

Regular City Council Meeting

October 23 2017

Agenda

7:30 p.m. **Call to Order**
Pledge of Allegiance
Roll Call
Approval of Minutes: October 5, 2017 and October 9, 2017
Approval of Bills: None
Approval of Agenda

Public Comment

I. Old Business –

1. Consider second reading of Ordinance to amend Chapter 58 Article V Division 2 Sections 58-239, 240, 242, 243 to conform with State law changes relating to minors that purchase, possess or consume alcohol.
2. Consider second reading of Liquor License Ordinance – Update and request postponement to 1st meeting in November

II. New Business-

1. 2016-2017 Audit Presentation – Plante Moran
2. Appointment: Heather-Marie Montilla to Cultural Arts Commission
3. Discussion on next steps regarding requested Restricted Covenant for 128 S Lafayette
4. Resolution approving a Uniform Video Service Local Franchise Agreement with Comcast of Colorado/Florida/Michigan/New Mexico/Pennsylvania/Washington LLC
5. Consider approval of City-wide Trick or Treat hours
6. Consider approval of Downtown Trick or Treat and Zombie Walk including street closures
7. Discussion and Consideration of new hire MERS retirement plan.

III. Budget

IV. Discussion- Downtown

V. Manager's Report

VI. Council Comments-

VII. Closed session pursuant to Section 8(a) of the Open Meetings Act to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. City Manager evaluation, at her request.

VIII. Adjournment

CITY OF SOUTH LYON
SPECIAL COUNCIL MEETING
OCTOBER 5, 2017

Mayor Galeas called the meeting to order at 7:30 p.m.
Mayor Galeas led those present in the Pledge of Allegiance
Mayor Galeas stated Councilmember Parisien is out ill

PRESENT: Mayor Galeas, Councilmembers: Kivell, Kramer, Kurtzweil, Rzyzi and Wedell
ALSO PRESENT: City Manager Ladner, Chief Collins, Attorney Wilhelm and Clerk Deaton

CM 10-1-17 MOTION TO EXCUSE ABSENCE

Motion by Kivell, supported by Kramer

Motion to excuse absence of Councilmember Parisien

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Carl Richards of 390 Lenox stated he has been convalescing but he is happy to be here. He further stated it is now old news, but Depot Day was the best day in memory, and many people attended. Mr. Richards stated on behalf of the Historical Society he wanted to let everyone know as of right now they are making preparations for Cool Yule, whether it happens or not. Mr. Richards stated he is running for City Council and he thanked all members of Council for their service.

MERS

City Manager Ladner introduced Sue Feinberg of MERS. Ms. Feinberg stated she is the Regional Manager and she works with employers in the southeast Michigan area. Ms. Feinberg stated the annual actuary evaluation reflects in 2016 the City was 69% funded. She stated it helps to project our rates for 2018. She stated they made some changes based on the experience study. She stated the experience study looks at trends in the County and State and tries to get the best estimates of how long they think people will work and how long they will live. She stated based on the study, people will be living longer which will add to the City's liability. She stated when the City gets a new hire, MERS will try to project their career and when they will retire. She further stated the money the City pays throughout the year will ensure their retirement is fully funded.

Councilmember Kramer stated his 401(k) has gone up 13% and he asked what their rate of return is. Ms. Feinberg stated it is a 7.75% assumption, smoothed out over a period of time. She stated the money is in a total market fund which is the money from everyone that is a part of MERS. She further stated they manage the money themselves. She stated because this is a defined benefit pension plan, it is designed to fare well in all markets. She stated when the market tanked in 2008, MERS outperformed their benchmarks. Ms. Feinberg stated all the funds and histories are on their website. The average rate of return is 9.61%.

She stated the fund did well last year. Councilmember Kramer asked about the process if the City wanted to leave MERS. Ms. Feinberg stated the fund will have to be super-funded at 110% - 120% to ensure the money is there for the last employees. She further stated the City is currently enroute to be paid in full in 22 years. Councilmember Kramer asked if the members of MERS have a say in the changes. Ms. Feinberg stated the board members make the decisions and they take it very seriously. They take tons of

data and make recommendations. She further stated there were benefit enhancements that were made that caused changes. She further stated the higher the multiplier causes the unfunded liability to go up because it wasn't funded upfront. Councilmember Kurtzweil asked who chooses the multiplier. Ms. Feinberg stated the City does. She stated the City can bridge the multiplier back down, but the unions have to agree to it. She stated 2.5% is a very rich plan. She further stated most everyone in the State is setting up lower plans for new hires. Ms. Feinberg stated originally the City's multiplier was 1.3% but it was raised over the years. Councilmember Kurtzweil stated maybe the City didn't understand the consequences of increasing the multiplier over time. She asked how the City can lower the multiplier. Ms. Feinberg stated if the City lowered the multiplier it would take effect on that date, and the employees previous years would still be at the higher multiplier. She stated they would then take those 2 calculations into consideration when the employees retire. She further stated that is the only way to pay down the unfunded liability. Discussion was held regarding the City leaving MERS. Ms. Feinberg explained if there were no employees left in the defined benefit plan, it would dissolve. She stated otherwise if the City wanted to leave MERS and there are still employees in the plan, it would have to be super-funded 120% to ensure the money is there for the employee's retirement. Councilmember Rzyzi stated it is unrealistic to think the City can super-fund the plan 120% when we are 69% funded. He then asked if we can require all new employees to be in a defined contribution plan. Ms. Feinberg stated that can be done, but it would have to be approved by the unions, and it would have to be in their contract, then MERS would run an actuary. Mayor Galeas stated MERS is confusing, and lately there seems to be a division between the municipalities and MERS. He then asked where we fit in with other communities. Ms. Feinberg stated there are a lot of plans that still have a defined benefit, but most are public safety. Councilmember Kramer asked if anyone has ever challenged the calculations of funding percentages of MERS because the funding is going down, but the economy and the rate of return is going up. Ms. Feinberg stated no, because they can show how the member got to where they are. She further stated the liability is going up, and we bill the City based on normal costs and estimation for the employee's retirement. The City's unfunded liability is 4.8 million. City Manager Ladner stated we have raised the employee's contribution. Councilmember Rzyzi asked if we wanted to get to 100% funded, how much would we have to pay each year. Ms. Feinberg stated the City is paying the minimum. She further stated MERS can bill based on a return of 7.75, 6.75 or whatever the City wants. She stated if the City wants to pay off the unfunded liability in 10 years, you will have to pay \$74,989 instead of the \$52,793 which is the cost as of the 1st of the year. She said the average employee contribution is 6%. She further stated the employees should be funding their own retirement. Attorney Wilhelm asked if the City were to close the DB plan for new employees and go to a DC, would that affect the 22 years. Ms. Feinberg stated it would not. Councilmember Kurtzweil asked if the City decides to lower the multiplier for existing employees, will it have an effect on the \$74,989. Ms. Feinberg stated it would. She further stated if the City wants to pay additional money towards the unfunded liability, she suggests using a surplus division so that isn't counted as employer contribution, but it will help pay down the liability. Councilmember Kurtzweil stated there are several components to lowering the unfunded pension amounts such as increasing the employee contributions and another is to lower the multiplier. She further stated this may need to be adjusted each year, which has not been done. She stated we need to get this right. Further discussion was held regarding paying down the unfunded liability. Councilmember Kurtzweil asked if employees are guaranteed a certain amount of money. Ms. Feinberg stated yes, they are. Councilmember Kurtzweil asked if the employees are allowed to take their money out. Ms. Feinberg stated the only money they can take out is their contribution, they cannot take out the City's contribution. Councilmember Kurtzweil stated there is a local community that uses a 457 plan, and when the employee leaves, there is no unfunded liability. Ms. Feinberg stated that is a voluntary plan. She further stated the defined contribution plan is very restrictive. She further stated MERS now offers a DC+ plan which is basically a

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hybrid of a 457 and a defined benefit plan. She stated it gives the employees incentive to put more money towards their retirement. City Manager Ladner stated we currently have that through ICMA.

Councilmember Wedell stated Oakland County had a defined benefit plan as well as a 457 and the 457 was funded by himself. He further stated the money in the 457 is not taxed until it is being drawn out. There was no employer contribution to the 457 plans. Further discussion was held regarding the hybrid plan which normally marries a lower defined benefit and a 457. Councilmember Kivell asked if the employee isn't vested, can they take the money with them. Ms. Feinberg stated they can take their contribution out, but not the City's. Councilmember Kramer asked how many communities have changed their plan in recent years. Ms. Feinberg stated there were 38 divisions in 2017 and in 2016. She stated it is a big decision to change plans, everyone is unique. Most communities want a defined benefit plan for recruiting purposes. Councilmember Kivell stated we have to make assumptions as well. For years we were one of the fastest growing communities and now we are not. The escalation in retirement in smaller increments doesn't seem as perilous. We have set ourselves up in a tough situation, because we aren't getting the revenues. Ms. Feinberg stated the overhead liability is a huge topic right now. She stated most people in the State are in same kind of plan to get funded. She further stated in 2008 MERS began minimum funding to keep people moving forward and they tried to come up with solutions to reduce cost. Ms. Feinberg stated they now have a new CEO and he listens to everyone and he is proactive and things have changed a lot in the last few years. Councilmember Kivell stated MERS has changed a lot and is much more user friendly to us. Ms. Feinberg stated they are going to have something called a health exchange which is very outside of the box. Councilmember Wedell asked what percentage of the defined contributions are unfunded. Ms. Feinberg stated there are 54 over 100% funded, 67 between 90 and 95% funded and 107 with 80-89% funded. She further stated the communities that are 100% funded only have the normal cost of active employees, and there are no unfunded liabilities. They are earning interest on their asset balance. Councilmember Kurtzweil stated this is a statement regarding government managed pensions. She doesn't think government should be in the pension business. She stated there is a pension crisis in this country. Ms. Feinberg stated MERS is not part of the State of Michigan. Councilmember Kurtzweil stated somewhere down the line with whatever process was used, it has caused communities to have unfunded liability. Ms. Feinberg stated MERS tries to get everyone funded, but each government chooses their own plan and their own multiplier. Councilmember Kurtzweil asked if we can freeze the current plan for all employees. Ms. Feinberg stated the unfunded liability must be funded 120%. Councilmember Kurtzweil stated changes are coming. Councilmember Kivell stated the best we are looking at is having a DC plan for new hires. Councilmember Kramer asked what would happen if we hire someone to look at the numbers and we disagree with what MERS. Ms. Feinberg stated that won't happen. She stated when you sign to come into MERS the agreement says the City must abide by their terms. Councilmember Kurtzweil stated we are agreeing to the terms, but what if we disagree with the numbers. Ms. Feinberg stated they have the best actuaries in the Country that are working on the plan. Councilmember Kurtzweil stated the unfunded liability came about because the contributions were not high enough to cover the liability. Councilmember Kurtzweil stated while the City was increasing the benefits, the City wasn't increasing their contribution to the unfunded liability. Ms. Feinberg stated that is correct. Councilmember Ryzzi asked what the next steps are. City Manager Ladner stated this will need to be discussed in a regular meeting and Council can direct her in the way they want to proceed. Councilmember Ryzzi stated he would like to see an 8% maximum match with the employee contribution. Ms. Feinberg stated the City can do that. Councilmember Kivell stated this this only impacts new hires, it doesn't have anything to do with the existing obligation. City Manager Ladner clarified that the City wants an 8% cap match for new hires, but the employee can put in as much as they want. Chris Sovik asked what the other municipalities average percentage allowed to be contributed by the employees. Ms. Feinberg stated there is an IRS cap, but she thinks the average is \$18,500 a year.

Chief Collins asked what the average employers contribution is in the DC plan. Ms. Feinberg stated the average is 8.3%. Councilmember Kurtzweil stated the employees have to get out of being entitled. We don't have a lot of money coming in and we can't afford to pay Cadillac benefits anymore.

CM 10-2-17 MOTION TO ADJOURN

Motion to adjourn by Kramer, supported by Kurtzweil
Motion to adjourn meeting at 9:20 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted

Mayor Galeas

Clerk Lisa Deaton

DRAFT

CITY OF SOUTH LYON
REGULAR COUNCIL MEETING
OCTOBER 9, 2017

Mayor Galeas called the meeting to order at 7:30 p.m.
Mayor Galeas led those present in the Pledge of Allegiance

PRESENT: Mayor Galeas, Councilmembers: Kivell, Kramer, Kurtzweil, Parisien, Rzyzi and Wedell
ALSO PRESENT: City Manager Ladner, Chief Collins, Chief Kennedy, Attorney Wilhelm and Deputy Clerk Pieper
ABSENT: Clerk Deaton

MINUTES

Councilmember Kivell stated on page 2 the statement should be added. He also added he was hoping we would have a process to move toward that goal and have some example documents from other communities that have already created this rather than trying to determine it on the fly. He further stated on page 5 the second line the word "combined" head coach of the combined high school lacrosse teams. Councilmember Parisien stated during her Council Comments she thanked everyone for their hard work on Pumpkinfest and she also thanked DPW and that should be added to the minutes.

CM 10-1-17 MOTION TO APPROVE THE MINUTES AS AMENDED

Motion by Rzyzi, supported by Kurtzweil

Motion to approve the minutes as amended

VOTE:

MOTION CARRIED UNANIMOUSLY

BILLS

Councilmember Kurtzweil asked about the refund of a summer tax overpayment for Corelogic. Is that a tax tribunal issue? Councilmember Kurtzweil asked about a pole barn roof that was replaced. She then asked about another tax refund on the same page. City Manager Ladner stated the pole barn was for the roof at the DPW yard and it was a budgeted item. She is curious for the reason of the refund. Deputy Clerk Pieper stated that is a duplicate tax payment.

Councilmember Parisien then asked about a tax overpayment. City Manager Ladner stated that is the same one.

Councilmember Kurtzweil stated she wanted to bring to everyone's attention the percentage of budget used for administration is 29%. City Manager Ladner stated she is aware of that.

Councilmember Wedell stated the revenue report was less than 20% and the expenditure report is closer to 25%. In the second quarter there needs to be significant attention paid to that.

CM 10-2-17 MOTION TO APPROVE THE BILLS AS PRESENTED

Motion by Kivell, supported by Parisien

Motion to approve the bills as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

AGENDA

CM 10-3-17 MOTION TO APPROVE THE AGENDA AS PRESENTED

Motion by Wedell, supported by Rzyzi

Motion to approve the agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Dennis O'Connor stated he is here to observe and represent Mrs. Crawford the State Rep. Mrs. Crawford sometimes sends reps to observe and listen to local community issues. He further stated he has left a business card for her with the City Manager.

