

CITY OF REED CITY
REGULAR COUNCIL PROCEEDINGS
January 22, 2019

Mayor Guiles called the meeting to order at 7:00 P.M. in Council Chambers, 227 East Lincoln Avenue, Reed City, Michigan.

- Present** Mayor, Trevor Guiles. Council Members: Nathan Bailey, Dan Burchett, Karen Lea McKinney, Roger Meinert, Dave Scharlow and Carol Tillotson. City Attorney, Cindy Wotila and City Manager, Ron Howell, were also present. Department Heads, Fire Chief Jeff Stein, Chief Chuck Davis, Curt Brackenrich, Barbara Westerburg and Rich Rehkopf also attended. The meeting was opened with the pledge to the flag. There were citizens in the audience.
- Public Hearing** Mayor Guiles opened the Public Hearing at 7:01 P.M. to receive public comment on Ordinance 006-2018 to amend Part Twelve, Chapters 1240 thru 1262 to remove State Licensed residential facilities for six (6) persons or less and to include Adult Day Care Centers.
- There were no public comments received and no written comments received. The hearing was closed at 7:01 P.M.
- Public Hearing** Mayor Guiles opened the Public Hearing at 7:01 P.M. to receive public comment on Ordinance No. 007-2018 to amend Part Six Chapter 605, Governing Possession of Tobacco by Persons Under 18.
- There were no public comments received and no written comments received. The hearing was closed at 7:02 P.M.
- Add/Delete** Additions to the Agenda under Audience: Amber Hutchinson, Great Americans Crossroad Celebration, under New Business No. 5; Reed City Group IFT, and No. 6: Trash pickup and recycling.
- Agenda** Motion by Scharlow, seconded by Tillotson, **CARRIED**, to approve the Agenda as amended. Affirmed by voice vote.
- Minutes** Motion by Scharlow, seconded by Tillotson, **CARRIED**, to accept the minutes of the December 17, 2018 regular meeting as presented. Affirmed by voice vote.
- Bills** Motion by Bailey, seconded by Scharlow, **CARRIED**, to approve paying bills as presented for a grand total approved amount of \$253,802.58. Roll call vote. Voting yes were, Tillotson, Bailey, Meinert, Guiles, Burchett, McKinney and Scharlow.
- Audience** Amber Hutchinson, President of the Great American Crossroads Celebration Committee, appeared to advise council the festival committee had their first meeting and would like council's opinion on moving events downtown and closing off more streets. They would like to have the children's carnival and the car show downtown. As an added event, they are discussing the possibility of organizing a family kick ball event at Westerburg Park. Amber also advised council there are two businesses that committed to pay towards the bands, fencing and to donate money back to GACC for the last two years but have never paid their share which creates a financial hardship on the committee. The next meeting of the committee will be held at the Reed City Group on Wednesday, February 20th at 5:30 P.M. and everyone is welcome to attend.
- Reports** Chief Stein, Fire Dept., Chief Charles Davis, Police Dept, Rich Rehkopf, DPW, and Curt Brackenrich, WWTP, filed written reports. Barb Westerburg also submitted a Revenue/Expenditure Report as of December 31, 2018. Chief Davis introduced his new full time officer, Nicholas Harrison.
- Old Pagers** Motion by Meinert, seconded by Tillotson, **CARRIED**, to authorize the sale of fourteen (14) old Fire Department pagers in the amount of \$425.00 to All Season Distribution. Roll call vote. Voting yes were, McKinney, Scharlow, Meinert, Guiles, Bailey, Tillotson and Burchett.

Ordinance Motion by McKinney, seconded by Meinert, **CARRIED**, to adopt Ordinance No. 006-2018 to amend Part Twelve, Chapters 1240 thru 1262 to remove State Licensed residential facilities for six (6) persons or less and to include Adult Day Care Centers. Roll call vote. Voting yes were, Bailey, Burchett, Tillotson, Guiles, Meinert, Scharlow and McKinney.

**CITY OF REED CITY
ORDINANCE NO. 006-2018**

AN ORDINANCE TO AMEND PART TWELVE, CHAPTERS 1240, 1248, 1250, 1252,
1258, 1260 AND 1262 OF THE CITY CODE,
GOVERNING ADULT DAY CARE CENTERS
IN THE COMMERCIAL AND RESIDENTIAL DISTRICTS

At a December 17, 2018 regular meeting of the City Council held at 7:00 P.M. at the City Hall, 227 East Lincoln Avenue, Reed City, Michigan 49677.

