

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT
AGENDA

DATE: MONDAY, MAY 6, 2013
PLACE: COUNCIL CHAMBERS
TIME: 7:30P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILWOMAN NANCY HALTER
3. PLEDGE OF ALLEGIANCE
4. READING OF THE JOURNAL
5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA
6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 46 – 2013

BY: HEALTH, WELFARE & BUILDING REGULATIONS

1st READING
AN ORDINANCE amending CHAPTER 557 "WEEDS AND TREES" of the Codified Ordinances of the City of Massillon, Ohio, by repealing existing Sections 557.08(a)(b)(c)(d)(e) and (f) "CUTTING AND DESTROYING WEEDS REQUIRED", and enact new Sections 557.08(a)(b)(c)(d) and (e) "CUTTING AND DESTROYING WEEDS REQUIRED" of CHAPTER 557, and declaring an emergency.

ORDINANCE NO. 47 – 2013

BY: RULES, COURTS & CIVIL SERVICE COMMITTEE

PASS 9-0
AN ORDINANCE appointing Kenneth Koher as the City Records Custodian, and declaring an emergency.

ORDINANCE NO. 48 – 2013

BY: FINANCE COMMITTEE

PASS 9-0
AN ORDINANCE making certain appropriations from the unappropriated balance of the 1414 Collection System Improvement Fund, Income Tax Capital Improvement Fund, 1206 Municipal Motor Vehicle License Plate Fund, 2105 Stormwater Utility Fund and the Capital Improvement Fund, for the year ending December 31, 2013, and declaring an emergency.

ORDINANCE NO. 49 – 2013

BY: COMMITTEE OF THE WHOLE

PASS 9-0
AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with the Stark County Commissioners for the housing of City Ordinance prisoners at the Stark County Jail, and declaring an emergency.

7. UNFINISHED BUSINESS
8. PETITIONS AND GENERAL COMMUNICATIONS
9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

- A). AUDITOR SUBMITS MONTHLY REPORT FOR APRIL 2013
- B). TREASURER SUBMITS MONTHLY REPORT FOR MARCH 2013

11. REPORTS OF COMMITTEES

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER

13. CALL OF THE CALENDAR – TABLED FROM APRIL 15, 2013

ORDINANCE NO. 35 – 2013

BY: FINANCE COMMITTEE

TABLED TO 5/13/13

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement between the City of Massillon, Downtown Massillon Hotel, Ltd., and Charles Street Ltd., which would permit, if certain conditions are met, canceling the promissory note associated with the loan for the Hampton Inn project and release the related mortgages and any other liens related to the financing of the project.

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 36 – 2013

BY: COMMUNITY DEVELOPMENT COMMITTEE

PASS 9-0

AN ORDINANCE approving an application for assistance under Title I of the Housing and Community Development Act of 1974, as amended, including the Consolidated Plan and Annual Action Plan; authorizing the execution and filing of the application and related assurances and certifications, and declaring an emergency.

15. SECOND READING ORDINANCES AND RESOLUTIONS

16. NEW AND MISCELLANEOUS BUSINESS

17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA

18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: MAY 6, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS
DEPARTMENT

LEGISLATIVE

ORDINANCE NO. 46 – 2013

BY: HEALTH, WELFARE AND BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 557 "WEEDS AND TREES" of the Codified Ordinances of the City of Massillon, Ohio, by repealing existing Sections 557.08(a)(b)(c)(d)(e) and (f) "CUTTING AND DESTROYING WEEDS REQUIRED", and enact new Sections 557.08 (a)(b)(c)(d) and (e) "CUTTING AND DESTROYING WEEDS REQUIRED" of CHAPTER 557; and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The existing Sections 557.08(a)(b)(c)(d)(e) and (f) "CUTTING AND DESTROYING WEEDS REQUIRED" of CHAPTER 557 "WEEDS AND TREES" of the Codified Ordinances of the City of Massillon, Ohio, be and hereby are repealed.

