

**Regular City Council Meeting  
April 23, 2018  
Agenda**

**7:30 p.m.**      **Call to Order**  
                  **Pledge of Allegiance**  
                  **Roll Call**  
                  **Approval of Minutes:** March 28, 2018, April 9, 2018, April 11, 2018 and April 16, 2018  
                  **Approval of Bills:** None  
                  **Approval of Agenda**  
                  **Public Comment**  
                  **Discussion-** Downtown

**I.    Old Business –**

1. Consider second reading of rezoning 500 Stryker
2. Consider First Reading of revised Liquor License Ordinance
3. Discussion- Planning Commission

**II.   New Business-**

1. Budget Amendments
2. Consider approval of LUNgevity Run
3. Consider approval of Lake Street Cruise In
4. Consider approval of Motorfest 2018
5. Consider approval of purchase of raw sewage pump
6. Consider ASTI proposal
7. Discussion of Leaf Pick up and disposal
8. Consider Farmers Market expansion

**III.   Budget**

**IV.   Manager's Report**

**V.    Council Comments-**

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

**VII.   Adjournment**

SPECIAL CITY COUNCIL MEETING  
BUDGET WORKSHOP  
MARCH 28, 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: Lieutenant Sovik, Attorney Wilhelm, Department Head Boven, Fire Chief Vogel,  
Bookkeeper Mosier, and Clerk/Treasurer Deaton  
Absent: Councilmember Parisien, and Chief Collins

Brian Camiller of Plante Moran stated this is a draft budget and we only have a short period of time tonight, so he wants to stay on topic. He then explained the ground rules of the meeting.

1. Big Picture
  - a. Pension and OPEB Funding

Mr. Camiller stated the City is not in violation of the PA202 which requires 60% funding and the City is currently 66% funded. He stated Council will have to decide if prefunding is something they want to do, and if so, are they willing to charge the residents more for taxes. He then explained the OPEB is currently 0% funded, but it is only 1.5% of government revenue. He stated some communities can afford to pre-fund, but some communities cannot.

- b. Utility Rates

Mr. Camiller stated some communities raise their rates annually, which is what he recommends. He stated you need to make sure you have enough money for your system, and if you have a yearly increase, it will train people to expect a yearly increase. He further stated the City currently has a well-funded system. The Water and Sewer account has \$8 million in cash. Mr. Camiller explained the City hired RW Baird for a rate study and that study calls for a 13.2% raise for water and 6.9% raise for sewer to achieve the required 110% debt service coverage. He stated that doesn't mean you have to stay with that study. You are not in any danger of running out of money. He stated another option would be to have Plante Moran do a quick rate study and the City could compare the 2 studies then make a decision of what increase should be made. Councilmember Kivell stated he would like to see the two studies for comparison to see if there is some middle point we can use. Councilmember Kurtzweil asked if the Baird calculations include increases to cover the debt service 110%, why would we not do that. Stated if we have \$4 million in restricted funds and \$4 million for whatever, that doesn't seem like a lot of money for the water plant. Mr. Camiller explained he disagrees, that is a good amount of money. He further stated you are already gaining money each year. Councilmember Kennedy asked when the rates were last raised. Ms. Mosier stated the water and sewer fees were raised last year. Mr. Camiller asked if Council wants to discuss prefunding the pension or OPEB? Councilmember Kurtzweil asked if the million dollars will increase overtime. Mr. Camiller stated it could, if you increase your stipend, or if people live longer, because it is based on an actuary which guesses how long people will live. He further stated he believes in saving to pay liability but you can if we want to pay as we go and pay a certain amount per person. Councilmember Richards stated the City has a lot of vacant homes in town, and they are not off the grid, someone gets a water bill and someone pays it for the first 9 years, at that time, they go off the grid and no more bills are sent out. He stated the most important thing is to increase revenue and building permits are limited to us. Mr. Camiller stated he would not suggest raising tap in fees as opposed to water and sewer rates. That is why he suggests raising rates every year. Ms. Mosier stated the OPEB is terminated

when the employee turns 65 years old. Councilmember Kennedy asked how much money we haven't collected because residents are not calling to have their meters replaced. Department Head Boven stated there is about 200 to be replaced and we will be targeting that. Councilmember Kennedy stated someone waiting a year and a half to wait and have their meter replaced. Department Head Boven stated his thought is if the resident won't call to have their meter replaced, we shut them off until they do. He further stated it is always in their benefit if their meter stops working.

## 2. Revenue

### a. Property Tax

Mr. Camiller stated the taxable value is up \$17 million per Oakland County Assessor. He further stated as of now, in this draft budget, there is a millage increase of 0.4062 mills with an increase to Operating and a decrease to Debt, Capital Improvement, and Land Acquisition. He further stated the General Fund currently has a surplus of \$180,000 which could be used for the pension unfunded liability of Council if chooses to do so. Or Council can raise the millage for pre-funding. If you just want to pay the bills as they come in, you don't have to raise the millage.

Councilmember Kennedy asked what the authorized amount is that the City can raise the millage without voter approval. Ms. Mosier stated 13.4710 is the maximum under Headlee. Mr. Camiller stated the current mill rate is 12.64. He further stated 1 mill is \$359,000.00

Councilmember Kurtzweil asked if the 3.0 mills will be enough to cover the debt. Mr. Camiller stated yes, that will cover it because the interest payment of the debt goes down every year. Ms. Mosier stated the 3 mills is for sewer debt not the DWRF, and yes that would be enough. Mr. Camiller stated we receive \$45,000.00 towards that fund from the LCSA money which replaces the personal property taxes municipalities used to receive. Councilmember Kivell asked if that is close to the offset of what the personal property taxes would have been. Mr. Camiller stated the City is coming out ahead.

### b. State Sources

Mr. Camiller stated currently the City received approximately \$1 million from the sales tax which is called state tax revenue sharing. He further stated there is also LCSA where is given to the City to replace the personal property tax. Mr. Camiller stated there is Act 51 road funding which they use a formula of the population multiplied by the miles of roads in the community. The other revenue comes from building permits, which is difficult to determine. Ms. Mosier stated the City only keeps 25% of building permits, the other 75% goes to Safebuilt. She further stated the \$239,000 is an estimate, but again, the City only keeps 25%.

Mr. Camiller stated the City has a Cemetery perpetual care fund, which can only be used for upkeep of the Cemetery, those funds cannot be used for anything else.

Councilmember Kivell stated he heard a story on the radio about someone in the legislature that is trying to reduce Headlee by 2%. He can't imagine that would pass. Mr. Camiller stated that is not a good idea. He further stated he is hoping Lansing will make a change in Headlee to allow communities the ability to charge whatever millage they need to.

Councilmember Kurtzweil asked when the 0.24 mill falls off, could we use that mill elsewhere. Mr. Camiller stated yes, that is a general mill fund. Councilmember Richards stated the City owns a lot of parcels in the City. What if the City wanted to sell some of them, does the money go into general fund, or non-disposable assets. Mr. Camiller stated it depends on how the property was purchased. If it was gifted or bought with grant money, you may not be able to sell it for a profit. Councilmember Kivell stated 390 S Lafayette that was recently purchased, and when we sell it, we cannot make a profit on it, but it will be returned to the tax roll so it can generate tax dollars.

## 3. Debt

Mr. Camiller asked if there would be any additional debt obtained this year. Council was not interested in gaining any new debt in the next fiscal year.

Mr. Camiller stated the City has two bond payments coming off, for the Wells Street Parking which is paid for by the DDA, and the payment was \$35,000 a year. So, after that is paid off, the DDA will have an additional \$35,000 in their budget. He further stated City has the ability to allocate the .24 mills elsewhere. He further stated the Volunteer Park bond will be paid off as well.

Mr. Camiller stated the City has a \$1.1 million bond on the wastewater treatment plant bonds and the debt millage of 3.0 does cover it. He further stated the 3 mills plus the LCSA reimbursement is enough to pay 100% of the debt service for the next 3 years.

Mr. Camiller stated the water revenue bonds are paid through water rates.

Councilmember Richards stated they have a master plan for volunteer park, and phase 1 could cost \$3.6 million dollars. He asked if the City could lease part of the land, possibly to a carnival as Lyon Township does, and if so, where could that money be used. Mr. Camiller stated that would be unrestricted, but you would have to consider the police overtime plus the risk of damage to the park. There would be a lot of risk involved. Councilmember Richards stated other communities have their own cottage industries, like cider mills, and flea markets, he thinks the City should as well.

#### 4. Expenses

Mr. Camiller stated he isn't aware of how many employees that are not in bargaining units, but the contracted raises are part of the master schedule. Ms. Mosier stated there are only 5 or 6 not including part time employees. Mr. Camiller stated the wage numbers are pulled from the wage roster. Ms. Mosier stated she used 10% for the overtime. She stated the Police Department knows what events they have to account for their overtime, but she doesn't have that information. Ms. Mosier stated we paid out Bob Martin so the DPW wages are a little higher. Councilmember Kurtzweil stated from a cost control aspect, it was difficult not having an estimated overtime in the budget. Department Head Boven stated he generally accounts for 90 hours per person per year, which includes snow plowing which can be different every year. Councilmember Kurtzweil stated there was no overtime accounted for administration. Ms. Mosier stated generally administration doesn't get overtime. The only person that would be paid overtime is Judy for taking minutes at Planning and Council meetings, and she will add that to the verbiage. Lieutenant Sovik stated most of their overtime is contractual with holidays, birthdays, there are 13 holidays they get paid in a year. The average is 6 1/2% and most is contractual.

Mr. Camiller stated 10% each seems reasonable and seems managed very well. Lieutenant Sovik stated we get approximately \$10,000 back for police coverage of Pumpkinfest and school dances.

