

MINUTES OF THE COMMON COUNCIL
REGULAR MEETING
DECEMBER 6, 2022

A meeting of the Common Council of the City of Oneida, NY was held on the sixth day of December 2022 at 6:30 pm at the City of Oneida Common Council Chambers, 109 N. Main Street, Oneida NY 13421.

The meeting was called to order by Mayor Helen Acker

<u>Attendees</u>	Present	Absent	Arrived Late
Mayor Acker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Szczerba	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Laureti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Rossi	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> _____
Councilor Kinville	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> _____
Councilor Pagano	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Simchik	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

Also Present

City Attorney Nadine Bell	<input type="checkbox"/>	Fire Chief Dennis Fields	<input checked="" type="checkbox"/>
City Clerk Sandy LaPera	<input checked="" type="checkbox"/>	Police Chief John Little	<input checked="" type="checkbox"/>
City Engineer Jeff Rowe	<input checked="" type="checkbox"/>	Public Safety Com. Kevin Salerno	<input checked="" type="checkbox"/>
Codes Director Bob Burnett	<input checked="" type="checkbox"/>	Rich Andino, Esq.	<input checked="" type="checkbox"/>
Comptroller Lee Ann Wells	<input type="checkbox"/>	Other _____	<input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

PROCLAMATION: Zonta Says No to Violence (Cindy Thurston)

Proclamation

City of Oneida - Office of the Mayor

WHEREAS, Zonta International is a leading global organization of professionals with more than 28,000 members in 62 countries working together to make gender equality a worldwide

reality for women and girls, **and**

WHEREAS, Zonta International has contributed to help achieve a world free of violence against women and girls for more than 100 years, and, since 2012, continues to raise awareness of crimes of violence against women and girls through their yearly “Zonta Says No to Violence” Campaign and raises awareness for 16 consecutive days from November 25th through December 10th, **and**

WHEREAS, the World Health Organization estimates that one in three women worldwide have experienced physical and/or sexual violence, **and**

WHEREAS, more than 650 million women alive today were married as children and 12 million girls are married before the age of 18 each year, **and**

WHEREAS, the crime of violence against women and girls continues to be the most pervasive human rights violation and a global epidemic due to systemic use of physical, emotional, verbal, sexual, psychological and economic control and/or abuse; such crimes do not know any national nor cultural barriers and affect millions of women and girls of all races and socioeconomic backgrounds, in peacetime and conflict, **and**

WHEREAS, Zonta International envisions a world where every woman is able to achieve her full potential, have access to all resources, is treated with dignity and respect, and is represented on an equal basis with men; **and now therefore**,

I, **Helen B. Acker, Mayor** do hereby proclaim December 6, 2022, as;

“Zonta Says No to Violence Against Women Day”

in the City of Oneida and encourage all residents to practice and promote gender equality, to advocate for survivors of gender-based violence, and to act in service on their behalf.

IN WITNESS WHEREOF, I have hereunto set my hand and affix the official seal of the City of Oneida on this 6th day of December 2022.

Mayor Helen B. Acker

PUBLIC HEARING: A Local Law updating the Code Enforcement Program in the City of Oneida

OPEN PUBLIC HEARING

A LOCAL LAW UPDATING THE CODE ENFORCEMENT PROGRAM IN THE CITY OF ONEIDA

RESOLUTION 22-246

Moved by Councilor Simchik
Seconded by Councilor Laureti

RESOLVED, that the Public Hearing updating the Code Enforcement Program in the City of Oneida be hereby opened at 6:34 p.m.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

APPEARANCES

None

CLOSE PUBLIC HEARING

A LOCAL LAW UPDATING THE CODE ENFORCEMENT PROGRAM IN THE CITY OF ONEIDA

RESOLUTION 22-247

Moved by Councilor Pagano
Seconded by Councilor Simchik

RESOLVED, that the Public Hearing updating the Code Enforcement Program in the City of Oneida be hereby closed at 6:35 p.m.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

PUBLIC COMMENT: None

OLD BUSINESS: The Mayor thanked the Recreation Department, the Police Department, and the Fire Department for all their hard work on putting together the Christmas Tree Lighting and Parade that took place on Friday (December 2). She stated that there were more participants and spectators that attended this year, and everyone was commenting on how “magical” the event was.

APPROVAL OF MINUTES

Moved by Councilor Simchik
Seconded by Councilor Laureti

RESOLVED, that the minutes of the regular meeting of November 15, 2022, are hereby approved as presented.

RESOLVED, that the minutes from the Special Budget Work Sessions/Meetings from November 9 and November 14, 2022, are hereby approved as presented.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

APPROVAL OF WARRANT

Moved by Councilor Pagano
Seconded by Councilor Laureti

RESOLVED, that Warrant No. 23, checks and ACH payments in the amount of \$2,210,222.39 as audited by the Voucher Committee are hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

2023 CITY OF ONEIDA BUDGET

RESOLUTION 22-248

Moved by Councilor Simchik
Seconded by Councilor Pagano

RESOLVED, that agreeable to the estimates of the expenses and disbursements for the year 2023 constituting the budget, including Capital Plan, for the City of Oneida, the same is hereby approved by the Common Council on the sixth day of December, 2022 as set forth in the minutes of this meeting; there shall be levied and raised on the taxable property of the entire city, not including pension, pastor and over sixty-five (65) exempt property as follows:

Total Gross Budget	\$24,936,704
Less estimated revenues	\$24,303,267
Taxable balance	\$5,196,386

Of which, \$2,738,405 shall be levied on the entire city establishing a tax rate of \$5.64525 per thousand and \$1,867,450 shall be levied on the corporation tax district at a rate of \$5.52062 per thousand; thereby establishing a combined rate of \$11.16587 per thousand inside tax district; **and be it further**

RESOLVED, that \$558,370 shall be levied and a rate of \$4.23703 per thousand shall be established for the outside fire district, **and be it further**

RESOLVED, that \$32,161 shall be levied and a rate of \$0.074345 per thousand shall be established for hydrant tax, **and be it further**

RESOLVED, that the total tax levy for the City of Oneida 2022 budget is \$5,196,386.

Councilor Szczerba	YES
Councilor Laureti	YES
Councilor Rossi	ABSENT
Councilor Kinville	ABSENT
Councilor Pagano	YES
Councilor Simchik	YES

MOTION CARRIED

MISCELLANEOUS UTILITY BILLING

RESOLUTION 22-249

Moved by Councilor Simchik
Seconded by Councilor Laureti

RESOLVED, that the Miscellaneous Utility Billing for unpaid service charges, water rents and sewer taxes in the amount of \$103,173.61 be hereby inserted into the 2022 assessment roll to be relieved into the 2023 tax roll.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)
MOTION CARRIED

ADOPT A LOCAL LAW AMENDING CHAPTERS 190, TITLED "ZONING," AND 143, TITLED "SITE PLAN REVIEW," OF THE CODE OF THE CITY OF ONEIDA TO INCLUDE WIND ENERGY REGULATIONS

RESOLUTION 22-250

Moved by Councilor Simchik
Seconded by Councilor Laureti

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled "A Local Law Amending Chapters 190, Titled 'Zoning,' And 143, Titled 'Site Plan Review,' of the Code of the City of Oneida to Include Wind Energy Regulations" was presented and introduced at a Regular Meeting of the Common Council of the City of Oneida held on November 1, 2022; and

WHEREAS, a public hearing was held on such proposed local law on November 15, 2022 and by the Common Council of the City of Oneida and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Common Council of the City of Oneida in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, the enactment of the Proposed Local Law has previously been determined to be an unlisted action for purposes of environmental review under SEQRA, an environmental impact statement (EIS) was not required, and a negative declaration was issued on November 1, 2022, pursuant to the State Environmental Quality Review Act (SEQR) determining that this action will have no significant effect on the environment thus concluding the SEQR review process; and

WHEREAS, it is in the public interest to enact said Proposed Local Law.

NOW, THEREFORE, it is

RESOLVED that the Common Council of the City of Oneida, Madison County, New York, does hereby enact a Local Law as follows:

“CITY OF ONEIDA
PROPOSED LOCAL LAW

A LOCAL LAW AMENDING CHAPTERS 190, TITLED “ZONING,” AND 143, TITLED “SITE PLAN REVIEW,” OF
THE CITY OF ONEIDA CODE TO INCLUDE WIND ENERGY REGULATIONS.

Be it enacted by the Common Council of the City of Oneida, as follows:

Section 1.

So that a new Section 190-26.2, titled “Wind Energy,” shall be added to Chapter 190 of the Oneida City Code, titled “Zoning,” which shall read, in its entirety, as follows:

“190-26.2 Wind Energy.

Purpose.

The City of Oneida has determined that a comprehensive local law regulating the development of Wind Energy Conversion Systems is necessary to protect the interests of the City and its residents. The City adopts this article to promote the effective and efficient use of the City's wind energy resource through Wind Energy Conversion Systems and to regulate the placement of such systems so that public health, safety, and welfare will not be jeopardized and that the Wind Energy Conversion Systems will not have a significant adverse impact on the aesthetic qualities of the City.

Definitions.

COMMERCIAL WIND ENERGY SYSTEM — A Wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics that has a rated capacity greater than 250 kilowatts and a total height of more than 150 feet and is intended to solely supply electrical power into a power grid for sale.

NONCOMMERCIAL WIND ENERGY SYSTEM — A Wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of not more than 250 kilowatts and a total height of less than 150 feet.

TOTAL HEIGHT or MAXIMUM OVERALL HEIGHT — The height of the Wind Energy Conversion System measured from the ground elevation to the top of the tip of the blade in the vertical position.

TOWER — The support structure, including guyed, monopole, and lattice types, upon which a wind turbine or other mechanical device is mounted.

TOWER HEIGHT — The height above grade of the uppermost fixed portion of the Tower, excluding the length of any axial rotating turbine blades.

WIND ENERGY CONVERSION SYSTEMS (WECS) — One or more mechanical devices such as wind chargers, windmills, or wind turbines that are designed and used to convert wind energy into a form of useful energy for use on-site to reduce power costs for sale or redistribution to others. WECS includes both commercial and noncommercial systems.

WIND ENERGY FACILITY — Any Wind Energy Conversion System or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

WIND ENERGY SYSTEM — The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, Tower, transformer, turbine, vane, wire, substation, maintenance or control facilities or other component used in the system.

WIND MEASUREMENT TOWER — A Tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

Applicability.

The requirements of this article shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this article.

