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CITY of NOVI CITY COUNCIL

Agenda Item 2
April 18, 2011

SUBJECT: Approval of Ordinance 11-20.05, as recommended by the Ordinance Review Committee, to repeal and delete Chapter 4, Article II, "Recreational Facilities", in its entirety. **FIRST READING**

SUBMITTING DEPARTMENT: City Clerk *MC*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The Recreational Facilities Ordinance was first adopted in 1970 and required any public dance hall, billiard or pool room, amusement part, amusement place, temporary or permanent carnival, recreational park, roller skating rink or ice skating rink to obtain a license to operate as such. This ordinance has not been maintained to comply with current practices and there are additional existing ordinances that assist in the governing of such facilities.

The Ordinance Review Committee discussed this item at the February 25, 2011 meeting and has recommended Chapter 4, Article II, "Recreational Facilities" be repealed from the Code of Ordinances. By repealing this ordinance, it will eliminate the requirement that certain facilities obtain multiple licenses and permits.

RECOMMENDED ACTION: Approval of Ordinance 11-20.05, as recommended by the Ordinance Review Committee, to repeal and delete Chapter 4, Article II, "Recreational Facilities", in its entirety. **FIRST READING**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

remove the phrasing, he just wanted to bring the specific definition to light as it set a higher standard.

Moved by Margolis, Seconded by Mutch: Carried Unanimously

To remove the word [grossly] from Section 2-221 and present the ordinance to Council.

2. Possible changes to the Recreational Facilities Ordinance

Mayor Landry opened the discussion by asking for the background on the item. Ms. Hanson explained that the ordinance had not been enforced in at least 10 years; therefore there were no applications or inquiries on obtaining a Recreational Facilities License. She added that for several of the facilities which required the license, they were governed by other ordinances such as Outdoor Gathering and Arcade.

Member Mutch said that several of the uses didn't apply any longer as the ordinance was written in 1970. He questioned what would happen if a carnival was in Novi, were there other provisions elsewhere in the Code that would cover a carnival. Mr. Lindberg said they would have to obtain an Outdoor Gathering Permit.

Mayor Landry asked if there was any other reason they should retain the ordinance. Mr. Lindberg and Mr. Schultz both said no.

Moved by Margolis, Seconded by Mutch: Carried Unanimously

To rescind the Recreational Facilities Ordinance from the Code.

3. Revisions to Peddler's Ordinance

Mr. Lindberg began the discussion by explaining the reason behind the potential revisions. He said there were a couple of condominiums that wanted to place a sign at the entrance in order to keep all Peddlers and Solicitors out. He said there was not currently a provision in the ordinance to do so. He added there was also a new section with regard to handbills.

Member Mutch asked about Section 26-11(5)(c) and what governmental agency would fall under the definition of a commercial handbill. Mr. Schultz said that was just added security and could be removed.

Member Margolis asked whether a group such as the Girl Scouts would have to obtain a license because of Section 26-2(c). She said it seemed restrictive.

ARTICLE II. RECREATIONAL FACILITIES

DIVISION 1. GENERALLY

Sec. 4-16. Definitions.

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

Licensee means the holder of a license issued pursuant to this article.

Premises means any building or property where a recreational facility is located and any adjacent property under the ownership or control of a recreational facility proprietor, lessee, manager, or employee.

Recreational facility means any public dance hall, billiard or pool room, amusement park, amusement place, temporary or permanent carnival, recreational park, roller skating rink or ice skating rink.

(Ord. No. 83-20.03, § 2.01, 2-7-83)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 4-17. Conduct on premises.

