



CITY of NOVI CITY COUNCIL

Agenda Item 4
April 15, 2019

SUBJECT: Consideration to Introduce Ordinance No. 19-71.01, an Ordinance to Amend the City of Novi Code of Ordinances, Chapter 36, "Waterways," Article II, "Business of Operating Docks and/or Marinas", in order to repeal the regulations and provisions therein in their entirety. **FIRST READING**

SUBMITTING DEPARTMENT: City Clerk 

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

The Ordinance Review Committee has been evaluating parts of the City's Code of Ordinances that appear to be outdated or no longer needed. At the Council's last meeting it introduced an ordinance recommended by the ORC deleting provisions relating to pinball and arcades. The ORC met on April 1, 2019 and discussed a section of the "Waterways" Chapter of the Code dealing with the licensing of commercial docks or marinas. The section does not authorize or allow docks or marinas in any particular areas of the City, and it doesn't provide any substantive standards for their placement or operation, although it does provide for inspections. The standards for issuance are minimal—a license can basically be denied or revoked in the event of disrepair.

The City currently has no commercial marinas or docks. There are very few parcels of property along Walled Lake that are commercial (14 Mile and East lake Drive), but all of the frontage is zoned residential. The City's zoning ordinance does not list marinas as a permitted use. And no commercial marina can operate in the City without a permit from the MDEQ under state laws.

This ordinance does not relate to or affect residential docks for either single-family homes or condominiums. It does not relate to or affect the rules and limitations on the placement of docks in connection with those properties. The provisions of Chapter 36 relating to those uses (Article IV, Lakefront Protection) will remain in place.

It appears that the ordinance originated in 1975 at the suggestion of the City Attorney in order to protect the community with regard to the issuance or a permit for the operation of a marina, and again was devised only a limited-scope licensing regulation. The Lakefront Protection section limiting dock installations was subsequently enacted in 1986 and contains substantive rules and regulations relating to dock rights. Since the creation of the marina licensing section, there is no record of it being enforced or any such license being issued, since there have been no permitted commercial marinas in the City in that time.

RECOMMENDED ACTION: Approval of Introduction of Ordinance No. 19-71.01, an Ordinance to Amend the City of Novi Code of Ordinances, Chapter 36, "Waterways," Article II, "Business of Operating Docks and/or Marinas", in order to repeal the regulations and provisions therein in their entirety. **FIRST READING**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 19-~~71.01~~

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 36, "WATERWAYS," ARTICLE II, "BUSINESS OF OPERATING DOCKS AND/OR MARINAS", IN ORDER TO REPEAL THE REGULATIONS AND PROVISIONS THEREIN IN THEIR ENTIRETY.

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 36, "Waterways," Article II, "Business of Operating Docks and/or Marinas", of the City of Novi Code of Ordinances is hereby repealed in its entirety.

DIVISION 1. -- GENERALLY

Sec. 36-16. -- 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:

Business of operating a dock means the permitting of another person to use a dock by the owner or possessor of the dock for a valuable consideration.

Business of operating a marina means the permitting of another person to use a marina by the owner or possessor of the marina for a valuable consideration.

Dock means all forms of dock, wharf, pier or other structure used as a means of entrance to or exit from watercraft or used in connection with fishing and other waterfront activities.

Marina means a facility which is owned or operated by a person, extends into or over an island, lake or stream and offers services to the public or members of the marina for docking, loading, or other services of a recreational watercraft. (Ord. No. 75-71, § 1.01, 12-1-75; Ord. No. 96-170, Pt. XXII, 4-7-97)

Sec. 36-17. -- Warrant for inspection.

Where the owner or occupant demands a warrant for inspection of the premises, the department of building and safety shall obtain a warrant from a court of competent jurisdiction. The department shall prepare the warrant, stating the address

of the property to be inspected, the nature of the inspection, and the reasons for the inspection. It shall be appropriate and sufficient to set forth the basis for inspection (e.g. license application, license renewal, complaint, area of recurrent violation basis) established in this article. The warrant shall also state that it is issued pursuant to this article, and that it is for the purposes set forth in this article. If the court finds that the warrant is in proper form, and in accordance with this article, it shall be issued forthwith. (Ord. No. 75-71, § 4.01, 12-1-75)

~~Secs. 36-18—36-30. —Reserved.~~

~~DIVISION 2. — LICENSE~~

~~Sec. 36-31. — Required.~~

~~It shall be unlawful for any person to engage in the business of operating a dock and/or marina without obtaining a license under this division.~~

~~Sec. 36-32. — Application.~~

~~Any person wishing to engage in the business of operating a dock and/or marina shall make application to the department of building and safety for a license to do so; such application to be accompanied by a fee set by resolution of the council. The department of building and safety shall issue the license upon the following conditions; namely:~~

~~(1) Each applicant shall state in his application the following:~~

- ~~a. The applicant's name and address;~~
- ~~b. The common address and legal description of the land that the applicant seeks to utilize as a dock or marina;~~
- ~~c. That the applicant has obtained all of the necessary permits that are required under Part 301 of Act No. 451 of the Public Acts of Michigan of 1994, entitled Inland Lakes and Streams (MCL 324.30101; MSA 13A.30101). A copy of the permit shall be attached to the application.~~
- ~~d. That the dock and facilities which the applicant desires to utilize in his business has been designed or examined by a professional engineer. That the professional engineer has certified that the dock and facilities are constructed so as not to endanger the life of the users and that the weightbearing capacity of such dock is not less than two hundred (200) pounds per square foot, live load. A copy of such certificate shall be attached to the application bearing the seal of the professional engineer;~~
- ~~e. That there is sufficient paved off-street parking space on the property on which the business will be operated in order to accommodate one (1) parking space for every two (2) boat berths and one (1) parking space for every five (5) running feet of dock length;~~
- ~~f. That there is provided within such marina a minimum of eight hundred seventy-five (875) square feet of space for the exclusive use of each boat berthed at such marina;~~