Permits required; allowable zoning districts.

A. No Wind Energy Facilities shall be constructed, reconstructed, modified, or operated in the City of Oneida except in compliance with this article.

B. No Wind Energy Facilities shall be constructed, reconstructed, modified, or operated in the City of Oneida except in Agriculture (A) and Community Services (C-S) zones, subject to the issuance of a conditional use permit approved pursuant to this article, the completion of environmental review pursuant to the State Environmental Quality Review Act (SEQRA), and the issuance of a building permit.

C. No Wind Measurement Tower shall be constructed in the City of Oneida except in the allowable districts pursuant to a conditional use permit and this article.

Applications for Wind Energy Facilities.

A. Applications for a conditional use permit for WECS will follow the general process for the issuance of a conditional use permit as described in Chapter 190 of the City Code and this article, and shall be as follows:

(1) Applicants for a conditional use permit for Wind Energy Conversion Systems within the City of Oneida shall submit the following information to the City for its referral to a professional engineer or consultant and to the Joint Zoning Board of Appeals/Planning Commission through the Director of Planning and Development:

(a) Name and address of the applicant.

(b) Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.

(c) Visual environmental assessment form (visual EAF), landscaping plan, and visual assessment report, including appropriate models and photography assessing the visibility from key viewpoints identified in the visual EAF or by the City of Oneida, existing tree lines, and proposed elevations. The visual EAF shall include a detailed or photographic simulation showing the site fully developed with all proposed wind turbines and accessory structures.

(d) A SEQR full environmental assessment form (EAF).

(e) A site plan drawn in sufficient detail to show the following:

[1] Location of the Tower(s) on the site and the Tower Height, including blades, rotor diameter, and ground clearance.

[2] Utility lines, both above and below ground, within a radius equal to the proposed Tower Height, including the blades.

[3] Property lot lines and the location and dimensions of all existing structures and uses on-site within 1,000 feet of the Wind Energy Conversion Systems.

[4] Surrounding land use and all structures within 1,500 feet of the Wind Energy Conversion Systems.

[5] Dimensional representation of the various structural components of the Tower construction, including the base and footing.

[6] Certification by a registered New York State professional engineer that the tower's design is sufficient to withstand wind loading requirements for structures as established by the New York State Uniform Construction Code.

[7] Existing topography.

[8] Proposed plan for grading and removal of natural vegetation.

[9] Proposed plan for restoration after construction according to City of Oneida and NYS Department of Environmental Conservation guidelines.

[10] Wind characteristics and dominant wind direction from which 50% or more of the energy contained in the wind flows.

[11] Plan for ingress and egress to the proposed project site, including:

[a] A description of the access route from the nearest state, county, and/or City-maintained roads to include:

[i] Road surface material, stating the type and amount of surface cover.

[ii] Width and length of access route.

[iii] Dust control procedures.

[b] A road maintenance schedule or program.

[c] Review of railroad accessibility for deliveries.

[12] A detailed construction plan, including but not limited to a construction schedule; hours of operation; designation of heavy haul routes; a list of material equipment and loads to be transported; identification of temporary facilities intended to be constructed; and a contact representative in the field with a name and phone number.

[13] Tree removal. All groves of trees shall be located on the site plan at the time of application. No grove or woodlots of trees shall be removed without approval of the Joint Zoning Board of Appeals/Planning Commission.

(f) Turbine information: must contain specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each commercial wind turbine model, Tower, and electrical transmission equipment.

(g) Turbine drawings: must contain photographs or detailed drawings of each wind turbine model, including the Tower and foundation.

(h) Noise report. A noise report shall be furnished which shall include the following:

[1] A description and map of the project's noise-producing features, including the range of noise levels expected, and the tonal and frequency characteristics expected. The noise report shall include low frequency, infrasound, pure tone, and repetitive/impulsive sound.

[2] A description and map of the noise-sensitive environment, including any sensitive noise receptors (i.e., residences, hospitals, libraries, schools, places of worship, and other facilities where quiet is important) within two miles of the proposed facilities.

[3] A survey and report prepared by a qualified engineer that analyzes the preexisting ambient noise regime, including seasonal variation, including but not limited to separate measurements of low frequency and A-weighted noise levels across a range of wind speeds, including near cut-in, turbulence measurements, distance from the turbines, location of sensitive receptors relative to wind direction and analyses at affected sensitive receptors, located within two miles of the proposed project site.

[4] A description and map showing the potential noise impacts, including estimates of expected noise impacts upon construction and operation workers and estimates of expected noise levels at sensitive receptor locations.

[5] A description and map of the cumulative noise impacts.

[6] A description of the project's proposed noise-control features, including specific measures proposed to protect workers and specific measures proposed

to mitigate noise impacts for sensitive receptors consistent with levels in this article.

[7] Identification of any problem areas.

[8] Manufacturers' noise design and field-testing data, both audible dB(A) and low frequency (deep bass vibration), for all proposed structures.

[9] A report that outlines issues and considerations for individuals that use hearing aids.

(i) A geotechnical report shall be furnished which shall, at a minimum, include the following:

[1] Soil engineering and engineering geologic characteristics of the site based on on-site sampling and testing.

[2] Foundation design criteria for all proposed structures.

[3] Slope stability analysis.

[4] Grading criteria for ground preparation, cuts, and fills, and soil compaction.

(j) Ice throw calculations: a report from a New York State professional engineer that calculates the maximum distance that ice from the turbine blades could be thrown. The basis of the calculation and all assumptions must be disclosed.

(k) Blade throw calculations: a report from a New York State professional engineer that calculates the maximum distance that pieces of the turbine blades could be thrown. The basis of the calculation and all assumptions must be disclosed.

(l) Catastrophic tower failure: a report from the turbine manufacturer stating the wind speed and conditions that the turbine is designed to withstand, including all assumptions.

(m) FAA notification: a copy of the written notification to the Federal Aviation Administration.

(n) Utility notification: Utility interconnection data and a copy of a written notification to the utility of the proposed interconnection.

(o) Notification to microwave communications link operators. An application that includes any wind turbine which is located within two miles of any microwave communications link shall be accompanied by a copy of a written notification to the operator of the link.

(p) Floodplain. An application that includes any wind turbine which is located within a one-hundred-year floodplain area, as such flood hazard areas are shown on the floodplain maps, shall be accompanied by a detailed report which shall address the

potential for wind erosion, water erosion, sedimentation, and flooding, and which shall propose mitigation measures for such impacts.

(q) Other information: such additional information as may be reasonably requested by the City Engineer, Code Enforcement Officer, and the Director of Planning and Development.

B. Conditional use permits issued for Wind Energy Conversion Systems shall be subject to the following conditions:

(1) Setbacks. The applicant shall adhere to the following setbacks:

(a) From zoning districts:

[1] Residential lot setback:

[a] No Commercial Wind Energy Systems shall be allowed in any residential district.

[b] One thousand feet from any residential district boundary line.

(b) From structures:

[1] A minimum of 1.5 times the total WECS height from any building located outside the applicant's property line.

[2] A minimum of 1,500 feet from any dwelling.

(c) From property lines (excluding residential zones):

[1] A minimum of 1.5 times the total WECS height from any property line, excluding adjoining lot lines of project participants.

(d) From public roads and highways:

[1] A minimum of 1.5 times the total WECS height from any public road and highway.

[2] Where the lot line abuts a public right-of-way, the setbacks specified above shall be measured from the center line of such right-of-way.

(e) From aboveground transmission lines greater than 12 kilovolts:

[1] A minimum of 1.5 times the total WECS height from any aboveground transmission line greater than 12 kilovolts, excluding where transmission lines are located within PUD Zones and those transmission lines associated with the WECS.

(f) Notwithstanding the provisions set forth in these subsections, such setbacks from lot lines do not apply if the application is accompanied by a legally enforceable agreement for a period of 25 years or the life of the permit, whichever is longer, that the adjacent landowner agrees to the elimination of the setback and is approved by the Joint Zoning Board of Appeals/Planning Commission.

(2) Maximum overall height. The maximum overall height of any Wind Energy Conversion System shall be 450 feet. The maximum height shall be measured from the ground elevation to the top of the tip of the blade in the vertical position.

(3) Signage.

(a) Signage limited. No advertising sign shall be placed or painted on any Commercial Wind Energy Facility.

(4) Color and finish; camouflage facilities.

(a) Color and finish. Wind turbines shall be painted a nonobtrusive (e.g., light environmental color such as white, gray, or beige) color that is nonreflective.

(b) Camouflage facilities. The design of commercial wind energy facility buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend the facility into the natural setting and the existing environment.

(5) Lighting.

(a) Lighting plan required. The applicant shall submit a commercial wind energy facility lighting plan that describes all lighting that will be required, including any lighting that may be required by the FAA. Such plan shall include but is not limited to the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the light so that it does not spill over onto neighboring properties.

(6) Compliance with regulatory agencies. The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of the Wind Energy Conversion System.

(7) Safety and security requirements. The applicant shall adhere to the following safety and security requirements:

(a) Safety shutdown. Each wind turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No wind turbine shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades, and turbine components.

(b) Grounding. All structures which may be charged with lightning shall be grounded according to applicable electrical codes.

(c) Wiring. All wiring between the wind turbines and the Wind Energy Facility substation shall be underground. The applicant is required to provide a site plan showing the locations of all overhead and underground electric utility lines, including substations for the project.

(d) All transmission lines from Wind Energy Conversion Systems to oil-site substations shall be underground. The Joint Zoning Board of Appeals/Planning Commission shall have the authority to waive this requirement if the owner of the property upon which the transmission line will be

sited consents to aboveground transmission lines or if the Joint Zoning Board of Appeals/Planning Commission has sufficient engineering data submitted by the applicant to demonstrate that underground transmission lines are unfeasible.

(e) Ground clearance. The blade tip of any wind turbine shall, at its lowest point, have a ground clearance of not less than 50 feet.

(f) Climb ability. Wind turbine towers shall not be climbable up to 15 feet above ground level.

(g) Access doors locked. All access doors to wind turbine towers and electrical equipment shall be lockable and shall remain locked at all times when operator personnel is not present.

(h) Self-supporting structures. All Wind Energy Conversion System structures shall be of monopole construction (single pole). No lattice structures or guy-wire-supported structures shall be permitted.

(i) Signage. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment, and Wind Energy Facility entrances. Signage shall also include two twenty-four-hour emergency contact numbers for the owner of the wind turbine in accordance with local, state, and federal codes.

