

Regular City Council Meeting
March 26, 2018
Agenda

7:30 p.m. **Call to Order**
 Pledge of Allegiance
 Roll Call
 Approval of Minutes: March 12, 2018
 Approval of Bills: None
 Approval of Agenda
 Public Comment

I. Presentation- Recognition of Ashley Page for "Young Entrepreneur" contest winner at The Lemon Tree

II. Old Business –

1. Discussion – Downtown
2. Consider First reading of Liquor License Ordinance
3. Consider approval of GFL contract
4. Consider tax abatement fee

III. New Business-

1. Consider approval of purchasing a Heater for DPW building
2. Consider approval of Biotech contract
3. Consider approval of rehabilitation and pump overhaul of well #2
4. Appointment to DDA- Anne Buchtrup
5. Appointment to Ethics Commission- Angela Baker
6. Consider approval of use of Volunteer Park by Kiwanis for the Egg Scramble

IV. Budget

V. Manager's Report

VI. Council Comments-

VII. Closed session pursuant to Section 8(h) of the Open Meetings Act, MCL 15.268(h) to consider and discuss written attorney -client privileged communication on legal issues relating to a personnel matter, which is exempt from disclosure under MCL.15.243 (1) (g) (FOIA)

VIII. ADJOURNMENT

**CITY OF SOUTH LYON
REGULAR CITY COUNCIL MEETING
March 12, 2018**

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

Present: Mayor Pelchat, Councilmembers; Kivell, Kennedy, Kurtzweil, Parisien, Richards and Walton
Also present: Chief Collins, Attorney Wilhelm, Department Head Boyen, Fire Chief Vogel, DDA
Director Donohue and Deputy Clerk Pieper

Clerk Deaton - absent

MINUTES

Councilmember Kivell stated changes for the following: page 3, the words in artful needs to be changed to inartful, page 5 spelling correction from rearding to regarding, page 7 correcting the sentence to read – higher unrestricted fund balance, and a correction 4th line from the bottom of page 7 changing to to too, and last, on page 15, correcting first sentence in Council Comments to read – now that it is time for the city and the township.

Councilmember Walton stated changes for the following: at the bottom of page 10, correct the dollar amount to \$900,000.00.

Councilmember Kennedy stated changes for the following: page 7, 4th line down, change perimeters to parameters.

Councilmember Parisien stated changes for the following: page 8, the word stated is typed twice.

CM 3-1-2018 MOTION TO APPROVE THE MINUTES AS AMENDED

Motion by Parisien, supported by Kennedy
Motion to approve the minutes as amended

VOTE: MOTION CARRIED UNANIMOUSLY

BILLS - CITY

Councilmember Kurtzweil states that the only issue she has is to separate the bills out, approval of the City bills and approval of the Attorney bills. As her vote will be different depending on which bills and that is how it's been done in the pass.

Mayor states, we will begin with the City bills.

Councilmember Richards states that the Revenue Report for the City of South Lyon, period ending 2-28, it lists the balance on the bottom line, \$101,483,541.16, as the money that came in for that period and on another page it reads, \$469,618.61 is our expenditure for the same period, that leaves us a balance of \$13,822.55. He goes on to say that if he is reading this right, Lori isn't here, he just wants to put this in the minutes that he tallied that up.

Councilmember Kivell states he has a question on that same Revenue Report. The second line down for South Lyon Woods Tax, their budget revenue is 131.36 %. He goes on to question if more trailers have

come in to the place that has gone on line, so they are generating revenue now? Kivell adds that he will ask Lori about it the next time he sees her.

CM 3-2-2018 MOTION TO APPROVE CITY BILLS

Motion by Kivell, supported by Parisien

Motion to approve City bills as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

BILLS-ATTORNEY

Councilmember Kurtzweil states that she has had an opportunity to take a look at the attorney invoices and there seems to be a lot of issues in the invoices regarding HR issues, fairly extensive issues. Once again, I'm going to sort of bring to Council's attention that they may, at some point, want to get a Human Resource individual on staff, at least part time. This is getting a little bit out of control. She then states, that initially when she went over the bills, there are a lot of phone call conversations here with Council Members, the Interim City Manager and I would just like to know (Tim) if you could find out from Lyon Township if the Johnson Rosati contract that is with them, bills for phone calls. She goes on to state that she does think that she recalls listening to that conversation and they were not going to be billed for phone calls and if that is the case, she would like to have a similar deal to what Lyon Township got to not have thousands of dollars billed on phone calls. There are a lot of phone calls in here, a lot of phone calls. But I understand. Attorney Wilhelm states that he can certainly look in to that. He goes on to say to Kurtzweil, that he is sure that as an attorney you realize a lot of work is done through phone calls and communications. Kurtzweil states that her attorney work is substantive and I don't see a lot of substantive work in here. It's a lot of phone calls, and that is either telling me that the people calling you are inexperienced and maybe are in over their head a little bit, maybe you need more people with a better fit of a skill set, something is definitely off. Look at these invoices, it's substantially a lot of phone calls. I sat there and said, "I don't get this." But I understand, we can take a look at it. Wilhelm states that he would only take issue that substantive work can only take place in a phone call. In addition, there are several staff members, we are using an Interim City Manager and his time is being used differently because of that staffing issue. Councilmember Kurtzweil states point taken.

Councilmember Richards states that he has gone through the Attorney bills also, and there is a substantial amount where his name is mentioned. He stated that not all on the telephone, he had a very substantial meeting with the Interim Manager Collins, and the attorney and it was all very necessary. Richards goes on to speak to Wilhelm regarding his conversations with the Tube Mill, and wants to know if Council will be brought up to speed on whatever it is that is going on. Wilhelm states, absolutely.

Councilmember Walton states that she noticed a conference regarding a complaint with South Lyon Police regarding a rental structure damage and theft of appliances. She questions Attorney Wilhelm if this was our rental property. Wilhelm states that this is Beth, a prosecuting attorney, from his office and he would have to find out. She then goes on to question on January 24th, a conference with a resident regarding recent council meetings and wants to know if we allow residence to call you, how does that work? Wilhelm advises that if a resident calls him, he will take the call and he would not bill it unless it is something of substance. Walton reiterates that she is just questioning if there is a process/procedure in place.

CM 3-3-2018 MOTION TO APPROVE ATTORNEY BILLS

3-12-2018

Motion by Kivell, supported by Parisien
 Motion to approve Attorney bills as presented

VOTE: MOTION CARRIED – ONE OPPOSED

AGENDA

Interim City Manager Collins requests removal of New Business item #4, there is some additional language work that needs to be done on that contract before we can bring it before council. Attorney Wilhelm states that item #6, the closed session; there is no need for a closed session. He states he was unable to get the information needed out to Council.

CM 3-4-2018 MOTION TO APPROVE THE AGENDA AS AMENDED

Motion by Kivell, supported by Kennedy
 Motion to approve the Agenda as amended

VOTE: MOTION CARRIED

PUBLIC COMMENTS

Barbara Donley, 225 E. Liberty, South Lyon, MI 48178

Barbara states that she is here to address the re-zoning of 500 Stryker, she goes on to explain that this is a request to re-zone that is not conditioned on anything. They have no obligation to put in what they have presented. They can do anything within the R2 zoning that they are seeking and I would regret that Council gives up what goes on at this property. She goes on to state that the comments made by City Planner, Carmen Avantini, does not really address if this re-zoning is to occur. She states that it appears to her that the owner's interest is making money and not necessarily an interest in what the city of South Lyon wants. All the property around that is zoned single family residential, the four duplexes that are on the corner must have been done through an exception to zoning, and these folks are asking you to make the exception the rule and that is really not how things should happen. Barbara states that she feels that Carmen's report is just bold statements. She goes on to discuss the effects on traffic and the effect on the wetlands. She also states that one of the most important things in zoning consideration is putting the land use to the highest and best use, and sometimes, this is leaving the property just as it is. Barbara goes on to say that she thinks that we should be dealing with fact not with what someone thinks they should be and that after looking at the zoning code, she adds it doesn't say anywhere that it is the City of South Lyon's responsibility to insure that a real-estate speculator makes money. Barbara goes on to discuss the phone calls received by her mother regarding the property that she owns, which backs up to the back of this property, which would give them the two ways, in and out of the property. She states that as a concerned citizen and a nearby land owner that you not accept this and frankly, if all we want from the person that does our zoning is bold statements, without any fact, she would like to apply for the job. She goes on to state that she would hope that council votes no on this re-zoning or at the very least make it a conditional re-zoning. Finally, she states that this property was purchased for \$76,000.00 and if the people that owned this property would have updated the brick bungalow that was recently torn down, they would have more than made a reasonable profit.

Diane Still, 61037 Heritage Blvd., South Lyon, MI 48178

3-12-2018

Diane states that she lives in Colonial Acres, Phase 1, Building 4. On February 27th there was a blockage in a sewer line that caused a very great back up in all the basements. (8 Units) She wanted to make sure that Council was aware of what actually happened. She goes on to state that on the 1st there was another problem, and this took place after some of us had already had their units cleaned. There was a great deal of damage in some of the units and her concern is that when they do another long-term fix of the sewer line that this will happen again. Again, she wants to make sure that Council is aware and that this has caused a lot of problems, it was a great deal of damage, and it was difficult trying to make a claim for the city for overage that the insurance companies do not cover.

DISCUSSION – DOWNTOWN

DDA Director Bob Donohue states asks if there are any questions regarding the weekly report that is done by Chief Collins. Councilmember Parisien questions if there are any plans for the S.L.A.R.A. building located at 318 W. Lake. Donohue states that there has been some brief discussion but nothing definite. He adds, he would gladly assist in marketing the location.

Donohue goes on to read the attached report titled - Observations and thoughts by the DDA & Economic Development Director.

Councilmember Kurtzweil states that she is the one that made the comment regarding Tenpenney, she adds that she has received (probably) seven phone calls from individuals that agreed with what she said. The fact of it is that competition is coming to South Lyon. One of the competitors that is coming in to South Lyon is an upscale furniture store and that's just the way it is. She goes on to say that she always tells people that you have a decision to make when you are faced with competition your either going to succumb to the competition or you are going become better. She states that she is not going to become restricted in her free speech about comments about businesses that are going to be coming to this town that may compete with businesses in the downtown. She stands by her comments and she has probably received more phone calls and support of what...it wasn't a negative comment. It's about competition coming in to this town, and the businesses in this town need to understand. The competitor may be better than you, provide a better product than you, may dress their windows better than you, competition will eat you alive. Kurtzweil goes on to say that she is not going to back off and that she is the one that made the comment about the furniture store.

Councilmember Kivell states to Kurtzweil that first of all you called it Onepenny, so if you don't think that is derogatory. Kurtzweil adds that this is what she thought the name of the store was. Kivell goes on to ask Donohue about the building that Emily's used to be in. He states that the For Rent sign is out of the window. Donohue states he will contact Mr. Jarrett. Kivell adds, for the record, he applauds Bob's characterization of things, the negative comments were completely inappropriate and he is glad this was brought to the front. Focusing on some of those points is a great idea and a great message.

Councilmember Kurtzweil states to Donohue, that the only negativity that she has heard about is the inappropriate display between him and the City Manager. Donohue states that he would like to address that, and that really doesn't exist publicly, ever, and he has never heard one business tell him that.

Councilmember Parisien states that it is important that we recognize all of our downtown businesses and let them know that they are appreciated. She states that she is one of seven, but she thinks it is important to keep our morale up. We are doing a great job with our Downtown, but we still have a long way to go and it is important to let our businesses know that they are appreciated. She goes on to say that Tenpenny does a lot for the community with giveaways and donations, and apologize on behalf of herself and thanks Tenpenny for being a part of South Lyon and a part of Downtown.

Councilmember Kennedy states that he appreciates Bob bringing this to the Council meeting and he agrees with what Bob said. He adds that everyone here at this table needs to understand that we are all in the same boat and we will either sink or swim, collectively. We need to reinforce and support every business in this town. We don't single out a single business because they didn't do something for us or they don't carry the right merchandise. There is plenty of room for competition to co-exist in this town, and each business brings in additional customers for the other businesses, other funds, other merchandise and additional taxes for this city. We have heard before that this city is anti-business, we have heard enough of that, and they certainly don't need the people on City Council belittling their business.

OLD BUSINESS

1. CONSIDER SECOND READING OF ZONING ORDINANCE AMENDMENT TO REDUCE NUMBER OF MEMBERS

Mayor Pelchat states the recommendation for this is to approve the first reading of this amendment. Attorney Wilhelm addresses this matter. He states this is the 'second' reading of this ordinance, there has been no change from the first and it simply reduces the membership of ZBA from 7 to 5 as authorized under state law. Wilhelm has spoken with staff and planning consultant and we feel this will help with some of the attendance issues allowing us to fill a full board. He adds that we will have to follow through and appoint alternates in the event there are absents or conflicts in scheduling. Kivell adds that this certainly makes the most sense.

CM 3-5-2018 MOTION TO APPROVE THE SECOND READING OF THE ORDINANCE AMENDING THE CITY OF SOUTH LYON ZONING ORDINANCE SEC 102-81B TO REDUCE THE NUMBER OF THE ZONING BOARD OF APPEAL MEMBERS FROM SEVEN TO FIVE

Motion by Kivell, supported by Parisien

Motion to approve

VOTE: **MOTION CARRIED UNANIMOUSLY**

2. CONSIDER SECOND READING OF ETHICS ORDINANCE AMENDMENT

Mayor Pelchat states that the agenda note recommendation for this is to approve the second reading. Councilmember Kurtzweil states she has a couple of things on this ordinance. She adds that the problem that she had with establishing a Board of Ethics, is not that it shouldn't be there, she thinks it should be a Board of Ethics or any other remedy that is deemed to be applicable for the circumstances. She adds that some ethic violations that can be pretty simple and can be solved through the City Manager with a simple disciplinary type of issue, there are other ethics violations that can be resolved through City Council and there are other ethics violations that require very sophisticated ability to analyze the issue. This Board of Ethics, she doubts that any one serving on that board of ethics would have been able to go through the case law and do the statutory analysis that was done on the Dykema-Gossett conflict of interest. And, she thinks that when you have a board of ethics that is not specialized in a skill set to deal with not only case law and the law of statutes, you are potentially setting yourself up for litigation. If you get it wrong, you are going to be sued. Kurtzweil states that what she thinks she would do is leave that as an option, but say that Council is free to have other remedy's available to it, other than populating a board of ethics.

3-12-2018

Because the people probably sitting on that board are going to be residents of the city and don't have the developed sense of how to resolve these issues. Again, she adds, if you disagree than you need to read the Dykema-Gossett opinion. It was a brilliant piece of writing. It is used all over the state of Michigan. Again, she adds, that she doesn't not agree with the Board of Ethics, she just doesn't think it is the only way to resolve an issue regarding a conflict of interest.

Councilmember Kivell states that the only failing in this argument is that the guy that did the brilliant job on the Conflict of Interest issue that you were so glowing about is the same guy that wrote this and thought that the Ethics Board was the way to go. Kivell adds that he is inclined to take that recommendation and make a motion.

CM 3-6-2018 MOTION TO APPROVE THE SECOND READING OF THE ORDINANCE
AMENDING THE CITIES ETHICS ORDINANCE

Motion by Kivell, supported by Richards

Motion to approve

VOTE:

MOTION CARRIED – ONE OPPOSED

3. CONSIDER GFL USA AMENDMENT AND EXTENSION OF SOLID WASTE CONTRACT

Attorney Wilhelm begins by introducing Sam Caramagno from GFL and Mike Csapo from RRRASOC. He states that they are here to address some issues that came up with the proposed amendment extension, the last question related to details regarding recycling carts.

Sam Caramagno, from GFL, begins with the explanation of the recycling cart program and how it will work. He states that they would handle all the calls regarding the recycling carts and produce a report back to the city, monthly or quarterly – which ever preferred, up to the first 2,000 carts. If the city were to exceed 2,000 carts, the additional carts would be provided and there would be a \$75.00 charge per cart that the city would be billed for on an annual basis.

Councilmember Kennedy asks if the city does not take the 2,000 carts, would the price of the contract go down. Caramagno states, that it would. RRRASOC representative, Mike Csapo, states that the annual savings on a single family would be roughly \$7,200.00 - \$7,300.00. On a multi-family discount, the annual price would go from \$124.92 to \$123.00. Csapo goes on to explain the other program options that are available. Kennedy confirms that the savings is relatively minimal. He goes on to confirm that if we take the 2,000 free carts, the current residents that already have carts (Caramagno adds that this is approximately 30% of our residents or roughly 1,000 residents) would get their carts first and stop being charged for them. The remainder of the carts would be left to distribute. He confirms that any carts over the first 2,000 would be \$75 a cart. He goes on to say that the City of South Lyon does not want to be in the cart business and resident number 2,001 would deal directly with GFL. Kennedy also confirms that this is based on this 4 year contract and upon the next extension; these numbers would be revisited and adjusted accordingly. Caramagno agrees, the numbers will be based on what the city needs will be. Kennedy again states that he does not want to extend beyond the 2,000 carts, and we may not go past 2,000, but the city does not want to absorb the extra cost.

Councilmember Kivell states that the judgement was going to be predicated upon the bottom line of what the credit would be with not having the carts. The estimate is saving \$7,000.00 a year when GFL would

be charging \$150,000.00 a year if the City were buying them straight up. Clearly, that is no incentive for us to not capitalize on that offer.

Councilmember Richards questions Caramagno about changing the contract when we are only three months in to it. If someone does not want to invest in a cart, they can put out a cardboard box.

Caramagno explains to Richards that the City is not in the middle of the deal. The contract is coming due in June of 2018, so it's an option to extend the deal. The carts are just an option that some folks like and some folks don't. Csapo stated that the idea of the carts came from a discussion between us and your City Manager. The 2,000 is a number that happens to be the sweet spot. As discussed, you have about 1,000 homeowners that already are using the carts. This has been a sort of under promoted opportunity here in South Lyon. This will institutionalize that having carts is part of the service that the community provides. Mayor Pelchat questions the City Attorney if we are looking to amend this deal to have this type of language in there? Wilhelm states that yes we are looking for direction from Council about what the specific terms are with the carts being the main interest. Csapo calls everyone's attention to the draft that they have been working on with the City Attorney on page 4. It would be a simple matter to modify the paragraph that eliminates that last line. Councilmember Kennedy would like to include the verbiage that Councilmember Kivell mentioned about when it comes time for renewal that we look at additional carts for the upcoming period, just so it doesn't get lost between now and the next four years. Attorney Wilhelm adds that he would like to add some sentence that indicates that when residents go above that 2,000 threshold, they are to go directly to GFL and we should also clarify the existing count on the carts and that the residents will no longer be billed for them. Also, figuring out a proper reporting obligation that we can figure out through staff what an appropriate periodic reporting period is. Possibly quarterly. Csapo adds that they actually give monthly reports on the City's behalf to GFL. Councilmember Kivell adds that it would be helpful to know how many carts are out there now, so that we know what the balance will be. Caramagno states that he will get those numbers. He adds that the residents can call and say that I currently have a Duncan cart and I want to go to a GFL cart program through the city for recycling, and we will take care of that business. They can switch out their Duncan cart, or they can keep it for something else, GFL has no use for them. Kivell adds, if the resident were to have a cart of their own, would they be able to use that too? Caramagno adds that it becomes difficult when there are different carts and different colors, they should probably have it labeled so that it is not taken by garbage trucks instead. GFL does have recycle decals that they will be happy to distribute, anything to make the program operate smoother.

Attorney Wilhelm would like to work through the language and bring it back to the next meeting.

4. CONSIDER WORKPLACE SEMINAR

Councilmember Kurtzweil states that she has learned that the city has never provided any workplace education to any of the employees that work in the city. Chief Collins adds that the police department has had certain training, but is not aware that the other departments have received any. Kurtzweil states that there are particular defenses that are available to the city with respect to workplace issues. Kurtzweil has presented a list to council of possible employment topics which include: whistle blower, Elliot Larson Civil Rights Act, discriminatory harassment, hostile work environment and other areas that can be included in a work place seminar. The broad brush of this potential seminar is have about a two hour training session for all the department heads and supervisors, that would be a fairly intense seminar which would include: sexual harassment, sexual discrimination, hostile work environment and how to respond, which is something the city has never done. That would run approximately an hour and a half with about a half hour of questions and then there would be another training session for employees, and that would

take place a little later on in the evening. Kurtzweil states that this can all change; she is just trying to provide an outline for people to start thinking about and talking about. She adds that the management training could take place about 3:00 in the afternoon, ending around 4:30-5:00, maybe spring for a little bit of pizza for the employees to come in after work and start the employee portion of the seminar around 5:45. She states that this is a kind of training that most employers do, other municipalities have done this, and our city has not. She states that the person that she spoke with, Annemarie suggests that you do the first one in person so that the employees have the opportunity to ask a lot of questions. Tape the event so that an employee that is unable to make it can sit at a computer, watch the seminar and at least get the employees update with the skills and current with the law in terms of workplace appropriate conduct and behavior. Kurtzweil states that she did attach some Bios of individuals, she has called some people. She did receive a few phone calls back, but the person that she was able to spend time with because her name was passed off to me, was Annemarie Welch. She does this for a living and her credentials are phenomenal, she represents management only and this is what she does. She goes in and does training and seminars. She probably has the best skill sets to do this. She goes on to say, she doesn't know if Council wants to engage in this at this time, but the clock is ticking. As Annemarie said, we are clearly at a disadvantage if you do not have workplace training. We have great employees and a great work force, as far as she knows; there has never been a problem. You have to train your workforce and get them through this training.

Councilmember Parisien she states she is all in favor of a workplace seminar, it's important and she thinks we need it. Not that Councilmember Kurtzweil's research isn't on par, it's fine, I just think to avoid any appearances of impropriety, if we could have Tim pick out some people from ICLE. If you go under ICLE and you look at Attorneys under Employment and Labor Law, there is a list of about 50 under Ethics and more than double under Employment and Labor.

Councilmember Kivell states we have a retainer with Johnson Rosati, and he can't imagine that they would not have someone that is capable of handling this. He goes on to recommend Chief Collins to set up some people that could act on this, especially the Johnson Rosati angle as they are the firm that's on retainer. He states that he can't imagine that there are not video seminars that can walk everybody through this with the same volume of information and have some kind of way to validate that you have actually paid attention to what the seminar is pointed toward.

Attorney Wilhelm states that he would suggest that the City reaches out to the MMRMA and the MML as resources to identify trainers and sessions as well.

Councilmember Kurtzweil suggested that Council sets some parameters on here. She states that she doesn't mind Johnson Rosati Law Firm doing – whether they want to do it or they don't – I don't think Lloyd has the skill or the mind set to pick out, question and go over these things. She states that you need an attorney with the background. She goes on to say to Wilhelm, she doesn't have a problem with him or his law firm picking the people, or your law firm doing this, your law firm can do this. The employees need this education, it's critical. We need to move on this, it's an issue that we agree that this gets done. If you want to add more topics, you can.

Attorney Wilhelm goes on to state that the factor that has not been discussed yet is cost. He questions if there was a discussion with Councilmember Kurtzweil and any of these people and what they are charging. That might include the number of hours, taping, the number of sessions/shifts, etc. There may be some sources that can provide this through the city's memberships, through MML, he goes on to say that he is sure that they must have some resources that they can point us to.

Councilmember Kurtzweil states she is trying to move this forward. She questions if Tim's law firm is going to grab hold of this, she adds that she knows what the attorney fees are going to be. Going with a

private attorney will run about \$350.00 an hour, probably looking at a total of 12 hours – 4 hours in seminar work and 8 hours in prep, potentially \$4,300.00. Annemarie, from Clark Hill, did say that they do have a computer program that is \$15 an employee. An employee can log on to a computer, go through the sexual harassment issues and take a test at the end. Her professional recommendation was that this would be okay, once they had the foundation work in the actual seminar itself and then 2 years from now do an update through the computer. You have a city that has never trained its employees, ever. She did feel that it needed to be separated out in terms of management because the seminar discussion is very different for management than it would be for the employees. So you are looking at two seminars.

Attorney Wilhelm states that there are attorneys in his firm that does these, in fact some of the attorneys did some seminars last week, and the week before. I didn't get a chance to talk with them about cost, frankly, I didn't think that Council would find my firm to be an acceptable choice. To be very blunt, he states he needs more direction, Lloyd needs more direction, and if he is going to be involved with this, he is going to be required to make phone calls, and he does not want to be criticized for doing what he's being asked to do. This is normally something that the City Manager would be all over.

Councilmember Kivell states that the first blush should be made with a live facilitator, so down the road, you are going to have new employees that will need this. Because they haven't had the experience of the facilitator, are they not going to be able to just go online and do the \$15.00 version?

Councilmember Kennedy states that if you tape the first session, you have the opportunity to see the instructor lead version, as opposed to just signing on the computer based program.

Attorney Wilhelm states that we can take this a couple of ways. This could be a request for proposals, or you can task some body to come back with narrowed down choices, with recommendations. We need to understand, whose available, what their qualifications are, management session and employee session, having some control over what the items covered are and cost. Then you have to get in to the administrative and getting everything set up.

Councilmember Kivell questions if we can reach out to MMRMA to see what categories that they feel are the most need for being protected from.

Attorney Wilhelm states that he thinks the list is a great starting point. Whoever is chosen needs to have some input on what topics are covered, or if there is a reason why they would think something should or should not be covered. He further states that anybody that accepts this task is going to be receptive on what the city needs to be trained on.

Councilmember Parisien states that we should request RFP's from everyone. Price is a factor, and for as important as it is to have this seminar, and there is a sense of urgency to have it, we still need to take our time to review all the RFP's, see what the cost is and really take our time to pick a candidate. The laws are the laws; they are pretty straight forward. The information is going to be the same. Parisien states that whether we pay a lawyer from a prestigious firm \$500.00 or an attorney that may charge us \$200.00, again the laws are going to be the same. She goes on to add that Tim should include his firm, see if they are interested and what they would charge (or if they would charge). She goes on to ask if we are going to be paying for the recording. Is this something the city can do?

Mayor Pelchat states that some places may charge you to film it, but with that said, we do have a cable commission that is quite competent of filming the event. We would need to run this buy whoever is doing the presentation.

Councilmember Walton questions if we do regulatory training now for all our employees now on a regular basis. Mayor Pelchat defers to Chief Collins as he doesn't believe so.

Chief Collins states that there are certain topics on the list and some that are not on the list that he provides to Police personnel on an ongoing basis, he does not have the knowledge to speak for the other

city departments, but does go on to say that the Fire Department has some extensive training. Chief Vogel adds that they do their training annually.

Councilmember Walton states that her experience with regulatory training is that whether the laws change or not, we give the same training every year so they know it. She states that she does like the idea and wants to see what we can get.

Councilmember Kurtzweil states that she finds this interesting that the Police Department are receiving training and the Fire Department is receiving training. The problem is, or maybe it's not a problem, but you now have different employees getting different types of training, with different pieces of emphasis, and this probably should be a policy decision driven by the city saying that all our employees are going to get a minimum of this, this, this and this. We will provide the minimum requirements and then if Fire and Police want to do their additional training you can do it. But part of the defense for the city is that all the employees are getting the same message.

Councilmember Kennedy, states he agrees with Councilmember Kurtzweil, and he feels that establishing a consistency with a core set of training and then other department specific training can be done on top of that. Establishing the consistency would be a real plus for the city.

Mayor asks City Attorney Wilhelm if he could possibly pull together information for the next meeting or maybe two meetings to get the information that Johnson Rosati can offer us.

Wilhelm states that he is aware that they have this type of seminar. His question for Council is do you want information from any other training sources.

Councilmember Parisien states that she would like you to look in to them all. Cost is a factor.

Councilmember Kivell states that is going to cost and who is going to be the one that is orchestrating and reaching out to all the other entities. Tim working with Johnson Rosati is one thing but him asking all these other entities, he's going to end up needing to bill us for that. Parisien adds that she is fine with that. Kivell states, if Johnson Rosati will do it for free or a marginal cost, why would we go any further. Councilmember Kurtzweil suggests that Wilhelm come back to the next meeting with a proposed outline. Let's look at Johnson Rosati first, because she is already aware of what the attorney's that she pulled from ICLE is going to cost. They are running anywhere between \$350.00 and \$360.00 an hour, at 12 hours, that comes out to \$4,320.00.

Wilhelm states that there is a different avenue that we can address, possibly through the MMRMA, and he would like to pursue that. He adds that he will talk to his partners and see who would be giving the seminar. Then he can prepare a proposal and have them come in to present it to you.

Councilmember Parisien states she would like to hear from Johnson Rosati, but because we have memberships with MMRMA and MMLA, we should also tap in to those resources. That was my original intentions.

Wilhelm states that his concern is that they already have seminars set up for municipal employees to go to, more of a refresher course. Whereas, if you are asking for a full seminar with differentiation between employee and management, they may suggest that we talk to Attorney X which is very similar to what has been pulled together already.

Councilmember Parisien questions the subject of videotaping this and when we would need to act on this. Wilhelm states that this should be baked in to the proposal.

At the time, a resident approaches the microphone with a question. Mayor Pelchat explains to her that we did go over this at the last meeting and that the Council does not take public comments during the meetings. The resident states that we allowed the people from GFL to talk on the agenda item.

Councilmember Kivell states that they were invited speakers.

Mayor Pelchat goes on to say that we are about to speak to the subject of Council meeting conduct, and we will discuss this in that, but tonight, just like two weeks ago, I am going to ask you to please respect the form of this meeting and withhold from your public comment. The resident proceeds with her question anyway and asks if Council, because they are paid by the City with City funds, would they be subjecting themselves to the training that is being discussed.

Councilmember Kurtzweil states that she left that out and she did not originally plan for commission members to participate in this seminar. The attorneys that she had spoken with suggested to start with the employees, management and then elected officials. So every elected officials would be required to attend. This would also include third party vendors, which would include Carmen, Dennis from Safebuilt, but that is for Council to decide. It was suggested for Council to attend both sessions. But the most important one would be the management.

Tim adds that he will have this ready for the next meeting.

5. NONE

6. COUNCIL MEETING CONDUCT

Mayor states that this is where we will discuss if we will tolerate or allow public comment throughout the meeting or if we will have a second public comment. Hopefully this will help us to structure our meetings and keep us from being here until the next day.

Councilmember Parisien, as she said in the last meeting, there are a lot of moving parts for this to take place. She goes on to highlight the ones that she thought were important. Who would keep the time, would the City Clerk be able to do that, but how would it be done. Deputy Clerk Pieper states that she cannot speak for City Clerk Deaton, but it would be possible for her to keep track of time and let the Mayor know when the speaker's time would be up. Parisien states that the time that the individual would speak would be limited, especially if they are given two different opportunities to speak. She also touches on the fact that the provision for the Mayor to waive the time limit is important. She also feels decorum is important. Coming to the microphone and being professional is important.

Councilmember Kivell states that he does agree with the general consensus of that. He states he can see the potential of speaking on an agenda item can be hazardous, but he still thinks this is important. He would rather have both of the sessions being able to have people speak to whatever issue they would like to do. Mayor Pelchat states he agrees completely. Kivell also agrees with the 2 and 3 minute thing and also the Mayor being able to waive the time limit.

Councilmember Kennedy distributes a compiled list from other cities and how time and public speaking is handled. He also says that we are definitely in the minority by not timing a resident speaking on any give issue. (See attached document)

Mayor Pelchat states that you should be able to get your point across in 3 minutes. We just need to hammer out time limits and if we are going to allow public comments in the middle of the meeting.

Councilmembers go on to discuss in length, the difference between public hearings and public comments. They also go on to speak about public comments and not allowing comments during the agenda items. Also, discussing placing time limits and avoiding and/or trying not to restrict speaking. Allowing for the exception but preparing for the normal. To help eliminate extending these meetings as long as they are and making sure that we have structure.

Councilmember Parisien makes the suggestion of a special meeting. Attorney Wilhelm agrees and states that is exactly what a special meeting is for.

CM 3-7-2018 MOTION TO SCHEDULE A SPECIAL MEETING TO DISCUSS COUNCIL MEETING CONDUCT.

Motion by Parisien, supported by Richards
Motion to approve

VOTE: MOTION CARRIED – TWO OPPOSED

NEW BUSINESS

1. FIRST READING OF ORDINANCE AMENDMENT FOR REZONING OF 500 STRYKER FROM R-3 TO RM-2

Attorney Wilhelm introduces this item. He states that this is the first reading for the rezoning of 500 Stryker from R-3 to RM-2. We have Justin Sprig from CIB, representing our Planning Consultant Carmen Avantini. The Planning Commission did make a recommendation for approval.

