



CITY OF BURTON
BURTON CITY COUNCIL MEETING
SEPTEMBER 2, 2014
AGENDA

Council Chambers

Regular Meeting

7:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

A. INVOCATION LED BY VAUGHN SMITH.

B. THE PLEDGE OF ALLEGIANCE IS LED BY VAUGHN SMITH.

C. ROLL CALL

D. STAFF PRESENT

E. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Aug 18, 2014 7:00 PM
2. City Council - Special Meeting - Aug 25, 2014 6:00 PM

F. ADMINISTRATIVE REPORT

G. COMMITTEE REPORTS

H. AUDIENCE PARTICIPATION

I. COUNCIL DISCUSSION

1. Review and discussion of City Council applications. Filling of Vacancies per City Charter Section 3.14 (a) If a vacancy occurs in the Council, except in the case of recall, the Council shall fill the vacancy by appointment within thirty (30) days thereafter. Each such appointment, except as otherwise provided in this Charter, shall be for a term ending on the second Monday following the next regular City election.

J. COUNCIL ACTION

1. Approval of Attorney Billing (Richard Austin) from 08/01/14 to 08/27/14 in the amount of \$9,748.35.
2. Approve and Authorize the Genesee County Metropolitan Planning Commission to transfer \$54,008.15 in Community Development Block Grant funds from DPW project #13-001-W Judd Road Water Main to DPW project #13-006-P DeCamp Paving.

K. FIRST READING OF AN ORDINANCE

1. First Reading of an Ordinance 2014-9-144.08 amending Chapter 144 of The City of Burton Code of Ordinances to define and prohibit the act being a Disorderly Person and to provide penalties for the violation thereof.

L. SECOND READING OF AN ORDINANCE

1. Second reading of Vicious Dog Ordinance 2014-8-133.06, an ordinance amending Chapter 134 of the City of Burton Code of Ordinances to define and regulate vicious dogs kept or found within the City of Burton and to provide criminal penalties for the violation of such regulations.

DRAFT

CITY OF BURTON

BURTON CITY COUNCIL MEETING

AUGUST 18, 2014

MINUTES

Council Chambers**Regular Meeting****7:00 PM**

**4303 S. CENTER ROAD
BURTON, MI 48519**

This meeting was opened by President Tom Martinbianco at 7:10 PM.

A. INVOCATION LED BY DENNIS O'KEEFE.**B. THE PLEDGE OF ALLEGIANCE IS LED BY DENNIS O'KEEFE.****C. ROLL CALL**

Attendee Name	Title	Status	Arrived
Tom Martinbianco	President	Present	
Duane Haskins	Vice-President	Present	
Dennis O'Keefe	Councilman	Present	
Steve Heffner	Councilman	Present	
Ellen Ellenburg	Councilwoman	Present	
Vaughn Smith	Councilman	Present	

D. STAFF PRESENT

Paula Zelenko, Mayor
Sue Warren, Human Resources
Amanda Doyle, Attorney

Rik Hayman, Executive Assistant
Richard Austin, Attorney
Teresa Karsney, City Clerk

E. APPROVAL OF MINUTES

1. City Council - Committee of the Whole - Aug 4, 2014 6:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steve Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

2. City Council - Regular Meeting - Aug 4, 2014 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steve Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

F. ADMINISTRATIVE REPORT

Mayor Zelenko stated she hoped that everyone had an opportunity to participate with some of the Back to the Bricks activities. Chief Osterholzer reports that although there were a

few minor related incidents in the City of Burton, we had the largest spectator turnout that Burton has ever had and the event was a success for us. Our Police Department did a great job.

She said Small Cities and Village held their annual picnic at our Veteran's Memorial Pavilion on August 6. She wanted to thank all my administrators for their participation in preparations and cooking food. Several administrators brought dishes to pass, Chief Osterholzer and Chief Epperson attended to the grill, we had DPW demonstrations of our lateral camera, the Humvee, Fire Engine, and the new Grader on site to show off. Mrs. Ellenburg was in attendance and it was good time.

Everyone was given a letter from Attorney Austin regarding the brick wall situation at Genesee and Pine Creek; there is no safety concern.