Mr. Camiller stated the Fire Department is requesting a new Explorer and a refurbished ladder. He stated these could be financed over 3-5 years. You have the benefit of the residents paying for that particular year, versus taking the money out of general fund. Councilmember Kurtzweil asked how many miles are on the vehicle they want replaced. Fire Chief Vogel stated 63,000, but the gas mileage and repairs are killing them. We could postpone one more year if we have to. He further stated he would sell the Excursion and put the money into the general fund. We may get \$2,500 for it. Fire Chief Vogel stated we can use the refurbished ladder for at least 10 years. He further stated that for this money, we will get the hydraulics and a minimum of 10 years.

Mr. Camiller stated the Police are requesting 2 cars for \$84,000. Lieutenant Sovik stated that they asked for two last year but ended up with one. Councilmember Kennedy stated one of the ones we are replacing is the one rear ended by the drunk driver, and we should be getting money back for that from insurance. Lieutenant Sovik stated we already have received that money. It will be \$42,000 for the car with all the equipment, lights and graphics. Councilmember Kurtzweil stated she doesn't mind replacing a vehicle that was damaged, but she is not in favor of replacing two. She will not approve the \$10,000 to replace office furniture either. She then asked about them wanting to replace a police officer so we can put a resource officer in the High School. She then asked if the School has asked for an officer. They already

have an Oakland County Sheriff there. She then asked if they have someone trained as a school resource officer. She stated she doesn't mind kicking in money, but it is up to the schools. She is not in favor of adding a police officer to the payroll. Councilmember Kurtzweil stated her opinion is there wasn't anyone that came to the microphone at their meeting discussing the SRO saying they wanted a South Lyon Police Officer in the school, and they already have an Oakland County Sheriff. Why would we even consider this when she can contribute to the Oakland County Sheriff. They have better resources. Lieutenant Sovik stated he has been told people do want a South Lyon Police Officer in the school.

Councilmember Kennedy asked if the drug forfeiture money can be used towards the office furniture. Ms. Mosier stated that is a restricted fund. Mr. Camiller stated you can use it towards a car, but if they get all the computers, they won't have enough in the account. Councilmember Richards stated he went through the Police budget, and 13 lines show a decrease, which is good, but it doesn't offset the legal fees. He asked why the benefits and legal fees increased so much. Lieutenant Sovik stated he doesn't know why the legal fees are up, except there is more prosecutions. Councilmember Richards stated we could save \$50,000 to \$100,00 a year if we went back to motorcycles. Lieutenant Sovik stated we haven't used motorcycles in years, and when we did have them they were rented and it was expensive.

### Capital Improvement

Mr. Camiller stated there is an item for paving the DPW yard for \$350,000. Also \$400,000 being transferred from capital improvements for local streets and \$450,000 for years 2020 and 2021. Department Head Boven stated that is based on the PASER study, and that is only half. Mr. Camiller stated this also includes \$20,000 for a new police roof, and \$7,000 for the fence to be replaced at the Police Department. Councilmember Kivell stated there is no reflection for our portion of paving Dixboro Road. Mr. Camiller stated that is in the current year budget. Lieutenant Sovik stated they are using the \$23,500 of drug forfeiture for 5 new mobile data computers for the vehicles.

Mr. Camiller stated under the vehicle replacement fund there is a request for a new zero turn mower for \$13,000, \$43,000 debt payment for the street sweeper, \$167,000 for a new dump truck and \$90,000 for a new backhoe. He suggests to make these installment purchases and not buy them outright. He further stated the funding for this comes from the general fund, streets, W&S, Cemetery and Parks and Recreation accounts. Department Head Boven stated the dump truck has a cracked frame and is 18 years old, probably not worth \$15,000 and it would cost \$12,000 to fix it. He further stated we aren't going to get much life out of it even if we did fix it. He stated the backhoe is very old and when they drive it, it just stops running. They have had John Deere come out and look at it, but they can't figure out what is wrong with it. Councilmember Richards stated John Deere is very expensive, and we don't have to have the top of the line backhoe. Department Head Boven stated we will take it out to bid and see who responds.

Councilmember Kivell stated the parking lot is very expensive, that may need to be broken down into phases. Will it be contracted or will our guys do it? Department Head Boven stated it will be contracted.

### Water and Sewer

Mr. Camiller stated there is a line item for \$179,000 for the water tower painting and maintenance. \$35,000 to rebuild well #2. Department Head Boven stated that rebuild for well #2 will be removed because it is being done now. Mr. Camiller stated in 2020 there is a line item for \$70,000 for filter tank painting. \$1 million for a new well under the DWRP. \$40,000 to replace one bank of ultraviolet lights and \$30,000 for a raw sewage pump #1 check valve. He further stated you can consider paying for these with cash or bonds. Mayor Pelchat stated a year ago we were having issues with the cameras and recording the meetings. There was an agreement with the schools to split the cost to replace all the equipment. Our cost would be \$38,000. He further stated meetings could then stream live. Mr. Camiller stated he would like Council to consider, do you want to pre-fund pensions and OPEB.

In addition, Council needs to think about if there is anything they are not ok with under capital improvements. He stated he will take that into consideration and update the budget for the next meeting. Councilmember Kurtzweil stated she sent him a detailed questionnaire, and most have been answered this evening. She then asked if the City is required to display any debt services. Ms. Mosier stated there is a link on our website and a printed copy on City Hall for anyone that would like to see it. Councilmember Kurtzweil asked if all department heads have the capability to look at the budget at any time. Ms. Mosier stated they all have print outs, but we are not all on the same server. Councilmember Kurtzweil stated most cities department heads have access to the budget at any time. This is about efficiency. The City needs to move forward with modern technology. Ms. Mosier stated she doesn't have a problem allowing read only access, but again, we aren't all on the same server. Some discussion was held regarding using schedule C for the cost benefit of itemizing the time used on each piece of equipment.

CM 3-1-18 MOTION TO ADJOURN

Motion by Kivell, seconded by Walton

Motion to adjourn the meeting at 9:15 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

\_\_\_\_\_  
Mayor Daniel Pelchat

\_\_\_\_\_  
Clerk Lisa Deaton

REGULAR CITY COUNCIL MEETING  
APRIL 9, 2018

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

Present: Mayor Pelchat, Councilmembers: Kivell, Kennedy, Kurtzweil, Parisien, Richards and Walton  
Also present: Chief Collins, Attorney Wilhelm, Department Head Boven, Fire Chief Vogel, and Deputy Clerk Pieper  
Absent: Clerk Deaton

### MINUTES

Councilmember Parisien stated on page 3 the word sated should be changed to stated. Attorney Wilhelm stated he forwarded an email to Council with numerous changes. Councilmember Kurtzweil stated all changes need to be made on the record. He then read aloud from his email. Page 5, New Business #4, CM 3-8-18 MOTION TO APPOINT ANNE BUCHTRUP TO THE DDA BOARD.

The vote on this matter is not included in the minutes. My recollection is that this was approved unanimously.

Page 6, New Business #7, CM 3-11-18 MOTION TO APPROVE REVISED AGREEMENT

The vote on this matter is not included in the minutes. My recollection is that it was approved unanimously.

As an additional suggestion, while I have not reviewed the recording of this meeting and motion, the Motion as stated in the minutes lacks detail although the surrounding context and agenda note materials include the details. To avoid confusion and to ensure that the City Council's actions are fully and accurately stated in the minutes, which are the official record of its actions, Council may wish to use, read, and revise as needed, the proposed motions provided on the agenda notes which can then be reflected in the minutes. Thus, for example, CM 3-11-18 could be revised to state: "Motion to approve the revised Plante Moran Engagement Letter and Addendum and authorize the Clerk to sign it" which follows the proposed motion on the agenda note.

As an aside – are agenda items and materials which are added to an agenda also added to the city website or somehow reflected?]

Page 6, New Business #8, CM 3-12-18 MOTION TO APPROVE MEMORANDUM OF UNDERSTANDING WITH POAM

Pat's name is misspelled; should be "Aseltyne"

The vote on this motion is not included. I believe it was passed unanimously.

Note, the heading for CM 3-12-18 does not have the detail, but the motion following the heading includes the additional detail regarding authorization to sign the document. Good job.

Page 9, ITEM VII – closed session.

The closed session heading is not included. Also, the CM 3-12-18 duplicates CM 3-12-18. The motions on page 9 should be renumbered CM 3-13-18 and so on. Additionally, the purpose of the closed session is not included in the minutes. The purpose and statutory references are included on the Agenda but that information is not included in the minutes. I suggest that the minutes be revised to state: "CM 3-13-18 MOTION TO ENTER INTO CLOSED SESSION PURSUANT TO SECITON 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) OF THE FOIA.

The next motion to direct the City Attorney . . . should be CM 3-14-18. The vote on this motion is not included and should be added.

The motion to adjourn should be CM 3-15-18, and the vote should be added.

4/9/18

Councilmember Richards stated he wanted to mention to Attorney Wilhelm he received everything he sent to him. It worked ok and he read every line. Seems it has already been decided. He may not have been home, but luckily, he did receive it from Tim, but please let him know when something is coming.

CM 4-1-18 MOTION TO APPROVE THE MINUTES AS AMENDED

Motion by Kivell, supported by Parisien

Motion to approve the minutes as amended

VOTE: MOTION CARRIED UNANIMOUSLY

BILLS

Councilmember Kennedy asked about the invoice for the roof that was fixed on the rental party. The cost came in 20% over the estimate. Has anyone looked at what the rental cost should be on that property? Councilmember Kivell stated \$1200-\$1500 a month was told to him by Abe Ayoub. Councilmember Richards stated the resident intends on moving within a year and he has been a great tenant for many years.