(j) Ice throw. The permit shall determine the acceptable ice throw range based on the activities in the area, location, and calculations of the ice throw.

(8) Noise requirements. The applicant shall adhere to the following noise requirements:

(a) Compliance with noise regulations is required. A WECS permit shall not be granted unless the applicant demonstrates that the proposed project complies with all noise regulations.

(b) Noise study required. The applicant shall submit a noise study based on the requirements set out in Subsection B of this section. The Director of Planning with the assistance of a technical consultant, or City Engineer shall determine the adequacy of the noise study and, if necessary, may require further submissions. The noise study shall consider the following:

[1] Low-frequency noise.

[2] Infrasound noise.

[3] Pure tone.

[4] Repetitive/impulsive sound.

(c) Noise setbacks. The Joint Zoning Board of Appeals/Planning Commission may impose a noise setback that exceeds the other setbacks set out in this section if it deems that such greater setbacks are necessary to protect the public health, safety and welfare of the community.

(d) Audible noise standard. The audible noise standard due to wind turbine operations shall not be created which causes the noise level at the boundary of the proposed project site to exceed the greater of 45 dB(A) for more than five minutes out of any one-hour time period or 6 dB(A) greater than the prevailing background noise.

(e) Operations, low-frequency noise. A WECS facility shall not be operated so that impulsive sound below 20 Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptors.

(f) Noise complaint and investigation process required. The applicant shall submit a noise complaint and investigation process. The Joint Zoning Board of Appeals/Planning Commission shall determine the adequacy of the noise complaint and investigation process.

(9) Fire hazard protection. The applicant shall submit a fire control and prevention program that is appropriate and adequate for the proposed facility. The proposed program may include, but is not limited to, the following:

(a) Fireproof or fire-resistant building materials.

(b) Buffers or fire-retardant landscaping.

(c) Availability of water.

(d) An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment without regular human occupancy.

(e) Provision of training and fire-fighting equipment for local fire protection personnel.

(10) Impact on wildlife species and habitat. The applicant shall adhere to the following regarding the impact on wildlife species and habitat:

(a) Endangered or threatened species. The development and operation of a WECS facility shall not have a significant adverse impact on endangered or threatened fish, wildlife, or plant species or their critical habitats, or other significant habitats identified in the City of Oneida Comprehensive Plan and/or the studies and plans of the regional planning commissions based on criteria established by federal or state regulatory agencies.

(b) Migratory birds. The development and operation of a Commercial Wind Energy Facility shall be evaluated based on SEQRA findings.

(11) Unsafe and inoperable wind energy facilities; site reclamation. The applicant shall adhere to the following:

(a) Removal and site restoration. Unsafe WECS facilities, inoperable WECS facilities, and WECS facilities for which the permit has expired shall be removed by the owner at his or her expense. All safety hazards created by the installation and operation of the Commercial Wind Energy Facility shall be eliminated, and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security shall be required to cover the cost of the removal and site restoration at the time of the building permit application. The bond shall be payable to the City of Oneida for the removal of nonfunctional towers and appurtenant facilities in an amount to be determined by the City on an annual basis for the period of the life of the facility. Any fund established may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant.

(b) Removal and site restoration plan required. The applicant shall submit a removal and site restoration plan and removal and site restoration plan cost estimate to the Code Enforcement Officer/Building Inspector, City Engineer, and Planning Director for review and approval. The restoration plan shall identify the specific properties it applies to and shall indicate the removal of all buildings, structures wind turbines, access roads and/or driveways and foundations to four feet below finish grade; road repair costs, if any; and all regrading and revegetation necessary to return the subject property to the condition existing prior to establishment of the WECS facility. The restoration shall reflect the site-specific character, including topography, vegetation, drainage, and any unique environmental features. The plan shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan.

(c) Public nuisance. Every unsafe WECS facility and every inoperable WECS facility is hereby declared a public nuisance which shall be subject to abatement by repair, rehabilitation, demolition, or removal. An inoperable WECS facility shall not be considered a public nuisance, provided that the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and will be completed within no more than six months.

(d) "Inoperable" defined. A Commercial Wind Energy Facility shall be deemed inoperable if it has not generated power within the preceding six months.

(12) Interference with residential television, microwave, and radio reception. The applicant must submit proof that the proposed construction of the Wind Energy Conversion System will not cause interference with microwave transmissions, cellular transmissions, residential television interference, or radio reception of domestic or foreign signals. The applicant shall include specific measures proposed to prevent interference, a complaint procedure, and specific measures proposed to mitigate interference impacts.

(13) Compliance with FAA regulations. All Commercial Wind Energy siting shall comply with Federal Aviation Administration (FAA) regulations.

(a) Locking mechanisms to limit radar interference are required. All WECS facilities shall include a locking mechanism that prevents the blades from rotating when not producing power, in order to limit airport radar interference or "clutter." This provision does not apply while the WECS is "free-wheeling" during startup and shutdown. The Joint Zoning Board of Appeals/Planning Commission may modify or eliminate the requirement for a locking mechanism if sufficient evidence is presented that no significant airport radar interference or "clutter" will be caused by the WECS facility.

(14) Erosion control. The applicant shall adhere to the following:

(a) Erosion control plan required. Before the City of Oneida shall issue a grading or building permit for the WECS facility, the applicant shall submit an erosion control plan to the Director of Planning and Development for review and approval. The plan shall minimize the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.

(b) If the proposed project disturbs over one acre, the applicant must comply with the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit for Stormwater

Discharges from Construction Activity (Permit No. GP-02-01). A copy of the notice of intent (N.O.I.) and stormwater pollution prevention plan (SWPPP), as required by the general permit, must be filed with the City of Oneida Code Enforcement Office prior to construction. Per the general permit, construction cannot begin until the required time period for the NYSDEC review has passed.

(15) Certification. The applicant shall provide the following certifications:

(a) Certification of structural components. The foundation, tower, and compatibility of the Tower with the rotor and rotor-related equipment shall be certified in writing by a structural engineer licensed and registered in New York. The engineer shall certify compliance with good engineering practices and compliance with the appropriate provisions of the Uniform Building and Construction Code that have been adopted in New York State.

(b) Certification of post-construction. After completion of the Wind Energy Conversion System, the applicant shall provide a postconstruction certification from a licensed professional engineer licensed and registered in the State of New York that the project complies with applicable codes and industry practices and has been completed according to the design plans.

(c) Certification of the electrical system. The electrical system shall be certified in writing by an electrical engineer registered in New York. The engineer shall certify compliance with good engineering practices and with the appropriate provisions of the Electric Code that have been adopted by New York State.

(d) Certification of rotor overspeed control. The rotor overspeed control system shall be certified in writing by a mechanical engineer licensed and registered in New York State. The engineer shall certify compliance with good engineering practices.

(e) Certification of project. A certificate of completion must be supplied by the applicant and approved by the City of Oneida Code Enforcement Officer.

C. Monitoring requirements for wind energy conversion systems.

(1) Right to enter premises for monitoring. Upon reasonable notice, City of Oneida officials or their designated representatives may enter a lot on which a WECS facility permit has been granted for the purpose of compliance with any permit requirements. Twenty-four hours advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice.

(2) Avian/bat impact study plan. The applicant shall submit a plan for monitoring the avian impact of the commercial wind energy facility to the Joint Zoning Board of Appeals/Planning Commission for its review and approval. Such a plan shall document and follow accepted scientific study procedures. In addition, the applicant shall agree to submit a report to the Joint Zoning Board of Appeals/Planning Commission according to the requirements of the applicable regulatory agencies that identifies all dead birds found within 500 feet of the commercial wind energy facility.

(3) Periodic reporting is required. The applicant shall agree to submit periodic monitoring reports to the City. The report shall contain data on the operations and environmental impacts and shall be in the form prescribed by the Code Enforcement Officer or Director of Planning and Development.

(4) Power production report required. The applicant shall agree to submit as requested by the Joint Zoning Board of Appeals/Planning Commission a power production report to the City. The power production report shall include actual power production in kilowatt hours for each WECS facility.

(5) Inspections. Unless waived by the Joint Zoning Board of Appeals/Planning Commission, wind turbines or poles over 150 feet in height shall be inspected annually by a New York State licensed professional engineer that has been approved by the City or at any other time upon a determination by the City's Code Enforcement Office that the wind turbine, tower or pole may have sustained structural damage, and a copy of the inspection report shall be submitted to the City Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

(6) General complaint process.

(a) During construction, the City of Oneida Code Enforcement Officer can issue a stop-work order at any time for any violations of the permit.

(b) Postconstruction. After construction is complete, the permit holder shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements. Upon receipt of a complaint from the City of Oneida Code Enforcement Officer, the permit holder contact person shall have seven working days to reply to the City in writing.

D. Application and development fees and costs.

(1) Application fee. The applicant shall pay a fee of \$5,000 per Wind Energy System associated with the City of Oneida's review and processing of the application. The applicant shall submit a deposit with the application in the amount as set forth above. Following action on the application, any unused amount of the deposit(s) shall be returned to the applicant with a summary of the costs incurred.

(2) Development fees to be paid. A one-time or periodic fee and a requirement to provide public works or services may be imposed as a condition of a commercial wind energy system permit. Such fees must be related to the public need created by wind energy development. The purposes for which the permit fee may be used include, but are not limited to, providing roads required by the wind development, providing fire protection services, and establishing and operating a monitoring system.

(3) Proof of insurance. Prior to the issuance of a building permit, the applicant shall provide the City Clerk with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with the construction and operation thereof.

E. Findings.

(1) Findings necessary to grant a WECS facility permit. In order to grant a WECS facility permit, the Joint Zoning Board of Appeals/Planning Commission shall review the application and all filings by any other party and conduct a public hearing. A Commercial Wind Energy Facility permit shall not be granted unless the City of Oneida makes the following findings based on substantial evidence:

(a) Consistent with the Comprehensive Plan. The proposed Commercial Wind Energy Facility project is consistent with the Comprehensive Plan of the City of Oneida.

(b) Will not unreasonably interfere with the orderly land use and development plans. The proposed WECS facility will not unreasonably interfere with the orderly land use and development plans of the City of Oneida.

(c) Benefits to the applicant and the public will exceed any burdens. The benefits of the proposed WECS facility project to the applicant and the public will exceed any burdens.

(d) Not detrimental to the public health, safety, and general welfare of the community. The proposed WECS facility will not be detrimental to the public health, safety, or general welfare of the community.

