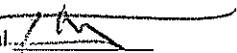


Legal Counsel Approval. 

R.L 07-008

Intro. No. LL 07-1

Perm. No. LL 07-1



IN
THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Dated: March 19, 2007

Sponsored by Councilmember(s): Massar, Cordisco, Collins, Rennia, Weslar, Gerchman,
Kramer, Papastrat, Russo

Introduced by Committee(s) on: MPA

LOCAL LAW NO. 1 OF 2007
entitled

A LOCAL LAW TO CURB MOTOR VEHICLE CRUISING

WHEREAS, the City Council has determined that there is an increased amount of prostitution and drug use in the Center City Weed and Seed designated section of the City of Binghamton, New York; and

WHEREAS, the City Council has determined that motor vehicles "cruising" has a significant impact in increasing prostitution and drug use in the Center City Weed and Seed designated section of the City; and .

WHEREAS, the City Council has determined that "cruising" leads to more motor vehicle accidents, more pedestrian accidents, more moving violations; and

WHEREAS, the City Council has determined that "cruising" is associated with and a proximate cause of an increase in public alcohol consumption, unreasonably loud music, disorderly conduct, loitering, littering, motorist frustration resulting in "road rage", and other associated illegal activity; and

WHEREAS, the passage of this ordinance is pursuant to the City of Binghamton's police power as stated in General City Law §19 and New York State Vehicle and Traffic Law §1640;

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby adopts a Local Law as follows:

Section 1. That the Code of the City of Binghamton, Part II General Legislation is hereby amended to add Chapter 401. Cruising Prohibited, as follows:

Chapter 401, Prohibition against cruising.

§401-1. Short title.

This ordinance shall be referred to as "Anti-cruising Ordinance."

IN
THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Dated: March 19, 2007

Sponsored by Councilmember(s): Massar, Cordisco, Collins, Rennia, Weslar, Gerchman, Kramer, Papastrat, Russo

§401-2. Definitions.

For the purposes of this Ordinance the following terms shall mean:

- (a) *City* is the City of Binghamton, New York, with administrative offices at 38 Hawley Street, Binghamton, NY 13901.
- (b) *Cruising* means driving a motor vehicle on a street past a traffic control point, as designated by the Binghamton City Police department, more than three (3) times in any two (2) hour period, between the hours of 10:00 p.m. and 6:00 a.m. The passing of a designated traffic control point a fourth time under the conditions stated above shall constitute unnecessary repetitive driving and a violation of this Ordinance.
- (c) *Designated area* means: Norfolk & Southern railroad tracks (right above Lewis Street) to the north; western boundary comprises Prospect Avenue, Commercial Alley, Exchange and Isbell Streets; the southern boundary extends along North Shore Drive, and the eastern boundary extends along the Brandywine Highway and Liberty Street.
- (d) *Traffic control point* means a clearly identified reference point to a designated area, as determined periodically by the City of Binghamton Police Department.

§401-3. Cruising Prohibited

No person shall engage in unnecessary repetitive driving, also known as "cruising," in any designated area. For purposes of this Ordinance, the person having control and/or ownership of a motor vehicle shall be considered the person cruising, without regard as to whether that person was actually driving the motor vehicle each time it passed the traffic control point. Having control or ownership of a motor vehicle shall mean either the owner of the motor vehicle as stated on the vehicle registration if the owner is present in the vehicle at the time of the violation, or if the owner is not present in the vehicle, the person operating the vehicle at the time of the violation of this Ordinance

§401-4. Exceptions.

The following use of vehicles shall constitute valid exceptions to the Ordinance:

- (a) Any emergency vehicle
- (b) Any vehicle owned or operated by the City of Binghamton, provided that the vehicle is being operated for official purposes
- (c) Any taxi cab, bus, or other vehicle for hire
- (d) Any vehicle being used to conduct lawful business activities.

§401-5. Penalty

Any person violating the provisions of this Ordinance shall, upon conviction, be fined \$150.00 for each offense.

§401-6. Construction and Severability.

(a) Severability is intended throughout and within the provisions of this Ordinance. If any provision, including any exception, part, phrase, or term, or the application therefore to any person or circumstances is held to be invalid by a court of competent jurisdiction, the application to other persons and circumstances shall not be affected thereby and the validity of the Ordinance in any and all other respects shall not be affected thereby.

IN
THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Dated: March 19, 2007

Sponsored by Councilmember(s): Massar, Cordisco, Collins, Rennia, Weslar, Gerchman, Kramer, Papastrat, Russo

(b) The Chief Executive, after consultation with the City Attorney, is hereby authorized to give advisory opinions in writing, which shall be binding and shall be adhered to by the police, until the Ordinance is amended in such respect, interpreting terms, phrases, parts, or any provision of the Ordinance. Normally such advisory opinions shall be in response to good faith, signed letters addressed to the Chief Executive or to a member of the City Council, questioning the Ordinance as (1) ambiguous; (2) having a potentially chilling effect on constitutional rights specifically invoked; or (3) otherwise invalid, in all three categories with respect to conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of the three categories.

(c) The City Council does not intend a result through the enforcement of the Ordinance that is absurd, impossible of execution, or unreasonable. The City Council intends that the Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional under the Constitution of the State of New York or the Constitution of the United States of America.