Councilmember Kurtzweil stated the payroll report shows Chief Collins salary in March was \$13,902.00 Chief Collins stated it should equate to 125% of his pay. Councilmember Kurtzweil stated if you multiply that by 12, it equals that to \$168,000.00 Chief Collins stated that amount is not correct. Councilmember Kurtzweil asked what is changing. Chief Collins stated he will calculate it. He further stated that is not the correct amount.

Councilmember Richards stated he totaled the last column in the revenue report and there is an over run of \$54,689.00. He then stated what he doesn't understand is this projected savings, or extra money over budget, or is this really cash. Chief Collins stated that is money collected as of March 31<sup>st</sup> of this year. Council can decide to allocate the funds where they see fit. Councilmember Richards stated if we have extra money, we should use it elsewhere.

CM 4-2-18 MOTION TO APPROVE BILLS

Motion by Kivell, supported by Parisien

Motion to approve the bills as presented

VOTE: MOTION CARRIED- 1 OPPOSED

CITY ATTORNEY BILLS

Councilmember Kurtzweil asked about a charge on his attorney bills for a FOIA request made to the Police Department. Attorney Wilhelm stated he doesn't recall. Councilmember Kurtzweil stated there was another charge on February 21 regarding a FOIA as well. Correspondence to Police Department regarding a FOIA request, who did you talk to. Attorney Wilhelm stated it was regarding a FOIA request by a resident and he spoke with Lieutenant Sovik. Councilmember Richards commended Attorney Wilhelm on all of the bills. He then asked if the extra hours regarding the personnel matter is separate from the retainer. Attorney Wilhelm stated that this is included in the general retainer.

CM 4-3-18 MOTION TO APPROVE ATTORNEY BILLS

Motion by Parisien, supported by Walton

Motion to approve attorney bills as presented

VOTE: MOTION CARRIED- 1 OPPOSED

AGENDA

Chief Collins stated he would like to add an old business under #5 for a rezoning of 500 Stryker.



CM 4-4-18 MOTION TO APPROVE AGENDA AS AMENDED

Motion by Kivell, supported by Parisien

Motion to approve the agenda as amended

VOTE:

MOTION CARRIED – 1 OPPOSED

PUBLIC COMMENT

Ken Hamlin, 6864 6 Mile Road in Northville Michigan. He stated he owns 5H Farms and has been farming a small portion of Volunteer Park for 6 years. His contract was up in 2016, but he also farmed it in 2017. He stated we have a maintenance agreement to start cleaning up the property of weeds and saplings, at his expense for being able to farm the land. That was the repayment for his long hours of work. He is asking to have another contract again. On his behalf it seems it was a big waste of time for him to beautify that property. If the City starts dumping leaves there again, you will get more than leaves, people will start dumping there. Please consider that a sacred piece of ground, not a dumping site. Ryan Cottingin of the Witches Hat stated he is here to speak against the liquor license ordinance. The City is wasting time and money on something that is already taken care of. He is disappointed the same ordinance again. There was discussion earlier about involving the businesses. He stated there are so many things that go above and beyond what the State already handles. He further stated we pull temporary outdoor events, we raise money and food for people in this town. Chief Collins has to sign off on each one already. He wished the City would have involved the business owners. He is against this, this is anti-business. This doesn't make sense.

OLD BUSINESS

1. Discussion- downtown

Bob Donohue stated he is continuing having discussions with different business owners that are interested in coming into town. He further stated two additional wine bars are interested. Mr. Donohue stated he has been meeting with the Farmers Market manager and it will be expanded and more improvements. He further stated with the recommendation from the DDA for the criteria for over the road banners. Councilmember Parisien asked if all the businesses will be involved with Ladies Night. Mr. Donohue stated we are trying to upgrade the event. The event last November was very successful, we had plenty of time and money for that event. We don't have that much time to plan this one on such short notice. Councilmember Parisien asked if the businesses are using their own money for that event, can we at least advertise for them. Mr. Donohue stated of course. Councilmember Kurtzweil stated there is a picture on the City website under the DDA board and it has a watermark and it needs to be removed from the website. She then stated you have to be careful when you get pictures off the internet and use them without the copyright is wrong and it needs to be removed immediately. Councilmember Kivell stated he has enjoyed the comments about the downtown on Facebook recently, but you referenced the custom windows from Pullum, but the windows are actually Quaker windows. Councilmember Richards stated Providence was interested in purchasing 110 Detroit at one point, but the owner wouldn't sell. He stated Providence is now called Essention, and he asked if they are interested in buying that property but they are not. He then stated Mr. Holden left the keys in the lift and someone could have gotten them. There were other tools left as well. He spoke with Mr. Holden and he ended up helping him with some things. He further stated Mr. Holden is doing a good job. Councilmember Richards asked if the DDA is paying for the banners downtown. Mr. Donohue stated anyone that wants to put up a banner will have to apply.

2. Consider second reading of liquor license ordinance

Councilmember Parisien stated the wrong agenda is on the website for the 26<sup>th</sup> meeting. She then stated she takes issue with a few things in this ordinance. She stated on the application there is a written

statement for the character of financial responsibility and she has an issue with the 3 written references. There are things that need to be in there to protect the City but some of these things are burdens to our business owners as well as any new business owner. She stated the state has a very rigorous investigation, and the City doesn't need to be. She further stated there is a written statement explaining in detail how the application and the applicant meet the review criteria listed in sub section 5 and it just seems excessive. We do need some of the things in here, but such things as the financial status, that is already checked by the State, or the history and experience of the business owner. She doesn't want to turn away someone because they are a new business owner. Attorney Wilhelm stated the idea is to hit upon criteria that may come up in a discussion with a new business owner such where will they get the money to run the business. He further stated this list is designed for the applicant to provide the information up front. He stated Council is the policy makers, he can give the rationale as for why things were included, but you can decide what you want to do. Councilmember Parisien stated looking at this from a business owner standpoint, this seems restrictive. State Law already states they have to have a recommendation from a local government. Attorney Wilhelm stated they have to get approval from the City before the State. His perspective is this isn't unreasonable, anyone with a business plan will already have the information. He thinks you need to know who you are going to give the license too upfront. Councilmember Parisien asked if a business owner just paid the fee to the State of Michigan, but then they pay the fees to the City, and the City says no, can the State allow it anyway. Councilmember Kivell stated he understands everyone's concerns, but this license is considered a commodity by someone that really doesn't intend on setting up shop here, then they could take the license with them elsewhere. He stated we need to have the information to make sure they have a good chance to make a go of it. He doesn't have a problem with where this is going. He then asked about the notion about the brewers being overlapped in this has been discussed a few times. Attorney Wilhelm stated his opinion if the current license holders have been in business for more than 3 years, there could be a question if they change location. He further stated you only have one license left. If they want to transfer in or out of the City, they have to get the City's approval. Councilmembers Richards stated going parallel with what Councilmember Parisien was saying, the items Tim mentioned about all the reviews that has to take place, and he thinks there are 11 licenses in this town, and the way he read this, it makes the Council the soul board of review for all that come along without an individual board of reviews to make recommendations. He thinks there should be another intermediate board. He then stated it has happened in this town that a license was held by an 80-year-old man, and his son had the same name, and the older man that owns the license never comes into this town. Councilmember Kivell stated we have the ability to ask who owns the building, licenses and businesses, there are ways of checking social security numbers and such. Councilmember Parisien stated the State of Michigan law requires who owns what business, and the liquor license, and our Police Department does make those checks. She then stated she struggles with having the business owner present a business plan and they can't change it within 3 years, is difficult. Attorney Wilhelm stated he recommends getting more information up front, then deciding if to approve. Councilmember Parisien stated as she said at the last meeting, when you have a plan of operations and you present it to a board that doesn't have experience as to what a business plans should be. She struggles telling someone how to run their business. She then stated 60% of businesses fail in their first year, and for the business to survive, she doesn't want to make them bring this to us and make them wait for this process. She then asked if this would affect Pumpkinfest. Mr. Donohue stated he interfaces with a lot of liquor license holders, and he does think we need criteria for the class C license. He can usually tell in the first few minutes of the conversation if they can make a go of it. He thinks the criteria we have for the Class C licenses is important. Chief Collins stated on the temporary and special license issue, those permits require signature of Police chief, and if they aren't signed off on, the MLCC will not consider them. As to the business plan, this is an extreme example of what almost happened in the past, but supposed the business plan is for a nice family Italian restaurant, then after 6 months, they decide they aren't making it, and if we don't have this ordinance in place, and they decide to change their business plans and the formerly draft street building had a sign put up that said they are putting in a Hooters, and

everyone went nuts. Council could approve something, but without this in place, we could end up with something totally against what the residents want. Councilmember Kivell stated the notion of someone submitting a change of plan is not such an erroneous issue. It is a business opportunity and the City and the community can lose as well. The idea of the City not having some chance of weighing in on what changes they want to make. Councilmember Kennedy stated he thinks this is somewhat heavy handed, but he appreciates the explanation of what the consequences could be if we don't have some sort of ordinance in place. Councilmember Kurtzweil stated she thinks the least amount of interference with the entrepreneurs the better. She doesn't think anyone on staff or on council has the sophistic skill set to go through someone's business plan will work in the city. You have to have a good financial background, and without the total picture of their finances, or their business partners, and structures of entities that may join the particular venture, you have no business telling a business owner what they can and can't do. She further stated restaurants don't appear to survive on the corner where Draft Street was. She doesn't know if it is because there is too much competition. She stated this is overregulated and anti-business. She then asked Ryan Cottingin if they own the building or lease it. Mr. Cottingin stated he is currently leasing but he is trying to purchase it to add a kitchen. He further stated in the past 3 years they opened in a small place, came to the City with a business plan. He stated they had a 38 seat tap room. Did not plan on distributing in the near future, but we were so busy we were running out of beer, so we had to double our tanks. We then went through a 6-month low because that is what happens. He stated they then had a lot of beer sitting in their tanks full of product they couldn't sell. So, a change in their business plan is what they did, they now have distributors selling their beer. They had to make that decision on a dime or they could have lost everything. He stated that was a situation they could have brought to Council for approval, but we don't know how long that approval would have taken. He then stated they then had to add outdoor seating to keep customers. He further stated there were a series of changes in their business plan that they had to make on a dime. Councilmember Parisien stated if this is passed tonight, when will it go into effect. Attorney Wilhelm stated 10 days after adoption and publication and the forms will have to be created. Councilmember Parisien stated the updated paperwork will need to be added to the website if it passes. Councilmember Kivell stated there should also be a timeline for when the applicant can expect on approval or rejections. He then stated he can't imagine that any changes the Witches Hat mentioned would have seemed logical and doesn't understand why there would have been any issues with Council approving. He doesn't think that we are impractical in the way we operate. It's a matter of what the circumstances are and the need to address things.

