



CITY of NOVI CITY COUNCIL

**Agenda Item 3
May 4, 2009**

SUBJECT: Consideration of Ordinance 09-104.07 to amend Chapter 21, "Nuisances" of the City of Novi Code, to shorten the notice requirements for allowing the City to abate certain nuisances from fifteen to ten days, and to add a new Section 21-38 providing for a new voluntary graffiti abatement program. **FIRST READING.**

SUBMITTING DEPARTMENT: Community Development Department/Ordinance Enforcement Division

CITY MANAGER APPROVAL:

Bull

BACKGROUND INFORMATION:

Following release and review of the results of the 2008 National Citizen Survey and identification of Ordinance Enforcement as a key driver, a response plan was developed. This plan included proposed Ordinance amendments. These amendments are proposed with the intention of enabling City staff to respond with increased speed and cost effectiveness in situations where nuisance abatement becomes necessary.

A voluntary no-fault graffiti abatement program is also proposed to insure that graffiti is removed from a property in a timely manner and for no cost to the property owner. It is expected that this new program will cost the City less than \$1000 per year, based on current violation levels. Fewer than 10 graffiti notices are sent in a typical year, and in the months of May through July, approximately 600 weed notices are sent by our Ordinance Enforcement Division. Under the proposed program, if an outside contractor needs to be hired for removal of graffiti, a budget amendment will be provided to the City Council at a future time, as needed. Also included is revised language to standardize the administrative fee for abatement provided by the City at 15% and minor housekeeping updates addressing organizational changes.

Additional information is included in the attached memo of April 1, 2009 to Clay Pearson from Stephen T. Rumble and a letter to Mayor and Council from Kristin Kolb of Secrest Wardle dated March 26, 2009.

RECOMMENDED ACTION:

Approval of Ordinance 09-104.07 to amend Chapter 21, "Nuisances" of the City of Novi Code, to shorten the notice requirements for allowing the City to abate certain nuisances from fifteen to ten days, and to add a new Section 21-38 providing for a new voluntary graffiti abatement program. **FIRST READING.**

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Burke				
Council Member Crawford				

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



MEMORANDUM

TO: CLAY PEARSON, CITY MANAGER
FROM: STEPHEN T. RUMPLE, COMMUNITY DEVELOPMENT DIRECTOR
CHARLES BOULARD, BUILDING OFFICIAL
SUBJECT: CODE ENFORCEMENT UPDATES
DATE: APRIL 1, 2009

4/2/09
To: Mayor and City Council Members

For near future City Council consideration.
[Signature]

The 2008 National Citizen Survey for Novi identified Code Enforcement as a *Key Driver* strongly correlating with resident perception of the City as a whole. Plans for actions to leverage opportunities to improve the response and efficiency of City staff in this area were outlined in a Memo to the City Manager dated February 9, 2009. Included in those plans were a number of suggested Ordinance Amendments (attached).

These proposed amendments are intended to expedite response for weed/grass mowing and graffiti abatement. Amendment to the notice and abatement provisions of the Code would reduce delays required for subsequent notices and notice periods for the same property in the same growing season. In addition, a new section is proposed to allow property owners to voluntarily take part in a no-fault graffiti abatement program under which the City would abate graffiti on painted surfaces without cost to the property owner provided authorization is granted. Based on current violation levels this program is anticipated to cost the City less than \$1,000 per year.

The proposed amendments also include an increase in the administrative fee added to nuisance abatement services provided by the City and billed to property owners (currently 10%) to 15% - matching other typical administrative fees assessed. This figure more accurately represents the investigation, documentation and billing costs of these efforts. A number of ordinances language housekeeping issues are also addressed allowing the City Code to accurately reflect changes in responsibility within the organization. It is our intention to put these amendments on a forthcoming Council agenda. *



March 26, 2009

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Mayor Landry and City Council
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Re: Nuisance Ordinance Text Amendment

Dear Mayor Landry and Councilmembers:

Attached for your review please find a proposed amendment to Chapter 21 of the City of Novi Code of Ordinances. This text amendment was prepared at the request of the Community Development Department to help address blight issues caused by the increasing number of foreclosures resulting in a large number of vacant properties throughout the City. The Community Development Department also took advantage of this opportunity to make some housekeeping updates to the Ordinance.