Tim McClorey of the MMRMA stated he is here to let the City know the board of directors has decided to give \$23 million back to the communities. He further stated they have given back \$250 million over the years. Mr. McClorey stated we have a wrap program and all department heads can go through and see any grants the City will be interested in. He further stated he is giving the City a check tonight for \$30,334.00

Carl Richards of 390 Lenox stated he is here to reiterate what he said at the last meeting because it wasn't televised along with some new information. He stated the Depot Day was the biggest and best ever had and there were 1,000 people in attendance and more vendors than ever before. He further stated the Historical Society is preparing for Cool Yule whether it happens or not. The Depot will have Santa Claus and festivities. Mr. Richards stated in November they will be closing the museum on Sundays and they will be open on Saturdays instead of Thursday, more predominately next year. Mr. Richards stated the gazebo roof was completed. He further stated they agreed to go with an antique train for their design. He further stated the bidding is still open for the deck on the gazebo, the lowest bid has been \$25,000 and that is out of their budget. He further stated the museum doors have been fixed as well. Mr. Richards stated he attended Heinanen's's open house which was the second of the year. He further stated he didn't know many people, but some knew him and were happy to see him. Mr. Richards stated Gary Fagin's business in the old Brown's building has finished their underground work, which was mandated by Oakland County and the building is coming in good. Mr. Richards stated he speaks with South Lyon Woods often, and they have agreed to give him something in writing showing what improvements they will be doing in the future. Mr. Richards stated Dante's Real Estate next to the bakery has closed. He has not spoken with the owner of the property. Mr. Richards stated it has been exactly 60 days since he was injured and he isn't completely healed, but he is working on it. He stated this has given him a greater understanding of what the handicapped people go thru with the curbs and sidewalks. It is terrible, but it is great to have the South Lyon Rehab in town. Mr. Richards stated he hopes to continue to have good weather. He then thanked everyone.

OLD BUSINESS

1. Consider second reading of Ordinance to repeal Sec 58-83 criminalizing the possession of a switchblade knife

Attorney Wilhelm stated there have been no changes from the original reading.

CM 10-4-17 MOTION TO APPROVE THE SECOND READING

Motion by Kivell, supported by Parisien

Motion to approve the second reading criminalizing the possession of a switchblade knife

VOTE: MOTION CARRIED UNANIMOUSLY

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2. Consider first reading of ordinance amendment rezoning parcel 21-30-126-003, West End Industrial Park, from the I-1 District (light industrial) to the RM-1 District (multiple-family residential)

Attorney Wilhelm stated this was postponed from a previous meeting because we were waiting for a report from Rowe Engineering. He stated the Planning Commission recommended denial in December 2016. He has provided Council with a full packet of information such as site plans approved in 1998, application for rezoning, as well a letter from Mr. Linnell the applicants attorney. Mr. Avantini of CIB Planning stated when the applicant applied for a rezoning they suggested the lots are too small to use for industrial. He stated Rowe Engineering has supplied a report showing a range of sizes of buildings that can be built in there. He stated the range is from 8,800 square feet to 57,900 square feet. Mr. Avantini stated this is not a scientific type of thing, we are looking at land uses. He further stated based on the comment that the lots were too small for the industrial use, but there is another local community they are reviewing a building for just under 12,000 square feet and they have had an interest in that size of buildings. He further stated this is another piece of information Council can take into consideration. He further stated he still recommends the original recommendation of not changing the zoning. He further stated another concern is the noise from the tube mill. He stated it is not a good idea to put a residential use next to a manufacturing use that creates a lot of noise. He further stated that is why we began separating our land uses. Councilmember Kivell asked if the land is platted. Mr. Avantini stated there are options for different layouts. Councilmember Kramer asked if the current layout is a hinderance for new development. Mr. Avantini stated he isn't the most qualified person to speak to that, but his opinion is it potentially could be. He further stated you can fit smaller buildings in there. Councilmember Kramer asked what the original plan was when the road was put in. He further asked how the original road design came about. Mr. Avantini stated that is a question for the applicant, this was done in the 1980's. Councilmember Kramer asked if there was any marketing done before the streets were put in. Mark Zulack of the Thomas Duke Company stated once the roads were put in there were 5 or 6 industrial firms that marketed the property. Councilmember Kramer asked when it was residential was any marketing done before it was rezoned to industrial. Ralph Nunez of Nunez Design presented a power-point presentation representing their request for the rezoning. Next to speak is Richard Lanell, 2804 Orchard Lake Road, Suite #203, Keego Harbor, Michigan. After much more involved discussion, Councilmember Kramer questions what the property is marketed for and what is the asking price. Lanell advises that it is under contract right now and the asking price is \$1.8 million, pending re-zoning. Kurtzweil goes on to discuss the true value of the property priced as industrial property. There are two different market values depending on how the property is zoned. Somebody is trying to say to the City of South Lyon that you need to help me make \$1.8 million on this property, and she believes this property was bought for \$100,000. Why is South Lyon being asked to carry the burden here of assisting somebody to sell the property at the maximum value? When the owner consciously bought the property it was zoned residential, they came to the city and asked it to be rezoned industrial, so now we did what he asked us to do. Now we are finding out, that this may be a very good zoning for this property from the arguments from our own City Planner. Lanell advises that he represents someone that would like to use the property and has determined that the best way to use this site is to make it in to a multi-family residential site. Kurtzweil poses the question, So what is the difference between this location and the Dennis DuBoc development that is doing very well, and that is about a quarter of a mile away from this property. The lengthy discussion continues between the Council and the representatives that are present. Councilmember Kramer goes on to explain that the exact same argument, but in reverse, 20 years ago, was made to the Council. We have looked at this land as Industrial for the last 20 years and when you developed the city, that part of the plan (as Light Industrial) was part of the city. Everything else has been

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developed. 66% of our City is residential and we only have 4.3% of the land left in our city as Industrial. Kurtzweil goes on to discuss our City Planners argument regarding the land use inventory. Our City is rich in residential development. We have a ton of what you are proposing. This city has flat line tax revenue. We have severe pressure on our budget. We are going to compound it with 66 homes. We want Industrial use. At this time, Economic Developer and DDA Director, Bob Donohue, states that he has been in Economic Development for the last 39 years and he feels it is important to say something about his experience. Future land use regarding new construction – no community realizes or implements its entire Master Plan overnight. It's reaffirmed every five years, and he knows of no community that has every realized its Master Plan overnight, or within five years or even ten years. Donohue would like to know what marketing has been done, both in the past and the present. Light Industrial now on N. Mill Street is thriving and has no problem with location. In fact, there are two requests to expand. We just came out of the Nation's worst recession since the great depression; this has affected us for at least ten years. The subject's property is the last undeveloped zoned I1 property in the city. This alone will attract more business owners who potentially want to live and work in this community. The applicant keeps describing location doom and gloom. Donohue goes on to say that he wants all to know that all of our current occupied light industrial and heavy industrial are extremely successful.

Councilmember Parisien states that she has taken a poll and the people have said they do not want to become New Hudson or Lyon Township, they are building warehouse after warehouse and factory after factory. On the other hand, people are saying that they do not want to see more houses built. So it is really a tossup. But what it comes down to is that traffic is still an issue and she is not convinced that our infrastructure can handle it. That is an average of two cars per household. Parisien states that she does not support this at this time.

Councilmember Ryzzi calls point of order, Councilmember Wedell calls the question -- a motion must be made. Attorney Wilhelm strongly recommends that a motion is made.

CM 10-5-2017 Motion to deny the amendment of the official zoning map of the City of South Lyon rezoning parcel #21-30-126-003, West End Industrial Park, from the I-1 District (light industrial) to the RM-1 District (multiple-family residential) for the following reasons:

1. The proposed re-zoning is not consistent with the City of South Lyon Master Plan, and more specifically the future land use.
2. There is a need to retain the city's limited industrial land.
3. Rezoning the land to residential does not address a community need. Residential land use in the city is 65%, the site is capable of accommodating the range of uses permitted in the I-1 District.

Next, residential use at this location is not appropriate due to adjacent existing Industrial uses. Further, this motion is being made based on the recommendation of the Planning Commission and the Planning Consultants letters, and the discussion this evening and the documents provided for review and comment.

Motion by Kurtzweil, Supported by Kramer

VOTE:

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS

1. Consider first reading of Ordinance to amend Chapter 58 Article V Division 2 Sections 58-239, 240, 242, 243 to conform with State law changes relating to minors that purchase, possess or consume alcohol.

CM 10-6-2017 Motion

Motion by Kramer, Supported by Kurtzweil

VOTE:

MOTION CARRIED UNANIMOUSLY

Attorney Wilhelm added for clarification that the Governor did sign the legislation that will change the effective date to January 1, 2018. Wilhelm stated that he will change that date for the second reading.

BUDGET

Councilmember Kurtzweil states that she would like to add the following to the minutes (Exhibit 1), she goes on to explain that this is an article that she found that provides some interesting information and she would like to bring it to Council's attention, and everybody as we move forward in November. As she stated before, the City of East Lansing is putting before the voters a ballot initiative to provide a city income tax proposal and the reason that they are doing it is because they are looking at \$200 million in unfunded pension and health liabilities and somehow the politicians in East Lansing believe that taxing their way out of the problem is going to solve it and Kurtzweil would just like to say that maybe East Lansing needs to start sitting down and making tough decisions like what we are going to have to do in the next couple of months, making very, very tough decisions instead of going to the tax payers and asking them to bail us out a little bit.

On the spending side, in the City of East Lansing, their City Council increased spending from \$42 million to \$48 million and so I think you can see what happens when you don't have your spending under control, because there is really only one place to go for the money and that is the taxpayers, whether you are increasing property taxes or selling bonds. So this is an interesting article, it's just another point to say that we need to get some issues under control on the budget. Thank you.

Councilmember Ryzyi explains to the public that a meeting was held this past Thursday regarding MERS, the city's unfunded liability pension program. He adds that there was some very disturbing news on how we got to where we are today. That was the negative, the positive was that it did shed light on the situation we have at hand. He goes on to say that he felt it was a productive meeting and it put into perspective how much money we have that we owe (that we are in the hole) and how much money it would take to get out of the hole, and what kind of challenges this council is going to have. It's a very serious matter, but he is confident that going forward as a city council we will be able to get our arms around this. It's going to be tough. Everyone wants to keep spending, but you can't spend your way into prosperity, it doesn't work. Ryzyi goes on to say that he is confident that as a council, we will be a fiscally responsible council that will take this seriously and once and for all get ourselves on a payment plan, payment track and to get this resolved and make some changes going forward, especially we'll tackle this next year. So more to come.

Councilmember Kivell adds that the other side of the coin for the MERS meeting was that we are already on a payment plan. It will be 22 years to pay off our existing defined benefit situation. The really heartening part was the transition into a defined contribution system that we're pretty much pushing our

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way in to, much as most communities are doing right now, trying to shave those legacy costs. We already have been approaching this solution.

City Manager Ladner adds that the Council will be receiving an email from her that has recent survey data done from several communities across the state of Michigan regarding revenues, proposed revenues, what they've done and when they did them. She adds that it is very informative and looks forward to discussing it.

DOWNTOWN

Economic Development and DDA Director Bob Donohue begins by stating that we are not locationally challenged, we have a great location and a great community. Donohue goes on to mention the highlights in the attached report that he had prepared, which included: the final draft of the Downtown Business Directory, the final revisions of the Downtown Historic Walking Tour Booklet, the installation of the No Truck Turn signs at Lake and Lafayette Streets, the Banner Poles, the Cornstalks in the downtown area, the annual Kids Trick or Treat and Zombie Walk, Ladies Night Out, Friday, November 17th, along with a few more items.

The discussion continues regarding the No Truck Turns and the re-routing of traffic.

Councilmember Ryzyi questions if Council will be approving the downtown street closers at the next meeting. Chief Collins advises that the Police Department has not yet received a request to close the streets (as of yet). City Manager Ladner and Donohue both confirm that this comes from the DDA (Abe Ayoub) and should be received shortly. Ryzyi adds that again he would like to say again that eventually, someday, (adding a comment to Chief Collins that we haven't always agreed on this) but it would be nice to see the roads closed all the way from the former Brown's, because we have so many kids and so many parents walking down that street and there are so many cars trying to bypass the downtown area. It would be great to extend the downtown area to make it more safe. He adds, I don't know if this is possible for this year, but he will definitely be pushing this for next year.

Councilmember Kurtzweil (requesting this to be taken back to the DDA) compliments the cornstalks downtown, stating that they look absolutely fabulous. She goes on to say that she has been in this town 20 years and that Downtown has never looked as good as it does now. To drive North on Pontiac Trail and see the American Flags and these cornstalks, you really do feel like you are in a kind of Norman Rockwell town. The visual impact that this is making by someone taking some time and beginning to add some of the touches that Downtown really really needs. And also, I wanted to bring to your attention that you do have some of the stores in the Downtown beginning to decorate. Grand Trunke looks absolutely fabulous, Lemon Tree with Annie looks absolutely great, Jan's Skin Spa and Divine Yoga have mums out there. You go down to the Hotel and he has metal carved pumpkins that are on the railings and plus he has mums out there in the landscaping, you go across the street and Emily's got the cutest little Fall things out, Diane has pumpkins in her window. It's beginning to spread and beginning to take off and she goes on to say that she thinks that that's what shoppers want to see. They want to see the seasonal decorations in the downtown. So she wants to thank you and the DDA for really putting forth a great effort. That downtown looks darling.

MANAGERS REPORT

City Manager Ladner states that some of her things have already been covered, the work session with MERS was very productive, and the MERS issue will be placed on the agenda for next week for

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discussion. She states that they also had the sub-committee meeting for the Liquor License ordinance and that too will be on the agenda for the second reading. Thanking Councilmember Parisien for her input on this. It's that time again for the mandatory CDBG meeting which will take place next week. At the next Council meeting, we will be scheduling a public hearing, because that will only give us three more meetings until the application is due in early December. Ladner goes on to touch on the Downtown Trick or Treating and Zombie Walk, the Ladies Night Event and that the Hotel should be open by then. She encourages everyone to come down and visit our local restaurants, Draft Street, Lake Street Tavern, Corner Café and the Hotel. A reminder that there are three more weeks left of the Farmer's Market on Saturday's. A great way to get your Christmas shopping done.

Ladner states that she will be bringing to the Council for discussion getting an RFP for security systems for City Hall. Over the past several weeks we have had several incidents that have made City Hall Staff concerned about visitors at City Hall to the point where today, police assistance was requested at City Hall to manage a situation. Ladner adds that she believes it's time to add a security system to ensure the safety of our employees.