CM 4-5-18 MOTION TO APPROVE THE SECOND READING OF THE ORDINANCE TO ADD  
CHAPTER 8- ALCOHOLIC LIQUIOR SECTIONS 8-1 THROUGH 8-69

Motion by Kivell, supported by Kennedy

Motion to approve the second reading of ordinance to add Chapter 8- Alcoholic Liquor, Sections 8-1 through 8-69, Version date 1/22/18 to the City of South Lyon Code of Ordinances to provide policies, procedures and regulations for liquor licenses and the operation of licensed premises

VOTE:

ROLL CALL VOTE:

Kivell- Yes

Parisien- No

Kennedy- Yes

Richards- No

Walton- No

Kurtzweil- No

Pelchat- No

MOTION FAILED

3. Consider setting date for public hearing Superb Fabricating, LLC, tax abatement request

Attorney Wilhelm stated this was discussed in the past, and he has since gathered more information from Oakland County Equalization and he is reluctant to put this off again, but that should allow more time for staff to understand the information and to give the applicant more information. He then stated rather than starting the timeline Council may want to consider postponing once again for 30 days. Mr. Donohue stated the information he received today he would suggest 30 days. Councilmember Parisien asked if this is time sensitive. Attorney Wilhelm stated, it isn't time sensitive until the district is approved. Councilmember Richards asked about that particular location, not far from there is Walkers Garage, then up the hill you have the storage units, would this district encompass all of that as well. Attorney Wilhelm stated this would be just for the applicant's property only. Councilmember Kurtzweil stated she would like to know the impact of taxes from OCE. She does not want to take a vote without a cost analysis. Attorney Wilhelm stated he hasn't gotten that far with OCE as of yet.

#### CM 4-6-18 MOTION TO POSTPONE FOR 30 DAYS

Motion by Kurtzweil, supported by Walton

Motion to postpone agenda item #3 under Old Business regarding the request for a tax abatement for Superb Fabricating for 30 days

VOTE: MOTION CARRIED UNANIMOUSLY

#### 4. Consider tax abatement application fee

Attorney Wilhelm stated Council has addressed this in the past, and we have samples of other community's application fees. Mr. Donohue stated we could match Lyon Township but we do not exceed that amount. Councilmember Parisien stated she has looked at 5 different communities and their fees were any where from \$350.00 to \$1,000. Attorney Wilhelm stated the applicant has to file an application with a fee, and if we charge \$350.00 as a flat fee, and the publications cost more than that, it is a cost to the community. You need to cover all of yours costs upfront. If it isn't all used, it can be given back to the applicant. Councilmember Kivell questioned if there is a sense of what is spent on rezoning issues or planning notices. Attorney Wilhelm stated a tax abatement doesn't require individual notices, it is largely a newspaper publication of public hearings, and it should cover staff time as well. Councilmember Kennedy stated we only have one chance to charge for any fees the City will have to endure, we then can give back any remainder of the money if it isn't all used. Attorney Wilhelm stated the application has a 60-day time limit once the district is approved. Further discussion was held regarding the different fee amounts other communities charge. Attorney Wilhelm stated he will find out a collective external cost with OCE.

#### CM 4-7-18 MOTION TO POSTPONE SETTING TAX ABATEMENT FEE FOR 30 DAYS

Motion by Richards, supported by Kivell

Motion to postpone the tax abatement application fee for 30 days

VOTE: MOTION CARRIED UNANIMOUSLY

#### 5. Consider second first reading of rezone request- 500 Stryker

Carmine Avantini of CIB Planning stated he has met with the applicant many times in the past year. It is a challenging site, which is why there was a previous request for a storage facility. Since that time, someone built one on Griswold, so they decided not to do the storage facility. They have recognized they cannot utilize housing on the back of the property, so at this point they are looking to develop the front part of the property. The thing to keep in mind, what you see as the allowable number of units is the maximum. He stated the applicant has given them some layouts of what they are looking at, they are probably going to be between 35 and 45 townhouses. He stated the traffic we will be looking at is approximately 230 vehicles a day. It is a nominal amount, not a significant traffic event. He then stated

Planning Commission looked at this closely, and they think this is a good transitional use. Mr. Avantini stated there is a lot of thought that has been put into this, and he is comfortable with the rezoning request. Councilmember Parisien asked if a site plan has been submitted. Mr. Avantini said that doesn't happen until after the rezoning request is approved. He then stated one of the things they looked into is for them to look into circulation and access. Councilmember Richards stated in the event the 40 units is not attainable and they want to stop at 30, the other considerations allowed under the category, will they just submit a different site plan, or do they have to come back to Council. Mr. Avantini stated it depends if it fits in with the current zoning. Councilmember Richards stated a bridge across the Yerkes Drain would be solely the Drain Commission of Oakland County. They would have to put a deposit upfront, then it would have to be maintained. If that was done, would that come before Council. Mr. Avantini said he would have to check into that. Councilmember Kivell stated he is thinking the traffic is conservative, when you suggest one trip every 20 minutes, his concern is primarily trips during rush hour and how long will be sitting in traffic waiting for people to get out of that place. He then asked if the tax revenue is similar for the two zonings, he wants this to be to the benefit of the community. Mr. Avantini stated this will probably be at the lower range of tax generation. It is hard with the cost of infrastructure to build entry level housing. He then stated this will have more units that will be more saleable. Councilmember Kivell stated he isn't in favor of squeezing more homes into a small area, and he has seen some very normal to large size homes in Novi and Wixom that have 5 feet setbacks. Mr. Avantini stated you could, but it is questionable if it would be viable. Even if you could, you are looking at a different demographic that will be more hesitant to buy at that location as opposed to empty nesters. This is the best alternative from a tax perspective. He stated the master plan called for this kind of housing which is how you get more businesses in the downtown when there are more homes in the downtown area.

#### CM 4-8-18 MOTION TO APPROVE FIRST READING OF ORDINANCE TO AMEND THE OFFICIAL ZONING MAP

Motion by Richards, supported by Kennedy

Motion to approve the first reading of the ordinance to amend the official zoning map of the City of South Lyon, rezoning Parcel 21-29-176-012, 500 Stryker Street, from R-3 to RM-2

VOTE: MOTION CARRIED- 2 OPPOSED

#### NEW BUSINESS

1. Consider tree trimming by DTE on Liberty, Lake, Whipple, Washington and Warren streets

Councilmember Richards stated he admits he was wrong in jumping to conclusions and he apologizes. He approached this subject and didn't look at the big picture. He stated the 2 maps were from over a year ago, and it is hard to read. He further stated they were here every day with 10 trucks all in this quadrant. It is about a \$5,000 to \$9,000 for payroll a day. He stated they are the best in the business, and he would like the City to approach them with a price of \$7,000 to \$9,000 for 3 days of work in this section of town. He further stated we have 5,000 to 10,000 pounds of dead wood standing in that quadrant. This is an opportunity to save money and he is about saving money instead of someone submitting a bill, we should put our own bill together, if they want to do it, fine, if not, that is fine too, but we should go through DTE. Councilmember Kivell stated the idea of us trimming trees is a good idea, but the obligation is to identify which trees need action, then put it out to bid. We need 3 bids and use the lowest of the 3 bids. Councilmember Parisien stated she lives on one of these streets, and she just wants to ensure this could be construed as a conflict of interest. Councilmember Kennedy stated he agrees with Councilmember Kivell, we need to get 3 bids and if they want to bid for the job, they can. He stated they have a very good schedule and it is run very well, he doesn't know if DTE will disrupt their schedule for the City, but again, if they want to bid for the business, they may do so. He stated Normar is an approved vendor, but the 3 bids are dictated to us in the City Charter. Councilmember Richards stated Normar does a lot of the work, his thoughts were to go through DTE because their contractors told them they cannot deal with the

City directly. Councilmember Kennedy stated that sub-contractor could bid on the City's job if they wanted to, but we still need 3 bids. Councilmember Richards stated some day he would like the City to have a forestry division.

2. Consider date for public hearing for budget

CM 4-9-18 MOTION TO SET PUBIC HEARING DATE FOR 2018/2019 BUDGET FOR TUESDAY MAY 29<sup>TH</sup> AT 7:30 P.M.

Motion by Parisien, supported by Kennedy

Motion to set the public hearing date for 2018/2019 budget for the regularly scheduled Council meeting on Tuesday May 29<sup>th</sup>, 7:30 p.m.

