



TOWN OF VERNON

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DRAFT

ORDINANCE REVIEW COMMITTEE

MINUTES OF JULY 16, 2012

Meeting Called to Order 6:00p.m. by Chairman Adam Weissberger.

Those present: Town Council Members; Adam Weissberger, Tom DiDio and Dan Sullivan. Also in attendance: Town Administrator John D. Ward, Attorney Martin Burke, and Town Clerk Bernice K. Dixon. Town Council Member Ginny Gingras arrived at 6:10 p.m.

Old Business: Adam reported that the Mayor's target for completion of the work assigned to the Ordinance Review Committee was August. However, Attorney Burke explained that would not be possible based on the volume of work and vacation schedules of the committee members.

New Business: Discussion from the "Ordinances to Discuss, Review or Study Further" list took place as follows:

Tom DiDio, seconded by Dan Sullivan moved that Ordinance #188 should be moved from the Retain list to the Study Further list. Motion passed unanimously.

Dan Sullivan, seconded by Tom DiDio moved that Ordinance #194 should be moved from the Retain list to the Study Further list. Discussion took place. Motion passed unanimously.

Discussion took place regarding Ordinances 28 and 283.

Tom DiDio, seconded by Dan Sullivan moved to suggest changing the fine from \$99 to \$250 in Ordinance #283. Motion passed 3-1. Adam Weissberger voted against.

Discussion took place regarding Ordinance #42. It was agreed to add this to the list for further study by the Town Attorney's, specifically with the Garbage related Ordinances.

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Ton DiDio, seconded by Ginny Gingras moved that Ordinance #89 should be moved to the Retain List. Motion passed unanimously.

Tom DiDio, seconded by Ginny Gingras moved that Ordinance #98 should be moved to the Retain List, as is. Motion passed unanimously.

Discussion took place regarding Ordinance #131 as to Recreation Department involvement with the Senior Fund. It was determined that the ordinance is now obsolete due to creation of the Senior Department.

Tom DiDio, seconded by Dan Sullivan moved to recommend that Ordinance #131 be moved to the Repeal List. Motion passed unanimously.

Attorney Burke will check State Statutes as to the validity of Ordinance #133.

Tom DiDio, seconded by Dan Sullivan moved to recommend that Ordinance #135 be moved to the Repeal List. Motion passed unanimously.

Tom DiDio, seconded by Dan Sullivan moved to suggest that the fine be changed to \$250 in Ordinance #140. Motion passed 3-1. Adam Weissberger opposed.

Tom DiDio moved to reduce Number of false alarms to four in Ordinance #141. Motion died due to lack of a second. Discussion suggested that we obtain input and more information from the Police and Fire Chiefs.

Tom DiDio, seconded by Ginny Gingras moved to send Ordinance #144 to the Repeal list. Motion passed unanimously.

Tom DiDio, seconded by Dan Sullivan moved to increase physical injury coverage from \$250,000 to \$500,000 per person and \$1,000,000 to \$2,000,000 in Section 2 of Ordinance #146. Motion passed unanimously.

Tom DiDio, seconded by Dan Sullivan moved to increase the fine to \$250 in Ordinance #146. Motion passed 3-1. Adam Weissberger opposed.

Tom DiDio, seconded by Dan Sullivan moved to increase the fine from \$100 to \$250 in Ordinance #150. Motion passed 3-1. Adam Weissberger opposed.

Tom DiDio, seconded by Ginny Gingras moved that #3 of Ordinance #162 be stricken and that #5 be amended to reflect change of money to the General Service Fund. Motion passed unanimously.

Ordinance #163 was held for input from the Fire Marshal.

Ordinance #181 was held for review of Parking related Ordinances in one group.

Ordinances #186 and #187 will be reviewed by the Town Attorneys along with the other Garbage related ordinances.

Tom DiDio, seconded by Dan Sullivan moved to suggest amendment of Ordinance #188 to allow Homemade Crafters to be exempt from obtaining Hawker's Licenses. Motion passed 3-1. Adam Weissberger opposed.

Atty. Burke explained his proposal for amendment of Ordinance #194. Tom DiDio, seconded by Dan Sullivan moved to suggest amendment of #194 as submitted by Atty. Burke in his July 16, 2012 memo. Motion passed unanimously. (See Attachment #1)

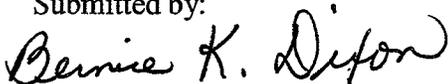
Ordinances #210, 211 and 239 will be reviewed by Town Attorneys Burke and Cummings.

Approval of Minutes: Ginny Gingras, seconded by Tom DiDio moved to approve the minutes of June 12th meeting. Adam Weissberger stated that Paragraph 4 should be corrected to indicate that he abstained from the vote, not that he voted against the motion. Motion passed unanimously.

The next meeting date was set for August 9, 2012 at 6:00 p.m. on the 3rd floor of Town Hall.

Adjournment: Tom DiDio, seconded by Dan Sullivan, moved to adjourn at 7:55 p.m. Motion passed unanimously.

Submitted by:



Bernice K. Dixon
Recording Secretary

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Also Admitted in Maine
and New York

TO: Members of Ordinance Review Committee
FROM: Martin B. Burke
RE: Penalties for Violation of Ordinances and Proposed Amendment to
Ordinance No. 194
DATE: July 16, 2012

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1. Several of Vernon's Ordinances, as illustrated by Ordinance No.194, an Ordinance Adopting and Enacting a New Code for the Town of Vernon...Providing for the Repeal of Certain Ordinances..., provides for the imposition of fine for **each day** that the violation continues.
2. All municipal law is premises upon the notion that municipal power is a delegation from the legislature, and a municipality may only act in ways authorized by the legislature, including powers expressly stated or by implication.
3. Ordinance No. 194 § 4 provides a blanket statement that all Vernon ordinances may result in the imposition of a fine for each day the violation shall occur.
4. An example of the legislature providing for a fine for each day a violation occurs is the blight ordinance. Section 7-148(c)(10)(XV) provides for a per diem fine. Said Section is attached hereto.

Another per diem example is § 8-12, setting forth a procedure when zoning regulations are violated. Said Section is attached hereto.
5. However, Section 7-148(c)(10) provides that Ordinances enumerated in Section 7-148 may "...prescribe penalties for the violation [of the ordinance] not to exceed \$250 unless otherwise provided by the General Statues".
6. It is my opinion that the legislature delegation must be rigidly followed. To that end, I am attaching language to amend Ordinance No. 194 § 4 to conform to the above analysis.

Proposed Change to Ordinance No. 194 § 4.

Section 4. Unless other penalty is expressly provided, every person convicted of a violation of any provisions of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine of not more than one hundred dollars (\$100.00)(.) or when permitted by § 7-148(C)(10) of the General Statutes, not to exceed two hundred fifty (\$250.00) dollars.

Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense(.) when expressly permitted by the General Statutes. The penalty provided by this section, unless another penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the town may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.