No licensee, by himself, directly or indirectly, or by any servant, agent or employee shall knowingly:

- (1) Permit any disorderly conduct as defined by Act No. 84 of the Public Acts of Michigan of 1939 (MCL 750.167, MSA 28.364), as amended;
- (2) Permit the licensed premises to become a resort for disorderly persons of any type, as defined by Act No. 84 of the Public Acts of Michigan of 1939 (MCL 750.167, MSA 28.364), as amended;
- (3) Permit gambling or the use, possession or presence of gambling paraphernalia on the premises;
- (4) Permit intoxicated persons to loiter on the premises;
- (5) Permit any persons under the age of twelve (12) years to be upon the premises after 10:00 p.m. or permit any persons under the age of seventeen (17) years to be upon the premises after 12:00 p.m. unless accompanied by a parent or legal guardian;
- (6) Permit the possession or use of any alcoholic liquor on the premises, nor shall the licensed premises be accessible in any way to any place where alcoholic liquor is kept, sold, distributed or given away. This prohibition shall not apply while a Michigan Liquor Control Commission License is in effect at the licensed premises;

(7) Permit the unlawful possession or use of any controlled substance on the premises;

(8) Permit noise or music to emerge from licensed premises which is disturbing to the surrounding area.

(Ord. No. 83-20.03, § 11.01, 2-7-83)

Sec. 4-18. Inspection of premises.

Each licensee shall at all times open each and every portion of the licensed premises for inspection by the police department and/or other city departments for the purpose of enforcing any ordinance relating to the health, safety and welfare of the public.

(Ord. No. 83-20.03, § 12.01, 2-7-83)

Secs. 4-19--4-30. Reserved.

DIVISION 2. LICENSE*

*Cross references: Business registration, Ch. 8.

Sec. 4-31. Required.

No person shall establish, maintain or conduct a recreational facility within the city without first obtaining a license to operate such facility from the council.

(Ord. No. 83-20.03, § 3.01, 2-7-83)

Sec. 4-32. Application.

(a) Any person desiring to open or establish a recreational facility shall first make application for a license to the city clerk, setting forth in such application, his age, correct name, post office address and residence, the length of time he has resided within this state and where, and his places of residence for the past five (5) years immediately before the time of such applications; whether or not he has ever been convicted of any crime involving moral turpitude; and giving references in such applications of at least five (5) reputable citizens of such community wherein he has last resided within this state, and the written recommendations of at least two (2) such citizens of such community respecting his moral character. Every such application shall be accompanied by a fee specified payable to the city treasurer for use of the city upon the issuance of a license to the applicant. The applicant shall specify in such application the class of business and the exact location of the place thereof for which he requests a license.

(b) In case the applicant for a license required by this division is a corporation authorized to do business in this state, the application shall be made by the agent of such corporation who will have principal charge of the place proposed to be established, and such application shall contain all of the statements and furnish all the facts and recommendations with respect to such agent as are required in the case of a private individual. A license to a corporation shall be revocable upon the occurrence of a change in the agent so managing such place, and a new license may be required by the council before any new agent shall take charge of such place for such corporation.

(c) In case of a partnership, each active partner in such business shall join in the application for the license required by this division, and shall furnish all of the information and recommendations required of an individual applicant.

(d) An applicant for a recreational facilities license shall be provided with a copy of this article.

(Ord. No. 83-20.03, § 4.01, 2-7-83; Ord. No. 83-20.04, Pt. I, § 4.01, 5-9-83)

Sec. 4-33. Inspection of premises.

(a) Before a recreational facility license shall be issued, investigation of the applicant and inspection of the premises shall be made by the department of building and safety, fire department, police department, traffic engineer, and such other city departments or agencies as may be deemed necessary to determine whether the applicant and premises fully comply with all pertinent ordinances and regulations.

(b) Before the department of building and safety approves a license application, it shall determine that the construction of the building or other structure is in full compliance with the building code and other pertinent ordinances and regulations.

(c) Before the traffic engineer approves a license application, he shall determine whether the applicant is providing sufficient off-street parking and sufficient aids and regulations so that vehicular traffic to and from the recreational facility will not constitute a nuisance or danger. For a standard for such determination, minimum off-street parking facilities shall be the same as required by Appendix A, "Zoning Ordinance," with additional facilities for general peak load parking requirements of the business being operated.