VOTE: MOTION CARRIED UNANIMOUSLY

BUDGET

Councilmember Kurtzweil stated she wanted to make sure Council knows she has drafted a minimum balance general fund resolution and she assumes Lori and Brian are looking at it and it will be discussed at the next budget workshop. She then asked when the Interim City Manager received the reports from Warren Kreamer for the water rates. Chief Collins stated probably within the last month. She stated that would have been helpful at the last meeting when he was discussing the utility rates. Chief Collins stated Mr. Kramer will be here to discuss his findings. She then asked if someone could contact MERS and ask if we can use some of the funds from the water and sewer funds to pay for selected groups on their unfunded pension portion, and you wouldn't have to raise taxes. Chief Collins stated he believes the divisions are based on bargaining units, and the unit which includes water and sewer and DPW and so it may not work. Councilmember Kurtzweil stated she doesn't know why that would be revelent, lets ask and explore the opportunity. Chief Collins stated he will ask the question. Councilmember Kurtzweil asked where the plan on the DPW yard and things that is need to be fixed. Department Head Boven stated they are currently working on some of the things, and Dennis Smith has been out there as well. She then asked if there have been any amendments to the budget. Department Head Boven stated there will be at the next meeting because he just received some of the bills from the sewer main break.

MANAGERS REPORT

Chief Collins stated he wasn't prepared for Councilmember Kurtzweil's questions on his pay for the month of March, just by looking at it, based on the payroll report, March was a 3 pay period so there was an additional pay period in the report. Councilmember Kurtzweil stated she just did the math. Chef Collins stated a pay period is when paychecks are issued, there was an additional paycheck in the month of March. Department Head Boven stated there are 3 pay periods a year which occurs in different months. Chief Collins stated the clerical union is coming up and he is asking for any changes Council or contract goals Council would like to add any interest. He then asked if any councilmembers would be interested in being part of the negotiations. Councilmember Parisien asked if when he would have to have any changes Council may like done. Chief Collins stated a few weeks would be fine, we are just beginning to work on it. Councilmember Kivell stated he wouldn't mind being involved if no other Councilmembers are interested, he is just offering, not questioning.

Chief Collins stated Warren Kramer will attend the May 14<sup>th</sup> council meeting to discuss the water and sewer rates, and he will forward his reports to Council.

Chief Collins stated we have had a meeting with City staff and we now have a process with the escrow issues we have had in the past. A process was formed that will include CIB Planning, our administrative assistant, as well as our zoning administrator. He stated today they sent out \$13,000 in invoices as of today. Councilmember Walton asked if there has been discussion with composting at Volunteer Park. Chief Collins stated it is his understanding, when the contract with Volunteer Park Maintenance contract was up in November of 2017, City Manager Ladner sent him a letter to take the property back. He stated

it is his understanding to save the City money, the City and DPW would resume composting at Volunteer Park. Councilmember Walton is concerned about that. Chief Collins stated right now we are paying a lot of money to transport the leaves to someplace else. Department Head Boven stated we could save a minimum of \$8,000 each year. Councilmember Walton stated she would like more information on that, she has some concerns especially when we are trying to develop the park. Councilmember Kurtzweil stated she doesn't recall any conversations recently. She recalls there was many people upset about the possibility years ago. The gentlemen that we are currently under contract with spends his own money for clearing the property and he did so understanding he would be allowed to farm the property. There is a concern once we start composting we are putting spores in the air, and many people will be upset about that, including her. Councilmember Kivell stated this has been discouraged to the point of unrecognizability. He stated when Bob Martin decided to start taking our leaves from the City and pay to dump them at Stone Depot, that was to save money. Spirt Industries was the company that was wanting to have 40 acres of composting, it wasn't going to just be our leaves. He can see the residents being upset about that is understandable, but the idea of just our own leaves being put there is marginal. He stated Mr. Hamlin didn't pay the City a dime to use the park, he got to farm the park. He then stated we got the benefit of good land balancing, and he got the benefit of using the land for farming. He further stated we will not turn a blind eye to anyone dumping there, it would only be our leaves from the City. Councilmember Kurtzweil requested this be added to a future agenda. Councilmember Kennedy stated he knows the residents of the City are happy about having their leaves picked up, we are already paying GFL to pick up the bagged leaves, we need to see the difference in cost between us doing so or paying them to do it.

#### COUNCIL COMMENTS

Councilmember Richards thanked everyone for being here. He then stated his 3 pillars of office is damage control, save the City money and save the city from potential disasters and there are a couple potential disasters in Lyon Township. He stated he has spoke with Lyon Township residents, and he feels strongly about a development with 10 feet between homes just outside of the City boundaries is a disaster. He wants people to be alerted to this. Councilmember Richards then reminded everyone of the creek cleaning this weekend on the 14<sup>th</sup> by the tube mill.

Councilmember Walton stated on April 12<sup>th</sup>, the South Lyon Hotel is hosting Ladies Night Out, South Lyon High is doing Little Shop of Horrors from the 18<sup>th</sup> to the 22<sup>nd</sup>, and South Lyon East is doing Mary Poppins on April 22<sup>nd</sup> through the 29<sup>th</sup> and they are phenomenal. She then reminded everyone Salem/South Lyon Library is hosting a shredding event on April 29<sup>th</sup> from 10-2:00.

Councilmember Kurtzweil stated to the Mayor she will be doing some research on point of parliamentary procedures and when a motion has been made, it is placed before the board, and there is a rule that states you are not committed to vote, if the matter passes by vote. Once the vote reaches a majority, the Mayor was correct and he is not required to vote according to Roberts Rules of Order. She then thanked the Fire Chief and the DPW superintendent for being respectful for communicating to Council that they would be out of the City for their vacations. That sends a notice of respect and she thanked them for doing that. It speaks volumes to your management skills. She then thanked Abe Ayoub and the Kiwanis did a great job. Ashley Enstad was there as well. She then thanked the South Lyon Fire Department and a big thank you to the Oakland County Sheriff, Brian, for being there to pass out stickers and coloring books. She then thanked Mike Bouchard for being the leader he is in encouraging volunteerism from his deputies. Councilmember Kurtzweil then stated the Kiwanis is a great group, and she has spoke with a few people that are interested in joining. She then thanked Backway Doors for their great service, we sometimes forget we have some of the smaller local businesses in town, and they were there within 24 hours with great service. She then thanked citizen #1 Ryan Lare, she had a pet that needed surgery, and Ryan Lare is a pet angel, he gave her a little toy and a little cross for prayers and all he asked is when her pet heals,

give them back to him so he can pass them along to another family that may need it. She then thanked Ryan and she appreciates him as well as a lot of other people do as well.

Councilmember Kennedy stated he attended the Chamber networking breakfast that was hosted at the Salem South Lyon Library, and he met many local business owners and it was very beneficial. She then thanked Donna and Kathy for hosting a great event.

Councilmember Parisien wished everyone a good night.

ADJOURNMENT

Motion by Kurtzweil, supported by Walton

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

VOTE: MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

\_\_\_\_\_  
Mayor Dan Pelchat

\_\_\_\_\_  
Judy Pieper Clerk, Treasurer



CITY OF SOUTH LYON  
SPECIAL CITY COUNCIL MEETING  
APRIL 11, 2018

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

Present: Mayor Pelchat, Councilmembers: Kivell, Kennedy, Kurtzweil, Parisien, Richards and Walton  
Also present: Chief Collins, Attorney Zalewski, Department Head Boven, Fire Chief Vogel, and Deputy Clerk Pieper  
Absent: Clerk Deaton

AGENDA

CM 4-1-18 MOTION TO APPROVE AGENDA

Motion by Kivell, supported by Walton

Motion to approve agenda as presented

VOTE:

MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT

Don Beagle of 1089 Chestnut Lane stated he wanted to thank Chief Collins for what he has been doing for the City, there are many people that appreciate what he is doing. He then stated their comments made Monday night about the leaves in Volunteer Park and it was a volatile situation in the past, and it could be again in the future. He has been on a listening tour since no one filed to run for Mayor. He stands before Council encouraged, encouraged this meeting is taking place, and encouraged Council had the self-awareness to call a meeting of this nature, encouraged we are finally turning a page in South Lyon. He further stated people do not like to hear the insults, character assassinations and people are sick of the election manipulations and the us against them divisions on Council. This is inappropriate behavior, we do not believe in attacks on private citizens, or public servants. This body is here to represent people, not to degrade them. This body is here to build consensus and not barriers. As of this point Council has a chance to change the image of Council. From this point forward, the residents will know who is advocating on behalf of the residents, or themselves.

OLD BUSINESS

1. Council meeting conduct

Mayor Pelchat stated he is optimistic and this is a great opportunity to take advantage of structure and making our meetings more efficient. Councilmember Kennedy stated this has been discussed previously. He stated as someone that spoke before Council in the past, he knows it is possible to provide Council with information when handled in an organized and well-prepared way. He is proposing public comment be formerly established before the agenda, as it is now, and then again just prior to council comments with a limit of 2 minutes. He further stated both public comment items, should be allowed to be based on agenda items but with a time limit of 2 minutes. With his research he has found most communities allow only one public comment and allow them to speak for 2-3 minutes. Councilmember Kennedy stated, first, he recommends that public comments be formerly established on the agenda, following the approval of the agenda as it is now. Second, he recommends another session for public comments be included at the conclusion of the agenda, just prior to council comments. He recommends that both public comment sessions allow for the public to discuss items that are both on the agenda and items that are not. He also recommends that both public comments be limited to two minute sessions. The established time limits for