Section 2:

That there be and hereby are enacted new Sections 557.08 (a)(b)(c)(d) and (e) "CUTTING AND DESTROYING WEEDS REQUIRED" of CHAPTER 557 "WEEDS AND TREES" of the Codified Ordinances of the City of Massillon, Ohio, be and hereby are enacted.

SEE ATTACHED EXHIBIT "A" HERETO

Section 3:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 4:

That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, welfare and safety and for the further reason that these proposed changes would simplify the process of cutting weeds and grass on various parcels throughout the city and then billing the property owners. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2013

ATTEST:

MARY BETH BAILEY, CLERK OF COUNCIL

TONY M. TOWNSEND, PRESIDENT

APPROVED _____

KATHY CATAZARO-PERRY, MAYOR

PROPOSED ORDINANCE

557.08 CUTTING AND DESTROYING WEEDS REQUIRED.

- (a) Prohibitions. No person, whether as owner, lessee, agent, tenant or any other person having charge or care of parcel in the City, shall permit noxious weeds or other undesirable vegetation, grasses, etc., to grow thereon to a height in excess of twelve inches, or to mature their seeds thereon, or fail to cut and destroy such weeds and other undesirable vegetation when notified by the Director of Public Safety and Service to do so. This provision shall not apply to premises zoned A-2 General Agricultural when the premises are utilized in pursuit of a reasonable agricultural use. (Ord. 173-1998. Passed 10-5-98.)

In a platted subdivision that has parcels available for sale by a developer; any parcel(s) abutting a parcel that has a structure on it would fall under section (a) above. Any other vacant parcel(s) that do not abut a residence shall be mowed once in May and once in September, however a 5 foot path along the road must be maintained in compliance with section (a) above.

Parcels equal to or greater than one and one-half (1.5) acres in size not in a subdivision shall be mowed once in May and once in September; however a 5 foot path along the road must be maintained in compliance with section (a) above.

- (b) Notice to Cut Weeds; Service. When determined through investigation by the Director of Public Service and Safety that weeds and other undesirable vegetation exceeding the height specified in subsection (a) hereof exist upon any parcel within the City, the Director shall cause written a public notice to be posted upon the parcel stating that such noxious weeds and/or weeds and grasses of rank growth must be cut and removed within five business days after the completion of the posting. In addition, written notice of the

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posting shall be sent to the property owner, lessee, agent, tenant or other person having charge of such parcel(s). This letter shall include, that if the property owner, lessee, agent, tenant or other person having charge of such parcel(s) fails or refuses to cut said weeds and undesirable vegetation following notice provided pursuant to this section, and it becomes necessary for the City to cut and/or clean the same parcel more than one time during any calendar year, the Director may order parcel(s) to be cut and/or cleaned without the necessity of further notice. This service shall be accomplished by regular United States mail, postage prepaid, and sent to the property address or tax mailing address maintained by the Stark County Treasurer for real estate tax billing purposes or by personal service. Public notice of this ordinance shall be published in a newspaper once a year before any action on the City's part to cut or destroy vegetation shall be taken. (Ord. 214-1994. Passed 11-7-94.)

- (c) Failure to Comply; Work by City. In the event the owner does not comply with the posted order to cut or destroy undesirable vegetation within the time limit specified in subsection (b) hereof, after proper notice of violation has been issued by the Director of Public Safety and Service, the Director shall cause such undesirable vegetation to be cut and destroyed, and may employ the necessary labor and equipment to perform such task, together with any cleanup work required, within appropriations previously made by Council. In addition, the owner is liable to the penalties provided herein.
- (d) Cost Payment; Costs a Lien. The minimum fee to be charged shall be fifty dollars (\$50.00) a man hour. All minuets shall be rounded up to the next quarter hour. In addition the following cost shall be included:

- (1) Administration and supervision = \$150.00.
- (2) Transportation of equipment = \$50.00.

(3) Equipment rental.

(4) Equipment operator.

(5) Incidental labor.

The City Auditor shall certify to the County Auditor the proceedings taken under this section plus ten percent (10%) interest and a legal description of the premises. Such amounts shall be entered upon the tax duplicate and shall be lien upon such lands from the date of entry, and shall be collected as other taxes and returned to the City General fund as provided by Ohio R.C. 731.54.