The City of Reed City ordains that:

Section 1240.07 Definitions be amended to include:

Adult Day Care Center: A facility, not requiring state licensing, receiving one or more adults for care and supervision for compensation for periods of less than twenty-four (24) hours a day, and where the guardians are not immediately available to the adult.

Section 1248.03 R-1 Accessory Structures and Uses be amended to remove:
State Licensed residential facilities for six (6) persons or less

Section 1248.04 R-1 Special Land Use Permits be amended to included:
Adult Day Care Centers

Section 1250.03 R-2 Accessory Structures and Uses be amended to remove:
State Licensed residential facilities for six (6) persons or less

Section 1250.04 R-2 Special Land Use Permits be amended to included:
Adult Day Care Centers

Section 1252.03 R-3 Accessory Structures and Uses be amended to remove:
State Licensed residential facilities for six (6) persons or less

Section 1252.04 R-3 Special Land Use Permits be amended to included:
Adult Day Care Centers

Section 1258.02 C-1 Principle Uses Allowed by Right be amended to include:
Adult Day Care Centers

Section 1260.02 C-2 Principle Uses Allowed by Right be amended to include:
Adult Day Care Centers

Section 1262.02 C-3 Principle Uses Allowed by Right be amended to include:
Adult Day Care Centers

Effective Date. This Ordinance shall be effective upon publication of either the Ordinance's full text or a summary of the Ordinance prepared by the City Attorney.

This ordinance was introduced on December 17, 2018, by Mayor GUILES. On the 22nd day of January 2019, upon the motion by Councilperson McKINNEY, and seconded by Councilperson MEINERT, this ordinance was adopted.

Voting yeas: Bailey, Burchett, Tillotson, Guiles, Meinert, Scharlow and McKinney.
Voting nays: None.

Ordinance Motion by McKinney, seconded by Tillotson, **CARRIED**, to adopt Ordinance No. 007-2018 to amend Part Six Chapter 605, Governing Possession of Tobacco by Persons Under 18. Roll call vote. Voting yes were, Scharlow, McKinney, Burchett, Tillotson, Guiles, Meinert and Bailey.

**CITY OF REED CITY
ORDINANCE NO. 007-2018**

AN ORDINANCE TO AMEND PART SIX, GENERAL OFFENSES
CODE, CHAPTER 605 OF THE CITY CODE GOVERNING TOBACCO AND VAPING

At a January 22, 2019 regular meeting of the City Council held at 7:00 at the City Hall, 227 East Lincoln, Reed City, MI 49677.

The City of Reed City ordains that: Chapter 605 of the City Code is renumbered 605a and is amended to read as follows:

605.01 TITLE 1.1

This Ordinance shall be identified by the title City of Reed City Smoking and Vaping Ordinance 2018.

605.02 AUTHORITY

This Ordinance is hereby adopted pursuant to authority conferred upon local health departments by Section 2441(i) of the Michigan Public Health Code, at 368 P.A. of 1978 as Amended, MCL 722.641 et seq.

605.03 PURPOSE

The purpose of this Ordinance is to protect the public health and to encourage healthy behaviors of the citizens and the residents of Reed City and the surrounding area:

- (a) Through the regulation of the retail sale of tobacco products, tobacco smoking devices, and electronic smoking/vaping devices and associated products;
- (b) By prohibiting the sale of tobacco products, tobacco smoking devices, and electronic smoking/vaping devices and associated products to individuals under the age of 18;
- (c) By restricting types of locations for retail sale of tobacco products, tobacco smoking devices, and electronic smoking/vaping devices and associated products; and
- (d) By restricting the use of tobacco products, the act of smoking, the use of electronic smoking/vaping devices and associated products, and the act of vaping in public places, including the work place.

605.04 SEVERABILITY

If any section, subsection, clause, or phrase of this Ordinance is for any reason declared unconstitutional or invalid, it is hereby provided that the remaining portions of this Ordinance shall not be effected.

605.05 OTHER LAWS AND REGULATIONS

- (a) This Ordinance is supplemental to the Michigan Public Health Code, as amended, and 368 P.A. of 1978, and to other statutes duly enacted by the State of Michigan relating to public health and safety. Where the provisions of any other state law, local ordinance or regulation, or administrative agency rules apply, the more restrictive of any or all laws, ordinances, regulations or rules shall prevail.
- (b) This Ordinance shall be liberally construed for the protection of the health, safety, and welfare of the people of the City of Reed City. This Ordinance shall supersede a less stringent or inconsistent provision enacted by a local governmental entity for the protection of public health.
- (c) Neither the health office nor any other person empowered to enforce the provisions of this Ordinance shall knowingly implement the provisions of this ordinance if in so doing, a violation of any state or local statute, ordinance, regulation or rule would exist.