public discussion should be clearly documented on the agenda as well as the documentation that discussions will be conducted in a polite and respectful manner. This overall approach will help us in the matter our Council meetings are handled. Councilmember Parisien stated she agrees with Councilmember Kennedy, but it seems there are a few moving parts. She was wondering for format purposes, who will be keeping time to it will be clear moving forwards. She then stated she is ok with the 2 minutes at the beginning and at the end of the meeting is already more than most other communities allow. Mayor Pelchat he is also in favor of the 2<sup>nd</sup> public comment. He doesn't think the 2<sup>nd</sup> public comment will come into play too much. He stated he has no problem having a timer on the counter and when it is up, it is up. Councilmember Kivell stated he thinks when someone is making their comments, you will be able to ascertain where they are in their comments, that you can tell they may be wrapping up, but if he doesn't think we should be too rigid on cutting them off. They need their opportunity for them to finish their comments. He then stated the 2<sup>nd</sup> public comment will be valuable for someone that comes in late, or for someone to reflect on a decision Council made during the evening. Councilmember Richards stated he has spoken many times in Council and planning commission meetings. He stated going back 20 years ago, he spoke at many of the surrounding communities and they had a time keeper. He further stated they had 5 minutes, at 4 minutes it rang once, then at 5 minutes it rang again and then it was over. Another option is a sand hour glass. He then stated we can project our public comment minutes on the screen behind us with a sand timer. Councilmember Richards stated the school board requires public comment to be written down and turned in and they allow them to speak for 5 minutes. Mayor Pelchat asked if everyone is agreement for 2 minutes and for 2 public comment sections. Councilmember Parisien stated we will also need to use the discretion of the Mayor. She then asked if someone wanted to speak for longer than 2 minutes. Councilmember Kivell stated he hopes people will understand this is how it is going to work and recognize it in the future. Mayor Pelchat stated he would have to deal with that as we go. Councilmember Kennedy stated he thinks we should deal with this as we go. He stated when someone is coming to address the Council, it is their responsibility to have their thoughts together, if someone comes to the podium and freelance it, it may go over, it depends on how important it is to that person. Councilmember Parisien stated she is asking to cover different scenarios, and to cover all our bases, she wants to be able to realize, the Mayor can waive the time limit and give them more time, or will they be told to speak during the 2<sup>nd</sup> public comment. Councilmember Kivell stated common sense and being reasonable is fine. We don't want to make this so soft it means nothing, but we should have a structure where we have a rule in the event something begins to go awry. Mayor Pelchat stated people rushing to the microphone during the meetings will not be recognized and they will be asked to return to their seat. Councilmember Parisien stated we are now talking about 2 separate items. Monday night someone came up and spoke during the meeting on an agenda item, and she wants to clarify that. If she is a resident she wants to know what tools they have to use to come to the microphone. Mayor Pelchat stated it is important leaving this meeting tonight for everyone to understand how public comment will be held. He stated if they want to speak on an agenda item, they can do so at the beginning and at the 2<sup>nd</sup> public comment as well. Councilmember Kivell stated at times, we may have a question for someone in the audience during the meeting and that should be allowed. Mayor Pelchat stated if we need to ask someone during the meeting to take a vote to allow that person to speak during the meeting. Councilmember Kivell stated he thinks a vote to allow someone to speak is good with him. The example from Monday night when a councilmember had a question for someone in the audience and he came to the microphone and answered should be allowed. Councilmember Kivell stated we haven't discussed what are the rules to get permission for a presentation. Mayor Pelchat stated they usually reach out in advance and are added to the agenda. Councilmember Kennedy stated they typically send the information ahead of time and it is added to the agenda. Deputy Clerk Pieper stated it can be difficult sometimes when things are added to the agenda, and she thinks if anything should be turned in on Wednesday so we are able to include it in the packet Thursday morning. Further discussion was held regarding presentations being given during public comment. Councilmember Richards stated there have been many times when he wanted to speak on agenda items during the meeting, but he was never

recognized. He was orderly about it and he just sat back down. Some people won't go by the rules, and it should be on the screen.

Mayor Pelchat stated we can have a note of the new rules printed on the agenda. Councilmember Parisien summarized what has been discussed such as the Mayor will be keeping time, the time limits of 2 minutes, one public comment at the beginning and at the end, but we have not discussed decorum. Councilmember Kennedy stated they can discuss agenda or non-agenda items during both public comment. He further stated it came up that if someone on Council requires a stakeholder in the audience, we can take a majority vote to allow them to speak. Attorney Zalewski stated you can find some middle ground where to keep this as a discretionary matter of the matter, but you can incorporate the guidelines that was just discussed such as if it is going to be a long presentation it should have been known ahead of time. He further stated you will want to incorporate a set of considerations on the agenda if someone wants to go over the 2 minutes. Mayor Pelchat asked if it would be a good idea for the rules to be listed at the bottom of the agenda, maybe not all the rules, but just listing the framework. Councilmember Kivell stated we could always just have the rules set out next to the agenda. Councilmember Walton stated she has seen other communities they have the basic time limit information on public comment and add something all will be based on the discretion of the Mayor. Councilmember Parisien stated decorum is important. She stated we have had a disgruntled resident come before Council and after she was asked to sit down, she would not, and she thinks addressing decorum now, will set the stage for all the residents in the future. She stated if you have an individual unruly or disrespectful. Everyone should be allowed to speak, but she speaks as Council does, respectfully. Mayor Pelchat stated this doesn't need to be written in stone, but he wants to leave this meeting having everyone know that if you are not being recognized at the microphone, there is a reason, and it is a time situation. It isn't fair for Council to try to juggle nonsense while trying to do our work. Residents can reach out to the Mayor and Council at any time. This needs to be fair for everyone across the board. Mayor Pelchat stated he doesn't want people to think they can't speak, but he wants everyone to know we have a limited amount of time. Councilmember Richards stated they are the last line of defense to keep the machine afloat, and he supports Mayor using the gavel if it is needed to keep the meeting moving. He supports the Mayor. Councilmember Kivell stated it is difficult for Council to come to discussions and make decisions when being disrupted during the meeting. Councilmember Parisien stated it doesn't happen very often, but in the event, you have a disgruntled resident and they aren't abiding by the rules, you will have to set the standard, because if you allow it to slide, they will continue pushing the issue. Everyone gets their chance to speak, but we are asking to be respectful when you do so. Mayor Pelchat stated he would like our meetings to be as effective as possible. He wants to ensure everyone is on the same page, and those things will not be accepted. He will only gavel once for a warning. Councilmember Kivell stated we currently have language, are we going to amend it, or start over. Attorney Zalewski stated the Charter provides the ability to create rules for Council, and the City Code has direction for meeting disturbances, as well as the current language. You will want to look at all three of these things. He then stated you may want to set up rules for procedures and decorum. This is the first step in the process. Councilmember Kivell stated the comments from Mr. Beagle earlier, he doesn't know how to qualify that, it makes common sense, we are supposed to be making the City as attractive as possible, but negative comments shouldn't be said during the meeting.

Councilmember Kurtzweil disagrees, criticism is healthy, it provides balance to the discussion. She is not part of a picture that believes playing nice will always work. She believes in saying what's on her mind and if it is offensive to someone, then so be it. People say things to her all the time, and even if it isn't complimentary, you move on with your life. Councilmember Kurtzweil stated she will continue to speak her mind, and speak out and probably speak out louder, the only time change happens is when you become vocal and constructive. Councilmember Kivell stated we are setting up rules by the majority, not by a sole person on here. The idea of your bully tactics is completely out of bounds. Councilmember Kurtzweil stated she is not a bully, and that is a public attack, she is not a bully. Councilmember Kurtzweil stated she has an opportunity to say what she wants to say, and if she went into a business and had bad service, she will tell people. Attorney Zalewski stated there is a way to achieve what Council is

looking to do, without doing in a way that blanket says that you can't say this. That is the surest way to raise flags. Mayor Pelchat stated he is a strong supporter of everyone's first amendments rights, but sometimes a public forum isn't the right place. He further stated if anyone on Council begins attacking anyone, they will be asked to get back on topic. Councilmember Parisien stated Howell City Council meeting agendas have footer at the bottom of the agenda stating to turn the page over and read the rules. Chief Collins stated he would suggest we coordinate that all three elements corporate with each other to have the City Attorney work on this.

### COUNCIL COMMENTS

Councilmember Kurtzweil stated she would like to respond to Don Beagles comments and remind him of what has changed on Council. We now have Councilmembers willing to work together, another change is the public is now accepting of who is on council. What is changing is not Council, but the bitter factions in the City who have realized that the personal attacks on Council has backfired because they did not address public issues but aimed at individual council members. She then stated there were election manipulation in this last Election, she knows because she works on elections, she analyzes election data. She stated many of her from the democratic and republic party and looked at the data and analyzed a particular precinct, precinct 2 was looked at very hard. She stated what was beginning to happen on Facebook was inviting voters to use a plunking strategy. It isn't illegal, but it occurs when voters are instructed to vote for only one candidate on the ballot. The voting pattern in Precinct 2 and 3, and there were people including another councilmember to only vote for one candidate. It doesn't give equal opportunity but rather the voter waits and votes for only one particular candidate. We know who that was. She stated she spoke with the southern poverty center regarding the plunking in precinct 2, you want to make sure if this is happening it is reported. It is dangerous because it was a strategy used in the deep south and in the north to keep women out of office as well. When it is used, it tells people like herself there is something going on. The message to her and others, both democrats and republicans were very alarmed. Very serious manipulation in precinct 2 and she thanked him for mentioning that, it has given her an opportunity to explain to the community what happened. She then asked that you don't stack the deck, that you read the information that is sent to your home and read about the candidates you're voting for.

Councilmember Parisien stated it is interesting you are trying to steer this in a different direction. The flyers for Ms. Clohosey, Walton and Richards are identical. Are you running as a group? Election manipulation and when she gets all the flyers and they are exactly the same, that raises a red flag. You are trying to spin this to make him look bad, and that is incredibly rude. This has been done to her before. You have made comments of people being criminals, racist, discriminatory of people with disabilities, yes, Maggie you are a bully.

Councilmember Kurtzweil stated these are personal attacks.

Councilmember Parisien stated she wanted to thank Mr. Beagle for pointing out the efforts Council is making to better ourselves. She brought this up for the sole purpose that we have people that don't get to speak, then other times we have some people speak that are vicious and many times not true. She then stated this is a two-fold proposal, in June we should be discussing Council behavior and conduct.