CM 3-8-2018 MOTION FOR A FIVE MINUTE RECESS

Motion by Kivell, supported by Parisien
Motion to approve

VOTE: MOTION CARRIED

CONTINUATION - FIRST READING OF ORDINANCE AMENDMENT FOR REZONING OF 500 STRYKER FROM R-3 TO RM-2

CIB Planning Vice President, Justin Sprague speaks on the behalf of the rezoning of this property. There was a Planning Commission meeting in February where they held a Public Meeting to review the facts of the case and have recommended that the Council approve this re-zoning request. He goes on to state that one of the things that they do as a Planning Consultant is to make sure that this plan is compliant with the City's Master Plan. CIB provided a letter to Council dated January 15, 2018, in which the case is discussed. This property did receive a conditional re-zoning to go to an industrial space. The applicant has decided that this is not going to work out for them and as a conditioning of this re-zoning the property has gone back to an R-3; they are now requesting that the zoning go to RM-2. The RM-2 is a multi-family zoning and in the letter there is suggested uses. Sprig goes on to say that this is in compliance with the Master Plan and we recommend approving with the following conditions: that the rezoning is consistent with the South Lyon Master Plan, there is a need to provide land that is zoned for multi-family housing, that the re-zoning of the land to multiple family residential addresses a community need, the site is capable of accommodating the range of uses permitted in the RM-2 district, there is adequate public services available to the site and finally that residential use for this site is appropriate for the adjacent single and multiple family housing on all four sides of the property.

Councilmember Kivell asks why this would not be contingent on providing an approved plan. There is a circumstance that could have some very high density with one ingress in there. He states that he does not want them to have the ability to access the roadway in the cemetery. If there is only one way in and one way out, this could have a pretty potentially hazardous effect in the event of an emergency.

Sprig states that he will defer the issue on how they will access the property to the applicant. He adds that this does have to go for site plan approval; anything done on this site would have to go in front of the Planning Commission. We would require that it meets all the standards for building and design within the City of South Lyons Code of Ordinances.

Councilmember Parisien addresses Attorney Wilhelm on a prior circumstance where Council told an individual no on a rezoning and then if they approve this, will this cause issues for past and future circumstances.

Wilhelm states that each re-zoning request is evaluated on its own circumstances and details.

Mayor Pelchat states that it sounds like we have some residents that have concerns regarding this re-zoning. He would prefer to talk with the Planning Commission and with the residents before he makes his decision.

Police Chief Collins is interested to find out what the density difference is, either total number of structures allowed or total number of residents allowed between the two residential zonings, because the Police and the Fire Department will have various concerns if there is only one way in and one way out of a residential complex.

Mark Schovers, Design House Architecture, 301 Walnut Blvd., Rochester, Michigan

Schovers states that there will be 2 points of egress on this site. As far as the density, the shape of the lot doesn't allow for an extreme density due to having to have a ring road and the two means of egress. Upon approval of the site plan, that's where we will let that out and meet all the ordinances and make sure that the Police Chief is happy and that the Fire Chief is happy.

Chief Collins along with the Mayor and Councilmember Kennedy state that they are interested to find out what the second access point will be.

Schovers explains that there will be one entrance point towards the Mobile Home Park and one towards the Cemetery, similar to a big horseshoe. Both off of Stryker Street.

Councilmember Richards gets a clarification on how the entrance and exit points are going to be laid out.

Sprague states that currently in the zoning district that is there, the minimum lot size is about 8,000 square feet, it's a six acre lot if they were to go to the new zoning district, a rough calculation is that they would be allowed roughly 2-45 rooms.

Schovers confirms that they are talking about developing 5 ½ acres, the remaining acreage cannot be developed because of the drain.

Councilmember Richards states that he is very happy with the plans.

CM 3-9-2018 MOTION TO POSTPONE THE FIRST READING OF THE ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SOUTH LYON RE-ZONING PARCEL 21-29-176-012, 500 STRYKER STREET FROM R3 TO RM2 UNTIL NO LATER THAN THE LAST COUNCIL MEETING IN APRIL IN ORDER FOR THE CITY ATTORNEY TO ADDRESS QUESTIONS AND ISSUES THAT HAVE BEEN RAISED TONIGHT

Motion by Kurtzweil, supported by Walton

Motion approved

VOTE:

MOTION CARRIED UNANIMOUSLY

2. CONSIDER SETTING DATE FOR PUBLIC HEARING SUPERB FABRIATING, LLC

Attorney Wilhelm stated the first step for granting an industrial facilities tax exemption is to approve the establishment of the district, and in order to do that, you have to hold a public hearing, and provide notice. He stated he has been working with Bob Donohue on establishing an industrial development district policy and we have provided it to the Oakland County Assessor for review. He suggested if Council sets a public hearing, we put it out far enough so we can get feedback from the County. He stated if that isn't how Council wants to proceed, we could postpone to allow for additional time. Attorney Wilhelm stated the first step is to approve the district, if approved, then Council will exercise their discretion if you want to approve the abatement for up to 12 years. He stated when looking at the application, Council will need to consider the applicant, the jobs that this may bring in, conformity with master plan, among other things. He stated he would like to have the policy completed before Council moves forward.

Councilmember Kivell stated he would like to have the policy in place before we move forward. He then stated he really likes Superb and Herb has been a benefactor of the community. He further stated the majority of this will end up being more personal property tax and unfortunately the State has taken that away so we can't get much revenue. He further stated the policy will be instrumental to see if establishing the district is in our benefit.

Councilmember Richards asked if this would be a blanket district or is it just for this property. Attorney Wilhelm stated this would create a district on their property alone. His concern is if we don't have a policy in place, because we have granted IFT's in the past, we need to get the policy in place. He further stated there is not a time deadline to establish the district. If you establish the district, a deadline kicks in. Councilmember Kennedy stated if we focus on the policy and set the bar as to where the abatement will kick in, it may preclude even having this discussion and this could go by the wayside. Attorney Wilhelm stated there is a question if Council is required to hold the public hearing and make a decision of saying yes or no, as opposed to saying nothing. Councilmember Kennedy stated we could table this until the policy is established. Attorney Wilhelm stated there is some urgency because the request was made, but there is no deadline. He further stated Council has time to address the policy then look at this.

Councilmember Kurtzweil stated generally these tax abatements are normally given to bring a company into town, this company is already here, so why do we have to provide them with a tax incentive that will come out of our revenue. That is why she had an issue with the tax abatement for Michigan Seamless Tube as well. Attorney Wilhelm stated he doesn't disagree, but it is clear there is also a component the abatements are eligible for businesses in the community to expand. There are many policies that he reviewed discussed business retention and job retention criteria.

Councilmember Kurtzweil stated you can't enforce the tax abatement of bringing jobs in the community. There was a famous case called Poletown in which General Motors was not required to adhere to the job creation even though they were given all tax abatements. If it isn't enforceable, it doesn't matter what they say. Attorney Wilhelm stated that is correct, you cannot force job creation, and the State Tax Commission will not revoke the abatement if they don't bring in more jobs. Councilmember Kurtzweil asked how much tax dollars are we looking at. Attorney Wilhelm stated a combination of real and personal property will be between \$700,000 and \$800,000. Councilmember Kurtzweil stated she cannot vote for this. Councilmember Kennedy stated he agrees, and if you give up that tax revenue, you are looking at far more of an investment especially since the bulk of it is personal property. Attorney Wilhelm stated he has asked Oakland County Equalization could help Council create the policy so we have the framework to evaluate this and other abatement requests.

CM 3-10-2018 MOTION TO POSTPONE MATTERS RELATED TO SUPERB FABRICATING, LLC REQUEST TO ESTABLISH AN INDUSTRIAL DEVELOPMENT DISTRICT INCLUDING THE PUBLIC HEARING ON THE DISTRICT, POLICY AND OTHER ISSUES RAISED DURING COUNCIL DISCUSSION NO LATER THAN 30 DAYS AFTER TODAY

Motion by Kurtzweil, supported by Kivell
Motion approved

VOTE: MOTION CARRIED UNANIMOUSLY

3. CONSIDER APPROVAL OF RENTAL HOUSE CONTRACTOR WORK

Mayor Pelchat stated this was a concern of his earlier. Councilmember Kivell stated the idea that McCarter did the inspection shows their diligence in them wanting to get their clients the best options available. The fact there is marginal insulation, and venting, but there is still no mold in the attic space. The objective for this house is to continue to serve us financially until we can get funding for McHattie Park. He further stated we can prolong the life of the house and accomplish our goal. As a side note, he asked Mr. Donohue to reach out to a realtor to find out what a current rental cost would be for that home, and he suggested between \$1200.00 and \$1500.00 a month. We should reevaluate what we are charging for this. Councilmember Kennedy stated he spoke with someone from McCarter and if we aren't going to keep this home, why put the money into it. This provides no benefit. The question becomes when we think we will pull the trigger on this property. Mayor Pelchat stated it is hard to put a timeframe on when the improvements to McHattie Park will happen. Department Head Boven stated his concern is with no insulation there will be ice damming. That may have caused the damage we are seeing now. Councilmember Kennedy stated there are no gutters so the ice won't build up in the gutters, and the roof itself, even looking at the pictures, there is no saddle, yet the shingles around the chimney looks in pretty good shape. He further stated the question is there may be other repairs that we need to be aware of.

CM 3-11-2018 MOTION TO TAKE NO FURTHER ACTION EXCEPT THE ROOF TO BE REPLACED

Motion by Kivell, supported by Kennedy
Motion approved

VOTE: MOTION CARRIED UNANIMOUSLY

4. APPROVAL OF LEASE EXENTION FOR 318 W LAKE TO MONTH TO MONTH

Amy Allen of SLARA stated they are officially giving notice they are giving their 120-day notice of not renewing the lease of 318 W Lake. She stated they plan on vacating by June 30TH 2018 assuming the new building will be ready for the move. She then thanked the City of South Lyon for all of their support for the last 19 years. She stated the 318 W Lake location served as a great location and allowed them to grow and flourish. She stated they will continue to work with the City and along with that a short letter was submitted and there is a chance the building may not be ready so they are asking to go to a month to month lease. Ms. Walton asked if there is any language for a hold over cause. Attorney Wilhelm stated there is, it acknowledges there can be a hold over and the City can consent to it or not consent to it, and if they do there would be 150% of the monthly rent due. Ms. Allen stated they have no issues with it. Mayor Pelchat stated he doesn't see why there would be a problem with that.

CM 3-12-208 MOTION TO APPROVE THE LEASE EXTENSION OF THE LEASE OF 318 W LAKE TO A MONTH TO MONTH LEASE

Motion by Richards, supported by Walton
Motion approved

VOTE: MOTION CARRIED- 1 ABSTAINED

Councilmember Kurtzweil stated she would like the minutes to reflect she abstained because she has a conflict of interest.

5. CONSIDER TAX ABATEMENT APPLICATION FEE

Attorney Wilhelm stated the range of fees he has come across ranges widely. He further stated Lyon Township uses a formula to charge exactly the cost of publication, notice and other costs to ensure they aren't over charging. He suggests Council does the same. Councilmember Kivell stated this is a great idea, but we have to make sure someone is managing the inflow and outflow of costs, this make total sense. Attorney Wilhelm stated he believes staff time is not a chargeable option, but mostly publication, mailing, postage. Councilmember Kivell asked who decides the assessing value of the project. Attorney Wilhelm stated that would be Oakland County Assessing. Further discussion was held regarding the fee.

CM 3-13-18 MOTION TO POSTPONE TO 2ND MEETING IN MARCH

Motion by Kivell, supported by Kennedy
Motion approved

VOTE: MOTION CARRIED UNANIMOUSLY

6. SEARCH FOR INTERIM CITY MANAGER

Councilmember Kurtzweil stated when Lloyd was appointed Interim City Manager, she was expecting him to only serve for only 60 days. He has done an ok job, but there have been a lot of issues that have popped up. It is clear the person that is sitting in that position needs experience managing a City and Chief doesn't. She stated he may think he has the qualification, but there have been things that have popped up. We need someone working on grants, projects, and running the City, it is tough asking the City to run 2 departments. She further stated she thinks it would help people in the community to know we have a full time City Manager in place. She further stated it is seriously affecting our image through the various communities. She stated we need to take a look and see what is available. The City cannot continue to move forward with a few hours here and there. She doesn't know what happens with Lynne, and she doesn't care, she cares about moving forward with the City. There is no harm in at least searching to see who is out there. She found some management companies other communities have used to find a new City Manager. This isn't about the City Manager, it is about a more permanent interim City Manager until we get some direction from Lynne. She stated she spoke with the MML, and they could post this on their web site with an executive search.

Councilmember Kivell stated he is delighted with the work Chief Collins has done, and he has accomplished more than the City Manager has in previous years. He further stated there are number of issues that are a direct result of our actual City Manager not assigning responsibilities and not being addressed. He stated until we have a better understanding of what is happening with the existing City Manager, he is happy with Lloyd staying in place.

Councilmember Parisien stated she is hoping to keep Chief Collins in place as long as possible and we should all be grateful to him. She stated she hasn't seen any issue come up that he hasn't handled with finesse. She further stated she gives him a lot of credit for all the work he has done.

Councilmember Richards stated he is very satisfied with Chief Collins as well, even though it can't go on forever. Whatever happens in the future, he doesn't want to see what happened last time with the debacle with MML with them surveying candidates and interviewing them and none of them passed until Lynne came along. He wasn't on the board then. He wants us to find someone to find an interim then become the City Manager.

Mayor Pelchat stated it has been a privilege working with Chief Collins as the City Manager. There are a lot of variables in this process. We need to have some guidance from our City Attorney.

Councilmember Kennedy stated he is satisfied and pleased with the work Chief Collins has done. The real question is, what are we as Council going to do. Treat the root cause of the problem, or will we treat the symptom.

Mayor Pelchat stated that is something that needs to be discussed with the City Attorney.

Councilmember Kurtzweil stated the issue is the City is in transition and Lloyd is a band aid, and he handled the administrative work, but it wasn't hard to do the job. She stated she could have done the job, but she doesn't feel she is qualified to be the City Manager. She stated she is talking about a visionary, someone to come in and work with us for a year. She further stated she isn't ready to deal with the root problem at this point. She further stated she doesn't know if Council correctly analyzed the skill set that was needed at this time in the city's history in evolution when the hiring decision was made 3 years ago. She stated she tends to take her time, she is more analytical, and look at the data points. There are some data points that are bothering her about some decisions made by Chief Collins. That is inexperience, nothing being done deliberately. She further stated at this time with everything the City is facing, we need someone with good 10 years of experience needs to come in here and help us through the transition. We need someone full time, and if you can be here at City Hall for 50 hours a week, why do we need your position at the Police Department. Chief Collins stated to clarify, he is working between 50 – 60 hours a week, about 35 at City Hall. The remaining is at the Police Department. That too is a band aid over there; Lt. Sovik is picking up a lot of extra work. He then stated he has no axe to grind either way, the bottom line is if Council wants him to go back to the Police Department tomorrow, he will.

Councilmember Kurtzweil stated employee burnout is real and she has seen it before. She then stated he is approaching 70 years old, and she doesn't want to be held responsible for that. She further stated burnout is a very real issue. The pressures will continue to build and she is concerned about burnout. She is sure he can handle it, but now we will be looking at grants and there will be more and more time expected of him. Councilmember Kivell asked is she has had the training on the age discrimination act from 1967. Chief Collins stated he appreciates Councilmember Kurtzweil's concern and he would hope Council wouldn't base any decision on any employees age. Councilmember Parisien stated she doesn't know of any issue that has risen that he hasn't handled. She further stated she has no qualms about it, he is getting the job done on both sides. She further stated at this point we haven't had any issues. He is doing a great job.

Mayor Pelchat stated he understands and we will stay on top of this.

3-12-2018

BUDGET

Councilmember Kurtzweil stated she is very thankful to Judy at Highland Township who gave her a sample of a fund balance policy. She further stated the most important thing is the unassigned fund balance.

Councilmember Kurtzweil asked if we could get Safebuilt to go over to the DPW and get a list of anything that needs to be fixed over there, such as any code violations. She stated the conditions they are working in is horrible. There is water leaking, the steps are icy, she was appalled. She further stated everyone else has a nice facility, and the DPW should as well. The dust effects your lungs, and they are inhaling that air. They are walking on dirt every day and dirt carries disease and mold as well. She further stated when Marianne's office was fixed years ago, there was mold. We have not accommodated that facility for those workers. She wants to know what is wrong over there and get it up to code. Department Head Boven stated the history behind that was it was originally the water treatment plant. He stated he sees a huge DPW facility in the future. We have already addressed a few items, we will be replacing a furnace, and the gas line will be replaced. Things need to be looked at and they will be addressed.

Councilmember Kennedy stated this gets into some of the things he has discussed with the 5-year plan. We need to look at what the true needs are.

Councilmember Walton thanked Mike for looking into this.

MANAGERS REPORT

Chief Collins stated the 14th annual creek clean-up is scheduled for April 14th from 9:00a.m.-1:00 p.m. people can meet at the tube mill and the contact person is Larry Ledbetter.

Parks and Recreation is holding a special meeting on Monday March 19th at 7:00 p.m. and Council has been invited. Please let the Clerk Deaton know if councilmembers plan on attending for proper notice.

Chief Collins stated there was another sewer line that failed on the west side of Lafayette street. It is the same line that had previously failed. He stated it was already budgeted for repairs. He stated emergency operations are underway to avoid a catastrophic back-up in that line.

Councilmember Walton stated there are signs throughout the City indicating where parking is, but the parking lot at the corner of Dorothy and McMunn doesn't have a sign, and no indication it is down there. Chief Collins stated that is a good point for future reference.

Councilmember Parisien stated her understanding is the SRO is at South Lyon High School until June which is the end of the school year. Chief Collins stated he went and met with Deputy Walker at the High School to meet with him. It was a concern of his that there could be a blue on blue incident or blue on brown incident. He further stated there are 3 officers that may respond to any emergency issues during the day and he wanted to make sure they all knew each other. Councilmember Parisien stated she hopes over the summer, we could meet with Lyon Township and the school board and discuss this with them. We should be prepared to collaborate with them. If we meet in June, that will give everyone enough time. Chief Collins stated he has spoken with a few people. He stated Mr. Clark of the school board pledged to solicit the surrounding communities that also use South Lyon schools for funding as well.

COUNCIL COMMENTS

Councilmember Kennedy stated he had the opportunity to attend a seminar at the Salem South Lyon Library. He stated they are a great resource and we are very fortunate to have them in our community. He further stated they have multiple services, such as weekly sewing for you, individual genealogy assistance, or the 30-minute appointments for resume review with Michigan works, or a seminar on the changing tax code on the personal property tax. He then suggested everyone to stop by or check out their website to see what they have that may interest you.

Councilmember Kennedy then reminded everyone since it is daylight savings time, to change the batteries in their smoke detectors and carbon monoxide detectors. He further stated the life expectancy for carbon monoxide detector is 5-7 years and the smoke detectors life expectancy is 8-10 years.

Councilmember Richards stated the KV Sports did move to where the resale shop was. He is amazed how fast they moved. He stated he was fortunate to be able to buy a number of things on discount from the resale shop when they closed. He then stated Larry Ledbetter is putting on his own historical program at the Presbyterian church at 6:30 tomorrow night.

Councilmember Richards stated regarding the trailer park, not the one we currently have, but the one from World War 2 called Victory Lane. The land that his father owned was confiscated by the "Works progress administration" and turned into a trailer park. It is lost in the history books of South Lyon.

Councilmember Parisien stated there is a special meeting with Parks and Recreation and she hopes all of Council can attend. She stated we need to make sure Volunteer Park doesn't get lost in our goals. A couple years ago, we had a vision session and we as a Council discussed points that were important to Council and one of the points was Volunteer Park. She further stated it seems things have come to a standstill where we are having issues trying to get into contact with the donors that can get it going. She stated it is important to have as many people there as possible that are interested in assisting in getting the first phase moving by either donating, or even if anyone is just interested in what that plans are for Volunteer Park. The meeting is Monday March 19th at 7:00 p.m.

Councilmember Parisien stated the Kiwanis are having their Easter Egg Hunt and the 11:00 is when it begins, but the Easter egg scramble/hunt doesn't start until Noon. She stated that is on March 31st.

Councilmember Parisien stated we need volunteers to join our boards and commissions and if anyone is interested or knows anyone that is, please fill out the application and volunteer.

Councilmember Walton stated she wants to thank everyone for being here and wished everyone a Happy St Patrick's Day, be safe and don't drink and drive, there are driving services available.

Councilmember Kivell stated he just wanted to thank Chief Collins again, he has performed stellarly and making all the right call. He can't thank him enough for stepping up and taking care of business. It has been helpful and stabilizing.

Councilmember Kivell stated he hopes some better judgement goes into some decision making by a councilmember. He understands someone on Council reached out to Plante Moran for a 2 ½ hour phone call at \$300 an hour. He stated those questions could have benefited everyone on the board. He stated he would like to find a better mechanism, because the idea that someone can just reach out and spend \$750.00 it seems very inappropriate.

Councilmember Kurtzweil addresses Kivell's issue regarding Plante Moran. She states that she did take 2½ hours with Plante Moran, I do not know if Brian is going to bill the city for that time. It was understood that I was going to speak with Plante Moran at that time. She states that Kivell should take a look at the attorney invoices over the past two years and you will see that you've spent more than your share of money on talking to people and not sharing it with Council including the \$38,000.00 that was spent by Dykema Gossett on resolving your conflict of interest issue. So you are not exactly a stellar individual that I would even consider talking about being careful on how you are spending the city's money. She goes on to address the Chief and states that there is no doubt that she is going to be around ten more years doing something with the city, her issue is burn out and the city has complete and total liability if you burn out. The issues are going to compound, 35 hours a week is probably not enough to be over here, we probably need someone over here more than 35 hours a week. She goes on to thank the Chief for his time, but once again, you are not a professional City Manager, somebody should be sitting in your chair with close to 10 years' experience. I want to thank you very much for everything that you have done, my issue right now is burn out and the city has complete liability should anything happen with respect to that. Next she goes on to say that in my sub-division just about everyone has kids at the High School, and they are extremely happy with the Oakland County Deputy that has been present in the High School. I guess they have taken a lot of Facebook pictures and she is glad to see that that transition is doing very well. Thank you to all the party's involved and whatever the schoolboard wants over there, I will agree with. Last and most importantly, the Avengers is coming out this Summer, Infinity War and if you are a Marvel Comics person, here it is

Mayor Pelchat states that he would like to thank the Chief for doing a great job and it's an honor to work with him. He states, he will keep it short as this was another Marathon Session. Thank you and have a good night.

ADJOURNMENT

CM 3-14-2018 MOTION TO ADJOURN

Motion by Kurtzweil, supported by Parisien
Motion to adjourn meeting at 11:41 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted

Mayor Dan Pelchat

Deputy Clerk Judy Pieper

3-12-2018

AGENDA NOTE

Presentation

MEETING DATE: March 26, 2018

PERSON PLACING ITEM ON AGENDA: DDA & Economic Development Director,
Bob Donohue

AGENDA TOPIC: Recognition of Ashley Page, “Young Entrepreneur” Contest Winner at The Lemon Tree; and Recognition of Annie Buchtrup, owner of The Lemon Tree, 127 N. Lafayette Street

EXPLANATION OF TOPIC: Presentation of a Certificate from the City to Ashley Page congratulating her on her selection as the winner of the “Young Entrepreneur” Contest sponsored by The Lemon Tree in Downtown South Lyon and a Letter from the Mayor on behalf of the Mayor and City Council, recognizing Annie Buchtrup, owner of The Lemon Tree for her positive leadership, working with youth and school children, DDA Committee volunteering and ambassador contributions to Downtown South Lyon, as well as her enthusiastic support of the DDA in general.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS: 1) A Copy of the Certificate to be presented by the Mayor to Ashley Page; 2) A copy of the “Young Entrepreneur” Contest Information; 3) A Copy of the “Surface Savers” Product information developed and marketed by Ashley Page which was selected as the Contest winner; and 4) a Letter of Thanks to be presented by the Mayor to Annie Buchtrup. Also, a 2 minute video describing Ashley Page’s Contest winning product: “Surface Savers” will be shown on March 26 after the presentation to Ashley Page.

ACTION: Mayor Dan Pelchat will make 2 separate yet related Presentations:

- 1) Mayor Pelchat will present a Certificate to Ashley Page first; and then
- 2) Mayor Pelchat will present a Letter of Thanks Presentation to Annie Buchtrup, owner of The Lemon Tree

2 QUICK PHOTO OPS:

- 1) Mayor with Ashley Page and her parents (Jamie and Chad Page) and Annie Buchtrup
- 2) Mayor with Annie Buchtrup



***Calling all creative crafters, artists,
inventors and business minded students
of South Lyon***

**Please join the Lemon Tree's
Student Entrepreneur CONTEST and share your
talent.**

**Win and have your item sold exclusively at
The Lemon Tree South Lyon!**

It's easy!

Just create a short video (30- 60 seconds) showcasing your item to sell. Post your video in an email to The Lemon Tree, and wait for the voting to take place.

Rules:

- ***Your retail item must be created and made by you***
- ***You must name your item***
- ***You must give a brief description of how you created/ made your item***
- ***You must tell how your item will be useful***
- ***You must share the value of your item what you spent and what you think it should be sold for***
- ***You must be a South Lyon Public School student age 5-18 with a flair for business and creativity***

- ❖ All entries must be posted (via email to **thelemontreesouthlyon@gmail.com** video 30-60 seconds) no later than **Friday February 23rd, 2018 by 5 p.m. EST**
- ❖ All entries must include an email, home address and telephone number to contact the participant (this will be used for contest purposes only)
- ❖ The top 10 will be selected from local businesses and then presented to the South Lyon District Association for the final vote.
- ❖ The winner will be contacted via phone and email
- ❖ The winner will win the sole right to have their product sold exclusively at The Lemon Tree in South Lyon
- ❖ The winner will be presented with \$100 savings bond
- ❖ The winner will also be given 100% of their earnings from product sales excluding sales tax and will be paid to the participant on a monthly basis
- ❖ **The winner will be announced Monday, March 5th** on the Lemon Tree Facebook page

Good luck to you all!

Surface Savers

One of a kind, handmade trivets for your home!

These Trivets are handcrafted by Ashley Parr, the winner of the 2018 South Lyon Young Entrepreneur Contest hosted by the Lemon Tree.

The Trivets can withstand heat up to 500 degrees.
Not dishwasher safe, must wipe clean with a wet cloth.
A great gift or something for your own home.

Found only at The Lemon Tree South Lyon

AGENDA NOTE

OLD BUSINESS

MEETING DATE: March 26, 2018

PERSON PLACING ITEM ON AGENDA: Postponed from 1/22/18 meeting

AGENDA TOPIC: Liquor Licensing Ordinance – First Reading

EXPLANATION OF TOPIC: On 1/22/18 Council postponed the first reading of the liquor license ordinance, and requested removal of provisions that go beyond what state law requires – e.g., the plan of operation, requiring approval for substantial changes in operations of licensed establishments.

A revised ordinance is presented for first reading. The Ordinance contains the following:

Chapter 8 – Alcoholic Liquor

Article I – General

Sections 8-1 – 8-30 Reserved

Article II – Licensing

Section 8-31 Short title

Section 8-32 Statement of purpose

Section 8-33 Definitions

Section 8-34 License required

Section 8-35 Application and review procedures

Section 8-36 License transfers

Section 8-37 Objections to renewal and requests for revocation

Section 8-38 Fees

Section 8-39 Nudity

Sections 8-40 through 8-69 Reserved

As background, The City does not have a liquor licensing ordinance. It has one (1) Class C quota license available for an on-premises liquor establishment. With renewed interest in the downtown and increasing economic development occurring in the community, Council should consider adopting a liquor licensing ordinance to formalize the procedures for reviewing and deciding to approve or deny applications for on-premises liquor licenses.

The regulation of alcoholic liquor is governed by the Michigan Liquor Control Code, Public Act 58 of 1998 (the "Act"). The Act created the Michigan Liquor Control Commission (MLCC) which is the State administrative agency responsible for liquor licensing. The Michigan Administrative Code also contains rules applicable to various aspects of alcoholic liquors including licensing and sales.

In 2012 the MLCC made significant changes to the State liquor licensing process. The most important change affecting local communities was the elimination of a local approval requirement for license transfers and other types of permits. Also, in 2012, a federal district struck down, as unconstitutional, the MLCC provisions pertaining to various permits, such as dance, entertainment,

topless activity, and extended hours permits. The trend at the state level has been to make liquor licensing more friendly to the applicants and business owners and to eliminate or restrict local approval requirements. Local approval of new (as opposed to transfer licenses) on-premises liquor licenses is still required under the Act. Liquor licensing involves a broad and complex set of laws and regulations. Documents from the MLCC website and other relevant materials, such as MLCC Bulletins, have been included to provide background and context for the ordinance.

The primary purpose of the proposed liquor licensing ordinance is to provide for an application and review process which the City can use in deciding to approve or deny applications for on-premises licenses.

The proposed ordinance is intended to be consistent with the Act and applicable regulations. Generally, the ordinance contains requirements and procedures for receiving and reviewing applications for on-premises licenses. Application and permit forms will need to be prepared. The ordinance provides for investigation by relevant city departments. The review criteria for use by staff and Council are also set forth in detail. This list can be added to or criteria can be deleted. The Economic Development Director has offered additional suggestions for criteria to be added which address priorities for encouraging investment in and preservation of historic buildings, and other criteria such as whether the proposed liquor establishment is located within the historic core downtown area, the DDA district, and does it comply with the Master Plan

There are provisions addressing license transfers. Note, the changes by MLCC altered the role of local units of government in the license transfer approval process. The City is allowed to offer comments to the MLCC regarding transfers, but local approval is not required for a transfer. The concern for South Lyon is the transfer of quota licenses out of the City. Some communities prohibit license transfers for a period of time similar to State law, some restrict transfers to other locations within the community, and others require an agreement and include provisions for the revocation of the license in the event of an attempt to transfer it out of the community.

The 3/21/18 version requires City Council approval for transfer of the location of an on-premises license within 3 years after the original issuance date. Generally, license transfers, including ownership and location, are subject to MLCC consent. The Liquor Control Code provides that Class C and SDD licenses will not be transferred for 3 years after issuance unless the licensee can show an unusual hardship. MCL 436.1501(2).

The ordinance also contains provisions to address conditional approvals which might apply to liquor establishments that need approvals to construct buildings or complete renovations or buildouts.

There are also provisions establishing the criteria and procedures for City objections to renewals of liquor licenses (not limited to on-premises) or its request for the revocation of a liquor license.

Provisions removed since 1/22/18 include the plan of operation requirement and the requirement for city approval of substantial changes and revisions to the transfer provision.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Revised ordinance – clean 3/21/18 version
- Revised ordinance – clean 1/22/18 version
- Ordinance – redline showing changes from 1-22-18
- MCL 436.1501
- Overview of MLCC
- MLCC Class C Licensing Requirements
- MLCC Approval Chart
- MLCC Retail License and Permit Application
- MLCC Local Governmental Approval form
- Objections to Renewals and Recommendations for Revocation
- MLCC Bulletin 2012-12 – Changes to License Application Process
- MLCC Bulletin 2012-04 – Escrow Fees
- Rule 436.1107 Renewal of License

POSSIBLE COURSES OF ACTION: Approve/deny/postpone/table/no action

RECOMMENDATION: Deny first reading of 3/21/18 version and approve first reading of 1/22/18 version of liquor license ordinance.

SUGGESTED MOTION: Motion to approve the first reading of an ordinance to add Chapter 8 – Alcoholic Liquor, Sections 8-1 through 8-69, VERSION DATE _____ to the City of South Lyon Code of Ordinances to provide policies, procedures and regulations for liquor licenses and the operation of licensed premises.

ORDINANCE NO. __-18

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO ADD CHAPTER 8 – ALCOHOLIC LIQUOR – TO THE CITY OF SOUTH LYON CODE OF ORDINANCES TO PROVIDE POLICIES AND REGULATIONS FOR THE APPLICATION, REVIEW, ISSUANCE, TRANSFER, RENEWAL, REVOCATION AND ENFORCEMENT OF LIQUOR LICENSES AND FOR THE OPERATION OF LICENSED PREMISES.