(e) Complies with all required provisions of the Site Plan Review regulations. The proposed WECS facility shall comply with all required provisions of the Site Plan Review regulations unless variances have been properly applied for and granted pursuant to §143 of the Code of the City of Oneida.

(f) Complies with all required provisions of the Zoning Regulations. The proposed WECS facility shall comply with all required provisions of the Zoning Regulations unless variances have been properly applied for and granted pursuant to §190 of the Code of the City of Oneida.

F. The Joint Zoning Board of Appeals/Planning Commission may grant the conditional use permit, deny the Conditional Use permit, or grant the Conditional Use permit with written stated conditions.

Denial of the Conditional Use permit shall be by written decision based upon substantial evidence submitted to the Joint Zoning Board of Appeals/Planning Commission. Upon issuance of the Conditional Use permit, the applicant shall obtain a building permit for each tower.

G. WECS permits approved by the City Council of the City of Oneida shall be renewed annually.

The permit holder shall make a renewal application to the Code Enforcement Officer 60 days prior to expiration to allow for inspection and full compliance with all applicable laws and regulations. The renewal application will include a fee as set by the City Council of no more than \$500 per Wind Energy System.

H. The Conditional Use permit shall not be assignable or transferable without the approval of the Joint Zoning Board Appeals/Planning Commission.

I. Amendments to Conditional Use permit. Any changes or alterations postconstruction to the WECS shall be done only by amendment to the Conditional Use permit and subject to all requirements of this article.

J. The applicant licensee shall agree to indemnify and hold the City, its City Council, officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the construction, operation or maintenance of the WECS.

K. The applicant shall certify to the City that appropriate security will be in place to restrict access to the WECS and facilities following completion of construction.

Wind Measurement Towers.

The City acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and feasibility of using particular sites. Installation of wind measurement towers, also known as "anemometer ("met") towers," shall be permitted as a Conditional Use in the same zoning districts as the WECS.

A. An application for a Wind Measurement Tower shall include:

(1) Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

(2) Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.

(3) Address of each proposed tower site, including Tax Map section, block, and lot number.

(4) Site plan.

(5) Decommissioning plan, including a security bond or cash for removal.

B. The Joint Zoning Board of Appeals/Planning Commission may attach such conditions as it deems appropriate to variance approvals as it deems necessary to minimize the impact of the variance.

Permit revocation.

A. Testing fund. A Conditional Use permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years or more frequently upon request of City Code Enforcement in response to complaints by residents. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Conditional Use Permit and this article and shall also include an evaluation of any complaints received by the City. The applicant shall have 90 days after written notice from the Codes Department to cure any deficiency. An extension of the ninety-day period may be considered by the Code Enforcement Department, but the total period may not exceed 180 days.

B. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. The operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate permit conditions, the owner or operator shall remedy the situation within 90 days after written notice from the Code Enforcement Department. The applicant shall have 90 days after written notice from the Code Enforcement Department to cure any deficiency. An extension of the ninety-day period may be considered by the Code Enforcement Department, but the total period may not exceed 180 days.

C. Notwithstanding any other abatement provision under this article, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Joint Zoning Board of Appeals/Planning Commission may, after a public hearing at which the operator or owner shall be given the opportunity to be heard and present evidence, including a plan to come into compliance, either

order remedial action within a particular timeframe or order revocation of the wind energy permit or the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Code Enforcement Department shall have the right to use the security posted as part of the decommissioning plan to remove the WECS.

Fees and costs.

All fees required under this article shall be approved by the Common Council by resolution. Nothing in this article shall be read as limiting the ability of the City to enter into host community agreements with any applicant to compensate the City for expenses or impacts on the community. The City shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

Enforcement; penalties for offenses; remedies.

A. Any person owning, controlling or managing any building, structure, or land who shall undertake a WECS or wind measurement tower in violation of this article or in noncompliance with the terms and conditions of any permit issued pursuant to this article or any order of the enforcement officer and any person who shall assist in so doing shall be guilty of an offense and subject to a fine of not more than \$250 or to imprisonment for a period of not more than six months, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The City may institute a civil proceeding to collect civil penalties in the amount of \$250 for each violation, and each week said violation continues shall be deemed a separate violation.

B. In case of any violation or threatened violation of any of the provisions of this article, including the terms and conditions imposed by any permit issued pursuant to this article, in addition to other remedies and penalties herein provided, the City may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation to prevent the illegal act.”

SECTION 2.

So that Chapter 190 (Zoning) of the City of Oneida Code, Section 190 Attachment 1, titled “Table A: Schedule of Uses” shall be amended as follows:

“Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Wind Energy Conversion Systems” to Section 190 Attachment 1, titled “Table A: Schedule of Uses” to be allowable by means of a conditional use permit in Agricultural and Community Services Zones.

SECTION 3.

So that Chapter 190 (Zoning) of the City of Oneida Code, Section 190 Attachment 2, titled “Table B: Lot Development Standards” shall be amended as follows:

“Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Wind Energy Conversion Systems” to Section 190 Attachment 2, titled “Table B: Lot Development Standards” must comply with the following standards in Agricultural and Community Services Zones:

“Area, yard, and lot coverage requirements will be determined by the Joint Zoning Board of Appeals/Planning Commission based on health, safety, and general welfare standards. However, unless increased or decreased by the Joint Zoning Board of Appeals/Planning Commission, minimum lot size shall be set by the Joint Zoning Board of Appeals/Planning Commission, minimum front yards, 50 feet; minimum side yards, 50 feet; and minimum rear yards, 50 feet.”

SECTION 4.

“Chapter 143 (Site Plan Review), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “The development of Wind Energy Conversion Systems (WECS)” to Section 143-9(B)(12).

SECTION 5. Validity and severability.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

SECTION 6. Effective date.

This local law shall be effective upon filing with the office of the Secretary of State.”

Councilor Szczerba	YES
Councilor Laureti	YES
Councilor Rossi	ABSENT
Councilor Kinville	ABSENT
Councilor Pagano	YES
Councilor Simchik	YES

MOTION CARRIED

ADOPT A LOCAL LAW ADDING SHORT-TERM RENTAL PROVISIONS TO CHAPTER 190, ZONING, OF THE CITY OF ONEIDA CODE

RESOLUTION 22-251

Moved by Councilor Simchik
Seconded by Councilor Laureti

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled “A Local Law Adding Short-Term Rental Provisions to Chapter 190, Zoning, Of The City of Oneida Code” was presented and introduced at a Regular Meeting of the Common Council of the City of Oneida held on November 1, 2022; and

WHEREAS, a public hearing was held on such proposed local law on November 15, 2022 and by the Common Council of the City of Oneida and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard

in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Common Council of the City of Oneida in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, the enactment of the Proposed Local Law has previously been determined to be an unlisted action for purposes of environmental review under SEQRA, an environmental impact statement (EIS) was not required, and a negative declaration was issued on November 1, 2022, pursuant to the State Environmental Quality Review Act (SEQR) determining that this action will have no significant effect on the environment thus concluding the SEQR review process; and

WHEREAS, it is in the public interest to enact said Proposed Local Law.

NOW, THEREFORE, it is

RESOLVED that the Common Council of the City of Oneida, Madison County, New York, does hereby enact a Local Law as follows:

“CITY OF ONEIDA
PROPOSED LOCAL LAW

A LOCAL LAW ADDING SHORT-TERM RENTAL PROVISIONS
TO CHAPTER 190, ZONING, OF THE CITY OF ONEIDA CODE

Section 1.

So that Chapter 190 (Zoning) of the City of Oneida Code, Section 190-5, titled "Definitions," is hereby amended by adding the following definitions:

BED AND BREAKFAST – A home occupation in an existing one-family dwelling operated by the permanent resident(s) of the dwelling who is also on-site and sleeping overnight within the residence while providing short-term overnight lodging to transient guests, and which offers one on-site meal served to such guests, but no other meals.

BOARDING HOUSE – See “Rooming House.”

BOARDER – A person who occupies a bedroom or room as a lodging unit within a dwelling unit, boardinghouse, rooming house, or lodging house on a long-term residential basis for consideration and where meals may be provided by the owner or operator.

DORMITORY – A place of residence that is occupied and maintained for persons enrolled in a college, university, medical or other educational institution and which is recognized and subject to ownership or leasehold interest controls by such educational institution.

DWELLING – A building that contains one or more dwelling units used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

DWELLING UNIT – A building or portion thereof containing cooking area(s), bathroom, dining, sleeping, and related facilities necessary and/or incidental to human habitation, designed and intended as a self-contained household unit for a single individual or family.

FAMILY – One person residing in a dwelling unit; two or more persons related by blood, marriage or adoption, living, sleeping, cooking, and eating in and otherwise occupying one dwelling unit as a single unit; or two or more persons not necessarily related by blood, marriage or adoption occupying a single dwelling unit as a single housekeeping unit and constituting a “functional family unit” as defined herein, which in either event shall be distinguished from two or more persons occupying a dwelling unit and simply sharing rent, utility expenses and other similar expenses of occupying the dwelling unit, and also to be distinguished from occupying a boardinghouse or rooming house.

FOSTER HOME – A facility for childcare in a place of residence of a household to provide family care or training for children who are not related to the head of such home, and provided that such home is licensed or otherwise approved by [the state] for such purpose. The total number of foster children may not exceed the limits of a "family" as defined.

FUNCTIONAL FAMILY UNIT – A group of two or more persons not necessarily related by blood, marriage, or adoption, living, sleeping, cooking, and eating in and otherwise occupying one dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods.

- A. A Functional Family Unit is distinguished from two or more persons occupying a boardinghouse or rooming house.
- B. For a group of two or more unrelated persons to operate as a Functional Family Unit, they must regularly share the common dwelling areas, including dining areas, cooking areas, and social spaces.
- C. Such stability is presumed present if at least four (4) of the following conditions are met:
 - (1) The presence of one or two adults residing in the unit with either or both acting as a head of household.
 - (2) The presence of one or more minor children regularly residing in the household as a dependent(s) of one or more adult occupant(s) of the household.
 - (3) Sharing of expenses for food, rent or ownership costs, utilities, and other household expenses.
 - (4) Common use or ownership of furniture, appliances, and other household furnishings and supplies among the members of the household.

