

CITY OF WOODHAVEN
COUNTY OF WAYNE, STATE OF MICHIGAN
CITY COUNCIL MEETING OF JUNE 3, 2014

Regular City Council Meeting of June 3, 2014, held at Woodhaven City Hall, 21869 West Road, Woodhaven, Michigan. The meeting was called to order at 7:00 p.m. by Mayor Patricia Odette

PRESENT: Mayor, Patricia Odette, Council Members, Darrel Penix, Chris Papineau, Sharon Bono-Beaton, Randy Odette, Dan Duderstadt

ABSENT: Council Member Jeffrey Harris (excused)

ALSO PRESENT: Kristie Keene, City Clerk, Mark Kibby, City Administrator, Pat Kruse, City Attorney, Janet Sikes, Fire Chief, Tim Neighbors, Director of Public Service and Water, J.P. Cacciaglia, DDA & Economic Development Director, John Hennessey, Hennessey Engineers, Kathy Oehring, Treasurer, Vince Price, Police Chief

14-063 Moved by Councilman Randy Odette, seconded by Duderstadt, to approve the Consent Calendar as presented:

- A. City Council Members Excused Absences.
- B. Approval of City Council Meeting minutes of May 20, 2014.
- C. General Fund Obligations in the amount of \$777,928.93 approved for payment.
- D. Major Street Fund Obligations in the amount of \$81,538.79 be approved for payment.
- E. Local Street Fund Obligations in the amount of \$1,548.25 be approved for payment.
- F. Building Department Fund Obligations in the amount of \$4,658.27 be approved for payment.
- G. Police Department Forfeitures Fund Obligations in the amount of \$424.31 be approved for payment.
- H. Water and Sewer Fund Obligations in the amount of \$1,587,837.69 be approved for payment.
- I. Recreational Fund Obligations in the amount of \$240.00 be approved for payment.
- J. Motor Pool Fund Obligations in the amount of \$6,243.82 be approved for payment.

MOTION CARRIED UNANIMOUSLY.

14-064 Moved by Penix, seconded by Bono-Beaton, to approve the following amendment to Woodhaven Code of Ordinances:

**STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF WOODHAVEN**

THE CITY OF WOODHAVEN ORDAINS:

THE CITY OF WOODHAVEN, BY ACTION OF THE CITY COUNCIL, ADOPTS THE FOLLOWING AMENDMENT TO THE CODE OF ORDINANCES, CHAPTER 66, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE V, OFFENSES AGAINST PUBLIC PEACE, SECTION 66-393, PENALTIES FOR VIOLATION

ARTICLE V, SECTION 66-393 IS AMENDED AS SHOWN BY THE HIGHLIGHTED TEXT BELOW:

Sec. 66-381. Indecent and improper conduct.

It shall be unlawful for any person to follow, annoy, molest, disturb or insult by voice, conduct or actions any child under 18 years of age or any person, or to induce, coax, persuade or induce by threat any child under 18 years of age or any person, to enter any vehicle or conveyance, or to go in or upon any public alley, street, park or private property or place; or to engage in any indecent, improper, immoral or obscene conduct, behavior or actions.

(Code 1974, § 11½-74)

Sec. 66-382. Window peeping.

It shall be unlawful for any person to look, peer or peep into, or be found loitering around, or within view of any window not on his own property, with the intent of looking through such window.

(Code 1974, § 11½-76)

Sec. 66-383. Voyeurism.

No person for the purpose of sexually arousing or gratifying himself shall commit trespass or otherwise surreptitiously invade the privacy of another to spy or eavesdrop upon another.

(Code 1974, § 11½-77)

Sec. 66-384. Public indecency.

No person shall recklessly do any of the following, under the circumstances in which his conduct is likely to be viewed by and affront others, not members of his household:

- (1) Expose his private parts, or engage in masturbation.
- (2) Engage in sexual conduct.
- (3) Engage in conduct which to an ordinary observer would appear to be sexual conduct or masturbation.

(Code 1974, § 11½-78)

Sec. 66-385. Disorderly persons.