THE CITY OF SOUTH LYON ORDAINS:

PART I. Addition of Chapter 8. Chapter 8 – Alcoholic Liquor – is hereby added to the City of South Lyon Code of Ordinances, to read in its entirety as follows:

CHAPTER 8 – ALCOHOLIC LIQUOR

ARTICLE I – GENERAL

Secs. 8-1 – 8-30. - Reserved.

ARTICLE II – LICENSING

Sec. 8-31. - Short title.

This ordinance shall be known and may be cited as the City of South Lyon "Liquor License Ordinance."

Sec. 8-32. - Statement of purpose.

The purpose of this article is to establish the city's policies and procedures for regulating liquor licenses including application and review procedures for the issuance of new on-premises licenses, transfers of on-premises licenses into and within the city and among owners and/or applicants, and for the renewal and revocation of liquor licenses. The process is intended to ensure that the individuals and entities seeking licenses or who propose to operate licensed on-premises liquor establishments within the city meet certain minimum requirements as to background, experience, financial resources, business operations and management and that the proposed establishment meets the needs of the community. It requires the city council to review application information in light of certain criteria to identify the kinds of applicants and establishments that best qualify for a license and best meet the needs of the City and its residents. It reserves to the city any and all discretion afforded to it under applicable laws relating to the issuance of on-premises licenses. It is the intent of the city that approved licenses shall be put into use immediately following approval.

Sec. 8-33. – Definitions.

The following definitions shall apply to this chapter:

(a) *Act* means the Michigan Liquor Control Code of 1998, Public Act 58 of 1998, MCL 436.1101 et seq., as amended.

(b) *Alcoholic liquor* means any spirituous, vinous, malt, or fermented liquor, powder, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume that are fit for use for food purposes or beverage purposes as defined and classified by the Michigan Liquor Control Commission.

(c) *Applicant* means and includes all persons and entities proposed to be owners of the license and/or of the licensed premises, all key personnel involved in the management and operation of the licensed business, and all persons and entities proposed to be involved in the finance of the license and/or licensed premises. Applicant includes all owners, shareholders, officers, partners, members, and managers of an entity applying for a license.

(d) *Brewpub* means a license issued in conjunction with a class C, tavern, class A hotel, or class B hotel license that authorizes the person licensed with the class C, tavern, class A hotel, or class B hotel to manufacture and brew not more than 18,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407 of the Michigan Liquor Control Code of 1998. A brewpub is considered a hybrid on- and off-premises liquor license.

(e) *Class C license* means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises.

(f) *Club license* means a liquor license issued to a club as defined by section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(g) *Establishment* means a business or premises whose primary function is the serving of alcoholic beverages for consumption on-premises.

(h) *Hotel license* means a liquor license issued to a hotel as defined in section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(i) *License* means a contract between the commission and the licensee granting authority to that licensee to manufacture and sell, or sell, or warehouse alcoholic liquor in the manner provided by the Act.

(j) *Licensee* means an individual or entity holding a license issued under this chapter or by the Michigan Liquor Control Commission.

(k) *Michigan Liquor Control Commission* and *MLCC* mean the liquor control commission provided for and created in Section 209 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1209).

(l) *Micro brewer* means a brewer that produces in total less than 60,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers as provided in MCL 436.1203. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

(m) *Minor* means an individual less than 21 years of age.

(n) *Off-premises license* means a liquor license to sell alcoholic liquor at retail for consumption off the licensed premises, including SDD, SDM, and other licenses designated as such in the Act.

(o) *On-premises license* shall mean a liquor license to sell alcoholic liquor at retail for consumption on the licensed premises, including Class C, tavern, resort, club, hotel, brewpub and micro brewer licenses.

(p) *Person* means an individual, firm, partnership, limited partnership, association, limited liability company, or corporation.

(q) *Resort license* means a liquor license issued by the Michigan Liquor Control Commission in a resort area, without regard to other liquor control commission quota requirements, in accordance with the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(r) *Sale* includes the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor.

(s) *Special license* means a contract between the commission and the special licensee granting authority to that licensee to sell beer, wine, mixed spirit drink, or spirits. The license shall be granted only to such persons and such organization and for such period of time as the commission shall determine so long as the person or organization is able to demonstrate an existence separate from an affiliated umbrella organization. If such an existence is demonstrated, the commission shall not deny a special license solely by the applicant's affiliation with an organization that is also eligible for a special license.

(t) *Special permit* includes, but is not limited to, outdoor service permits, one-day licenses, after hours permits, temporary dance, entertainment, or add bar permits, specific purpose permits, and special licenses, as those terms are defined and utilized in the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(u) *Specially designated distributor (SDD)* means a person engaged in an established business licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises.

(v) *Specially designated merchant (SDM)* means a person to whom the commission grants a license to sell beer or wine, or both, at retail for consumption off the licensed premises.

(w) *Tavern* means any place licensed to sell retail beer and wine for consumption on the premises only.

Sec. 8-34. – License required.

No person shall engage in the business of selling alcoholic liquor for consumption on premises in the City of South Lyon, transfer such a license into the city, transfer ownership or location of such a license within of the city, without first obtaining an approval for same by the city council as provided for in this chapter and also obtaining a license or approval therefor as required by the Act and MLCC.

Licensees shall comply with all applicable state and city regulations, and this chapter.

Sec. 8-35. – Application and review procedures.

(a) *Application.* In addition to such application(s) as may be required by the Act and the Michigan Liquor Control Commission for licensing by the State of Michigan, each applicant for a new on-premises license, transfer of an on-premises license into the city, or relocation or transfer of an existing on-premises license within the city or among owners and applicants, shall submit to the city clerk's office a fully completed "City of South Lyon Liquor License Application" on a form furnished by the clerk's office signed by the applicant or a duly authorized agent, along with the required fee(s) and all additional documents and materials referred to in the application form or otherwise required under this article.

(b) *Required information.* The applicant shall include, with the application, at least the following:

- (1) Name and address of the applicant. If the applicant is a partnership, the name and address of each partner shall be provided, and a copy of any partnership agreement attached. If the applicant is a privately-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders shall be provided, and a copy of the articles of incorporation attached. If the applicant is a publicly-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders who own ten percent (10%) or more of the corporate stock shall be provided. If the applicant is a limited liability company, the names and addresses of all members, managers and assignees of membership interests shall be provided, and a copy of the articles of organization attached.
- (2) The type of license and/or related permit(s) requested.
- (3) The address, legal description, and zoning district of the property where the licensed establishment is to be located.
- (4) The name and address of the record fee owner of the premises, and, if the applicant is not the owner, proof of its interest in or right to occupy the premises.

- (5) Building and site plans showing the site and existing structures for the proposed establishment demonstrating compliance with zoning requirements, adequate off-street parking, lighting, refuse disposal facilities, and where appropriate, adequate plans for sound barriers and noise control. If the establishment is to be located in a proposed building for which site plan approval has not yet been obtained, or in an existing building that is to be remodeled, a conceptual plan showing the relationship of the building to the surrounding properties and uses, and proposed building elevations.
- (6) A written statement as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is to be issued, including the length of time the applicant has been in business of that character, or in the case of a partnership or other business entity, the date when it was created, established or organized.
- (7) Three (3) written references as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is desired.
- (8) A written statement identifying the source of all funds which will be relied upon for the establishment and operation of the proposed establishment sought to be licensed including the name and address of the financial institution where such funds are deposited.
- (9) A statement whether the applicant has operated or made application for a similar or another license on any premises other than described in this application, and the status or disposition of such license or application.
- (10) Whether a manager or person other than the applicant will manage the operations of the proposed establishment, and if so, the identity(ies) of such managers or persons.
- (11) A criminal background report of the applicant's criminal history through the Internet Criminal History Access Tool (ICHAT). The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report and the report must be dated within thirty (30) days of the date of the application.
- (12) A statement that the applicant is not disqualified to receive a license for any reason under this chapter or state law.
- (13) An accurate record and history of any liquor license or Liquor Control Act violations by the applicant, and any entity the applicant has worked for or had a substantial interest in, or by a parent or subsidiary entity of the applicant for the immediate preceding five (5) years.
- (14) A written statement explaining in detail how the application and applicant meet the review criteria listed in subsection (f).

- (15) Any other information pertinent to the applicant, premises, and operation of the proposed establishment as may be required by this chapter, including information regarding each of the criteria listed in subsection (f).

(c) *Investigation.* Following receipt of a complete application, fees and other information as may be requested by the city, the city manager will refer the application to the police department, fire department, planning department, building department, economic development department, public works department, and such other departments as deemed appropriate, which departments shall cause a thorough review and investigation of the applicant(s) and premises to be completed, including, but not limited to, an investigation regarding the background of the applicant(s) and owners, a complete history of past business and experience and liquor law violations, the proposed premises, code compliance, payment of taxes and utility charges, availability of utilities. The findings and results of the investigations, including where applicable, recommendations, shall be provided to the city manager, who shall then report same to the city council. In making its reviews and investigations, the city, and its departments, may request other pertinent information from the applicant.

(d) *Placement upon city council agenda.* Upon receipt by the city manager of the findings, results, and recommendations of the department investigations, the city manager shall place the application on a city council agenda for consideration. Due notice will be provided to the applicant, and the applicant will be required to appear before the city council and make an oral and/or written presentation and address any questions concerning the application.

(e) *City council action required.* All applications are subject to action by the city council. The city council may approve with or without conditions, postpone consideration for a reasonable period, or deny the license. If the license is either approved or denied, the city council shall cause its decision to be transmitted to the Michigan Liquor Control Commission and promptly give notice of the decision to the applicant, in writing. Unless otherwise indicated by the city council, all approvals are conditioned upon the applicant obtaining any required building permits and any other necessary permits, licenses, or approvals from the city, including special land use approval, or approvals from other regulatory agencies within sixty (60) days or such other time period specified by the city council from the date of such conditional approval. The construction of new buildings and alterations of existing buildings shall commence within six (6) months after the date of the conditional approval, with a completion date of no more than one (1) year after the issuance of the relevant building permit. Extensions of time for completion of construction or alteration or to meet conditions may be granted by the city council for good cause as determined in its sole discretion. Failure to comply with such conditions shall render the license, and any approval, subject to revocation.

(f) *Review criteria.* In making its determination pursuant to section 8-35(e), the city council may consider and/or weigh, in its discretion, the following factors:

- (1) Surrounding land uses and proximity to residences, schools, and churches, and any potential adverse effect the surrounding area and land uses, including vehicular and pedestrian traffic and movement, parking, noise and input from residents and businesses.

- (2) The investigations, findings and recommendations of the city departments regarding the applicant, application, and proposed premises and establishment.
- (3) The applicant's history and experience, if any, in conducting a business holding a liquor license, including history of MLCC violations and other business and operations and management experience.
- (4) The applicant's financial status and its ability to build and/or operate the proposed establishment.
- (5) Past criminal convictions of the applicant for felonies and crimes involving moral turpitude, violence, or alcoholic liquors, including, but not limited to: gambling, prostitution, weapons, tax evasion, fraudulent activity, controlled substances, crimes or violations of such a nature that it may impair the ability of the applicant to operate a licensed establishment in a safe and competent manner.
- (6) Non-payment or late payment of taxes and utility bills.
- (7) The availability of utilities to serve the proposed establishment.
- (8) Compliance with applicable building, plumbing, electrical and fire prevention codes, zoning ordinance, or other applicable ordinances, laws, codes, and regulations.
- (9) The nature and extent of preservation or restoration of existing or historic buildings.
- (10) The number, proximity and capacity of similar licensed establishments in the city and surrounding area.
- (11) The amount to be invested in the proposed premises/establishment and the effect on the economic development of the city or the surrounding area.
- (12) Whether the proposed establishment is part of a multi-use project with substantial new retail, office or residential components; the size of the proposed establishment relative to the overall project or development.
- (13) Whether the applicant has demonstrated a public need or convenience for the issuance of the liquor license for the business establishment at the location proposed.
- (14) The type or character of proposed establishment and services, including the menu and entertainment to be offered, the overall theme, atmosphere, or ambiance of the proposed business, the proposed hours and days of operation, the proposed ratio of sales of food to alcohol, the size and

percent of floor area devoted to kitchen, dining, dance floor, bar, outdoor service areas.

- (15) The impact of the establishment on city policing and code enforcement activities, and the possibility of consequent costs to the city.
- (16) The overall benefits and/or detriments of the proposed establishment to the city.
- (17) Any other factors that may affect the health, safety and/or welfare of the general public.

(g) *Restrictions on licenses.* No license shall be issued to the following unless such applicable restriction is waived by city council:

- (1) Any person whose liquor license has been revoked or not renewed for cause under this article, or a comparable local ordinance or state law, whether in Michigan or otherwise.
- (2) Any person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
- (3) Any applicant, including any owner, shareholder, officer, partner, member, manager, or assignee thereof, owing a ten percent (10%) interest or more would not be eligible to receive a license hereunder or the Act for any reason.
- (4) Any person who does not own the premises for which a license is sought or does not have a lease or other right to possess or occupy the premises for the full period for which the license is issued.
- (5) Any law enforcement official or any member of the council, or to any such official having interest in any way, either directly or indirectly, in manufacture, sale or distribution of alcoholic liquor.
- (6) Any applicant who omits or falsifies any information required by this article.
- (7) Any premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance without approved arrangements for correction or achieving compliance.
- (8) Any premises that does not, or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, noise or nuisance control, or such new construction or remodeling as proposed would not be completed.

(h) *Changes after conditional approval.* After receipt of a conditional approval by the city council, no site plan, floor plan, building elevation, seating arrangement, kitchen layout, or

other pertinent facts, drawings, or documents submitted to the city may be changed without the applicant first receiving approval from the city planning, engineering, and building departments and city council.

(i) *Recommendation for approval of liquor license.* Upon completion of the building and/or improvements and satisfaction of all other conditions and in accordance with the prior conditional approval of the city council and resolution, if applicable, the city council shall then recommend, above all others, the applicant for approval of the liquor license to the Liquor Control Commission of the State of Michigan.

(j) *Reservation of authority.* No applicant for a liquor license has a right to the issuance of such license, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such licenses.

Sec. 8-36. – License transfers.

(a) The transfer of any on-premises liquor license into, within, or out of the city within three (3) years of the date of original issuance of the license shall require approval of the city council.

(b) An applicant for approval of a license transfer under this section shall:

- (1) Submit a license transfer application with all of the information required under Section 8-35(b) above for a new on-premises license;
- (2) Pay the applicable fees;
- (3) Furnish any necessary authorization allowing the city access to any and all files which may be in the Michigan Liquor Control Commission's possession regarding the transferee as a present licensee, or as a previous licensee, or in which transferee has or has had a partial interest in.

(c) In reviewing an application for license transfer under this section, the city council may consider the criteria listed in Section 8-35(f) and any other criteria it deems relevant and appropriate, including any unusual financial hardship to the licensee which would result from a denial of a license transfer application due to no fault of its own, changes in the business climate, illness or death, labor or supply problems, and/or other factors outside the licensee's control. Requests for license transfers shall be approved or denied in the sole discretion of the city council.

Sec. 8-37. – Objections to renewal and requests for revocation.

(a) *Generally.* The city council may, at any time, review a license and object to a renewal or request the revocation of a liquor license with the MLCC.

(b) *Procedure.* Before filing an objection to the renewal or requesting revocation of a license with the MLCC, the city shall serve the licensee a notice of hearing, by first class mail, mailed not less than ten (10) days prior to the hearing, which shall contain the following information:

- (1) Reason(s) for the hearing and proposed action.
- (2) Date, time and place of the hearing.
- (3) A statement that the licensee may present evidence and testimony, and may confront witnesses and may be represented by a licensed attorney.

(c) *Hearing and final decision.* The hearing may be conducted by city council as a whole, or by a hearing officer appointed by the city council for such purposes. If a hearing officer is appointed, it shall be the officer's duty to conduct the hearing and hear and take evidence and testimony. After the hearing, the hearing officer shall make a recommendation to the city council for its ultimate final review and decision. The city council shall submit to the licensee and the MLCC, a written statement of its ultimate findings and determination.

(d) *Criteria for non-renewal or revocation.* The city council may recommend non-renewal or request revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at a hearing, any of the following exists:

- (1) A violation of any section of this chapter, the Act, or the rules and regulations of the MLCC, including sales of alcoholic liquor to minors.
- (2) A violation of any applicable building, electrical, mechanical, plumbing or fire code; applicable zoning regulations; applicable public health regulations; applicable rules and regulations of the county health department; or any other applicable city code provision.
- (3) Maintenance of a nuisance on the premises.
- (4) A license being or remaining unused or inactive for one (1) year after being issued without further approval from the city council.
- (5) A license being placed in and remaining in escrow for five (5) years or more.
- (6) A material change in those conditions, statements or representations contained in the written application by the licensee upon which the city council based its recommendation for approval, when, in the judgment of the city council, that change is found to be contrary to the best interest of the city and/or its residents.
- (7) A licensee has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
- (8) The premises does not, or will not reasonably soon, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control where a nuisance does or will exist.
- (9) Non-payment of taxes relating to the premises related to the license.

- (10) Other factors negatively impacting the general health, safety and welfare of the community and the public.

Sec. 8-38. – Fees.

Each applicant for a new on-premises license or license transfer shall pay a nonrefundable application investigation fee in an amount set by city council resolution. Such fee will be in addition to any fee(s) required by the MLCC.

Sec 8-39. – Nudity.

No person, while appearing in a state of public nudity as defined in Section 5h of Act 279 of 1909, being MCL 117.5h, shall frequent, loiter, work for or perform in any establishment licensed or subject to licensing by the state liquor control commission. No proprietor or operator of any such establishment shall allow the presence in such establishment of any person who violates the provisions of this section.

Sec. 8-40 through 8-69. Reserved.

PART II. Severability. Should any division, section, subsection, 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 III. 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 City of South Lyon Code of Ordinances set forth in this Ordinance.

PART IV. 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 V. Effective Date; Publication. This ordinance shall take effect upon the later of ten (10) days after adoption or upon publication thereof as provided by the Charter of the City of South Lyon.

Made, passed and adopted by the South Lyon City Council this ____ day of _____, 2018.

Daniel L. Pelchat, 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 _____, 2018.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:

DRAFT

ORDINANCE NO. __-18

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO ADD CHAPTER 8 – ALCOHOLIC LIQUOR – TO THE CITY OF SOUTH LYON CODE OF ORDINANCES TO PROVIDE POLICIES AND REGULATIONS FOR THE APPLICATION, REVIEW, ISSUANCE, TRANSFER, RENEWAL, REVOCATION AND ENFORCEMENT OF LIQUOR LICENSES AND FOR THE OPERATION OF LICENSED PREMISES.

THE CITY OF SOUTH LYON ORDAINS:

PART I. Addition of Chapter 8. Chapter 8 – Alcoholic Liquor – is hereby added to the City of South Lyon Code of Ordinances, to read in its entirety as follows:

CHAPTER 8 – ALCOHOLIC LIQUOR

ARTICLE I – GENERAL

Secs. 8-1 – 8-30. - Reserved.

ARTICLE II – LICENSING

Sec. 8-31. - Short title.

This ordinance shall be known and may be cited as the City of South Lyon "Liquor License Ordinance."

Sec. 8-32. – Statement of purpose.

The purpose of this article is to establish the city's policies and procedures for regulating liquor licenses including application and review procedures for the issuance of new on-premises licenses, transfers of on-premises licenses into and within the city and among owners and/or applicants, and for the renewal and revocation of liquor licenses. The process is intended to ensure that the individuals and entities seeking licenses or who propose to operate licensed on-premises liquor establishments within the city meet certain minimum requirements as to background, experience, financial resources, business operations and management and that the proposed establishment meets the needs of the community. It requires the city council to review application information in light of certain criteria to identify the kinds of applicants and establishments that best qualify for a license and best meet the needs of the City and its residents. It reserves to the city any and all discretion afforded to it under applicable laws relating to the issuance of on-premises licenses.

Sec. 8-33. -- Definitions.

The following definitions shall apply to this chapter:

(a) *Act* means the Michigan Liquor Control Code of 1998, Public Act 58 of 1998, MCL 436.1101 et seq., as amended.

(b) *Alcoholic liquor* means any spirituous, vinous, malt, or fermented liquor, powder, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume that are fit for use for food purposes or beverage purposes as defined and classified by the Michigan Liquor Control Commission.

(c) *Applicant* means and includes all persons and entities proposed to be owners of the license and/or of the licensed premises, all key personnel involved in the management and operation of the licensed business, and all persons and entities proposed to be involved in the finance of the license and/or licensed premises. Applicant includes all owners, shareholders, officers, partners, members, and managers of an entity applying for a license.

(d) *Brewpub* means a license issued in conjunction with a class C, tavern, class A hotel, or class B hotel license that authorizes the person licensed with the class C, tavern, class A hotel, or class B hotel to manufacture and brew not more than 18,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407 of the Michigan Liquor Control Code of 1998. A brewpub is considered a hybrid on- and off-premises liquor license.

(e) *Class C license* means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises.

(f) *Club license* means a liquor license issued to a club as defined by section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(g) *Establishment* means a business or premises whose primary function is the serving of alcoholic beverages for consumption on-premises.

(h) *Hotel license* means a liquor license issued to a hotel as defined in section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(i) *License* means a contract between the commission and the licensee granting authority to that licensee to manufacture and sell, or sell, or warehouse alcoholic liquor in the manner provided by the Act.

(j) *Licensee* means an individual or entity holding a license issued under this chapter or by the Michigan Liquor Control Commission.

(k) *Michigan Liquor Control Commission* and *MLCC* mean the liquor control commission provided for and created in Section 209 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1209).

(l) *Micro brewer* means a brewer that produces in total less than 60,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers as provided in MCL 436.1203. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

(m) *Minor* means an individual less than 21 years of age.

(n) *Off-premises license* means a liquor license to sell alcoholic liquor at retail for consumption off the licensed premises, including SDD, SDM, and other licenses designated as such in the Act.

(o) *On-premises license* shall mean a liquor license to sell alcoholic liquor at retail for consumption on the licensed premises, including Class C, tavern, resort, club, hotel, brewpub and micro brewer licenses.

(p) *Person* means an individual, firm, partnership, limited partnership, association, limited liability company, or corporation.

(q) *Resort license* means a liquor license issued by the Michigan Liquor Control Commission in a resort area, without regard to other liquor Control Commission quota requirements, in accordance with the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(r) *Sale* includes the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor.

(s) *Special license* means a contract between the commission and the special licensee granting authority to that licensee to sell beer, wine, mixed spirit drink, or spirits. The license shall be granted only to such persons and such organization and for such period of time as the commission shall determine so long as the person or organization is able to demonstrate an existence separate from an affiliated umbrella organization. If such an existence is demonstrated, the commission shall not deny a special license solely by the applicant's affiliation with an organization that is also eligible for a special license.

(t) *Special permit* includes, but is not limited to, outdoor service permits, one-day licenses, after hours permits, temporary dance, entertainment, or add bar permits, specific purpose permits, and special licenses, as those terms are defined and utilized in the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(u) *Specially designated distributor (SDD)* means a person engaged in an established business licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises.

(v) *Specially designated merchant (SDM)* means a person to whom the commission grants a license to sell beer or wine, or both, at retail for consumption off the licensed premises.

(w) *Tavern* means any place licensed to sell retail beer and wine for consumption on the premises only.

Sec. 8-34. – License required.

No person shall engage in the business of selling alcoholic liquor for consumption on premises in the City of South Lyon, transfer such a license into the city, transfer ownership or location of such a license within of the city, without first obtaining an approval for same by the city council as provided for in this chapter and also obtaining a license or approval therefor as required by the Act and MLCC.

Sec. 8-35. – Plan of operation required.

(a) *Plan of operation.* All on premises licensees shall operate in accordance with a plan of operation approved by the city council.

(b) *Contents of plan.* A plan of operation shall contain an operational statement outlining the proposed manner in which the establishment will be continuously operated consistent with the requirements of this chapter and the city code of ordinances, including, but not limited to, the opening date, the business concept, the anticipated food-to-alcohol ratio, a schedule of the days and hours of operation, method of alcohol management, crowd control/security, use of building facilities, parking facilities and arrangements, plan for interior use and layout, exterior design, layout of any ancillary facilities on the site, dance/entertainment permits needed or requested, estimated cost of building and site improvements, and any other pertinent information as requested by the city.

(c) *Use of liquor license.* It is the intent of the city that approved licenses shall be put into use immediately following approval. Non-use, inactivity, escrowing, or warehousing of licenses is prohibited in the plan of operation.

(d) *Compliance.* Licensees shall comply with all applicable state and city regulations, this chapter, and a plan of operation as approved by city council.

Sec. 8-36. – Application and review procedures.

(a) *Application.* In addition to such application(s) as may be required by the Act and the Michigan Liquor Control Commission for licensing by the State of Michigan, each applicant for a new on-premises license, transfer of an on-premises license into the city, or relocation or transfer of an existing on-premises license within the city or among owners and applicants, shall submit to the city clerk's office a fully completed "City of South Lyon Liquor License Application" on a form furnished by the clerk's office signed by the applicant or a duly authorized agent, along with the required fee(s) and all additional documents and materials referred to in the application form or otherwise required under this article.

(b) *Required information.* The applicant shall include, with the application, at least the following:

- (1) Name and address of the applicant. If the applicant is a partnership, the name and address of each partner shall be provided, and a copy of any

partnership agreement attached. If the applicant is a privately-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders shall be provided, and a copy of the articles of incorporation attached. If the applicant is a publicly-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders who own ten percent (10%) or more of the corporate stock shall be provided. If the applicant is a limited liability company, the names and addresses of all members, managers and assignees of membership interests shall be provided, and a copy of the articles of organization attached.

- (2) The type of license and/or related permit(s) requested.
- (3) The address, legal description, and zoning district of the property where the licensed establishment is to be located.
- (4) The name and address of the record fee owner of the premises, and, if the applicant is not the owner, proof of its interest in or right to occupy the premises.
- (5) Building and site plans showing the site and existing structures for the proposed establishment demonstrating compliance with zoning requirements, adequate off-street parking, lighting, refuse disposal facilities, and where appropriate, adequate plans for sound barriers and noise control. If the establishment is to be located in a proposed building for which site plan approval has not yet been obtained, or in an existing building that is to be remodeled, a conceptual plan showing the relationship of the building to the surrounding properties and uses, and proposed building elevations.
- (6) A plan of operation as referenced in section 8-35.
- (7) A written statement as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is to be issued, including the length of time the applicant has been in business of that character; or in the case of a partnership or other business entity, the date when it was created, established or organized.
- (8) Three (3) written references as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is desired.
- (9) A written statement identifying the source of all funds which will be relied upon for the establishment and operation of the proposed establishment sought to be licensed including the name and address of the financial institution where such funds are deposited.

- (10) A statement whether the applicant has operated or made application for a similar or another license on any premises other than described in this application, and the status or disposition of such license or application.
- (11) Whether a manager or person other than the applicant will manage the operations of the proposed establishment, and if so, the identity(ies) of such managers or persons.
- (12) A criminal background report of the applicant's criminal history through the Internet Criminal History Access Tool (ICHAT). The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report and the report must be dated within thirty (30) days of the date of the application.
- (13) A statement that the applicant is not disqualified to receive a license for any reason under this chapter or state law.
- (14) An accurate record and history of any liquor license or Liquor Control Act violations by the applicant, and any entity the applicant has worked for or had a substantial interest in, or by a parent or subsidiary entity of the applicant for the immediate preceding five (5) years.
- (15) A written statement explaining in detail how the application and applicant meet the review criteria listed in subsection (f).
- (16) Any other information pertinent to the applicant, premises, and operation of the proposed establishment as may be required by this chapter, including information regarding each of the criteria listed in subsection (f).

(c) *Investigation.* Following receipt of a complete application, fees and other information as may be requested by the city, the city manager will refer the application to the police department, fire department, planning department, building department, economic development department, public works department, and such other departments as deemed appropriate, which departments shall cause a thorough review and investigation of the applicant(s) and premises to be completed, including, but not limited to, an investigation regarding the background of the applicant(s) and owners, a complete history of past business and experience and liquor law violations, the proposed premises, code compliance, payment of taxes and utility charges, availability of utilities. The findings and results of the investigations, including where applicable, recommendations, shall be provided to the city manager, who shall then report same to the city council. In making its reviews and investigations, the city, and its departments, may request other pertinent information from the applicant.

(d) *Placement upon city council agenda.* Upon receipt by the city manager of the findings, results, and recommendations of the department investigations, the city manager shall place the application on a city council agenda for consideration. Due notice will be provided to the applicant, and the applicant will be required to appear before the city council and make an oral and/or written presentation and address any questions concerning the application.

(e) *City council action required.* All applications are subject to action by the city council. The city council may approve with or without conditions, postpone consideration for a reasonable period, or deny the license. If the license is either approved or denied, the city council shall cause its decision to be transmitted to the Michigan Liquor Control Commission and promptly give notice of the decision to the applicant, in writing. Unless otherwise indicated by the city council, all approvals are conditioned upon the applicant obtaining any required building permits and any other necessary permits, licenses, or approvals from the city, including special land use approval, or approvals from other regulatory agencies within sixty (60) days or such other time period specified by the city council from the date of such conditional approval. The construction of new buildings and alterations of existing buildings shall commence within six (6) months after the date of the conditional approval, with a completion date of no more than one (1) year after the issuance of the relevant building permit. Extensions of time for completion of construction or alteration or to meet conditions may be granted by the city council for good cause as determined in its sole discretion. Failure to comply with such conditions shall render the license, and any approval, subject to revocation.

(f) *Review criteria.* In making its determination pursuant to section 8-36(e), the city council may consider and/or weigh, in its discretion, the following factors:

- (1) Surrounding land uses and proximity to residences, schools, and churches, and any potential adverse effect the surrounding area and land uses, including vehicular and pedestrian traffic and movement, parking, noise and input from residents and businesses.
- (2) The investigations, findings and recommendations of the city departments regarding the applicant, application, and proposed premises and establishment.
- (3) The applicant's history and experience, if any, in conducting a business holding a liquor license, including history of MLCC violations and other business and operations and management experience.
- (4) The applicant's financial status and its ability to build and/or operate the proposed establishment.
- (5) Past criminal convictions of the applicant for felonies and crimes involving moral turpitude, violence, or alcoholic liquors, including, but not limited to: gambling, prostitution, weapons, tax evasion, fraudulent activity, controlled substances, crimes or violations of such a nature that it may impair the ability of the applicant to operate a licensed establishment in a safe and competent manner.
- (6) Non-payment or late payment of taxes and utility bills.
- (7) The availability of utilities to serve the proposed establishment.
- (8) Compliance with applicable building, plumbing, electrical and fire prevention codes, zoning ordinance, or other applicable ordinances, laws, codes, and regulations.

- (9) The nature and extent of preservation or restoration of existing or historic buildings.
- (10) The number, proximity and capacity of similar licensed establishments in the city and surrounding area
- (11) The amount to be invested in the proposed premises/establishment and the effect on the economic development of the city or the surrounding area.
- (12) Whether the proposed establishment is part of a multi-use project with substantial new retail, office or residential components; the size of the proposed establishment relative to the overall project or development.
- (13) Whether the applicant has demonstrated a public need or convenience for the issuance of the liquor license for the business establishment at the location proposed.
- (14) The plan of operation including the type or character of proposed establishment and services, menu and entertainment to be offered, the overall theme, atmosphere, or ambience of the proposed business, the proposed hours and days of operation, the proposed ratio of sales of food to alcohol, the size and percent of floor area devoted to kitchen, dining, dance floor, bar, outdoor service areas.
- (15) The impact of the establishment on city policing and code enforcement activities, and the possibility of consequent costs to the city.
- (16) The overall benefits and/or detriments of the proposed establishment to the city.
- (17) Any other factors that may affect the health, safety and/or welfare of the general public.

(g) *Restrictions on licenses.* No license shall be issued to the following unless such applicable restriction is waived by city council:

- (1) Any person whose liquor license has been revoked or not renewed for cause under this article, or a comparable local ordinance or state law, whether in Michigan or otherwise.
- (2) Any person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
- (3) Any applicant, including any owner, shareholder, officer, partner, member, manager, or assignee thereof, owing a ten percent (10%) interest or more would not be eligible to receive a license hereunder or the Act for any reason.