The changes are as follows:

1. Throughout the ordinance, the reference to "neighborhood services coordinator" was changed to "Building Official or Code Enforcement Officer, or their designee."
2. The ordinance previously provided for a 15-day notice period to abate nuisances (more specifically, noxious weeds). This has been reduced to a 10-day notice period, which is in accordance with the state noxious weeds statute (MCL §247.64).
3. The administrative fee that is added onto work performed by the City to abate nuisances has been increased from 10 to 15 percent.
4. At the request of the Building Official, a new provision has been added to Division 2 of Chapter 21, "Graffiti on Private Property." This new provision, found at Section 21-38, provides for a voluntary graffiti abatement program. The provision allows private property owners to enter into contracts with the City, whereby the City would be authorized to enter onto their property and clean up graffiti on existing structures. This graffiti abatement would be done at no cost to the property owner. To limit the City's cost, however, such

Mayor Landry and City Council
March 26, 2009
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abatement would be limited to the painting of siding, and not the more expensive clean-up required for brick, stone, and other "natural" materials.

The changes are shown on the attached text amendment, with deletions shown in ~~strike~~through, and additions highlighted in ***bold, italicized*** text.

It is my understanding this text amendment will be before you in the near future for consideration for first reading. Please feel free to contact me at any time, should you have any questions about the proposed changes.

Very truly yours,



Kristin Bricker Kolb

kbk

Enclosure

Cc: Clay J. Pearson, City Manager (w/Enclosure)
Maryanne Cornelius, Clerk (w/Enclosure)
Steve Rumble, Community Development Director (w/Enclosure)
Barbara McBeth, Community Dev. Deputy Director (w/Enclosure)
Charles Boulard, Building Official (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

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STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 09-104.07

AN ORDINANCE TO AMEND CHAPTER 21, "NUISANCES" OF THE CITY OF NOVI CODE, TO SHORTEN THE NOTICE REQUIREMENTS FOR ALLOWING THE CITY TO ABATE CERTAIN NUISANCES FROM FIFTEEN TO TEN DAYS, AND TO ADD A NEW SECTION 21-38 PROVIDING FOR A VOLUNTARY GRAFFITI ABATEMENT PROGRAM.

THE CITY OF NOVI ORDAINS:

PART I

That Chapter 21, "Nuisances," Division 1, "Lot Clearing," Section 21-20, shall be amended to read as follows:

Sec. 21-20. General notice by publication to owner, occupant to abate.

It is hereby made the duty of the ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee**, to give general notice to every owner, occupant, or any person having control or management of any subdivided land or lots, as provided section 21-22, wherein noxious weeds or any weeds, grass, brush, or deleterious, unhealthy growths exceeding a height of eight (8) inches growing, standing or present to cut down, destroy or remove same. Such general notice shall be made by publication in the official newspaper of general circulation in city at least twice in each year, once during first half of the month of May and again during the first half of July of each year, and shall read substantially as follows:

CITY OF NOVI
NOTICE OF PROVISIONS OF THE
NOXIOUS WEED ORDINANCE

TO: All owners, occupants or possessors of subdivided lands or lots:

NOTICE IS HEREBY GIVEN that in accordance with Chapter 21, Article II, of the Code of Ordinances, City of Novi, Michigan, all noxious weeds, or other weeds, grass, brush, or deleterious, unhealthy growths exceeding a height of eight (8) inches, growing, standing or lying

upon any property in the City of Novi, shall be cut down, destroyed or removed as the case may be, at least twice in each year, once during the last half of the month of May and again during the last half of July of each year and more often as may be necessary.

If the owner or occupant, or any person or persons, agent, firm, or corporation having control or management of any subdivided land upon which any building or buildings have been erected shall fail, refuse, or neglect to comply with the above mentioned Code provisions, the city shall cause the weeds, grass, brush, deleterious, unhealthy growths, rubbish, to be cut down, destroyed or removed. Provided, further, that any lands which are situated within the floodplains or any natural streams or watercourses, or any area between the lower or upper banks of such streams or watercourses shall be exempted from the provisions of such Code provisions. The expense incurred by the City in the cutting, destruction or removal of same together with a ten (10) percent administrative charge will be levied and collected against such property in the manner provided by law.

Failure to comply with the requirements set forth in Chapter 21, Article II, of the Code of Ordinances, City of Novi, Michigan, may also result in the prosecution for same, and liability to the extent of the penalty therein provided.

_____, 200_____

Neighborhood Services
Coordinator
Building Official/Ordinance Enforcement Officer
City of Novi

PART II

That Chapter 21, "Nuisances," Division 1, "Lot Clearing," Section 21-21, shall be amended to read as follows:

Sec. 21-21. Specific notice by first class mail to owner to abate.

In addition to the general notice requirements set forth in section 21-20, it is hereby made the duty of the ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee**, to give a specific notice in writing, by first class mail, to every person shown on the tax assessment rolls of the city as owner of any subdivided lands or lots as provided in section 21-22 wherein noxious weeds, or any weeds, grass brush, or deleterious, unhealthy growths are growing, standing or present in violation of this division to cut down or remove same within ~~fifteen~~ **ten** (15 **10**) days, which notice shall read substantially as follows:

Name and Address
Description

NOTICE OF PROVISIONS OF THE NOXIOUS WEED AND REFUSE ORDINANCE

According to the Assessment records of this City, you appear to be the owner of the above described property which is subject to the provisions of Chapter 21, Article II, Code of Ordinances, City of Novi, Michigan.

