

CITY of NOVI CITY COUNCIL

**Agenda Item F
August 11, 2008**

SUBJECT: Consideration of Ordinance No. 08-81.23, an amendment to the Novi Code of Ordinances, Chapter 33, "Traffic and Motor Vehicles", Section 33-42, "Handicapped Person" and Section 33-490, "Parking Prohibited in Specified Places" in order to update language and definitions. Second Reading

SUBMITTING DEPARTMENT: Police Department *DEM*

CITY MANAGER APPROVAL: *Ch*

BACKGROUND INFORMATION:

Attached for City Council consideration is the proposed ordinance amending Chapter 33 of the City of Novi Code in order to update language and definitions. The amendment to Chapter 33 in Ordinance 08-81.23 is a terminology change. The term "handicapper" is changed to "handicapped person" in Section 33-490(a)(19). An additional change is made in Article II, Division 1, "Words and Phrases Defined", Section 33-42, "Handicapped Person". Rather than defining the term, the section is amended to merely adopt by reference the definition found in the State statute, MCL §257.19a.

The Amendment was approved for the First Reading by City Council on July 28, 2008.

RECOMMENDED ACTION: Consideration of Ordinance No. 08-81.23, an amendment to the Novi Code of Ordinances, Chapter 33, "Traffic and Motor Vehicles", Section 33-42, "Handicapped Person" and Section 33-490, "Parking Prohibited in Specified Places" in order to update language and definitions. Second Reading

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

Attorney's Letter



July 16, 2008

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fis: 248-851-2158
www.secretwardle.com

Mayor Landry and City Council
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Mark S. Roberts
Direct: 248-539-2815
mroberts@secretwardle.com

Re: *Revisions to Handicapped Person Parking Regulations*
Our File No. 55142 NOV

Dear Mayor and Council:

Attached are drafts of proposed ordinances to amend the current regulations related to handicapped person parking and parking permit regulations. The City had requested the regulations be updated to more closely track the state law provisions. The attached Ordinance 08-8.02 amends Chapter 22, "Offenses", Section 22-257, "Traffic Control Devices" and section 22-258, "Stopping, Standing, Parking Motor Vehicles". Ordinance 08-81.23 amends Chapter 33, "Traffic and Motor Vehicles", Section 33-42, "Handicapped Person" and Section 33-490, "Parking Prohibited in Specified Places". Finally, Ordinance 08-90.02 amends Chapter 33, Division 3, Section 33-636, "Definitions", Section 33-637, "Spaces for Physically Limited Persons", Section 33-638, "Courtesy in the Parking of a Vehicle", Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", Section 33-640, "Display Requirements", Section 33-641, "Misuse of Handicapped Parking Privileges" and Section 33-642, "Penalties". These ordinances address the instructions from the City, as explained below.

The amendment to Chapter 22 set forth in Ordinance 08-8.02 addresses a change in terminology. The existing ordinance uses the term "handicapper" in Section 22-257(a)(2) and Section 22-258(2). The amendment replaces this term with the term "handicapped person". No other changes were made to these sections.

The amendment to Chapter 33 in Ordinance 08-81.23 is a similar terminology change. The term "handicapper" is changed to "handicapped person" in Section 33-490(a)(19). An additional change is made in Article II, Division 1, "Words and Phrases Defined", Section 33-42, "Handicapped". Rather than defining the term, the section is amended to merely adopt by reference the definition found in the state statute, MCL §257.19a.

The amendments found in Ordinance 08-90.02 are more extensive. The Ordinance amends Chapter 33, Division 3, to parallel the state regulations regarding handicapped person parking. The amendments are as follows:

Section 33-636, "Definitions", is amended to amend the definitions of "handicapped persons" to change the terminology and to adopt by reference the state law definition. The "parking area" definition is broadened to include more than just shopping centers. The definition of "special registration plates" also adopts by reference the state law definition. The definition of "shopping center" is deleted.

Section 33-637, "Spaces for Physically Limited Persons", is amended to revise the terminology.

Section 33-638, "Courtesy in the Parking of a Vehicle", adopts the state law courtesy to handicapped persons of exempting them from most parking regulations except for regulations designed to create a fire lane or to provide for traffic flow. The exemption also applies to persons transporting a handicapped person.

Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", is added to provide the free parking provisions of the state law.

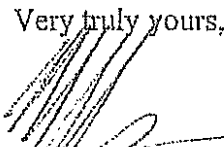
Section 33-640, "Display Requirements", is added to provide the display regulations of the state law.

Section 33-641, "Misuse of Handicapped Parking Privileges" is added to provide the misdemeanor penalties for certain violations for misusing parking privileges reserved for handicapped persons. The maximum penalty is a \$500.00 fine and/or 30 days in jail.

Section 33-642, "Penalties", is added to provide civil infraction penalties for violations and provides confiscation remedies.

With the amendments and added provisions, the City's code will now reflect the state law regulations related to handicapped person parking regulations.

We look forward to discussing the issue with Council. If you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,

Mark S. Roberts

MSR
Enclosure
cc: Clay Pearson, City Manager
Marianne Cornelius, City Clerk
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Strike-out Version

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 08-81.23

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, CHAPTER 33, "TRAFFIC AND MOTOR VEHICLES", SECTION 33-42, "HANDICAPPED PERSON" AND SECTION 33-490, "PARKING PROHIBITED IN SPECIFIED PLACES" IN ORDER TO UPDATE LANGUAGE AND DEFINITIONS.

THE CITY OF NOVI ORDAINS:

PART I

ARTICLE II, DIVISION I- WORDS AND PHRASES DEFINED

Sec. 33-42. Handicapper Handicapped Person.