No person shall be a disorderly person. A person is a disorderly person if the person is any of the following:

- (1) A person of sufficient ability who refuses or neglects to support his or her family.
- (2) A common prostitute.
- (3) A window peeper.
- (4) A person who engages in an illegal occupation or business.
- (5) A person who is intoxicated in a public place and who is either endangering directly the safety of other person or of property or is acting in a manner that causes a public disturbance.
- (6) A person who is engaged in indecent or obscene conduct in a public place.
- (7) A vagrant, being a person who wanders about and lodges or loiters in public restrooms, market places or other public building or place or in the open air in the city and has no permanent place of abode or visible means of maintenance.
- (8) A person found begging in a public place without legal permit and so as to harass or annoy members of the public.

(9) A person found loitering in a house of ill fame or prostitution or place where prostitution or lewdness is practiced, encouraged, or allowed.

(10) A person who knowingly loiters in or about a place where an illegal occupation or business is being conducted.

(11) A person who loiters in or about a police station, jail, hospital, court building, or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizance's.

(12) A person who is found jostling or roughly crowding people unnecessarily in a public place.

(13) A person who shall willfully assault another or who shall commit assault upon another person, or be engaged in or aid or abet in any fight, quarrel or disturbance.

(14) A person who shall stand, loiter, or stroll about in any place awaiting or seeking an opportunity to obtain money or property by trick, fraud, or theft, or that aid or abet in such activities.

(Code 1974, § 11½-83; Ord. of 11-3-2004)

State law reference— Disorderly persons, MCL 750.167.

Sec. 66-386. Gatherings and meetings.

It shall be unlawful for any person within the city to willfully interrupt or disturb on any day of the week any assembly of people met for the worship of God within the place of such meeting or out of it, or to make or excite any disturbance or contention in any tavern, dancehall, beer garden, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building or ground, or park, or at any election or other public meeting in the city where any persons are peaceably and lawfully assembled.

(Code 1974, § 11½-85)

State law reference— Disturbing public places, MCL 750.170; disturbing religious worship, MCL 750.525, 752.169.

Sec. 66-387. Throwing stones or missiles.

It shall be unlawful for any person within the city to throw any stone, brick or any other missile at any motorbus, automobile or other motor vehicle.

(Code 1974, § 11½-86)

State law reference— Throwing a missile at a train or automobile, MCL 750.394, MSA 28.626.

Sec. 66-388. Urination in public.

It shall be unlawful for any person to urinate in any area not properly constructed and/or designated as a washroom, restroom, bathroom or the like, regardless of whether such act is committed on public or private property. This section shall apply only to those instances when the person exposes himself solely for the expelling of urine, and in no way shall operate to limit prosecutions for violations of other sections of this Code, should the circumstances warrant. A person found to be in violation of this section shall be guilty of a breach of the peace and disorderly conduct.

(Ord. of 9-15-1998)

Sec. 66-389. Use of radios and electronically amplified sound systems.

No person shall operate or permit the operation of a radio and/or electronically amplified sound system on or around their person so as to produce sound that is clearly audible more than 25 feet from the person. This section shall not apply to public safety officers or individuals broadcasting warning sounds necessary for the protection of public safety. Any person violating this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in section 1-8.

(Code 1974, § 11½-111)

Sec. 66-390. Breach of peace.

Any person who shall make or assist in making any noise, disturbance, trouble or improper diversion, or any rout or riot, by which the peace and good order of the city are disturbed, shall be guilty of a breach of the peace and disorderly conduct.

(Code 1974, § 11½-87)

Sec. 66-391. Prohibited use of public parks and property during certain hours.

(a) It shall be unlawful for any person to use, occupy, frequent, loiter or be in any public park or property in the city between the hours of 11:00 p.m. and 5:00 a.m. of the following morning, unless a special permit for such use or occupancy has been previously given by the chief of police, or any other person authorized to issue such permits. This subsection shall not apply to employees of any governmental subdivision within a public park or on public property during his hours of employment by the political subdivision.

(b) It shall be unlawful for any person to make use of any public park or property in the city when and if such use is posted in or on such park or property as being a prohibited use unless a special permit for such use has been previously given by the chief of police or any other person authorized to issue such permits.

(c) The application for such special permit shall be made in writing by any responsible city resident, stating his name and address and the group of persons he represents who will use such special permit and the proposed hours of such use. The approval for the issuance of such special permit rests in the sound discretion of the chief of police or any other person authorized to issue such permits.

(d) The provisions of this section shall be enforced by all members of the city police department and by the superintendent, assistant superintendent and foreman in the department of public works of the city and by the recreation director for the city.

(Code 1974, § 11½-88)

Sec. 66-392. Disorderly conduct on and around school property.