Notice is hereby given that in accordance with the aforementioned Code provisions that all noxious weeds, or other weeds, grass, brush, or deleterious, unhealthy growths, exceeding a height of eight (8) inches, growing, standing or lying upon any property in the City of Novi, shall be cut down, destroyed or removed as the case may be on or before the _____ day of _____, 200____. **The obligation to remove all noxious weeds, or other weeds, grass, brush, or deleterious, unhealthy growths in excess of eight (8) inches shall be deemed continuous and lasts until October 15th of this year.**

In the event of failure to comply with this notice on or before the date mentioned, **and on each occasion thereafter when such weeds, grass, brush, deleterious, or unhealthy growths are permitted to exceed eight (8) inches in height,** in accordance with the above Code provisions, the city shall cause the weeds, grass, brush, deleterious, or unhealthy growths to be cut down, destroyed or removed. The expenses incurred by the city in the **each** cutting, destruction or removal of same together with a ~~ten~~ **fifteen(15)** percent administrative charge will be levied and collected against such property in the manner provided by law.

Failure to comply with the requirements of Chapter 21, Article II, of the Code of Ordinances, City of Novi, Michigan, may also result in the prosecution for same and liability to the extent of the penalty therein provided.

_____, 200_____

Neighborhood Services
Coordinator
Building Official/Ordinance Enforcement Officer
City of Novi

PART III

That Chapter 21, "Nuisances," Division 2, "Lot Clearing," Section 21-22, shall be amended to read as follows:

Sec. 21-22. Abatement by city.

(a) If the owner, occupant, or any person having control or management of any subdivided land in a subdivision or condominium development, including site condominiums, in which any building(s) have been erected on sixty (60) percent of the lot(s) included in that subdivision has failed, refused or neglected to comply with the provisions of this division, the ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee,** is hereby empowered, upon the giving of proper notice, to enter upon such land or lots for the purpose of accomplishing abatement of the violation by, cutting by the City of Novi or it's duly authorized agent. If the owner, occupant, or any person having control or management of any

non-subdivided land has failed, refused or neglected to comply with the provisions of this division, the ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee**, is hereby empowered, upon the giving of proper notice, to enter upon such land for the purpose of accomplishing abatement of the violation by spraying, cutting and/or other methods deemed acceptable by the City of Novi.

(b) - (d) [Unchanged.]

PART IV

That Chapter 21, "Nuisances," Division 2, "Lot Clearing," Section 21-23, shall be amended to read as follows:

Sec. 21-23. Reimbursement to city.

(a) Whenever the City shall enter upon any parcel of land in order to accomplish abatement of an existing violation, pursuant to provisions of this division, the ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee**, is hereby authorized and directed to keep an accurate account of all expenses incurred, and based upon same issue a certificate determining and certifying the reasonable cost involved for such work with respect to each parcel of property. **Actual costs may vary from year to year based on contracts entered into by the City for such abatement work.**

(b) The ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee**, is also authorized to add to such costs a ~~ten~~ **fifteen (15)** percent administration charge to cover the expenses of administering the work performed, costs of publication, overhead and other contingent expenses.

(c) - (d) [Unchanged.]

(e) Such amounts as are paid to the city under the provisions of this division shall be deposited into a special fund to be known as the "weed and refuse fund" and these monies may be drawn upon by the ~~neighborhood services coordinator~~ **Building Official** for the purpose of defraying the expenses incurred by the ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee**, in the performance of such work as may be necessary to accomplish abatement of violations in the manner specified in this division.

PART V

That Chapter 21, "Nuisances," Division 2, "Graffiti on Private Property," Section 21-35, shall be amended to read as follows:

Sec. 21-35. Notice of property owner of graffiti nuisance.

It is hereby made the duty of the ~~neighborhood services coordinator~~ **Building Official or Ordinance Enforcement Officer, or their designee**, to give a specific notice in writing, by first

class mail, to every person shown on the tax assessment rolls of the city as owner of any property that has been marked or defaced as defined in section 22-66 of this Code, to remove or paint over such markings within ~~fifteen~~ ten (~~15~~ 10) days, which notice shall read substantially as follows:

Name and address
Description

NOTICE OF PROVISIONS OF THE ANTI-GRAFFITI ORDINANCE

According to the assessment records of this city, you appear to be the owner of the above described property which is subject to the provisions of Section 22-66 and Chapter 21, Article III, Code of Ordinances, City of Novi, Michigan.

