

*October 9, 2018
New Business*

**INTERNAL
OPERATIONS
STANDING
COMMITTEE**



CITY OF DETROIT
LAW DEPARTMENT

COLEMAN A. YOUNG MUNICIPAL CENTER
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September 21, 2018

HONORABLE CITY COUNCIL

**RE: Lavell Scott v City of Detroit
Civil Action Case No: 18-cv-10712**

Representation by the Law Department of the City employees or officers listed below is hereby announced, as we concur with the recommendation of the Head of the Department and believe that the City Council should find and determine that the suit against the Defendant arises out of or involves the performance in good faith of the official duties of such Defendant. We further recommend that the City undertake to indemnify the Defendant if there is an adverse judgment. We therefore, recommend a "YES" vote on the attached resolution.

Copies of the relevant documents are submitted under separate cover.

Employee(s) or Officer(s) requesting representation:

P.O. Edward Jackson	Badge No: 2701
Sgt. Kerry Petties	Badge No: S-469
Sgt. Ransom Williams	Badge No: S-1016

Respectfully submitted,

Douglas Baker
Douglas Baker, Chief of Criminal
Enforcement and Quality of Life

APPROVED:

BY: *Lawrence T. Garcia*
LAWRENCE T. GARCIA
CORPORATION COUNSEL

DB/sb

Attachments

CITY CLERK 2018 OCT 5 PM 2:42

RESOLUTION

By Council Member

RESOLVED, that the Law Department is hereby authorized under Section 13-11-1 et. seq. of the Municipal Code of the City of Detroit and in accordance with the foregoing communication to provide indemnification to the following Employee(s) or Officer(s) in the lawsuit **Lavell Scott v City of Detroit v. Civil Case No. 18-cv-10712.**

P.O. Edward Jackson	Badge No: 2701
Sgt. Kerry Petties	Badge No: S-469
Sgt. Ransom Williams	Badge No: S-1016

APPROVED:

BY:



LAWRENCE T. GARCIA
CORPORATION COUNSEL



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Date: October 1, 2018

To: Honorable City Council

From: Law Department

Re: Law Department Report on Tax Collection Initiative on Foreclosed Properties as authorized by resolution of the Detroit City Council.

The Law Department has submitted a privileged and confidential memorandum regarding the above-referenced matter. Please submit this item for referral so that Council may consider any action that is necessary.

CITY CLERK 2018 OCT 4 PM 1:17



CITY OF DETROIT
LAW DEPARTMENT

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Date: October 4, 2018

To: Honorable City Council

From: Law Department

ESW

Re: Pending Tow Litigation

The Law Department has submitted a privileged and confidential memorandum regarding the above-referenced matter.

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CITY CLERK 2018 OCT 5 PM 1:29

David Whitaker, Esq.
Director
Irvin Corley, Jr.
Executive Policy Manager
Marcell R. Todd, Jr.
Senior City Planner
Janese Chapman
Deputy Director


City of Detroit CITY COUNCIL

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Tasha Cowen
Richard Drumb
George Etheridge
Deborah Goldstein

TO: The Honorable Detroit City Council

FROM: David D. Whitaker 
Legislative Policy Division Staff

DATE: October 5, 2018

RE: **Proposed Chapter 11-30 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 determine that further changes of policy would be best handled outside of this process.

This recodification project has been lingering for quite some time. Because of cost and time considerations, the project needs to come to an end. Every time City Council enacts a new ordinance, that ordinance causes a series of adjustments in the proposed recodified code. The City has exhausted almost all of the free changes to the draft manuscript under the contract; any new changes would be at a cost of \$22 per page if included in the recodification process. Therefore, all new ordinance going forward will simply be added in subsequent updates to the Code to avoid further delay.

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 in lieu of being contained in Chapter 30 as the current Code provides.

Chapter 11 CIGARETTES

This chapter simply specifies that a person/company must have a license to sell cigarettes. There are no substantive changes to the policies within this chapter; however, the particular requirements for each license has been moved this Chapter. Additionally, the misdemeanor penalty has been specified in the chapter.