Center Road repairs that we were expecting to perform this fall are being pushed to spring. After much consultation with Rowe Professional Services, there is a good reason to believe that the City could save money (potentially \$500,000.00) by going with October let of the project and an April 2015 construction.

Judd Road is scheduled for milling on Friday (both lanes) and the paving to be done by the end of next week.

The new audio-video recording system for meetings in this chamber is still in process. We are waiting on parts, training and for IQM2 to complete the configuration of encoding device. In addition, the Verizon equipment needed for the wifi installation is on back-order until August 26.

Mayor Zelenko continued by going over the agenda items. In addition she asked that an item be added to your regular agenda as Item #11. Approve and authorize the Mayor's dismissal of Ronald Lupi as the City Burton Assessor allowed in Section 3.12 of the Burton City Charter, effective August 18, 2014. It has been determined that Mr. Lupi's work abilities and performance is not at the level we require.

Also in regards to the DWRP project, we have been notified by the MDEQ that we will receive over \$1 million in principal forgiveness on our DWRP loan.

G. COMMITTEE REPORTS

Mrs. Ellenburg informed the City Council that the Legislative Committee had a meeting early today to discuss the following topics: Vicious Dog Ordinance, Panhandling Ordinance and a Disorderly Ordinance. It was decided that the Vicious Dog Ordinance would be put on the agenda for tonight with one amendment.

H. AUDIENCE PARTICIPATION

Tom Gorang came to Council to ask for their support to be appointed to the Planning Commission.

Charlie Cook spoke about the geese problem at Kelly Lake.

Kurt Miller from Burton Towing asked how they get on the rotation for a towing company for the City of Burton.

John Gibbson spoke in support of the Vicious Dog Ordinance. Also, that most of the dogs that are vicious are not licensed.

Charlie Cook spoke in favor of the Vicious Dog Ordinance.

Jessica Earns spoke in favor of the Vicious Dog Ordinance because her dog had been attacked in the past.

Linda Hartman stated that it can't be breed specific.

Robert Johnson also talked about how it can't be breed specific.

I. COUNCIL DISCUSSION

Mr. Heffner stated he felt it could not be breed specific. It is not that the dogs are mean it is the people who make them mean.

Mr. O'Keefe agreed with Mr. Heffner that you can't limit to one breed.

Mr. O'Keefe thanked the Mayor for taking care of the house on Springfield. He also said he had heard from several residents that they were glad to see the street sweep out and about. He felt the Burton Police did a great job with Back to the Bricks. He also has had many calls on how to take care of the geese at Kelly Lake.

Mrs. Ellenburg thanked the members of the audience who came to the Legislative Committee meeting to give their input. She feels it is the owners that make the dogs mean.

Mr. Heffner asked why Center Road was going to be delayed. Mr. Hayman replied that Rowe Professional Service said that the road would cost us 30% more if we did it this fall.

Mayor Zelenko stated the bids for Center Road came in higher and we are pushing to spring to save money.

Mr. Smith stated he has been bitten by all kinds of dogs in his running career. Thanked the Mayor for getting Kelly Lake cleaned up from the goose droppings. Mr. Smith stated he attended the meeting on Center Road and agrees we should wait on it.

Mr. Haskins thanked the Mayor for getting Burton Estates mowed. He also wanted to make sure he understood the amendment to the dog ordinance. He also asked if Burton Police pick up a vicious dog in the middle of the night then where are they going to put it.

Mr. Smith asked the Mayor if she had gotten with Mr. Curtis on the animal control issue.

Mr. Heffner would like copies of the bids for Center Road.

Mayor Zelenko stated she would put them in their boxes tomorrow.

Mr. Haskins thought we should go into executive session on the SEIU contract.

1. Motion to go into Executive session at 8:07 p.m. to discuss the SEIU contract at 8:07 p.m.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Ellen Ellenburg, Councilwoman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

- City Council Members came out of executive session at 8:20 p.m. and resumed the meeting at 8:25 p.m.

J. COUNCIL ACTION

- Approve and authorize the acceptance of the August 11, 2014 resignation letter from Councilman Danny Wells effective immediately.