"Handicapper" "Handicapped person" means a person who meets the requirements of a disabled person under MCL 257.19a. ~~has one (1) or more of the following characteristics:~~

~~(a) Blindness;~~

~~(b) Inability to ambulate more than two hundred (200) feet without having to stop and rest during any time of the year;~~

~~(c) Loss of use of one (1) or both legs or feet;~~

~~(d) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility;~~

~~(e) A lung disease from which the person's expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or from which the person's arterial oxygen tension is less than sixty (60) mm/hg of room air at rest;~~

~~(f) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain;~~

~~(g) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.~~

~~(Ord. No. 81-81-03, Pt. I, 8-17-81; Ord. No. 91-81-09, Pt. I, 11-4-91)~~

ARTICLE II, DIVISION 8- STOPPING, STANDING AND PARKING

Sec. 33-490. Parking prohibited in specified places.(8.10)

(a) A vehicle shall not be parked, except if necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen (15) feet of a fire hydrant;

(5) On a crosswalk;

- (6) Within twenty (20) feet of a crosswalk, or if there is not a crosswalk, then within fifteen (15) feet of the intersection of property lines at an intersection of highways;
 - (7) Within thirty (30) feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway;
 - (8) Between a safety zone and the adjacent curb or within thirty (30) feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking;
 - (9) Within fifty (50) feet of the nearest rail of a railroad crossing;
 - (10) Within twenty (20) feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within seventy-five (75) feet of the entrance if properly marked by an official sign;
 - (11) Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic;
 - (12) On the roadway side of a vehicle stopped or parked at the edge or curb of a street;
 - (13) Upon a bridge or other elevated highway structure or within a highway tunnel;
 - (14) At a place where an official sign prohibits stopping or parking;
 - (15) Within five hundred (500) feet of an accident at which a police officer is in attendance;
 - (16) In front of a theater;
 - (17) In a place or in a manner which blocks immediate egress from an emergency exit conspicuously marked as an emergency exit of a building;
 - (18) In a place or in a manner which blocks or hampers the immediate use of an immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building;
 - (19) In a parking space clearly identified by an official sign as being reserved for use by handicapped persons ~~handicappers~~ which is on public property or private property available for public use, unless the person is a handicapped person ~~handicapper~~ as described in section 33-42 or unless the person is parking the vehicle for the benefit of a handicapped person ~~handicapper~~. In order for the vehicle to be parked in the parking space the vehicle shall display one (1) of the following:
 - a. A certificate of identification issued under section 675(5) of the act (MCL 257.675(5), MSA 9.2375(5)) to a handicapped person ~~handicapper~~ on the lower left corner of the front windshield;
 - b. A special registration plate issued under section 803(d) of the act (MCL 257.803d, MSA 9.2503(4));
 - c. A similar certificate of identification issued by another state to a handicapped person ~~handicapper~~;
 - d. A similar special registration plate issued by another state to a handicapped person ~~handicapper~~.
 - (20) In violation of an official sign restricting the period of time for or manner of parking;
 - (21) In a space controlled or regulated by a meter on a public highway or in a publicly owned parking area or structure, if the allowable time for parking indicated on the meter has expired;
 - (22) On a street in such a way as to obstruct the delivery of mail to a rural mailbox by a carrier of the United States postal service.
- (b) A person who violates this section is responsible for a civil infraction.
- (Ord. No. 81-81.03, Pt. I, Pt. II, § 8.10, 8-17-81)

Cross references: Obstructing fire hydrants generally prohibited, § 34-62.

State law references: Similar provisions, MCL 257.674, MSA 9.2374.

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 Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the Novi City Council this ____ day of ____, 2008.

David B. Landry, 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 ____, 2008.

Maryanne Cornelius, City Clerk

Adopted:
Published:
Effective:

Clean Version

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COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 08-81.23

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- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen (15) feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty (20) feet of a crosswalk, or if there is not a crosswalk, then within fifteen (15) feet of the intersection of property lines at an intersection of highways;
- (7) Within thirty (30) feet of the approach to a flashing beacon, stop sign, or traffic-control signal located at the side of a highway;
- (8) Between a safety zone and the adjacent curb or within thirty (30) feet of a point on the curb immediately opposite the end of a safety zone, unless a different length is indicated by an official sign or marking;
- (9) Within fifty (50) feet of the nearest rail of a railroad crossing;
- (10) Within twenty (20) feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within seventy-five (75) feet of the entrance if properly marked by an official sign;
- (11) Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic;
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- (15) Within five hundred (500) feet of an accident at which a police officer is in attendance;
- (16) In front of a theater;
- (17) In a place or in a manner which blocks immediate egress from an emergency exit conspicuously marked as an emergency exit of a building;
- (18) In a place or in a manner which blocks or hampers the immediate use of an immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building;
- (19) In a parking space clearly identified by an official sign as being reserved for use by handicapped persons which is on public property or private property available for public use, unless the person is a handicapped person as described in section 33-42 or unless the person is parking the vehicle for the benefit of a handicapped person. In order for the vehicle to be parked in the parking space the vehicle shall display one (1) of the following:
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 - d. A similar special registration plate issued by another state to a handicapped person;
- (20) In violation of an official sign restricting the period of time for or manner of parking;
- (21) In a space controlled or regulated by a meter on a public highway or in a publicly owned parking area or structure, if the allowable time for parking indicated on the meter has expired;
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Made, Passed and Adopted by the Novi City Council this ___ day of ____, 2008.

David B. Landry, 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 ____, 2008.

Maryanne Cornelius, City Clerk

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