Chapter 12 COMMUNITY DEVELOPMENT

- This chapter identifies the various development entities that exist within City government and specifies each entity's composition and powers. Those entities include: The Building Authority, Corridor Improvement Authority, Downtown Development Authority, Economic Development Corporation, Empowerment Zone Development, Housing Commission. These provisions have been rearranged so that they are now alphabetized in the chapter.
- Additionally, the community benefits ordinance that was approved City electors has been added.
- In accordance with Emergency Manager Order No. 36, all the information related to the establishment and existence of citizens' district councils (CDC) have been eliminated from the chapter. This includes the process for creating a CDC and the powers of CDCs. Consequently, the district areas and development areas have also been removed from the chapter.
- The tax increment financing and development plan for the Central Industrial Park Project Development Area has been removed because it was dissolved as part of a lawsuit between the City of Hamtramck and the City of Detroit. *City of Hamtramck v. City of Detroit and City of Detroit Tax Increment Finance Authority*, Wayne County Circuit Court Case No. 10-010-284-CK

Chapter 13 ELECTIONS

- This chapter includes only City specific election related items because generally, elections are governed by State law. Included in this chapter is the local election procedures which cover the posting of election results.
- Article II *Board of Canvassers* have been removed because the activities previously done by the board is now being provided the County Board of Canvassers per Public Act 51 of 2013.

Chapter 14 EMERGENCY MANAGEMENT

- There are no changes in policy within this chapter. The chapter generally covers the delegation of powers in times of emergency to an Emergency Management Coordinator and creates the City’s Department of Homeland Security.

Chapter 15 EMINENT DOMAIN

- This chapter contains the process by which the City takes property by eminent domain.
- There are no changes in policy in this chapter. There definitions of several terms have been spelled out instead of cross-referencing other sections of the Code that defines this term. This makes it easier for the reader to have the terms defined in this chapter.

Chapter 16 ENVIRONMENT

- This chapter combines three current chapters in the Code—Chapter 36 *Noise*, Chapter 37 *Nuisances* and Chapter 57 *Vegetation*. These are subject matters that may have a negative impact on the peaceable enjoyment of a person’s environment.
- Other than moving the provisions to different locations within the Code, the policies remain generally unchanged.
- As has been done throughout the Code, specific licensing information has been provided within the chapter.

Chapter 17 FINANCE

- The current Chapter 18 *Finance and Taxation* is being separated into two smaller but still meaty chapters—Chapter 17 *Finance* and Chapter 44 *Taxation*.
- Public Act 182 of 2014 delegates to the Chief Financial Officer (“CFO”) of the City the authority over “all financial and budget activities of the city.” As such, a number of changes have been made throughout the chapter to reflect that. Specifically, responsibilities that were given to the Finance Director is now handled by the CFO. Additionally, in instances where departments were authorized to bring things directly to City Council, those items must now go to the OCFO before being brought to City Council.
- While the City is still under the review of the Financial Review Commission, the City has to change the timing of the budget process to accommodate the review by the commission. Accordingly, the budget process and timeline has been amended to allow for the review of the FRC and to reflect the Revenue Consensus Conference required by the 2012 Detroit City Charter. The new Budget will be as follows:
 - February 18th – The Budget Director transmits the budget to the Mayor
 - February 27th—Mayor to complete any revisions of the budget to the Budget Director
 - March 7th – Budget Director transmits the budget to City Council for consideration
 - April 7th – City Council concludes its consideration of the budget and votes
 - April 8th – City Clerk transmits the budget to Mayor for approval or rejection
 - 3rd business day following April 8th – Mayor to either approve or veto the budget

- 3rd calendar day or 2nd business day after maximum date for Mayor to veto budget
 - City Council may act upon any item that is disapproved by the Mayor
- The Budget Stabilization Fund is being deleted in favor of the Budget Reserve Fund in accordance with the Home Rule City Act.
- Sections 18-5-22 through 18-5-24 are being deleted because the Health Department's authority to let contracts for goods and health services outside of the City's general contracting process is being removed. The Health Department will have to utilize the same purchasing procedures as all other departments. This change was requested the OCFO.
- There are minor changes the imprest cash process. These accounts are utilized by the Detroit Police Department for undercover operations. Pursuant to the changes, all imprest cash will have to approved by the OCFO. The OCFO will establish internal controls to govern use of imprest cash accounts. These changes were requested by the OCFO.
- Provisions in Article VI *Uniform Procedure for Accounts Receivable* is being reworded to clarify process and to remove references to services no longer provided by the City *e.g.* hospital services. Although reworded, the policies in these sections are unchanged.
- Section 17-7-21 is being added to reflect the sewerage disposal system revenue bonds that have been previously approved by City Council but not incorporated in the Code as printed on Municode.