Mr. Smith asked how do we go about replacing Mr. Wells on Council.

Mr. Austin stated per the Charter section 3.14 the Council shall fill the vacancy by appointment within thirty (30) days there-after.

Mr. Martinbianco stated that if anyone is interested in being on Council to submit a letter of interest to the Clerk's office. We will be accepting letters until August 29, 2014 at 5:00 p.m. The Clerk will date and time stamp them.

Mr. Martinbianco said he would sit on all committees that Mr. Wells was on until we find a replacement.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Ellen Ellenburg, Councilwoman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

- Approve and authorize the Attorney Billing (Richard Austin) from 07/30/14 to 08/13/14 in the amount of \$3,532.00.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Dennis O'Keefe, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

- Approve and Authorize the Mayor and City Clerk to execute a contract with Infrastructure Management Services for pavement management services at a total cost of \$56,100.00, with \$26,647.50 from 2014-15 Budget line 2002-4063-818.0000 (Major Roads, Surface Maintenance and Contracted Services) and the balance of \$29,452.50 from 2014-15 Budget line 2003-4063-818.0000 (Local Roads, Surface Maintenance and Contracted Services).

Minutes Acceptance: Minutes of Aug 18, 2014 7:00 PM (Approval of Minutes)

RESULT: CARRIED [UNANIMOUS]
MOVER: Duane Haskins, Vice-President
SECONDER: Vaughn Smith, Councilman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

4. Approve and authorize the request for Sanitary Sewer & Water Main Installer's License for John Kowaleski of Blackwater Excavating LLC., 4740 Diehl Rd., Metamora, MI 48455.

RESULT: CARRIED [UNANIMOUS]
MOVER: Duane Haskins, Vice-President
SECONDER: Steve Heffner, Councilman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

5. Approve and Authorize the Mayor and City Clerk to execute a contract with Spicer Group to provide preliminary engineering services for the reconstruction of Belsay Road from Court Street to Davison Road (DPW project number 14-008-P) in an amount not to exceed \$340,000.00.

RESULT: CARRIED [UNANIMOUS]
MOVER: Steve Heffner, Councilman
SECONDER: Dennis O'Keefe, Councilman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

6. Approve and Authorize the Controller to transfer \$119,000.00 from Major Streets unappropriated surplus to DPW project number 14-008-P.

RESULT: CARRIED [UNANIMOUS]
MOVER: Steve Heffner, Councilman
SECONDER: Dennis O'Keefe, Councilman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

7. Approve and Authorize the Mayor and City Clerk to enter into a Preliminary Engineering contract with MDOT for the Reconstruction of Belsay Road from Court Street to Davison Road (DPW project number 14-008-P).

RESULT: CARRIED [UNANIMOUS]
MOVER: Duane Haskins, Vice-President
SECONDER: Steve Heffner, Councilman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

8. Approve and authorize the Mayor, Clerk, & Director of Human Resources to sign the ratification agreement of the Service Employees International Union Local 517M Supervisors for 2012-2016.

RESULT: CARRIED [UNANIMOUS]
MOVER: Duane Haskins, Vice-President
SECONDER: Vaughn Smith, Councilman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

9. Approve and authorize the Mayor's appointment of Thomas Gorang, 6231 Willowdale Court, Burton, MI 48509 to the Planning Commission, with a term ending August 2017.

RESULT: CARRIED [UNANIMOUS]
MOVER: Steve Heffner, Councilman
SECONDER: Vaughn Smith, Councilman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

10. Approve and authorize the Mayor's appointment of Deb Walton, P.O. Box 190273, Burton, MI 48529 to the Planning Commission, with a term ending August 2017.

RESULT: CARRIED [UNANIMOUS]
MOVER: Steve Heffner, Councilman
SECONDER: Ellen Ellenburg, Councilwoman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

11. Approve and authorize the Mayor's dismissal of Ronald Lupi as the Ctiy of Burton Assessor as allowed in Section 3.12 of the Burton City Charter, effective August 18, 2014.