605.06 DEFINITIONS

For the purpose of construction and application of this section, the following definition shall apply.

- (a) A minor means any individual who is less than eighteen (18) years of age. The person who sells tobacco products at retail means a person whose ordinary course of business consists, in whole or in part, the retail sale of tobacco and tobacco products subject to state sales tax.
- (b) Person who sells vapor products at retail means a person whose ordinary course of business consists, in whole or in part, the retail sale of vapor products subject to state sales tax.
- (c) Possession of tobacco products shall mean either actual physical control of the tobacco product without necessarily owning that product, or the right to control the tobacco product even though it is in a different room or place than where the person is physically located.
- (d) Public place means a public street, sidewalk, or park or any area open to the general public in a publically owned or operated building or premises, or in a public place of business and includes schools, whether charter, private or publically funded.

- (e) Tobacco product means a product that contains tobacco and is intended for human consumption, including but not limited to, cigarettes, non-cigarette smoking tobacco or smokeless tobacco, as those terms are defined in Section 2 of the Tobacco Products Tax Act, and cigars. Tobacco product does not include a vapor product or a product regulated as a drug or device by the United States Food and Drug Administration.
- (f) Use of a tobacco product or vapor product means to smoke, chew, suck, inhale, or otherwise consume a tobacco products or vapor product.
- (g) Vapor product means a non-combustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, a mechanical means, regardless of shape or size,,that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. A vapor product does not include a product regulated as a drug or device by the United State Food and Drug Administration.

605.07 PROHIBITED CONDUCT

- (a) Subject to subsection 605.07(c), a minor shall not do any of the following:
 - (1) Purchase or attempt to purchase a tobacco or vapor product.
 - (2) Possess or attempt to possess a tobacco or vapor product.
 - (3) Use a tobacco or vapor product in a public place.
 - (4) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco or vapor product.
- (b) An individual who violates Section 605.07(a) shall be subject to the following penalties:
 - (1) For the first violation and for each violation committed by a person under the age of seventeen (17), the person is responsible for a civil infraction punishable by a civil fine of Fifty Dollars (\$50).
 - (2) For a second or subsequent violation, a person is guilty of a misdemeanor punishable by a fine of not more than Fifty Dollars (\$50) for each violation.
- (c) Subsection 605.07(a) does not apply to a minor participating in any of the following:
 - (1) An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer sponsored internal enforcement action.
 - (2) An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the State Police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the State Police or local police agency and was not part of the undercover operation.
 - (3) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying Federal Substance Abuse Block Grant Youth Tobacco Access requirements, if the compliance checks are conducted under the direction of a substance abuse coordinating agency as defined in the Public Health Code, 1978, PA 368, MCL 333.6103 and with the prior approval of the State Police or a local police agency.
- (d) Subsection 605.07(a) does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.
- (e) This section does not prohibit an individual from being charged with, convicted of or found responsible for, or sentenced for any other violation of law that arises out of the violation of subsection 605.07(a).

605.08 SALE OF INDIVIDUAL CIGARETTES

- (a) Except as otherwise provided in subsection 605.08(b), a person who sells tobacco products at retail should not sell a cigarette separately from its package.
- (b) Subsection 605.08(a) above does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.
- (c) A person who violates subsection 605.08(a) is guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500) for each offense.

605.09 FURNISHING TO MINORS

- (a) A person shall not sell, give or furnish a tobacco product or vapor product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection or subsection (c) of this section is guilty of a misdemeanor punishable by a fine of not more than Fifty Dollars (\$50) for each violation.

