



CITY of NOVI CITY COUNCIL

**Agenda Item 4
September 22, 2014**

SUBJECT: Consideration of Ordinance 14-182 to amend the City of Novi Code of Ordinances Chapter 21, "Nuisances" Article II, "Related to Property," in order to add a new Division 12, "Obstructions in Public Ways." **FIRST READING**

SUBMITTING DEPARTMENT: Community Development *CWJ*

CITY MANAGER APPROVAL: *PA*

BACKGROUND INFORMATION:

As the City of Novi continues to develop and our network of sidewalks and pathways continues to grow and mature, the issue of maintenance of obstructions by shrubs and trees on adjacent private property increases correspondingly. As usage of pathways and sidewalks also grows, the Ordinance Enforcement staff have seen an increase in concerns of this type and have typically cited Section 21-57 Nuisances: Property Maintenance to effectuate correction of verified concerns. The City Attorney's Office has provided guidance that the current Ordinance language should be improved through the addition of a separate section specifically addressing these concerns.

Proposed Amendment:

The proposed adds a specific section addressing the responsibility of those in control of a lot or parcel of land to maintain a clear height of 8 feet above the surface of any public street, sidewalk or pathway. In cases where proper notice does not result in abatement of the nuisance the City would be authorized to remedy the situation as the expense of the property owner.

The Ordinance Review Committee of City Council met on June 11, 2014 and recommended proceeding with the proposed amendments. The Committee also reviewed the proposed changes at their meeting of August 11, 2014 and recommended forwarding to the City Council for first reading and consideration.

RECOMMENDED ACTION: Consideration of Ordinance 14-182 to amend the City of Novi Code of Ordinances Chapter 21, "Nuisances" Article II, "Related to Property," in order to add a new Division 12, "Obstructions in Public Ways." **FIRST READING**

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

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

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 14-182

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 21, "NUISANCES," ARTICLE II, "RELATED TO PROPERTY," IN ORDER TO ADD A NEW DIVISION 12, "OBSTRUCTIONS IN PUBLIC WAYS."

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 21, "Nuisances," Article II, "Related to Property," of the City of Novi Code of Ordinances is hereby amended to add a new Division 12, "Obstructions in Public Ways," to read as follows in its entirety:

Division 12. Obstructions in public ways.

Sec. 21-210. Duty to Keep Free of Obstruction by Trees, Bushes, and Plants

No person owning, leasing, occupying, or having charge or control of any parcel, lot, premises, or land within the city on which any tree, bush, shrub, vine, or plant is located shall allow the limbs, branches, twigs, or leaves of such tree, shrub, vine, or plant to overhang, protrude, or extend into any portion of any street, sidewalk, or pathway in a manner that obstructs or interferes with, or is likely to obstruct or interfere with, the use of such public ways. Such persons have an affirmative duty to trim or prune, or to cause to be trimmed or pruned, all limbs, branches, twigs, or leaves of such tree, shrub, vine, or plant either at the property line adjacent to the public way or to a clear height of at least eight (8) feet above the surface of such public way. Such persons shall not plant or maintain any thereof so close to any property line as to obstruct thereby the vision of travelers along the streets.

A violation of this section is declared to be a public nuisance, which may be abated by the City. Following 10 days' written notice to the owner of record by first class mail to the address on the tax records of the City and to the address of the property (if different), the City may enter upon such parcel, lot, premises, or land to conduct such trimming, pruning, or other work as it determines to be necessary, or to remove such obstructions herein prohibited upon the failure of the owner and/or occupant to do so. The costs of such work shall be charged to the owner of the parcel, lot, premises, or land by sending an invoice for services in the same manner as the notice described herein. If the owner fails to pay the amount due within 30 days of the date such bill is sent by the City, the amount shall be considered delinquent and the City may collect such amount, plus a reasonable administrative fee, in any manner authorized by law, including placement of the amount (and the administrative fee) on the tax rolls and collecting such amount in the same manner as delinquent taxes.

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 _____, 2014, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Moved by _____ and supported by _____.

Robert J. Gatt, 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 _____ day of _____, 2014.

Maryanne Cornelius, City Clerk

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

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Moved by _____ and supported by _____.

