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## Memorandum

December 22, 2008

To: Dana Foster, City Manager

From: Thomas Wightman, Chief of Police

Subject: **RECENT AMENDMENT TO THE CODE OF ORDINANCES**

Chapter 54, Article IV of the City of Brighton Code of Ordinances was recently amended at Section 54-98. This amendment made the following changes as underlined:

Sec. 54-98. Insulting, harassing, etc., others.

(a) It shall be unlawful for any person in the city to insult, accost, molest or otherwise annoy, either by word of mouth, sign, or motion any person in any public place.

(b) It shall be unlawful for any person to harass any person in any public place by striking, shoving, kicking or otherwise touching a person or subjecting them to unwanted physical contact or following a person in or about a public place or places.

(c) It shall be unlawful for a person to engage in a course of conduct or repeatedly commit acts that alarm or seriously annoy another person and that serve no legitimate purpose.

(d) It shall be unlawful for any person, with the intent to harass or alarm another person, to communicate with a person, anonymously or otherwise, by telephone, mail, or any other form of written or electronic communications, in a manner likely to harass or cause alarm.

(e) Any person found to violate this chapter shall be guilty of a civil infraction and shall be punished by a fine(s) as set forth in section 1-16(b).

I recommended these modifications to the City's code of ordinances at the October 2008 City Council goal setting retreat because Brighton did not previously have a mechanism for addressing harassment at this level. Harassment that reaches the level of stalking can be addressed under state law, but lesser forms of harassment require local ordinances. The language adopted in Brighton was adopted primarily from a similar ordinance in Royal Oak that has been in effect for decades.

As I described at the goal setting retreat, such ordinance modifications would provide a tool to enhance law enforcement efforts to respond to citizens reporting incidents of harassment. Some examples where this would apply include:

- Ongoing neighbor disputes that rise to a level where application of the ordinance might prevent a more dangerous escalation of conduct
- Ex-boyfriend or ex-spouse harassing an individual or the new significant other
- Unwanted and repeated text messages
- Harassing phone calls or hang-up calls
- Co-worker harassment
- Harassment of an individual because of their race, sexual orientation, or religious affiliation

The language used in the recent ordinance amendment is similar to that used in numerous other communities in Michigan as demonstrated by the following excerpts:

- Birmingham, 74-57: No person shall insult, molest, or otherwise annoy ...

- Dearborn Heights, 20-52 Harassment: A person commits the offense of harassment if, with intent to harass, annoy or alarm another person ...
- East Lansing, 26-52 Disorderly Conduct: No person shall ... (7) Accost, molest, or otherwise annoy ....
- Farmington Hills, 18-62 Harassment: It shall be unlawful for any person with intent to harass, annoy, or alarm another person ....
- Fowlerville, 54-93: No person shall insult, accost, or otherwise annoy ...
- Grand Rapids, 9.132: No person shall ... (2) Willfully annoy another person
- Green Oak, 22-94 Harassment: It shall be unlawful for any person, with intent to harass, annoy, or alarm another person ...
- Lansing, 658.03 Annoying Persons: No person shall ... (a) willfully annoy another person
- Lyon Township, 26-73 Annoying Conduct: It shall be unlawful for any person to annoy another person.
- Milford, 50-37 Annoying Conduct: It shall be unlawful for any person to insult, accost, molest, or otherwise annoy ....
- Northville, 54-55 Willful Annoyance: It shall be unlawful for any person to ... wrongfully accost, solicit, ogle, insult, whistle, wolf call, molest, ... or otherwise, willfully annoy ...
- Oak Park, 50-103 Annoying Others: It shall be unlawful for any person to insult, accost, molest, or otherwise annoy ....
- Rochester City, 32-72 Harassment: It shall be unlawful for any person, with intent to harass, annoy, or alarm another person ...
- Rochester Hills, 74-209 Disorderly Conduct: No person shall ... engage in activity which shall endanger or annoy other persons ...
- Roseville, Disorderly Conduct: Any person who shall make, excite ... which unreasonably annoys, disturbs ...
- Royal Oak, 278-6 Harassment: A person commits the offense of harassment if, with intent to harass, annoy, or alarm another person, he or she (A) Strikes, shoves, kicks or otherwise touches a person or subjects him or her to physical contact; (B) Follows a person in or about a public place or places; or (C) Engages in a course of conduct or repeatedly commits acts that alarm or seriously annoy another person and that serve no legitimate purpose.
- Wyandotte, 25-76 Disorderly Conduct: No person shall gather with others for any unlawful purpose, or to annoy or disturb others.

While many communities use similar language, it is worth noting that the language established in the Brighton ordinance actually sets a higher standard for enforcement than many of the other communities. The Brighton ordinance requires a course of conduct or repeated acts in order for enforcement action to occur. The ordinances in many of the other communities appear to only require a single instance prior to enforcement; whereas the Brighton ordinance was crafted to establish a balance between the need to protect citizens and the concern for protected speech.