- (4) Any person who does not own the premises for which a license is sought or does not have a lease or other right to possess or occupy the premises for the full period for which the license is issued.
- (5) Any law enforcement official or any member of the council, or to any such official having interest in any way, either directly or indirectly, in manufacture, sale or distribution of alcoholic liquor.
- (6) Any applicant who omits or falsifies any information required by this article.
- (7) Any premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance without approved arrangements for correction or achieving compliance.
- (8) Any premises that does not, or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, noise or nuisance control, or such new construction or remodeling as proposed would not be completed.

(h) *Changes in plans, drawings, etc.* After receipt of a conditional approval by the city council, no site plan, floor plan, building elevation, seating arrangement, kitchen layout, or other pertinent facts, drawings, or documents submitted to the city may be changed without the applicant first receiving approval from the city planning, engineering, and building departments and city council.

(i) *Recommendation for approval of liquor license.* Upon completion of the building and/or improvements and satisfaction of all other conditions and in accordance with the prior conditional approval of the city council and resolution, if applicable, the city council shall then recommend, above all others, the applicant for approval of the liquor license to the Liquor Control Commission of the State of Michigan.

(j) *Reservation of authority.* No applicant for a liquor license has a right to the issuance of such license, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such licenses.

Sec. 8-37. – Substantial changes in licensed operations.

(a) Substantial changes in the licensee's operations or plan of operation within three (3) years of the license being issued must be approved by the city council. Substantial changes shall include, but are not limited to: changes in space, percentage of food or other sales not related to liquor, changes in hours of operations, capacity, or parking of twenty-five percent (25%) or more. Changes in the theme, style or character of an establishment, alone, shall not constitute a substantial change. No fee shall be charged for this process. The licensee is responsible for compliance with this section within fourteen (14) days of the change of information or circumstances.

(b) Variance from or failure to comply with an approved plan of operation or obtain approval of a substantial change in operations of a licensed establishment is a violation of this article and may result in the city objecting to the renewal or recommending revocation of the license, or other action.

Sec. 8-38. – Transfers of existing on-premises licenses.

(a) The city council has determined that profiteering by on-premises liquor licensees is contrary to the best interests of the city. Accordingly, to prevent profiteering, to the full extent authorized by law, the city council shall not approve the transfer of an on-premises liquor license issued as a new license under this chapter within three (3) years of the date of the original issuance of the license except that the city council may, but is not required to, waive this restriction in the following circumstances:

- (1) If the licensee is a natural person, he or she dies or becomes incapacitated.
- (2) If the licensee is a business entity (e.g., limited liability company, corporation, partnership), the majority interest holder or owner dies or becomes incapacitate, or the business entity dissolves for reasons other than to transfer the license.
- (3) The licensee and the proposed transferee establish that the transfer shall not result in profiteering.
- (4) The application of this section will subject the licensee to financial hardship due to no fault of its own, such as a change in the business climate, illness or death, labor or supply problems, and/or other factors outside the licensee's control.

(b) The transfer of any existing on-premises liquor license into, within, out of the city or to a different owner(s) shall require approval of the city council. An applicant for approval of a license transfer and the use and occupancy of such a license shall:

- (1) Submit an application with all of the information required under Section 8-36(b) above for a new on-premises liquor license, including a plan of operation.
- (2) Pay the applicable fees.
- (3) Furnish any necessary authorization allowing the city access to any and all files which may be in the Michigan Liquor Control Commission's possession regarding the transferee as a present licensee, or as a previous licensee, or in which transferee has or has had a partial interest in.

(c) In reviewing an application for license transfer, the city council may consider the criteria listed in Section 8-36(f).

(d) Requests for approvals of transfers of licenses shall be approved or denied in the sole discretion of the city council.

(e) Transfers that involve the following circumstances may be placed on a city council agenda for consideration, without payment of a fee and without the necessity of furnishing the information required for new licenses:

- (1) The exchange of the assets of a licensed sole proprietorship, licensed general partnership, or licensed limited partnership for all outstanding shares of stock in a corporation in which the sole proprietor, all members of the general partnership, or all members of the limited partnership are the only stockholders of that corporation.
- (2) The removal of a member of a firm, a stockholder, a member of a general partnership or limited partnership, or association of licensees from a license.
- (3) The occurrence of any of the following events: i) a corporate stock split, ii) issuing previously unissued stock shares to an existing shareholder, iii) redemption of stock shares by a licensed corporation; and iv) a public offering of stock.

(f) Existing permits ancillary to liquor licenses are transferred with the liquor license unless cancelled in writing. Transferees must present plans regarding the operation they intend to conduct using a permit.

Sec. 8-39. – Objections to renewal and requests for revocation.

(a) *Generally.* The city council may, at any time, review a license and object to a renewal or request the revocation of a liquor license with the MLCC.

(b) *Procedure.* Before filing an objection to the renewal or requesting revocation of a license with the MLCC, the city shall serve the licensee a notice of hearing, by first class mail, mailed not less than ten (10) days prior to the hearing, which shall contain the following information:

- (1) Reason(s) for the hearing and proposed action.
- (2) Date, time and place of the hearing.
- (3) A statement that the licensee may present evidence and testimony, and may confront witnesses and may be represented by a licensed attorney.

(c) *Hearing and final decision.* The hearing may be conducted by city council as a whole, or by a hearing officer appointed by the city council for such purposes. If a hearing officer is appointed, it shall be the officer's duty to conduct the hearing and hear and take evidence and testimony. After the hearing, the hearing officer shall make a recommendation to the city council for its ultimate final review and decision. The city council shall submit to the licensee and the MLCC, a written statement of its ultimate findings and determination.

(d) *Criteria for non-renewal or revocation.* The city council may recommend non-renewal or request revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at a hearing, any of the following exists:

- (1) A violation of any section of this chapter, the Act, or the rules and regulations of the MLCC, including sales of alcoholic liquor to minors.
- (2) A violation of any applicable building, electrical, mechanical, plumbing or fire code; applicable zoning regulations; applicable public health regulations; applicable rules and regulations of the county health department; or any other applicable city code provision.
- (3) Maintenance of a nuisance on the premises.
- (4) A license being or remaining unused or inactive for one (1) year after being issued without further approval from the city council.
- (5) A license being placed in and remaining in escrow for five (5) years or more.
- (6) A material change in those conditions, statements or representations contained in the written application by the licensee, including a plan of operation, upon which the city council based its recommendation for approval, when, in the judgment of the city council, that change is found to be contrary to the best interest of the city and/or its residents.
- (7) A licensee has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
- (8) The premises does not, or will not reasonably soon, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control where a nuisance does or will exist.
- (9) Non-payment of taxes relating to the premises related to the license.
- (10) Other factors negatively impacting the general health, safety and welfare of the community and the public.

Sec. 8-40. – Fees.

Each applicant for a new on-premises license or license transfer shall pay a nonrefundable application investigation fee in an amount set by city council resolution. Such fee will be in addition to any fee(s) required by the MLCC.

Sec 8-41. – Nudity.

No person, while appearing in a state of public nudity as defined in Section 5h of Act 279 of 1909, being MCL 117.5h, shall frequent, loiter, work for or perform in any establishment licensed or

subject to licensing by the state liquor control commission. No proprietor or operator of any such establishment shall allow the presence in such establishment of any person who violates the provisions of this section.

Sec. 8-42 through 8-69. Reserved.

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PART IV. 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 V. Effective Date; Publication. This ordinance shall take effect upon the later of ten (10) days after adoption or upon publication thereof as provided by the Charter of the City of South Lyon.

Made, passed and adopted by the South Lyon City Council this ____ day of _____, 2018.

Daniel L. Pelchat, 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 _____, 2018.

Lisa Deaton, City Clerk

Adopted:
Published:
Effective:

ORDINANCE NO. __-18

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO ADD CHAPTER 8 – ALCOHOLIC LIQUOR – TO THE CITY OF SOUTH LYON CODE OF ORDINANCES TO PROVIDE POLICIES AND REGULATIONS FOR THE APPLICATION, REVIEW, ISSUANCE, TRANSFER, RENEWAL, REVOCATION AND ENFORCEMENT OF LIQUOR LICENSES AND FOR THE OPERATION OF LICENSED PREMISES.

THE CITY OF SOUTH LYON ORDAINS:

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Sec. 8-33. -- Definitions.

The following definitions shall apply to this chapter:

(a) *Act* means the Michigan Liquor Control Code of 1998, Public Act 58 of 1998, MCL 436.1101 et seq., as amended.

(b) *Alcoholic liquor* means any spirituous, vinous, malt, or fermented liquor, powder, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume that are fit for use for food purposes or beverage purposes as defined and classified by the Michigan Liquor Control Commission.

(c) *Applicant* means and includes all persons and entities proposed to be owners of the license and/or of the licensed premises, all key personnel involved in the management and operation of the licensed business, and all persons and entities proposed to be involved in the finance of the license and/or licensed premises. Applicant includes all owners, shareholders, officers, partners, members, and managers of an entity applying for a license.

(d) *Brewpub* means a license issued in conjunction with a class C, tavern, class A hotel, or class B hotel license that authorizes the person licensed with the class C, tavern, class A hotel, or class B hotel to manufacture and brew not more than 18,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407 of the Michigan Liquor Control Code of 1998. A brewpub is considered a hybrid on- and off-premises liquor license.

(e) *Class C license* means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises.

(f) *Club license* means a liquor license issued to a club as defined by section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(g) *Establishment* means a business or premises whose primary function is the serving of alcoholic beverages for consumption on-premises.

(h) *Hotel license* means a liquor license issued to a hotel as defined in section 107 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1107).

(i) *License* means a contract between the commission and the licensee granting authority to that licensee to manufacture and sell, or sell, or warehouse alcoholic liquor in the manner provided by the Act.

(j) *Licensee* means an individual or entity holding a license issued under this chapter or by the Michigan Liquor Control Commission.

(k) *Michigan Liquor Control Commission* and *MLCC* mean the liquor control commission provided for and created in Section 209 of the Michigan Liquor Control Code of 1998, Public Act 58 of 1998 (MCL 436.1209).

(l) *Micro brewer* means a brewer that produces in total less than 60,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers as provided in MCL 436.1203. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

(m) *Minor* means an individual less than 21 years of age.

(n) *Off-premises license* means a liquor license to sell alcoholic liquor at retail for consumption off the licensed premises, including SDD, SDM, and other licenses designated as such in the Act.

(o) *On-premises license* shall mean a liquor license to sell alcoholic liquor at retail for consumption on the licensed premises, including Class C, tavern, resort, club, hotel, brewpub and micro brewer licenses.

(p) *Person* means an individual, firm, partnership, limited partnership, association, limited liability company, or corporation.

(q) *Resort license* means a liquor license issued by the Michigan Liquor Control Commission in a resort area, without regard to other Liquor Control Commission quota requirements, in accordance with the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(r) *Sale* includes the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor.

(s) *Special license* means a contract between the commission and the special licensee granting authority to that licensee to sell beer, wine, mixed spirit drink, or spirits. The license shall be granted only to such persons and such organization and for such period of time as the commission shall determine so long as the person or organization is able to demonstrate an existence separate from an affiliated umbrella organization. If such an existence is demonstrated, the commission shall not deny a special license solely by the applicant's affiliation with an organization that is also eligible for a special license.

(t) *Special permit* includes, but is not limited to, outdoor service permits, one-day licenses, after hours permits, temporary dance, entertainment, or add bar permits, specific purpose permits, and special licenses, as those terms are defined and utilized in the Michigan Liquor Control Code of 1998, Public Act 58 of 1998.

(u) *Specially designated distributor (SDD)* means a person engaged in an established business licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises.

(v) *Specially designated merchant (SDM)* means a person to whom the commission grants a license to sell beer or wine, or both, at retail for consumption off the licensed premises.

(w) *Tavern* means any place licensed to sell retail beer and wine for consumption on the premises only.

Sec. 8-34. – License required.

No person shall engage in the business of selling alcoholic liquor for consumption on premises in the City of South Lyon, transfer such a license into the city, transfer ownership or location of such a license within of the city, without first obtaining an approval for same by the city council as provided for in this chapter and also obtaining a license or approval therefor as required by the Act and MLCC.

Sec. 8-35. – Plan of operation required.

~~(a) *Plan of operation.* All on-premises licensees shall operate in accordance with a plan of operation approved by the city council.~~

~~(b) *Contents of plan.* A plan of operation shall contain an operational statement outlining the proposed manner in which the establishment will be continuously operated consistent with the requirements of this chapter and the city code of ordinances, including, but not limited to, the opening date, the business concept, the anticipated food-to-alcohol ratio, a schedule of the days and hours of operation, method of alcohol management, crowd control/security, use of building facilities, parking facilities and arrangements, plan for interior use and layout, exterior design, layout of any ancillary facilities on the site, dance/entertainment permits needed or requested, estimated cost of building and site improvements, and any other pertinent information as requested by the city.~~

~~(c) *Use of liquor license.* It is the intent of the city that approved licenses shall be put into use immediately following approval. Non-use, inactivity, escrowing, or warehousing of licenses is prohibited in the plan of operation.~~

~~(d) *Compliance.* Licensees shall comply with all applicable state and city regulations, and this chapter and a plan of operation as approved by city council.~~

~~Sec. 8-36.~~

Sec. 8-35. – Application and review procedures.

(a) *Application.* In addition to such application(s) as may be required by the Act and the Michigan Liquor Control Commission for licensing by the State of Michigan, each applicant for a new on-premises license, transfer of an on-premises license into the city, or relocation or transfer of an existing on-premises license within the city or among owners and applicants, shall submit to the city clerk's office a fully completed "City of South Lyon Liquor License Application" on a form furnished by the clerk's office signed by the applicant or a duly authorized agent, along with the required fee(s) and all additional documents and materials referred to in the application form or otherwise required under this article.

(b) *Required information.* The applicant shall include, with the application, at least the following:

- (1) Name and address of the applicant. If the applicant is a partnership, the name and address of each partner shall be provided, and a copy of any

partnership agreement attached. If the applicant is a privately-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders shall be provided, and a copy of the articles of incorporation attached. If the applicant is a publicly-held corporation, the names and addresses of all corporate officers, members of the board of directors, and stockholders who own ten percent (10%) or more of the corporate stock shall be provided. If the applicant is a limited liability company, the names and addresses of all members, managers and assignees of membership interests shall be provided, and a copy of the articles of organization attached.

- (2) The type of license and/or related permit(s) requested.
- (3) The address, legal description, and zoning district of the property where the licensed establishment is to be located.
- (4) The name and address of the record fee owner of the premises, and, if the applicant is not the owner, proof of its interest in or right to occupy the premises.
- (5) Building and site plans showing the site and existing structures for the proposed establishment demonstrating compliance with zoning requirements, adequate off-street parking, lighting, refuse disposal facilities, and where appropriate, adequate plans for sound barriers and noise control. If the establishment is to be located in a proposed building for which site plan approval has not yet been obtained, or in an existing building that is to be remodeled, a conceptual plan showing the relationship of the building to the surrounding properties and uses, and proposed building elevations.
- ~~(6) A plan of operation as referenced in section 8-35.~~
- ~~(7)~~(6) A written statement as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is to be issued, including the length of time the applicant has been in business of that character; or in the case of a partnership or other business entity, the date when it was created, established or organized.
- ~~(8)~~(7) Three (3) written references as to the applicant's character, experience, and financial ability to meet the obligations and business undertakings for which the license is desired.
- ~~(9)~~(8) A written statement identifying the source of all funds which will be relied upon for the establishment and operation of the proposed establishment sought to be licensed including the name and address of the financial institution where such funds are deposited.

(10)(9) A statement whether the applicant has operated or made application for a similar or another license on any premises other than described in this application, and the status or disposition of such license or application.

(11)(10) Whether a manager or person other than the applicant will manage the operations of the proposed establishment, and if so, the identity(ies) of such managers or persons.

(12)(11) A criminal background report of the applicant's criminal history through the Internet Criminal History Access Tool (ICHAT). The applicant is responsible for all charges incurred in requesting and receiving the ICHAT report and the report must be dated within thirty (30) days of the date of the application.

(13)(12) A statement that the applicant is not disqualified to receive a license for any reason under this chapter or state law.

(14)(13) An accurate record and history of any liquor license or Liquor Control Act violations by the applicant, and any entity the applicant has worked for or had a substantial interest in, or by a parent or subsidiary entity of the applicant for the immediate preceding five (5) years.

(15)(14) A written statement explaining in detail how the application and applicant meet the review criteria listed in subsection (f).

(16)(15) Any other information pertinent to the applicant, premises, and operation of the proposed establishment as may be required by this chapter, including information regarding each of the criteria listed in subsection (f).

(c) *Investigation.* Following receipt of a complete application, fees and other information as may be requested by the city, the city manager will refer the application to the police department, fire department, planning department, building department, economic development department, public works department, and such other departments as deemed appropriate, which departments shall cause a thorough review and investigation of the applicant(s) and premises to be completed, including, but not limited to, an investigation regarding the background of the applicant(s) and owners, a complete history of past business and experience and liquor law violations, the proposed premises, code compliance, payment of taxes and utility charges, availability of utilities. The findings and results of the investigations, including where applicable, recommendations, shall be provided to the city manager, who shall then report same to the city council. In making its reviews and investigations, the city, and its departments, may request other pertinent information from the applicant.

(d) *Placement upon city council agenda.* Upon receipt by the city manager of the findings, results, and recommendations of the department investigations, the city manager shall place the application on a city council agenda for consideration. Due notice will be provided to the applicant, and the applicant will be required to appear before the city council and make an oral and/or written presentation and address any questions concerning the application.

(e) *City council action required.* All applications are subject to action by the city council. The city council may approve with or without conditions, postpone consideration for a reasonable period, or deny the license. If the license is either approved or denied, the city council shall cause its decision to be transmitted to the Michigan Liquor Control Commission and promptly give notice of the decision to the applicant, in writing. Unless otherwise indicated by the city council, all approvals are conditioned upon the applicant obtaining any required building permits and any other necessary permits, licenses, or approvals from the city, including special land use approval, or approvals from other regulatory agencies within sixty (60) days or such other time period specified by the city council from the date of such conditional approval. The construction of new buildings and alterations of existing buildings shall commence within six (6) months after the date of the conditional approval, with a completion date of no more than one (1) year after the issuance of the relevant building permit. Extensions of time for completion of construction or alteration or to meet conditions may be granted by the city council for good cause as determined in its sole discretion. Failure to comply with such conditions shall render the license, and any approval, subject to revocation.

(f) *Review criteria.* In making its determination pursuant to section 8-3635(e), the city council may consider and/or weigh, in its discretion, the following factors:

- (1) Surrounding land uses and proximity to residences, schools, and churches, and any potential adverse effect on the surrounding area and land uses, including vehicular and pedestrian traffic and movement, parking, noise and input from residents and businesses.
- (2) The investigations, findings and recommendations of the city departments regarding the applicant, application, and proposed premises and establishment.
- (3) The applicant's history and experience, if any, in conducting a business holding a liquor license, including history of MLCC violations and other business and operations and management experience.
- (4) The applicant's financial status and its ability to build and/or operate the proposed establishment.
- (5) Past criminal convictions of the applicant for felonies and crimes involving moral turpitude, violence, or alcoholic liquors, including, but not limited to: gambling, prostitution, weapons, tax evasion, fraudulent activity, controlled substances, crimes or violations of such a nature that it may impair the ability of the applicant to operate a licensed establishment in a safe and competent manner.
- (6) Non-payment or late payment of taxes and utility bills.
- (7) The availability of utilities to serve the proposed establishment.
- (8) Compliance with applicable building, plumbing, electrical and fire prevention codes, zoning ordinance, or other applicable ordinances, laws, codes, and regulations.

- (9) The nature and extent of preservation or restoration of existing or historic buildings.
- (10) The number, proximity and capacity of similar licensed establishments in the city and surrounding area
- (11) The amount to be invested in the proposed premises/establishment and the effect on the economic development of the city or the surrounding area.
- (12) Whether the proposed establishment is part of a multi-use project with substantial new retail, office or residential components; the size of the proposed establishment relative to the overall project or development.
- (13) Whether the applicant has demonstrated a public need or convenience for the issuance of the liquor license for the business establishment at the location proposed.
- (14) ~~The plan of operation including the~~ The type or character of proposed establishment and services, ~~including the menu and entertainment to be offered,~~ the overall theme, atmosphere, or ambiance of the proposed business, the proposed hours and days of operation, the proposed ratio of sales of food to alcohol, the size and percent of floor area devoted to kitchen, dining, dance floor, bar, outdoor service areas.
- (15) ~~The impact of the establishment on city policing and code enforcement activities, and the possibility of consequent costs to the city.~~
- (16) The overall benefits and/or detriments of the proposed establishment to the city.
- (17) Any other factors that may affect the health, safety and/or welfare of the general public.

(g) *Restrictions on licenses.* No license shall be issued to the following unless such applicable restriction is waived by city council:

- (1) Any person whose liquor license has been revoked or not renewed for cause under this article, or a comparable local ordinance or state law, whether in Michigan or otherwise.
- (2) Any person who, at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
- (3) Any applicant, including any owner, shareholder, officer, partner, member, manager, or assignee thereof, owing a ten percent (10%) interest or more would not be eligible to receive a license hereunder or the Act for any reason.

- (4) Any person who does not own the premises for which a license is sought or does not have a lease or other right to possess or occupy the premises for the full period for which the license is issued.
- (5) Any law enforcement official or any member of the council, or to any such official having interest in any way, either directly or indirectly, in manufacture, sale or distribution of alcoholic liquor.
- (6) Any applicant who omits or falsifies any information required by this article.
- (7) Any premises where there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable city ordinance without approved arrangements for correction or achieving compliance.
- (8) Any premises that does not, or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, noise or nuisance control, or such new construction or remodeling as proposed would not be completed.

(h) ~~Changes in plans, drawings, etc.~~ after conditional approval. After receipt of a conditional approval by the city council, no site plan, floor plan, building elevation, seating arrangement, kitchen layout, or other pertinent facts, drawings, or documents submitted to the city may be changed without the applicant first receiving approval from the city planning, engineering, and building departments and city council.

(i) Recommendation for approval of liquor license. Upon completion of the building and/or improvements and satisfaction of all other conditions and in accordance with the prior conditional approval of the city council and resolution, if applicable, the city council shall then recommend, above all others, the applicant for approval of the liquor license to the Liquor Control Commission of the State of Michigan.

(j) Reservation of authority. No applicant for a liquor license has a right to the issuance of such license, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such licenses.

Sec. 8-37. Substantial changes in licensed operations. 36. - License transfers.

(a) ~~Substantial changes in the licensee's operations or plan of operation within three (3) years of the license being issued must be approved by the city council. Substantial changes shall include, but are not limited to: changes in space, percentage of food or other sales not related to liquor, changes in hours of operations, capacity, or parking of twenty five percent (25%) or more. Changes in the theme, style or character of an establishment, alone, shall not constitute a substantial change. No fee shall be charged for this process. The licensee is responsible for compliance with this section within fourteen (14) days of the change of information or circumstances.~~

~~(b) Variance from or failure to comply with an approved plan of operation or obtain approval of a substantial change in operations of a licensed establishment is a violation of this article and may result in the city objecting to the renewal or recommending revocation of the license, or other action.~~

~~Sec. 8-38. Transfers of existing on-premises licenses.~~

~~(c) The city council has determined that profiteering by on-premises liquor licensees is contrary to the best interests of the city. Accordingly, to prevent profiteering, to the full extent authorized by law, the city council shall not approve the transfer of an on-premises liquor license issued as a new license under this chapter within three (3) years of the date of the original issuance of the license except that the city council may, but is not required to, waive this restriction in the following circumstances:~~

- ~~(1) If the licensee is a natural person, he or she dies or becomes incapacitated.~~
- ~~(1) If the licensee is a business entity (e.g., limited liability company, corporation, partnership), the majority interest holder or owner dies or becomes incapacitate, or the business entity dissolves for reasons other than to transfer the license.~~
- ~~(2) The licensee and the proposed transferee establish that the transfer shall not result in profiteering.~~
- ~~(3) The application of this section will subject the licensee to financial hardship due to no fault of its own, such as a change in the business climate, illness or death, labor or supply problems, and/or other factors outside the licensee's control.~~

~~(a) The transfer of any existing on-premises liquor license into, within, or out of the city or to a different owner(s) within three (3) years of the date of original issuance of the license shall require approval of the city council.~~

~~(b) An applicant for approval of a license transfer and the use and occupancy of such a license under this section shall:~~

- ~~(1) Submit a license transfer application with all of the information required under Section 8-3635(b) above for a new on-premises liquor license, including a plan of operation;~~
- ~~(2) Pay the applicable fees.~~
- ~~(3) Furnish any necessary authorization allowing the city access to any and all files which may be in the Michigan Liquor Control Commission's possession regarding the transferee as a present licensee, or as a previous licensee, or in which transferee has or has had a partial interest in.~~

~~(e) In reviewing an application for license transfer under this section, the city council may consider the criteria listed in Section 8-3635(f).~~

(f)(c)) and any other criteria it deems relevant and appropriate, including any unusual financial hardship to the licensee which would result from a denial of a license transfer application due to no fault of its own, changes in the business climate, illness or death, labor or supply problems, and/or other factors outside the licensee's control. Requests for approvals of license transfers of licenses shall be approved or denied in the sole discretion of the city council.

~~(g) — Transfers that involve the following circumstances may be placed on a city council agenda for consideration, without payment of a fee and without the necessity of furnishing the information required for new licenses:~~

~~(4) — The exchange of the assets of a licensed sole proprietorship, licensed general partnership, or licensed limited partnership for all outstanding shares of stock in a corporation in which the sole proprietor, all members of the general partnership, or all members of the limited partnership are the only stockholders of that corporation.~~

~~(5) — The removal of a member of a firm, a stockholder, a member of a general partnership or limited partnership, or association of licensees from a license.~~

~~(6) — The occurrence of any of the following events: i) a corporate stock split, ii) issuing previously unissued stock shares to an existing shareholder, iii) redemption of stock shares by a licensed corporation; and iv) a public offering of stock.~~

~~(h) — Existing permits ancillary to liquor licenses are transferred with the liquor license unless cancelled in writing. Transferees must present plans regarding the operation they intend to conduct using a permit.~~

Sec. 8-3937. — Objections to renewal and requests for revocation.

(a) *Generally.* The city council may, at any time, review a license and object to a renewal or request the revocation of a liquor license with the MLCC.

(b) *Procedure.* Before filing an objection to the renewal or requesting revocation of a license with the MLCC, the city shall serve the licensee a notice of hearing, by first class mail, mailed not less than ten (10) days prior to the hearing, which shall contain the following information:

- (1) Reason(s) for the hearing and proposed action.
- (2) Date, time and place of the hearing.
- (3) A statement that the licensee may present evidence and testimony, and may confront witnesses and may be represented by a licensed attorney.

(c) *Hearing and final decision.* The hearing may be conducted by city council as a whole, or by a hearing officer appointed by the city council for such purposes. If a hearing officer is appointed, it shall be the officer's duty to conduct the hearing and hear and take evidence and

testimony. After the hearing, the hearing officer shall make a recommendation to the city council for its ultimate final review and decision. The city council shall submit to the licensee and the MLCC, a written statement of its ultimate findings and determination.

(d) *Criteria for non-renewal or revocation.* The city council may recommend non-renewal or request revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at a hearing, any of the following exists:

- (1) A violation of any section of this chapter, the Act, or the rules and regulations of the MLCC, including sales of alcoholic liquor to minors.
- (2) A violation of any applicable building, electrical, mechanical, plumbing or fire code; applicable zoning regulations; applicable public health regulations; applicable rules and regulations of the county health department; or any other applicable city code provision.
- (3) Maintenance of a nuisance on the premises.
- (4) A license being or remaining unused or inactive for one (1) year after being issued without further approval from the city council.
- (5) A license being placed in and remaining in escrow for five (5) years or more.
- (6) A material change in those conditions, statements or representations contained in the written application by the licensee, including a plan of operation, upon which the city council based its recommendation for approval, when, in the judgment of the city council, that change is found to be contrary to the best interest of the city and/or its residents.
- (7) A licensee has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
- (8) The premises does not, or will not reasonably soon, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control where a nuisance does or will exist.
- (9) Non-payment of taxes relating to the premises related to the license.
- (10) Other factors negatively impacting the general health, safety and welfare of the community and the public.

Sec. 8-4038. – Fees.

Each applicant for a new on-premises license or license transfer shall pay a nonrefundable application investigation fee in an amount set by city council resolution. Such fee will be in addition to any fee(s) required by the MLCC.

Sec 8-4139. – Nudity.

No person, while appearing in a state of public nudity as defined in Section 5h of Act 279 of 1909, being MCL 117.5h, shall frequent, loiter, work for or perform in any establishment licensed or subject to licensing by the state liquor control commission. No proprietor or operator of any such establishment shall allow the presence in such establishment of any person who violates the provisions of this section.

Sec. 8-4240 through 8-69. Reserved.

PART II. Severability. Should any division, section, subsection, 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 III. 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 City of South Lyon Code of Ordinances set forth in this Ordinance.

PART IV. 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 V. Effective Date; Publication. This ordinance shall take effect upon the later of ten (10) days after adoption or upon publication thereof as provided by the Charter of the City of South Lyon.

Made, passed and adopted by the South Lyon City Council this ____ day of _____, 2018.

Daniel L. Pelchat, 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 _____, 2018.

Lisa Deaton, City Clerk

Adopted:
Published:

Effective:

DRAFT

Timothy Wilhelm

From: Robert Donohue <robert@southlyonmi.org>
Sent: Monday, September 18, 2017 10:08 AM
To: Timothy Wilhelm
Cc: Lynne Ladner
Subject: Additional Criteria for Liquor Licenses

Tim:

The following items which we recently discussed should be considered as additional criteria for granting/approving a Liquor License in the City of South Lyon:

- Is the location of the establishment which would own the Liquor License in the DDA District?
- Is the location of the establishment which would own the Liquor License in the Historic Core Downtown Area (On N. Lafayette Street between Lake Street and the Detroit Street, S. Lafayette Street between Lake Street and McHattie Street, E. Lake street between Wells street and Lafayette Street, and W. Lake Street between Lafayette Street and the first alley west of Lafayette Street?
- Is the location of the establishment which would own the Liquor License in a Historic Building as noted on the DDA's List of Buildings Eligible for Listing on the National Register of Historic Places?
- Will improvements to the Historic Building comply with the U.S. Secretary of the Interior's Standards for Historic Rehabilitation and Historic Preservation and the City of South Lyon's Design Guidelines?
- Is the location of the establishment which would own the Liquor License in a new building which complies with the City of South Lyon's New Master Plan?

I hope these are useful and will be considered. Items similar to those that I have provided here above, have been utilized in other communities. Please let me know if there is anything else you need or that I can do regarding the potential new Liquor License Policy.

Thanks,

Bob Donohue, DDA & Economic Development Director
City of South Lyon

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)
Act 58 of 1998

436.1501 Licenses; issuance; fees; bonds or liability insurance; expiration of full-year license; license as contract; operation of establishment upon death of licensee; approval of receiver or trustee; part-year license; transfer of license; approval of application; request for revocation of license or permit by local legislative body; hotels; zones and anniversary dates for renewal of licenses; rules; nontransferable tavern licenses for concessionaires at state fairgrounds; notice contained in application.

Sec. 501. (1) The commission may issue licenses as provided in this act upon the payment of the fees provided in section 525 and the filing of the bonds required in section 801 or liability insurance as provided in section 803. The commission shall provide a notification of the ability of the purchaser or transferee to obtain a tax clearance certificate, as provided in subsection (6). Subject to section 906(2) and (3), the commission shall not issue a new on premises license or transfer more than 50% interest in an existing on premises license unless the applicant or transferee offers proof acceptable to the commission that he or she has employed or has present on the licensed premises, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served who have successfully completed a server training program described in section 906. The commission may consider an individual enrolled and actively participating in a server training program as having successfully completed the program for the time the individual is participating. The commission may allow an applicant or a conditionally approved licensee at least 180 days, or more upon a showing of good cause, to meet the minimum personnel training requirements of this subsection. The commission may suspend the license of a conditionally approved licensee if that licensee does not comply with this subsection. The commission may waive the server training requirements of this subsection on the basis of either of the following circumstances:

(a) The licensee's responsible operating experience or training.

(b) The person's demonstration of an acceptable level of responsible operation either as a licensee during the preceding 3 years or as a manager with substantial experience in serving alcoholic liquor.