(a) Unauthorized persons not to enter or trespass on school property. No person who is not a regularly enrolled student or parent or guardian of such student or a school official, teacher or other public or school employee shall enter or trespass upon or loiter in or upon any public, private or parochial school building or school property in the city for any reason whatever unless such person has received written permission from the principal or other person designated by the principal to be in or upon or to remain in or upon such public, private or parochial school building or school property; provided, however, that such written permission need not be secured by persons engaging in or attending a school or recreation board

authorized activity or by persons using school playground or playground equipment after school hours or when school is not in session unless such entry or use shall have been otherwise prohibited by a rule or regulation of the school board, school principal or other person, board or committee with the authority to prohibit such use or entry.

(b) Disturbing schools. No person shall willfully or maliciously make or assist in making any noise, disturbance or improper diversion by which the peace, quietude or good order of any public, private or parochial school is disturbed.

(c) Duty of person creating disturbance to leave premises. Any person, whether lawfully or unlawfully in or upon any public, private or parochial school building or school property, who is found to be creating a disturbance in or upon any school building or property shall leave immediately when so directed by the principal or by any other person designated by the principal.

(d) Extortion. No person shall by violence, threats of violence or other form of coercion force or attempt to force any public, private or parochial school student or other person to give or to lend any money or other thing of value to any person at any time.

(e) Unauthorized borrowing of money or things of value from students in the school or traveling to or from school. No person shall borrow or attempt to borrow any money or thing of value from any student in or upon any public, private or parochial school building or school property in the city or during any time when such student is engaging in, going to or returning from any regularly scheduled session or activity of such school without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval; provided, however, that this section shall not apply to college students who borrow money or things of value from other college students or adults.

(f) Destruction of school property. No person shall damage, destroy or deface any public, private or parochial school building or the grounds, outbuildings, fences, trees or other appurtenances or fixtures belonging thereto.

(g) Terms defined. For purposes of this section the term "school" shall mean any pre-elementary, elementary (grades K-6), secondary (grades 7-12) school, any college or combination thereof, and the term "principal" shall mean any principal of any elementary or secondary school, or the chief administrative officer of any elementary or secondary school or college.

(Code 1974, § 11½-89)

Sec. 66-393. - Penalties for violation.

(a) *Municipal Civil Infraction.* A first or second violation of this Article V by a person under 18 years of age shall be a municipal civil infraction for which a municipal civil infraction citation shall be issued and served in accordance with Section 1-36 and Section 1-37 of this Code. A person under 18 years of age found responsible for a first or second violation of this Article V within a five year period shall be assessed a civil fine in accordance with Section 1-41 of this Code, subject to the following:

(i) First Violation. For the first violation within a five-year period by a person under 18 years of age, the Court shall assess a civil penalty determined by the Court of not more than \$500.00, and not less than \$100.00, which minimum amount shall not be suspended or deferred, but the Court may authorize community service, supervised by the Woodhaven police department, in lieu of all or part of this civil penalty.

(ii). **Second Violation.** For the second violation within a five-year period by a person under 18 years of age, the Court shall assess a civil penalty determined by the Court of not more than \$500.00, and not less than \$200.00, which minimum amount shall not be suspended or deferred, but the Court may authorize community service, supervised by the Woodhaven police department, in lieu of all or part of this civil penalty.

(iii). **Costs.** Costs shall be assessed for each civil infraction violation in accordance with Section 1-41. In addition to costs recoverable under Section 1-41, the Woodhaven police department shall be entitled to recover its reasonable costs in administering and supervising community service ordered under this section in an amount to be determined by the Court, on the request of the police department.

(iv). **Parental Responsibility.** Any person assisting, aiding, abetting or encouraging any minor under 17 years of age to violate the provisions of this Article V shall be guilty of a violation of this Article V. When any minor under 17 years of age is found violating the provisions of this Article, a presumption shall arise that the parent or legal guardian having the care and custody of the minor assisted, aided, abetted and encouraged such minor in violating this article. A parent or legal guardian having the care and custody of a minor who has been found to have violated the provisions of this Article, shall be guilty of a misdemeanor, punishable by a fine of not less than \$50.00 nor more than \$500.00.

(v). **Exceptions.** Notwithstanding any other provision of this Code, violations of this Article V, Sections 66-382, 66-383, 66-384, and 66-385(1)-(4), (9) and (10) shall be punishable as misdemeanors under Section 66-393(b) below.