- (5) Employment of members of the household in the region, or active pursuit of such employment.
- (6) Use of the address of the dwelling by adult members of the functional family for purposes of voter registration, or driver's license, or motor vehicle registration, or state or federal income tax filings.
- (7) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units.
- (8) Any other factor that, in the judgment of Department of Codes Enforcement, reasonably demonstrates that the group of persons are occupying the dwelling unit as a single unit in a manner consistent with the purposes of zoning and use restrictions in the Family Residential District.

D. A group of individuals living in the same dwelling unit shall be presumed not to be a Functional Family Unit, as defined in this section, if such dwelling unit contains no head of household.

HOSTED SHORT-TERM RENTAL USE – A short-term rental use where the owner lives and sleeps in the rented unit, or in another dwelling unit on the same or an adjacent tax parcel, throughout the short-term renter's stay, and no more than two bedrooms are rented at any one time.

HOTEL – A building, or any part thereof, which contains 15 or more living and sleeping accommodations for paid transient occupancy, with common exterior entrance or entrances, and which may or may not include dining facilities. The term "hotel" shall not include "motel," "inn," "bed-and- breakfast," "boardinghouse" or similar accommodations.

INN – A building, or any part thereof, which contains more than four and less than 15 living and sleeping accommodations for paid transient occupancy. The facility may have accessory uses such as a restaurant or a bar.

LODGING HOUSE – See "Rooming House."

MOTEL – A building or group of buildings containing 15 or more living and sleeping accommodations for paid transient occupancy, each unit of which has a separate exterior entrance and parking space, and which is used principally by motor vehicle travelers. The term "motel" shall include "motor lodge," "motor inn," "tourist cabins" or similar accommodations.

OWNER OCCUPIED TRANSIENT OCCUPANCY LODGING — See Hosted Short-Term Rental Use.

PERMANENT RESIDENT — A person who occupies a property within 60 days of purchase with the intent to establish that property as their primary residence. A permanent resident must occupy a primary residence for at least 183 days per year.

PRINCIPAL RESIDENCE— See "Principal Residence."

PRIMARY RESIDENCE — The permanent resident's usual place of return for housing as documented by at least three of the following: motor vehicle registration; driver's license or equivalent identification card; voter registration; or tax documents showing the residential unit as the permanent resident's residence for the purposes of a homeowner's tax exemption. A person may have only one primary residence.

ROOMING HOUSE — A building, other than a hotel, fraternity, sorority, dormitory, chapter house or membership association house, where lodging with or without meals for four or more roomers or boarders or guests is provided for compensation or where lodging is provided for four or more unrelated individuals within a single dwelling unit or where lodging is provided for three or more boarders, roomers or lodgers residing with a single family in a single dwelling unit. The term "Rooming House" shall include "Boardinghouse" and "Lodging House," and shall not include accommodations used for short-term rentals. See "Short-Term Rental Use."

ROOMERS — A person who resides in a dwelling who is not a member of the Functional Family Unit that is the primary occupant of the dwelling and who pays for or performs services in exchange for such occupancy. A roomer does not include a person who has separate cooking facilities made available.

TRANSIENT OCCUPANCY — Living and / or sleeping accommodation provided for compensation and / or barter for any period of less than thirty (30) consecutive calendar days, counting any portion of a particular day as a full calendar day. Bed and Breakfasts, Motels / Hotels, Tourist Homes, and Transient Occupancy Lodging shall individually and collectively be considered types of transient occupancies. See "Short-Term Rental Use."

SHORT-TERM RENTAL USE — A tourist or transient use that has been issued a short-term rental permit. The rental by a tenant of a dwelling unit, or portion thereof, for a period of less than 30 consecutive days. "Period" includes consecutive terms of rental to the same tenant(s).

UNHOSTED SHORT-TERM RENTAL USE — A Short-Term Rental Use where the owner does not live and sleep in the rented unit, or in another dwelling unit on the same or an adjacent tax parcel, throughout the short-term renter's stay.

Section 2.

So that Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended by adding Section 190-12(C), titled "Amortization of certain nonconforming short-term rental uses," which shall read, in its entirety, as follows:

"Amortization of certain nonconforming short-term rental uses.

Notwithstanding the other provisions of this Article III, a valid nonconforming Short--Term Rental Use existing at the effective date of adoption or amendment of §190-28(C)(16) (Short-Term Rental Uses) may continue only if and in the manner and time period specifically permitted by the Joint Zoning Board of Appeals/ Planning Commission by conditional use permit approval pursuant to §190-28(C)(16).

Section 3.

So that Chapter 190 (Zoning) of the City of Oneida Code, Section 190 Attachment 1:1, titled "Table A: Schedule of Uses" shall be amended as follows:

“Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Dormitory” to Section 190 Attachment 1:1 titled “Table A: Schedule of Uses” to be allowable by means of a conditional use permit in Agricultural, Commercial, Downtown Commercial, Neighborhood Commercial, Community Services and R-3 Zones.

Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Boarding House/Rooming House/Lodging House” to Section 190 Attachment 1:1 titled “Table A: Schedule of Uses” to be allowable by means of a conditional use permit in Agricultural, Commercial, Downtown Commercial, Neighborhood Commercial, Community Services and R-3 Zones.

Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Hosted Short-Term Rental Use” to Section 190 Attachment 1:1 titled “Table A: Schedule of Uses” to be allowable by means of a conditional use permit in Agricultural, Commercial, Downtown Commercial, Neighborhood Commercial, Community Services, R-1, R-2, and R-3 Zones.

Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Unhosted Short-Term Rental Use” to Section 190 Attachment 1:1 titled “Table A: Schedule of Uses” to be allowable by means of a conditional use permit in Agricultural, Commercial, Downtown Commercial, Neighborhood Commercial, Community Services, and R-3 Zones.

Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Foster Home” to Section 190 Attachment 1:1 titled “Table A: Schedule of Uses” to be allowable by means of a conditional use permit in Agricultural, Commercial, Downtown Commercial, Neighborhood Commercial, Community Services, R-1, R-2, and R-3 Zones.”

Section 4.

So that a new Section 190-26.3, titled “Short-Term Rental Uses,” is hereby added to Chapter 190 of the Oneida City Code, so as to read, in its entirety, as follows:

“190-26.3. Short-Term Rental Uses.

Purpose and legislative intent.

The purpose of this section is to establish appropriate regulations for Short-Term Rental Uses in the City of Oneida. While the City recognizes that some property owners wish to rent to others on a short-term basis all or part of the dwelling units they own, the City also recognizes that it has an obligation to protect the public health, safety and welfare and minimize the adverse effects of such short-term rental uses.

By enacting this section, the City intends to:

- (a) Protect the health, safety and welfare of the community and of persons occupying short-term rentals;
- (b) Prevent to the greatest extent practicable public safety risks and other impacts, including, but not limited to, increased noise, trash, traffic, and parking impacts associated with short-term rental uses;

- (c) Protect neighborhood character and minimize the impact of short-term rental uses on neighbors and residential properties;
- (d) Protect property values of the community;
- (e) Protect housing affordability within the community for long-term residents, whether owners or renters;
- (f) Assist homeowners to stay in their homes by allowing some short-term rental use of their homes to generate income to defray their cost of homeownership;
- (g) Enable property owners to provide lodging for visitors to the City during periods of peak visitor and tourist demand, such as university, college graduation weekends, special events, and holiday weekends; and
- (h) Promote the efficient use of housing stock.

Applicability. This section applies to all Short-Term Rental Uses except:

- (a) Rentals of dwelling units that are owned by cooperative corporations and subject to proprietary leases under the Cooperative Corporations Law.
- (b) House sitting arrangements where a house sitter occupies an owner's principal residence while the owner is away, the house sitter provides security, maintenance and/or pet care, and the house sitter pays no money or other financial consideration to the owner in exchange for the occupancy. For the purposes of this §190-26.2 the ownership and minimum residency requirements in subsection D below must be met for a dwelling unit to be considered an owner's principal residence.
- (C) Except as prohibited by the New York Multiple Dwelling Law, a Short-Term Rental Use is permitted, subject to this section's provisions, in a primary dwelling unit or an accessory dwelling unit in all zoning districts that allow a Short-Term Rental Use as a permitted accessory use.
- (D) An owner may obtain up to two operating permits at any one time from the Department of Code Enforcement for dwelling units used for Short-Term Rental Uses, with no more than one of the two permits being for an Unhosted Short-Term Rental Use.
- (E) Provisions applicable to Hosted and Unhosted Short-Term Rental Uses.
- (F) Unhosted Short-Term Rentals will be assessed as commercial properties.

The following requirements apply to both Hosted and Unhosted Short-Term Rental Uses:

- (1) Operating permit required.
 - (a) Each dwelling unit used or offered for a Short-Term Rental Use shall require a valid operating permit issued pursuant to the City of Oneida's Chapter 61 (Fire Prevention), Oneida Chapter 33 (Property Maintenance), and Chapter 77 (Housing Standards). Each operating permit shall specify whether it is for a Hosted or an Unhosted Short-Term Rental Use, only one such use

being allowed per unit. Before the expiration or renewal of an existing operating permit, it shall be the responsibility of the owner of such unit to renew the permit through self-certification that is submitted in person or by an internet host platform to the Department of Code Enforcement that will also be filed with the City Clerk.

(b) Owners of dwelling units used or offered for Short-Term Rental Uses as of January 1, 2023, must apply by July 1, 2023 for operating permits. Owners of dwelling units that are not used or offered for Short-Term Rental Uses as of November 1, 2022, but that are subsequently used or offered for Short-Term Rental Uses, must apply for operating permits prior to such use or offer for a Short-Term Rental Use. After an operating permit is obtained, it must be maintained throughout the period that such unit is used or offered for a Short-Term Rental Use.

(c) The Code Enforcement Department shall issue an operating permit upon verification by inspection that the items listed in Subsection (i) through (xiii) below meet the requirements of the applicable New York State Uniform Fire Prevention and Building Code and the items listed in Subsection (2) below meet the requirements of the City of Oneida Code:

- i. 911 address number properly posted (with each unit posted);
- ii. Exterior structure in good repair;
- iii. Entrances, access areas, parking spaces and similar areas in good repair;
- iv. Receptacles for proper storage of garbage;
- v. Compliant pools and decks (if present);
- vi. Working smoke and carbon monoxide detectors;
- vii. Interior structure in good repair;
- viii. Fire separation (where required);
- ix. Electrical, plumbing and heating in good repair;
- x. Appliances in good repair (if supplied by landlord);
- xi. Proper light and ventilation;
- xii. Proper room sizes;
- xiii. Proper egress doors or windows;
- xiv. Compliant off-street parking, per §190-16 and this section;
- xv. Exterior property areas do not violate City of Oneida Code Chapter 33 (Property Maintenance Code).