RESULT: CARRIED [UNANIMOUS]
MOVER: Steve Heffner, Councilman
SECONDER: Ellen Ellenburg, Councilwoman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

K. FIRST READING OF ORDINANCE

1. 1168 : First Reading of Vicious Dog Ordinance 2014-8-133.06 as amended

RESULT: CARRIED [UNANIMOUS]
MOVER: Duane Haskins, Vice-President
SECONDER: Ellen Ellenburg, Councilwoman
AYES: Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

Meeting was adjourned at 8:51 PM.

DRAFT

CITY OF BURTON

BURTON CITY COUNCIL MEETING

AUGUST 25, 2014

MINUTES

Council Chambers**Special Meeting****6:00 PM**

**4303 S. CENTER ROAD
BURTON, MI 48519**

This meeting was opened by President Tom Martinbianco at 6:00 PM.

A. ROLL CALL

Attendee Name	Title	Status	Arrived
Tom Martinbianco	President	Present	
Duane Haskins	Vice-President	Absent	
Dennis O'Keefe	Councilman	Present	
Steve Heffner	Councilman	Present	
Ellen Ellenburg	Councilwoman	Present	
Vaughn Smith	Councilman	Present	

B. STAFF PRESENT

Paula Zelenko, Mayor	Rik Hayman, Chief of Staff
Ginger Burke-Miller, Controller	Greg Kray, DPW Director
Teresa Karsney, City Clerk	

C. ADMINISTRATIVE REPORT

Mayor Zelenko stated that tonight's Special Council Meeting is to discuss and take possible action regarding Water Rates and Sanitary Sewer Rates. This meeting has four separate parts that intersect in determining water and sewer rates for the City of Burton customers.

Water Rates: Since May of 2007, the water rate increases from the County have automatically passed through to our customers. What does not automatically pass through are any increases that the City puts on.

Mr. John O'Brien, Director of the Water and Waste Division for the Genesee County Drain Commission is here to address your questions regarding the Detroit water rates that get passed on to them. The rates the County Drain Commission charges the City of Burton and how the KWA plays into the matter. Today, we received notice of water rate increase effective October 2, 2014. You all have that correspondence in your mailbox.

Also, Mr. Jon Wheatley from Bendzinski and Company is here to go over the City of Burton's Water Rate study. This study was a necessary part of receiving the Drinking Water Revolving Fund loan to ensure to the State of Michigan that we are billing our customers a fair rate that covers the costs of providing water and water infrastructure.

Sanitary Sewer Rates: This is not an automatic pass through on the County's sewer rates; Council action is required.

Mr. O'Brien will address your questions regarding the reasons the cost of treating sewer water have increased and what the Genesee County Drain Commission uses to determine

Minutes Acceptance: Minutes of Aug 25, 2014 6:00 PM (Approval of Minutes)

the rates that get passed on to us. The County's rate increase went into effect on August 1, 2014.

Mr. Wheatley will go over the City of Burton's Sewer Rate study. This study was a necessary part of receiving the Sewer grants to ensure to the State of Michigan that we are billing our customers a fair rate that covers the cost of providing sewer treatment and infrastructure.

So at the end of the night, the administration needs to know:

1. Will you be passing the County's October water rate increase as well as an increase on the City's rate as recommended by the rate study?
2. Will you be passing through the County's Sewer rate increase as well as an increase on the City's rate as recommended by the rate study?

D. AUDIENCE PARTICIPATION

NONE

E. COUNCIL ACTION

1. Discussion on Sewer Rates.

Mr. Wheatley from Bendzinski gave a slide presentation on the Sewer Rate Study. He started by going over the Sewer systems revenues vs expenses from 2009 to 2013, which was the total expenses including depreciation. Next his chart was revenues vs expenses without the depreciation which just showed the cash expenses.

Sewer Rate Study assumptions:

- No Customer growth
- Sewer flows = 5 year average, with no increase
- 3% annual increase to City Expenses
- 9% Annual increase to County charges
- Break even rates

The recommendations from the Sewer Rate study is:

- Pass along all county rate increases
- Continue with alternative A, unless the City SRF project is approved

Based on the study the City should have a cash funding equal to 6 months' worth of expense.

Mr. O'Brien from Genesee County Drain Commission stated that the County won't be having a 9% annual increase as Mr. Wheatley stated. The County does a block rate for 5 years. The current rate is for 2013 to 2018. The County does a smoothing average for that 5 years.