Chapter 18 FIRE PREVENTION AND PROTECTION

- This chapter was rewritten and enacted in 2017 to provide updated language and to amend the fireworks related provisions in accordance with the Michigan Fireworks Safety Act.
- Requirements that also contained in the Zoning ordinance have been removed to ensure that there is no inadvertent conflict between the language in both chapters.

Chapter 19 FOOD

- The Michigan Food Law of 2000 is being adopted. As such Article II *Adulteration or Misbranding of Food* is being deleted because it is regulated in the Food Law. Pursuant to this the food handling provisions are included in the deletions because they are no longer required by the State of Michigan.
- Definitions have been amended to mirror terms as defined in the Michigan Food Law.
- Articles III *Manufacture, Preparation, Handling and Service of Food Generally*, IV *Slaughtering Establishments, Meat Markets And Meat Foodproducts*, V *Inspection Of Meat And Other Food* , VI *Poultry Dealers*, VII *Fish and Fish Dealers*, VIII *Soft Drinks* Article X and *Permitting and Regulation of Mobile Food Service Establishments and Food Carts* are being repealed and are being replaced with provisions that reflect the requirements of the Federal Department of Agriculture Food Code of 2009.

Chapter 20 HEALTH

- The Michigan Health Public Code is being adopted by reference.
- Provisions governing stockyards and City-run hospitals are being removed as obsolete.

- Article II *Bedding and Upholstered Furniture* is being amended to reflect the Health Department's practices. Similar provisions in State law have been repealed; however, the Health Department thought these provisions are still useful due to the bed bug infestations.
- The current Articles III *Communicable Diseases*, IV *Burial Regulations* and XI *Environmental Control* are being omitted because the subject matters are governed by the Michigan Public Health Code.
- The current Articles V *Fumigating and Disinfecting* and VI *Rodent and Pest Control* are being repealed because they are preempted by the Michigan Natural Resources and Environmental Protection Act.
- The current Article IX *Rendering Establishments* is being repealed because the subject matter is governed by the Michigan Bodies of Dead Animals Act. Additionally, the City no longer licenses rendering facilities.
- Several ordinances have been moved from other locations within the Code because they seem suitable located within the Health chapter. The policies of these ordinances have not be changed. The particular requirements for each license has been added also. The ordinances are as follows:
 - new Article III *Body Art Facilities*
 - new Article V *Massage Facilities and Massage Schools*
 - new Article VIII *Public Bathhouses*
 - new Article *Swimming Pools*

Chapter 21 HISTORY

- This chapter identifies all the historic districts throughout the City of Detroit. It also lists the agencies that establish and administer the districts.
- The design treatment levels have been removed from all of the districts that contain them because they were repealed in 2004 in a previous ordinance amendment.
- The ordinances did not have information regarding the establishment of the districts had that information added.

Chapter 22 HOUSING

- The new Article I *Abatement of Vacant Dwellings Program* was moved from Chapter 37. The provisions remained generally unchanged other than the correction of citations and department names.
- The current Article II *Inspection of Substandard Dwellings* is being deleted because is obsolete and contained in the Property Maintenance Code.
- The Condominium Conversion Ordinance, Article VI, was removed because it is preempted by the Michigan Condominium Act.
- The definitions related to the Neighborhood Enterprise Zones have been amended to conform with the terms as defined in the Michigan Neighborhood Enterprise Act.
- In a number of locations throughout the Code the word 'however' has been substituted by the words 'provided, that'. This changes mistakenly changes the meaning of the sentences creating a condition whether than stating an exception. The word 'however' should be maintained or different words should be used as a substitute.

- The Repair to Own Program provisions have been moved from Chapter 14 into this Chapter as Article VI.
- The current Article VII *Stabilization and Regulation of Rent Increases* has been removed because it is preempted by State's prohibition on rent control. MCL 123.411.