Robert J. Gatt, 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 ____ day of _____, 2014.

Maryanne Cornelius, City Clerk

ORDINANCE REVIEW COMMITTEE
June 11, 2014 | 5:00 p.m.
Mayor's Conference Room | Novi Civic Center | 45175 Ten Mile Road

Mayor Gatt called the meeting to order at 5:04 p.m.

ROLL CALL: Mayor Gatt, Council Member Mutch, Council Member Wrobel

ALSO PRESENT: Victor Cardenas, Assistant City Manager
Charles Boulard, Community Development Director
Thomas Schultz, City Attorney

APPROVAL OF AGENDA: Agenda was unanimously approved as presented.

AUDIENCE COMMENT: None

MATTERS FOR DISCUSSION:

1. Ordinance mowing administration charges

Mr. Cardenas began the discussion by explaining there were potential changes desired by the Community Development Department regarding the process of dealing with overgrown grass and noxious weeds. Mr. Boulard explained that currently a 15% administrative fee is added to the mowing expenses but the reality is that the City is spending much more than that. He said the most times a single property is cut has been twice in one year due to the timing issues related to noticing the property owner and the time it takes the grass to grow. He pointed out that in 2013 the City cut 35 privately owned lots a total of 59 times. He is proposing an administrative fee of \$45 per cut in addition to the mowing expenses.

Mayor Gatt said that seemed like a good idea. Member Wrobel agreed and added it wasn't necessarily about the costs but changing the behavior. Mr. Schultz explained that the City could collect the actual incurred expenses, but not more. Mr. Boulard confirmed the \$45 proposed fee was justifiable based on the actual expenses.

Member Mutch pointed out that the memo said the cost of mowing by the contractor actually went down from 2013. He added that the \$45 proposed fee was comparable to what a person would pay if they hired a contractor on their own. Mr. Boulard explained that the process of collecting the fees was that it is initially billed through Miscellaneous Receivables by the City of Novi and if it isn't paid, the fee gets collected via the tax bill.

Moved by Mutch, Seconded by Wrobel: Carried Unanimously

To recommend to City Council the proposed Ordinance Amendment as discussed; to increase the Ordinance Mowing administrative fee to \$45.00 per cut for any size parcel.

2. Proposed ordinance amendments for window signage

Mr. Cardenas discussed the issue of window signage and how technology has improved to provide better quality signage. Currently the ordinance allows 25% of a window to be covered by signage and it has to be on the inside of the window. Mr. Boulard said the proposed changes would eliminate an unenforced section of the ordinance regarding temporary time periods. The topic was brought forward because businesses have been placing signage on the outside of the window as opposed to the inside. It brought up the issue of maintenance due to weather and other variables. He said that maybe 100 businesses have their signage on the outside even though it isn't allowed under the ordinance.

Mayor Gatt questioned why it matters if the sign is on the inside or outside of a window. Mr. Schultz said it came down to aesthetics. Member Wrobel said he didn't see much of a difference. Member Mutch said it was more about the size of the signs. He felt as long as the sign is maintained; he had no problem with it being on the outside of a window. As long as the City continues to enforce the 25% rule, he said it should not matter if the signage is on the inside or outside the window.

Moved by Mutch, Seconded by Wrobel: Carried Unanimously

To recommend to City Council the proposed Ordinance Amendment as discussed; to remove the temporary time period reference in Section 28-7(1)(11)(b) and Section 28-7(1)(11) (c), as well as amend Section 28-7(1)(11)(a) to allow signage on the outside of a window.

3. Proposed ordinance amendment to address right of way obstructions

Mr. Cardenas explained that this topic was brought up in order to maintain clear sidewalks. The proposed change would allow the City to give notice to offenders similar to the noxious weeds process. Mr. Boulard said this fee would be the direct costs of having the contractor clear the right of way, with no additional administrative fee. He added that there are maybe four instances per year when this is a problem. The changes would address things like fallen branches and bushes blocking a path. It would not be used to clear crabapples from the sidewalk or prevent sprinklers from spraying the sidewalk.

