

## COUNCIL OF THE WHOLE MINUTES

### Topic: Nuisance Violations & Ordinances to Address Nuisance Violations

October 11<sup>th</sup>, 2021

President Jon Tomlinson called the meeting to order at 5:30 p.m.

Marshall opened with general comments concerning several city ordinances that needed to be amended or updated. He directed Council's attention to proposed amendments to ordinances already on the books - 96.01 (Definitions for Chapter 96 - Junk Motor Vehicles, Recreational Vehicles, Junk and Rubbish); 96.02 (Maintaining Junk or Rubbish Prohibited); 96.03 (Notice and Removal); 96.05 (Vehicle Left with Permission); 96.20 (Camping and Using Vehicles for Living Quarters on Any Public Property in the City) -- 76.05 (Parking Near Curb, Privileges for Persons with Disabilities); 76.14 (Parking Commercial and Heavy Vehicles on Municipal Streets); 76.18 (Parking on Private Property) -- 90.15 (Restricting Certain Animals) -- 91.12 (Open Burning in Restricted Areas). He also stated that a proposed new ordinance, which would outline penalties for parking violations under Chapter 76, and would be modeled after 70.99 Penalties, was part of this presentation.

Marshall continued to explain that many of these proposed changes are long overdue, and he and several others in city administration had been discussing these changes for months. He stated that the purpose was to make ordinances more unified and current for the city. Marshall then began to go through the proposed changes to each section, highlighting the areas that would be added, deleted, or reworded.

In §96.01 Definitions, the junk vehicle definition would be updated to include recreational vehicles that met the definition of junk vehicles. A proposed addition, the statement "*indoor furniture located outside*", was discussed at length, with several members of Council and the public providing input on how this could be worded more precisely, without overly restricting residents. It was finally decided to adjust this language to "*indoor furniture that is exposed to the elements*", noting that code enforcement could exercise discretion with regard to furniture placed outside that may be free or for sale.

Additionally, language regarding how written statements of notice for violation would be served was among the proposed changes to §96.01, with Marshall and Hatcher explaining that this could streamline the process for providing notice, as well as reduce the waste of manpower needed to serve notices for those that can't be delivered in person (if person being served will not answer their door, etc.).

In the definition of recreational vehicles, the phrase "*motorized or non-motorized*" was a proposed addition, as well as tractors, electric bicycles, and golf carts added to this section. In the definition of rubbish, a phrase regarding organic material was a proposed addition, as well as a rearrangement in the order of listed rubbish items was proposed to reduce confusion.

In §96.02(A), regarding maintaining junk, litter, or rubbish, the term “litter” was added, as well as an inclusion of areas such as “*porches, patios, and other enclosures where the items inside are visible from the public right-of-way*”.

Joe Jared, 233 Burt Street, asked if a business on Wall St., which regularly had semi trailers sitting on its property, was violating the nuisance ordinance. Fleming stated that is a place of business, and they cycle the vehicles out more frequently now. It was noted that the code of ordinance provided more time for businesses to clear - 60 days - versus the 10 days for other vehicles.

In §96.03(A), it was proposed that the term “*cleaned*” be changed to “*cleared*”.

In §96.05, it was proposed that the term “*by personal service*” be removed.

In §96.20(A)(1), it was proposed the word “*housepower*” be changed to “*horsepower*”, and that the phrase in §96.20(B), “*on public property*”, be removed.

Jerry Mazur, 1055 Madison Blvd, asked if the camping for living quarters in the city applied to out-of-town family that may come in for a short trip in a RV, and live in that vehicle for a wedding, graduation party, or other event. Tomlinson noted that if code enforcement issues a citation, but then it is resolved/the family leaves within the timeframe given, then there’s no violation.

Jared asked about those that may live in a RV or other vehicle while fixing a house, or while home improvements may make conditions inside the home unlivable. This was acknowledged as a good question, and discussion ensued on how to properly word this into the ordinance. After input from the public, as well as Hatcher and Tomlinson, Markward noted that the proposed amendments to these ordinances were meant to address ongoing problems. They were not meant to “find” new problems or look for situations that weren’t legitimate problems. He suggested that if a family comes in, per Mazur’s question, and they are cited, then they have a fixed number of days to “remedy” the situation, and then there’s no issue. Discretion can be used. In response to Jared’s question, Markward noted that if Bill Lawson, City Engineering Supervisor, knows that someone who was cited is working on their home, then he’s not going to revisit that situation if he knows that’s the reasoning. Others agreed, and no additional language changes were proposed.

In §76.05(C)(1)(a), the phrase “*including trailers and recreational vehicles as defined by 96.01*” was a proposed addition, as part of the requirement of vehicles to park in the direction of “flow of traffic”.

Mark Davis, 402 S. Tyler St., asked if this applied to just vehicles directly on the asphalt road. He described several experiences where he has nearly hit vehicles that were not parked on the street, but were parked in a manner that part of the vehicle was overhanging into the street. Hatcher noted that the only proposed change in this ordinance was the phrase discussed.

Fleming asked Davis if he was discussing right-of-way or roadway. Davis stated he wanted clarity on parking for his own vehicles, and he wanted to know if the ordinance directly outlined whether this was roadway, right-of-way, or driveway. After discussion, Fleming suggested that language be used to clearly note this for city roadway or city right-of-way, and did not apply to driveway as long as it didn't interfere with roadway or right-of-way.

In §76.14(A), the phrase "*or public right-of-way*" was a proposed addition.

Davis asked members of Council if they knew the average weight of today's larger trucks. As the ordinance currently refers to vehicles over 7,000 pounds, Davis informed them that larger pick-up trucks would push 8,000-9,000 pounds, with other vehicles well over that number. Davis suggested moving that number to 10,000 pounds. Robin Pennell, 2 Leslie Lane/Times Bulletin, noted that their van, which was outfitted with hydraulics and other equipment needed for their daughter, was close to 14,000 pounds. It was decided that language in §76.14(D) would be sufficient to include this type of vehicle.

In §76.18(A)(1), the proposal was a change to read "*It shall be unlawful to park a vehicle, including trailers and recreational vehicles as defined by §96.01, in a yard if it is visible from any public right-of-way.*" Additionally, in §76.18(C)(5), a proposed addition of "*New driveways must be approved through the building permit process. Curb cuts must conform to §97.09.*" was made.

A proposed ordinance would enact §76.99, outlining penalties for violations in Chapter 76, and would amend §76.07, §76.08, §76.09, §76.10, §76.13, §76.15, §76.16, §76.17, §76.26, §76.27, and §76.28 to reference §76.99 for penalty instead of §70.99.

In §90.15(B), proposed changes would have it now read, "*No person shall keep chickens or other poultry in the city. Harboring or maintaining of any such animals may be authorized by the Safety Service Director for the city by permit duly issued therefore, provided that such animals are located outside any dwelling or commercial structure and be at a distance of at least 25 feet from the dwelling or commercial structure. No roosters are permitted. No free-range fowl are permitted. The zero-cost permit and site inspection will verify the appropriateness of the location and housing structure for the fowl. The maximum number of fowl permitted will be (5) unless authorized after the inspection of the fowl housing structure.*"

In §91.12(B)(2), a (d) statement "They are not located in the front yard or side yard as defined by §76.18" was a proposed addition.

After Marshall finished reviewing the proposed changes, Tomlinson stated that any additional discussion would need to occur during the regularly scheduled Council Meeting that would immediately follow.

The Council of the Whole meeting was adjourned at 6:28 p.m.



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**Clerk of Council  
Andrew Bittner**



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**President Pro Tempore  
Joi Mergy**

**10/25/21**

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**Date**