(a) A Code Enforcement Officer/Building Inspector shall seek a search warrant from a court of competent jurisdiction whenever the owner, managing agent or occupant fails to allow inspections of any premises believed to be subject to this section and where there is a reasonable cause to believe that there is a violation of this section, City of Oneida Chapter 33 (Property Maintenance), or the New York State Uniform Fire Prevention and Building Code.

(b) Failure of an owner of any unit that is required to have an operating permit to apply for an operating permit in a timely manner, to obtain an operating permit after inspection, or to maintain a valid operating permit after

it is granted throughout the period that such unit is used or offered for Short-Term Rental Use, shall be deemed a violation of this section.

(c) Over-occupancy. Verified over-occupancy shall constitute a violation of the operating permit.

(d) A Short-Term Rental Permit may be revoked at the discretion of any Code Enforcement Official or building inspector. This action can be appealed to the City of Oneida Joint Zoning Board of Appeals/Planning Commission.

(2) Additional Hosted and Unhosted Short-Term Rental Use requirements.

(a) The following provisions in this subsection apply in all zones where Short-Term Rental Uses are allowed. The owner of any unit used for a Short-Term Rental Use shall provide enough driveway parking spaces on the parcel containing such unit so that all vehicles belonging to the short-term renters are parked on-site. Such vehicles may not park on the street.

(b) The following provisions in this subsection apply in all zones where Short-Term Rental Uses are allowed. No unit except a primary residence with a Hosted Short-Term Rental shall be subject to more than one short-term rental agreement at any one time. If the owner offers more than one unit on a parcel and/or adjacent parcel, only one unit may be rented as a Short-Term Rental Use at any one time.

(c) No unit used for a Short-Term Rental Use shall be rented for the accommodation of more individuals than two times the number of legal bedrooms in such unit.

i. No more than four occupants shall be permitted to sleep in one sleeping room, however, no room shall be used for sleeping purposes unless there is at least 100 square feet of floor space for a single occupant and 50 square feet for each additional occupant and 400 cubic feet of air space for each occupant occupying any sleeping room in said house.

ii. Each furnished apartment shall have a minimum floor area of at least 150 square feet for one occupant and an additional 100 square feet of floor area for each additional occupant and 400 cubic feet of air space for each occupant.

iii. The use of the same sleeping room or rooms by different persons for sleeping purposes by any person or persons during any twenty-four-hour period is unlawful.

iv. All bedrooms must have sufficient heat in accordance with the requirements of the local heating ordinance.

[1] If individual heating equipment is installed, such individual heating units must be approved by the Building Inspector before installation and such units must be maintained in proper working condition.

v. Each room containing a bed or beds shall have a window area of not less than 10% of the size of the floor space. Each window shall open directly into outside air.

vi. A basement apartment or room shall have at least 50% of the vertical height of the room above ground level.

vii. Each furnished apartment is to have its own bathroom with a toilet, washbasin and bathtub, or shower in lieu of bathtub.

viii. The cooking of food is prohibited in all sleeping rooms.

xiv. Any building having furnished rooms shall have at least one bathroom, for each six persons lodged therein, located in accessible locations.

xv. There shall be at least one bathroom on the same floor where a furnished room is located.

(d) All units used for Short-Term Rental Uses shall have prominently posted in all bedrooms in such unit a copy of the valid operating permit for such unit and a notice in a form approved by the Code Enforcement Department containing safety and legal compliance information including, but not limited to, the following: location of the nearest exit in case of a fire; limitations contained in the City's laws regarding Short-Term Rental Uses and noise; and cell phone numbers of the owner and any manager, if there is one.

(e) Collection of rental information and actions to address complaints.

[1] Every time an owner rents a unit for an Unhosted Short-Term Rental Use, prior to the beginning of the rental stay, the owner shall notify the Code Enforcement Department of the dates of the rental agreement by electronic methods established by such Department.

[2] Local contact person. Owners shall provide the Code Enforcement Department, all short-term renters and all occupants of adjacent properties with the name and contact information of a local individual who shall be available 24 hours per day, seven (7) days per week, during the term of the unhosted stay. Once this notification is given to the Code Enforcement Department and adjacent property occupants, it does not need to be given to them again until the name and/or contact information changes. The owner or designated local contact person shall:

(i) Respond on-site within 60 minutes to complaints regarding a condition or operation of the Short-Term Rental Use or the conduct of the renters; and

(ii) Take remedial action to resolve any and all complaints.

F. Limitations on number of days allowed for Short-Term Rental Use.

(1) Hosted Short-Term Rental Uses. There is no limit on the number of days per year that a dwelling unit may be used for a Hosted Short-Term Rental Use.

(2) Unhosted Short-Term Rental Uses.

(a) Unless allowed a greater number of days below, no unit shall be used for an Unhosted Short-Term Rental Use for more than 60 days in any calendar year in R-1, R-2, Zones. This limitation of 60 days shall not apply to any written

rental agreement that existed as the adoption of this provision. For the purposes of this subsection, each of the following shall count as one day:

- [1] a rental of 24 hours;
- [2] a rental of less than 24 hours that includes an overnight stay;
- [3] a rental of less than 24 hours that does not include an overnight stay.

- (3) No unit shall be used for an Unhosted Short-Term Rental Use for more than 60 days in any calendar year in R-3, Commercial, Downtown Commercial, Light-Industrial Zones unless requested through a Conditional Use Application to the Joint Zoning Board of Appeals/Planning Commission.

G. Termination of certain legal nonconforming uses after amortization.

- (1) The Zoning Board of Appeals/Planning Commission may grant conditional use approval for a Short-Term Rental Use subject to termination or a limitation on days under this subsection to continue for a stated period of time after the termination or limitation takes effect, provided that the owner applies to the Joint Zoning Board of Appeals/ Planning Commission by December 7, 2022 for such conditional use approval, and further provided that the Joint Zoning Board of Appeals/ Planning Commission finds that:

- (a) The owner demonstrates that the Short-Term Rental Use is a legal nonconforming use; and
- (b) The owner demonstrates through competent dollars-and-cents proof that prior to November 1, 2022, they made substantial financial expenditures unique to the Short-Term Rental Use; and
- (c) The owner provides documentation of their total receipts from short-term rentals and expected revenue through the date of termination or limitation; and
- (d) The owner demonstrates that they have not recovered substantially all of the financial expenditures related to the Short-Term Rental Use; and
- (e) The owner demonstrates that they cannot obtain a reasonable return on their investment unique to the Short-Term Rental Use if the property is used for any other purpose permitted within the zoning district and that the lack of a reasonable return is due solely to the termination or limitation on short-term rental days and not other market forces; and
- (f) The extension period granted by the Joint Zoning Board of Appeals/ Planning Commission is the minimum extension period necessary to mitigate the demonstrated loss of a reasonable return.

(2) The criteria for granting such special approval shall be as set forth above rather than the normal criteria in Article V for granting a conditional use approval.

H. Order to remedy; operating permit suspension and revocation.

(1) Whenever the Code Enforcement Officer finds that there has been a violation of this section, the Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity in violation of this section.

(2) An order to remedy shall be in writing; identify the property or premises; specify the condition or activity that violates this section; shall specify the provisions of this section that are violated by the specified condition or activity; shall include a statement that the violations must be corrected within 30 days after the date of the order to remedy; may direct the person served with the order to begin to remedy the violation(s) immediately or within some other stated period of time that can be less than 30 days after the date of the order; direct that compliance is achieved within the specified period of time; and shall state that an action or proceeding to compel compliance and/or seek penalties, fines and/or imprisonment may be instituted if compliance is not achieved within the specified period of time.

(3) The order to remedy, or a copy thereof, may be served within five (5) days after the date of the order to remedy by personal service, by mailing by registered or certified mail sent to the address set forth in the application for any permit submitted to the City or to the property address, or by posting a copy thereof on the premises that are the subject of the order to remedy and mailing a copy, enclosed in a prepaid wrapper, addressed to the last known address of the owner as set forth in the City of Oneida records, or if none, in the most recent tax roll available to the City of Oneida.

(4) In case the owner, operator, or the agent of any of them shall fail, neglect or refuse to remove, eliminate or abate the violation within the time specified in the order to remedy, a request to take appropriate legal action may be made to the Attorney for the City of Oneida, and/or the Code Enforcement Officer may initiate the process to suspend or revoke an operating permit, if the suspension/revocation process has not already been instituted.

(5) Suspension and revocation of operating permit.

(a) An operating permit may be suspended or revoked pursuant to City of Oneida Code Chapter 33 (Building Code Administration and Enforcement) and/ Chapter 61 (Fire Prevention). In addition to the reasons for suspension and revocation in that section, an operating permit may be suspended or revoked if the owner of a dwelling unit used or offered for Short-Term Rental Use fails to apply for an operating permit in a timely manner, to obtain an operating permit after inspection, to maintain a valid operating permit after it is granted throughout the period that such unit is used or offered for a Short-Term Rental Use, or to otherwise comply with this section.

(b) To initiate the process to suspend or revoke an operating permit, the Code Enforcement Officer shall issue a notice of intent to suspend or revoke the operating permit. The notice of intent to suspend or revoke shall describe the violation and require the operating permit holder to immediately correct the violation or cause the violation to be corrected.

(c) The notice of intent shall be provided to the operating permit holder by personal service, by registered or certified mail to the address submitted with the permit application, or by posting on the premises at issue.

(d) If the operating permit holder fails to immediately correct the violation or cause the violation to be corrected, the Code Enforcement Officer shall suspend or revoke the permit.

(e) An operating permit holder shall be entitled to request a hearing on suspension or revocation before the Joint Zoning Board of Appeals/Planning Commission, upon application made to the Code Enforcement Department demonstrating that the operating permit holder was not in violation. Such hearing shall be requested, in writing, with the request addressed to and received by the Code Enforcement Officer within five business days of the permit holder's receipt of the notice of intent or of posting, whichever occurs earlier.

(f) An application for an interpretation appealing the Code Enforcement Officer Determination to the Joint Zoning Board of Appeals/Planning Commission shall be administered by the Director of Planning and Development. Any suspension or revocation remains in effect unless modified by the Joint Zoning Board of Appeals/Planning Commission. Within 30 days of the permit holder's written request, the Joint Zoning Board of Appeals/Planning Commission shall hold a hearing to determine whether to reverse the suspension or revocation. The Joint Zoning Board of Appeals/Planning Commission shall issue its written decision within 15 days after the hearing.