- (b) A person who sells tobacco products or vapor products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign that includes the following statement: “The purchase of a tobacco product or vapor product by a minor under eighteen (18) years of age and the provision of a tobacco product or vapor product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco or vapor product is subject to criminal penalties.”
- (c) It is an affirmative defense to charge under subsection (a) of this Section, that the defendant had in force at the time of arrest and continues to have in force, a written policy to prevent the sale of tobacco products and vapor products to persons under age eighteen (18) years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, with the court and serve a copy of the notice of the city attorney. The defendant shall serve the notice not less than fourteen (14) days before the date set for trial.
- (d) If the city attorney proposes to offer testimony to rebut the affirmative defense above, the city attorney shall file a notice of rebuttal, in writing, with the court and serve a copy of the notice on the defendant. The city attorney shall serve the notice not less than seven (7) days before the date set for trial and shall include in the notice the name and address of each rebuttal witness.
- (e) Subsection (a) of this Section does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of the minor’s employment.
- (f) Before selling, offering for sale, giving or furnishing a vapor product to an individual, a person shall verify that the individual is at least eighteen (18) years of age by doing one of the following:
 - (1) If the individual appears to be under twenty-seven (27) years of age, examining a government issued photographic identification that establishes the individual is at least eighteen (18) years of age.
 - (2) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available for a commercially available database or aggregate of data bases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process and establishes that the individual is eighteen (18) years of age or older.

605.10 Effective Date.

This Ordinance shall be effective upon publication of either the Ordinance’s full text or a summary of the Ordinance prepared by the City Attorney.

This ordinance was introduced on December 17, 2018, by Councilperson TILLOTSON. On the 22nd day of January, 2019, upon the motion by McKINNEY, and seconded by TILLOTSON this ordinance was adopted.

Voting yeas: Scharlow, McKinney, Burchett, Tillotson, Guiles, Meinert and Bailey.
Voting nays: None.

F.D. Phones The quote from Casair for phone and internet service at the Fire Department was discussed along with different options that could be pursued. This item was tabled by the Mayor until the February regular meeting.

Social Media The proposed Social Media Policy was reviewed and changes were noted for the attorney to make and bring back at the February regular meeting.

Motion by Meinert, seconded by Burchett, **CARRIED**, approving the Mayor to have the authority to post official City correspondence or announcements on social media or appoint another council member to make those postings. Roll call vote. Voting yes were, Tillotson, Guiles, Bailey, Meinert and Burchett. Voting no were, Scharlow and McKinney.

SCBA’s Motion by Tillotson, seconded by McKinney, **CARRIED**, to approve Invoice #18-370 in the amount of \$73,774.00 from Evart Area Joint Fire Dept. for USDA Grant portion for SCBA’s and Air Packs for the Fire Department. Roll call vote. Voting yes were, McKinney, Burchett, Meinert, Bailey, Guiles, Scharlow and Tillotson.

- SAW Grant Motion by Tillotson, seconded by McKinney, **CARRIED**, to approve Disbursement Request #6 from Fleis & VandenBrink in the amount of \$139,199.84 for the SAW Grant Project. Roll call vote. Voting yes were, Bailey, Scharlow, McKinney, Tillotson, Burchett, Meinert and Guiles.
- Rebranding RC Motion by Guiles, seconded by Burchett, **CARRIED**, to approve the formation of a committee for the purpose of developing a marketing strategy for Reed City which may include a logo, re-tag line, etc., etc., etc., and that committee be active for two (2) years. This committee only takes recommendations to council and not have authority to enact those things. Affirmed by voice vote.
- Live Stream Meetings Live streaming council meetings was discussed and the City Manager was directed to look into the cost of technology to do audio and video of council meetings.
- Budget Amend Motion by Tillotson, seconded by Scharlow, **CARRIED**, to approve Budget Amendments as presented by the City Treasurer. Roll call vote. Voting yes were, Meinert, Scharlow, Burchett, McKinney, Guiles, Tillotson and Bailey.

RESOLUTION FOR BUDGET AMENDMENTS

DATE: January 22, 2019

Resolution by the City Council to Amend the 2018/19 fund/department budgets as follows:

<u>FUND/ACCOUNT DESCRIPTION</u>	<u>PRESENT BUDGET</u>	<u>ACTUAL TO DATE</u>	<u>ESTIMATED YEAR END</u>	<u>AMENDED BUDGET</u>	<u>INCREASE (DECREASE)</u>
1. <u>Fund #101 General Fund</u>					
<u>Expenditures (by Department)</u>					
Dept. 336 Fire Department	193,010	90,292	231,035	231,035	38,025
<u>Total Increase(Decrease) in Expenditures</u>					<u>\$ 38,025</u>
<u>Revenues (by account)</u>					
#690 Fund Reserve	-	-	33,000	33,000	33,000
#675 Contributions	-	-	5,025	5,025	5,025
<u>Total Increase(Decrease) in Revenues</u>					<u>\$ 38,025</u>

Reason:

Increase the Capital Outlay budget for the Fire Department to cover the cost of the new SCBA's purchased. \$33,000

Increase the Capital Outlay budget for the Fire Dept. to record the value of the 2007 Ford Explorer of \$5,025 that was donated to us by Dept. of Defense, and increase revenues to reflect the donation.