~~g. That there are toilet facilities on such premises approved by the county department of health. A copy of such approval shall be attached to the application;~~

~~h. That there are facilities on such premises for receiving of human body wastes from toilet and other receptacles intended to receive or retain body wastes on boats berthed at such marina.~~

~~(2) Each application shall have attached to it a site plan drawn to scale, of the boundaries of the premises and the locations and dimensions of the dock, boat berths, and parking places together with plans and specifications including detailed drawings of the dock, specifications of the materials used therein, the weightbearing capacity of the dock in pounds per square foot, live load.~~

~~(3) Each application shall have attached to it an environmental impact study demonstrating that the facility and the operation of the dock and/or marina is not likely to pollute, impair or destroy the air, water, or other natural resources or the public trust therein.~~

~~(Ord. No. 75-71, § 2.01, 12-1-75; Ord. No. 97-160, Pt. XXIII, 4-7-97)~~

~~Sec. 36-33. -- Renewal.~~

~~(a) Every person who receives a license to engage in the business of operating a dock and/or marina shall thereafter make an application to the department of building and safety for a renewal of such license on or before January first of each succeeding year; such application to be accompanied by a fee set by resolution of the council. The department of building and safety shall issue such license upon the following conditions; namely:~~

~~(1) Each applicant shall state on his application the following:~~

~~a. The applicant's name and address;~~

~~b. The common address and legal description of the land the applicant seeks to utilize as a dock or marina;~~

~~c. That the applicant has obtained all of the necessary permits that are required under Part 301 of Act No. 451 of the Public Acts of Michigan of 1994, entitled Inland Lakes and Streams (MCL 324.30101; MSA 13A.30101). A copy of the permit shall be attached to the application.~~

~~d. That the dock and facilities which the applicant desires to utilize in his business have been designed or examined by a professional engineer. That the professional engineer has certified that the dock is constructed so as not to endanger the life of the users and that the weightbearing capacity of such dock is not less than two hundred (200) pounds per square foot, live load. A copy of such certificate shall be attached to the application bearing the seal of the professional engineer;~~

~~e. That there is sufficient paved off-street parking space on the property on which the business will be operated in order to accommodate one (1) parking space for every two (2) boat berths and one (1) parking space for every five (5) running feet of dock length;~~

~~f. That there is provided within such marina a minimum of eight hundred seventy five (875) square feet of space for the exclusive use of each boat berthed at such marina;~~

~~g. That there are toilet facilities on such premises approved by the county department of health. A copy of such approval shall be attached to the application;~~

~~h. That there are facilities on such premises for receiving of human body wastes from toilets and other receptacles intended to receive or retain body wastes on boats berthed at such marina.~~

~~(2) Each application shall have attached to it a site plan drawn to scale of the boundaries of the premises and the locations and dimensions of the dock, boat berths, and parking spaces together with plans and specifications including detailed drawings of the dock, specifications of the materials used therein, the weightbearing capacity of the dock in pounds per square foot, live load.~~

~~(3) Each application shall have attached to it an environmental impact study demonstrating that the facility and the operation of the dock and/or marina is not likely to pollute, impair or destroy the air, water, or other natural resources or the public trust therein.~~

~~(b) If any license fails to comply with this section, the renewal of his license shall be withheld, but the licensee may be reinstated by the department of building and safety upon subsequent compliance with the provisions of this section.~~

~~{Ord. No. 75-71, § 2.02, 12-1-75; Ord. No. 97-160, Pt. XXIV, 4-7-97}~~

Sec. 36-34. -- Denial or revocation.

~~(a) The building official shall withhold the renewal of the license or revoke the license for any of the following causes:~~

~~(1) For fraud or deceit in procuring a license to engage in the business of operating a dock or marina or in the renewal of the license;~~

~~(2) The dock has become in disrepair so that the weightbearing capacity of such dock shall be less than two hundred (200) pounds per square foot, live load;~~

~~(3) The dock has become in such disrepair as to be likely to endanger persons or property.~~

~~(b) Prior to the refusal to renew the license or the revocation of the license, a hearing shall be held before the building official upon notice given to the licensee in writing specifying the time, place of hearing, and reason for withholding the license or revocation of the license. Notice shall be served upon the licensee personally or by certified mail, return receipt requested, addressed to the address of the licensee on his application, ten (10) days before the date of hearing described in the notice. At the hearing, the licensee may be represented by counsel and a record shall be made, however, the record need not be a verbatim record.~~

~~(c) The determination to refuse to renew the license or the revocation of the license is appealable to the zoning board of appeals, upon written request for a hearing before the board of appeals. In the absence of such request being filed within ten (10) days after determination of withholding the renewal of the license or revocation of the license, the determination is final.
(Ord. No. 75-71, §§ 3.01—3.03, 12-1-75)~~

~~Sec. 36-35. -- Violations.~~

~~Any person, firm or corporation determined to have been in violation of the provisions of this article shall be responsible for a municipal civil infraction and subject to the provisions of section 1-11 of this Code.
(Ord. No. 03-172, Pt. XIII, 10-20-03)~~

PART II. Severability. 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 III. 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 IV. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PART V. Effective Date. The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Novi.

PART VI. Adoption. This ordinance is hereby declared to have been adopted by the Novi City Council in a meeting thereof duly held and called on the __ day of ____, 2019, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Robert J. Gatt, Mayor

Cortney Hanson, City Clerk