Moved by Wrobel, Seconded by Mutch: Carried Unanimously

To recommend to City Council the proposed Ordinance Amendment as discussed; to add language to Chapter 21 Nuisances; Article II. Related to Property, Division 12 Obstructions to the public way with language approved by the City Attorney.

4. Proposed fee changes for arcade licenses

Mr. Cardenas explained that the current fee for an Arcade License is a base fee of \$210 plus \$10 per machine. The proposal is to remove the per machine fee. Mr. Schultz

explained that this was brought to the City Clerk's Office's attention after a FOIA was filed and the requestor indicated the fees were not justifiable. The Clerk's Office broke down the actual costs and discovered the costs incurred were actually over \$300; however the per machine charge did not seem relevant any longer.

Mr. Gatt said he would like to see how many of the businesses would see an increase to their fee and how many would see a decrease if the fee was changed to \$300. He then asked why the City is charging a fee at all when performing those inspections and processing the paperwork is part of the job to begin with.

Member Mutch asked what was accomplished by having these businesses renew on an annual basis. Mr. Boulard explained it gave the Community Development Department and Fire Department the opportunity to go into the business and confirm everything is up to code and safe for the public. Member Mutch said this section may be outdated. He asked if it made sense to continue licensing them. Mr. Boulard indicated it would take away an opportunity to inspect the premises to ensure public safety.

The Committee requested administration gather additional background information including how much businesses pay in Arcade License fees, what types of businesses are obtaining them, and any other relevant information.

5. Nuisance lighting

Mr. Cardenas explained this issue was brought forward because there have been a few complaints about light fixtures pointing downwards instead of up. There are no proposed changes; administration is just looking for confirmation from the Committee that the current process is acceptable.

Mr. Boulard explained that there are maybe six complaints on this issue throughout the year and most are because a light is pointing down creating a glare or causing distraction. The City is not going out performing inspections to check, these issues are complaint driven. He said when they hear about a problem with the lighting, they issue a violation notice to the property owner and give them ten days to correct the situation.

The Committee agreed that the current process is satisfactory and they see no reason for changes to the ordinance.

The meeting was adjourned at 6:18 p.m.

Recorded by: Courtney Hanson
Deputy City Clerk

ORDINANCE REVIEW COMMITTEE
August 11, 2014 | 5:00 p.m.
Mayor's Conference Room | Novi Civic Center | 45175 Ten Mile Road

Mayor Gatt called the meeting to order at 5:00 p.m.

ROLL CALL: Mayor Gatt, Council Member Mutch, Council Member Wrobel

ALSO PRESENT: Victor Cardenas, Assistant City Manager
Charles Boulard, Community Development Director
Thomas Schultz, City Attorney

APPROVAL OF AGENDA: Agenda was unanimously approved as presented.

AUDIENCE COMMENT: None

MATTERS FOR DISCUSSION:

1. Approval of minutes from July 7, 2014

ORCM 14-08-03 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

To approve the Ordinance Review Committee meeting minutes from July 7, 2014.

2. Review of Ordinance Amendments referred to Council
 - a. Temporary Signs Ordinance Amendment

Mr. Schultz said the strikethrough ordinance provided in the packet is a reflection of the Committee's discussion.

ORCM 14-08-04 Moved by Wrobel, seconded by Mutch; CARRIED UNANIMOUSLY:

To recommend to City Council the proposed ordinance amendment pertaining to temporary signage.

2. Review of Ordinance Amendments referred to Council
 - b. Right of Way Obstructions Ordinance Amendment

Mr. Schultz explained this topic came up previously to the Committee because some properties do not maintain the right of way.

ORCM 14-08-05 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

To recommend to City Council the proposed ordinance amendment pertaining to obstructions in Public Ways.

2. Review of Ordinance Amendments referred to Council
 - c. Mowing Ordinance administration charges

Mr. Schultz explained the proposed changes were discussed at a previous meeting but there was also the addition of changing the fee so that it was set by resolution instead of built into the ordinance. It also added wording so that non-subdivided parcels of land were included.

ORCM 14-08-06 Moved by Wrobel, seconded by Mutch; CARRIED UNANIMOUSLY:

To recommend to City Council the proposed ordinance amendment pertaining to the administrative fee for grass/weed mowing by the City on private property and to clarify the properties to which the requirements are applicable.