- (e) Whoever violates this section is guilty of a minor misdemeanor. Each day that the undesirable vegetation is permitted to continue to grow after the specified time limit has expired shall constitute a separate offense. (Ord. 4-1988. Passed 3-7-88.)

CURRENT LEGISLATION WITH CHANGES

557.08 CUTTING AND DESTROYING WEEDS REQUIRED.

- (a) Prohibitions. No person, whether as owner, lessee, agent, tenant or any other person having charge or care of parcel in the City, shall permit noxious weeds or other undesirable vegetation, grasses, etc., to grow thereon to a height in excess of twelve inches, or to mature their seeds thereon, or fail to cut and destroy such weeds and other undesirable vegetation when notified by the Director of Public Safety and Service to do so. This provision shall not apply to premises zoned A-2 General Agricultural when the premises are utilized in pursuit of a reasonable agricultural use. (Ord. 173-1998. Passed 10-5-98.)

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In a platted subdivision that has parcels available for sale by a developer; any parcel(s) abutting a parcel that has a structure on it would fall under section (a) above. Any other vacant parcel(s) that do not abut a residence shall be mowed once in May and once in September, however a 5 foot path along the road must be maintained in compliance with section (a) above.

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Parcels equal to or greater than one and one-half (1.5) acres in size not in a subdivision shall be mowed once in May and once in September, however a 5 foot path along the road must be maintained in compliance with section (a) above.

- (b) Notice to Cut Weeds; Service. When determined through investigation by the Director of Public Service and Safety that weeds and other undesirable vegetation exceeding the height specified in subsection (a) hereof exist upon any parcel within the City, the Director shall cause written a public notice to posted upon the parcel stating that such noxious weeds and/or weeds and grasses of rank growth must be cut and removed within five business days after the completion of the posting. In addition, written notice of the posting shall be sent to the property owner, lessee, agent, tenant or other person having charge of such parcel(s). This letter shall include, that if the property owner, lessee, agent, tenant or other person having charge of such parcel(s) fails or refuses to cut said weeds and undesirable vegetation following notice provided pursuant to this section, and it becomes necessary for the City to cut and/or clean the same parcel more than one time during any calendar year, the Director may order the parcel(s) to be cut and/or cleaned without the necessity of further notice. This service shall be accomplished by regular United States mail postage prepaid and sent to the property address or tax mailing address maintained by the Stark County Treasurer for real estate tax billing purposes or by personal service. Public notice of this ordinance shall be published in a newspaper once a year before any action on the City's part to cut or destroy vegetation shall be taken. (Ord. 214-1994. Passed 11-7-94.)

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- (c) Failure to Comply; Work by City. In the event the owner does not comply with the order to cut or destroy undesirable vegetation within the time limit specified in subsection (b) hereof, after proper notice of violation has been issued by the Director of

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Public Safety and Service, the Director shall cause such undesirable vegetation to be cut and destroyed, and may employ the necessary labor and equipment to perform such task, together with any cleanup work required, within appropriations previously made by Council. In addition, the owner is liable to the penalties provided herein.

(d) Cost Payment: Unpaid Costs a Lien. The minimum fee to be charged shall be fifty dollars (\$50.00 a man hour. All minuets shall be rounded up to the next quarter hour. In addition the following cost shall be included:

1. Administration and supervision = \$150.00.
2. Transportation of equipment = \$50.00.
3. Equipment rental.
4. Equipment operator.
5. Incidental labor.

The City Auditor shall certify to the County Auditor the proceedings taken under this section plus ten percent (10%) interest and a legal description of the premises. Such amounts shall be entered upon the tax duplicate and shall be lien upon such lands from the date of entry, and shall be collected as other taxes and returned to the City General fund as provided by Ohio R.C. 731.54.

(e) Whoever violates this section is guilty of a minor misdemeanor. Each day that the undesirable vegetation is permitted to continue to grow after the specified time limit has expired shall constitute a separate offense. (Ord. 4-1988. Passed 3-7-88.)

