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TO: The Honorable Detroit City Council

FROM: David D. Whitaker 
Legislative Policy Division Staff

DATE: October 29, 2018

RE: **Proposed Chapters 31-46 of Recodified Detroit City Code**

For your consideration, the Legislative Policy Division has provided below a general overview of the type of amendments that have been made in the proposed chapters 11-30 of the Detroit City Code recodification project. The Home Rule City Act, 117.5b, authorizes the City to amend, rearrange and repeal provisions in the Code through a recodification process. The amendments are being made to update language to reflect changes in State law and to remove unnecessary and duplicative provisions. There are only a few instances where changes are being made because of a City agency's request for a change of policy, in those instances the request is noted. Although allowed, it has been determined that further changes of policy would be best handled outside of this process.

Two the schematic elements that will be seen throughout the recodification is identification of penalties and specific licensing information within each chapter. In many cases throughout the current Code, penalties have not been specified within each chapter, so the general penalty provisions located in Chapter 1 are applied when violations occur. The recodified code identifies the penalties (in most cases misdemeanors) with each chapter for the readers' convenience. Additionally, all of the licensing provisions are now within the chapters where the licenses are established.

Chapter 31 OFFENSES

- Article I – Multiple sections are being repealed for various reasons:
 - 38-1-7 patriot flags – unconstitutional
 - 38-1-8 automatic telephones – provision is obsolete
 - 38-1-13 welfare checks – obsolete because welfare checks are no longer in check form
 - 38-1-14 confetti –covered by Chapter 42 as a blight violation
- Section 31-3-1 *Malicious use of service provided by telecommunications service provider*, has been modified to conform with the Michigan Penal Code.
- Section 38-3-3 *Libelous publications* is being removed because it is covered by the Michigan Penal code. This is not an offense that is generally prosecuted by the City. However, it is not really necessary to remove.
- Pursuant to the Michigan Firearms and Ammunition Act, which occupies the field of regulation concerning weapons in public buildings, Section 38-4-11 *Possession or concealment of weapons in City buildings prohibited* is being removed because is preempted by State law.
- The current Section 38-5-1 is being broken up into several smaller stand-alone provisions e.g. Sections 31-5-2 through 31-5-7.
- The provisions related to betting have been consolidated in to one provision, Section 31-10-3.
- Article XIII. *Radio Interference* is being removed because the State’s Michigan Radio Broadcasting Act was repealed and because the Federal laws regulate radio broadcasting.
- Due to the Michigan Firearms and Ammunition Act, the City’s regulations on weapons and firearms had to be modified to only provide for the provisions allowed by municipalities under the Act. All provisions not expressly authorized have been removed. This impacts Article XIII *Weapons*.

Chapter 32 OFF-STREET PARKING

- This chapter regulates parking lots and valet parking.
- In Section 32-1-1 *Definitions*, the terms have been updated to conform with the Zoning Ordinance.
- The parking provisions related to Tiger Stadium have been removed.
- The new licensing scheme has been incorporated for the various licenses required under this chapter.
- The process to establish and amend fees, as required by Section 9-507 of the Charter, has been added to provisions that authorize fees to be charged to the public.
- The cross references to other code provisions and department names have been updated.

Chapter 33 PARKS AND RECREATION

- The definitions contained in Section 33-1-1 *Definitions* have been amended to comport with state law.
- The penalty provisions have been rewritten to conform the style utilized in other chapters throughout the Code.
- The other changes are to update terms and names used without changing the policies.

Chapter 34 PEDDLERS, SOLICITORS, AND VENDORS

- The definitions contained in Section 34-1-1 have been modified to comport with terms used in the Michigan Food Law of 2000 found at MCL 289.1107 *et. seq.*
- The approved list of items that may be sold have been reorganized and alphabetized, Sections 34-1-6, 34-1-7.
- The new licensing scheme has been incorporated in this chapter.
- The penalty provisions have been added to this chapter.
- Language has been amended to update terms used and the names of departments.

Chapter 35 PERSONNEL

- A new Section 35-2-5 *Requirements for causes wishing to solicit City employees via payroll deductions* has been added to codify City Council's resolution authorizing allowing payroll deductions for charitable purposes.
- Provisions that are related to the retiree receiving medical, vision and dental benefits have been removed because the City no longer provides these pursuant to policies developed during the City's bankruptcy proceedings.
- Divisions III, IV and V have been updated with in conjunction with the Human Resource Department's Labor Relations Division. It appears the policies have only changed to comport with the language in the labor agreements.
- Language has been amended to update terms used and the names of departments.

Chapter 36 PUBLIC LODGING

- The new licensing scheme has been incorporated for the various licenses required under this chapter.
- The penalty provisions have been added to this chapter.
- The definitions in this chapter have been tweaked so that they comport with the Zoning Ordinance and state law.