Chapter 23 HUMAN RIGHTS

- This chapter has been amended to make provisions and definitions mirror the Elliott-Larsen Civil Rights Act. Most of the current provisions provide for generally the same thing but is being tweaked to more closely reflect the Act. So in the end, the policies of the chapter still serve the same purpose. While it appears that there are a lot of changes, substantively the provisions have changed very little and generally only work to provide enhanced protections. For instance, throughout the chapter the categories of height, weight and familial status are being added as categories by which individuals may not be discriminated.
- The current Article VIII *Domestic Partnership* is being deleted because the courts in *National Pride at Work v. Governor of Michigan*, 481 Mich 56 (2008), decided that municipalities are not authorized to provide domestic partnership benefits. This is mitigated by the fact that the U.S. Supreme Court has held that all states are required to allow same sex marriages. *Obergefill v. Hodges*, 576 US ___ (2015)
- Article II *Administration and Enforcement* has been reorganized. The provisions that are contained in the Charter have been removed from the ordinance to avoid any conflict in interpretation. However, these provision remain in place because they are Charter provisions.
- Under the recodified chapter, the time limitation for individuals to pursue a review of a decision of the Human Rights Department has been set at 21 days. This is a nine day reduction from the 30 days contained in the current ordinance. It is unclear why this change is being made.
- A new Division 3 *Certification of Businesses* of Article II, is being added to codify the procedures by which the department certifies businesses. These are certifications as the follow categories of businesses: Detroit-Based Business, Detroit-Based Small Business, Detroit-Headquartered Business, Minority-Owned Business Enterprise, and Women-Owned Business Enterprise.

Chapter 24 LAND DIVISION AND SUBDIVISION

- The City Planning Commission's role in the process to have land subdivided has been added to reflect the process as is required. Sections 24-2-23, 24-2-25 and 24-2-26
- The department names have changed to reflect new department names or changes in responsibility.
- Section 24-2-21 *Preapplication Review Meeting* has been added to provide for the preapplication review meeting required by the Michigan Land Division Act.

Chapter 25 LAUNDERING

- This chapter covers the licensing of dry cleaners and laundromats.
- Under the Michigan Public Health Code, hat cleaning is included as dry cleaning, as such, Article III *Hat Cleaning* is being eliminated.
- The bonds currently required to transact business as a dry cleaner is being removed in favor of a more appropriate bailee policy of insurance. Surety bonds are typically utilized for specific job rather than running an ongoing business.
- Section 28-2-22 *When surety bond or bailee policy not required* is being deleted. Before a business may receive a license, it must have insurance. This section is contradictory to this requirement; therefore, it is being removed.

Chapter 26 LAW ENFORCEMENT

- The chapter covers the various regulations of the Detroit Police Department, the Secondary Employment Program within DPD, Citizens Radio Patrol and Private Security.
- There are no substantive changes to this chapter. All changes are simply to provide update wording of the same policies.

Chapter 27 LIBRARY

- This chapter covers the ability to manage library materials and the creation fines for the destruction and misplacement of materials.
- The penalty provisions have been modified to conform to the Michigan Penal Code.

Chapter 28 LICENSES

- The chapter provides the general provisions that govern all business licenses that are issued by the City. The specific requirements for each license is included within the chapter that creates the particular license.
- There are no substantive changes to this chapter. All changes are simply to provide update wording of the same policies and correct department names.

Chapter 29 MINORS

- This chapter provides regulations for protection of minors.
- A Youth Board is continued in this chapter; however, it unclear whether when this board was last impaneled.
- Article IV *Street Trades* has been removed because is preempted by the Michigan Youth Employment Standards Act.
- Article IV *Alcoholic Liquor* is modified to conform to the Michigan Liquor Control Code of 1998.

Chapter 30 MOVING AND STORAGE

- This chapter covers the regulation and licensure of moving companies, public storage facilities and trailer rentals.
- The recodified ordinance removes the requirement that movers provide a report to DPD within 10 days after each move because the department does not follow this procedure currently.
- The requirement to establish the need for each moving company before a license can be granted. The Business License Center no longer requires this, nor is it required for other business licenses.