2. To approve and authorize modifying the City of Burton's sewer rates and structure to include:
 - 1) A pass through of Genesee County Drain Commission's Division of Water and Waste Services increase to \$4.67 per (REU) per month, plus \$1.82 per 100 cubic feet (CCF), for metered customers and \$27.43 per unit (REU) per month for non-metered or flat rate customers.
 - 2) A City of Burton sewer charge of \$10.49 per unit (REU) per month.

RESULT:	CARRIED [3 TO 2]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	O'Keefe, Ellenburg, Smith
NAYS:	Martinbianco, Heffner
ABSENT:	Haskins

2. Discussion on Water Rates.

Mr. Wheatley from Bendzinski gave a slide presentation on the Water Rate Study. He started by going over the Water systems revenues vs expenses from 2009 to 2013, which was the total expenses including depreciation. Next his chart was revenues vs expenses without the depreciation which just showed the cash expenses.

Water Rate Study assumptions:

- 10 New customers per year
- Water flows = 5 year average, with no increase
- 3% annual increase to City Expenses
- 6.00% Annual increase to County charges
- Break even rates

The recommendations from the Water Rate study is:

- Pass along all county rate increases

Based on the study the City should have a cash funding equal to 6 months' worth of expense.

Mr. Martinbianco said there are two issues. You have to buy water from Detroit at their rates. Maybe one day Karengondi will come to fruition. We are going to have to figure out what to do for the next 3 years to provide water to our customers.

Mr. O'Brien said in 2007 Genesee County raised its rates for water. They purchase water from Detroit. In 2013 the County made the decision to separate from Detroit and City of Flint decided to separate from the City of Detroit. In 2013 we had a water increase. In April 2014 they were charged 10% increase from Flint that came from Detroit. In April 30th, Flint turned the valve off from the City of Detroit. There is a 72 inch water main running through the County that the City of Flint is not using, so the County purchased it from the City of Flint. In June 2014 Detroit did another rate increase. They are looking for a two year contract, Detroit only does a 30 year contract. The County has paid the bill to Detroit. They are proposing, effective October 2, a rate that will cover the expenses to Detroit. Detroit is under State control and in Federal bankruptcy court. There is a rate increase in 2014-2015 and 2015-2016, so we are paying Detroit for water service. 2015-2016 could be a year of double dip, so we can collect now and pay the bond debt. Once we are done with that rates will stabilize or go down.

3. To approve and authorize modifying the City of Burton's water rates and structure to include the following:

- 1) A pass through of Genesee County Drain Commission's Division of Water and Waste Services increase of \$.51 plus \$.03 unbilled water for a total of \$.54 per 100 cubic feet (CCF).
- 2) A City of Burton water charge in accordance with the following chart:
Ready to Serve Rate:

Meter Size (in)	Rate (\$/Month)
5/8"	\$13.94
3/4"	\$13.94
1"	\$23.70
1.5"	\$48.79
2"	\$93.40
3"	\$209.10
4"	\$376.38
6"	\$836.40
8"	\$1,394.00
10"	\$2,847.24

With a Commodity Rate: \$5.30 per (CCF).

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Vaughn Smith, Councilman
SECONDER:	Dennis O'Keefe, Councilman
AYES:	Martinbianco, O'Keefe, Heffner, Ellenburg, Smith
ABSENT:	Haskins

F. COUNCIL DISCUSSION

Mr. Smith would like to call a Finance Committee meeting on September 2, 2014 at 6:00 p.m. on Water that relates to the sewer bills.

Meeting was adjourned at 8:09 AM.



SCHEDULED

AGENDA ITEM (ID # 1191)

DOC ID: 1191

Review and discussion of City Council applications. Filling of Vacancies per City Charter Section 3.14 (a) If a vacancy occurs in the Council, except in the case of recall, the Council shall fill the vacancy by appointment within thirty (30) days there-after. Each such appointment, except as otherwise provided in this Charter, shall be for a term ending on the second Monday following the next regular City election.