Chapter 37 PUBLIC MARKETS

- This chapter regulates public markets owned by the City. At this time that consists of Eastern Market. Chene Ferry Market was once public market but has since ceased operations at that facility.
- Because Chene Ferry Market is no longer utilized as a public market, the definition for that market is being removed from applicability in this chapter.
- Some of the provisions regulating parking at public markets, Sec. 31-1-5 (1) & (2) have been moved to Chapter 46 where other parking regulations are contained.

Chapter 38 RENTAL AND BANQUET HALLS

- This chapter regulates rental halls and banquet halls. The term banquet hall is being added in the manner used in the zoning context. The regulations governing these two uses are generally the same. The difference depends on whether liquor is served in the

establishment. Banquet halls hold its own liquor license while rental hall users have to obtain temporary liquor licenses for the user's individual events.

- The new licensing scheme has been incorporated for the various licenses required under this chapter.

Chapter 39 RETIREMENT SYSTEMS

- The recodification has incorporated both Exhibit D and Exhibit E in whole of Emergency Order Manager No. 44 for both the General Retirement System, and the Police and Fire Retirement System. These exhibits contain all the retirement information applicable to all active employees and retirees.
- The Retiree Protection Trust Fund information has been incorporated also.

Chapter 40 SALES

- This chapter provides regulations for auctions and going out of business sales.
- The new licensing scheme has been incorporated for the various licenses required under this chapter.
- The penalty provisions have been added to this chapter.

Chapter 41 SECONDHAND GOODS

- This chapter regulates the various types of secondhand goods dealers which include the following general categories: junk yards, secondhand stores, scrap metal dealers, used car dealerships, pawnshops, used car part dealers and used building material dealers
- Additional definitions have been added from terms contained in the Michigan Secondhand Dealer and Junk Dealers Act.
- The penalty provisions have been added to this chapter.
- The new licensing scheme has been incorporated for the various licenses required under this chapter.
- The pawnbroker regulations have been updated to comport the Michigan Pawnbrokers Act. The regulations remained generally the same. One notable change is the ability to sell pawned items after three months, rather than the six months that is in the current preempted ordinance.
- Article III *Precious Metal and Gem Dealers* has been amended to make it commensurate with the Michigan Precious Metal and Gem Dealer Act.
- Article IV *Scrap Metal Dealers* has been amended to make it commensurate with the Michigan Scrap Metal Regulatory Act.

Chapter 42 SOLID WASTE AND ILLEGAL DUMPING

- The cross references to other code provisions and department names have been updated.
- The process to establish and amend fees, as required by Section 9-507 of the Charter, has been added to provisions that authorize fees to be charged to the public.

Chapter 43 STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

- Department names have been updated to reflect current responsibilities of departments.
- Article IV Division 4 *Banner on Public Lighting Poles* has been added to codify the banner policy passed by City Council in 2001.
- The process to establish and amend fees, as required by Section 9-507 of the Charter, has been added to provisions that authorize fees to be charged to the public.
- The new licensing scheme has been incorporated for the various licenses required under this chapter.

Chapter 44 TAXATION

- The current Chapter 18 *Finance and Taxation* is being separated into two smaller but still meaty chapters—Chapter 17 *Finance* and Chapter 44 *Taxation*. This chapter contains all of the tax related provisions.
- Article III, Division 2 *Notice of Special Assessment Hearings* has been updated to comport with the Michigan Notice of Special Assessments Act.
- Since the Board of Water Commissioners no longer collect property taxes, Article IV, Division 4 *Collection of City Taxes by Board of Water Commissioners* is being removed.
- Article IX, Division 7 *Sale of Tax Liens* is being removed because the enabling statute has been repealed.
- The cross references to other code provisions and department names have been updated.

Chapter 45 TELECOMMUNICATIONS

- This chapter has been heavily edited because large portions of the provisions have preempted by state and federal law.
- All provisions related to the Detroit Cable Communications Commission has been removed because due to the enactment of the Michigan Uniform Services Local Franchise Act which transfer the authority to resolve customer complaints was transferred to the Michigan Public Service Commission.
- Provisions related to municipal civil infractions have been moved to Chapter 3 of the Code.
- The enactment of the Michigan Uniform Services Local Franchise Act preempted the City's ability to negotiate its own franchise agreements. As such, a large portion of Article III *Franchises* is being removed. However, Division 2 *Uniform Video Service Local Franchise Agreements* is being added to reflect the uniform franchises under the Act.
- The federal Telecommunications Act of 1996 preempted the City's regulation of rates, therefore, Article IV *Rate Regulation* is being removed.

Chapter 46 TRAFFIC AND VEHICLES

- The cross references to other code provisions have been updated.
- The process to establish and amend fees, as required by Section 9-507 of the Charter, has been added to provisions that authorize fees to be charged to the public.
- The regulation of parks at public markets has been moved from the current Chapter 31.