3. Possible changes to the Arcade License ordinance

Mr. Schultz explained that the Committee discussed this topic at the previous meeting. The question was whether they wanted to simply remove the licensing requirements or the entire ordinance. The Police Department had sent the opinion that Division I (Sections 4-61 through 4-66) was an important portion to leave in the ordinance mainly because it deals with person under the age of 18 on premises during school hours, on school days.

Member Mutch said he understood the Police Departments concerns but wondered if there was a better location in the Code to place those types of restrictions. Member Wrobel agreed.

Mayor Gatt asked why they would want to remove such language when the Police Department utilizes it. He felt they should leave that in and just remove the licensing portion. He directed staff to follow up on the topic to possibly locate another section of the Code where it would be a better fit.

ORCM 14-08-07 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

To recommend to City Council an ordinance amendment to remove Division 2, Arcade License and Division 3, Machine License from Chapter 4, Article III.

4. Possible Ordinance Amendments regarding Medical Marijuana

Mr. Schultz explained that since the Committee last met, there have been some potential developments in changes to the State Law. He added that without knowing when or how soon those potential changes could take effect, it may be too soon for the Committee to act on the topic. Mayor Gatt agreed that it may be foolish to move forward knowing the State Law could change in the near future.

Mr. Schultz clarified that they can't stop a person from growing marijuana for their own use if they have a medical marijuana card. The situation that might be able to be regulated is the caregiver situation, where they can grow up to 72 plants and have five patients. He added that the ordinance, if Council decides to put one in place, should

cover both the topic of growing marijuana as well as how dispensaries would be addressed.

The conversation briefly covered whether it should be allowed in a residential area or an industrial area. The general consensus was that it should be kept out of residential areas if possible, but the rest of Council has yet to weigh in on the topic.

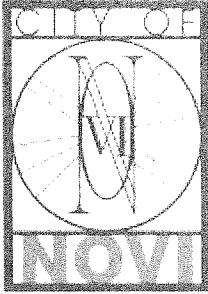
ORCM 14-08-07 Moved by Wrobel, seconded by Mutch; CARRIED UNANIMOUSLY:

To postpone discussion on possible ordinance amendments regarding medical marijuana.

The meeting was adjourned at 5:40 p.m.

Recorded by: Cortney Hanson
Deputy City Clerk

MEMORANDUM



cityofnovi.org

TO: Victor Cardenas, Interim City Manager

FROM: Charles Boulard, Community Development Director

SUBJECT: Proposed Ordinance Amendment to Address Right of Way Obstructions

DATE: June 5, 2014

Each year the Community Development Department receives complaints from residents regarding tree limbs, branches and other vegetation obstruction limiting full use of public sidewalks and pathways within the public right of way. Typically the Ordinance Officers have cited Section 21-57 Nuisances: Property Maintenance to effectuate correction of verified concerns. These complaints have increased with the addition of new sidewalks and pathways as well as the corresponding use by our residents and visitors.

The City Attorney office has provided guidance that the current Ordinance language should be improved through the addition of a separate section specifically addressing these concerns. To that end I am bringing forward for consideration amendment of the Novi City Ordinance to add a section under Chapter 21 Nuisances; Article II. Related to Property, Division 12 Obstructions to the public way with possible language as follows:

The owner or person in charge or control of any lot or parcel of land within the city upon which any tree, shrub, vine or plant may be standing adjacent to any public way, shall trim or cause to be trimmed, either at the property line or to a clear height of at least eight (8) feet above the surface of such public way, all branches thereof which overhang any portion of such public way, or which obstruct or interfere with the use of any sidewalk or pathway, and shall not plant or maintain any thereof so close to any property line as to obstruct thereby the vision of travelers along the streets. Following 10 day written notice to the owner of record by first class mail, the city may enter upon any such private premises to do such trimming as it determines necessary, or to remove such obstructions herein prohibited upon the failure of the owner to do so. Should the City have to abate the nuisance, costs may be collected in the manner of taxes.

Please let me know if I can be of further assistance or provide additional information.
Thank you