COUNCIL COMMENTS

Councilmember Wedell – Pass

Councilmember Kramer – States he has said enough

Councilmember Ryzyi – Begins by saying that he wants to give this Council a lot of credit. We had an important issue with this re-zoning request. He states that he can't speak for Council, but as you can see, it was overwhelming, pretty much the consensus that we need to maintain the character of that development and that land. He adds that he thought it was really nice and that there was some healthy discussion there and Council agreed on it, because this was a very serious discussion and an issue and the personal opinion from me is that the residents have spoken and they do not want to see re-zoning to residential. People are looking at all the development around us, in Lyon Twp., and what have you and they just see housing all over the place and they just want the growth to slow down. Ryzyi goes on to say that he was pleased on how that vote turned out and thanked Bob Donohue for speaking up. He then goes on to address Carl Richards, stating it is nice to see him here, and to see him recovering from his injury. He states that it's nice to see you come here, you have such a good following with the Senior Community and being a senior yourself, people look to you. It's good for you to come here and give that advice that so many are looking for, so thank you. Also, a big thank you to Tamara Ward, at Abbey Park, for assisting in getting Mr. Richards his scooter. For helping out one of our local watch dogs. Ryzyi goes on to state that has been quiet, but keeping his eye on the invoices from our City Attorney. He continues by telling Tim that he is very impressed with how the invoices have really been in line with staying under the retainer. Ryzyi adds that this was one of his goals, and that was one of his criticisms or scrutiny was keeping those invoices in line underneath the \$9,000 retainer, and for the past three or four months, they've been where they should be and he thanks Tim for taking all that criticism constructively and watching out for the tax payers, so thank you. He goes on to also thank the Johnson Rosati Law Firm for all the hard work they do for the city. Ryzyi then goes on to give credit to Bob Donohue and to our current Mayor, John Galeas about the signs downtown. He goes on to say to the Mayor, that he knows that he is a humble man and if he tries to him credit, he will say that this is a team effort. But they had these conversations two years ago, and that is what you said you were going to do, and you stuck to it. Trucks hitting the polls, people hitting the poles, fortunately, no one was killed or injured. The Mayor drove that project, and it's finally getting done with the assistance of Bob Donohue, so we haven't always agreed on everything, but we agree on this one, and it's a good lasting impression. He goes on to wish everyone a good week, thanking everyone for listening, thank you.

10-9-17

Councilmember Kivell – Begins with asking Chief Collins about the replacement for the PD clerical, Chief Collins advises that they have made their selection but have put the actual hiring process on hold pending an authorization from the City Manager and her discussion with Sue Fineberg to clarify some restrictions on a temporary rehire of our clerk until Council makes a final decision on a defined benefit vs a defined contribution plan. Collins goes on to say that there is a dire need to get a decision on this. Kivell then questions City Manager Ladner about a date for her evaluation. Ladner advises it will be on the next agenda. Kivell goes on to ask about the project with the schools and the improvements to the theater here. Ladner states that the schools will be doing the bidding process. Kivell goes on to discuss the position for the Water/Waste Water Director. Ladner advises the wording has been done, but again, the wait is on the MERS decision. Kivell questions the fee schedule and trying to get that worked out. Kivell and Chief Collins go on to discuss the truck pattern and how warnings will be handled as we move forward. Including classifications for trucks and the motor vehicle description of trucks.

Councilmember Kurtzweil – begins by presenting and requesting this to be attached to the minutes – the MCL 169.247 – one of the statutes out of the Michigan Campaign Finance Act and the reason that this is important, and Kurtzweil wants to make sure that the candidates running for Mayor and the candidates running for City Council understand that if you put literature out there in the public. Whether it's a lawn sign or a piece of literature that you are going to be distributing, the state does regulate that you have certain disclosures or disclaimers that are put on that literature. Failure to do so is a misdemeanor. So you don't want to start circulating printed material that does not have the proper disclosure on it and it has come to my attention that there may be some violations out there. To be fair to all the candidates running, Kurtzweil advises that she is just going to submit this statute so that you can read it. If you are going to get involved in campaigns you have the Oakland County Election Division, which is very helpful, the Secretary of State that can help you. Don't start your political careers as early as you are by not following our election statutes. They are pretty simple and easy to understand. The disclaimer is the big thing, and that disclaimer is: Paid for by the committee to blah, blah, blah....That needs to be put on your literature and your lawn signs, and it has to be readable. And you need to look at the statutes to see what address and name you need to have on it. To all of you, Good Luck, and she wishes them well. She just wants to make sure that everyone understands that you have to play by the same rules.

Kurtzweil then goes on to discuss an up and coming event at St. Joe's Catholic Parish, the Fatima Festival 100, and it's beginning Friday, Saturday and Sunday of this week. It is a full agenda of activities and speaker's from all over the country. Kurtzweil goes on to explain the history of the Fatima Festival, and goes on to welcome all that will be pilgrimaging to the city of South Lyon from all over the state and from Northern Ohio. This is a very significant event and adds that she thinks this is great for our city and it's about a time of peace. Kurtzweil goes on to say that October is a wonderful month to enjoy. Go out to the Cider Mills, carve a pumpkin or two. Kurtzweil adds that she has been to Erwin's and they have told her that they are almost hitting record numbers, same with Three Cedars Farm. Please enjoy them. October 28th is the costume party at the Witch's Hat. Kurtzweil then touches on the downtown trick or treating event and how every year they are hitting record attendance, we will go through over 1,000 – 1,500 pieces of candy just in our little block alone. This is growing leaps and bounds. Have a great October, enjoy the weather. And Carl you have been missed, not just by the seniors.

Mayor Galeas – Discusses the truck turns and the downtown area. When you live downtown you see the disruption. Galeas reflects on the conversation that he had with the Former Mayor and his response to the situation, which was, "not much we can do, it's Oakland County". He just didn't accept that. The buck stops here at this Council table. He goes on to state that this is a very compassionate Council and that

everyone does care about this city. He goes on to make a request to all the future candidates, remember that we work for the people and represent the City. Keep that close to your heart and understand how that works.

Councilmember Parisien states that she would like to give a shout out to the South Lyon Junior Area Chamber; they are hosting a Pub Crawl on October 21st and it will include all the best Brews of South Lyon: Lake Street, Draft Street, Third Monk and Witch's Hat. And you will be able to get different brews and different drinks at discounted prices. You will get a T-shirt, and speaking of T-shirts, the Junior Chamber is looking for sponsors to put their logos on the T-shirts. So if you know or are an interested party, contact them. All the proceeds will be going to Operation Injured Soldier. There is a link on the website for tickets.

ADJOURNMENT

CM 10-7-17 MOTION TO ADJOURN

Motion to adjourn by Kramer, supported by Rzyzi

Motion to adjourn meeting at 10:15 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted

Mayor Galeas

Deputy Clerk Judy Pieper



FORtheRECORD...

For This City's Politicians, Keeping A Lid On Spending Called 'Trying Times'

Their easy way out is to put city income tax on the Nov. 7 ballot

Oct. 6, 2017

The Lansing State Journal's editorial board thinks that East Lansing voters should approve a city income tax proposal that local politicians have placed on their Nov. 7 ballot.

In its editorial, the newspaper says: "In trying financial times, it is ludicrous not to consider every tool in the arsenal for addressing city debts. And for a city looking at \$200 million in unfunded pension and health care liabilities, this is a sensible way to chip away at it."



Photo via City of East Lansing.

ForTheRecord says: "In trying times?" City finances are complex but the actual numbers are not secret. Specifically, East Lansing's annual budgets from 2013 through 2016 provide all the information that residents (and newspaper readers) need to make up their own mind about the city's finances.

The city of East Lansing's total revenue from all sources has increased from \$45.09 million in 2013 to \$46.87 million in 2016. When adjusted for inflation, the \$45.09 million the city collected in 2013 would have had to grow to \$46.54 million in 2016 dollars. That means the city's real income has increased slightly faster than inflation.

It's a different story on the spending side, though. During the same three-year period, members of the city council have increased city spending from \$42.78 million to \$48.85 million. That's a \$6.07 million increase before inflation.

East Lansing politicians look to be having trying times when it comes to keeping a lid on city spending.

Exhibit 1

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)

Act 388 of 1976

169.247 Printed matter or radio or television paid advertisement having reference to election, candidate, or ballot question; name and address; identification or disclaimer; size and placement; rules; exemption; statement that payment made "with regulated funds"; communication exempted under section 6(2)(j); violation as misdemeanor; penalty; prerecorded telephone message.

Sec. 47. (1) Except as otherwise provided in this subsection and subject to subsections (3) and (4), a billboard, placard, poster, pamphlet, or other printed matter having reference to an election, a candidate, or a ballot question, shall bear upon it an identification that contains the name and address of the person paying for the matter. Except as otherwise provided in this subsection and subsection (5) and subject to subsections (3) and (4), if the printed matter relating to a candidate is an independent expenditure that is not authorized in writing by the candidate committee of that candidate, in addition to the identification required under this subsection, the printed matter shall contain the following disclaimer: "Not authorized by any candidate committee". An individual other than a candidate is not subject to this subsection if the individual is acting independently and not acting as an agent for a candidate or any committee. This subsection does not apply to communications between a separate segregated fund established under section 55 and individuals who can be solicited for contributions to that separate segregated fund under section 55.

(2) A radio or television paid advertisement having reference to an election, a candidate, or a ballot question shall identify the sponsoring person as required by the Federal Communications Commission, bear an identification that contains the name of the person paying for the advertisement, and be in compliance with subsection (3) and, except as otherwise provided by subsection (5), with the following:

(a) If the radio or television paid advertisement relates to a candidate and is an independent expenditure, the advertisement shall contain the following disclaimer: "Not authorized by any candidate".

(b) If the radio or television paid advertisement relates to a candidate and is not an independent expenditure but is paid for by a person other than the candidate to which it is related, the advertisement shall contain the following disclaimer:

"Authorized by.....".
(name of candidate or name of candidate committee)

(3) The size and placement of an identification or disclaimer required by this section shall be determined by rules promulgated by the secretary of state. The rules may exempt printed matter and certain other items such as campaign buttons or balloons, the size of which makes it unreasonable to add an identification or disclaimer, from the identification or disclaimer required by this section.

(4) Except for a communication described in subsection (5) and except for a candidate committee's printed matter or radio or television paid advertisements, each identification required by this section shall also indicate that the printed matter or radio or television paid advertisement is paid for "with regulated funds". Printed matter or a radio or television paid advertisement that is not subject to this act shall not bear the statement required by this subsection.

(5) A communication otherwise entirely exempted from this act under section 6(2)(j) is subject to both of the following:

(a) Must contain the identification required by subsection (1), (2), or (7) if that communication references a clearly identified candidate or ballot question within 60 days before a general election or 30 days before a primary election in which the candidate or ballot question appears on a ballot and is targeted to the relevant electorate where the candidate or ballot question appears on the ballot by means of radio, television, mass mailing, or prerecorded telephone message.

(b) Is not required to contain the disclaimer required by subsection (1) or (2).

(6) A person who knowingly violates this section is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 93 days, or both.

(7) A prerecorded telephone message that in express terms advocates the election or defeat of a clearly identified candidate, or the qualification, passage, or defeat of a ballot question, shall bear an identification that contains the name and telephone number, address, or other contact information of the person paying for the prerecorded telephone message, and shall be in compliance with subsection (4). A prerecorded telephone message subject to this subsection is not required to contain a disclaimer.

History: 1976, Act 388, Eff. June 1, 1977;—Am. 1978, Act 348, Imd. Eff. July 12, 1978;—Am. 1996, Act 225, Imd. Eff. May 30, 1996;—Am. 2001, Act 250, Eff. Mar. 22, 2002;—Am. 2012, Act 277, Imd. Eff. July 3, 2012;—Am. 2013, Act 252, Imd. Eff. Dec. 27, 2013;—Am. 2015, Act 269, Imd. Eff. Jan. 6, 2016.

Exhibit 2

Compiler's note: Section 2 of Act 225 of 1996, which amended this section, provides:

“Section 2. If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory act is declared to be severable.”

include the occupation, employer, and principal place of business of each individual who is a member of the partnership and contributed \$200.01 or more for that election.

(2) A committee which receives a written statement attributing a partnership contribution to the partners as individuals shall report the contribution as if the committee had received a separate contribution from each individual.

History: 1979 AC; 1982 AACs.

R 169.36 Printed material or other campaign media; identification or disclaimer; exemption.

Rule 36. (1) Printed material having reference to an election, a candidate, or a ballot question shall bear the identification or disclaimer, or both, provided in section 47 of the act in a place and in a print clearly visible to and readable by an observer. Any other medium used for campaign purposes shall clearly and unequivocally include the identification or disclaimer, or both, provided in section 47 of the act.

(2) The identification required by section 47 of the act for printed material shall include the words "Paid for by," followed by the full name of the person or committee paying for the material and the person's or committee's street number or post office box, city or town, state, and zip code. A disclaimer shall be in the same form as an identification, except that it shall be preceded by the phrase "Not authorized by the candidate committee of (candidate's name)."

(3) A campaign item, the size of which makes it unreasonable to add an identification or disclaimer, or both, as designated by the secretary of state, is exempted from this rule.

History: 1979 AC; 1982 AACs.

R 169.37 Cash or cash equivalents on hand following election; reporting.

Rule 37. (1) The cash on hand at beginning of accounting period shall be part of the aggregate receipts for the next ensuing election, but need not be further itemized.

(2) A committee shall not qualify for a reporting waiver if the committee has cash on hand in excess of the amount specified in section 24(4) of the act.

History: 1982 AACs.

R 169.38 Petty cash fund.

Rule 38. (1) A committee treasurer may establish a petty cash fund.

(2) A petty cash fund shall be established only from funds withdrawn from a committee account.

(3) A person making payments from a petty cash fund shall maintain records of the amount and purpose of each expenditure and shall deliver the records to the committee treasurer.

Exhibit 2

AGENDA NOTE

MEETING DATE: October 23, 2017

PERSON PLACING ITEM ON AGENDA: City Attorney

AGENDA TOPIC: Second reading of Ordinance to amend Code of Ordinances, Chapter 58, Article V, Division 2, Sections 58-239, 240, 242, 243 to conform with State law changes relating to minors that purchase, possess or consume alcohol

EXPLANATION OF TOPIC: Under Public Acts 357 and 358 of 2016 the first offense by a person under age 21 for purchasing, possessing or consuming alcohol will be a civil infraction rather than a misdemeanor subject to a \$100 fine. A second offense remains a misdemeanor subject to 30 days in jail and a \$200 fine, and third or subsequent offenses can be subject to a maximum of 60 days in jail and a \$500 fine.

The laws also amend the provisions relating to the court's authority to defer and dismiss proceedings and place the person on probation pending successful completion of substance abuse treatment, community service or other terms of probation.

The laws also amend provisions relating to the administration and use of preliminary chemical breath analyses for minor in possession offenses.

The Governor signed Public Act 123 of 2017 (HB 4939) which clarifies that the aforementioned state law changes become effective on January 1, 2018. The ordinance has been revised since the first reading to change the effective date of the ordinance to match the effective date of the state law changes – ie, January 1, 2018.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Redline Ordinance amendment showing revisions to effective date
- JRSJ letter dated October 2, 2017
- Senate Fiscal Agency Bill Analysis of PA 357 and 358 of 2016
- PA 357 and 358
- Senate Fiscal Agency Bill Analysis of HB 4213 (PA 89)
- PA 89
- JRSJ letter dated October 5, 2017
- PA 123 revising the effective date of PA 89 to January 1, 2018

POSSIBLE COURSES OF ACTION: approve/deny/postpone/no action

RECOMMENDATION: Approve second reading of ordinance amendment as presented

SUGGESTED MOTION: Motion to approve the second reading of ordinance to amend City of South Lyon Code of Ordinances, Chapter 58 – Offenses and Miscellaneous Provisions, Article V – Offenses Involving Minors, Division 2 – Alcoholic Beverages, to conform to changes in State law.

**CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON
CODE OF ORDINANCES, CHAPTER 58, "OFFENSES AND
MISCELLANEOUS PROVISIONS," ARTICLE V, "OFFENSES
INVOLVING MINORS," DIVISION 2, "ALCOHOLIC
BEVERAGES," TO CONFORM TO CHANGES MADE IN STATE
LAW.**

THE CITY OF SOUTH LYON ORDAINS:

PART I: Amendment of Section 58-239. Section 58-239, "Furnishing false information or evidence of age to a person under 21" in Division 2, "Alcoholic Beverages," Article V, "Offenses Involving Minors," Chapter 58, "Offenses and Miscellaneous Provisions," of the City of South Lyon Code of Ordinances is amended to read as follows:

Sec. 58-239. - Furnishing false information or evidence of age to a person under 21.

Any person who furnishes false information regarding the age of another person under the age of 21 years for the purpose of procuring the sale of alcoholic beverages to said other person, or who furnishes false documentary evidence to a person under the age of 21 years who uses the evidence to purchase alcoholic beverages shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

PART II: Amendment of Section 58-240. Section 58-240, "Misrepresenting age to secure purchase of alcoholic beverages by person under 21 years of age" in Division 2, "Alcoholic Beverages," Article V, "Offenses Involving Minors," Chapter 58, "Offenses and Miscellaneous Provisions," of the City of South Lyon Code of Ordinances is amended to read as follows:

Sec. 58-240. - Misrepresenting age to secure purchase of alcoholic beverages by person under 21 years of age.

Any person under 21 years of age who falsely represents himself or herself to be 21 years of age or older through the furnishing of documentary evidence or the giving of other false information regarding his or her age, to any person selling alcoholic beverages, for the purpose of purchasing or attempting to purchase any alcoholic beverage shall be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

PART III: Amendment of Section 58-242. Section 58-242, "Purchasing, consuming, or possession of alcoholic beverages by persons under 21 years of age" in Division 2, "Alcoholic Beverages," Article V, "Offenses Involving Minors," Chapter 58, "Offenses and Miscellaneous Provisions," of the City of South Lyon Code of Ordinances is amended to read as follows:

Sec. 58-242. - Purchasing, consuming, or possession of alcoholic beverages by persons under 21 years of age.

It shall be unlawful for any person under the age of 21 years to purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor or have any bodily alcohol content, except as provided in MCL 436.1703 and this section. For purposes of this section, a person under the age of 21 is deemed a "minor." This section shall not apply to the following:

- (1) A person less than 21 years of age who possesses alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by under the Michigan Liquor Control Code of 1998, Public Act 58 of 1998, as amended, by the state liquor control commission, or by an agent of that commission, if the alcoholic liquor is not possessed for his or her personal consumption.
- (2) The consumption of alcoholic liquor by a person less than 21 years of age who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member if the purpose of the consumption is solely educational and is a necessary ingredient of the course.
- (3) The consumption by a person less than 21 years of age of sacramental wine in connection with religious services at a church, synagogue, or temple.
- (4) A minor who participates in an undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.
- (5) A minor who participates in an undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action
- (6) As used in this section, "any bodily alcohol content" means either of the following:
 - a. An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - b. Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

PART IV: Amendment of Section 58-243. Division 2, "Alcoholic Beverages," Article V, "Offenses Involving Minors," Chapter 58, "Offenses and Miscellaneous Provisions," of the City of South Lyon Code of Ordinances is amended to amend Section 58-243, "Penalties, sanctions, submission to preliminary chemical breath analysis" to read as follows in its entirety:

Sec. 58-243. - Penalties, sanctions, submission to preliminary chemical breath analysis.

Notwithstanding the penalties provided in section 1-14, any minor who violates section 58-242 is responsible for a municipal civil infraction or guilty of a misdemeanor punishable by the following civil fines and sanctions and is not subject to the penalties prescribed in section 1-14:

- (1) For a first violation of section 58-242, MCL 436.1703(1), or other local ordinance substantially corresponding to that statute, the minor is responsible for a municipal civil infraction, shall be fined not more than \$100.00 and may be ordered to participate in substance use disorder services as defined in MCL 333.6230, and designated by the administrator of substance abuse services, to perform community service, and to undergo screening and assessment as provided in MCL 436.1703(5) at his or her own expense as described in subsection (7). A minor may be found responsible or admit responsibility only once under this subsection (1), MCL 436.1703(1)(a), or other local ordinance substantially corresponding to that statute
- (2) If a violation of section 58-242, MCL 436.1703(1), or other local ordinance substantially corresponding to that statute occurs after one (1) prior judgment for an alcohol or controlled substance violation identified in subsection (5), the minor is guilty of a misdemeanor, which is punishable by imprisonment for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$200.00 or both, and may be ordered to participate in substance use disorder services as defined in MCL 333.6230, and designated by the administrator of substance abuse services, to perform community service, and to undergo screening and assessment at his or her own expense as described in subsection (7). A minor who pleads guilty, or admits in a juvenile delinquency proceeding to a violation of section 58-242 under this subsection (2), may request deferral of proceedings and placement on probation under subsection (6).
- (3) If a violation of this section 58-242, MCL 436.1703(1), or other local ordinance substantially corresponding to that statute occurs after two or more prior judgments for an alcohol or controlled substance violation identified in subsection (a)(5), the minor is guilty of a misdemeanor, which is punishable by imprisonment for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$500.00, or both, and may be ordered to participate in substance use services as defined in MCL 333.6230, and designated by the administrator of substance abuse services, to perform community service, and to undergo screening and assessment at his or her own expense as described in subsection (7).
- (4) A minor that is subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of section 58-242 under subsections (2) or (3), may be ordered by court to submit to random or regular preliminary chemical breath analysis, which may be requested by the minor's parent, guardian, or custodian as provided in MCL 436.1703(5).
- (5) For purposes of subsections (2) and (3), "prior judgment" means a conviction, juvenile adjudication, or finding or admission of responsibility for a violation of the statutes listed in this subsection, or any federal or state law or local ordinance that substantially corresponds to any of those listed statutes:
 - a. MCL 436.1703(1), or former MCL 436.33b.

- b. A misdemeanor violation that is dismissed under subsection (6), MCL 436.1703(3), or other local ordinance substantially corresponding to that statute.
 - c. MCL 436.1701 (Sale/furnish alcohol to minors.)
 - d. MCL 436.1707 (Sale/service/furnish alcohol to intoxicated persons.)
 - e. MCL 257.624a (Transport/possess open alcohol in motor vehicle.)
 - f. MCL 257.624b (Transport/possess open alcohol in motor vehicle by minor.)
 - g. MCL 257.625 (Operating motor vehicle while intoxicated/impaired.)
 - h. MCL 324.80176 (Operating boat while under influence.)
 - i. MCL 324.81134 (Operating off-road vehicle while under influence.)
 - j. MCL 324.82127 (Operating snowmobile while under influence.)
 - k. MCL 750.167a (Hunting with firearm/weapon while intoxicated.)
 - l. MCL 750.237 (Carry/possess/use/discharge firearm while under influence.)
- (6) If a minor pleads guilty, or admits in a juvenile delinquency proceeding to a violation of section 58-242 under subsection (2), the court may defer further proceedings and place the minor on probation under MCL 436.1703(3), which provides for dismissal of the proceedings upon the terms and conditions of probation being fulfilled. An individual may only obtain one (1) dismissal under MCL 436.1703(3).
- (7) The court may order the person found responsible for or convicted of violating section 58-242 to undergo screening and assessment to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs as provided in MCL 436.1703(5).
- (8) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request the person to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. A peace officer may initiate municipal civil infraction or misdemeanor charges for a violation of section 58-242 based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a municipal civil infraction or criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.
- (9) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated pursuant to Act No. 293 of the Public Acts of 1968, being MCL 772.1—772.6, allegedly consumed, possessed, purchased, or attempted to consume possess, or purchase alcoholic liquor in violation of section 58-242, shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of the parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated section 58-242 is less than 18 years of age and not emancipated under MCL 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first class mail. If a person less than 17 years of age is incarcerated for violating section 58-242, then his or her parents or legal guardian shall be notified immediately as provided in this subsection.

- (10) This section shall not be construed to limit the civil and criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for violation of this section.
- (11) In a municipal civil infraction proceeding or criminal prosecution for the violation of section 58-242 concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.
- (12) As used in this section, "any bodily alcohol content" means either of the following:
- An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

PART V. Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART VI. Savings Clause. The amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the South Lyon Code of Ordinances set forth in this Ordinance.

PART VII. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART VIII. Effective Date: Publication. This Ordinance shall ~~take effect on the date of its publication or January 1, 2018, whichever is later, be effective on the later of the following: i) on any amended effective date of Public Act 89 of 2017; or ii) ten (10) days after its adoption or on the ordinance publication date, whichever is later.~~

Made, Passed and Adopted by the South Lyon City Council this ____ day of _____, 2017.

John Galeas Jr., Mayor

Lisa Deaton, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the _____ day of _____, 2017.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Timothy S. Wilhelm
twilhelm@jrsjlaw.com

www.jrsjlaw.com

October 2, 2017

Mayor John Galeas, Jr. and City Council
City of South Lyon
335 S. Warren Street
South Lyon, MI 48178

RE: Proposed Amendment to Minors in Possession/Consuming Alcohol Ordinance

Dear Mayor Galeas and City Council Members:

Provided with this letter is an Ordinance Amendment that is presented for first reading at the meeting October 9, 2017. A mark-up version showing proposed changes from the current Ordinance Code Sections 58-239, 58-240, 58-242, and 58-243 is also provided. This Ordinance Amendment is to conform the City Code of Ordinances to changes in state law regarding minors that purchase, possess or consume alcohol, to maintain consistency with this area of uniform state-wide regulation. While those changes under state law, Public Act No. 357 of 2016, were given an effective date of January 1, 2018, we recently learned that Public Act No. 89 of 2017 (which added provisions for court ordered breath tests) essentially reenacted the 2016 changes but with an accelerated, October 10, 2017, effective date.

As for the changes in state law, the most significant was to make first offenses a civil infraction. Second and subsequent offenses remain misdemeanors, with the maximum term of imprisonment and fine for third and subsequent offenses (60 days/\$500) being higher than for second offenses (30 days/\$200).

The second significant change was to the provision that allows a court to place first offenders pleading guilty on a probationary status pending completion substance abuse treatment or community service, which if successful, will result in dismissal of the charge and the defendant having no criminal record. That process remains available for the first misdemeanor charge (a second offense since first offenses are civil infractions), but with a narrowing of the eligibility for that status. Under the old statute, only a prior conviction for minor in possession/consuming alcohol would disqualify a minor from eligibility for the probationary/dismissal program. Under the new statute, the types of prior convictions that would prevent probationary/dismissal status has been expanded to encompass other alcohol/controlled substance related violations you will find listed in Section 58-243(5) of the proposed ordinance amendment.

Mayor John Galeas, Jr. and City Council
Minor in Possession Ordinance Amendment
October 2, 2017
Page 2

With respect to timing and the effective date, we recommend that the proposed ordinance amendment be scheduled for a second reading and enactment at the October 23, 2017 regular Council meeting. If the Ordinance is published immediately after your meeting on the 23rd, the earliest that the Ordinance could then become effective would be on November 2, 2017.

Sincerely yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Timothy S. Wilhelm

Encl.
Enclosures

cc: Lynne Ladner, City Manager
Lisa Deaton, City Clerk
Lloyd Collins, City Police Chief



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5363
Fax: (517) 373-1886

Senate Bills 332 and 333 (as enacted)
Sponsor: Senator Rick Jones
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACTS 357 & 358 of 2016

Date Completed: 3-27-17

CONTENT

Senate Bill 332 amends the Michigan Liquor Control Code to do the following:

- Designate a minor's first violation for purchasing, possessing, or consuming alcohol, or having any bodily alcohol content (i.e., a minor in possession or MIP), as a State civil infraction rather than a misdemeanor.
- Allow the deferral and dismissal of an MIP violation only for a misdemeanor violation that occurs after one prior judgment for MIP or another specified alcohol-related violation.
- Limit a court's ability to order random or regular preliminary chemical breath analysis for an MIP violation to a person subject to a misdemeanor conviction or juvenile adjudication.
- Allow a peace officer to request, rather than require, a minor to submit to a preliminary chemical breath analysis if the officer has reasonable cause to believe that the minor has consumed alcohol.
- Allow the results of a preliminary chemical breath analysis or other acceptable blood alcohol test to be admitted in a State civil infraction proceeding or criminal prosecution.
- Delete authorization for a peace officer to arrest a person based on the results of a preliminary chemical breath analysis.
- Delete a provision specifying that it is a State civil infraction, subject to a civil fine, for a minor to refuse to submit to a breath analysis.

Senate Bill 333 amends the Michigan Vehicle Code to define "prior conviction" as a misdemeanor conviction or a civil infraction determination for an MIP violation, for purposes of a required driver license suspension for a person who commits certain alcohol-related violations or an MIP violation and has one or more prior convictions.

The bills will take effect on January 1, 2018.

Under the Michigan Liquor Control Code, "minor" means an individual under 21 years of age.

Senate Bill 332**MIP Penalties**

Section 703(1) of the Liquor Control Code prohibits a minor from purchasing or attempting to purchase, consuming or attempting to consume, or possessing or attempting to possess alcoholic liquor, or from having any bodily alcohol content, except as otherwise provided. (These violations, collectively, are often referred to as MIP violations.)

An MIP violation is a misdemeanor punishable by a maximum fine of \$100. A second violation is a misdemeanor punishable by a maximum fine of \$200 and/or up to 30 days' imprisonment. The term of imprisonment applies, however, only if the court finds that the minor violated an order of probation, failed to successfully complete any court-ordered treatment, screening, or community service, or failed to pay any fine for the conviction or juvenile adjudication. A third or subsequent violation is a misdemeanor punishable by up to 60 days' imprisonment, but only if the court finds that the minor violated an order or failed to pay a fine (as described for a second violation), and/or a maximum fine of \$500.

Under the bill, for a first MIP violation, a minor is responsible for a State civil infraction and must be fined up to \$100. A minor may be found responsible or admit responsibility for an MIP violation that is a State civil infraction only once.

The bill retains the misdemeanor penalties for a second, third, or subsequent violation but refers to an MIP violation that occurs after one "prior judgment" or after two or more prior judgments.