(2) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act is a contract between the commission and the licensee and shall be signed by both parties. If a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by a court of competent jurisdiction, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee. The commission may grant a part-year license for a proportionate part of the license fee specified in section 525. In a resort area the commission shall grant a license for a period of time as short as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained in a manner other than by transfer shall not be transferred within 3 years after its issuance except under circumstances where the licensee clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 600,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body is not required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. Upon request of the local legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell alcoholic liquor for consumption on the premises or any permit held in conjunction with that license.

(3) A local legislative body, by resolution, may request that the commission revoke the license of a licensee granted a license to sell alcoholic liquor for consumption off the premises whose place of business is located within the local legislative body's jurisdiction and that has been determined in commission violation hearings to have sold or furnished alcoholic liquor, on at least 3 separate occasions in a consecutive 12-month period, to a minor if those violations did not involve the use of falsified or fraudulent identification by the minor. If the commission verifies that the licensee who is the subject of the resolution has been found to have committed the violations as prescribed in this subsection, the commission may suspend or revoke the

licensee's license and any permit held in conjunction with that license.

(4) This act does not prohibit a hotel that is or was the holder of a license authorizing the retail sale of alcoholic liquor for consumption on the premises from applying for and receiving under this act any other and different type of license authorizing the retail sale of alcoholic liquor for consumption on the premises, and the application for the license shall not be considered a new application for a license if the total number of public licenses for consumption on the premises does not exceed the authorized total established in this act and the sale of alcoholic liquor is approved by the electors. The commission may divide the state into 3 zones and establish for each zone an anniversary date for renewal of full-year retail licenses in the licensing year. The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the effective administration of the renewal of licenses.

(5) The commission, with the written approval of the department of agriculture and rural development for the Michigan state fairgrounds and the Upper Peninsula state fairgrounds, may issue without regard to the quota provision of section 531 a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds, or both, to service the licensed area in use for recreational or exhibition purposes other than at the time of the annual Upper Peninsula state fair under section 2 of 1927 PA 89, MCL 285.142. A license issued under this subsection is not transferable.

(6) The application for initial licensure or for a transfer of a license shall contain a notice in substantial compliance with the following:

When purchasing a license, a buyer can be held liable for tax debts incurred by the previous owner. Prior to committing to the purchase of any license or establishment, the buyer should request a tax clearance certificate from the seller that indicates that all taxes have been paid up to the date of issuance. Obtaining sound professional assistance from an attorney or accountant can be helpful to identify and avoid any pitfalls and hidden liabilities when buying even a portion of a business.

Sellers can make a request for the tax clearance certificate through the Michigan department of treasury.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998;—Am. 2000, Act 431, Imd. Eff. Jan. 9, 2001;—Am. 2006, Act 547, Imd. Eff. Dec. 29, 2006;—Am. 2012, Act 82, Imd. Eff. Apr. 11, 2012.

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Department of Licensing and Regulatory Affairs

LARA / LIQUOR CONTROL COMMISSION / COMMISSION OVERVIEW

Brief Overview Michigan Liquor Control Commission

• Commission Overview

The Michigan Liquor Control Commission was created upon the repeal of Prohibition by the legislature acting in special session in December of 1933. The act empowered the Commission to control all alcoholic beverage traffic within this state. Today, the Commission is a Type I agency housed within the Department of Licensing and Regulatory Affairs (LARA).

The Commission consists of five members appointed by the Governor. No more than three of these members may be of the same political party. Three administrative Commissioners are responsible for all matters pertaining to licensing, purchasing, merchandising and enforcement and act as an appeal board for decisions rendered by the hearing commissioners. The remaining two Commissioners are designated as hearing commissioners who preside over violation matters. The full five-member board promulgates rules and establishes bureau policy, such as the issuance of declaratory rulings. The Governor designates one of the five members as the Chairperson.

The mission of the Liquor Control Commission is to make alcoholic beverages available for consumption while protecting the consumer and the general public through regulation of those involved in the sale and distribution of these alcohol beverage products.

• Meet the Michigan Liquor Control Commissioners

• Contact the Michigan Liquor Control Commission (MLCC)

• Enforcement Division

The Enforcement Division operates from district offices in Southfield, Lansing, Grand Rapids, and Escanaba.

• Executive Services Division

The Executive Services Division provides staff support services to the Commission.

• Financial Management Division

The Financial Management Division provides support for the Commission in all areas of financial management and accounting.

• Licensing Division

The MLCC Licensing Division processes requests for Retail licenses, such as restaurants, bars, hotels, convenience stores, and grocery stores, Manufacturer and Wholesaler licenses, such as breweries, distilleries, wineries, brokers, and salespersons, and Special licenses for nonprofit organizations. The Licensing Division administers the annual license renewal process for all licensees, verifies licensee insurance, and processes Special License applications, requests for new and temporary permits and permissions.

LARA Contacts

Contact LARA
Submit Comments,
Suggestions,
Questions
Technical Support
Media
Map & Driving
Directions

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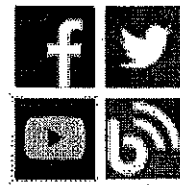
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Liquor Control Commission (MLCC)
Constitution Hall – 525 W. Allegan, Lansing, MI 48933
Mailing Address: PO Box 30005, Lansing, MI 48909
Toll Free 866-813-0011 – www.michigan.gov/lcc

Class C Licensing Requirements & General Information

A Class C license, as defined by MCL 436.1107(2), is a place licensed to sell, at retail, beer, wine, mixed spirit drink, and spirits for consumption on the premises.

Bars or restaurants selling beer, wine, spirits, and mixed drinks require a Class C license in order to sell alcoholic liquor to patrons at their establishment.

How to Apply

All applicants requesting new Class C license, seeking to transfer ownership of a Class C license, or transferring interest (stock or membership interest) in a Class C license must submit the following:

- **Application Form**

For a new Class C license or to transfer a Class C license - Retail License & Permit Application (Form LCC-100)

To transfer interest in a Class C license – License Interest Transfer Application (LCC-101)

- **Inspection Fee** - A \$70.00 nonrefundable inspection fee is required for each license requested in an application. ~~For example, if an applicant has requested to transfer a Class C license that has a Specially Designated Merchant (SDM) license in conjunction, the inspection fee would be \$140.00.~~
- **License & Permit Fees** – The initial and annual renewal fee for a Class C license is \$600.00. Additional fees will vary based upon whether additional licenses and permits are requested in conjunction with a Class C license.
- **Livescan Fingerprints** – Applicants that have never been licensed through the Michigan Liquor Control Commission must submit fingerprints through the Livescan fingerprinting process - Livescan Fingerprint Background Request Form.
- **Purchase Agreement** – Applicants requesting to transfer a license from another licensee must submit an executed purchase agreement or other documentation signed by both the applicant and the current licensee, which details the sale of the liquor license(s) and other business assets.
 - Purchase agreements must specifically indicate that the liquor license is being sold and provide the purchase price and terms of the sale.

- Purchasers of on-premises licenses must have at least 10% of the purchase price of the business, excluding real estate.
- Purchase agreements that are not for cash only sales and include real estate must list the personal property, including the licenses, and real estate with the terms and price for each.
- If the personal property and real estate are being purchased by separate people or entities, the purchase agreement must indicate those names and who is purchasing which items.
- If the applicant will not pay the full purchase price at closing, the balance due may be covered by a security agreement or promissory note. Alcoholic beverage inventory cannot be included on a security agreement or promissory note.
- **Property Document** – Applicants must provide documentation that demonstrates they will have control over the property that comprises the proposed licensed premises. Property documents include deeds, land contracts, and lease agreements.
 - A provision to reassign the license in the event of a default on a land contract or termination of a lease agreement may be included, but may only provide for the reassignment subject to Commission approval.
 - If the applicant is a company and its members or stockholders own the real estate as individuals or under another company, a lease agreement is needed.
 - If the applicant is an individual and he or she owns the real estate with a spouse or someone else who will not be named on the license, a lease between the applicant and the owners of the real estate is needed.

In addition to the documents required by all applicants:

Corporations must submit the following information per Administrative Rule R 436.1109:

- Copy of current, filed Articles of Incorporation.
- Current Certificate of Good Standing from the state where incorporated and Certificate of Authority to Do Business in Michigan, if incorporated outside of this state.
- Certified copy of the minutes of a meeting of its board of directors or a statement signed by an officer of the corporation naming the persons authorized by corporate resolution to sign the application and other documents required by the Commission (or Part 3 of Form LCC-301).
- Report of Stockholders/Members/Partners (Form LCC-301)

Limited Liability Companies (LLC) must submit the following information pursuant to Administrative Rule R 436.1110:

- Copy of Articles of Organization and copies of any amendments to the Articles of Organization.
- Current Certificate of Authority to Do Business in Michigan, if the LLC is a non-Michigan LLC.
- Copy of Operating Agreement entered into by members.
- Copy of most recent annual statement filed with the Corporations Division, if an existing LLC.

- Statement signed by a manager of the limited liability company or by at least 1 member if management is reserved to the members naming the person authorized to sign the application and other documents required by the Commission (or Part 3 of Form LCC-301).
- Report of Stockholders/Members/Partners (Form LCC-301)

Partnerships must submit the following information per Administrative Rule R 436.1111:

- Partnership Agreement, if a Limited Partnership.
- Report of Stockholders/Members/Partners (Form LCC-301)

Licensing Process

- The Licensing Division reviews the application and corresponding documents for completeness and verifies the appropriate fees have been received. If additional documents, fees, or corrections to documents are needed, Licensing will notify the applicant.
- Once all the necessary documents have been received Licensing will submit the request to the Enforcement Division for its investigation. If an applicant has applied for and meets the requirements for a conditional license, the request will be considered by the Commission.
- The Enforcement Division will contact the applicant to schedule an interview with the applicant (and current licensee for license transfers). At this meeting an investigator will review with the applicant documents, including:
 - purchase agreement
 - ~~financial documents~~
 - property documents
 - other items pertaining to the application
- After the interview, the investigator will prepare a report for the Commission regarding the investigation and submit the request back to Licensing for further processing.
- Licensing reviews the report from Enforcement and any additional documents received during the interview process. The request is prepared for the Commission to consider and placed on a docket for an upcoming licensing meeting.
- The Commission considers the request, including:
 - the liquor license operating history of the applicant (if a current or prior licensee)
 - the arrest and conviction record of the applicant
 - whether the applicant meets the requirements for a license
 - the applicant's financial information
 - opinions of the local legislative body or police department, if received.

- The Commission will approve or deny the request based on these factors. Occasionally, the Commission will request more information from the applicant before making a final decision.
 - After the Commission makes a decision on the request, the file is returned to Licensing for final processing.
 - Approval orders are sent to the applicant requesting any final items before the issuance of the license.
 - Denial orders are sent to the applicant and the applicant may appeal the decision.
 - When all the final items are received by Licensing, the completed request is forwarded to the Renewal Unit for the issuance of the physical license documents.
 - Any changes in financial provisions at the time of closing which do not conform to the terms previously indicated and investigated may require submission of new forms and possible additional investigation.
-

Other Licenses That May Be Held in Conjunction With a Class C License

A **Specially Designated Merchant (SDM)** license for the sale of beer and wine for consumption off the licensed premises (take-out) may be held in conjunction with a Class C license.

A **Brewpub** license which allows a licensee to manufacture and sell beer produced on the premises or for take-out with an SDM license may be held in conjunction with a Class C license.

Permits, Permissions, and Authorizations

Sunday Sales Permit (A.M.) - A permit that allows the sale of liquor, beer, and wine on Sunday mornings between 7:00am and 12:00 noon, if allowed by the local unit of government.

Sunday Sales Permit (P.M.) - A permit that allows the sale of liquor on Sunday afternoons and evenings between 12:00 noon and 2:00am (Monday morning), if allowed by the local unit of government.

Additional Bar – Allows a licensee to set up an additional bar within its licensed premises or Outdoor Service area. The licensee may obtain one or more Additional Bars.

Specific Purpose Permit - A permit that allows specific types of activities (such as the service of food, sporting activities, meetings, etc.) to occur on the licensed premises outside the legal hours for the sale of alcohol. A specific purpose permit does not allow the sale of alcohol outside of the legal hours of sale.

Dance Permit - Allows dancing by patrons of a business with an on premises license. Often combined with an Entertainment Permit.

Entertainment Permit - Permits certain types of live entertainment at a business with an on premises license. An entertainment permit does not allow topless activity. Often combined with a Dance Permit.

Extended Hours Permit - A permit held in conjunction with a Dance or Entertainment Permit (or both) that allows dancing or entertainment on the licensed premises outside the legal hours for the sale of alcohol. An Extended Hours Permit does not allow the sale of alcohol outside of the legal hours of sale.

Catering Permit - Authorizes a holder of a Class C license to sell, deliver, and serve beer, wine, and spirits in the original containers at private events. A licensee must have a food service establishment license or retail food establishment license to qualify for this permit.

Banquet Facility Permit - Authorizes an on-premises licensee to serve alcohol at a separate licensed banquet facility used only for scheduled functions. An on-premises licensee may be issued one Banquet Facility Permit, as an extension of its licensed premises.

Living Quarters Permit - Allows living quarters to be directly connected to the licensed premises.

Topless Activity Permit - Allows topless activity by the employees, agents, or contractors of a business with an on premises license.

Direct Connection permission - Allows connections from the licensed premises to unlicensed premises.

Outdoor Service authorization - Authorization granted by the Commission for a licensee to sell alcohol outdoors in an area controlled by the licensee. This can be a patio area next to the licensed premises or a space as large as a golf course

License Quotas and Local Government Unit Approval for New Class C Licenses

- Each local governmental unit (city, village, or township) has a limited number of Class C licenses that may be issued based on the population from the most recent federal census.
- An applicant requesting a new Class C license must first verify that the license quota limit for Class C licenses in the local governmental unit has not been reached and an available Class C license exists.

- If an available Class C quota license exists in the local government unit, the applicant must obtain a recommendation from the legislative body of the local governmental unit (city council, village council, or township board).
 - The legislative body may pass a resolution to recommend the applicant's application for the new Class C license. It may also record its approval on the Local Government Approval Form (Form LCC-106).
 - The resolution must be submitted to the Commission with the initial application and documents.
-

Churches & Schools

A new application to sell alcoholic beverages at retail, or a request to transfer location of an existing license, may be denied if the proposed location is within 500 feet of a church or school. The Commission may waive the church/school provision if the church or school does not file an objection to the proposed license. If the church or school does file an objection, the Commission shall hold a hearing before making a decision on the issuance of the license.

Proof of Financial Responsibility

- Liquor liability coverage of at least \$50,000.00 is required by Michigan law for active operation of a licensed business. Types of acceptable coverage are:
 - liquor liability insurance
 - cash
 - unencumbered securities
 - constant value bond
 - membership in an authorized group self-insurance pool
 - For more information, please read the instructions in the Proof of Financial Responsibility form (Form LC-95).
-



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
7150 Harris Drive, P.O. Box 30005 - Lansing, Michigan 48909-7505
Toll Free (866) 813-0011 • www.michigan.gov/lcc

On Premise Transactions	Is Local Legislative Body approval required?				Is Local Police approval required?				Is Local Legislative Body or Police opinions required to be considered?				MLCC investigation required?				Inspection Fees?				Base Fees
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	
Add Space																					
Change Specific Purpose Permit hours																					
Change status																					
Correct address																					
Drop Space (current licensees)																					
New Additional Bar																					\$350.00 per bar
New A-Hotel License																					\$250.00
New Aircraft License																					\$600.00
New Banquet Facility Permit																					\$600.00
New B-Hotel License																					\$600.00
New Brewpub License																					\$100.00
New Catering Permit																					\$100.00
New Class C issued under MCL 436.1521a(1)(a)																					\$20,000 upon licensure
New Class C issued under MCL 436.1521a(1)(b)																					\$20,000 upon licensure
New Class C License																					\$600.00
New Class G-1 License																					\$1,000.00
New Class G-2 License																					\$500.00
New Club License																					\$300.00

*except in a city having a population of 600,000 or more, pursuant to MCL 436.1501(2)

Last updated on 12-21-2012



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		Yes*				No				Yes				Yes				Yes				\$500.00			
New Continuing Care Retirement Center License																									
New Dance Permit		No				No				Yes				No				Yes							
New Dance-Entertainment Permit		No				No				Yes				No				Yes							
New Direct Connection		No				No				No				Yes				No							
New Entertainment Permit		No				No				Yes				No				Yes							
New Extended Hours Permit (Dance, Topless Activity, Entertainment)		No				No				Yes				No				Yes							
New Living Quarters Permit		No				No				Yes				No				Yes							
New Outdoor Service		No				No				No				Yes				No							
New Participation Permit		No				No				Yes				No				No							
New Resort A-Hotel License		Yes*				No				Yes				Yes				Yes				\$20,000 Enhancement upon licensure			
New Resort B-Hotel License		Yes*				No				Yes				Yes				Yes				\$20,000 Enhancement upon licensure			
New Resort Class C License		Yes*				No				Yes				Yes				Yes				\$20,000 Enhancement upon licensure			
New Resort Tavern License		Yes*				No				Yes				Yes				Yes				\$20,000 Enhancement upon licensure			
New SDM in conj with On Premise license		No				No				Yes				Yes				Yes				\$100.00			
New Specific Purpose Permit (Food, Golf, etc.)		No				No				Yes				No				Yes							
New Sunday Sales Permit (AM)		No				No				Yes				No				No				\$160.00			
New Sunday Sales Permit (PM)		No				No				Yes				No				No				15% of total license fee			
New Tavern License		Yes*				No				Yes				Yes				Yes				\$250.00			

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New Topless Activity Permit		No	No	Yes	No	Yes	
New Train License		No	No	Yes	Yes	Yes	\$100.00
New Watercraft License		No	No	Yes	Yes	Yes	\$100.00
Release license from escrow (in escrow <6 months)		No	No	No	No	No	
Release license from escrow (in escrow 6+ months)		No	No	No	Yes	No	
Temporary Permit		No	Yes	Yes	No	Yes	
Transfer Classification Class C to Tavern		No	No	Yes	No	Yes	
Transfer Classification Class C/Tavern to G1/G2		Yes	No	Yes	Yes	Yes	
Transfer Classification Hotel to Class C/Tavern		Yes	No	Yes	Yes	Yes	
Transfer Classification Tavern to Class C		Yes	No	Yes	No	Yes	\$600.00
Transfer Location- On Premise		No	No	Yes	Yes	Yes	
Transfer of stock or transfer of interest		No	No	Yes	Yes	Yes	Upon approval by the Commission pursuant to MCL 436.1529(3)
Transfer ownership of Additional Bar		No	No	No	No	No	\$350.00
Transfer ownership of A-Hotel License		No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Aircraft License		No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Banquet Facility Permit		No	No	Yes	Yes	No	\$600.00
Transfer ownership of B-Hotel License		No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Brewpub License		No	No	Yes	Yes	Yes	\$100.00

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Transfer ownership of Catering Permit		No	No	No	No	Yes	No	No	No	No	No	\$100.00	
Transfer ownership of Class C License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$600.00	
Transfer ownership of Class G-1 License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$1,000.00	
Transfer ownership of Class G-2 License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$500.00	
Transfer ownership of Continuing Care Retirement Center License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$600.00	
Transfer ownership of Dance Permit		No	No	No	No	Yes	No	No	No	No	No		
Transfer ownership of Dance-Entertainment Permit		No	No	No	No	Yes	No	No	No	No	No		
Transfer ownership of Direct Connection		No	No	No	No	No	Yes	No	No	No	No		
Transfer ownership of Entertainment Permit		No	No	No	No	Yes	No	No	No	No	No		
Transfer ownership of Extended Hours Permit (Dance, Topless, Entertain)		No	No	No	No	Yes	No	No	No	No	No		
Transfer ownership of Living Quarters Permit		No	No	No	No	Yes	No	No	No	No	No		
Transfer ownership of Outdoor Service		No	No	No	No	No	Yes	No	No	No	No		
Transfer ownership of Participation Permit		No	No	No	No	Yes	No	No	No	No	No		
Transfer ownership of Resort A-Hotel License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$250.00	
Transfer ownership of Resort B-Hotel License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$600.00	
Transfer ownership of Resort Class C License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$600.00	
Transfer ownership of Resort Tavern License		No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	\$250.00	
Transfer ownership of Specific Purpose Permit (Food, Golf, etc.)		No	No	No	No	Yes	No	No	No	No	No		

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On Premise Transactions		Base Fees				
		Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?
Transfer ownership of Sunday Sales Permit (AM)		No	No	Yes	No	No
Transfer ownership of Sunday Sales Permit (PM)		No	No	Yes	No	15% of total license fee
Transfer ownership of Tavern License		No	No	Yes	Yes	\$250.00
Transfer ownership of Topless Activity Permit		No	No	Yes	No	
Transfer ownership of Train License		No	No	Yes	Yes	\$100.00
Transfer ownership of Watercraft License		No	No	Yes	Yes	\$100.00



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Off Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Add Space	No	No	No	Yes	Yes	
Change status	No	No	No	No	No	
Correct address	No	No	No	Yes	No	
Drop Space	No	No	No	Yes	Yes	
New Beer & Wine Sampling Permit	No	No	Yes	No	Yes	
New Catering Permit	No	No	Yes	No	Yes	\$100.00
New Direct Connection	No	No	No	Yes	No	
New Gas Pumps	No	No	No	Yes	No	
New Living Quarters Permit	No	No	Yes	No	Yes	
New Participation Permit	No	No	Yes	No	No	
New Resort SDD License	No	No	Yes	Yes	Yes	\$150.00 upon licensure
New SDD License	No	No	Yes	Yes	Yes	\$150.00
New SDM License	No	No	Yes	Yes	Yes	\$100.00
New Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
New Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee
Release license from escrow (in escrow <6 months)	No	No	No	No	No	
Release license from escrow (in escrow 6+ months)	No	No	No	Yes	No	
Transfer Location- Off Premise	No	No	Yes	Yes	Yes	



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Off Premise Transactions		Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police options required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Transfer of stock or transfer of interest		No	No	Yes	Yes	Yes	Upon approval by the Commission pursuant to MCL 436.1529(3)
Transfer owner Drive-thru/In Window(w/ alcohol beverage sales)		No	No	No	Yes	No	
Transfer ownership of Beer & Wine Sampling Permit		No	No	Yes	No	No	
Transfer ownership of Catering Permit		No	No	Yes	No	No	\$100.00
Transfer ownership of Direct Connection		No	No	No	Yes	No	
Transfer ownership of Gas Pumps		No	No	No	Yes	No	
Transfer ownership of Living Quarters Permit		No	No	Yes	No	No	
Transfer ownership of Participation Permit		No	No	Yes	No	No	
Transfer ownership of Resort SDD License		No	No	Yes	Yes	Yes	\$150.00
Transfer ownership of SDD License		No	No	Yes	Yes	Yes	\$150.00
Transfer ownership of SDM License		No	No	Yes	Yes	Yes	\$100.00
Transfer ownership of Sunday Sales Permit (AMH)		No	No	Yes	No	No	\$160.00
Transfer ownership of Sunday Sales Permit (PM)		No	No	Yes	No	No	15% of total license fee



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll-Free: 866-813-0011 - www.michigan.gov/lcc

Retail License & Permit Application

For more information on retail licenses and permits, please visit the Liquor Control Commission's frequently asked questions website by [clicking this link](#).

Before you begin filling out the attached application, please review this checklist for the forms and documents you will need to submit with your completed application form.

The attached LCC-100 form will automatically calculate fees when opened using Adobe Acrobat Reader. The form's functionality may not work with third-party PDF readers. You may download a free copy of Adobe Acrobat Reader on the Adobe website: <https://get.adobe.com/reader/>

- ☐ Completed Retail License & Permit Application (Form LCC-100, attached)
- ☐ Livenesscan Fingerprint Form* (attached)
- ☐ Inspection, License, and Permit Fees
- ☐ Local Government Authorization (Form LCC-106) - **For a new on-premises license only**
- ☐ Purchase agreement - **For the transfer of ownership of a license**
- ☐ Property document (lease, deed, land contract, etc.)
- ☐ New Specially Designated Merchant license documents - **For new Specially Designated Merchant license only** (see page 3)

Are you transferring stock or membership interest? If yes, use the [License Interest Transfer Application \(LCC-101\)](#).

If applicant is a corporation also include (pursuant to R 436.1109):

- ☐ Report of Stockholders/Member/Partners (Form LCC-301)
- ☐ Copy of Articles of Incorporation filed with the Corporations Division of the Department of Licensing & Regulatory Affairs
- ☐ Current Certificate of Good Standing from the state where incorporated and Certificate of Authority to Do Business in Michigan, if incorporated outside of Michigan.
- ☐ Certified copy of the minutes of a meeting of its board of directors or a statement signed by an officer of the corporation naming the persons authorized by corporate resolution to sign the application and other documents required by the Commission or Part 3 of Form LCC-301.

If applicant is a limited liability company also include (pursuant to R 436.1110):

- ☐ Report of Stockholders/Member/Partners (Form LCC-301)
- ☐ Copy of Articles of Organization filed with the Corporations Division of the Department of Licensing & Regulatory Affairs
- ☐ Copy of the operating agreement or bylaws of the applicant company
- ☐ Current Certificate of Authority to Do Business in Michigan, if the LLC is a non-Michigan LLC.
- ☐ Statement signed by a manager of the limited liability company or by at least 1 member if management is reserved to the members naming the person authorized to sign the application and other documents required by the Commission or Part 3 of Form LCC-301.

If applicant is a limited partnership also include (pursuant to R 436.1111):

- ☐ Report of Stockholders/Member/Partners (Form LCC-301)
- ☐ Copy of the partnership agreement of the applicant limited partnership
- ☐ Each general partner of a partnership shall sign the application, bond, and other papers filed in connection with securing a new license or transferring an existing license. This requirement may be waived by the Commission upon showing of good cause, which must be submitted in writing.

*Fingerprints are required for applicants that have not been fingerprinted for MLCC licensure in the past and will hold 10% or more interest in a license or applicant entity.



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll-Free: 866-813-0011 - www.michigan.gov/lcc

Business ID: _____
Request ID: _____
(For MLCC Use Only)

Retailer License & Permit Application

For information on retail licenses and permits, including a checklist of required documents for a completed application, please visit the Liquor Control Commission's frequently asked questions website [by clicking this link](#).

Part 1 - Applicant Information

Individuals, please state your legal name. Corporations or Limited Liability Companies, please state your name as it is filed with the State of Michigan Corporation Division.

Applicant name(s):		
Address to be licensed:		
City:	Zip Code:	
City/township/village where license will be issued:		County:
Federal Employer Identification Number (FEIN):		

- | | |
|--|--|
| 1. Are you requesting a new license? | <input type="radio"/> Yes <input type="radio"/> No |
| 2. Are you applying ONLY for a new permit or permission? | <input type="radio"/> Yes <input type="radio"/> No |
| 3. Are you buying an existing license? | <input type="radio"/> Yes <input type="radio"/> No |
| 4. Are you modifying the size of the licensed premises? | <input type="radio"/> Yes <input type="radio"/> No |
| If Yes, specify: <input type="checkbox"/> Adding Space <input type="checkbox"/> Dropping Space <input type="checkbox"/> Redefining Licensed Premises | |
| 5. Are you transferring the location of an existing license? | <input type="radio"/> Yes <input type="radio"/> No |
| 6. Is this license being transferred as the result of a default or court action? | <input type="radio"/> Yes <input type="radio"/> No |
| 7. Do you intend to use this license actively? | <input type="radio"/> Yes <input type="radio"/> No |

Leave Blank - MLCC Use Only

Part 2 - License Transfer Information (If Applicable)

If transferring ownership of a license ONLY and not transferring the location of a license, fill out only the name of the current licensee(s)

Current licensee(s):		
Current licensed address:		
City:	Zip Code:	
City/township/village where license is issued:		County:

Part 3 - Licenses, Permits, and Permissions

Off Premises Licenses - Applicants for off premises licenses, permits, and permissions (e.g. convenience, grocery, specialty food stores, etc.) must complete the attached Schedule A and return it with this application. Transfer the fee calculations from the Schedule A to Part 4 below.

On Premises Licenses - Applicants for on premises licenses, permits, and permissions (e.g. restaurants, hotels, bars, etc.) must complete the attached Schedule A and return it with this application. Transfer the fee calculations from the Schedule A to Part 4 below.

Part 4 - Inspection, License, and Permit Fees - Make checks payable to State of Michigan

Inspection Fees - Pursuant to MCL 436.1529(4) a nonrefundable inspection fee of \$70.00 shall be paid to the Commission by an applicant or licensee at the time of filing of a request for a new license or permit, a request to transfer ownership or location of a license, a request to increase or decrease the size of the licensed premises, or a request to add a bar. Requests for a new permit in conjunction with a request for a new license or transfer of an existing license do not require an additional inspection fee.

License and Permit Fees - Pursuant to MCL 436.1525(1), license and permit fees shall be paid to the Commission for a request for a new license or permit or to transfer ownership or location of an existing license.

Inspection Fees:	License & Permit Fees:	TOTAL FEES:
------------------	------------------------	-------------

Schedule A - Licenses, Permits, & Permissions

Applicant name: _____

Off Premises License Type:

New Transfer

- ☐ ☐ SDM License \$100.00
- ☐ ☐ SDD License \$150.00
- ☐ ☐ Resort SDD License Upon Licensure/\$150.00

Off Premises Permits:

Base Fee:

- ☐ Sunday Sales Permit (AM)* \$160.00
- ☐ Sunday Sales Permit (PM)** \$22.50
(Held with SDD License)
- ☐ Catering Permit \$100.00
- ☐ Secondary Location Permit - Complete Form LCC-201
- ☐ Beer and Wine Tasting Permit No charge
- ☐ Living Quarters Permit No charge

On/Off Premises Permission Type:

Base Fee:

- ☐ Off-Premises Storage No charge
- ☐ Direct Connection(s) No charge
- ☐ Motor Vehicle Fuel Pumps No charge

*Sunday Sales Permit (AM) allows the sale of liquor, beer, and wine on Sunday mornings between 7:00am and 12:00 noon, if allowed by the local unit of government.

**Sunday Sales Permit (PM) allows the sale of liquor on Sunday afternoons and evenings between 12:00 noon and 2:00am (Monday morning), if allowed by the local unit of government. No Sunday Sales Permit (PM) is required for the sale of beer and wine on Sunday after 12:00 noon. The Sunday Sales Permit (PM) fee is 15% of the fee for the license that allows the sale of liquor. Additional bar fees and B-Hotel room fees are also calculated as part of the permit fee.

Licenses, permits, and permissions selected on this form will be investigated as part of your request. Please verify your information prior to submitting your application, as some licenses, permits, or permissions cannot be added to your request once the application has been sent out for investigation by the Enforcement Division.

Inspection, License, Permit, & Permission Fee Calculation

Number of Licenses: _____ x \$70.00 Inspection Fee

Total Inspection Fee(s): _____

Total License Fee(s): _____

Total Permit Fee(s): _____

TOTAL FEES DUE: _____

Please note that requests to transfer SDD licenses will require the payment of additional fees based on the seller's previous calendar year's sales. These fees will be determined prior to issuance of the license to the applicant.

Make checks payable to **State of Michigan**

On Premises License Type:

New Transfer

Base Fee:

- ☐ ☐ B-Hotel License \$600.00
- Number of guest rooms: _____
- ☐ ☐ A-Hotel License \$250.00
- Number of guest rooms: _____
- ☐ ☐ Class C License \$600.00
- ☐ ☐ Tavern License \$250.00
- ☐ ☐ Resort License Upon Licensure
- ☐ ☐ Redevelopment License Upon Licensure
- ☐ ☐ Brewpub License \$100.00
- ☐ ☐ G-1 License \$1,000.00
- ☐ ☐ G-2 License \$500.00
- ☐ ☐ Aircraft License \$600.00
- ☐ ☐ Watercraft License \$100.00
- ☐ ☐ Train License \$100.00

- ☐ ☐ Continuing Care Retirement Center License \$600.00

☐ MCL 436.1545(1)(b)(i) ☐ MCL 436.1545(1)(b)(ii)

B-Hotel or Class C Licenses Only:

- ☐ ☐ Additional Bar(s)

Number of Additional Bars: _____

B-Hotel or Class C Licenses allow licensees to have one (1) bar within the licensed premises. A \$350.00 licensing fee is required for each additional bar over the one (1) bar initially issued with the license.