Burton City Council
4303 S. Center Road
Burton, MI 48519

Meeting: 09/02/14 07:00 PM
Department: Clerk's Office
Category: Attorney Billing
Prepared By: Teresa M. Karsney
Department Head: Teresa M. Karsney

J.1

ADOPTED

AGENDA ITEM (ID # 1198)

DOC ID: 1198

Approval of Attorney Billing (Richard Austin) from 08/01/14 to 08/27/14 in the amount of \$9,748.35.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steve Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith



ADOPTED

AGENDA ITEM (ID # 1197)

DOC ID: 1197

Approve and Authorize the Genesee County Metropolitan Planning Commission to transfer \$54,008.15 in Community Development Block Grant funds from DPW project #13-001-W Judd Road Water Main to DPW project #13-006-P DeCamp Paving.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Dennis O'Keefe, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith



ADOPTED

AGENDA ITEM (ID # 1199)

DOC ID: 1199

**First Reading of an Ordinance 2014-9-144.08 amending
Chapter 144 of The City of Burton Code of Ordinances to
define and prohibit the act being a Disorderly Person and to
provide penalties for the violation thereof.**

ATTACHMENTS:

- disorderly ordinance burton 2014-9-144.08 (DOCX)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Steve Heffner, Councilman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2014- 9 - 144.08

AN ORDINANCE AMENDING CHAPTER 144 OF
THE CITY OF BURTON CODE OF ORDINANCES
TO DEFINE AND PROHIBIT THE ACT BEING
A DISORDERLY PERSON AND TO PROVIDE
PENALTIES FOR THE VIOLATION THEREOF

THE CITY OF BURTON ORDAINS:

SECTION I

Section 144.08 of Chapter 144 of the Code of Ordinances of
the City of Burton is hereby amended by the redaction of
Section 144.08 and replacement with the following:

SECTION 144.08 DISORDERLY PERSON

- (A) It shall be unlawful hereunder for a person to be a
disorderly person.
- (B) A person is a Disorderly Person if any of the
following:
 - (1) A person creates or unlawfully engages in any
disturbance, fight or quarrel in any public
place, except in reasonable self-defense when
attacked without reasonable provocation or in
reasonable defense of another who was so
attacked;
 - (2) A person disturbs the public peace and quiet by
loud, boisterous or vulgar conduct or language;
 - (3) A person disturbs or unreasonably interferes
with any service of worship or any other
assembly gathered for lawful purposes;
 - (4) A person, without proper authority, conducts
himself or herself in any public place so as to
obstruct the free and uninterrupted passage of
the public.

- (5) A person wanders about the streets, alleys, or other public ways or places, or who is found in those places at late or unusual hours in the night without any visible or lawful business and not giving a satisfactory account of himself or herself;
- (6) A person is intoxicated in a public place and is either directly endangering the safety of another person or persons, or who is acting in a manner that causes a public disturbance;
- (7) A person engages in obscene or indecent conduct;
- (8) A person loiters in or about a police station, police headquarters building, county jail, hospital, court building, or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances; or
- (9) A person loiters, loafs, wanders, stands, or remains idle in a public place so as to do either of the following:
 - (a) Obstruct a public street, highway, sidewalk, place or building by hindering, impeding or threatening to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians therein or thereon.
 - (b) Obstruct or interfere with the free and uninterrupted use of property or business lawfully conducted by anyone in, upon, facing or fronting any such public street, highway, sidewalk, place or building as to prevent the free and uninterrupted ingress or egress thereto or therefrom; and who refuses or fails forthwith to obey an

order by a police officer to cease such conduct and to move and disperse.

SECTION II

All other provisions of this Chapter shall be and are hereby ratified.

SECTION III

The violation of the terms of this Ordinance shall be punishable by up to 90 days in the county jail, a fine of not more than \$500.00, or both.

SECTION IV

This Ordinance shall be published in a newspaper of general circulation within the City of Burton, Genesee County, Michigan, and shall become effective 30 days after publication.

SECTION V

A copy of this Ordinance may be inspected at the City Hall, 4303 S. Center Road, Burton, Michigan, during regular business hours.

