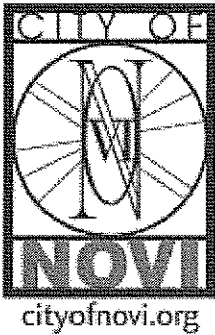


## MEMORANDUM



**TO:** MEMBERS OF THE PLANNING COMMISSION  
**FROM:** KRISTEN KAPELANSKI, PLANNER *Kristen*  
**THRU:** BARBARA MCBETH, COMMUNITY DEVELOPMENT  
**SUBJECT:** TEXT AMENDMENT 18.239 GAS STATION LIQUOR  
LICENSES (PLANNING COMMISSION MEETING DATE: 10/28/09)  
**DATE:** OCTOBER 23, 2009

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Attached you will find a proposed ordinance amendment that the City Attorney's Office has proposed to alter the definition for a gasoline service station to provide additional detail regarding what types of convenience products can be sold and to permit the sale of non-alcoholic beverages only. This amendment is in response to a provision of the State's Liquor Control Statute which allows the Liquor Control Commission to issue a license to allow a gas station with a convenience store to sell pre-packaged beer and wine and/or liquor. The reasons for the proposed exclusion of the sale of alcoholic beverages at gas service stations are outlined in the proposed ordinance.

The Planning Commission is asked to set a public hearing for November 18<sup>th</sup>, 2009. If any Commissioner has any questions related to this request, do not hesitate to contact Kristen Kapelanski, in the Community Development Department at (248) 347-0586 or [kkapelanski@cityofnovi.org](mailto:kkapelanski@cityofnovi.org).

**PROPOSED ORDINANCE AMENDMENTS – STRIKE VERSION**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 09-\_\_\_\_\_  
(Gas Station Liquor Licenses)

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18, AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE, ARTICLE 2, "CONSTRUCTION OF LANGUAGE AND DEFINITIONS, ZONING DISTRICTS AND MAP," SECTION 201, "DEFINITIONS," TO AMEND THE DEFINITION OF GASOLINE SERVICE STATION TO SPECIFY PERMITTED ACCESSORY USES WITH A PROHIBITION ON THE SALE OF ALCOHOL, WHICH HAS BEEN FOUND TO BE CONTRARY TO THE PUBLIC HEALTH, SAFETY AND WELFARE.

THE CITY OF NOVI ORDAINS:

**Part I.** That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, Article 2, Construction of Language and Definitions, Zoning districts and Map, Section 201, Definitions, is hereby amended to amend the definitions of "Gasoline Service Station" to read as follows:

Gasoline service station means a place for the retail dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair, with the only permitted accessory uses being the servicing and minor repair of motor vehicles; retail sales of minor automotive related convenience products and accessories such as windshield washer fluid, motor oil, wipers and window scrapers; and retail sales of non-automotive related products, including (i) sundries such as gum, candy, cigarettes, newspapers, magazines, and other individually packaged convenience items; (ii) basic convenience grocery items, such as milk and bread; (iii) pre-prepared food items that are not subject to licensing by the Michigan Department of Agriculture or the Oakland County Health Department; and (iv) non-alcoholic beverages only, it being the finding and public policy determination of the City that the sale of beer, wine, liquor, or other beverages containing alcohol should never be found or determined to be customarily incidental to an automobile service station for the following reasons:

(a) Alcohol is not a product that should be conveniently available to the motoring public at a location where they purchase fuel for their vehicle. Such availability has a strong potential to encourage or facilitate alcohol related driving offenses and accidents that might not otherwise occur if a motorist in need of fuel had to make a separate stop to purchase alcohol.

(b) The nature of modern day automobile service stations and the multiple transactions employees must handle at the same time is inconsistent with the proper

administration and enforcement of the State's liquor control laws and prohibitions on sales to minors and visibly intoxicated persons and the Michigan Liquor Control Code of 1998, MCL 436.1906, does not require server training programs for off-premises licensees and their employees.

(c) Many gasoline service stations are open later than other stores where alcohol is sold, creating the ability for persons who had been consuming alcohol in an on-premises establishment to conveniently purchase alcohol after leaving that establishment, increasing the chances of alcohol related driving offenses and accidents and potentially undermining the liability of on-premises licensees for serving alcohol to minors or visibly intoxicated persons under the rebuttable presumption in MCL 436.1801(8), that licensees other than the one who made the last sale are not liable for damages caused by a minor or visibly intoxicated person they served.

(d) Allowing the sale of alcohol at automobile service stations would increase the volume of motor vehicle traffic and parking demands on properties that were not planned or designed to accommodate the increased demand, resulting in increased vehicle conflicts and accidents.

(e) Locations that sell alcohol are a separate retail use under this chapter, which the City pursuant to its zoning authority to ensure that use of land is situated in appropriate locations and relationships, reduce hazards to life and property, and to promote and protect the public health, safety and welfare, has determined should not be allowed at automobile service station locations.

## **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 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.** Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
DAVID LANDRY – MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

1. Date of Public Hearing \_\_\_\_\_
2. Date of Adoption \_\_\_\_\_
3. Date of Publication of  
Notice of Adoption \_\_\_\_\_

**CERTIFICATE OF ADOPTION**

I hereby certify that the foregoing is true and complete copy of the Ordinance passed at the \_\_\_\_\_ meeting of the Novi City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

**PROPOSED ORDINANCE AMENDMENTS – CLEAN VERSION**

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COUNTY OF OAKLAND

CITY OF NOVI

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sales to minors and visibly intoxicated persons and the Michigan Liquor Control Code of 1998, MCL 436.1906, does not require server training programs for off-premises licensees and their employees.

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MADE, PASSED AND ADOPTED BY THE NOVI CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
DAVID LANDRY – MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK

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\_\_\_\_\_  
MARYANNE CORNELIUS – CITY CLERK