On Premises Permits:

Base Fee:

- ☐ Sunday Sales Permit (AM)* \$160.00
- ☐ Sunday Sales Permit (PM)** 15%**
- ☐ Catering Permit \$100.00
- ☐ Banquet Facility Permit - Complete Form LCC-200

A Banquet Facility Permit is an extension of the license at a different location. It may have its own permits and permissions. It is not a banquet room on the licensed premises.

- ☐ Outdoor Service No charge
- ☐ Dance Permit No charge
- ☐ Entertainment Permit No charge
- ☐ Extended Hours Permit: No charge
- ☐ Dance ☐ Entertainment Days/Hours: _____
- ☐ Specific Purpose Permit: No charge

Activity requested: _____

Days/Hours requested: _____

- ☐ Living Quarters Permit No charge
- ☐ Topless Activity Permit No charge

Schedule B - New Specially Designated Merchant License Supplemental Application - New SDM License Applications ONLYApplicant name:

Effective January 4, 2017 pursuant to MCL 436.1533(5), Specially Designated Merchant (SDM) licenses are quota licenses based on one (1) SDM license for every 1,000 of population in a local governmental unit. MCL 436.1533 provides for several exemptions from the quota for qualified applicants. Please carefully read the requirements in the boxes below, selecting the applicable approved type of business option(s) from Section 1 and an applicable new SDM license quota option from Section 2.

Section 1 - Requirements to Qualify as Approved Type of Business for New SDM License Applicants

Applicant must meet one (1) or more of the following conditions (check those that apply to your business):

- ☐ a. Applicant holds and maintains retail food establishment license or extended retail food establishment license under the Food Law of 2000, MCL 289.1101 to MCL 289.8111.
- ☐ b. Applicant holds or has been approved for Specially Designated Distributor license (Applicant must also hold and maintain food establishment license as described above).
- ☐ c. Applicant holds or has been approved for an on-premises license, such as a Class C, A-Hotel, B-Hotel, Tavern, Club, G-1, or G-2 license.

Section 2 - Quota Requirements for New SDM License Applicants

Applicant must qualify under one of the following sections of the Liquor Control Code regarding the SDM quota:

- ☐ a. Applicant is an applicant for or holds a Class C, A-Hotel, B-Hotel, Tavern, Club, G-1, or G-2 license.
MCL 436.1533(5)(a) - SDM license is exempt from SDM quota and license cannot be transferred to another location.
- ☐ b. Applicant's establishment is at least 20,000 square feet and at least 20% of gross receipts are derived from the sale of food.
MCL 436.1533(5)(b)(i) - SDM license is exempt from SDM quota and license cannot be transferred to another location.
- ☐ c. Applicant's establishment is a pharmacy as defined in the Public Health Code, MCL 333.17707.
MCL 436.1533(5)(b)(ii) - SDM license is exempt from SDM quota and license cannot be transferred to another location.
- ☐ d. Applicant's establishment qualifies as a marina under MCL 436.1539.
MCL 436.1533(5)(e) - SDM license is exempt from SDM quota and license may be transferred to another location if the applicant complies with MCL 436.1539 at the new location.
- ☐ e. Applicant does not qualify under any of the quota exemptions or waiver listed above.
MCL 436.1533(5) - Commission shall issue one (1) SDM for every 1,000 population in a local governmental unit and an unissued SDM must be available in the local governmental unit for the applicant to qualify. SDM license may be transferred to another location.

Documents Required To Be Submitted with New SDM License Application

In addition to the documents listed on the application checklist, the new SDM license applicant must submit the documents listed below, as applicable, with its application to comply with the requirements described above. Select one or more of the following:

- ☐ Copy of retail food establishment license or extended retail food establishment license for a SDM license or a SDM license to be issued in conjunction with a Specially Designated Distributor license. The name on the food establishment license must match the applicant name in Part 1 of this application form. A food establishment license is not required for a SDM license to be issued in conjunction with an on-premises license.
- ☐ If applying under Section 2b above, documentary proof that applicant's establishment is at least 20,000 square feet and at least 20% of gross receipts are derived from the sale of food.
- ☐ If applying under Section 2c above, a copy of the pharmacy license issued under the Public Health Code.

Part 5a - Information on Individual Applicant, Stockholder, Member, or Limited Partner

Each individual, stockholder, member, or partner must complete Part 5a, 5b, and 5c. If a stockholder or member of an applicant company is a corporation or limited liability company, complete Part 5a and 5c and submit a completed Form LCC-301.

For applications with multiple individuals, stockholders, members, or partners - each person or entity must complete a separate copy of this page.

Name:		
Home address:		
City:	State:	Zip Code:
Business Phone:	Cell Phone:	Email:
Have you ever been licensed by the Michigan Liquor Control Commission (MLCC) or do you currently hold an interest in any other licenses issued by the MLCC? If Yes, please list business ID numbers below. If you hold interest in 2 or more locations under the same name, please also write "chain" below. Pursuant to MCL 436.1603, a retailer licensee <u>may not</u> hold interest in a manufacturer or wholesaler licensee. <input type="radio"/> Yes <input type="radio"/> No		
Do you hold 10% or more interest in the applicant entity? <input type="radio"/> Yes <input type="radio"/> No		
If you answered "no" to the first question and "yes" to the second question, you must submit fingerprints and undergo an investigation by the MLCC. Please see the attached instructions for submitting fingerprints to the MLCC. You must submit a copy of the completed and endorsed " <u>Livescan Fingerprint Background Request</u> " with your application.		

Part 5b - Personal Information (Individuals)

Date of Birth:	Social Security Number:	Driver's License Number:	
Are you a citizen of the United States of America?		<input type="radio"/> Yes <input type="radio"/> No	
Have you ever legally changed your name?		<input type="radio"/> Yes <input type="radio"/> No	
If you answered "yes", please list your prior name(s) (including maiden):			
Spouse's full name (if currently married):			
Spouse's date of birth:	Is your spouse a citizen of the United States of America? <input type="radio"/> Yes <input type="radio"/> No		
Do you or your spouse hold any position, either by appointment or election, which involves the duty to enforce any penal law of the United States of America, or the penal laws of the State of Michigan, or any penal ordinance or resolution of any municipal subdivisions of the State of Michigan? <input type="radio"/> Yes <input type="radio"/> No			
Does your spouse hold a retail, manufacturer, or wholesaler license issued by the MLCC? <input type="radio"/> Yes <input type="radio"/> No			
Have you ever been found guilty, pled guilty, or pled no contest to a criminal charge or any local ordinance violations? If Yes, list below (attach additional pages if necessary): <input type="radio"/> Yes <input type="radio"/> No			
Date	City/State	Charge	Disposition
Has your spouse ever been found guilty, pled guilty, or pled no contest to a criminal charge or any local ordinance violations? If Yes, list below (attach additional pages if necessary): <input type="radio"/> Yes <input type="radio"/> No			
Date	City/State	Charge	Disposition

Part 5c - Signature

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing **false** or **fraudulent** information is a violation of the Liquor Control Code pursuant to MCL 436.2003. (This form must be signed by the person whose information it contains).

Print Name

Signature

Date

Part 6 - Contact Information

Provide information on the contact person for this application. Please note that corporations and limited liability companies must provide documentation (e.g. meeting minutes, corporate resolution) authorizing anyone other than the applicant or an attorney of record to be the contact person. If an authorization is not provided, your contact person will not be acknowledged if they are anyone other than the applicant or attorney.

What is your preferred method of contact?		<input type="radio"/> Phone	<input type="radio"/> Mail	<input type="radio"/> Email	<input type="radio"/> Fax
What is your preferred method for receiving a Commission Order?		<input type="radio"/> Mail	<input type="radio"/> Email	<input type="radio"/> Fax	
Contact name:	Relationship:				
Mailing address:					
Phone:	Fax number:		Email:		

Part 7 - Attorney Information (If You Have An Attorney Representing You For This Application)

Attorney name:		Member Number: P-	
Attorney address:			
Phone:	Fax number:	Email:	
Would you prefer that we contact your attorney for all licensing matters related to this application?		<input type="radio"/> Yes <input type="radio"/> No	
Would you prefer any notices or closing packages be sent directly to your attorney?		<input type="radio"/> Yes <input type="radio"/> No	

Part 8 - Signature of Applicant

Be advised that the information contained in this application will only be used for this request. This section will need to be completed for each subsequent request you make with this office.

Notice: When purchasing a license, a buyer can be held liable for tax debts incurred by the previous owner. Prior to committing to the purchase of any license or establishment, the buyer should request a tax clearance certificate from the seller that indicates that all taxes have been paid up to the date of issuance. Obtaining sound professional assistance from an attorney or accountant can be helpful to identify and avoid any pitfalls and hidden liabilities when buying even a portion of a business. Sellers can make a request for the tax clearance certificate through the Michigan Department of Treasury.

Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcements officials who have jurisdiction over the licensee. Approval of this application by the Michigan Liquor Control Commission does not waive any of these requirements. The licensee must obtain all other required state and local licenses, permits, and approvals for this business before using this license for the sale of alcoholic liquor on the licensed premises.

I certify that the information contained in this form is true and accurate to the best of my knowledge and belief. I agree to comply with all requirements of the Michigan Liquor Control Code and Administrative Rules. I also understand that providing **false** or **fraudulent** information is a violation of the Liquor Control Code pursuant to MCL 436.2003.

The person signing this form has demonstrated that they have authorization to do so and have attached appropriate documentation as proof.

Print Name of Applicant & Title

Signature of Applicant

Date

Please return this completed form along with corresponding documents and fees to:
Michigan Liquor Control Commission
Mailing address: P.O. Box 30005, Lansing, MI 48909
Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933
Fax to: 517-373-4202



Livescan Fingerprint Background Request Instructions for Michigan & Out-of-State Applicants

APPLICANTS THAT LIVE IN MICHIGAN

Applicants for a Michigan liquor license must have their fingerprints a law enforcement agency in Michigan that offers digital fingerprinting or a private Livescan vendor approved by the Michigan State Police. You may access a list of approved vendors on the Michigan State Police website (contains vendors' websites and contact information):
http://www.michigan.gov/msp/0,4643,7-123-1878_8311-237662--00.html.

On the attached Livescan Fingerprint Background Request form, you must use the correct Code (LL), Agency ID Number (1479J), and Agency Name (MI DEPT OF LICENSING AND REGULATORY AFFAIRS - LIQUOR CONTROL) in order for the fingerprint report to be sent to the Michigan Liquor Control Commission. Payment receipts should not be mailed to the office, but kept for your own records.

You must bring the Livescan Fingerprint Background Request form with a driver's license or other state or federal-issued picture identification to your fingerprint appointment. You will also be required to pay a separate fee to the fingerprint agency when registering and/or scheduling your appointment. A copy of the Livescan Fingerprint Background Request form, which is signed by the Livescan Operator and returned to you, must be submitted with your application in order for your request to be investigated.

When your fingerprints are taken, a technician will perform a scan of your fingerprints and submit the data electronically to the Michigan State Police.

APPLICANTS THAT LIVE OUTSIDE OF MICHIGAN

Applicants for a Michigan liquor license that live outside of Michigan must submit fingerprints through one of the private Livescan vendors approved by Michigan State Police that offer fingerprinting for residents that live outside of Michigan. You may access a list of approved vendors that process finger print cards for non-Michigan residents on the Michigan State Police website (contains vendors' websites and contact information): http://www.michigan.gov/msp/0,4643,7-123-1878_8311-237662--00.html.

The applicant must contact a local law enforcement agency, governmental agency, or private fingerprint agency to perform ink fingerprinting on a FBI fingerprint card (FD-258) or fingerprint cards from any other state or local agency (fingerprint cards must be on card stock). These fingerprint cards must be submitted for processing to one of vendors on the Michigan State Police's list of approved vendors. Contact the vendor directly regarding its process and the fee for submitting the fingerprint cards for processing.

Make a copy of the completed and signed Livescan Fingerprint Background Request form and submit that copy with the license application.

WHAT HAPPENS AFTER FINGERPRINTS ARE SUBMITTED

The law enforcement agency or private vendor will submit your fingerprints to the Michigan State Police for analysis.

If no criminal history is found, the Michigan Liquor Control Commission will be notified.

~~If criminal history is found, the Michigan State Police will send the record directly to the Michigan Liquor Control Commission for review.~~

QUESTIONS AND ADDITIONAL INFORMATION

For questions about the Livescan fingerprinting process, call the Michigan State Police at 517-241-0606.

Please do not contact the Michigan Liquor Control Commission regarding your criminal background check, unless your fingerprints were taken more than 30 days ago.

Please note: Fingerprints taken for any other agency will not fulfill fingerprint requirements for a liquor license in Michigan.

LIVESCAN FINGERPRINT BACKGROUND REQUEST

AUTHORITY: MCL 28.214, MCL 28.273 & MCL 28.162; **COMPLIANCE:** Voluntary, however failure to complete this form will result in denial of request.

Purpose: To conduct a fingerprint-based background check for employment, to volunteer, or for licensing purposes as authorized by law.

I. Fingerprint Reason							
1. Code LL		2. Requestor/Agency ID 1479J		3. Agency Name MI DEPT OF LICENSING AND REGULATORY AFFAIRS - LIQUOR CONTROL			
II. Applicant Information: Type or clearly print answers in all fields before going to be fingerprinted.							
1a. Last Name			1b. First Name		1c. Middle Initial		1d. Suffix
2. Any Alternative Names, Last Names, or Aliases					3. Social Security Number (Optional)		
4. Place of Birth (State or Country)		5. Date of Birth	6. Phone Number		7. Driver License State	8. Driver License Number	
9. Address			10. City			11. State	12. ZIP Code
13. Sex	14. Race		15. Height	16. Weight	17. Eye Color		18. Hair Color
III. Live Scan: Must be completed by the Livescan Operator at the time of fingerprinting.							
1. Date Printed		Picture ID Type Presented		3. TCN		4. Live Scan Operator	

NOTE: After fingerprinting, applicant must return signed and completed document to the requesting agency. Livescan Operator must return completed copy to applicant.

I understand that my personal information and biometric data being submitted by livescan will be used to search against criminal identification records from both the Michigan State Police (MSP) and Federal Bureau of Investigation (FBI) for the fingerprint reason listed above. I hereby authorize the release of my personal information for such purposes and release any records found to the authorized requesting agency listed above.

During the processing of this application, and for as long as your fingerprints and associated information/biometrics are retained at the State and or FBI, they may be disclosed without your consent as permitted by the Federal Privacy Act of 1974 (Pub. L. 93-579) for all applicable routine uses published by the FBI, including the Federal Register and the FBI's Next Generation Identification (NGI).

Routine uses include, but is not limited to, disclosure to: governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Signature: _____

Date: _____

Procedure to obtain a change, correction or update of identification records:

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency. (28 CFR §16.34)

**** ENSURE THAT THE CORRECT FINGERPRINTING REASON CODE AND AGENCY ID ARE USED. MSP WILL CHARGE FOR SECOND REQUESTS DUE TO INCORRECT CODES. ****



Michigan Department of Licensing and Regulatory Affairs
Finance and Administrative Services
Revenue Services

LARA Revenue Services **is not** a part of
the Michigan Liquor Control
Commission (see note below).

Credit Card Authorization Form

**** FAX COMPLETED FORM TO SECURE FAX LINE: 517-373-4202 ****

**** DO NOT EMAIL OR MAIL THIS FORM ****

Requests with credit card payments that are not faxed to the above secure fax line will be destroyed along with the credit card authorization in order to ensure the security of applicants' personal credit card numbers.

****IF YOU ARE NOT SUBMITTING AN APPLICATION FORM WITH THIS CREDIT CARD AUTHORIZATION, YOU MUST PROVIDE AN ITEMIZATION OF THE FEES FOR WHICH YOU ARE SUBMITTING PAYMENT OR YOUR PAYMENT WILL NOT BE PROCESSED****

Name: _____ Transaction Amount: _____
Address: _____ Card Number: _____
City: _____ Check One:
State: _____ ☐ MasterCard ☐ Visa ☐ Discover
Zip Code: _____ Expiration Date: _____
Phone: _____

Applicant/Licensee Name: _____ Request or Business ID #: _____

Signature _____

Payment is for: _____

IF YOU ARE NOT SUBMITTING AN APPLICATION FORM WITH THIS CREDIT CARD AUTHORIZATION, YOU MUST PROVIDE AN ITEMIZATION OF THE FEES FOR WHICH YOU ARE SUBMITTING PAYMENT OR YOUR PAYMENT WILL NOT BE PROCESSED.

Credit Card Payment Itemization:

Fee Type	Fee Amount	MLCC Fee Code
<input type="checkbox"/> Inspection Fee(s):	_____	4036
<input type="checkbox"/> Special License Fee(s):	_____	4008
<input type="checkbox"/> Temporary Authorization Fee:	_____	4037
<input type="checkbox"/> License Renewal Fee(s):	_____	4004
<input type="checkbox"/> Manufacturer License(s):	_____	4038
<input type="checkbox"/> Wholesaler License(s):	_____	4085
<input type="checkbox"/> New Retailer License(s):	_____	4012
<input type="checkbox"/> Transfer Retailer License(s):	_____	4034
<input type="checkbox"/> Conditional License	_____	4012
<input type="checkbox"/> New Add Bar <input type="checkbox"/> Transfer Add Bar:	_____	4012/4034
<input type="checkbox"/> Sunday Sales Permit (AM):	_____	4033
<input type="checkbox"/> Sunday Sales Permit (PM):	_____	4032
<input type="checkbox"/> Catering Permit:	_____	4031

LARA Revenue Services **is not** a part of the Michigan Liquor Control Commission (MLCC). Receipt of payment and application forms by LARA Revenue Services does not constitute receipt of an application by the MLCC. **Applications submitted through LARA Revenue Services may take up to two (2) additional business days to be received by the MLCC after receipt by LARA Revenue Services.**

For requests that require a timely receipt of an application by the MLCC to be processed, such as Special Licenses and temporary requests, please ensure that your application will be received in adequate time to be processed by the MLCC after the payment is received and processed by LARA Revenue Services.



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Toll Free: 866-813-0011 • www.michigan.gov/lcc

Business ID: _____

Request ID: _____

(For MLCC use only)

Local Government Approval
(Authorized by MCL 436.1501)

Instructions for Applicants:

- You must obtain a recommendation from the local legislative body for a new on-premises license application, certain types of license classification transfers, and/or a new banquet facility permit.

Instructions for Local Legislative Body:

- Complete this resolution or provide a resolution, along with certification from the clerk or adopted minutes from the meeting at which this request was considered.

At a _____ meeting of the _____ council/board
(regular or special) (township, city, village)

called to order by _____ on _____ at _____
(date) (time)

the following resolution was offered:

Moved by _____ and supported by _____

that the application from _____

(name of applicant)

for the following license(s): _____

(list specific licenses requested)

to be located at: _____

and the following permit, if applied for:

☐ Banquet Facility Permit Address of Banquet Facility: _____

It is the consensus of this body that it _____ this application be considered for
(recommends/does not recommend)

approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are _____

Vote

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the _____
council/board at a _____ meeting held on _____ (township, city, village)

(regular or special)

(date)

Print Name of Clerk

Signature of Clerk

Date

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

Please return this completed form along with any corresponding documents to:

Michigan Liquor Control Commission

Mailing address: P.O. Box 30005, Lansing, MI 48909

Hand deliveries or overnight packages: Constitution Hall - 525 W. Allegan, Lansing, MI 48933

Fax to: 517-763-0059



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN LIQUOR CONTROL COMMISSION
ANDREW J. DELONEY
CHAIRMAN

MIKE ZIMMER
DIRECTOR

Objections to Renewals and Recommendations for Revocation

Statutory Authority

MCL 436.1501(2) and (3) provides three tools for local units of government to use concerning licenses issued by the Michigan Liquor Control Commission.

1. Objection to renewal of an on-premise license
2. Request for revocation of an on-premise license
3. Request for revocation of an off-premise license

Objection to Renewal

An objection to a renewal must be filed with the MLCC by the local legislative body not less than 30 days before the date of expiration of the license. While the statute appears to be silent on the rest of the process, the courts have clearly established that a licensee has a property interest in the license, and is therefore entitled to due process protection. [See *Bundo v City of Walled Lake*, 395 Mich 697 (1976)]

Further, administrative rule R 436.1061 provides that:

"Any permit issued to a licensee by the commission or any privilege granted to a licensee by the commission may be revoked or suspended by the commission or a hearing commissioner, **after due notice and proper hearing**, if the licensee or the establishment no longer qualifies for the permit or the privilege or if the licensee is found to be in violation of the act or a commission rule which directly pertains to the permit issued or the privilege granted."

If an objection to renewal of a license is received, then the Commission will proceed to schedule and notice a hearing.

Request for Revocation of an On-Premise License

A local unit of government may request the revocation of a license or permit, after due notice and proper hearing at the local level. Upon receipt of this request, the Commission must revoke the license or permit. The statutory language is clear, using the words "shall revoke." This provision applies to on-premise establishments.

~~If a request for revocation of an on-premise license or permit is received, then the Commission~~ will proceed to schedule and notice a hearing. The Commission will review and consider the information presented from both sides.

For example, in January 2012, the Commission acted on such a request in the case of an on premises licensee. A request was received by the local unit of government to revoke the permit. After a show cause hearing as to whether the license and/or permit should be considered for revocation, the Commission determined that the license as well as the requested permit should be revoked. Under its own motion, administrative rule R 436.1925(1), the Commission revoked the license and well as the permit as requested by the local unit under MCL 436.1501(2).

Request for Revocation of an Off-premise License

For off-premise establishments, a local unit of government may request, by resolution, that the Commission revoke the license if the off-premise licensee has sold or furnished alcoholic liquor to a minor on at least three separate occasions in a consecutive three-month period. The Commission may suspend or revoke the license and any permits.

If a request for revocation of an on-premise license or permit is received, then the Commission will proceed to schedule and notice a hearing. The Commission will review and consider the information presented from both sides.

Documents from the Local Unit of Government

In making any of the requests authorized by law and discussed above, the local unit of government should, at a minimum, present documentation to the Commission concerning the proper notice to the licensee of the hearing held at the local level, any board resolutions pertaining to the request, and any other findings of fact, ordinance, or other relevant information for the Commission to consider in reviewing and considering the request made by the local unit of government.

Documents from the Licensee

The licensee is welcome to submit any information or documentation concerning the license and the request by the local unit of government.

Filing of Papers

Under administrative rule R 436.1927, all documents and papers pertaining to a hearing or appeal hearing shall be filed at the Lansing office of the Commission. The presiding Commissioner has the discretion as to whether or not to allow papers to be filed at a hearing or appeal hearing.

LARA is an equal opportunity employer/program.

Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

525 W. Allegan St. • P.O. BOX 30005 • LANSING, MICHIGAN 48909

www.michigan.gov/lcc • (866) 813-0011



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN LIQUOR CONTROL COMMISSION
ANDREW J. DELONEY
CHAIRMAN

STEVEN H. HILFINGER
DIRECTOR

Bulletin No. 2012-12

DATE: June 21, 2012

TO: Local Units of Government, Local Law Enforcement Agencies, and Applicants for MLCC Licenses

FROM: Michigan Liquor Control Commission

SUBJECT: Changes to the License Application Process

This is an important notice about the application process for the Michigan Liquor Control Commission ("Commission"). Effective July 1, 2012, the Commission is changing the procedure for submitting applications to the Commission, and obtaining approvals for licenses. Approvals from local units of government are required only for the issuance of new licenses under MCL 436.1501. The Commission will continue to review all comments received under administrative rule R 436.1105(2), taking into consideration the opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business. The Commission will provide notice to the local legislative body of pending applications.

I. Applications for New Licenses

The first step in the application process for a new on-premises license is to submit the license application to the Commission, along with any license, permit, and inspection fees. This process will result in the immediate assignment of a request identification (RID) number by the Commission at the beginning of the application process. Additionally, this will allow the Commission to conduct an initial review of the application, to notify the applicant of deficient items, and to provide the applicant with the appropriate local and police forms, including blank fingerprint cards, where applicable.

It will continue to be the responsibility of the applicant to directly submit requests for these local approvals to the local unit of government. The Commission cannot proceed with the licensing process or consider an application until that application is "complete," as defined in MCL



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
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MICHIGAN LIQUOR CONTROL COMMISSION
ANDREW J. DELONEY
CHAIRMAN

STEVEN H. HILFINGER
DIRECTOR

MLCC Bulletin No. 2012-04

DATE: February 28, 2012
TO: Holders of Escrowed Licenses and All Licensees
FROM: Michigan Liquor Control Commission
SUBJECT: Escrow Fees

This is an important notice concerning the payment of escrow fees for those licenses held in escrow with the Michigan Liquor Control Commission ("Commission").

Effective May 1, 2012 the Commission will be enforcing the fee requirements as set forth in administrative rule R 436.1107 regarding escrowed licenses.

Administrative rule R 436.1107 requires a license that is not in active operation to be placed in escrow. A licensee may place a license into escrow for a total of five (5) licensing years. During these five (5) years, the Commission must receive renewal information and payment for a license held in escrow in the same manner as an active license, including payment of all required license fees, each year by April 30.

If the license is not put into active operation within the five (5) years, then the Commission will terminate all rights to the license unless the Commission has received written verification of either of the following:

- a. That the license or an interest in the license is the subject of litigation or estate or bankruptcy proceedings in a court of competent jurisdiction.
- b. That the license was placed into escrow as a result of damage to the licensed premises by fire, flood, tornado or other natural event that makes the licensed premises unsuitable for the operation of the business and unsafe for public accommodation.

Upon receipt of written verification of court proceedings or of damage as described above, the Commission is authorized to extend the escrow beyond the five (5) years. If the Commission does extend the escrow beyond the five (5) years for these reasons, then the Commission must receive the license fees accruing beyond the five (5) years for each elapsed licensing year before the license can be placed in active operation.

[NOTE: The licensee does not need to pay the licensing fees for the period of elapsing time between the end of the initial five (5) years of escrow and during the pendency of the court proceedings or the repair of the damage. The Commission must receive payment of all accrued license fees before the license can be placed in active operation.]

Further, the Commission is authorized to extend the escrow period for a license after a showing of good cause by the licensee. If the Commission grants a "good cause" extension, then the Commission must receive renewal information and payment in the same manner as an active license, including payment of all required license fees, each year by April 30. The Commission will terminate all rights to a license if the license is not renewed in the same manner as an active license during the entire escrow period.

The Commission reminds licensees that if a license is placed in escrow, then the licensee has the responsibility to provide the Commission with current contact information, in writing, for all correspondence, which includes the name, mailing address, and telephone number.

Please contact the Commission's Licensing Division at (866) 813-0011 if you have any questions.

R 436.1107 Renewal of license.

Rule 7. (1) A license that is not in active operation shall be placed in escrow with the commission.

(2) A licensee shall have only 5 licensing years after the expiration date of the escrowed license to put the license into active operation. If the licensee fails to put the license into active operation within 5 licensing years after its expiration, then all rights to the license shall terminate unless the commission has received written verification of either of the following

(a) That the license or an interest in the license is the subject of litigation or estate or bankruptcy proceedings in a court of competent jurisdiction.

(b) That the license was placed into escrow as a result of damage to the licensed premises by fire, flood, tornado or other natural event that makes the licensed premises unsuitable for the operation of the business and unsafe for public accommodation.

(3) If the commission extends the length of time for which a licensee may renew the license during the pendency of litigation or estate or bankruptcy proceedings or as a result of damage to the licensed premises for the reasons as stated in subrule (2) of this rule, then the licensee shall pay the required license fee for each elapsed licensing year before placing the license in active operation.

(4) Except as provided in subrule (3) of this rule, a license held in escrow with the commission shall be renewed in the same manner as an active license, including payment of all required license fees, each year by April 30.

(5) A licensee who places a license in escrow with the commission shall be responsible for providing the commission with current contact information, in writing, for all correspondence, which includes the name, mailing address, and telephone number.

(6) Not later than 90 days after the effective date of this rule, the commission shall provide or attempt to provide each licensee whose license is in escrow with a copy of this rule.

~~(7) A license that is held in escrow with the commission on the effective date of this rule begins the 5-year period allowed by subrule (2) of this rule for a license to be held in escrow on the effective date of this rule.~~

AGENDA NOTE

Old Business Item #__

MEETING DATE: March 26, 2018

PERSON PLACING ITEM ON AGENDA: Postponed 3/12/18

AGENDA TOPIC: GFL USA Amendment and Extension of Solid Waste Contract

EXPLANATION OF TOPIC: On January 8, 2018 the City Council authorized staff to pursue a four-year extension of and amendments to the City's Solid Waste Contract with GFL on terms consistent with the GFL's proposal and the discussion at the January 8th Council meeting.

Pursuant to Council direction, the parties have review and revised the document and provided comments on the Amendment and Extension of the current Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement between the City of South Lyon and GFL Environmental USA Inc, which has a term which expires June 30, 2018.

Concerns regarding the cost of recycle carts were raised during the March 12, 2018 meeting, and the matter was postponed to allow the parties to revise the provisions relating to recycle carts and related costs.

The parties have exchanged revisions, and the revised Amendment and Extension is presented for Council approval.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- Blackline Revised Draft Amendment and Extension of Solid Waste Contract with GFL (3/21/18)
- 3/8/18 GFL letter regarding carts
- Excerpt of 1/8/18 minutes
- 1/8/18 Agenda Note
- GFL proposal 1/4/18
- RRRASOC Memo dated October 19, 2017
- Current Solid Waste Contract

POSSIBLE COURSES OF ACTION: Approve/Reject/Postpone/No action

RECOMMENDATION: Approve the Amendment and Extension

SUGGESTED MOTION: Motion to approve the Amendment and Extension of the Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement between the City of South Lyon and GFL Environmental USA Inc, as presented, and authorize the Mayor and Clerk to sign same

Amendment and Extension
of the
City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

This Amendment and Extension is made and entered into by and between the City of South Lyon (the "City"), 335 S. Warren Street, South Lyon, MI 48178, and GFL Environmental USA Inc. ("GFL"), 6200 Elmridge, Sterling Heights, MI 48313.

WHEREAS, on February 29, 2008, the City of South Lyon ("City") and Duncan Disposal Systems, Inc. ("Duncan") entered into a Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement (the "Agreement") with a five-year term beginning on July 1, 2008 and expiring June 30, 2013, which was extended on March 12, 2013, by mutual agreement for an additional five-year term beginning July 1, 2013 and expiring on June 30, 2018; and

WHEREAS, Rizzo Environmental Services, Inc. (RES) acquired the operating assets of Duncan in July 2016; and

WHEREAS, on August 8, 2016, after having been advised of RES's acquisition of Duncan's operating assets and related transactions involving RES and GFL Environmental USA Inc., the City approved a Consent and Waiver of Assignment of the Agreement from Duncan to RES; and

WHEREAS, GFL Environmental USA Inc. closed a stock purchase of RES on September 30, 2016; and

WHEREAS, the City was apprised of the stock purchase by GFL Environmental USA Inc. on November 28, 2016; and

WHEREAS, in a letter dated September 26, 2017, GFL Environmental USA Inc. proposed an extension of and amendments to the Agreement, and it provided a subsequent letter dated January 4, 2018 outlining its proposed amendments and extension; and

WHEREAS, the City reviewed GFL's proposed extension and amendments and on January 8, 2018, authorized the City administration to pursue a four-year extension and amendments of the Agreement consistent with the terms outlined in GFL's proposal and discussed during the January 8, 2018 City Council meeting and subject to City Council review and approval;

WHEREAS, the parties desire to extend the term of the Agreement, acknowledge that GFL is the Contractor under the Agreement, and amend the provisions for future extensions, annual price adjustments, and recycling collection and carts;

NOW, THEREFORE, the City and GFL agree as follows:

1. The introductory first paragraph identifying the parties to the Agreement is amended to read as follows:

THIS AGREEMENT, is made and entered into this _____, 2018, by and between the City of South Lyon, 335 S. Warren, South Lyon, MI 48178, hereinafter called "THE CITY", and GFL Environmental USA Inc., with offices located at 6200 Elmridge, Sterling Heights, MI 48313, (hereinafter called "Contractor").

2. Sections 3.A – C of the Agreement are amended to read as follows:

A. **Four (4) Year Term:** The term of the Agreement, as amended and extended, shall be for four (4) years, with one (1) four-year extension option. The term of the Agreement, as amended and extended, shall begin July 1, 2018 and expire June 30, 2022.

