (a/k/a 39-49 Munsell Street) as approved by the City of Binghamton Planning Commission and (ii) the Premises may not be used for any other purpose unless approved by the Mayor, City Council, and the City of Binghamton Planning Commission.

Section 4. That this Ordinance shall take effect immediately.

The action will not impair the character or quality of important historical, archaeological, architectural, or aesthetic resources or of existing community or neighborhood character.

The action will not cause a major change in the use of either the quantity or type of energy.

The action will not create a hazard to human health.

The action will not cause a substantial change in the use or intensity of use of land including agriculture, open space or recreation resources, or in its capacity to support existing uses.

The action will not change two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together results in a substantial adverse impact on the environment.

Impacts from the action may combine with impacts of other, possible independent actions in the vicinity. The lead agency finds that when considered cumulatively such combination will not create a significant adverse impact on the environment.

For Further Information

Contact Person: Philip Strawn, President
City of Binghamton City Council

Address: City Hall
38 Hawley Street
Binghamton, NY 13901

Telephone Number: 607-772-7005 (City Clerk's Office)

State Environmental Quality Review Act

Read the title of the Legislation for the transfer to OFB before a vote, do the following:

For the record, the proposed use of 26 Lyon Street, 28 Lyon Street, 31 Munsell Street, and 33 Munsell Street were reviewed as part of a site plan application for the North Side Rehabilitation Affordable Housing Project (the “Project”) located at 39 Munsell Street (a/k/a 39-49 Munsell Street) by the City of Binghamton Planning Commission. The Planning Commission issued a negative declaration under SEQRA for the use of these properties. As a result, this SEQRA determination only involves 29 Munsell Street.

A. Motion to declare City Council as “Lead Agency” under SEQRA.

Motion made by _____,

Seconded by _____,

Voice vote

B. Motion to identify the proposed action as “Unlisted” under SEQRA.

Motion made by _____,

Seconded by _____,

Voice vote

C. Motion to issue a negative declaration under SEQRA for the following reasons:

This is a vacant lot in a residential area. The Purchaser is the developer of the North Side Rehabilitation Affordable Housing Project (the “Project”) located at 39 Munsell Street (a/k/a 39-49 Munsell Street). While 29 Munsell Street was not part of the SEQRA review for the other lots included in this sale, use of 29 Munsell Street is limited to open space in support of the Project, unless otherwise approved by the Mayor, City Council, and the Planning Commission.

Motion made by _____,

Seconded by _____,

Roll call vote

After SEQRA: Approve the legislation, roll call vote.