Councilmember Kivell thanked Don Beagle for speaking up as well. He stated this is something that some of the behavior that has taken place on Council, it marvels him that people aren't outraged, but he realizes people are mostly taking care of their own business. He stated there are very few times when he leaves a meeting that we dealt with something constructive, he marvels at the degree people can drag things through the mud. He stated everyone here has work to do, we need to create some dynamics that make this a constructive body which it could be.

Councilmember Kennedy stated he wanted to thank everyone to take the time to make an effort to move forward with formality and making it more constructive.

Councilmember Walton thanked Attorney Zalewski for attending the meeting tonight.

Mayor Pelchat thanked him as well.

Councilmember Richards stated he wants to correct himself. He misrepresented something at the previous meeting. When he was discussing raising the rent on the rental house, what he meant was he has spoke with the renter and he is a disabled person, and we have done him a service and he appreciates it, and he doesn't think we should double his rent. He is thinking about leaving in about a year.

Councilmember Richards stated he wants to alert Council to potential disasters. He stated we should consider making a position statement when there is a development going in the townships that will put a serious quality of life impact on our life and our water table. Most people haven't looked at this.

Councilmember Richards stated the Yerkes Drain clean up is coming up this Saturday, and he will be there riding along.

Mayor Pelchat stated he went to visit the second graders at Dolson, and he had a great time. He will be out in Salem Friday afternoon to see their second graders as well. He then wished a Happy Birthday to his brother.

CM 4-2-18 MOTION TO ADJOURN

Motion by Walton, supported by Kurtzweil

Motion to adjourn at 8:50 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

\_\_\_\_\_  
Mayor Dan Pelchat

\_\_\_\_\_  
Deputy Clerk/Treasurer Pieper

SPECIAL CITY COUNCIL MEETING  
BUDGET WORKSHOP  
APRIL 16, 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, Lieutenant Sovik, Attorney Wilhelm, Department Head Boven, Fire Chief Vogel, Bookkeeper Mosier, and Clerk/Treasurer Deaton

Councilmember Parisien arrived at 7:50 p.m.

CM 4-16-18 MOTION TO APPROVE AGENDA

Motion by Kurtzweil, supported by Walton  
Motion to approve agenda as presented

VOTE: MOTION CARRIED UNANIMOUSLY

PUBLIC COMMENT- None

Brian Camiller of Plante Moran began the meeting by reviewing the ground rules of the meeting, such as respecting everyone involved, everyone will have their chance to ask questions, and tonight's meeting is about the 2019 budget.

1. Workshop #1 survey results

Mr. Camiller stated most big-ticket items have already been resolved. Councilmember Kivell asked why the survey of the Councilmembers wasn't included with the agenda, he would like to see that. Lori Mosier, the City of South Lyon Bookkeeper then gave everyone copies of the survey that was taken. Mr. Camiller stated it wasn't meant to be a vote. He stated based on the survey results, there will be no extra millage to fund pension or OPEB, there will not be a South Lyon Police Officer in the high school and there will not be a new fence installed at the Police Department. He further stated there was interest in helping to fund the Oakland County Sheriff Department for their RSO in the high school. He further stated South Lyon Schools has asked for \$25,000. Councilmember Kivell stated we should wait for that discussion when we have a full body because Councilmember Parisien will be here shortly. Mr. Camiller stated the survey showed there was interest in financing equipment as opposed to purchasing outright. Councilmember Kurtzweil asked if there is \$70,000 marked for a purchase, but it is leased instead, how is that reflected in the budget for each year. Mr. Camiller stated the \$70,000 will be in the budget for the first year, and in the following years, it will be debt service. Mr. Camiller stated based on the survey there is an interest to fund part of the paving for the DPW yard and an average of what Council was willing to spend is \$175,000. Mayor Pelchat stated his main issue is the future of the property, he would hate to see a lot of money spent on paving the parking lot, then the DPW move to another facility. Department Head Boven stated there aren't many violations at this point, they have fixed what they could themselves, but there a lot of aesthetic problems. He further stated the structure of the building isn't bad, but the roof leaks need to be fixe and that can cause another whole set of problems. He further stated he has added a part time person to the budget for DPW and Waste Water to help with janitorial issues. He stated the parking lot could be a 3-4-year process. Councilmember Kurtzweil stated she is concerned because the City has put no money into this building and doesn't have a lot of hope the City will find a plan to fix all the problems. She further stated they are hard workers and they don't ask for anything. She stated when they were working on the sewer line in the freezing cold, they didn't have a warm place

to go to, their building was freezing. They need to at least have a decent lunch room and heat. Councilmember Kivell stated his objective is to pave part of the parking lot so they can at least get into the building without walking through the mud. He further stated the City will never be able to sell that property, it has bad soil in it, so this location isn't transitional, the DPW will be there for years. Councilmember Walton asked about the plan for cementing the area, and what will the \$170,000 cover. Department Head Boven stated he will have to get with HRC. Mr. Camiller stated it is up to Mike to bring to Council what they can do for \$170,000. Councilmember Richards stated Department Head Boven should ask the DPW guys where the thickest concrete would be needed, they have been there a long time, and there is a gentle slope there as well. Councilmember Walton stated she is willing to agree to paving a portion of the parking lot. Councilmember Kurtzweil stated she would as well. Councilmember Kennedy stated he is agreeable to that as well.

Mr. Camiller stated the survey reflected that majority of Council showed interest in paying for a portion for an Oakland County Sheriff to be at South Lyon High School. He further stated since the last budget workshop, the City has received notice that South Lyon Schools is requesting \$25,000 for the SRO. Mayor Pelchat stated it was an oversight on his part, but he is an employee of South Lyon Schools so he will abstain from this conversation or vote. Ms. Mosier asked if this will be an administrative cost. Mr. Camiller stated yes.

Mr. Camiller stated the survey reflected no one was interested in replacing the 2<sup>nd</sup> police car. He further stated there seems to be a compromise for the 2<sup>nd</sup> police car to be purchased in the 2<sup>nd</sup> year of the budget. Mr. Camiller stated the survey reflected no to the \$10,000 for new office furniture. Lieutenant Sovik changed the dollar amount to \$3,000. Councilmember Walton stated she will change her vote to approve for \$3,000. Councilmember Parisien stated she will agree to that as well. Councilmember Richards stated he will agree to that as well. He then added he hopes we don't throw away the furniture that is being replaced, he recommends to store the furniture for future use.

Mr. Camiller stated someone mentioned the cable television cameras for the auditorium. He stated everyone showed interest in that if the school will match the cost.

Lieutenant Sovik stated he doesn't think the police car will last another year. They have already spent \$3,200.00 this year alone. Councilmember Parisien stated she will change her vote to yes. Mr. Camiller stated there was originally 4 yes votes, but not until 2020. Lieutenant Sovik again stated it probably won't make it much longer. Mr. Camiller stated this will be added back to the budget.

## 2. Survey results effect on the budget

Mr. Camiller stated there is debt service millage and charter operating millage. He stated the general operating millage equals last years and the debt service millage decreased from 3.3 to 3.0 He stated the overall millage is down .3 mills. There was some discussion about keeping the millage the same as last year at the previous meeting. .3 mills are approximately \$105,000.00 Councilmember Kennedy stated in his opinion he would like to keep the overall millage the same as last year, it isn't a raise for the taxpayers, and the \$105,000.00 will cover the SRO and the police car. Councilmember Kivell stated we can actually do everything we discussed tonight and still lower the millage for the taxpayers, or we could keep that for fund balance to keep that at a healthy level. Councilmember Kurtzweil stated she agrees with Councilmember Kennedy, the residents won't notice anything if we keep it the same as last year. She further stated if the City had kept the mill rate at an appropriate level to keep the City moving forward we would have had money to work on the DPW yard and maybe developed Volunteer Park. She further stated the general fund operation mill can be adjusted which is the fund that covers labor costs and those aren't going down. She then quoted a description in the vehicle replacement fund "this fund has



been severely underfunded for many years. In the past, funds from this account came from local and major streets" she said people wonder why the streets look the way they are. She then stated she spoke with Amy at South Lyon Schools and it doesn't seem like they will be raising their rate, they may have a decrease. She stated last year we raised our millage, and the schools lowered theirs, which is why no one really felt the effect last year. She stated we should keep the mill as is. Ms. Mosier stated if we do put the mill back in, she suggests we put part of it in capital improvement because she decreased that and that is where the DPW expenditures come from. Councilmember Kurtzweil stated we can find out what the school districts mill rate will be and if they lower it, we could bump it up a little more. Mr. Camiller stated he suggests the City doesn't worry about what the schools are doing, the City stands on its own. Councilmember Kurtzweil stated it is easier to sell so it is relevant. Mr. Camiller took a hand count of who would be interested in leaving the mill as is or raising it. He further stated the compromise is .2938

Mr. Camiller stated we have a report from Warren Cramer of RW Baird that reflects what the water and sewer rates should be. He further stated he did a little math and his numbers were a little different but they both need to be raised. Chief Collins stated Mr. Cramer will be at a council meeting to discuss the water and sewer rates. Short discussion was held regarding the admin fee. It was decided they will discuss it at a later time.

### 3. Other changes from previous version

Mr. Camiller stated another change was made in the budget was for Chief Collins payout. Councilmember Kurtzweil asked how that was lowered. Ms. Mosier stated the original number didn't come from her, but she changed it because his frozen bank buyout is \$30,000. Councilmember Kurtzweil stated the original \$40,000 was in the last budget, what do we actually owe him? Ms. Mosier stated she would have to look to see what he has on the books as of today. Councilmember Kurtzweil stated this needs to get cleared up because he gets paid out in July. She then stated the whole discussion was based on Council wanting to get the frozen banks paid out to stop the mushrooming of the money. Chief Collins stated his recollection of what Council voted on was to freeze his vacation bank of 651 hours, Council didn't state he had to take a buyout at any particular date. The restriction on his vacation time is the 200 hours he will accrue in August is subject to the usage restrictions that are now in the personnel manual. Councilmember Kurtzweil stated she would like Council to consider having the frozen banks paid out so the increases don't keep growing. When they get paid out, they are paid out at their rate of pay at that time, which the longer they hold onto it, the higher their rate of pay. Councilmember Parisien asked how many other employees have frozen banks. Ms. Mosier stated there are many, but she did receive 2 payout requests that will be paid out in July. Ms. Mosier stated she will let Council know how many people have frozen banks and the dollar amount. Department Head Boven stated the 2 payouts are included in the budget. Further discussion was held regarding frozen vacation banks.