B. **Contractor's Extension Options:** The Contractor may request one (1) four-year extension of the Agreement if written notice of such requests are received by THE CITY by six (6) months prior to current expiration date. Granting requests for contract extensions shall be at the sole discretion of THE CITY and shall not be contestable or appealed. If THE CITY agrees to accept the Contractor's request for an extension, such extension shall be approved at least three (3) months prior to the current expiration date.

C. **THE CITY Retains Right to Extend and Postpone Agreement Termination Date:** THE CITY may renew the Agreement for one (1) four-year term (extension) under the conditions set forth in the contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

3. Section 5.K of the Agreement is amended to read as follows:

Contact Persons for Legal Notices: The Contractor identifies Michael Fleming, of GFL Environmental USA Inc., with offices located at 6200 Elmridge, Sterling Heights, MI 48313, who shall be designated to receive all notices and communications on behalf of the contracting parties with regard to the Agreement. Written notice required to be provided to THE CITY pursuant to this Agreement shall be provided the City of South Lyon, c/o City Manager, 335 S. Warren, South Lyon, MI 48178.

4. Attachment A (General Provisions), Section 1.1 of the Agreement is amended to read as follows:

1.1 Term

The term of the Contract, as amended and extended, is for four (4) years commencing on July 1, 2018, and ending June 30, 2022. THE CITY may renew the Contract for one (1) four-year term (extension) under the conditions set forth in the Contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

5. Attachment A (General Provisions), Section 1.9 of the Agreement is amended to read as follows:

1.9 Contract Price Adjustments

The contract price schedule shall be reviewed and revised in June of each contract year and extension period, if any, in accordance with the most recent full calendar year annual percentage change in the reference annual Consumer Price Index escalator, and the contract price shall be established for the next contract year beginning on July 1, following the June evaluation, except, however, that the price adjustment shall not exceed two (2) percent or be less than zero (0) percent. No other changes in contract prices are permitted, except as authorized by this agreement.

The reference Consumer Price Index shall be the Consumer Price Index - All Urban Consumers for the Detroit-Ann Arbor-Flint area (all items), base period: 1982-84=100, as published by the Bureau of Labor Statistics, U.S. Department of Labor.

In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, another equally authoritative measure of change in the purchasing power of the U. S. dollar as may be then available shall be substituted.

6. Attachment B (Contractor's Service Specifications), Section 2.1.8 of the Agreement is amended to read as follows:

2.1.8 RECYCLING COLLECTION

As part of the solid waste unit price and not as a separate pay item, included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up on the same day as the regularly scheduled refuse collection required by this Contract, recyclable materials set-out as per the specifications identified by the City in Attachment D and as indicated in the MRF Services Agreement between RRRASOC and the City. Recyclable materials shall be collected and delivered by Contractor to the RRRASOC Materials Recovery Facility at 20000 W. Eight Mile Road, Southfield, MI 48075 in accordance the MRF Services Agreement.

The Contractor will service homes with recycling carts or bins as part of the regular collection route without additional cost to the City or resident. Recyclable materials shall be placed in 18-gallon recycling bin or the 64-gallon recycling cart as set forth below. Residents will have the option of continuing to use existing 64-gallon recycling carts or requesting a 64-gallon recycling cart directly from the Contractor, who will provide a telephone number and website page for such requests, or continuing to use the 18-gallon recycling bins.

The Contractor will provide up to 2,000 households with recycling carts, delivered to requesting residents on a first come first served basis, and at no cost to the City or residents. Once the Contractor has provided 2,000

recycle carts, the Contractor may charge requesting residents for a cart or use of a cart. Residents who currently lease or rent a recycle cart directly with the Contractor may request a replacement cart under this provision which shall count toward the 2,000 carts, but if the Contractor has already provided 2,000 carts, the resident may be charged for the cart. The City shall not bear any costs relating to recycle carts. The Contractor will track and report to the City and RRRASOC at least quarterly and annually prior to June 1st, the number of residents including addresses that have received a recycle cart from Contractor pursuant to this provision or through other arrangements between the Contractor and residents (e.g. cart lease or rent arrangement).

If the Agreement is extended or renewed as provided for in Section 1.1, the number of additional recycling carts to be provided by Contractor and made available to residents during the applicable term and the cost thereof shall be subject to negotiations and agreement of the parties which agreement must be in writing and signed by parties' authorized representatives to be valid.

~~The Contractor will be responsible for replacing any bins or carts damaged by the Contractor within twenty-four (24) hours at no cost to the City. The Contractor will provide the City with an additional inventory of replacement bins billable at its cost, upon request by the City. Replacement bins shall billable to the City only if 2,000 or more households have been provided recycling carts.~~

~~Homeowners will have the option of selecting a 64-gallon recycling cart upon direct request to the Contractor, who will provide a telephone number and website page for such requests, or continuing to use the 18-gallon recycling bins. The Contractor will service homes with recycling carts or bins as part of the regular collection route without additional cost to the City or homeowner. The Contractor will provide up to 2,000 households with recycling carts, delivered to requesting homeowners, at no cost to the City or homeowners. The Contractor will report to the City and RRRASOC annually prior to June 1st, the number of homeowners that have requested carts. Delivered carts in excess 2,000 will be charged to the City each June for the excess carts delivered in the prior year at a rate of \$75.00 per cart.~~

7. Attachment C.2 (Contractor's Compensation) of the Agreement will be amended to read as follows:

2. Contractor's Base Price Rate Schedule for collection, transportation, and disposal (solid waste unit price as of July 1, 2018):

- (a) Residential Units (\$/year – total including refuse, yard waste and recycling):

Single-Family Units: \$142.32

Multi-Family / Discount Eligible Units: \$124.92

8. All of the terms, conditions, and provisions of the Agreement, including Attachments, not modified by or in conflict with this Amendment and Extension shall remain in full force and effect.
9. This Amendment and Extension constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any prior understandings, agreements, or representations by or among the parties, written or oral, to the extent they relate, in anyway, to the subject matter hereof.
10. This Amendment and Extension is governed by and will be construed in accordance with the laws of the State of Michigan.

Acknowledged and agreed:

GFL Environmental USA Inc.

By: _____

Name: _____

Title: _____

Date: _____

City of South Lyon

By: _____
Daniel L. Pelchat, Mayor

Date: _____

By: _____
Lisa Deaton, Clerk

Date: _____



March 8, 2018

Timothy S. Wilhelm
Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331

Dear Tim,

I will be present at the council meeting and answer questions along with Mike Csapo. Below is a general description of where we are with the discussion.

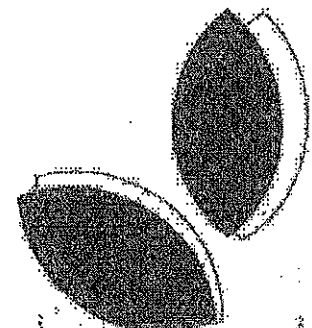
As you know, this began as an offer to extend the current contract with a recycle cart option that has grown to an opt-in program for any South Lyon resident that wishes to have a 65-gallon recycle cart. Through discussion, the total number of carts grew to a cap of 2,000 built into the proposed unit pricing. All excess carts above 2,000 are to be billed at \$75.00 per cart in June of each year.

Residents will contact GFL and order their recycle cart. Carts will be delivered by GFL and a log will be kept for reporting purposes. This report can be provided to the City on a monthly or quarterly basis. Whichever is preferred.

Please let me know if this is enough info to move forward or if more detail is needed.

Thank you,


Sam Caramagno
District Manager
GFL Environmental USA



5. Discussion regarding GFL contract and request decision regarding extension or bid process

Attorney Wilhelm stated we have Mike Csapo from RRRASOC and Sam Caramagno from GFL. He stated GFL is asking if we want to extend the contract or go out for bid. He stated the contract is currently good through June 30, 2018. Mike Csapo from RRRASOC stated he helps the City secure and manage solid waste. He stated you currently have a contract that expires in June of this year. It typically takes 6-7 months for the bid process. Mr. Csapo further stated the context should be 3 questions, is it allowable, are you comfortable with current services, and what is being proposed competitively. He stated routinely they go through dozens of communities and get an average on the expenditures for refuse collection. He stated every year he has done this; South Lyon has been near the bottom of the list. The City has a very good program performance and a good contract. He stated when GFL took over, they have continued to maintain the contract cost, as well as the good service. He further stated GFL is offering an extended contract with options of enhancing with new practices. He further stated if the contract is extended for 4 years, there is an option for the residents to opt in for a recycling cart, if a shorter extension there would be a limited number of people that could opt in without cost to the City. Another change in the proposal is to limit the increase in cost based on the CPI. He further stated it limits the exposure to a higher cost. He looked at the pricing and recent bids and he would be shocked if the City could get a lower bid. Councilmember Richards stated he thinks it is a good idea to continue with this contract but he thinks a 64-gallon cart for recycling is too much for residents. Mr. Csapo stated he begs to differ, he found most people in a 4-5 people household can fill up a 64-gallon cart, but if they want to stick with the 18-gallon bin, they can. This isn't an obligation. Councilmember Richards stated we should give them the option to pay for it, why charge the whole community for the option of having a 64-gallon cart. Mayor Pelchat stated it is an option for the resident. Mr. Csapo stated the primary cost of the rate change is there will be a 3% raise in CPI. He further stated our current price is under market primarily because the City had a great deal with Duncan and they gave the city pricing below what anyone else would give. Mayor Pelchat stated he thinks this is a good option, it will encourage recycling and the problem with the buckets is when the wind picks up some of the recycling ends up blowing around and a lot of it ends up in the garbage. Mr. Csapo stated we tend to see a 40-60% increase in recycling with the carts. Councilmember Kivell stated when he got involved with this, Duncan was already the provider, and they had a contract that included things other providers weren't offering such as anything being put out they will pick up, such as appliances and such. He stated he is grateful GFL carried that over to their contract. Mr. Csapo stated there will be no change in the services, but it will cap the price increases and add the option of the recycling cart. Councilmember Kivell stated at the onset when he got involved, tipping fees were supposed to go through the roof, and everyone was going to be paying a lot of money for trash hauling, and capacity must have been enhanced by allowing dumps to grow, we dodged a bullet. We could have been suffering by enormous amounts if that hadn't taken place. He further stated he likes the idea of the 2% escalator being the maximum.

Councilmember Kurtzweil stated a lot of the bins don't fit inside the garages of the homes that were built 15-20 years ago, and most have homeowner associations that have rules that they cannot be left outside so there is a growing contention with the size of the containers that are being provided to our community. Councilmember Kurtzweil stated in respect to cost containment and having a sweetheart deal with Duncan, she thinks the Duncan family was very astute at business practices and they were locally located, and their trucks didn't have to travel too far, and a lot of their workers were in this area. She stated GFL has the same opportunity to move closer to this area and cut their costs. She is hesitant to let that comment go, without commenting that GFL should look at incurring cost constraints that would be favorable to the communities they serve and move a little closer. There is plenty of space that could be rented so they wouldn't have to travel their trucks too far and they would save some money. Mr. Csapo

stated that is a business decision and he doesn't think GFL will do that for a contract for 3700 units. He further stated the pricing that is before Council remains one of the lowest in the RRRASOC communities.

Sam Caramagno of GFL stated the size of the 64-gallon cart footprint is basically the same as the bin, but it is taller. Councilmember Walton asked if the contract they are asking for is for a 3 or 4-year contract. Mr. Caramagno stated they are asking for a 4-year contract, but they were asked to also propose a 3-year contract. Mr. Csapo stated the cost for the 3-year contract is slightly higher than the 4-year contract. The costs difference basically is a .40 cent increase versus a .50 cent increase. He stated in either case, the pricing is at or below average and it keeps the City of South Lyon overall cost at the bottom of cost compared to other communities. Councilmember Richards stated it is good they provide the service for people to drop off old paint and batteries. Councilmember Parisien stated she is comfortable with the 4-year agreement.

CM 1-13-18 MOTION TO AUTHORIZE THE CITY TO PURSUE THE 4-YEAR EXTENSION OF SOLID WASTE CONTRACT WITH GFL USA

Motion by Kivell, supported by Parisien

Motion to authorize the City to pursue the 4-year extension of Solid Waste contract with GFL USA

VOTE:

MOTION CARRIED UNANIMOUSLY

6. Evidentiary blood draw agreement with Huron Valley Ambulance

Attorney Wilhelm stated we had an earlier agreement and we didn't know how it would go, therefore we put an expiration date on it. They are continuing the arrangement and some slight changes were made. There is a small price adjustment. It is a service we like and the relationship is working well. Chief Collins stated the reason for the agreement is the HVA comes to the Police Department to do blood draws for instances when a suspect refuses a breath test for driving under the influence or search warrant issues for a case of operating under the influence of drugs. He stated it saves them a lot of time and it is very convenient so the officer doesn't have to transfer the suspect to a hospital for the blood draw. He stated HVA asked for an increase of \$15.00 per draw. He further stated it is a very low number of blood draws. Councilmember Kivell asked if this affects the chain of control for the sample being conducted at the PD instead of the hospital. Chief Collins stated that is not affected, the blood sample is sealed back in the box the kit came in and submitted back to the Police Department. Councilmember Parisien asked if we are reimbursed by the individual for the blood draw cost. Chief Collins stated we are not, unless there is a crash involved. Councilmember Parisien stated it seems we should be reimbursed from the person that refuses the breath test. Councilmember Richards asked if someone from the police department personally supervises the blood draw. Chief Collins stated the arresting officer witnesses the blood draw.

CM 1-14-18 MOTION TO APPROVE THE EVIDENTIARY BLOOD DRAW AGREEMENT BETWEEN THE CITY OF SOUTH LYON AND HVA

Motion by Richards, supported by Kivell

Motion to approve the evidentiary blood draw agreement between the City of South Lyon and HVA and authorize the Mayor and Clerk to execute the agreement on behalf of the City

VOTE:

MOTION CARRIED UNANIMOUSLY

7. Liquor Licensing Ordinance

AGENDA NOTE

MEETING DATE: January 8, 2018

PERSON PLACING ITEM ON AGENDA: On request of GFL

AGENDA TOPIC: GFL USA Request for Extension of Solid Waste Contract

EXPLANATION OF TOPIC: The existing City of South Lyon Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement is dated March 12, 2013, and it was originally between the City and Duncan Disposal. The City approved the Consent and Waiver of Assignment of the Contract from Duncan to GFL USA in August 2016.

The current Contract with GFL (per the assignment) has a 5-year term and expires June 30, 2018. (Section 3(A)).

The City has a right to extend and postpone contract termination for one (1) three-year term which is essentially a right to extend the contract for an additional 3-year term. (Section 3(C)). To exercise this right, "[t]he City must give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract." (Section 3(C)).

The Contractor can request a 3-year extension of the Contract. (Section 3(B)). To do so, it must provide written notice of the request to the City 6 months prior to the expiration date. The decision to grant the extension is in the City's sole discretion, and if accepted, the approval must occur at least 3 months prior to the expiration date.

Attachment A to the Contract, Section 1.9 contains the price adjustment provision, and Mr. Csapo's memo accurately summarizes it. It provides for annual price adjustments in June of each year of the Contract with the new prices taking effect on July 1. The prices are adjusted by the CPI with a maximum of 3% increase.

GFL USA is proposing a 4-year contract extension which would expire June 30, 2022. Note, the existing Contract provides an option to both the Contractor and the City to extend for a 3-year term. The proposal is referred to as an extension of the current contract but it requests a 4-year term among other proposals. Thus, it is unclear if the proposal is a request for extension as provided for under the current Contract or a proposal for an amended or new contract. The impact of this distinction may affect how the proposal is handled. If it treated as a proposal for a new contract, it might trigger purchasing / bidding requirements under the City Code and purchasing ordinance and charter. Alternatively, it could be viewed as a combined request for extension and amendment including the 4-year term vs. 3-year term.

There was no price adjustment implemented in June 2017. The current solid waste fee per the City fee schedule on the website (adopted Oct 2016) shows single family residential at \$34.38/quarter or \$137.52/year. Mr. Csapo's analysis of the price increase (ie, 3.5% increase proposed for July 1, 2018) appears to be based on the rates in place as of October 2016 with no price adjustment in 2017 which may explain why the requested 3.5% price increase exceeds the Contract provision limiting annual price adjustment to CPI and a maximum of 3% per year. GFL is proposing to limit this to 2% per year under the extension.

There may be a benefit to both parties in matching the term of the City's Solid Waste Contract with 6 other communities. This may be the real purpose of the proposal for a 4-year term vs the 3-year term.

MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:

- RRRASOC Memo dated October 19, 2017
- Current Solid Waste Contract

POSSIBLE COURSES OF ACTION:

- Authorize parties to pursue contract extension
- Put the Contract out for bid
- No action
- postpone

RECOMMENDATION:

Pursue extension of GFL contract extension proposal and not put the contract out for bids.

SUGGESTED MOTION:

Motion to authorize the City to pursue an extension of the Solid Waste Contract with GFL USA



January 4, 2018

Lynne Ladner
City Manager
City of South Lyon
335 S. Warren
South Lyon, MI 48178

Dear Lynne,

Thank you for the time to discuss and the opportunity to meet regarding extension possibilities for the City of South Lyon.

As per our discussion, please see the proposal below.

1. Extend current contract until 6/30/2021 (3 years)
2. \$0.55/per unit increase on rate effective 7/1/2018
3. Continue current trash, recycle and yard waste services at like terms with the exception of:
 - 2% annual cap and 0% floor
 - South Lyon would be eligible for an opt-in 64 gallon recycle cart for up to 1,000 residential homes. Residents will own carts at end of 36 months.
 - Delivered carts above the 1,000 included in the unit rate will be billed in June for the year before at \$75.00 each.

Let me know when a good time would be to meet regarding the above opportunities. Please contact me with any questions.

Sincerely,

Sam Caramagno
District Manager
GFL Environmental USA Inc.

CC: Mike Csapo
Timothy Wilhelm



Resource Recovery & Recycling Authority of Southwest Oakland County

20000 W. 8 Mile Rd
Southfield, MI 48075-6708

Office: 248.208.2270

Fax: 248.208.2273

www.RRRASOC.org

THE RECYCLING AUTHORITY

Since 1989

To: Lynne Ladner, City Manager, South Lyon
From: Mike Csapo, General Manager
Date: October 19, 2017

Re: **GFL USA Contract Extension Proposal**

As you are aware, the City's contract with GFL USA for curbside solid waste service expires on June 30, 2018. GFL USA has proposed a contract extension under the following terms:

1. Extend the current contract until June 30, 2022.
2. Set the annual rates beginning July 1, 2018 at \$142.32 for single-family homes and \$124.92 for serviced multi-family homes.
3. Continue to adjust the rates annually based on the CPI but lower the current cap from 3% to 2%, with a floor of 0%.
4. Allow homeowners to "opt-in" to receive a 64-gallon recycling cart at no cost to the homeowner or the City.

I have the following comments on each of the preceding terms:

1. The extension proposal would align the City's contract term with six of the other RRRASOC communities, which may provide an opportunity for a joint bid in the future.
2. The proposed rate is a 3.5% increase, which constitutes a market adjustment from the existing rate that was largely result of contracting with nearby Duncan Disposal. Also, prices in the industry have generally been trending up in the last several months.

The new single-family rate of \$142.32 compares to a RRRASOC area median of \$150.60 and an average of \$148.26. GLF USA provides (or proposes to provide) similar services to the RRRASOC communities of Milford, Milford Township, and Walled Lake for \$139.20, \$150.60, and \$148.59, respectively. The next page shows a price comparison across all RRRASOC communities.

3. Under the current contract, annual price increases are tied to the CPI, with a cap of 3% and no floor. The proposal reduces the cap to 2% and introduces a floor of 0%, which reduces the City's overall exposure to price increases while creating greater price predictability.

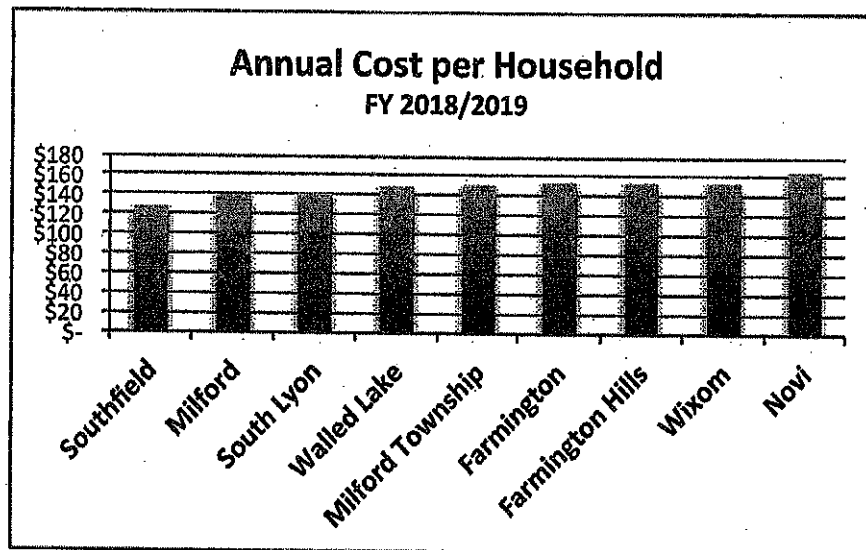
RRRASOC Member Communities

Farmington + Farmington Hills + Milford + Milford Township
Novi + South Lyon + Southfield + Walled Lake + Wixom

4. The proposal allows homeowners to continue to use their existing 18-gallon recycling bin or "opt-in" to receive a 64-gallon recycling cart at no cost to the homeowner or the City. The use of recycling carts is considered a best practice in the recycling industry and the deployment of recycling carts has been the trend over the past several years. The use of carts is typically associated with an increase in recycling due to the increased capacity and convenience of the carts, which have wheels and lids.

Overall, the proposal would continue the existing service while adding cart recycling. The contract price would remain competitive, with future increases limited to no more than 2% annually. If the City is receiving a level of service that meets its expectations, the proposal merits consideration.

Please let me know if you have any questions.



City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

THIS AGREEMENT, is made and entered into this March 12, 2013, by and between the City of South Lyon, 335 S. Warren, South Lyon, MI 48178, hereinafter called "THE CITY", and Duncan Disposal Systems, Inc., a corporation registered in the State of Michigan, with offices located at P.O. Box 727, South Lyon, Michigan 48178, (hereinafter called "Contractor").

WITNESSETH:

WHEREAS, THE CITY, through cooperation with the Resource Recovery and Recycling Authority of Southwest Oakland County (RRRASOC), 20000 W. Eight Mile Rd., Southfield, MI 48075, requested proposals from qualified companies interested in performing solid waste, yard waste and recycling collection and disposal services for THE CITY and;

WHEREAS, the proposal of the Contractor was received and determined by THE CITY to be the most responsive proposal received at the best services value for the estimated costs and;

WHEREAS, representatives of THE CITY and the Contractor met to negotiate the detailed terms of this agreement contained herein and;

WHEREAS, THE CITY and the Contractor entered into a Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement (the Agreement) effective July 1, 2008 and;

WHEREAS, the Agreement may be extended by mutual agreement and;

WHEREAS, the parties have agreed to extend the Agreement for a period of five (5) years on the terms and conditions as set forth herein and;

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, the parties agree as follows:

1. **GENERAL PROVISIONS:** The general provisions this contract shall be in accordance with Attachment A: "General Provisions" (incorporated herein to this agreement).
2. **CONTRACTOR'S OBLIGATIONS:** The services to be provided by the Contractor are detailed in Attachment B: "Contractors Service Specifications" (incorporated herein to this agreement).
3. **TERM / TERMINATION OF THE CONTRACT**
 - A. **Five (5) Year Term:** The term of this services contract shall be for five (5) years, with one (1), three-year extension option. The initial contract term shall begin July 1, 2013 and expire June 30, 2018.
 - B. **Contractor's Extension Options:** The Contractor may request one (1) three-year contract extension if written notice of such requests are received by THE CITY by six (6) months prior to current expiration date. Granting requests for contract extensions shall be at the sole discretion of THE CITY and shall not be contestable or appealed. If THE CITY agrees to accept the Contractor's request for an extension, such extension shall be approved at least three (3) months prior to the current expiration date.
 - C. **THE CITY Retains Right to Extend and Postpone Contract Termination Date:** THE CITY may renew the Contract for one (1) three-year term (extension) under the conditions set forth in the contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- D. **Additional Extension by Mutual Agreement:** Upon mutual agreement of both parties, the Contract may be extended by the terms referenced above.
- E. **THE CITY Termination of the Contract Services:** THE CITY may, after giving Contractor and the surety one hundred and eighty (180) days written notice and to the extent permitted by laws and regulations, terminate the contract. THE CITY may, after giving Contractor and the surety seven (7) days written notice and to the extent permitted by laws and regulations, terminate the contract if the Contractor:
1. Fails to Perform the required work as specified in this Agreement as determined by THE CITY, and fails to correct the deficiency within thirty (30) days after receiving written notice from THE CITY.
 2. Materially Violates Any Law or Regulation of any municipal, local, state or federal laws, rules, regulations, ordinances and specifications, in performance of this Contract.
 3. Files for Bankruptcy or Insolvency. If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title II, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
 4. If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under other federal or state law in effect at the time relating to bankruptcy or insolvency.
 5. Assigns this Contract or any portion thereof in violation of Section 5.H.
- F. **Contractor Termination of the Contract Services:** Contractor may stop service or terminate the contract if, through no act or fault of the Contractor, THE CITY Solid Waste Program is suspended for a period of more than ninety days by THE CITY. Under this circumstance, the Contractor may, upon seven (7) day's written notice to THE CITY, terminate the Agreement and recover from THE CITY payment for completed services.

In the event that Contractor terminates the contract pursuant to the above conditions, Contractor understands and agrees that Contractor's sole remedy shall be recovery from THE CITY of payment for completed services and understands and agrees that any consequential damages and any claimed damages resulting from loss of future profits are hereby waived.

In the event that the contract is terminated pursuant to this provision and THE CITY subsequently resumes the Solid Waste Program, the Agreement may be reinstated upon mutual agreement.

4. COMPENSATION

- A. **Monthly Invoices:** The Contractor shall submit monthly Invoice statements for payments for services rendered, said statements to be submitted to THE CITY.
- B. **Service Components:** Monthly invoices shall be in a form as specified in Attachment C "Contractor's Compensation" (incorporated herein to this agreement).
- C. **Payment for Services:** THE CITY shall pay the Contractor for services rendered as invoiced within 30 days upon receipt of the invoice and upon successful completion of all services required, including, but not limited to, the Monthly Service Report as specified in Attachment B.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- D. **Taxes:** The Contractor shall pay all Federal, State, and local taxes including, but not limited to, property taxes, sales taxes, social security taxes, income taxes, and fees, which may be chargeable against the labor, material, equipment, real estate or any other items necessary in the performance of this contract, except for: (1) additional fees that are imposed upon the Contractor by Federal or State legislation enacted following the Effective Date, and (2) exceptions otherwise noted.

5. LEGAL AND INSURANCE REQUIREMENTS

- A. **Responsibility for Waste:** Ownership of acceptable waste shall transfer to the Contractor at the time that it is loaded into the Contractor's collection vehicles.
- B. **Indemnification:** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless THE CITY and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which THE CITY may suffer or for which it may be held liable, arising out of or resulting from the Contractor's or its agent's or employee's actions or negligent actions or omissions in the performance of this contract.

This indemnification shall survive the expiration or termination of this contract. By entering this contract, the parties do not waive any immunity provided by law.

- C. **Pollution Liability:** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless THE CITY and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which THE CITY may suffer or for which it may be held liable, arising out of or resulting from the death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders resulting from Contractor's collection of waste.

This indemnification shall survive the expiration or termination of this contract. By entering this contract, the parties do not waive any immunity provided by law.

- D. **Independent Contractor:** The Contractor shall be deemed an independent contractor, and not an employee of THE CITY. Any and all employees, members or associates of the Contractor or other persons, while engaged in the work or services required to be performed by the Contractor, shall not be considered employees of THE CITY. Any and all claims that might arise on behalf of employees of Contractor or other persons as a consequence of any act or omission on the part of said employees of Contractor shall in no way be the obligation or responsibility of THE CITY. Contractor fully understands all consequences, financial and legal, of the status of an independent contractor.
- E. **Contractor Performance Bond:** The Contractor will be required to furnish financial assurance to compensate THE CITY for losses that may be incurred in the event Contractor fails to faithfully perform Contractor's obligations under this Contract. Said financial assurance shall be equal to one fourth of the amount of the annual total contract price and shall take the form of a corporate surety bond, letter of credit, or other financial assurance deemed acceptable by THE CITY. Said financial assurance shall be renewed annually and stay in effect throughout the contract period. The bond shall be with a surety licensed and permitted to do business in the State of Michigan and in a form acceptable to THE CITY.

Annual contract price, for purposes of this performance bond, shall be based on estimates derived by THE CITY for the first year and actual contract payments for subsequent years.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- F. **Insurance Requirements:** The Contractor shall submit a Certificate of Insurance prior to the execution of a contract meeting the minimum limits of liabilities as outlined. All insurance carriers must be acceptable to THE CITY and licensed in the State of Michigan.

A new certificate of Insurance shall be provided to THE CITY each year at the time of policy renewal. The Vendor shall not allow for any lapse of insurance coverage in the amounts shown below. Failure of the Vendor to maintain the required insurance shall be grounds for contract cancellation.

1. **Workers' Compensation Insurance:** The Contractor shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
2. **Commercial General Liability Insurance:** The Contractor shall procure and maintain during the life of the blanket purchase order, Commercial General Liability Insurance on an "Occurrence Basis" and motor vehicle insurance with limits of liability not less than \$1,000,000.00 (one million dollars) per occurrence, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations Liability; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable. Additionally, the Contractor shall procure and maintain Umbrella Coverage of not less than \$1,000,000.00 (one million dollars).
3. **Additional Insured:** Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be Additional Insureds: "THE CITY, all elected and appointed officials, all employees and volunteers." This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage is primary, contributing or excess.
4. **Cancellation Notice:** Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following. "It is understood and agreed that Sixty (60) days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to the City of South Lyon, 335 S. Warren, South Lyon, MI 48178."

If any of the above coverages expire during the term of the contract, the Contractor shall deliver renewal certificates and/or policies to THE CITY at least ten (10) days prior to the expiration date.

- G. **Non-Discrimination:** Contractor agrees that Contractor shall not discriminate against any employee, applicant for employment or other person, supplier, or contractor because of race, color, religion, sex, marital status, national origin, disability or public assistance.
- H. **Assignment and Subcontracting:** The Contractor shall not delegate or assign the Agreement, or any part thereof, to an unaffiliated entity, nor shall the Contractor sub-contract this Agreement or any part thereof without the prior written approval of THE CITY, which shall not be unreasonably withheld.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

The Contractor may not assign any parts of this Agreement via sale, merger or acquisition of the Contractor's company without the prior written approval of THE CITY, which shall not be unreasonably withheld.

I. Compliance with All Laws, Rules, Regulations and Licensing Requirements:

The Contractor shall comply with all municipal, county, state and federal laws, regulations, ordinances and specifications.

J. Liquidated Damages: THE CITY and Contractor agree, in addition to any other remedies available to THE CITY, THE CITY may impose the amounts specified below as liquidated damages for failure of the Contractor to fulfill its obligations as determined by THE CITY. THE CITY shall have authority to deduct the amounts specified herein from payments due the Contractor.

1. Failure to clean up spilled refuse:
\$25 for each incident.
2. Failure to clean vehicle, conveyances, containers, docks, yards, shops, and other equipment as provided in the specifications:
\$50 for each incident.
3. Failure to complete all routine pickups by 6:00 p.m. on the scheduled day or failure to complete all routine pickups on major roads by 5:00 p.m. on the scheduled day:
\$100.00 for each incident.
4. Failure to collect solid waste, recyclables, and yard waste within 36 hours after notification of a complaint or by the end of the following regular business day:
\$100.00 for each incident.
5. Failure to maintain vehicle in operable condition and acceptable appearance after inspection and notice by THE CITY:
\$500.00 for each incident.

The liquidated damages provided for herein are not considered as penalties and were not calculated in contemplation or anticipation that the Contractor would default. In the event the Contractor does default or otherwise abandon the project, THE CITY reserves the right to collect from the Contractor or its surety, in addition to the liquidated damages, the actual damages incurred by THE CITY as a result of the default or abandonment.

The assessment of liquidated damages shall be determined by THE CITY and deductions made from the payment each month to the Contractor. The decision of THE CITY in the matter will be binding. The Contractor may at their option initiate the dispute resolution process included in this service agreement.