(f) The owner of a dwelling unit for which a Short-Term Rental operating permit has been revoked for the first time may not reapply for a new operating permit until one year after such revocation.

(g) The owner of a dwelling unit for which a Short-Term Rental operating permit has been revoked at least once before may not reapply for a new operating permit until five years after such revocation."

Section 5. Validity and severability.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

Section 6. Effective date.

This local law shall be effective upon filing with the office of the Secretary of State."

Councilor Szczerba	YES
Councilor Laureti	YES
Councilor Rossi	ABSENT
Councilor Kinville	ABSENT
Councilor Pagano	YES
Councilor Simchik	YES

MOTION CARRIED

AUTHORIZE MEDICARE PART B REIMBURSEMENT PAYMENTS TO RETIREES

RESOLUTION 22-252

Moved by Councilor Simchik
Seconded by Councilor Pagano

RESOLVED, that the City Comptroller be, and hereby is authorized and directed, throughout the period from January 1, 2023, to December 31, 2023, to reimburse the cost of Medicare Part B coverage to all eligible retired City Employees and eligible dependents, regardless of union or non-union affiliation, in accordance with the provisions regarding such reimbursement as set forth in the current contracts of CSEA, Inc., Local 1000 AFSCME and Oneida Paid Firefighters Association Local 2692, **and be it further**

RESOLVED, that the City Comptroller be, and hereby is authorized and directed, throughout the period from January 1, 2023, to December 31, 2023, to reimburse the cost of Medicare Part B coverage to all eligible retired City employees and eligible dependents, who retired prior to July 1, 2015, regardless of whether said retiree and any eligible dependent is enrolled in the City's Medicare Advantage & Prescription Program.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

APPROVE BID-PIPES AND MATERIALS (MISC.)-WATER DEPARTMENT

RESOLUTION 22-253

Moved by Councilor Simchik
Seconded by Councilor Laureti

RESOLVED, to approve the lowest bid meeting specifications for Pipes and Materials (Misc.) to Ferguson Waterworks, 6040 Drott Drive, East Syracuse, NY 13057.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

APPROVE BID-HYDRANTS-WATER DEPARTMENT

RESOLUTION 22-254

Moved by Councilor Simchik
Seconded by Councilor Laureti

RESOLVED, to approve the lowest bid meeting specifications for Hydrants to Blair Supply Co.,
785 Beahan Rd., Rochester, NY 14624.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

STANDARD WORKDAY RESOLUTION

RESOLUTION 22-255

Moved by Councilor Simchik
Seconded by Councilor Laureti

RESOLVED that the Common Council hereby establishes the following as standard workdays for elected officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the Clerk of this body:

Name	SS#	(Last four digits) Reg #	Title	Term begins and end dates	Standard Workday	Records of Activity Results	Not submitted	Pay Frequency	Tier I
James Szczerba	****	3210	Councilor	07/19/2022-12/31/2022	6	4		bi-monthly	

Ayes: 3
Nays: 0
Abstain: 1 (Szczerba)
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

BUDGET TRANSFERS/AMENDMENTS

RESOLUTION 22-256

Moved by Councilor Simchik
Seconded by Councilor Laureti

2022 Budget Adjustments

RESOLVED, to approve the following 2022 Budget Amendment/Transfers

	<u>To</u>	<u>From</u>
\$ 202,300.00	002.8300.0427.0000 Water Infrastructure Improvements	002.0002.0912.0000 Water Fund Balance

To allocate funds to order pipe and materials to prepare for spring 2023

\$ 2,997.00	001.3120.0300.0000 Materials & Supplies	001.3120.0108.0000 STEP Overtime
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To re-allocate funds to proper GL line. Reimbursable expenses under materials & supplies.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

SCHEDULE 2022 YEAR-END CLOSEOUT MEETING

RESOLUTION 22-257

Moved by Councilor Simchik
Seconded by Councilor Szczerba

RESOLVED, to schedule the 2022 Year-End Closeout Meeting for Friday, December 30, 2022, at 8:30 a.m. in Common Council Chambers, 109 N. Main Street, Oneida, NY 13421.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)

MOTION CARRIED

***NOTE:** Agenda Item No. 11 Agreement-Kraus Nuisance Control was pulled from the Agenda by the Mayor

EXTEND CHEMICAL CONTRACT FOR WATER TREATMENT

RESOLUTION 22-258

Moved by Councilor Simchik
Seconded by Councilor Laureti

RESOLVED, that authorization be hereby given to extend the chemical contract for Liquid Aluminum Sulfate with Holland Company, Inc., 153 Howland Avenue, Adams, MA 01220 through 2023, in accordance with the existing contract and authorize the Mayor to sign the extension letter.

Ayes: 4
Nays: 0
Absent: 2 (Kinville/Rossi)
MOTION CARRIED

INTRODUCE A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN PROGRAM (OPEN C-PACE)
IN THE CITY OF ONEIDA-SCHEDULE PUBLIC HEARING

RESOLUTION 22-259

Moved by Councilor Simchik
Seconded by Councilor Laureti

WHEREAS, the proposed Local Law has been introduced and will be considered for enactment pursuant to the provisions of the Municipal Home Rule Law; and

WHEREAS, the City of Oneida Common Council has the authority to adopt provisions to define, clarify and make uniform the Code of the City of Oneida; and

WHEREAS, this amendment to the Code of the City of Oneida will establish a sustainable energy loan program (Open C-PACE) in the City of Oneida; and

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the City of Oneida, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQRA) with respect to the proposed enactment of said Local Law, with the result that the Common Council shall act as lead agency in this matter; and

WHEREAS, the adoption of said Local Law is a Type II Action for purposes of environmental review under SEQRA where no further review is required pursuant to 6 NYCRR §617.5(a).

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that there are no other involved agencies, that the Common Council shall act as lead agency and that the enactment of the proposed Local Law is a Type II action for purposes of SEQRA review; and it is further

RESOLVED AND DETERMINED, that the Mayor of the City of Oneida is hereby authorized to sign any agreements required by EIC in relation to the Open C-PACE program.

RESOLVED AND DETERMINED, that the Common Council shall conduct a public hearing as to the enactment of the proposed Local Law at the Oneida City Hall located at 109 North Main Street, Oneida, New York on December 20, 2022, at 6:30 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard; and it is further

RESOLVED, that notice of said public hearing shall be provided at least five (5) days prior to the date of said public hearing in a newspaper of general circulation within the City of Oneida.

Ayes: 4

Nays: 0

Absent: 2 (Kinville/Rossi)

MOTION CARRIED

A LOCAL LAW TO ESTABLISH A SUSTAINABLE ENERGY LOAN
PROGRAM (OPEN C-PACE) IN THE CITY OF ONEIDA

Be it enacted by the Common Council of the City of Oneida as follows:

Section 1.

This local law is adopted pursuant to Section 10 of the Municipal Home Rule Law.

Section 2.

The Oneida City Code is hereby amended to repeal the existing Chapter 46, formerly titled "Energize NY Benefit Financing Program," in its entirety and replace the prior legislation with new language, the title of such Chapter shall be amended to read, "Energize NY Open C-PACE Financing Program," and the local law shall read as follows:

"§ 46-1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the Municipality and the State of New York (the "State") to achieve energy efficiency and renewable energy improvements, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The Municipality finds that it can fulfill this policy by providing property assessed clean energy financing to Qualified Property Owners (as defined below) for the installation of renewable energy systems and energy efficiency measures. This local law establishes a program that will allow the Energy Improvement Corporation (as defined below, "EIC"), a local development corporation, acting on behalf of the Municipality pursuant to the municipal agreement (the

- “Municipal Agreement”) to be entered into between the Municipality and EIC, to make funds available to Qualified Property Owners that will be repaid through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this local law and accomplishing an important public purpose. This local law provides a method of implementing the public policies expressed by, and exercising the authority provided by, Article 5-L of the General Municipal Law (as defined below, the “Enabling Act”).
- B. The Municipality is authorized to execute, deliver and perform the Municipal Agreement and otherwise to implement this Energize NY Open C-PACE Financing Program pursuant to the Constitution and laws of New York, including particularly Article IX of the Constitution, Section 10 of the Municipal Home Rule Law, the Enabling Act and this local law.
 - C. This local law, which is adopted pursuant to Section 10 of the Municipal Home Rule Law and the Enabling Act shall be known and may be cited as the “Energize NY Open C-PACE Local Law”.

§ 46-2. Definitions

- A. Capitalized terms used but not defined herein have the meanings assigned in the Enabling Act.
- B. For purposes of this local law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

Annual Installment Amount – shall have the meaning assigned in Section 46-8, paragraph B.

Annual Installment Lien – shall have the meaning assigned in Section 46-8 paragraph B.

Authority – the New York State Energy Research and Development Authority.

Benefit Assessment Lien – shall have the meaning assigned in Section 46-3, paragraph A.

Benefited Property – Qualified Property for which the Qualified Property Owner has entered into a Finance Agreement for a Qualified Project.

Benefited Property Owner – the owner of record of a Benefited Property.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section 1411 of the Not-For-Profit Corporation Law of the State, authorized hereby on behalf of the City of Oneida to implement the Program by providing funds to Qualified Property Owners and providing for repayment of such funds from money collected by or on behalf of the City of Oneida as a charge to be levied on the real property.

Eligible Costs – costs incurred by the Benefited Property Owner in connection with a Qualified Project and the related Finance Agreement, including application fees, EIC’s Program administration fee, closing costs and fees, title and appraisal fees, professionals’ fees, permits, fees for design and drawings and any other related fees, expenses and costs, in each case as approved by EIC and the Financing Party under the Finance Agreement

Enabling Act – Article 5-L of the General Municipal Law of the State, or a successor law, as in effect from time to time.

Finance Agreement – the finance agreement described in Section 46-6A of this local law.

Financing Charges – all charges, fees and expenses related to the loan under the Finance Agreement

including accrued interest, capitalized interest, prepayment premiums, and penalties as a result of a default or late payment and costs and reasonable attorneys' fees incurred by the Financing Party as a result of a foreclosure or other legal proceeding brought against the Benefited Property to enforce any delinquent Annual Installment Liens.

