

CITY of NOVI CITY COUNCIL

**Agenda Item 5
September 14, 2015**

SUBJECT: Consideration of approval of Ordinance Amendment 15-185 to amend the City of Novi Code of Ordinance, at Chapter 22, "Offenses," Article V, "Offenses Against Public Peace," in order to add a new Section 22-102, "Conduct in Cemeteries," to establish rules for appropriate conduct in cemeteries within the City. **FIRST READING**

SUBMITTING DEPARTMENT: City Clerk *mc*

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

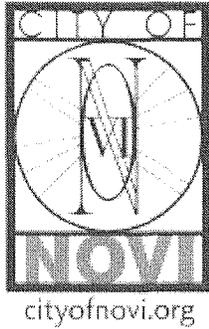
The City's Ordinance Review Committee (ORC) met on August 24, 2015 to discuss possible changes to the City's ordinances as they relate to access and activity in, primarily, municipal owned cemeteries. The amendment to the ordinance established specific rules of conduct applicable within cemeteries both public and private. These rules supplement other ordinance provisions generally governing conduct in public, but are specifically related to the sorts of activities that can occur in a cemetery. The intention of the amendment is to assist in the enforcement of such rules in appropriate cases. Recently, the City has experienced some undesirable activities in one of the two municipal owned cemeteries. With a focus on preservation of headstones, artifacts, and plaques, it was decided to bring forth a recommendation to the ORC to develop regulations that would, ultimately, assist with enforcement and prosecution. Moving forward, access to cemeteries will be prohibited after 9 p.m. or dusk, whichever is earlier, and 6:00 a.m. The ORC unanimously recommended these new provisions for consideration from the City Council of the whole.

RECOMMENDED ACTION: Approval of first reading of Ordinance Amendment 15-185 to amend the City of Novi Code of Ordinance, at Chapter 22, "Offenses," Article V, "Offenses Against Public Peace," in order to add a new Section 22-102, "Conduct in Cemeteries," to establish rules for appropriate conduct in cemeteries within the City. **FIRST READING**

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

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

MEMORANDUM



TO: MAYOR GATT AND COUNCIL MEMBERS
FROM: MARYANNE CORNELIUS, CITY CLERK
SUBJECT: PROPOSED CEMETERY ORDINANCE
DATE: SEPTEMBER 10, 2015

A municipal corporation may pass ordinances necessary under MCL 456.530 (1) to regulate that municipal corporation's cemeteries. An ordinance provides control, maintenance and care of public cemeteries, and includes the powers and duties of public officials invested by law with the management thereof. Novi has 3 cemeteries, 2 of which are owned by the City. Recently, discussion was held by some members of the Historical Commission regarding the preservation and restoration of our 2 locations. Originally, the first thought was focused on preservation of headstones, artifacts and plaques at cemetery plots as the City has a number of veteran's plots and headstones from the 1700's forward. The City has not had a cemetery ordinance regulating activities in the cemetery, but in order to be able to preserve and protect the cemetery as it stands today, it was proposed to adopt an ordinance setting forth rules and regulations that would assist with enforcement and prosecution. The proposed ordinance contains regulations for operating a vehicle on the grounds, hours when the public is allowed on the premises and a provision for exemption, should one become necessary.

together some examples so they can see the actual numbers. Mayor Gatt also requested administration speak with the developers who might be able to take advantage of this to see what they think.

Member Mutch wanted to clarify a few things about changes to Section 26.5-7. Subsection (a) was specific to single and multi-family projects. Subsection (b) was specific to commercial developments. Subsection (c) was for both types of developments, but explained the amounts that needed to be posted. Member Mutch pointed out that there are a few developers that handle both commercial and residential. Mr. Schultz agreed and said he would address that in the next draft.

Member Mutch asked about Section 26.5-33(2)(a) and why it was limited to asphalt. Mr. Schultz said he would clarify that it includes asphalt and concrete in the next draft.