(d) Before the police department approves a license application, the applicant shall provide for the utilization of special private patrolmen licensed under the applicable state statute, in a number to be determined by the police department as is necessary to prevent traffic hazards and the illegal parking of vehicles and to protect the health, safety and general welfare of persons upon the recreational facility premises.

(e) Before the fire department approves a license application, it shall determine that the premises were deemed to be in compliance with Chapter 15, Article II, "Fire Prevention Code," during a maintenance inspection conducted pursuant to that article, within the twelve-month period prior to the license application, and that the premises are in compliance with any other applicable code enforced by the fire department pursuant to statute or ordinance.

(f) The approval or disapproval of the department of building and safety, police department, fire department, and traffic engineer shall be noted on the license application prior to consideration by the council, unless the application is for the licensing of a temporary carnival, in which case the approval of the departments shall be noted on the application prior to issuance of the license by the city clerk.

(g) It shall be the responsibility of the applicant to make the premises in question available for inspection in a timely manner so as to permit full inspection during the normal working hours of the investigating city departments.

(Ord. No. 83-20.03, § 5.01, 2-7-83; Ord. No. 83-20.04, Pt. I, § 5.01, 5-9-83)

Sec. 4-34. Grounds for denial.

No recreational facility license shall be issued:

- (1) Where the applicant is under eighteen (18) years of age or has been convicted of a crime involving a controlled substance, alcohol, gambling, minors or a crime involving moral turpitude;
- (2) For any premises, unless the state construction code, as enforced by the department of building and safety pursuant to Chapter 15, Article II, "Fire Prevention Code," and the fire prevention code and other pertinent provisions of all city ordinances, so far as can be determined, are being complied with;
- (3) For any premises that do not provide off-street parking as required in section 4-33;
- (4) For any premises that do not provide space for safe ingress and egress;
- (5) Where the applicant has failed to provide for the utilization of private patrolmen as required in section 4-33.

(Ord. No. 83-20.03, § 6.01, 2-7-83; Ord. No. 83-20.04, Pt. I, § 6.01, 5-9-83)

Sec. 4-35. Granting.

(a) The council upon receiving an application for a recreational facility license, if presented in due form, shall pass upon the same at its next regular meeting or any adjournment thereof and, if satisfied that such applicant possesses the qualifications prescribed in this article and the premises conform to the requirements of this article, shall grant a license to the applicant for the particular premises. All such licenses shall be in such form as the council may prescribe and shall contain the name, address, place of business, and the date of expiration of the license and shall be authenticated by the signature of the city clerk.

(b) The council may consider an application for the licensing of a temporary carnival prior to the completion of required investigations and inspections by city departments. If the council is satisfied that the applicant in other respects possesses the qualifications prescribed by this article, it may grant a license contingent upon the approval of those city departments that have not yet completed required investigations and inspections. In such case, the council shall direct the city clerk to issue the license upon receipt of the approval of the pertinent city departments.

(Ord. No. 83-20.03, § 7.01, 2-7-83; Ord. No. 83-20.04, Pt. I, § 7.01, 5-9-83)

Sec. 4-36. Fees.

(a) The fees to be paid upon application for, and renewal of, a recreational facility license are those as are set by resolution of the council.

(b) The council may, in its discretion, waive the imposition of the license fee for any organization qualifying as a charitable organization under Section 501(c)(3) of the Internal Revenue Code 26 U.S.C. 501(c)(3).

(Ord. No. 83-20.03, §§ 8.01, 13.01, 2-7-83)

Sec. 4-37. Insurance.