K. Contact Persons for Legal Notices: The Contractor identifies Tom Duncan, Owner, of Duncan Disposal Systems, Inc. at P.O. Box 727, South Lyon, MI 48178, who shall be designated to receive all notices and communications on behalf of the contracting parties with regard to the contract. Written notice required to be provided to THE CITY pursuant to this Agreement shall be provided the City of South Lyon, c/o City Manager, 335 S. Warren, South Lyon, MI 48178.

L. Performance: Contractor shall see that all work done pursuant to this Agreement is accomplished with work forces and equipment which are adequate to insure the satisfactory transportation of said materials at all times. Either Party may be excused from performance under this agreement by reason of an event defined herein as Force Majeure which is outside of the Party's control and cannot be avoided by the exercise of due care.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

- M. **Conflict of Interest:** Neither the Contractor nor its employees neither presently have, nor shall acquire interest, direct or indirect, in the contract in any manner forbidden by law. No CITY official shall be directly or indirectly interested in this contract.
- N. **Severability:** This Agreement is subject to the laws of the United States of America, the State of Michigan, and the Ordinances of the City of South Lyon. In the event that any provision of this Agreement shall be held to be contrary to law or Ordinance by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision or provisions shall be voided. All other terms and conditions of the Agreement shall continue in full force and effect. The voided provision or provisions may be renegotiated at the written request of either party to this Agreement.
- O. **Governing Law:** This Agreement shall be deemed to be a contract made in the State of Michigan and shall be interpreted and construed in all respects in accordance with the laws of the State of Michigan applicable to contracts wholly to be performed therein.
- P. **Modification:** Any alterations, variations, modifications or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, signed by the authorized representatives of THE CITY and Contractor and attached to this Agreement.
- Q. **Representation:** THE CITY and the Contractor each represent to the other that, by their respective execution of this Agreement they have obtained all necessary consents and approvals required for their respective execution and performance thereof.
- R. **Integration:** The Parties agree that the entire Agreement between the Parties is contained herein and that this Agreement, including any and all exhibits attached hereto, supersede all oral agreements and negotiations between the Parties relating to the subject matter hereof, as well as any previous agreements between the Contractor and THE CITY or either of them relating to the subject matter hereof.

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

EXECUTION

In Witness whereof, the Parties hereto set their hands.

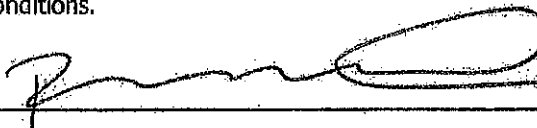
By the duly elected or appointed representatives of **THE CITY**:

Mayor

Date

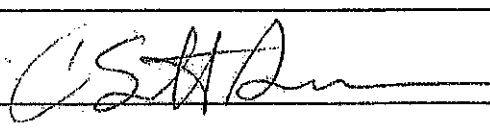
By the duly appointed representatives of the **CONTRACTOR**.

The Contractor acknowledges by his/her signature on this document that the Contractor has received a copy of this contract and is in full agreement with the terms as imposed upon the Contractor by this Agreement and that the Contractor will comply with those terms and conditions.



RANDALL DUNCAN
Name

3/12/13
Date



C. SCOTT DUNCAN
Witness

3/12/13
Date

City of South Lyon
Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement

Attachment A

GENERAL PROVISIONS

1.1 Term

The term of this contract is for five (5) years commencing on July 1, 2013, and ending June 30, 2018. THE CITY may renew the Contract for one (1) three-year term (extension) under the conditions set forth in the Contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

1.2 Customer Communications and Complaint Handling Procedure

The Contractor must designate a Manager to supervise all work and operations to be performed under this contract. Said manager shall have substantial experience in the management and operation of refuse collection and recycling systems for a similar size service area.

The Contractor shall have at least one (1) full-time Field Supervisor, exclusive to and approved by THE CITY. The Field Supervisor shall familiarize himself with all service stops under contract. The Field Supervisor shall make a daily check with THE CITY to assure pick-up as scheduled.

The Contractor shall make a local telephone number available to receive all service complaints, which shall be logged. At its discretion, the CITY may designate a CITY department or agency and a telephone number to receive all service complaints, which shall be logged. The Field Supervisor shall arrange to pick up or receive such complaints every day for immediate action. The Field Supervisor will have until the end of the day to resolve complaints, with a maximum time limit of 36 hours or the end of the following regular business day. The complaint resolution action will be logged the next day or before. Any complaint not closed out during the required period will be noted and reviewed by THE CITY, or its designee, to determine if liquidated damages are appropriate.

The Contractor shall ensure that the Field Supervisor is equipped with a cellular telephone by which THE CITY may contact the Field Supervisor during business hours regarding, but limited to, complaints and special pickups.

1.3 Service Standards

The Contractor shall provide complete service for all routes each day as scheduled. The Contractor shall not commence collection in residential areas prior to 7:00 a.m. and shall be completed by 6:00 p.m. Collection on major roadways shall be completed by 5:00 p.m. All collections shall be made as quietly as possible. Unnecessarily noisy trucks or equipment are prohibited.

The Contractor shall pick-up all blown, littered, and broken materials occurring at the point of collection resulting from its collection and hauling operations. Each vehicle shall be equipped with a broom, shovel, and suitable absorbent material for use in cleaning up any spilled debris or material from city streets, sidewalks, or residential property when said spillage is caused by the Contractor. Care shall be taken to prevent damage to property, including lawns, shrubs, and other plants.

City of South Lyon
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THE CITY shall cooperate in requiring residents to provide and maintain suitable containers. The Contractor shall exercise care in the handling of containers, making certain that containers are emptied completely. The Contractor must replace containers in an erect position with the lids replaced thereon, or adjacent thereto. In the event the Contractor damages a resident's container(s), the Contractor shall be responsible to replace said container(s) with one of equivalent value at the Contractor's expense and within forty-eight (48) hours, excluding weekends.

Adverse weather shall not be considered reason for not providing services unless approved by THE CITY, which shall be not be unreasonably withheld. When adverse weather conditions exist, the contractor shall notify THE CITY if the continuation of service jeopardizes the safety of employees.

The Contractor shall assign a qualified person or persons to be in charge of its performance of this Contract, and shall advise THE CITY of such persons in advance and when changes occur.

All persons employed by the Contractor shall be competent, skilled, and qualified in the performance of the work to which they are assigned. All personnel shall maintain a courteous and respectful attitude towards the public at all times. The Contractor shall furnish employees with uniforms, which shall always be as neat and clean as circumstances permit. The Contractor shall inform THE CITY of all employee training programs related to customer relations, services, and safety issues.

At no time shall the Contractor's employees solicit, request or receive gratuities of any kind. The Contractor shall direct its employees to avoid loud/or profane language at all times during the performance of their duties. Any employee of the Contractor who engages in misconduct or is incompetent or negligent in the proper performance of their duties or is dishonest, disorderly, intoxicated or discourteous, shall be subject to discharge by the Contractor.

THE CITY may request the dismissal or removal of any employee of the Contractor who violates the provisions hereto, or who is wantonly negligent or discourteous in the performance of their duties.

1.3.1 Field Rules and Regulations

The Contractor, in performing services under the contract, shall abide by the following rules and regulations and such other rules and regulations as THE CITY may promulgate from time to time.

1. All refuse spilled by the Contractor, or any spilled refuse caused by wind, animals, etc., shall be picked up by the Contractor in the course of its regularly scheduled pick-up.
2. Employees must be courteous. Disorderly workers shall be removed when so ordered by THE CITY.
3. Containers must be put back in approximately the place from where they were picked up.
4. Container lids shall be replaced on containers or must be neatly placed next to containers and not scattered.
5. Rough handling of containers will not be tolerated. Damaged containers shall be replaced or repaired by Contractor at the Contractor's expense.

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6. Collection crews will neither consume controlled substances nor drink alcoholic beverages nor accept remuneration of any kind from residents while performing services under this contract. Violation of this rule shall be cause for dismissal of the employee when requested by THE CITY.

7. THE CITY expressly reserves the right to make additional reasonable rules and regulations by which the Contractor shall abide.

1.4 DETERMINATION OF RESIDENTIAL UNITS SERVICED

For the purposes of responding to this proposal, the number of residential units expected to be provided with curbside collection services for solid waste, recycling, and yard waste is as indicated in Section 1.1.3 and Appendix B of the Request for Proposals Issued by RRRASOC on February 28, 2007, including addenda, unless otherwise specified and agreed to by both the Contractor and THE CITY. THE CITY shall provide the Contractor with a list of identifying the addresses of the homes to be serviced upon request.

For billing purposes prior to the initiation of service, the selected contractor and THE CITY will jointly complete and agree on a total unit count for each service type and for each route day. Route days shall be determined by mutual agreement between THE CITY and the Contractor.

At the time such a unit count becomes documented, the number of residential units serviced for billing purposes shall be updated monthly by 1) adding the number of occupancy permits for residential structures with single-family, two-family, three-family and four family residences per structure requiring curbside refuse service as issued by the Building Department of The CITY; and 2) deleting the number of complete demolition permits for residential structures with single-family, two-family, three-family and four family residences issued by that Building Department; or in a manner deem acceptable by the Contractor and THE CITY.

1.5 COLLECTION AND DISPOSAL OF SOLID WASTE ON SUNDAY

The collection and disposal of solid waste on Sundays shall not be allowed unless otherwise approved by THE CITY. The Contractor shall not utilize Sundays as a designated collection day in the Schedule of Operations.

1.6 HOLIDAYS

The Contractor shall honor only the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The Contractor shall provide THE CITY with the following year's collection schedule by August of the current year. THE CITY shall be responsible for publicizing any changes in collection schedules due to observance of the above holidays.

1.7 VEHICLES AND EQUIPMENT

The Contractor shall provide adequate and sufficient garages, shops, and yards to provide all-weather year round operation and to adequately clean and maintain vehicles and equipment. All vehicles, equipment and facilities used by the Contractor shall be kept and maintained in sanitary condition, in good repair, and free of visual defects, such as but not limited to, rust or body damage. Vehicles, equipment and facilities shall be subject to inspection for safety, sanitation, repair, and appearance, and subject to approval or rejection THE CITY at any time. Employees driving Contractor's vehicles shall have a valid operator's license of the State of Michigan and shall meet state and federal requirements concerning commercial licensing.

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The Contractor shall not use THE CITY's name or other words implying ownership on stationery, vehicles or equipment, except for a sign on vehicles designating that the Contractor is an official Contractor.

All vehicles and equipment used in collection and transportation of solid waste, recyclables, and yard waste within THE CITY shall be of sufficient size, capacity, and number to adequately and efficiently collect solid waste, recyclables, and yard waste in accordance with the terms of this contract, including under special or unique circumstances.

1.8 LIQUIDATED DAMAGES

THE CITY shall notify the Contractor for each violation of the contract reported to THE CITY. It shall be the duty of the Contractor to take proper action to remedy the cause of the complaint within thirty-six (36) hours after notification. Failure to remedy the cause of the complaint within the specified time period shall constitute a breach of this contract. For the purpose of computing damages under the provisions of this section, it is agreed that THE CITY shall have authority to deduct from payments due the Contractor, the following amount as liquidated damages:

1. Failure to clean up spilled refuse:
\$25 for each incident.
2. Failure to clean vehicle, conveyances, containers, docks, yards, shops, and other equipment as provided in the specifications:
\$50 for each incident.
3. Failure to complete all routine pickups by 6:00 p.m. on the scheduled day or failure to complete all routine pickups on major roads by 5:00 p.m. on the scheduled day:
\$100.00 for each incident with each late pickup as a separate incident.
4. Failure to collect solid waste, recyclables, and yard waste within 36 hours after notification of a complaint or by the end of the following regular business day:
\$100.00 for each incident.
5. Failure to maintain vehicle in operable condition and acceptable appearance after inspection and notice by THE CITY:
\$500.00 for each incident.

The liquidated damages provided for herein are not considered as penalties and were not calculated in contemplation or anticipation that the Contractor would default. Liquidated damages shall not be initiated in for violations that occur due to events beyond the Contractor's control. In the event the Contractor does default or otherwise abandon the project, THE CITY reserves the right to collect from the Contractor or its surety, in addition to the liquidated damages, the actual damages incurred by THE CITY as a result of the default or abandonment.

The assessment of liquidated damages shall be determined by THE CITY and deductions made from the payment each month to the Contractor. The decision of THE CITY in the matter will be binding. The Contractor may at their option initiate the dispute resolution process included in this service agreement.

1.9 CONTRACT PRICE ADJUSTMENTS

The contract price schedule shall be reviewed and revised in June of each contract year and extension period, if any, in accordance with the most recent full calendar year annual percentage increase or decrease in the reference annual Consumer Price Index escalator, and the contract

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price shall be established for the next contract year beginning on July 1, following the June evaluation, except, however, that the price adjustment shall not exceed three (3) percent. No other changes in contract prices are permitted, except as authorized by this agreement.

The reference Consumer Price Index shall be the Consumer Price Index - All Urban Consumers for the Detroit-Ann Arbor-Flint area (all items), base period: 1982-84=100, as published by the Bureau of Labor Statistics, U.S. Department of Labor.

In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, another equally authoritative measure of change in the purchasing power of the U. S. dollar as may be then available shall be substituted.

1.10 BASIS AND METHOD OF PAYMENT

The Contractor shall be paid for services rendered under the terms of the Contract, within a reasonable time (normally 30 days) after completion of the work at month end, and receipt and approval by THE CITY of the itemized billing, the fees earned the previous month. The amount remitted to the Contractor by THE CITY shall be the number of units serviced times the rate agreed upon in the Contract for each unit.

1.11 DISPOSAL OF SOLID WASTE AND OTHER MATERIALS

THE CITY specifically reserves the right to direct the yard waste and recyclables collected under these provisions to a specific state approved disposal facility or, if appropriate, to an approved collection site, recycling facility or compost facility, upon agreement by the Contractor, which shall not be unreasonably withheld. THE CITY retains the right to terminate the contract, on ninety (90) days written notice, if the Contractor does not comply with the direction of yard waste or recyclables as set forth. Should THE CITY exercise its right to direct material to specific facilities, THE CITY shall pay the disposal fees directly to such facilities, unless otherwise specified. The Contractor shall be entitled compensation for services in accordance with the Contractor's response to the RFP issued by RRRASOC on February 28, 2007, including addenda.

1.12 ACCESS

The Contractor will not be required to pick up waste if a road becomes impassable and prohibits access to a residential unit from any direction on a roadway. The Contractor, however, will be required to notify THE CITY of this occurrence and will be required to pick up waste at the nearest public roadway or at a point of closure.

The Contractor may be required to pick up waste in an alternate vehicle under circumstances that prohibit the standard collection vehicle from access to a residential unit.

1.13 PRIVATE DRIVEWAYS

The Contractor shall not be required to enter private driveways. However, certain private roads may be considered access roads for purposes of this Agreement.

1.14 ROUTES AND SERVICED ADDRESSES

THE CITY shall provide an accurate address list identifying the homes to be serviced by the Contractor, upon request.

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1.15 HAULING

All solid waste hauled by the Contractor shall be contained, tied, or enclosed so that leaking, spilling, or blowing are prevented.

1.16 STORMS AND OTHER DISASTERS

In case of an unusual storm or other disaster, THE CITY may, at its discretion, grant the Contractor reasonable variance from regular schedules and routes. As soon as practicable after such storm or disaster, the Contractor shall advise THE CITY of the estimated time required before regular schedules and routes can be resumed.

1.17 ADDITIONAL SERVICE

THE CITY shall not be responsible to the Contractor for any additional services that fall outside the scope of this Agreement which are provided by the Contractor without the request of THE CITY. The Contractor shall not charge any residents for services provided under the terms of the contract, unless otherwise specified by the Agreement.

1.18 INFRASTRUCTURE RENOVATION/STREETS BLOCKED BY CONSTRUCTION

Periodically major renovation is necessary to maintain the infrastructure within THE CITY. This includes such activities as replacing gas, water and sewer lines, surfacing or resurfacing streets, and replacing wiring for telephone, electricity, or cable television.

If THE CITY or designee is notified in advance of these activities, the Contractor will be notified. However, it is not uncommon for work to be initiated without prior notification. Alternate sanitation service must be provided during this period of disruption. No additional fees shall be payable for services provided under these conditions.

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Attachment B

CONTRACTOR'S SERVICE SPECIFICATIONS

2.1 Residential Collection Services

The Contractor shall be required to maintain a high level of solid waste, recycling, and yard waste collection and disposal services. Refuse shall be collected from all containers presently in use and in all forms presently used. The Contractor shall collect, transport and dispose all refuse, rubbish, debris, recyclables, and yard waste which the resident may desire to have removed weekly. The Contractor shall collect, transport and dispose all material residents properly place at the curb, unless otherwise specified herein. Residents shall be provided with written instructions and/or explanations by the Contractor when the Contractor deems an item or items to be improperly prepared or unsuitable for curbside collection.

2.1.1 Residential Refuse Collection

The Contractor shall operate a curbside refuse collection, transportation, and disposal system, which shall result in the removal of all solid waste from all designated residential units and its being transported for disposal to an appropriate solid waste disposal facility, in accordance with all municipal, county, state and federal laws, ordinances, and regulations.

Residential units are comprised of housing that is located in single-family neighborhoods or streets. These include duplex and triplex type multi-family housing and units. An account of the current number and location of these units has been included in the RFP Issued February 28, 2007, including addenda.

Refuse means all animal and vegetable food waste and all waste which normally results from the operation of a household, except body waste and yard waste, including but not limited to rubbish, metal cans, papers, cardboard, glass jars, bottles, wood, logs, ashes, sod, dirt, rocks, cement, bricks, small household appliances, furniture, plastics and any other household refuse small enough for one person to handle and no more than sixty (60) pounds.

Residents will place refuse in refuse bags, or watertight containers of substantial construction with tight fitting lids and lifting handles and not to exceed 35 gallons in size. Refuse placed in cardboard containers and plastic or paper bags shall be considered part of the refuse and shall be collected as part of residential solid waste collection. Total weight of a single container and its contents shall not exceed sixty (60) pounds. Some articles cannot be conveniently placed in containers. Such articles, if within the weight and size limitations, must be handled individually by the Contractor. No single piece of refuse must be collected if it weighs more than sixty (60) pounds, except bulky items as hereinafter set forth.

The Contractor shall exercise reasonable care and diligence in handling containers. THE CITY will cooperate in requiring homeowners to provide and maintain suitable containers, and the Contractor must exercise due care in preventing damage to containers, thereto, and shall return all containers to an upright position with the lids replaced thereon or adjacent thereto. In the event the Contractor damages a container(s), the Contractor shall be responsible for replacing said container(s) with one of equivalent value at Contractor's expense within forty-eight (48) hours (excluding Saturdays and Sundays).

THE CITY reserves the right to impose a bag/can limit on the housing units to be serviced and implement a variable rate, bag/tag, or Pay-As-You-Throw system. Should such a system be implemented, the Contractor would only pick up bags, containers or other household items that are within the bag/can limit or are properly tagged. THE CITY will give the Contractor ninety (90) days notice before implementing such a system.

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A written monthly tonnage report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the daily and monthly volume of deliveries made to the disposal facility by the Contractor on behalf of THE CITY. Further, THE CITY retains the right to require the use of specific reporting means at any time during the contract, without additional cost to THE CITY.

2.1.2 Residential Bulky Waste

As part of the solid waste unit price and not as a separate pay item, the Contractor shall pick up as part of the refuse pick-up and shall deposit in the same truck or separate trucks if necessary all bulky items including but not limited to fixtures and furniture, storm doors and windows, tubs, toilets, sinks, carpets and pads, railroad ties, and fence posts or fences not exceeding 3' x 4' in dimension, and small quantities of building debris resulting from repair or remodeling personally done by the home occupant which have been placed at the curb.

The Contractor shall not be required to collect engines, transmissions or rear axles, or bulky items resulting from the home occupant's personal repair or remodeling that exceed five feet (5') in length. The Contractor will not be required to pick up junk cars, large parts of cars, demolition materials or other material resulting from the repair or construction of buildings except as otherwise provided herein.

2.1.3 Residential White Goods

As part of the solid waste unit price and not as a separate pay item, the Contractor shall collect recyclable metal bulky items including, but not limited to household appliances such as stoves, refrigerators, freezers, washers, dryers, water heaters, water softeners and water tanks in a separate truck. Such items shall be recycled whenever feasible. Generally these household metal bulky items may also include small metal sheds, swimming pools, garage doors, fenders, hoods of cars, etc. This collection is required to be made on the same day as scheduled refuse collection.

The Contractor shall be responsible for complying with all applicable laws concerning the disposal or recycling of air conditioning and refrigeration equipment, including but not limited to the provisions of the Clean Air Act which prohibits the venting of refrigerants into the atmosphere. It shall be the Contractor's responsibilities to haul material and to insure that freon-containing material that are not tagged are delivered to a designated facility for proper removal. Residents shall not be required to ensure that freon or other such refrigerants are removed prior to collection.

A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the tonnage of this material that is recycled and the scrap metal recycling facility to which it was delivered.

2.1.4 Handicap/Back-Door Pickup

There may be residential units on the collection routes that are occupied by individuals who have been determined by THE CITY to be unable to move refuse and yard debris to the curb. These locations will require back-door service by the Contractor as part of the regularly scheduled refuse collection. The Contractor will be required to bring the containers to the curb and will be encouraged, but not be required, to return the container to the back door. The Contractor and THE CITY will mutually agree upon the eligibility, price, and frequency of such service.

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2.1.5 Multi-Family Solid Waste and Recycling Collection

THE CITY provides solid waste and recycling collection services to certain multi-family complexes located within THE CITY. Such services are generally considered individual stops but may be subject to a discounted price based on the waste generation characteristics of such households. Such locations shall be identified by THE CITY.

2.1.6 Christmas Trees

Christmas trees placed out at any time may be collected as part of the regular refuse collection, unless otherwise prohibited by law.

2.1.7 Yard Waste/Lawn Debris Collection

As part of the solid waste unit price and included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up unlimited, separated yard waste and lawn debris as part of the regularly scheduled collection required by this Contract. The period of collection shall be from the Monday of the first full week of April through the Friday of the last full week of November, unless otherwise specified by mutual agreement between the Contractor and THE CITY. The Contractor will provide, upon request of THE CITY, additional yard waste/ lawn debris collection, provided the Contractor has access to a compost site that is open and accepting material. The rate for this additional service shall be as specified in Attachment C.

All yard waste and lawn debris shall be transported for disposal to an appropriate compost site, in accordance with all municipal, county, state and federal laws, ordinances, and regulations, and under no circumstances to a landfill or disposal facility, unless otherwise specified herein and permitted by law. A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the daily and monthly volume of deliveries made to the facility by the Contractor on behalf of THE CITY.

Acceptable yard waste and lawn debris shall include grass clippings, weeds, leaves, small twigs, prunings, shrub clippings, garden waste materials and fruit; old potting soil, Halloween pumpkins, dirt incidental to minor plantings or edging of lawns; brush, branches, tree trimmings, shrub clippings tied and bundled with biodegradable string or twine; and small shrubs and bushes with dirt removed from root systems; or any other material defined by law as "yard clippings".

Acceptable yard waste and lawn debris shall include so called "woody" or "hard" yard waste as long as it is properly prepared. The Contractor will not be required to pick up tree branches or logs greater than three inches (3") in diameter, longer than four feet (4') in length, tied or secured with string or twine in bundles larger than eighteen inches (18") in diameter, or weighing in excess of sixty (60) pounds. Such material shall be collected as part of regular refuse collection unless otherwise prohibited by law.

The yard debris will be bundled as required, placed in large capacity kraft / paper bags or placed loose in cans with a "yard waste recycling" or "compost" sticker provided by THE CITY on opposite sides of the container.

Brush, branches, tree trimmings, shrub clippings tied and bundled and set out for collection at other than the designated yard waste/lawn debris collection season shall be collected as part of the regular refuse collection, unless otherwise prohibited by law.

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2.1.8 Recycling Collection

As part of the solid waste unit price and included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up on the same day as the regularly scheduled refuse collection required by this Contract, recyclable materials set-out as per the specifications identified by THE CITY, as specified in the MSA.

The recyclable materials shall be collected in single stream fashion using the existing curbside bin system.

All recyclable material shall be transported to and tipped at no cost to the Contractor at the RRRASOC Material Recovery Facility, located at 20000 W. Eight Mile Rd., Southfield, MI 48075. A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the weekly and monthly volume of deliveries made to the facility by the Contractor on behalf of THE CITY. Further, THE CITY retains the right to require the use of specific reporting means at any time during the contract, without additional cost to THE CITY.

2.2 Other Municipal Solid Waste Services

THE CITY may request other Municipal Solid Waste Services including, but not limited to, solid waste container service at municipal buildings and facilities, clean-up assistance, and DPW debris transport and disposal. Such services shall be billed in accordance with the fee schedule included in Attachment C and included in the monthly invoice submitted to THE CITY.

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Attachment C

CONTRACTOR'S COMPENSATION

1. **Form of Invoice:** The monthly invoice submitted by the Contractor must contain the following information.
 - (a) **Fee for Units Serviced:** Provide an Itemization of the total number of units serviced, the type of service provided, the unit price for that service as modified by any applicable price escalation factor as provided for in this agreement and the extension of that unit price multiplied by the number of units serviced.
 - (b) **Subtotal for Invoice:** Sum a total of any itemization in 1(a) above.
 - (c) **Deducts:** Subtract and deductions allowed for Liquidated Damages (See Section 5-J, Liquidated Damages).
 - (d) **Final Amount Due:** Sum the total of charges and deductions that is to be paid by THE CITY to the Contractor.
2. **Contractor's Base Price Rate Schedule for collection, transportation, and disposal (solid waste unit price as of July 1, 2013):**
 - (a) Residential Units (\$/year):

	Single-Family Units		Multi-Family Units	
Refuse	\$	84.60	\$	67.68
Yard Waste	\$	28.44	\$	28.44
Recycling	\$	20.88	\$	20.88
Total	\$	133.92	\$	117.00

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(b) Other Services

Municipal Solid Waste Containers (with Disposal Costs Included), Special Services, and Recycling Containers.

Solid Waste Containers	Price effective FY 2013/14
96 Gallon Cart, cost per pull (hauling & disposal)	3.96
96 Gallon Cart, rental cost/month	
2 CY Dumpster, cost per pull (hauling & disposal)	\$ 12.18
2 CY Dumpster, rental cost/month	Included
4 CY Dumpster, cost per pull (hauling & disposal)	\$ 17.05
4 CY Dumpster, rental cost/month	Included
6 CY Dumpster, cost per pull (hauling & disposal)	\$ 21.93
6 CY Dumpster, rental cost/month	included
8 CY Dumpster, cost per pull (hauling & disposal)	\$ 26.79
8 CY Dumpster, rental cost/month	included
10 CY Roll-off, cost per pull (hauling & disposal)	\$ 184.76
10 CY Roll-off, rental cost/month	\$ 52.79
30 CY Roll-off, cost per pull (hauling & disposal)	\$ 263.94
30 CY Roll-off, rental cost/month	\$ 79.18
40 CY Roll-off cost per pull (hauling & disposal)	\$ 369.51
40 CY Roll-off, rental cost/month	\$ 105.57

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Recycling Containers	Price
96 Gallon Cart, cost per pull (hauling only)	\$ 3.96
96 Gallon Cart, rental cost/month	Included
2 CY Dumpster, cost per pull (hauling only)	\$ 12.18
2 CY Dumpster, rental cost/month	Included
4 CY Dumpster, cost per pull (hauling only)	\$ 17.05
4 CY Dumpster, rental cost/month	Included
6 CY Dumpster, cost per pull (hauling only)	\$ 21.93
6 CY Dumpster, rental cost/month	Included
8 CY Dumpster, cost per pull (hauling only)	\$ 26.79
8 CY Dumpster, rental cost/month	Included
10 CY Roll-off, cost per pull (hauling only)	\$ 105.57
10 CY Roll-off, rental cost/month	\$ 52.79
30 CY Roll-off, cost per pull (hauling only)	\$ 158.36
30 CY Roll-off, rental cost/month	\$ 79.18
40 CY Roll-off cost per pull (hauling only)	\$ 205.87
40 CY Roll-off, rental cost/month	\$ 105.57

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Special Services and Disposal	Price
Pickup Truck and Crew, \$/hour	\$ 79.18
Stake Truck and Crew, \$/hour	\$ 131.97
Dump Truck and Crew, \$/hour	\$ 158.36
Rear Load Compacting Truck & Crew, \$/hour	\$ 158.36
Front Load Compacting Truck & Crew, \$/hour	\$ 184.76
Roll-off Truck and Crew, \$/hour	\$ 158.36
"Log Grabber" Truck and Crew, \$/hour	na
Skid Steer w/Grapple Bucket & Crew, \$/hour	na
Front-End Loader and Crew, \$/hour	na
DPW Debris Disposal ⁽²⁾ , \$/ton	na
Leaf Vacuum Program Leaf Disposal, \$/ton	na
C & D Debris Disposal, \$/ton	na

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Attachment D

RECYCLABLE MATERIALS SPECIFICATIONS

COMMINGLED CONTAINERS consist of the following, loose, uncompacted, and commingled, placed in bins or carts:

- Glass, transparent and translucent food and beverage bottles and jars. Paper labels are acceptable as are rings and lids on glass containers.
- Tin/Steel cans, tin plated, food and beverage containers, all sizes; paper labels are acceptable.
- Aluminum used beverage containers and foil clean of food.
- All plastic bottles.
- Plastic Household Tubs/Containers #1, 2 and 4-7 which Includes plastic yogurt and margarine tubs, frozen concentrated juice containers, Folgers coffee 'cans,' freezer microwave trays, berry boxes (#1) including attached lids, salad/carryout boxes (#1). Clean and free of residue, No #3.
- Agricultural Plant Trays and Pots; clean, free of residue and soil.
- Household scrap metal that will fit in the recycling bin.
- Multi-coated/plastic-coated paper beverage cartons: Including milk and juice cartons (Aseptic).
- Bulky HDPE is defined as large HDPE items (buckets, crates, toys, trays, furniture, bins, barrels etc.), no larger than 2' x 2'. This category is often referred to as "Injection HDPE".

COMMINGLED FIBER consist of the following, loose, and commingled

- ONP - old newspapers and advertisement inserts, loose or placed in Kraft (brown) paper bags. Old newspaper that contains incidental moisture from rain on collection days is acceptable. Soaked paper or yellowed newsprint is unacceptable.
- OMG - old magazines containing glossy coated paper, including catalogues, glossy fillers or mailers, loose or placed in Kraft (brown) paper bags, with the exception of wet material or material that was once wet.
- OCC - old corrugated containers (cardboard) that are flattened and either cut down or folded to size no more than 2 by 2 feet and that have liners of Kraft, jute, or test liner. Staples and tape with water soluble glues do not have to be removed. OCC can be damp but not soaked. Wax-coated and oriental old corrugated containers are not acceptable.
- Kraft (brown) paper bags - all sizes of loose, bundled or bagged Kraft paper grocery sacks.

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- Junk mail - all dry, loose or bagged bulk mail consisting of paper or cardboard. All unopened junk mail and envelopes with window are acceptable.
- High-grade paper - all dry, loose or bagged white and colored ledger and copier paper, note pad paper (no backing), loose leaf fillers, computer paper (continuous-form perforated white bond or green-bar paper).
- Boxboard - all non-corrugated cardboard, commonly used in dry food and cereal boxes, shoe boxes, and other similar packaging. Boxboard with wax or plastic coating and boxboard that has been contaminated by food is not acceptable.
- Telephone Books

Maximum allowable contamination rate: 6%

DELIVERY RULES AND REGULATIONS

- Residents and businesses shall discard containers' contents and rinse the containers. They are encouraged to discard, labels, caps, and rings; but there is no requirement for these to be removed from Recyclable Materials.
- Materials delivered will contain all of the commingled items listed for each category and in proportions that can be reasonably expected from a municipal curbside collection, recycling program.
- Recyclables, particularly non-fiber items, will not be delivered in bags unless specifically allowed or directed above.
- Operators of rear-dumping vehicles will be required to sweep clean all materials from the empty compartment before proceeding to the next tipping area.
- Loads will be considered non-conforming to Facility Delivery Standards if:
 1. They are found to be contaminated with Hazardous or Infectious Waste.
 2. A load contains more than the maximum allowable contamination of materials that are not acceptable as Recyclables, but are not Hazardous or Infectious Waste.