The bill defines "prior judgment" as a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a Michigan law, or a substantially corresponding local ordinance, U.S. law, or law of another state:

- MIP; furnishing fraudulent ID to a minor, or a minor's use of fraudulent ID, to purchase alcohol; selling or furnishing alcohol to a minor; or selling, serving, or furnishing alcohol to an intoxicated person.
- Possessing open alcohol in a vehicle; transporting or possessing alcohol in a vehicle by a person under 21 years of age; or operating a motor vehicle while under the influence of or impaired by alcohol, a controlled substance, or a combination of both.
- Operating a motorboat, off-road vehicle, or snowmobile while under the influence of alcohol and/or a controlled substance.
- Hunting while drunk or intoxicated, or possession or use of a firearm by a person who is under the influence of or impaired by alcohol and/or a controlled substance.

Deferral & Dismissal

Under the Code, if a person who has not previously been convicted of or received a juvenile adjudication for a violation of Section 703(1) pleads guilty to or offers a plea of admission in a juvenile delinquency proceeding for a violation of that provision, the court may defer proceedings and place the person on probation without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile proceeding. If the person fulfills the terms and conditions of the probation, the court must discharge the individual and dismiss the proceedings without adjudication of guilt or a determination in a juvenile proceeding.

Under the bill, the deferral and dismissal provision applies only for a misdemeanor violation of Section 703(1) that occurs after one prior judgment. The terms and conditions of probation under the deferral provision must include the sanctions set forth for an MIP violation that occurs after two or more prior judgments.

Breath Analysis

The Code allows a court to order a person subject to a conviction or juvenile adjudication of, or placed on probation regarding, an MIP violation to submit to a random or regular preliminary chemical breath analysis. Under the bill, that provision applies to a person subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, an MIP violation.

Under the Code, if a peace officer has reasonable cause to believe that a minor has consumed alcoholic liquor or has any bodily alcohol content, the officer may require the minor to submit to a preliminary chemical breath analysis. The bill allows a peace officer to request, rather than require, the minor to submit to the breath analysis.

The Code provides that the results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content. Under the bill, those results also will be admissible in a State civil infraction proceeding.

The Code allows a peace officer to arrest an individual based in whole or in part upon the results of a preliminary chemical breath analysis. A minor who refuses to submit to a breath analysis is responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$100. The bill deletes those provisions.

Senate Bill 333

The Vehicle Code requires the Secretary of State (SOS) to suspend a person's driver license for 90 days for any of the following offenses, if the person has one prior conviction for any of those offenses:

- Transportation or possession of alcoholic liquor in a container that is open or uncapped or upon which the seal has been broken, within the passenger area of a vehicle.
- Transportation or possession of alcoholic liquor in a motor vehicle by a person under 21 years of age.
- Minor in possession.

Under the bill, for purposes of that provision, "prior conviction" means either a misdemeanor conviction or a civil infraction determination for a violation of Section 703(1) of the Liquor Control Code (MIP).

MCL 436.1703 (S.B. 332)
257.319 (S.B. 333)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 332

The bill may reduce total incarceration and court costs for State and local government. According to Michigan State Police data, between 2009 and 2013, a total of approximately 40,000 arrests were made for the purchase, consumption, or possession of alcohol by a minor for a first, second, third, or subsequent offense. According to the State Court Administrative Office, for calendar year 2014, for the courts that submitted data, there were approximately 9,300 convictions for a first offense, 365 convictions for a second offense, and 176 convictions for a third offense. If the change in offense classification results in lower court and incarceration costs, and civil infraction revenue remains the same, there may be a net benefit to local law enforcement entities.

Senate Bill 333

The bill will result in the loss of an estimated \$170,800 in restricted revenue annually for the Department of State. According to fiscal year 2014-15 data, the Department collected nearly \$171,000 in reinstatement fees from approximately 1,367 drivers whose driver licenses were suspended due to having one prior conviction for an MIP violation. The Department collects a

\$125 reinstatement fee from people whose driver licenses have been revoked or suspended. Revenue from the reinstatement fee is used to fund the Department's operations. The estimated loss in revenue from the bill's deletion of the required license suspension for a person with one prior MIP conviction cannot be absorbed within current annual appropriations and may result in the delay of future improvements or the layoff of up to 2.0 FTE employees.

Fiscal Analyst: Ryan Bergan
Joe Carrasco

SAS1516/s332es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Act No. 357
Public Acts of 2016
Approved by the Governor
December 21, 2016
Filed with the Secretary of State
December 21, 2016
EFFECTIVE DATE: January 1, 2018

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senators Jones, Bieda, Stamas and Horn

ENROLLED SENATE BILL No. 332

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 703 (MCL 436.1703), as amended by 2012 PA 125.

The People of the State of Michigan enact:

Sec. 703. (1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is responsible for a state civil infraction or guilty of a misdemeanor as follows and is not subject to the penalties prescribed in section 909:

(a) For the first violation, the minor is responsible for a state civil infraction and shall be fined not more than \$100.00. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5). A minor may be found responsible or admit responsibility only once under this subdivision.

(b) If a violation of this subsection occurs after 1 prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, by a fine of not more than \$200.00, or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(c) If a violation of this subsection occurs after 2 or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, by a fine of not more than \$500.00, or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(2) An individual who furnishes fraudulent identification to a minor or, notwithstanding subsection (1), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(3) If an individual who pleads guilty to a misdemeanor violation of subsection (1)(b) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (1)(b), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (1)(c), payment of the costs including minimum state cost as provided for in section 18m of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only 1 discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(a) To a court, prosecutor, or police agency on request for the purpose of determining if an individual has already utilized this subsection.

(b) To the department of corrections, a prosecutor, or a law enforcement agency, on the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

(i) At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.

(ii) The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(4) A misdemeanor violation of subsection (1) successfully deferred, discharged, and dismissed under subsection (3) is considered a prior judgment for the purposes of subsection (1)(c).

(5) A court may order an individual found responsible for or convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the department-designated community mental health entity as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (1) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 298, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(6) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of subsection (1) or of violating subsection (2) as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(7) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a state civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(8) A law enforcement agency, on determining that an individual who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor; attempted to consume, possess, or purchase alcoholic liquor; or had any bodily alcohol content in violation of subsection (1) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The law enforcement agency shall notify the parent, guardian, or custodian not later than 48 hours after the law enforcement agency determines that the individual who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(9) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(10) The following individuals are not considered to be in violation of subsection (1):

(a) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.

(b) A minor who accompanies an individual who meets both of the following criteria:

(i) Has consumed alcoholic liquor.

(ii) Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.

(c) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(11) If a minor who is less than 18 years of age and who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (10), the health facility or agency shall notify the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.

(12) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(13) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(14) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(15) Subsection (1) does not apply to a minor who participates in either or both of the following:

(a) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(16) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 701(1), or section 801(2).

(17) In a prosecution for the violation of subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(18) As used in this section:

(a) "Any bodily alcohol content" means either of the following:

(i) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(ii) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(b) "Emergency medical services personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(c) "Health facility or agency" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(d) "Prior judgment" means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(i) This section or section 701 or 707.

(ii) Section 624a, 624b, or 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.

(iii) Section 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, and 324.82127.

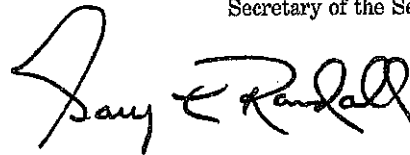
(iv) Section 167a or 237 of the Michigan penal code, 1939 PA 328, MCL 750.167a and 750.237.

Enacting section 1. This amendatory act takes effect January 1, 2018.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

.....
Governor

Act No. 358
Public Acts of 2016
Approved by the Governor
December 21, 2016
Filed with the Secretary of State
December 21, 2016
EFFECTIVE DATE: January 1, 2018

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senator Jones

ENROLLED SENATE BILL No. 333

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 319 (MCL 257.319), as amended by 2016 PA 32.

The People of the State of Michigan enact:

Sec. 319. (1) The secretary of state shall immediately suspend a person's license as provided in this section on receiving a record of the person's conviction for a crime described in this section, whether the conviction is under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of another state substantially corresponding to a law of this state, or, beginning October 31, 2010, a law of the United States substantially corresponding to a law of this state.

- (2) The secretary of state shall suspend the person's license for 1 year for any of the following crimes:
- (a) Fraudulently altering or forging documents pertaining to motor vehicles in violation of section 257.
 - (b) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.
 - (c) A violation of section 1 of former 1931 PA 214, MCL 752.191, or former section 626c.
 - (d) A felony in which a motor vehicle was used. As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person convicted operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:
 - (i) The vehicle was used as an instrument of the felony.
 - (ii) The vehicle was used to transport a victim of the felony.
 - (iii) The vehicle was used to flee the scene of the felony.
 - (iv) The vehicle was necessary for the commission of the felony.
 - (e) A violation of section 602a(2) or (3) of this act or section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.479a.
 - (f) Beginning October 31, 2010, a violation of section 601d.
- (3) The secretary of state shall suspend the person's license for 90 days for any of the following crimes:
- (a) Failing to stop and disclose identity at the scene of an accident resulting in injury in violation of section 617a.
 - (b) A violation of section 601b(2), section 601c(1), section 653a(3), section 626 before October 31, 2010, or, beginning October 31, 2010, section 626(2).
 - (c) Malicious destruction resulting from the operation of a vehicle under section 382(1)(b), (c), or (d) of the Michigan penal code, 1931 PA 328, MCL 750.382.
 - (d) A violation of section 703(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.
- (4) The secretary of state shall suspend the person's license for 30 days for malicious destruction resulting from the operation of a vehicle under section 382(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.382.
- (5) For perjury or making a false certification to the secretary of state under any law requiring the registration of a motor vehicle or regulating the operation of a vehicle on a highway, or for conduct prohibited under section 324(1) or a local ordinance substantially corresponding to section 324(1), the secretary of state shall suspend the person's license as follows:
- (a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 90 days.
 - (b) If the person has 1 or more prior convictions for an offense described in this subsection within 7 years, for 1 year.
- (6) For a violation of section 414 of the Michigan penal code, 1931 PA 328, MCL 750.414, the secretary of state shall suspend the person's license as follows:
- (a) If the person has no prior conviction for that offense within 7 years, for 90 days.
 - (b) If the person has 1 or more prior convictions for that offense within 7 years, for 1 year.
- (7) For a violation of section 624a or 624b of this act or section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, the secretary of state shall suspend the person's license as follows:
- (a) Subject to subsection (24), if the person has 1 prior conviction for an offense described in section 624a or 624b of this act or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days. The secretary of state may issue the person a restricted license after the first 30 days of suspension.
 - (b) Subject to subsection (24), if the person has 2 or more prior convictions for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue the person a restricted license after the first 60 days of suspension.
- (8) The secretary of state shall suspend the person's license for a violation of section 625 or 625m as follows:
- (a) For 180 days for a violation of section 625(1) or (8) before October 31, 2010 or, beginning October 31, 2010, section 625(1)(a) or (b) or (8) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during a specified portion of the suspension, except that the secretary of state shall not issue a restricted license during the first 90 days of suspension.
 - (b) For 90 days for a violation of section 625(3) if the person has no prior convictions within 7 years. However, if the person is convicted of a violation of section 625(3), for operating a vehicle when, due to the consumption of a controlled substance or a combination of alcoholic liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for 180 days. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
 - (c) For 30 days for a violation of section 625(6) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(d) For 90 days for a violation of section 625(6) if the person has 1 or more prior convictions for that offense within 7 years.

(e) For 180 days for a violation of section 625(7) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license after the first 90 days of suspension.

(f) For 90 days for a violation of section 625m if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(g) Beginning October 31, 2010, for 1 year for a violation of section 625(1)(c) if the person has no prior convictions within 7 years or not more than 2 convictions within 10 years. The secretary of state may issue the person a restricted license, except that the secretary of state shall not issue a restricted license during the first 45 days of suspension.

(h) Beginning October 31, 2010, the department shall order a person convicted of violating section 625(1)(c) not to operate a motor vehicle under a restricted license issued under subdivision (g) unless the vehicle is equipped with an ignition interlock device approved, certified, and installed as required under sections 625k and 625l. The ignition interlock device may be removed after the interlock device provider provides the department with verification that the person has operated the vehicle with no instances of reaching or exceeding a blood alcohol level of 0.025 grams per 210 liters of breath. This subdivision does not prohibit the removal of the ignition interlock device for any of the following:

(i) A start-up test failure that occurs within the first 2 months after installation of the device. As used in this subdivision, "start-up test failure" means that the ignition interlock device has prevented the motor vehicle from being started. Multiple unsuccessful attempts at 1 time to start the vehicle are treated as 1 start-up test failure only under this subparagraph.

(ii) A start-up test failure occurring more than 2 months after installation of the device, if not more than 15 minutes after detecting the start-up test failure the person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

(iii) A retest prompted by the device, if not more than 5 minutes after detecting the retest failure the person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

(i) Beginning October 31, 2010, if an individual violates the conditions of the restricted license issued under subdivision (g) or operates or attempts to operate a motor vehicle with a blood alcohol level of 0.025 grams per 210 liters of breath, the secretary of state shall impose an additional like period of suspension and restriction as prescribed under subdivision (g). This subdivision does not require an additional like period of suspension and restriction for any of the following:

(i) A start-up test failure within the first 2 months after installation of the ignition interlock device. As used in this subdivision, "start-up test failure" means that the ignition interlock device has prevented the motor vehicle from being started. Multiple unsuccessful attempts at 1 time to start the vehicle are treated as 1 start-up test failure only under this subparagraph.

(ii) A start-up test failure occurring more than 2 months after installation of the device, if not more than 15 minutes after detecting the start-up test failure the person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

(iii) Any retest prompted by the device, if not more than 5 minutes after detecting the retest failure the person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

(9) For a violation of section 367c of the Michigan penal code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 6 months.

(b) If the person has 1 or more convictions for an offense described in this subsection within 7 years, for 1 year.

(10) For a violation of section 315(4), the secretary of state may suspend the person's license for 6 months.

(11) For a violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school, the secretary of state shall suspend the license of a person 14 years of age or over but less than 21 years of age until 3 years after the date of the conviction or juvenile disposition for the violation. The secretary of state may issue the person a restricted license after the first 365 days of suspension.

(12) For a second or subsequent violation of section 701(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, by an individual who is not a retail licensee or a retail licensee's clerk, agent, or employee, the secretary of state shall suspend the person's license for 180 days. The secretary of state may issue a person a restricted license during all or a specified portion of the suspension.

(18) Except as provided in subsection (15), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323.

(14) If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.

(15) The secretary of state may waive a restriction, suspension, or revocation of a person's license imposed under this act if the person submits proof that a court in another state revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a restriction, suspension, or revocation prescribed under this act for the violation and that the revocation, suspension, or restriction was served for the violation, or may grant a restricted license.

(16) The secretary of state shall not issue a restricted license to a person whose license is suspended under this section unless a restricted license is authorized under this section and the person is otherwise eligible for a license.

(17) The secretary of state shall not issue a restricted license to a person under subsection (8) that would permit the person to operate a commercial motor vehicle.

(18) Except as provided in subsection (17), a restricted license issued under this section shall permit the person to whom it is issued to take any driving skills test required by the secretary of state and to operate a vehicle under 1 or more of the following circumstances:

(a) In the course of the person's employment or occupation.

(b) To and from any combination of the following:

(i) The person's residence.

(ii) The person's work location.

(iii) An alcohol or drug education or treatment program as ordered by the court.

(iv) The court probation department.

(v) A court-ordered community service program.

(vi) An educational institution at which the person is enrolled as a student.

(vii) A place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.

(viii) An ignition interlock service provider as required.

(19) While driving with a restricted license, the person shall carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and shall display that proof upon a peace officer's request.

(20) Subject to subsection (22), as used in subsection (8), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Except as provided in subsection (21), a violation or attempted violation of any of the following:

(i) Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(ii) Section 625m.

(iii) Former section 625b.

(b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(c) Beginning October 31, 2010, a violation of section 601d or section 626(3) or (4).

(21) Except for purposes of the suspensions described in subsection (8)(c) and (d), only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.

(22) If 2 or more convictions described in subsection (20) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

(23) Any period of suspension or restriction required under this section is not subject to appeal to the secretary of state.

(24) For purposes of subsection (7), "prior conviction" means either a misdemeanor conviction or a civil infraction determination for a violation of section 703(1) of the liquor control code of 1998, 1998 PA 58, MCL 436.1708.

Enacting section 1. This amendatory act takes effect January 1, 2018.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 332 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.

Wm. Z. Cobb

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

.....
Governor



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5363
Fax: (517) 373-1886

House Bill 4213 (as reported without amendment)
Sponsor: Representative Peter J. Lucido
House Committee: Law and Justice
Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Liquor Control Code to prohibit the administration of a preliminary chemical breath analysis if a minor did not consent to it, and allow a peace officer to seek a court order for such a test.

Generally, a peace officer who has reasonable cause to believe that a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. The results of the analysis or other acceptable blood alcohol test are admissible in a State civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

Under the bill, if a minor did not consent to preliminary chemical breath analysis, the analysis could not be administered without a court order, but a peace officer could seek to obtain a court order.

MCL 436.1703

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 5-4-17

Fiscal Analyst: Ryan Bergan

Act No. 89
Public Acts of 2017
Approved by the Governor
July 12, 2017
Filed with the Secretary of State
July 12, 2017
EFFECTIVE DATE: October 10, 2017

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Rep. Lucido

ENROLLED HOUSE BILL No. 4213

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 703 (MCL 436.1708), as amended by 2016 PA 357.

The People of the State of Michigan enact:

Sec. 703. (1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is responsible for a state civil infraction or guilty of a misdemeanor as follows and is not subject to the penalties prescribed in section 909:

(a) For the first violation, the minor is responsible for a state civil infraction and shall be fined not more than \$100.00. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5). A minor may be found responsible or admit responsibility only once under this subdivision.

(b) If a violation of this subsection occurs after 1 prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$200.00, or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(c) If a violation of this subsection occurs after 2 or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$500.00, or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the public health code, 1978 PA 368, MCL 333.6230, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).

(2) An individual who furnishes fraudulent identification to a minor or, notwithstanding subsection (1), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(3) If an individual who pleads guilty to a misdemeanor violation of subsection (1)(b) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (1)(b), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (1)(c), payment of the costs including minimum state cost as provided for in section 18m of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, and the costs of probation as prescribed in section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only 1 discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:

(a) To a court, prosecutor, or police agency on request for the purpose of determining if an individual has already utilized this subsection.

(b) To the department of corrections, a prosecutor, or a law enforcement agency, on the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:

(i) At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.

(ii) The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(4) A misdemeanor violation of subsection (1) successfully deferred, discharged, and dismissed under subsection (3) is considered a prior judgment for the purposes of subsection (1)(c).

(5) A court may order an individual found responsible for or convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the department-designated community mental health entity as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (1) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 298, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.

(6) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of subsection (1) or of violating subsection (2) as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(7) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a state civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

(8) A law enforcement agency, on determining that an individual who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (1) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The law enforcement agency shall notify the parent, guardian, or custodian not later than 48 hours after the law enforcement agency determines that the individual who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(9) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by this act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(10) The following individuals are not considered to be in violation of subsection (1):

(a) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1981 PA 328, MCL 750.520b to 750.520g, committed against a minor.

(b) A minor who accompanies an individual who meets both of the following criteria:

(i) Has consumed alcoholic liquor.

(ii) Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan penal code, 1981 PA 328, MCL 750.520b to 750.520g, committed against a minor.

(c) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

(11) If a minor who is less than 18 years of age and who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (10), the health facility or agency shall notify the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.

(12) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(13) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(14) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(15) Subsection (1) does not apply to a minor who participates in either or both of the following:

(a) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(16) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 701(1), or section 801(2).

(17) In a prosecution for the violation of subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(18) As used in this section:

(a) "Any bodily alcohol content" means either of the following:

(i) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(ii) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

(b) "Emergency medical services personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(c) "Health facility or agency" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(d) "Prior judgment" means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(i) This section or section 701 or 707.

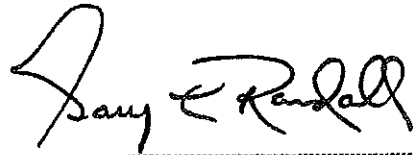
(ii) Section 624a, 624b, or 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.

(iii) Section 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, and 324.82127.

(iv) Section 167a or 237 of the Michigan penal code, 1939 PA 328, MCL 750.167a and 750.237.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

.....
Governor



JOHNSON ROSATI SCHULTZ JOPPICH PC
27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Timothy S. Wilhelm
twilhelm@jrsjlaw.com

www.jrsjlaw.com

October 5, 2017

Mayor John Galeas, Jr. and City Council
City of South Lyon
335 S. Warren Street
South Lyon, MI 48178

RE: Minors in Possession Ordinance Amendment – Revision to Effective Date

Dear Mayor Galeas and City Council Members:

We just learned that on September 27, 2017, the State House and Senate passed House Bill 4939 (enclosed), which if signed by the Governor, would change the October 10, 2017 effective date for the state law changes to, among others, the minor in possession provisions in Public Act 89 of 2017 to January 1, 2018 under PA 357 of 2016.

To address this timing issue, we have revised effective date language in the proposed MIP ordinance amendment to allow for the earliest possible effective date if the Governor does not sign HB 4939, or alternatively, to match the effective date of the ordinance to the effective date of the state law changes, that being January 1, 2018. A clean copy of the proposed ordinance amendment containing the revised effective date language is enclosed.

If the Governor signs HB 4939 before the second reading of the ordinance, the effective date language can be revised to clarify the January 1, 2018 effective date.

Sincerely yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

A handwritten signature in dark ink, appearing to read 'T. Wilhelm', is written over a horizontal line.

Timothy S. Wilhelm

Encl.

cc: Lynne Ladner, City Manager
Lisa Deaton, City Clerk
Lloyd Collins, City Police Chief

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Rep. Lucido

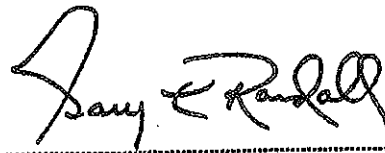
ENROLLED HOUSE BILL No. 4939

AN ACT to amend 2017 PA 89, entitled "An act to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 703 (MCL 436.1703), as amended by 2016 PA 357," by amending enacting section 1.

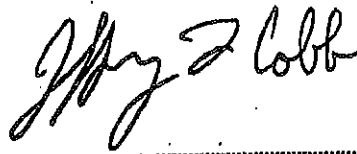
The People of the State of Michigan enact:

Enacting section 1. This amendatory act takes effect January 1, 2018.

This act is ordered to take immediate effect.



.....
Clerk of the House of Representatives



.....
Secretary of the Senate

Approved.....

.....
Governor

Act No. 123
Public Acts of 2017
Approved by the Governor
October 5, 2017
Filed with the Secretary of State
October 5, 2017
EFFECTIVE DATE: October 5, 2017

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Rep. Lucido

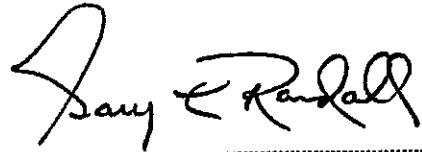
ENROLLED HOUSE BILL No. 4939

AN ACT to amend 2017 PA 89, entitled "An act to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 703 (MCL 436.1703), as amended by 2016 PA 357," by amending enacting section 1.

The People of the State of Michigan enact:

Enacting section 1. This amendatory act takes effect January 1, 2018.

This act is ordered to take immediate effect.



.....
Clerk of the House of Representatives



.....
Secretary of the Senate

Approved

.....
Governor

AGENDA NOTE

New Business: Item #

MEETING DATE: October 23, 2017

PERSON PLACING ITEM ON AGENDA: City Manager

AGENDA TOPIC: Consider second reading of Liquor License Ordinance – Update and request postponement to 1st meeting in November

EXPLANATION OF TOPIC: The Council considered the first reading of this ordinance during their meeting on September 25, 2017. The first reading was approved with a sub-committee created to review the ordinance and submit additional input to the Council regarding criteria for ranking applications for a Class C liquor license moving forward so that future requests and decisions of the council can have an understanding if the application is consistent with applications submitted previously and with the needs/desires of the community. The one very important issue to the Council would be to include an agreement with any application approval related to the transfer and escrow of Class C liquor licenses. The details/sample of an agreement of this sort is not ready to be submitted to the Council so I am asking that the Council postpone the second reading until the first meeting in November.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: Ordinance as submitted for first reading.

POSSIBLE COURSES OF ACTION: Postpone/Adopt as written/Table

RECOMMENDATION: Postpone to the first meeting in November

SUGGESTED MOTION: Motion by _____, supported by _____ to postpone the second reading of the liquor license ordinance to the first meeting in November.

CITY OF SOUTH LYON
Application for Appointment

Date: 10/8/2017

Name: Heather-Marie Montilla

Address: 53969 Shinnecock Drive

City, State, Zip Code: South Lyon, MI 48178

Home/Cell Phone: 917.721.6910

E mail address: heathermarie.montilla@gmail.com

Occupation: Nonprofit Consultant

Employer: Various

Education & Related Experience: MPA from Columbia University's School of International & Public Affairs
with a focus on Advanced Managment Technique and Finance. AB from Duke University with a double major
in Public Policy and Art History. I have dedicated the last 15+ years to working in arts, education, and cultural
institutions as a strategic leader and fundraiser.

Are you a citizen of the United States? Yes ☒ No ☐

Are you in default to the City? Yes ☐ No ☒

Is any member of your family an elected official of the City? Yes ☐ No ☒

If so, who? _____

Please select which position(s) you are interested in

Board/Commission	
Planning Commission	<input type="checkbox"/>
Parks & Recreation Commission	<input type="checkbox"/>
Board of Review	<input type="checkbox"/>
Housing Commission	<input type="checkbox"/>
Zoning Board of Appeals	<input type="checkbox"/>
Historical Commission	<input type="checkbox"/>
Building Authority	<input type="checkbox"/>
Construction Board of Appeals	<input type="checkbox"/>
Cultural Arts Commission	<input checked="" type="checkbox"/>

Other	<input type="checkbox"/>
-------	--------------------------

Special qualifications: I have spent my career working in arts and cultural insitutions and using art as a window to learning. I have managed a \$1+ million arts organization, developed and executed multi-pronged robust fundraising plans, developed and implemented a strategic plan, created 3 year programming and evaluation plan, and designed a marketing plan with branding and collateral. I believe these skills will be helpful to the commission.


Describe why you are interested in this position: I am interested in utilizing my skills and experience to enhance my community and I was thrilled to learn about the Arts Commission. I believe that the arts play a special role in educating, breaking-down barriers, and community-building. I am excited to assist with this important work in our community.

How long have you lived in South Lyon? I have lived at my current address (Lyon Township) since May 2016.

Previous place of Residence? I previously lived in New York City (Bronx, NY).

References:

1. Josie Kearns 248.437.5206 | jakearns@umich.edu
2. Josephine Ruhl 248.514.7713
3. Priscilla Sato-Connell 917.608.9740 | priscilla_sato@yahoo.com

Applicant's Signature:  **Date:** 10.11.2017

Please print this application and submit to:

City of South Lyon
Attn: Clerk's Office
335 S. Warren Street
South Lyon, MI 48178
Tel. (248) 437-1735

You may also copy & paste application into an email message and send to: Ideaton@southlyonmi.org

For Office Use Only	
Comments: _____	
Appointed to: _____	Date: _____

DECLARATION OF RESTRICTIVE COVENANT FOR A RESTRICTED RESIDENTIAL CORRECTIVE ACTION

MDEQ Reference No. RC-RRD-213-_____

This Declaration of Restrictive Covenant (Restrictive Covenant) has been recorded with the **Oakland County Register of Deeds** to protect public health, safety, and welfare, and the environment by prohibiting or restricting activities that could result in unacceptable exposure to environmental contamination present at the Property located at **128 South Lafayette Street, County of Oakland, City of South Lyon, State of Michigan** and legally described in the attached Exhibit 2 (Legal Description of the Property) that are inconsistent with the environmental conditions at the Property. Exhibit 3 (Survey of the Property and Land or Resource Use Restrictions) provides a survey of the Property that is subject to the land and/or resource use restrictions specified in this Restrictive Covenant.

The Property is associated with Former Amoco Service Station No. 5235, **FID #00005730** and **formerly addressed 138 Lafayette Street**, for which a Closure Report (CR) was completed under Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.21301 *et seq.* Corrective actions that were implemented to address environmental contamination are fully described in the CR, and submitted to the Michigan Department of Environmental Quality (MDEQ) by the owner or operator as defined by Section 21303(a) or (b) of the NREPA. A copy of the CR is available from the MDEQ Remediation and Redevelopment Division (RRD) District Office.

The Property described contains regulated substances in excess of the concentrations developed as the unrestricted residential cleanup criteria under Section 21304a(2) of the NREPA. The MDEQ recommends that prospective purchasers or users of this Property undertake appropriate due diligence prior to acquiring or using this Property, and undertake appropriate actions to comply with the requirements of Section 21304c of the NREPA.

Part 213 of NREPA requires the recording of this Restrictive Covenant with the **Oakland County Register of Deeds** based upon the corrective action activities for the site to: (1) restrict unacceptable exposures to regulated substances located on the Property; (2) assure that the use of the Property is consistent with the exposure assumptions used to develop cleanup criteria under Section 21304a (2) of the NREPA; and (3) assure the exposure control measures relied upon in the CR are effective.

The restrictions contained in this Restrictive Covenant are based upon information available at the time the corrective action was implemented by **BP Products North America, Inc. (BP)**.