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(d) Statement of Cost to Owner. When the Director of Safety and Service causes undesirable vegetation to be cut and the land cleaned of debris, as provided in subsection (c) hereof, a statement of cost hereof shall be mailed to the owner of such land by certified mail, return receipt requested. Such statement of cost shall include the following cost to the City:¶

- ¶ (1) Administration and supervision.¶
- ¶ (2) Transportation of equipment.¶
- ¶ (3) Equipment rental.¶
- ¶ (4) Equipment operator.¶
- ¶ (5) Incidental labor.¶

The minimum fee to be charged shall be fifty dollars (\$50.00) for the first man hour or portion thereof, and thirty dollars (\$30.00) for each additional man hour or portion thereof.

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DATE: MAY 6, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 47 - 2013

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE appointing Kenneth Koher as the City Records Custodian, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

As part of the annual audit of the City by the State Auditor, the State Auditor previously recommended that the City designate a person as a records custodian, and that person is no longer employed by the City.

Section 2:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary to accept the appointment of Kenneth Koher as the City Records Custodian as recommended by the Mayor.

Section 3:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 4:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason that it is necessary to have a City Records Custodian appointed to keep in compliance with the Ohio Revised Code 149.43 which the Massillon Records Commission recommended Mary Ann Coyne for the appointment. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: MAY 6, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 48 – 2013

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the 1414 Collection System Improvement Fund, Income Tax Capital Improvement Fund, 1206 Municipal Motor Vehicle License Plate Fund; 2105 Stormwater Utility Fund and the Capital Improvement Fund, for the year ending December 31, 2013, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the 1414 Collection System Improvement Fund, for the year ending December 31, 2013 the following:

\$139,963.25 to an account entitled "Sanitary Sewer Improvements" 1414.610.2510

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Income Tax Capital Improvement Fund, for the year ending December 31, 2013 the following:

\$46,731.00 to an account entitled "DHS Grant – Personnel OT" 1401.325.2119

Section 3:

There be and hereby is appropriated from the unappropriated balance of the 1206 Municipal Motor Vehicle License Plate Fund, for the year ending December 31, 2013 the following:

\$10,270.00 to an account entitled "2012 Target Area Streets Resurfacing Project" 1206.435.2519

Section 4:

There be and hereby is appropriated from the unappropriated balance of the 2105 Stormwater Utility Fund, for the year ending December 31, 2013 the following:

\$6,300.00 to an account entitled "Storm Sewer Repairs" 2105.425.2510

Section 5:

There be and hereby is appropriated from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2013 the following:

\$1,216.00 to an account entitled "Fire Dept. Equipment 2013" 1401.325.2531

Section 6:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 7:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2013

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

TONY M. TOWNSEND, PRESIDENT

APPROVED: _____

KATHY CATAZARO-PERRY, MAYOR

DATE: MAY 6, 2013

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
TONY M. TOWNSEND, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 49 - 2013

BY: COMMITTEE OF THE WHOLE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with the Stark County Commissioners for the housing of City Ordinance prisoners at the Stark County Jail, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into an agreement with the Stark County Commissioners for the housing of prisoners charged or convicted under City Ordinances at the Stark County Jail.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into an agreement with the Stark County Commissioners for the Stark County Jail Housing Contract. The cost for housing of City Ordinance prisoners shall be a rate of Seventy Dollars (\$70.00) per day. See attached agreement.

(SEE ATTACHED EXHIBIT "A")

Section 3:

The Clerk of Council is authorized to correct any typographical errors discovered herein during or after the pendency or passage of this ordinance. The Clerk of Council is further authorized, in conjunction with the Law Department and the Council President to correct any ministerial or de minimis errors that do not substantially alter the intended results or numerical total sums of this ordinance, during or after the pendency or passage of this ordinance. Corrected copies are to be sent to all official recipients.

Section 4:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the reason that it is necessary to enter into the agreement with the Stark County Commissioners for the Stark County Jail Housing Contract so the City of Massillon will be responsible for the housing of City Ordinance prisoners in the Stark County Jail. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2013

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

TONY M. TOWNSEND, PRESIDENT

APPROVED: _____
KATHY CATAZARO-PERRY, MAYOR