(a) No recreational facility license shall be issued until the applicant therefor shall obtain and file with the city a policy of liability insurance issued by a responsible insurance company authorized to do business in the state providing insurance coverage insuring the applicant against liability for personal injury to persons while upon the premises for which a license is applied for. Such policy of insurance shall:

(1) Be in the amounts set by resolution of the council;

(2) Provide for continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon, and that the insolvency or bankruptcy of the insured shall not release the company;

(3) Provide that it shall not be cancelled, surrendered or revoked by either party except after ten (10) days' written notice to the city, furnished by the insurance company issuing the policy.

(b) The cancellation, surrender or other termination of any insurance policy issued and filed with the city in compliance with this section shall automatically terminate the license covered by such insurance policy unless another policy complying with this section shall be in effect and deposited with the city prior to the time of such cancellation or termination.

(c) No person shall operate, or cause to permit to be operated, any recreational facility in the city without having fully complied with the terms of this section.

(Ord. No. 83-20.04, Pt. I, § 7.02, 5-9-83)

Sec. 4-38. Issuance.

Recreational facility licenses granted by the council shall be promptly issued by the city clerk, with the exception that licenses for temporary carnivals granted by the council contingent upon the approval of any city department shall be issued only upon receipt by the city clerk of such approval. No license shall be issued until the city receives the liability insurance policy, as provided in section 4-37, and the approval by the city attorney that the policy complies with the terms of this article.

(Ord. No. 83-20.04, Pt. I, § 7.03, 5-9-83)

Sec. 4-39. Display.

Each operator or licensee shall, at all times, display the license granted pursuant to this division in a conspicuous place near the entrance to the licensed establishment.

Sec. 4-40. Transferability.

Whenever the holder of a recreational facility license desires to effect a change of place of doing business he shall notify the council and make application for a license for such new place in the same manner as in the first instance, excepting that proof of good character may be dispensed with by the council. No license issued pursuant to this division shall be assignable or transferable, nor shall any person excepting the person to which it was issued be permitted to do business thereunder either directly or indirectly.

(Ord. No. 83-20.03, § 9.01, 2-7-83; Ord. No. 83-20.04, Pt. I, § 9.01, 5-9- 83)

Sec. 4-41. Expiration.

All licenses issued pursuant to this division shall expire on the thirty-first day of December at 12:00 midnight, for the year of issuance thereof, with the exception that any license for a temporary carnival shall expire at a time determined by the council at the time of the granting of the license. The expiration date of each license shall be indicated on the face thereof.

(Ord. No. 83-20.04, Pt. I, § 7.04, 5-9-83)

Sec. 4-42. Renewal.

Any license issued in accordance with this division may be renewed for an additional year upon reapplication to the city clerk. The city clerk shall renew a license upon receipt of the approval of the department of building and safety, fire department and police department.

(Ord. No. 83-20.03, § 9.01, 2-7-83; Ord. No. 83-20.04, Pt. I, § 9.01, 5-9- 83)

Sec. 4-43. Revocation.

The council shall have the right to revoke any recreational facility license once granted or annual renewal thereof when it appears to their satisfaction that any licensee has violated this article or any other ordinance of the city or statute of the state.

(Ord. No. 83-20.03, § 10.01, 2-7-83)

Secs. 4-44--4-60. Reserved.

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

ORDINANCE 11-20.05

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, TO REPEAL CHAPTER 4, ARTICLE II, "RECREATIONAL FACILITIES," THEREBY DELETING THE LICENSING OF RECREATIONAL FACILITIES FROM THE CODE.

THE CITY OF NOVI ORDAINS:

PART I

That Chapter 4, Article II, "Recreational Facilities", is hereby repealed and deleted in its entirety.

PART II

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART III

Severability. That should any section, subdivision, clause or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART IV.

Repealer. All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Effective Date: Publication. The provisions of this ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the

subject matter of this ordinance and such other facts as the Clerk shall deem pertinent and that a copy of the ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the Novi City Council this 9th day of May, 2011.

David B. Landry, Mayor

Maryanne Cornelius, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the 9th day of May, 2011.

Maryanne Cornelius, City Clerk

Adopted:
Published:
Effective: