



CITY COUNCIL AGENDA ITEM

Date: May 13, 2014

To: Brian Kischnick, City Manager

From: Gary G. Mayer, Chief of Police

Subject: Resolution to Permit Use of Shell Crackers to Disperse Migratory Waterfowl – Emerald Lakes Subdivision

History:

The Emerald Lakes Village Homeowners Association Security Chairman has sent the attached letter, asking for permission to use shell crackers in the Emerald Lakes subdivision for the purpose of chasing geese away. In reviewing the history, a similar request was received in 2009. City Council authorized this practice on October 28, 2009 (Resolution #2009-11-338-F-10), and this authorization expired on December 31, 2011.

In March 2012, rather than pursuing the continued use shell crackers, the Emerald Lakes Village Homeowners Association expressed an interest in participating in the Michigan Department of Natural Resources' Canada Goose Nest Destruction Program and Round-Up Program. In order to participate in this program, the Michigan Department of Natural Resources (MDNR) required approval from a majority of the homeowners, and also a resolution from the City of Troy. In March 2012, the Troy City Council passed a resolution, formally requesting the Michigan Department of Natural Resources implement the Canada Goose Nest Destruction Program or Round-Up Program for 2012 to 2016. The Emerald Lakes Village Homeowners Association subsequently chose not to participate in the State MDNR program.

Without action by City Council, the use of shell crackers in the City would be a violation of the current City ordinances. The proposed ordinance amendments, revising Chapter 98, Section 98.07.01 (Hunting) and 98.13.05 (Discharge of Firearms) would allow for the Police Chief or his designee to administratively review any requests to discharge shell crackers to disperse migratory waterfowl, and impose any necessary conditions for the protection of the public.

Recommendation:

The Police Department recommends approval of the proposed ordinance amendments. The Police Department also intends to draft an administrative policy with the following restrictions and requirements:

1. Shell crackers shall not be discharged before 7:00 a.m. and not after dusk.
2. The permittee(s) shall notify the Police Communications Section prior to discharging the shell crackers, shall provide the police with his/her name(s) and phone number(s) and notification to the subdivision residents and neighbors shall be made.
3. A violation of the limitations shall be cause for immediate revocation of the City authorization.

City Attorney's Review as to Form and Legality



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Lori Grigg Bluhm, City Attorney

Date

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 98 - CITY OF TROY ORDINANCE

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 98-Criminal Code, City of Troy Ordinance.

Section 2. Amendment

Section 98.07.01 shall be amended as follows:

98.07.01 Hunting. No person shall hunt any animal. A person who violates this section is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500 or both.

Exception. Police Officers and Animal Control Officers **and any other individuals given written authorization by the Police Chief or his/her designee who are in compliance with the City's policy** are authorized to use shell crackers or other noise making devices to control geese and migratory waterfowl.

Section 98.13.05 shall be amended as follows:

98.13.05 Discharge of Firearms. No person shall discharge any firearm or bow and arrow in the City. A person who violates this section is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500, or both.

Exception. This section does not apply to persons lawfully acting in the defense of persons or property or the enforcement of law **or as otherwise authorized by this Chapter**, or at an established range that has been approved by the Troy City Council.

Section 3. Repeal

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

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such

proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Dane M. Slater, Mayor

M. Aileen Bittner, CMC, City Clerk