Failure of the corrective action to achieve and maintain the cleanup criteria, exposure controls, and requirements specified in the CR; future changes in the environmental condition of the Property; changes in the cleanup criteria developed under Section 21304a(2) of the NREPA; the discovery of environmental conditions at the Property that were not accounted for in the CR; or use of the Property in a manner inconsistent with the restrictions described below may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the environment. The adequacy of the corrective action undertaken pursuant to the CR may not have been reviewed by the MDEQ.

Definitions

For the purposes of this Restrictive Covenant, the following definitions shall apply:

"MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then-current title holder of all or any portion of the Property.

"Property" means the real property as described in Exhibit 2 (Legal Description of the Property) of this Restrictive Covenant that is subject to the restrictions, terms and conditions described herein.

All other terms used in this document which are defined in Part 3, Definitions, of the NREPA and Part 213 of the NREPA, shall have the same meaning in this document as in Part 3 and Part 213 of the NREPA, as of the date this Restrictive Covenant is filed.

Summary of Corrective Actions

Hazardous substances including benzene, toluene, ethylbenzene, xylenes, methyl-tert-butyl ether, naphthalene, 2-methylnaphthalene, and trimethylbenzenes were released from an underground storage tank resulting in contamination of the Property. Soil and groundwater contamination remains present at levels that do not allow unrestricted use of the Property. Public health will be protected by preventing the use of groundwater for ingestion.

Residual Light Nonaqueous-Phase Liquids (LNAPL), including gasoline, were properly characterized using a Conceptual Site Model in accordance with American Society for Testing and Materials (ASTM E) designation E 2531-06 E1, and will remain in place. The LNAPL exists below the ground surface at a depth of approximately 10 to 18 feet. The location of the LNAPL in the attached Exhibit 3 (Survey of the Property and Limits of Land or Resource Use Restrictions) describes and provides the location of the institutional control and the horizontal extent of the LNAPL is described in Exhibit 4. The restrictions provided for in this restrictive covenant serve to prevent unacceptable exposure to hazardous substances as a result of the conditions created by the presence of the LNAPL soil and/or groundwater contaminant concentrations that exceed the unrestricted residential criteria under Section 21304a(2) of NREPA.

NOW THEREFORE,

1. Declaration of Land and Resource Use Restrictions

BP, with the express written permission of the Owner of the Property, hereby declares and covenants that the Property shall be subject to the following restrictions and conditions:

a. Prohibited Activities to Eliminate Unacceptable Exposures to Regulated Substances. The Owner shall prohibit activities on the Property that may result in exposures above levels established in the CR. These prohibited activities include:

- The construction and use of wells or other devices on the Property, identified on Exhibit 3 (Survey of Property and Limits of Land or Resource Use Restrictions) as Restricted Area A, used to extract groundwater for consumption, irrigation, or any other purpose, except as provided below:
 - Wells and other devices constructed for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of regulated substances into the environment are permitted, provided the construction of these wells or devices complies with all applicable local, state and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, or federal laws or regulations.
 - Short-term dewatering for construction purposes is permitted provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations including, but not limited to, Part 213 of the NREPA.
- On the portion of the Property identified on Exhibit 3 (Survey of the Property and Limits of Land or Resource Use Restrictions) as Restriction Area B, construction of new structures, unless such construction incorporates engineering controls designed to eliminate the potential for subsurface vapor phase hazardous substances to migrate into the new structure at concentrations greater than applicable criteria; or unless prior to construction of any structure an evaluation of the potential for regulated substances to volatilize into indoor air assures the protection of persons who may be present in the buildings and compliance with Section 21304c of the NREPA.

b. Prohibited Activities to Ensure Effectiveness and Integrity of the Corrective Action. The Owner shall prohibit activities on the Property that may interfere with any element of the CR, including the performance of operation and maintenance activities, monitoring, or other measures necessary to ensure the effectiveness and integrity of the CR.

2. Contaminated Soil Management. The Owner shall manage all soils, media, and/or debris located on the Property in accordance with the applicable requirements of Section 21304b of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

3. Access. The Owner grants to the MDEQ and BP, and its designated representatives the right to enter the Property at reasonable times for the purpose of determining and monitoring

compliance with the CR, including the right to take samples, inspect the operation and maintenance of the corrective action measures and inspect any records relating to them, and to perform any actions necessary to maintain compliance with Part 213 and the CR. The right of access provided to BP above is not required under Part 213 for the corrective action to be considered approved. This provision was agreed to by the Owner at the time the Restrictive Covenant was recorded. Accordingly, The MDEQ will not enforce the Owner's obligation to provide access to BP.

4. Conveyance of Property Interest. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the terms of the CR and this Restrictive Covenant. A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest in accordance with Section 21310a(2)(c) of the NREPA.

5. Audits Pursuant to Section 21315 of the NREPA. This Restrictive Covenant is subject to audits in accordance with the provisions of Section 21315 of the NREPA, and such an audit may result in the finding by the MDEQ that this Restrictive Covenant is not protective of the public health, safety, and welfare, and the environment.

6. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and is binding on the Owner; future owners; and their successors and assigns, lessees, easement holders, and any authorized agents, employees, or persons acting under their direction and control. This Restrictive Covenant shall continue in effect until the MDEQ or its successor determines that regulated substances no longer present an unacceptable risk to the public health, safety, or welfare, or the environment, and may only be modified or rescinded with the written approval of the MDEQ. Improper modification or rescission of any restriction necessary to prevent unacceptable exposure to regulated substances may result in the need to perform additional corrective actions by those parties responsible for performing corrective action at the Property or to comply with Section 21304c of the NREPA.

7. Enforcement of Restrictive Covenant. The State of Michigan, through the MDEQ, and BP may individually enforce the restrictions set forth in this Restrictive Covenant by legal action in a court of competent jurisdiction.

8. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provision of this Restrictive Covenant, which shall continue unimpaired and in full force and effect.

9. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is the Owner, or has the express written permission of the Owner, and certifies that he or she is duly authorized to execute and record this Restrictive Covenant.

IN WITNESS WHEREOF, BP Products North America, Inc. has caused this Restrictive Covenant, RC-RRD-213-
_____, to be executed on this _____.

By: _____

Name: Randal Coil

Title: Contracts Manager

STATE OF Texas
COUNTY OF Harris

The foregoing instrument was acknowledged before me in Harris County, Texas on _____ by
Randal Coil, Contracts Manager, on behalf of its affiliate, BP Products North America, Inc., a Maryland
Corporation.

Notary Public Signature _____

Notary Public, State of _____
County of _____

My commission expires: _____
Acting in the County of _____

Prepared by:
Gustan Taylor, ARCADIS US, Inc. – 28550 Cabot Dr., Suite 500, Novi, MI 48377

When recorded return to:
ARCADIS US, Inc. Attn: Gustan Taylor – 28550 Cabot Dr., Suite 500, Novi, MI 48377

EXHIBIT 1

CONSENT OF OWNER

The City of South Lyon, the current and legal Owner of the Property, do hereby consent to the recording of this Restrictive Covenant, RC-RRD-213-_____, and authorize **BP Products North America, Inc.** to file this Restrictive Covenant with the Oakland County Register of Deeds for recording:

The City of South Lyon

Signature: _____

Name: _____

Title: _____

STATE OF _____
COUNTY OF _____

Acknowledged before me in _____ County, _____ on _____ by
(County) (State) (Date)
_____, representative for the City of South Lyon,
(Name) (Title)
Owner of 128 South Lafayette Street, South Lyon, Michigan.

Notary Public Signature

Notary Public, State of _____
County of _____
My commission expires: _____
Acting in the County of _____

EXHIBIT 2

LEGAL DESCRIPTION OF PROPERTY

128 South Lafayette Street, South Lyon, Michigan 48178

PIN #: 80-21-30-228-016

PARCEL I:

A part of Block 1 of Calkins' Addition to the Village of South Lyon, according to the plat thereof recorded in Liber 3 of Plats, Page 48, Oakland County Records, described as: Commencing at the Southeast corner of said Block 1 at the intersection of Lafayette and Liberty Streets; thence running North along the East line of said block 69 feet; thence West parallel with the South line of said block 60 feet; thence South parallel with the Easterly line of said block 69 feet to the South line of said block; thence East along the South line of said block 60 feet to the place of beginning now known as Lot 30 of Assessor's Plat No. 1 of part of the Southwest $\frac{1}{4}$ of Section 20 and the Northwest $\frac{1}{4}$ of Section 29 and the Northeast $\frac{1}{4}$ of Section 30, Township 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, according to the plat thereof recorded in Liber 52 of Plats, Page 38, Oakland County Records.

PARCEL II:

Lot 27, Assessor's Plat No. 1, parts of Southwest $\frac{1}{4}$ of Section 20, Northwest $\frac{1}{4}$ of Section 29 and Northeast $\frac{1}{4}$ of Section 30, Township 1 North, Range 7 East, City of South Lyon, Oakland County, according to the plat thereof recorded in Liber 52 of Plats, Page 38, Oakland County Records. Also Lot 6, Block 1, Sylvester Calkins' Addition to South Lyon, Oakland County, according to the plat thereof, recorded in Liber 3 of Plats, Page 48, Oakland County Records.

PARCEL III:

Lot 28, Assessor's Plat No. 1, parts of Southwest $\frac{1}{4}$ of Section 20, Northwest $\frac{1}{4}$ of Section 29 and Northeast $\frac{1}{4}$ of Section 30, Township 1 North, Range 7 East, City of South Lyon, according to the plat thereof recorded in Liber 52 of Plats, Page 38, Oakland County Records.

EXHIBIT 3

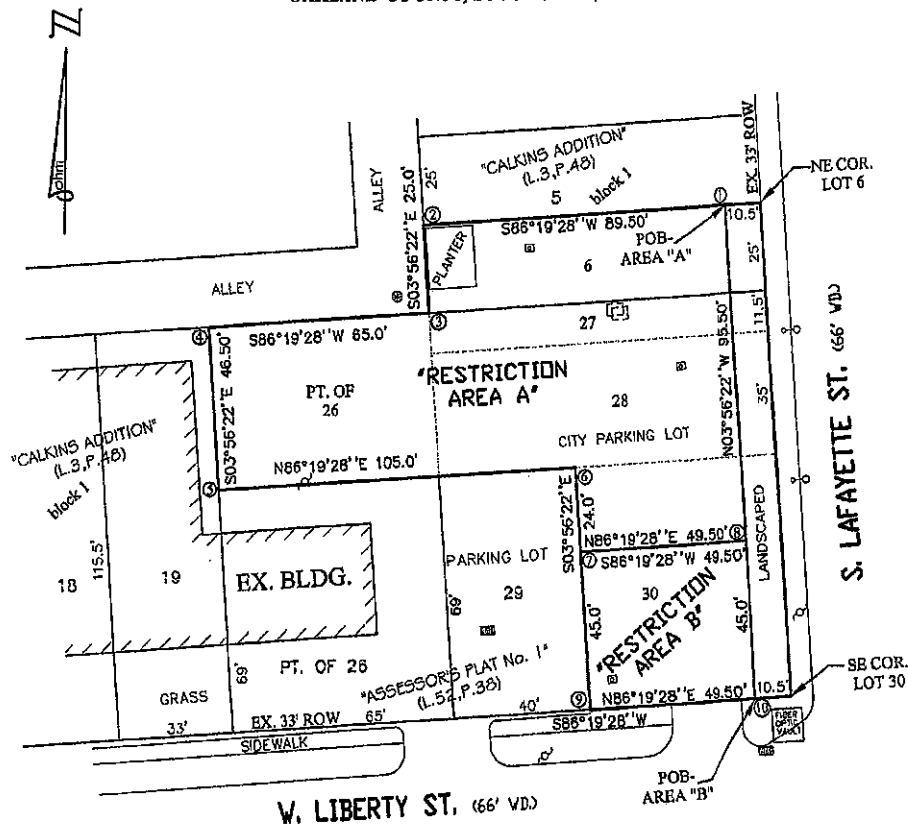
SURVEY OF THE PROPERTY AND LIMITS OF LAND OR RESOUC E USE RESTRICTIONS

*[a survey of the property will be completed prior to finalizing this RC; a figure is included
for reference of the restricted areas]*

DRAFT

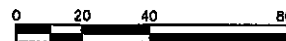
BOUNDARY SURVEY

FORMER AMOCO SERVICE STATION No. 5235
128 S LAFAYETTE STREET
OAKLAND COUNTY, SOUTH LYON, MICHIGAN



PT#	NORTHING	EASTING
1	350730.7544	13316301.6947
2	350725.0658	13316212.3810
3	350700.1246	13316214.0986
4	350695.9577	13316149.2337
5	350649.5676	13316152.4283
6	350656.2987	13316257.2114
7	350632.3559	13316258.8602
8	350635.5292	13316308.2589
9	350587.4617	13316261.9518
10	350590.6350	13316311.3505

HORZ. DATUM NAD83 (2011)



SCALE: 1" = 40'

We hereby certify that we have surveyed and mapped the land above platted and/or described on July 16, 2014, and that the ratio of closure on the unadjusted field observations of such survey was 1/5000 or greater, and that all of the requirements of P.A. 132 of 1970, as amended, have been complied with.

Orchard, Hiltz and McCliment, Inc.

Christopher S. Lamus, P.S.
Michigan Professional Surveyor No. 41914

LEGEND
ROW RIGHT OF WAY
● PUBLIC LAND CORNER
POB POINT OF BEGINNING

BOUNDARY SURVEY

PART OF THE NE 1/4 OF SECTION 30
T. 1 N., R 7 E., CITY OF SOUTH LYON, OAKLAND COUNTY
TAX ID NO.: 21-30-228-016

CLIENT: ARCADIS



34000 Plymouth Road | Livonia, MI 48150
p (734) 522-6711 | f (734) 522-6427

Advancing Communities

DATE: 07-17-14
DRAWN BY: SH
DWG: 5235SITE

SHEET
1 OF 2

JOB NO.
7282-14-0041

BOUNDARY SURVEY

FORMER AMOCO SERVICE STATION No. 5235
128 S LAFAYETTE STREET
OAKLAND COUNTY, SOUTH LYON, MICHIGAN

PARCEL DESCRIPTION

(21-30-228-016 - PER OAKLAND COUNTY TAX ROLLS):

A parcel of land situated in the NE $\frac{1}{4}$ of Section 30, Town 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, described as follows:

Lot 26, except the South 69 feet, also all of Lots 27, 28 and 30 of "Assessor's Plat No. 1", according to the plat thereof as recorded in Liber 52, Page 38 of Plat, Oakland County Records. Also Lot 6, Block 1 of "Calkins Addition", according to the plat thereof as recorded in Liber 3, Page 48 of Plat, Oakland County Records. Subject to all easements and restrictions of record, if any.