CITY OF BURTON,

By: PAULA ZELENKO, MAYOR

By: TERESA KARSNEY, CLERK

Ordinance introduced on: September 2, 2014
Second Reading:
Publication date:
Effective date:



ADOPTED

AGENDA ITEM (ID # 1192)

DOC ID: 1192

Second reading of Vicious Dog Ordinance 2014-8-133.06, an ordinance amending Chapter 134 of the City of Burton Code of Ordinances to define and regulate vicious dogs kept or found within the City of Burton and to provide criminal penalties for the violation of such regulations.

ATTACHMENTS:

- Vicious Dogs Ordinance 2014-8-133.06 (DOCX)
- Letter on Vicious Dog (PDF)

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Vice-President
SECONDER:	Ellen Ellenburg, Councilwoman
AYES:	Martinbianco, Haskins, O'Keefe, Heffner, Ellenburg, Smith

CITY OF BURTON
GENESEE COUNTY, MICHIGAN

ORDINANCE NO. 2014- 8 - 133.06

AN ORDINANCE AMENDING CHAPTER 134 OF THE CITY
OF BURTON CODE OF ORDINANCES TO DEFINE AND
REGULATE VICIOUS DOGS KEPT OR FOUND WITHIN THE
CITY OF BURTON AND TO PROVIDE CRIMINAL PENALTIES
FOR THE VIOLATION OF SUCH REGULATIONS

THE CITY OF BURTON ORDAINS:

SECTION I

Chapter 133 of the Code of Ordinances of the City of Burton is hereby amended to provide as follows:

Section 133.06 VICIOUS DOGS

(A) The following definitions shall apply to the regulations set forth in this Section:

- (1) The term "VICIOUS DOG" shall mean a dog that bites or attacks a person or a dog that bites and attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner. The term shall also include any dog that the owner knows has a tendency a propensity or disposition to attack.

The term "VICIOUS DOG" shall not include any of the following:

- (a) A dog that bites or attacks a person who is knowingly trespassing on the property of the dog's owner; or
 - (b) A dog that bites or attacks a person who provokes or torments the dog; or
 - (c) A dog that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.
- (2) The term "OWNER" shall mean a person who owns keeps or harbors a dog.

- (3) The term "PROVOKE" shall mean to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack by an ordinary dog or animal.
 - (4) The term "SERIOUS INJURY" shall mean permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function of a person.
 - (5) The term "TORMENT" shall mean an act or omission that causes unjustifiable pain, suffering, and distress to an animal, or causes mental and emotional anguish in the animal as evidenced by its altered behavior, for a purpose such as sadistic pleasure, coercion, or punishment that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack.
- (B) Any person who shall keep or harbor a vicious dog shall comply with the following requirements:
- (1) Leash and muzzle. No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit such a dog to be kept on chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all such dogs on a leash outside of the animal's kennel must be muzzled by muzzling device sufficient to prevent such dog from biting persons or other animals.
 - (2) Confinement. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided. Such pen, kennel, or structure must have secure sides and a secure top attached to sides. All structures used to confine such dogs must be locked with a key or combination lock when such animals are within the structure. The structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in ground to a depth no less than two (2) feet. All structures erected to house the dogs must comply with all zoning and building regulations of the City. All such

structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

- (3) Confinement indoors. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure where window screens or screen doors are the only obstacle preventing the dog from exiting the structure.
 - (4) Signs. All owners or keepers of vicious dogs within the City shall within ten(10) days of the effective date of this ordinance display in a prominent place of their premises a sign easily readable by the public using the words "BEWARE OF DOG." In addition, a similar sign is required to be posted on the kennel or pen of the animal.
- (C) (1) It shall be unlawful for the owner or keeper of a vicious dog within the City of Burton to fail to comply with the requirements set forth in sub-section 133.06(B) above.
- (2) The owner or keeper of any vicious dog who bites or attacks a person, or, who bites or attacks another dog shall also be deemed in violation of the terms of this Section of the Code of Ordinances of the City of Burton.
- (D) (1) Herein after any sworn Burton police officer shall have the authority to seize and remove any vicious dog who the officer has probable cause to believe he's bitten or attacked another dog and who has caused serious injury or death to that dog.
- (2) Any vicious dog (owned to be kept or harbored in violation of the regulations set forth in sub-section (B) shall also be subject to immediate seizure and impoundment by any sworn Burton police officer.
- (3) Further, hereinafter any sworn Burton police officer shall be authorized to use such force, including the use of deadly force, if necessary, to subdue any vicious dog being seized and removed pursuant to his sub-sections.