Financing Parties – Third party capital providers approved by EIC to provide financing to Qualified Property Owners or other financial support to the Program which have entered into separate agreements with EIC to administer the Program in the City of Oneida.

Municipality – the City of Oneida, a municipality of the State constituting a tax district as defined in Section 1102 of the RPTL of the State.

Municipal Lien – a lien on Qualified Property which secures the obligation to pay real property taxes, municipal charges, or governmentally imposed assessments in respect of services or benefits to a Qualified Property.

Non-Municipal Lien – a lien on Qualified Property which secures any obligation other than the obligation to pay real property taxes, municipal charges, or governmentally-imposed assessments in respect of services or benefits to a Qualified Property Owner or Qualified Property.

Program – the Energize NY Open C-PACE Financing Program authorized hereby.

Qualified Project – the acquisition, construction, reconstruction or equipping of Energy Efficiency Improvements or Renewable Energy Systems or other projects authorized under the Enabling Act on a Qualified Property, together with a related Energy Audit, Renewable Energy System Feasibility Study and/or other requirements under or pursuant to the Enabling Act, with funds provided in whole or in part by Financing Parties under the Program to achieve the purposes of the Enabling Act.

Qualified Property – Any real property other than a residential building containing less than three dwelling units, which is within the boundaries of the City of Oneida that has been determined to be eligible to participate in the Program under the procedures for eligibility set forth under this local law and the Enabling Act and has become the site of a Qualified Project.

Qualified Property Owner – the owner of record of Qualified Property which has been determined by EIC to meet the requirements for participation in the Program as an owner, and any transferee owner of such Qualified Property.

RPTL – the Real Property Tax Law of the State, as amended from time to time.

Secured Amount – as of any date, the aggregate amount of principal loaned to the Qualified Property Owner for a Qualified Project, together with Eligible Costs and Financing Charges, as provided herein or in the Finance Agreement, as reduced pursuant to Section 46-8, paragraph C.

State – the State of New York.

§ 46-3. Establishment of an Energize NY Open C-PACE Financing Program

- A. An Energize NY Open C-PACE Financing Program is hereby established by the Municipality, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may arrange for the provision of funds by Financing Parties to Qualified Property Owners in accordance with the Enabling Act and the procedures set forth under this local law, to finance the acquisition, construction, reconstruction, and installation of Qualified Projects and Eligible Costs and Financing Charges approved by EIC and by the Financing Party under the Finance Agreement. EIC, on behalf of the Municipality, and with the consent of the Benefited Property Owner, will record a Benefit Assessment Lien on the Benefited Property in the Secured Amount (the

“Benefit Assessment Lien”) on the land records for the Municipality. Such recording shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality.

- B. Before a Qualified Property Owner and a Financing Party enter into a Finance Agreement which results in a loan to finance a Qualified Project, repayment of which is secured by a Benefit Assessment Lien, a written consent from each existing mortgage holder of the Qualified Property shall be obtained, permitting the Benefit Assessment Lien and each Annual Installment Lien to take priority over all existing mortgages.

§ 46-4. Procedures for eligibility

- A. Any property owner in the Municipality may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the Municipality’s offices.
- B. Every application submitted by a property owner shall be reviewed by EIC, acting on behalf of the Municipality, which shall make a positive or negative determination on such application based upon the criteria enumerated in the Enabling Act and § A of this local law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC, acting on behalf of the Municipality, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Program in accordance with § A of this local law.

§ 46-5. Application criteria

Upon the submission of an application, EIC, acting on behalf of the Municipality, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- B. The amount financed under the Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- C. Sufficient funds are available from Financing Parties to provide financing to the property owner;
- D. The property owner is current in payments on any existing mortgage on the Qualified Property;
- E. The property owner is current in payments on any real property taxes on the Qualified Property; and
- F. Such additional criteria, not inconsistent with the criteria set forth above, as the State, the Municipality, or EIC acting on its behalf, or other Financing Parties may set from time to time.

§ 46-6. Energize NY Finance Agreement

- A. A Qualified Property Owner may participate in the Program through the execution of a finance agreement made by and between the Qualified Property Owner and a Financing Party, to which EIC, on behalf of the Municipality, shall be a third-party beneficiary (the "Finance Agreement"). Upon execution and delivery of the Finance Agreement, the property that is the subject of the Finance Agreement shall be deemed a "Benefited Property").
- B. Upon execution and delivery of the Finance Agreement, the Benefited Property Owner shall be eligible to receive funds from the Financing Party for the acquisition, construction, and installation of a Qualified Project, together with Eligible Costs and Financing Charges approved by EIC and by the Financing Party, provided the requirements of the Enabling Act, the Municipal Agreement and this local law have been met.
- C. The Finance Agreement shall include the terms and conditions of repayment of the Secured Amount and the Annual Installment Amounts.
- D. EIC may charge fees to offset the costs of administering the Program and such fees, if not paid by the Financing Party, shall be added to the Secured Amount.

§ 46-7. Terms and conditions of repayment

The Finance Agreement shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds loaned to the Benefited Property Owner for the Qualified Project, together with Eligible Costs and Financing Charges approved by EIC and by the Financing Party, shall be specially assessed against the Benefited Property and will be evidenced by a Benefit Assessment Lien recorded against the Benefited Property on the land records on which liens are recorded for properties within the Municipality. The special benefit assessment shall constitute a "charge" within the meaning of the Enabling Act and shall be collected in annual installments in the amounts certified by the Financing Party in a schedule provided at closing and made part of the Benefit Assessment Lien. Said amount shall be annually levied, billed and collected by EIC, on behalf of the Municipality, and shall be paid to the Financing Party as provided in the Finance Agreement.
- B. The term of such repayment shall be determined at the time the Finance Agreement is executed by the Benefited Property Owner and the Financing Party, not to exceed the weighted average of the useful life of the systems and improvements as determined by EIC, acting on behalf of the Municipality.
- C. The rate of interest for the Secured Amount shall be fixed by the Financing Party in conjunction with EIC, acting on behalf of the Municipality, as provided in the Finance Agreement.

§ 46-8. Levy of Annual Installment Amount and Creation of Annual Installment Lien

- A. Upon the making of the loan pursuant to the Finance Agreement, the Secured Amount shall become a special Benefit Assessment Lien on the Benefited Property in favor of the Municipality. The amount of the Benefit Assessment Lien shall be the Secured Amount. Evidence of the Benefit Assessment Lien shall be recorded by EIC, on behalf of the

Municipality, in the land records for properties in the Municipality. Such recording shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality. The Benefit Assessment Lien shall not be foreclosed upon by or otherwise enforced by the Municipality.

- B. The Finance Agreement shall provide for the repayment of the Secured Amount in installments made at least annually, as provided in a schedule attached to the Benefit Assessment Lien (the "Annual Installment Amount"). The Annual Installment Amount shall be levied by EIC, on behalf of the Municipality, on the Benefited Property in the same manner as levies for municipal charges, shall become a lien on the Benefited Property as of the first day of January of the fiscal year for which levied (the "Annual Installment Lien") and shall remain a lien until paid. The creation or any recording of the Annual Installment Lien shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Municipality. Payment to the Financing Party shall be considered payment for this purpose. Such payment shall partly or wholly discharge the Annual Installment Lien. Delinquent Annual Installment Amounts may accrue Financing Charges as may be provided in the Finance Agreement. Any additional Financing Charges imposed by the Financing Party pursuant to the Finance Agreement shall increase the Annual Installment Amount and the Annual Installment Lien for the year in which such overdue payments were first due.
- C. The Benefit Assessment Lien shall be reduced annually by the amount of each Annual Installment Lien when each Annual Installment Lien becomes a lien. Each Annual Installment Lien shall be subordinate to all Municipal Liens, whether created by Section 902 of the RPTL or by any other State or local law. No portion of a Secured Amount shall be recovered by the Municipality, EIC, or an assignee upon foreclosure, sale or other disposition of the Benefited Property unless and until all Municipal Liens are fully discharged. Each Annual Installment Lien, however, shall have priority over all Non-Municipal Liens, irrespective of when created, except as otherwise required by law.
- D. Neither the Benefit Assessment Lien nor any Annual Installment Lien shall be extinguished or accelerated in the event of a default or bankruptcy of the Benefited Property Owner. Each Annual Installment Amount shall be considered a charge upon the Benefited Property and shall be collected by EIC, on behalf of the Municipality, at the same time and in the same manner as real property taxes or municipal charges. Each Annual Installment Lien shall remain a lien until paid. Amounts collected in respect of an Annual Installment Lien shall be remitted to EIC, on behalf of the Municipality, or the Financing Party, as may be provided in the Finance Agreement.
- E. EIC shall act as the Municipality's agent in collection of the Annual Installment Amounts. If any Benefited Property Owner fails to pay an Annual Installment Amount, the Financing Party may redeem the Benefited Property by paying the amount of all unpaid Municipal Liens thereon, and thereafter shall have the right to collect any amounts in respect of an Annual Installment Lien by foreclosure or any other remedy available at law. Any foreclosure shall not affect any subsequent Annual Installment Liens.
- F. EIC, on behalf of the Municipality, may sell or assign for consideration any and all Benefit Assessment Liens and Annual Installment Liens to Financing Parties that provide financing to Qualified Properties pursuant to Finance Agreements. The Financing Parties may sell or assign

for consideration any and all Benefit Assessment Liens and Annual Installment Liens received from EIC, on behalf of the Municipality, subject to certain conditions provided in the administration agreement between EIC and the Financing Party. The assignee or assignees of such Benefit Assessment Liens and Annual Installment Liens shall have and possess the same powers and rights at law or in equity as the Municipality would have had if the Benefit Assessment Lien and the Annual Installment Liens had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection.

§ 46-9. Verification and report

EIC, on behalf of the Municipality, shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Program in such form and manner as the Authority may establish.

§ 46-10. Separability.

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.”

Section 3.

This Local Law shall take effect upon filing with the Secretary of State.

DISCUSSION: The Mayor advised that Open C-Pace is a form of property grants for landowners and that it does not cost the City anything financially. If this is in place, an owner can go before the C-Pace Board and try to get financing, noting that they also handle the installation and administration of the Program.

NEW BUSINESS: None

Motion to adjourn by Councilor Simchik
Seconded by Councilor Laureti

Ayes: 4

Nays: 0

Absent: 2 (Kinville/Rossi)

MOTION CARRIED

The regular meeting is hereby adjourned at 6:46 p.m.

CITY OF ONEIDA

Sandra LaPera, City Clerk