3. Discussion regarding a new Cemetery Ordinance.

Mr. Cardenas explained that this item came to light as a result of feedback from a member of the community. It established rules and conduct for the cemeteries, including the hours. Mayor Gatt questioned why they would choose to set the hours from 6am until 9pm, he felt that was too late. He suggested changing it to 6am until dusk. Mr. Auger pointed out that this draft ordinance had the support of the police department also.

Member Mutch confirmed that the ordinance applies to both private and public cemeteries. He questioned whether administration had spoken with Oakland Hills about their hours, since we wouldn't want to force them to change their hours. Mr. Schultz suggested they could modify the wording to read the cemetery hours would be from 6am until dusk, unless otherwise authorized by private cemetery rules.

ORCM 15-08-09 Moved by Mutch, seconded by Wrobel; CARRIED UNANIMOUSLY:

To recommend to City Council the proposed cemetery ordinance with changes discussed.

The meeting was adjourned at 6:00 p.m.

Recorded by: Cortney Hanson
Deputy City Clerk

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 15-185

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 22, "OFFENSES," ARTICLE V, "OFFENSES AGAINST PUBLIC PEACE," TO ADD A NEW SECTION 22-102, "CONDUCT IN CEMETERIES," IN ORDER TO ESTABLISH RULES FOR APPROPRIATE CONDUCT IN CEMETERIES WITHIN THE CITY.

THE CITY OF NOVI ORDAINS:

Part I. That Chapter 22, "Offenses," Article V, "Offenses Against Public Peace," of the City of Novi Code of Ordinances shall be amended to add a new Section 22-102, "Conduct in Cemeteries," to read as follows:

Sec. 22-102 Conduct in Cemeteries

- (a) It shall be unlawful for any person to:
- (1) Drive, operate, or cause to be driven or operated, any vehicle in or on any cemetery grounds, except in those limited and clearly marked areas specifically designed for the operation of a vehicle.
 - (2) Damage, disturb, deface, soil, molest, grave dig, remove, move, knock down, or knock over any burial space, tombstone, burial marker, earth, land, tree, shrub, flowers, artifacts, objects, or other personal or real property in a cemetery.
 - (3) Disobey or disregard any posted rule, sign, or direction in a cemetery.
 - (4) Disobey or disregard any rule or direction given by an owners, agent, or employee of a cemetery.
 - (5) Refuse to immediately leave the premises of a cemetery when directed to by an owner, agent, or employee of a cemetery.
 - (6) Enter, be on the premises, or remain on the premises of a cemetery between the hours of 9:00 PM (or dusk, whichever is earlier) and 06:00 AM, Sunday to Saturday, unless cemetery rules specifically allow otherwise.
 - (7) Refuse to immediately obey any direction, order or instructions of any police officer (includes all law enforcement officers, peace officers, deputy sheriffs, troopers, or code enforcement officials), while on the premises of a cemetery.

(b) Exception

An owner, agent, or employee of a cemetery may give explicit written permission for a person or persons to act outside of the prohibitions listed in sections (a)(1)-(6). Such written permission shall exempt enforcement of sections (a)(1)-(6), limited to the permission(s) listed on the written permission. The written permission shall be on letterhead from the cemetery, dated and signed by an owner, agent, or employee of the cemetery, and shall include the printed or typed name of the owner, agent, or employee giving the permission, as well as including daytime and after hours contact phone numbers and an address where that owner, agent, or employee may be reached both during daytime and after hours. In order to avail themselves of the exemption(s) contained in the written permission, any person claiming said exemption shall carry the written permission with them at all times while on cemetery property, and shall present the original written permission to a police officer upon being stopped or contacted by a police officer, or upon the request of a police officer. Failure to carry or present to a police officer the written permission shall invalidate any written permission, exemption and/or defense to enforcement of (a)(1)-(6). Such written permission shall be effective for no more than 90 days from its dated issuance.

(c) Penalty

Violation of this section is a misdemeanor.

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 _____, 2015, 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 _____, 2015.

Maryanne Cornelius, City Clerk