- (E) Any vicious dog removed or seized by any City of Burton officer or official, or by any Genesee County Animal Control Officer in accordance with the terms of this Section shall be kept and remain at the Genesee County Animal Control facility until the final resolution of the show cause hearing as described in sub-section 133.06(F) below. The owner of the dog shall be responsible for the payment of all costs of the confinement and capture.
- (F) (1) Any officer or official who shall seize a vicious dog pursuant to this ordinance shall file a sworn complaint in the Burton District Court which shall include the facts to conclude that any of the following exits:
- (a) A dog, licensed or unlicensed has destroyed property or habitually caused damage by trespassing on the property of a person who is not the owner.
 - (b) A dog, licensed or unlicensed, has attacked or bitten a person.
 - (c) A dog, licensed or unlicensed, has run at large contrary to this code any other applicable City ordinance.
- (2) Upon receipt of such a sworn complaint, the District Court Judge or Magistrate shall issue a Summons to the dog's owner or keeper to appear and show cause why the dog should not be destroyed.
- (3) Subsequent to the show cause hearing the District Court Judge or Magistrate shall order the dog destroyed at the expense of the owner or keeper if it is determined that the dog bit or attacked a human being, or that the dog is a vicious dog as defined by Sub-section 133.06(A) (1). The District Court Judge or Magistrate shall also have the authority to order the dog confined to the premises of the owner upon a determination that the dog is not likely to escape from those premises.

SECTION II

Any violation of this Ordinance shall be punishable by up to ninety (90) days in the county jail, a fine of not more than Five Hundred (\$500.00) Dollars, or both as provided by Section 130.02 of the City of Burton Code of Ordinances.

SECTION III

This Ordinance shall be published in a newspaper of general circulation within the City of Burton, Genesee County, Michigan, and shall become effective on the thirty-first(31st) day following publication.

SECTION IV

A copy of this Ordinance may be inspected at the City of Burton Clerk's Office at the City Hall, 4303 S. Center Road, Burton, Michigan, during regular business hours.

By: PAULA ZELENKO, MAYOR

By: TERESA KARNSEY, CLERK

Ordinance introduced on: August 18, 2014

Second Reading: September 2, 2014

Publication date:

Effective date:

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Flint, Michigan 48502

Fax: (810) 767-2817

(810) 767-6860

August 20, 2014

City of Burton
Attn: Council Members
4303 S. Center Rd.
Burton, MI 48519

Re: Vicious Dog Ordinance

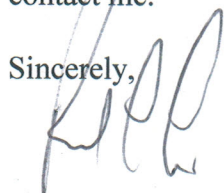
Dear Burton City Council Members:

Pursuant to the Council's request, my office initiated a telephone conversation with Stephanie Lazar at the Genesee County Animal Control office. The conversation took place on Tuesday, August 19, 2014, and, as you may recall, the subject discussed concerned the availability of the animal control facilities to our police department during non-business hours. More specifically, if one of our officers seizes a vicious dog at 3:00 a.m., exactly what is that officer supposed to do with the animal.

Ms. Lazar indicated that the animal control facility has a "drop box" available 24/7 to officers who have seized dogs. This "drop box" is a room at the facility equipped with cages for the detention of the seized animal and is accessible by passcode only. Ms. Lazar has indicated that the passcode will be provided to a police officer requesting it from animal control or through a 911 administrator. In the drop off room, there is a single page form for the police officer to complete, which indicates why the animal was seized and whether the animal has bitten anyone. Once the animal is secured in the cage, the cage can only be opened by an animal control officer.

Should you have any additional questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely,



Richard L. Austin

RLA/ah

Cc: Police Chief
Mayor

Attachment: Letter on Vicious Dog (1192 : Second Reading of Vicious Dog Ordinance 2014-8-133.06)