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

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.

Introductory No. 1122-02

Permanent No. LL22-02

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

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

The within Local Law was adopted by the Council of
the City of Binghamton.

Date 6/8/22

City Clerk [Signature]

Date Presented to Mayor

6/9/22

Date Approved

Mayor [Signature]

	Ayes	Nays	Abstain	Absent
Councilman Scaringi	✓			
Councilwoman Resciniti	✓			
Councilwoman Riley				✓
Councilwoman Friedman	✓			
Councilman Burns	✓			
Councilman Scanlon	✓			
Councilman Strawn	✓			
Total	6	0	0	1

Code of the City of Binghamton

Adopted Defeated

6 Ayes 0 Nays 0 Abstain 1 Absent

I hereby certify the above to be a true
copy of the legislation adopted by the
Council of the City of Binghamton at a
meeting held on 6/8/22. Approved
by the Mayor on 6/9/22.

[Signature]