ON-SITE RESIDENTIAL GROUNDWATER RESTRICTION ONLY (AREA "A")

A parcel of land situated in the NE $\frac{1}{4}$ of Section 30, Town 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, described as follows:

Commencing at the NB corner of Lot 6, Block 1 of "Calkins Addition", according to the plat thereof as recorded in Liber 3, Page 48 of Plat, Oakland County Records; thence S $86^{\circ}19'28''$ W 10.50 feet to the Point of Beginning; thence continuing S $86^{\circ}19'28''$ W 89.50 feet; thence S $03^{\circ}56'22''$ E 25.0 feet; thence S $86^{\circ}19'28''$ W 65.0 feet; thence S $03^{\circ}56'22''$ E 46.50 feet; thence N $86^{\circ}19'28''$ E 105.0 feet; thence S $03^{\circ}56'22''$ E 24.0 feet; thence N $86^{\circ}19'28''$ E 49.50 feet; thence N $03^{\circ}56'22''$ W 95.50 feet to the Point of Beginning.

Contains 10,610 square feet or 0.24 acres of land. Subject to all easements and restrictions of record, if any.

ON-SITE NON-RESIDENTIAL FUTURE VI NAPL GROUNDWATER RESTRICTION (AREA "B")

A parcel of land situated in the NE $\frac{1}{4}$ of Section 30, Town 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, described as follows:

Commencing at the SE corner of Lot 30 of "Assessor's Plat No. 1", according to the plat thereof as recorded in Liber 52, Page 38 of Plat, Oakland County Records; thence S $86^{\circ}19'28''$ W 10.50 feet to the Point of Beginning; thence N $03^{\circ}56'22''$ W 45.0 feet; thence S $86^{\circ}19'28''$ W 49.50 feet; thence S $03^{\circ}56'22''$ E 45.0 feet; thence N $86^{\circ}19'28''$ E 49.50 feet to the Point of Beginning.

Contains 2,228 square feet or 0.05 acres of land. Subject to all easements and restrictions of record, if any.

BOUNDARY SURVEY

PART OF THE NE $\frac{1}{4}$ OF SECTION 30
T. 1 N., R. 7 E., CITY OF SOUTH LYON, OAKLAND COUNTY
TAX ID NO.: 21-30-228-016

CLIENT:

ARCADIS



34000 Plymouth Road | Livonia, MI 48150
p (734) 522-8711 | f (734) 522-6427

Advancing Communities

DATE: 07-17-14
DRAWN BY: SH
DWG: 5235SITE

SHEET

2 OF 2

JOB NO.

7282-14-0041

EXHIBIT 4

EXTENT OF LNAPL

DRAFT

T94-16795

ALC 70660

SS #5235 - RK #15959
South Lyon, MI

WARRANTY DEED

This Indenture Witnesseth: That the Grantor, **AMOCO OIL COMPANY**, a corporation organized and existing under and by virtue of the laws of the State of Maryland, party of the first part, for and in consideration of the sum of Ninety-Four Thousand and No/100 Dollars (\$94,000.00) to it in hand paid, does **REMISE, RELEASE, ALIEN AND CONVEY, FOREVER to:**

City of South Lyon
214 W. Lake Street
South Lyon, MI 48178

*200 E. Randolph St.
Chicago, IL 60611

party of the second part, the following described real estate, situate in the City of South Lyon, County of Oakland, and the State of Michigan, more particularly described as follows, to wit:

See Exhibit A attached hereto and made a part hereof

Property Address: 138 Lafayette & Liberty, South Lyon, MI
Tax Roll Number: 21-30-228-016
State Exempt MCL 207.526(r)

\$ 18.00 DEED
\$ 2.00 REDEMPTION
\$ 103.40 TRANSFER TAX
RECEIVED - OAKLAND COUNTY
LYNN D. ALLEN, CLERK/REGISTER OF DEEDS

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim or demand whatsoever, of the party of the first part, either in law or equity, of, in and to the above described premises, with the hereditaments and appurtenances; **TO HAVE AND TO HOLD** the said premises as above described, with the appurtenances, unto the party of the second part, his heirs and assigns forever.

And the party of the first part, for itself, and its successors, does covenant, promise and agree, to and with the party of the second part, his heirs and assigns, that it has not done or suffered to be done, anything whereby the said premises hereby granted are, or may be, in any manner incumbered or charged, except as herein recited; and that the said premises, against all persons lawfully claiming, or to claim the same, by, through or under it, it **WILL WARRANT AND DEFEND**,

Subject To:

- (1) Existing leases, easements, sidetrack and license agreements, if any, whether of record or not.
- (2) Covenants and conditions of record, if any.
- (3) Taxes and special assessments against the Property, if any.
- (4) Zoning laws and municipal regulations, if any; environmental laws and regulations, if any; building line restrictions, use restrictions and building restrictions of record, if any, and any party wall agreements of record.
- (5) Encroachments, overlays and other matters which would be disclosed by an accurate current survey.
- (6) The Release and Right-of-Entry dated October 17, 1994.



admission 17233 dated 10-16-95

005313

1994 NOT EXAMINED

OK - G.K.

11346-104

(7) The following covenants and agreements of the Grantees:

The Grantees herein and hereby covenant and agree for themselves, and their heirs, executors and assigns, that no part of the real estate herein conveyed shall be used by said Grantees, their heirs, executors, grantees or assigns, for the purpose of conducting or carrying on the business of selling, handling or dealing in gasoline, diesel fuel, kerosene, benzol, naphtha greases, lubricating oils, or any fuel used for internal combustion engines, or lubricants in any form.

The foregoing restriction shall terminate and be of no further force and effect upon the expiration of a period of 10 years from the date hereof.

The foregoing covenants shall run with the land and be binding on said Grantees, their heirs, executors, grantees, and assigns and insure to the benefit of the Grantor herein, its successors and assigns.

In Witness Whereof, the said Grantor has caused this instrument to be signed by its Manager, Real Estate Administration and its corporate seal to be hereto affixed and attested by its Assistant Secretary, all this 20th day of March, 1955.

In the Presence of:

AMOCO OIL COMPANY

S. L. Manson
S. L. Manson

T. J. Ciechanowski
T. J. Ciechanowski, Manager
Real Estate Administration

ATTEST:

R. A. Wilkens
R. A. Wilkens

R. A. Wilkens
R. A. Wilkens
Assistant Secretary

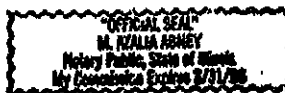
STATE OF ILLINOIS)

ss
COUNTY OF COOK)

I, the undersigned, a Notary Public, in said State and County, do hereby certify T. J. Ciechanowski, Manager, Real Estate Administration and R. A. Wilkens, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as Manager, Real Estate Administration and Assistant Secretary of AMOCO OIL COMPANY, a Maryland corporation, appeared before me this day in person and acknowledged that they signed, sealed with the corporate seal of said corporation, and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth, and that they were duly authorized to execute the said instrument by the Board of Directors of said corporation.

Given under my hand and seal, this 20th day of March, 1955.

M. A. Abney
Notary Public



15316-195

Return Recorded Desc to:

Rodney Cook
City of South Chicago
215 W. Long Lake
South Chicago, Ill 48178

Mall Tax Bills To:

This instrument prepared by:

A. L. Jackson
Real Estate Attorney
Amoco Oil Company
200 East Randolph Drive
Chicago, Illinois 60601

SEP 29 1995 189722

15711-513

SLANRIG.M1

9.10.00 MISCELLANEOUS RECORDING
\$ 2.00 REMUNERATION
30 SEP 95 3:11 P.M. RECEIVED
MICHIGAN DEPARTMENT OF TREASURY
400 N. ALLEN ST. 4TH FLOOR DETROIT MI 48201

RIGHT OF ENTRY AND RELEASE

THIS AGREEMENT, entered into this 17 day of October, 1994, by and between The City of South Lyon, whose address is 214 W. Lake Street, South Lyon, Michigan, and Amoco Oil Company, a Maryland corporation, 200 East Randolph Drive, Chicago, Illinois 60601, Attention: Real Estate Department/West ("Amoco").

WITNESSETH:

WHEREAS, Amoco, is Seller, and Purchaser, as Purchaser, entered into that certain Real Estate Sales Contract ("Contract") dated October 17, 1994, covering certain real property located at Liberty and West Liberty Streets, City of South Lyon, County of Oakland, State of Michigan, more particularly described on Exhibit A attached hereto and made a part hereof (the "Premises");

WHEREAS, the transaction contemplated in the Contract shall close on December 15, 1994, (the "Closing Date");

WHEREAS, Amoco's consultants have performed an environmental assessment which indicates that the Premises have certain levels of hydrocarbon contamination;

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WHEREAS, to allow Amoco to remediate such contamination, Purchaser desires to grant Amoco a right of entry upon the Premises from and after the Closing Date; and

WHEREAS, the parties have reached an agreement as to their respective rights and duties with regard to the Premises as set forth below.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Purchaser and Amoco agree as follows:

1. Amoco hereby agrees to use its best efforts to remediate any hydrocarbon contamination that Amoco caused (prior to the Closing Date) in its use and occupancy of the Premises. The method and timing of Amoco's remedial activity shall be at Amoco's sole discretion.

OK - G.K.

10:00
2:00 PM
✓

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2. Purchaser hereby grants to Amoco, and its contractor or sub-contractors, as Amoco from time to time may employ, an irrevocable right to enter upon the Premises from and after the Closing Date for the purpose of engaging in environmental assessment, inspection and remediation, or other activities as are required by governmental authorities asserting jurisdiction (the "Remedial Action").

3. During the period of Amoco's access to the Premises for performance of the Remedial Action, Amoco is granted access to and the right to place necessary remedial equipment upon the Premises, and access, at Amoco's expenses, to on-site utilities (electrical, sewer, water) if required for the Remedial Action.

4. Purchaser hereby agrees to cooperate fully with Amoco so as to minimize the time and expense to Amoco of performing the activities described herein.

5. In no event shall Amoco be responsible for any loss of use or business downtime of Purchaser's business arising out of Acts of God, weather conditions and/or Amoco's (or its contractor's) presence on or use of the Premises during the Remedial Action. Amoco, however, will use reasonable efforts to avoid any business interference with Purchaser's use and operation of the Premises.

6. At the conclusion of the Remedial Action and, to the extent it is practicable, Amoco shall restore the Premises to substantially the same condition as before the Remedial Action, less the amount of contamination removed under the Remedial Action referenced herein.

7. This Agreement shall terminate upon Amoco's consultants determining that all hydrocarbon contamination caused by Amoco which existed on the Premises prior to Closing Date has been remediated to the Michigan Department of Natural Resources' ("MDNR") satisfaction.

8. After Amoco has received a Closure Letter from the MDNR, Purchaser hereby agrees that Amoco shall be released from any and all claims and liability relating to the Remedial Action and shall defend, indemnify and hold harmless Amoco, its successors and assigns, from and against any claims, demands, penalties, bonds, liabilities, settlements, damages, costs or expenses, because of personal injury, death or property damage, arising out of Purchaser's presence on or use of the Premises as of the date of said Closure Letter.

9. This Agreement shall be governed, construed and administered in accordance with the laws of the state of Michigan.

10. This Agreement is the final and entire expression of the agreement between Purchaser and Amoco with respect to its subject matter, and may not be amended, modified, or supplemented, except

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by written agreement of the parties, executed by their duly authorized representatives.

11. This Agreement shall bind and inure to the benefit of Purchaser and Amoco, their respective successors and assigns.

12. This Agreement runs with the land shall be recorded.

IN WITNESS WHEREOF, Purchaser and Amoco have executed this Agreement as of the day and year first above written.

WITNESS

THE CITY OF SOUTH LYON

Linda S. Wickham
LINDA S. WICKHAM

By: Rodney L. Cook
RODNEY L. COOK
Its: City Manager

Katie Halina
KATIE HALINA

WITNESS

AMOCO OIL COMPANY

R. J. Cieschanowski
R. J. CIESCHANOWSKI

By: T. J. Cieschanowski
T. J. Cieschanowski, Manager
Real Estate Administration

J. N. Baker
J. N. BAKER

15711-516

STATE OF MICHIGAN)

) ss

COUNTY OF OAKLAND)

The foregoing instrument was executed before me this 15th day of September, 1995, by Rodney L. Cook of City of South Lyon, as his free and voluntary act and the free and voluntary act of City of South Lyon, for the uses and purposes therein set forth.

* City Manager

[Signature]
Notary Public

My commission expires: 2-19-01

STATE OF ILLINOIS)

) ss

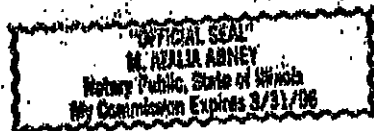
COUNTY OF COOK)

The foregoing instrument was executed before me this 24th day of August, 1995, by T.J. Ciechanowski, Manager, Real Estate Administration of Amoco Oil Company, a Maryland corporation, as his free and voluntary act, on behalf of said corporation, for the uses and purposes therein set forth.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires:



Return to: Lawyers Title pick-up
(794) 16795

15711517

EXHIBIT A

Case No. 73416795 CMS
N-070660

land in the City of South Lyon, County of Oakland, State of Michigan, described as:

PARCEL I:

3048
A part of Block 1 of Calkins' Addition to the Village of South Lyon, according to the plat thereof recorded in Liber 3 of Plats, Page 48, Oakland County Records, described as: Commencing at the Southeast corner of said Block 1 at the intersection of Lafayette and Liberty Streets; thence running North along the East line of said Block 89 feet; thence West parallel with the South line of said Block 60 feet; thence South parallel with the Easterly line of said Block 89 feet to the South line of said block; thence East along the South line of said block 60 feet to the place of beginning now known as Lot 30 of Assessor's Plat No. 1 of part of the Southwest 1/4 of Section 30 and the Northwest 1/4 of Section 29 and the Northeast 1/4 of Section 30, Township 1 North, Range 7 East, City of South Lyon, Oakland County, Michigan, according to the plat thereof recorded in Liber 52 of Plats, Page 18, Oakland County Records.

PARCEL II:

3048
Lot 22, Assessor's Plat No. 1, parts of Southwest 1/4 of Section 30, Northwest 1/4 of Section 29 and Northeast 1/4 of Section 30, Township 1 North, Range 7 East, City of South Lyon, Oakland County, according to the plat thereof recorded in Liber 52 of Plats, Page 18, Oakland County Records. Also Lot 5, Block 1, Calkins' Addition to South Lyon, Oakland County, according to the plat thereof, recorded in Liber 3 of Plats, Page 48, Oakland County Records.

PARCEL III:

Lot 22, Assessor's Plat No. 1, parts of Southwest 1/4 of Section 30, Northwest 1/4 of Section 29 and Northeast 1/4 of Section 30, Township 1 North, Range 7 East, City of South Lyon, according to the plat thereof recorded in Liber 52 of Plats, Page 18, Oakland County Records.

TAX CODE NO. 21-30-228-016 PT

52038

TPH-16795