(b) *Misdemeanor.* Except as otherwise specifically provided in Section 66-393(a), and except as provided in Section 66-394, a person violating the provisions of this Article V shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-8.

Sec. 66-394. Noise.

(a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ambient noise means all-encompassing noise associated with a given environment, being a composite of sounds from all sources.

Decibel means a unit or level of sound energy which denotes the ratio between two sound qualities which are proportional to power, as measured by a sound level meter.

Person means any individual, firm, co-partnership or corporation. In the case of corporations, the directors and officers shall be the responsible parties under the terms of this section.

(b) **Prohibited noise.** It shall be unlawful for any person, owner or occupant of any premises within the city to cause or permit any noise to be emitted from any: object, animal or equipment including but not limited to: radios, phonographs, musical instruments, television sets, explosions, electric motors, gasoline engines or other mechanical equipment owned by such person, under the control of such person or located upon the premises owned or under the control of such person, which noise exceeds a sound level of 70 decibels in combination with and including ambient noise measured on a sound meter set out on the slow setting of the "A" scale.

(c) Measurement of noise levels. Noise levels shall be measured at a distance of a minimum of 20 feet from the noise source located within any public right-of-way. If the noise source is located on private property or public property other than the public right-of-way, then the measurement shall be made at a distance of not less than 15 feet from the property line of the property on which the noise source is located.

(d) Exceptions.

(1) The prohibitions of this section shall not apply to any person within the city between the hours of 7:00 a.m. and 11:00 p.m.

(2) The prohibitions of this section shall never apply to any authorized emergency vehicle or to those activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the city.

(e) Applicability of other ordinances. Any ordinances concerning the emission of sound or the regulation of sound equipment not specifically in conflict with the terms of this section are hereby saved and retained.

(f) Temporary hardship permit. Applications for a permit for relief from the noise level designated in this section on the basis of undue hardship may be made to the city administrator or the city administrator's designated representative. Any permit granted by the city administrator shall contain all conditions upon which the permit has been granted and shall specify the time for which such permit is granted. The city administrator or the city administrator's designated representative may grant such a permit if the city administrator or the city administrator's representative finds that:

(1) Additional time is necessary for the applicant to alter or modify the applicant's activity or operations to comply with this section; or

(2) The activity, operation or noise source will be of temporary duration and cannot be done in a manner that will comply with the noise emission levels permitted by this section; and

(3) No other reasonable alternative is available to the applicant.

The city administrator or the city administrator's designated representative shall prescribe any conditions or requirements the city administrator or the city administrator's representative deems necessary to minimize adverse effects upon the community or the surrounding neighborhood. Any temporary permit issued by the city shall be issued without any fee being charged therefore.

(g) Enforcement. Any authorized city official or designated representative of an authorized city official that can issue municipal civil infractions is expressly allowed to enforce the provisions of this section.

(h) Penalty. Any person who shall violate the terms of this section shall be responsible for a municipal civil infraction as defined in section 1-34; any person found liable for violating this section three or more times shall be guilty of a misdemeanor as defined in section 1-8. The provisions of Section 66-393(a) shall not apply to this Section 66-394.

(Ord. No. 12-151, § 1, 9-18-2012)

Secs. 66-395—66-420. Reserved.

AYES: Mayor Patricia Odette, Duderstadt, Penix, Papineau, Bono-Beaton, Councilman Randy Odette

NAYS: None

ABSENT: Harris

MOTION CARRIED UNANIMOUSLY.

EFFECTIVE DATE: This ordinance amendment was introduced on May 20, 2014 and adopted on June 3, 2014. The effective date of this ordinance shall be the 13th day of June 2014.

Mr. Kibby, City Administrator, notified Mayor and City Council that the City of Trenton adopted a Resolution for a “No Kill for Adoptable” Policy at their Council Meeting on May 19, 2014.

14-065 Moved by Mayor Patricia Odette, seconded by Councilman Randy Odette, to extend Hard Rock Concrete’s current contract for the Local Road Street Sectioning Program in Woodpointe Subdivision, Fiscal Year for 2014/2015, Hennessey Project Number 63071 in the amount not to exceed \$600,000.00.
MOTION CARRIED UNANIMOUSLY.

Mayor Patricia Odette adjourned the Woodhaven City Council Meeting at 7:23 p.m.

Patricia Odette, Mayor

Kristie Keene, City Clerk