Notice is hereby given in accordance with the aforementioned Code provisions that it is the responsibility of the owner of property within the City to remove or paint over all drawings, inscriptions, designs, scribblings, mottos, pictures, pictographs or other markings commonly referred to as "graffiti."

In the event of failure to comply with this notice on or before the date mentioned, in accordance with the above Code provisions, the City shall cause the drawings, inscriptions, designs, scribblings, mottos, pictures, pictographs or other markings to be removed or painted over. The expense incurred by the City, together with a ~~ten~~ fifteen (~~10~~ 15) percent administrative charge, will be levied and collected against such property in the manner provided by law.

You have the right to appeal the City's decision to remove or paint over the drawings, inscriptions, designs, scribblings, mottos, pictures, pictographs or other markings by notifying the City of Novi's ~~Neighborhood Services Coordinator~~ Building Official at 45175 W. Ten Mile Road, Novi, Michigan 48375, in writing, of your desire to appeal, within ten (10) days of the date of this notice. You will be notified of the time and place of hearing.

_____, 200_____

~~Code Compliance Officer~~
Building Official/Ordinance Enforcement Officer
City of Novi

PART VI

That Chapter 21, "Nuisances," Division 2, "Graffiti on Private Property," Section 21-36, shall be amended to read as follows:

Sec. 21-36. Graffiti nuisance; removal by city.

Upon the failure, neglect or refusal of any owner so notified to properly paint over or remove any graffiti within ~~fifteen~~ ten (~~15~~ 10) days after receipt of written notice provided for in

section 21-35, or within ~~fifteen~~ *ten* (~~15~~ *10*) days after the date of such notice in the event the same is returned to the city because of the inability of the post office to make delivery thereof, provided the same was properly addressed to the last known address of such owner, the department of public works and its authorized representatives are hereby empowered to enter upon such property for the purpose of accomplishing abatement of the nuisance by removal or elimination of such graffiti by the city.

PART VII

That Chapter 21, "Nuisances," Division 2, "Graffiti on Private Property," Section 21-37, shall be amended to read as follows:

Sec. 21-37. Graffiti nuisance; costs of removal.

Whenever the department of public works or its authorized representatives enters upon any parcel of land in order to accomplish abatement of such an existing nuisance, pursuant to the provisions of this chapter, the superintendent of the department of public works is authorized and directed to keep an accurate account of all expenses incurred, and based upon same issue a certificate determining and certifying the reasonable cost involved for such work with respect to each parcel of property. ***Actual costs may vary from year to year based on contracts entered into by the City for such abatement work.*** The director is also authorized to add to such costs a ~~ten~~ *fifteen* (~~10~~ *15*) percent administrative charge to cover the expense of administering the work performed, overhead, and other contingent expenses. Within ten (10) days after receipt of the certificate, the city treasurer shall forward a statement of the total charges assessed on each parcel of property to the owner as shown by the last current assessment or tax roll, and said assessment shall be payable to the city treasurer within thirty (30) days from the date when the statement was forwarded. If not paid within the prescribed thirty-day period, such statement shall be filed with the city assessor and shall thereupon be assessed against the land in question and become a lien on such property in accordance with the provisions of Chapter 11 of the City Charter. The amount so charged may be discharged at any time by the payment of the amount specified in the statement, together with interest at the rate of six (6) percent per year compiled from the time of filing said certificate with the city assessor. Such amount shall be a debt of the person to whom assessed until paid and, in case of delinquency, may be enforced as delinquent city property taxes or by a suit against such person.

PART VIII

That Charter 21, "Nuisances," Division 2, "Graffiti on Private Property," shall be amended by adding a new Section 21-38 to read as follows:

Sec. 21-38. Voluntary Graffiti Abatement Program.

The owner of any real estate may enter into the voluntary graffiti abatement program. To enter into said program, the owner of real estate shall execute a written agreement with the city which authorizes the city to enter onto a subject property at any time graffiti appears upon a painted surface such as vinyl, wood, cement composite or other similar siding. The City

hereby agrees to remove such graffiti by painting over with the same or a nearly matching color. Such agreement will also provide that the owner agrees to release and hold harmless the City and the City's agent or contractor from any claims for damages resulting from working or otherwise removing graffiti on a property. Graffiti removal done pursuant to the voluntary graffiti abatement program shall be done free of charge to the owner of the real estate.

PART IX

Savings Clause. That 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 X

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 XI

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

PART XII

Effective Date: Publication. That 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.

CERTIFICATION

It is hereby certified that the foregoing Ordinance was adopted by the Novi City Council, Oakland County, Michigan, at a meeting of the Council duly called and held on the _____ day of _____, 2009.

CITY OF NOVI

By: _____
Maryanne Cornelius, City Clerk

ADOPTED:
EFFECTIVE:
PUBLISHED:

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