- RC Group Motion by Meinert, seconded by Scharlow, **CARRIED**, to accept the request from the Reed City Group for establishment of an Industrial Development District at 591 E. Church Avenue. Roll call vote. Voting yes were, McKinney, Scharlow, Meinert, Guiles, Bailey, Tillotson and Burchett.
- Refuse & Recycling Councilperson Burchett spoke with City Hall in Evart regarding trash and recycling pick up in the City of Evart. Trash pick up is on a weekly basis and recycling pick up is a bi-weekly basis and the charge is \$13.90 per month per resident and it is put on their water/sewer billing. There is concern that if the Osceola Recycling Center closes, what kind of an impact will that have on the community. The City Manager was directed to look at options.

- Consent Motion by McKinney, seconded by Scharlow, **CARRIED**, to accept the Consent Agenda as presented. Affirmed by voice vote.
- Committee There were no committee reports.
- City Manager Ron reported on the following:
- Water Asset Management Program was submitted to State of Michigan DEQ by deadline of January 11.
 - Update of the reappraisal – CSZ Services will be sending out postcards to homeowners to let them know this company will be in the community for the reappraisal.
 - The SAW Grant – With the additional work for water/sewer projects the DPW is in need of a new employee who could work on water and sewer projects. Ron will report back at the next meeting on the cost and how it will be paid for.
 - Rotary has indicated they are looking for a large project to start in the spring. Ron will be attending the February Rotary meeting to see if they would be interested in the Linear Park boardwalk replacement and Little Mac Bridge board replacement project.
 - Presented an updated Uncompleted Items List and Longer Range Projects update.
- Water Asset Motion by Scharlow, seconded by Tillotson, **CARRIED**, to approve the Water System Asset Management Program as presented. Roll call vote. Voting yes were, Bailey, Burchett, Guiles, McKinney, Meinert, Scharlow and Tillotson.
- Cemetery Motion by Guiles, seconded by Burchett, **CARRIED**, to appoint Carol Tillotson to the Cemetery Board as council representative. Affirmed by voice vote.
- Bills Mayor Guiles appointed Karen McKinney to review bills prior to the next meeting.
- Mayor Mayor Guiles reported on the following:
- Clarified his statement at the last council meeting regarding the Smithsonian project. He did not mean in any way for the City to take credit for it. The Library is the one that get the credit for the award. When he said us, he meant “we as a community” were awarded this and the Library is responsible for it.
 - Will be talking with people about the congestion on Higbee Street, working with parties around that area and Chief Davis to come up with a solution together as a group.
 - Has met with Pattie Drug and will be meeting with other local businesses.
 - Would like to start something in the line of a coffee or open hour at various places in Reed City where people may feel comfortable talking “Reed City”.
 - Trevor has not had a chance to sit down with the City manager and discuss where we are going forward.
 - Has met with some Dept. Heads, but has not had a chance to meet with the remaining three.
- City Attorney Cindy Wotila submitted her attorney report and explained the two Marihuana Ordinances. Cindy also updated council on the status with CSZ Services working on with the re-appraisal and submitting their monthly reports to the State Tax Commission.
- Ordinance Councilperson Tillotson introduced an Ordinance of Prohibition of Marihuana Establishments and Prohibition on Sale and Consumption of Marihuana in Public Places in the City.

- Ordinance Councilperson McKinney introduced an Ordinance on Prohibition of Marihuana Establishments in all zoning districts, and made the recommendation to present it to the Planning Commission for a Public Hearing and their review.
- Comments Nate Bailey commented regarding the marihuana ordinances, regardless of what is passed, it's not going to change the people's ability to purchase things, they just will not purchase it here and it is a revenue stream to lose out of. Roger Meinert announced his church is going to move forward with a "Refresh Reed City" cleanup on Saturday, April 27th. There will be a push on social media for other to get involved and help with the cleanup and jobs like spreading mulch. Carol Tillotson thanked Roger for all his church does for the community.
- Audience Tom Burnosky, Director of the District Library, thanked everyone for all of their enthusiasm with the Smithsonian project. Tom explained he needed a person to partner with meeting the other cities in March in Lansing. In September, he would also need that person to travel with him to Dundee when it's installed there. There would be no expenses associated with it.
- Adjourn Mayor Guiles adjourned the meeting at 9:15 P.M.

Jacalyn R. Beam
City Clerk