Department Head Boven stated the DWRF new well was put back into the budget, he isn't sure why it was removed. Ms. Mosier stated the check valve was added back as well. Department Head Boven stated he also added another \$10,000 for the raw sewage pump repair because they just looked at one of the pumps and the parts were more expensive than just to replace it. He further stated we are replacing the computer and software in the plant this year, then next year at the lift stations.

### 4. Additional topics

Mr. Camiller stated it is best practice to have a fund balance policy with a floor and a ceiling number. The question for Council is to decide what number you are comfortable with. The GFOA suggests a minimum of 2 months of operating costs. He further stated larger communities are comfortable with a smaller percentage, but smaller communities seem comfortable with a higher percentage, such as 50%-



70%. Councilmember Kurtzweil stated she wasn't expecting Council to make a decision tonight, but she wanted to bring this to the Council's attention and start working on this to have something in place this fall. Councilmember Richards stated there was a sample for a comparable sized community that used 15% - 24%.

Mr. Camiller stated the next topic to discuss is the administrative fee on the water bills. He stated at the end of the day, we need the same amount of money coming in. If you raise the fixed fee, you can drop the variable. He further stated it is a policy decision if Council wants to generate more cash or is Council comfortable with the \$8 million that is currently in that account. He stated the argument is raising the fixed fee will bring in a defined cash flow. He further stated when it comes to a fixed charge, the low-end user pays more, and the high end pay more. Department Head Boven stated he has seen communities that have lost 25% of their water usage for different reasons. He stated the base needs to be set at a certain level. Some communities charge for a minimum usage of 15,000 gallons. Chief Collins stated the current administrative fee probably doesn't cover the administrative cost. He further stated on the other end, if we do raise the fee, the low-end users which for the most part are our senior citizens that are on a fixed income. It will probably affect them the most. Councilmember Richards stated the majority of residential houses are billed a minimum of 11,000 gallons, the commercial is a little higher. He further stated the empty buildings downtown probably have a huge bill. Department Head Boven stated typically we will shut the water off if the building is vacant. Councilmember Kivell asked how we can validate our administrative costs if we are charging someone for 11,000 gallons and they are only using 8,000 gallons. Department Head Boven stated because no matter what, whether he pumps 10 gallons or a thousand gallons, there is still an operational cost to operate the system. The average might be 11,000 gallons per user to operate the system correctly. Councilmember Kivell stated he assumes these rules are established. Mr. Camiller stated he doesn't recommend having a minimum charge. He suggests having an administrative cost to cover the administrative costs, then adjust the variable charge to cover the variable cost to pump the water.

Councilmember Kurtzweil asked about the transfers from the Cemetery perpetual care to the general fund, but when she goes to general fund, she doesn't see the money coming in. Mr. Camiller stated that is on line 669 in general fund, it is considered a contribution. Councilmember Kurtzweil asked why the transferring of funds in the budget. Mr. Camiller stated it is an expense that is going into general fund to help pay for the cost of maintaining the cemetery. Councilmember Kurtzweil asked why it wouldn't go to the DPW. Ms. Mosier stated the wages from the DPW for working in the Cemetery their wages are charged to that account. Mr. Camiller stated the costs are charged to the general fund. Councilmember Kurtzweil asked if she could have an accounting for the \$50,000 that was transferred out of the Cemetery. Ms. Mosier stated she has all the payroll records so she can account for that. Councilmember Kurtzweil stated there were other transfers of road funds as well. Mr. Camiller stated Public Act 51 allows you to move 50% of your major street money to local streets. You cannot move local streets to major streets. Councilmember Kivell stated we should always use the 50% on major streets. Mr. Camiller stated the street money is being spent.

Councilmember Kurtzweil asked why the tax revenue dropped from the previous budget. Ms. Mosier stated they lowered the mill rate. Councilmember Kurtzweil asked about the \$26,000 we pay to SLARA. Ms. Mosier stated that is what we are currently paying. Councilmember Kurtzweil asked if we will be paying more to them since they are moving to another building. Chief Collins stated that amount is set by Council and SLARA. Chief Collins stated he was assured they have enough money for 5 years of rent at their new building, so their rent payments aren't directly tied to our contribution.

Councilmember Kurtzweil stated the water and sewer revenue changed from the last meeting. Mr. Camiller stated they changed the numbers to reflect the rate increases from R.W Baird.

Mr. Camiller stated based on tonight's meeting, we have added \$25,000 for the second police car, and increased the mill to .2938 and someone will need to speak with the schools regarding the video equipment.

CM 4-2-18 MOTION TO ADJOURN

Motion by Walton, supported by Kurtzweil

Motion to adjourn meeting at 9:15 p.m.

VOTE:

MOTION CARRIED UNANIMOUSLY

Respectfully submitted,

\_\_\_\_\_  
Mayor Daniel Pelchat

\_\_\_\_\_  
Clerk Lisa Deaton

DRAFT

# AGENDA NOTE

Old Business Item # 1

**MEETING DATE:** April 23, 2018

**PERSON PLACING ITEM ON AGENDA:** Recommendation from Planning Commission  
Postponed on 3/12/18;  
First Reading approved 4/9/18

**AGENDA TOPIC:** Second Reading of Ordinance to Amend the Official Zoning Map of the City of South Lyon rezoning the property located at 500 Stryker Street - Parcel No. 21-29-176-012 from R-3 (One-Family Residential) to RM-2 (Multiple Family Residential)

**EXPLANATION OF TOPIC:** On January 5, 2018, the owner of 500 Stryker Street applied to rezone the property from R-3 Single Family Residential to RM-2 Multiple Family Residential.

In 2017, at the applicant/owner's request, the City conditionally rezoned the property to I-1 Light Industrial to allow for the construction of a self-storage facility. As part of the conditional rezoning the City and the property owner entered into a conditional rezoning agreement as authorized under MCL 125.3405. One of the conditions on the 2017 rezoning to I-1 required that the owner meet specific deadlines for the completion of the planning approval process, construction and obtaining a certificate of occupancy for the facility. The owner did not meet any of the deadlines, and by the terms of the conditional rezoning agreement, the property's zoning reverted to R-3.

Since another self-storage facility was recently constructed nearby in Lyon Township, the property owner has decided instead to pursue a townhouse development for the site. The requested rezoning to RM-2 matches the Future Land Use designation for the site in the City of South Lyon Master Plan. As such, this is a regular rezoning request, as opposed to the previous conditional rezoning request, which did not match the Future Land Use designation.

On February 8, 2018, the Planning Commission held a public hearing on the owner's rezoning request, and adopted a motion recommending that City Council approve the rezoning request.

The next step in the zoning ordinance amendment process is for Council to consider the recommendation of the Planning Commission. An ordinance to rezone the property requires two readings.

## **MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Ordinance to amend the official zoning map of the City of South Lyon conditionally rezoning Parcel No. 21-29-176-012 – 500 Stryker Street, from R-3 to RM-2
- Planning Commission Minutes of February 8, 2018 (Draft)
- CIB Review dated January 15, 2018
- Rezoning Application and supporting materials
- April 9, 2018 CIB report

**POSSIBLE COURSES OF ACTION:** Approve/Deny/Table/Postpone

**RECOMMENDATION:** Approve second reading

**SUGGESTED MOTION:** Motion to approve the second reading of the ordinance to amend the official zoning map of the City of South Lyon rezoning Parcel 21-29-176-012, 500 Stryker Street, from R-3 to RM-2



## CITY OF SOUTH LYON

335 S. Warren Street ■ South Lyon, Michigan 48178

TEL (248) 437-1735

FAX (248) 486-0049

[www.southlyonmi.org](http://www.southlyonmi.org)

### APPLICATION FOR A REZONING REQUEST

#### APPLICANT INFORMATION

Name of Applicant: Designhaus Architecture - Mark Schovers

Address: 301 Walnut Blvd., Rochester MI 48307

Telephone: 248.601.4422 E-mail: mark@designhaus.com

Are you the owner of record for the property of the requested rezoning? YES ☒ NO

*If you are NOT the owner of record for the property of the requested rezoning, please complete the below section PROPERTY OWNER INFORMATION.*

#### PROPERTY OWNER INFORMATION

Name of Applicant: Raymond Schovers

Address: 44425 Chedworth Drive, Northville, MI 48167

Telephone: 248.348.0365 E-mail: dschovers@gmail.com

#### LOCATION OF PROPERTY FOR WHICH THIS REZONING IS REQUESTED

Property Address: 500 Stryker Street

Cross Streets: 9 Mile Road and 10 Mile Road (South side of Stryker)

Parcel ID Number: 21-29-176-012 Lot Size (in acres): 6.95 Acres

Lot Width: 261.60' Lot Depth: 1,163.76'

Present Zoning Classification: R-3 One Family Residential

Requested Zoning Classification: RM - Multiple Family Residential District

Zoning District of Adjacent Properties to the: North RT South Residential East \_\_\_\_\_ West \_\_\_\_\_  
(Lyon Twp.)

In the area provided or on a separate sheet, provide a statement indicating why, in your opinion, the requested rezoning is necessary for the presentation and enjoyment of substantial property rights, and why such change will not be detrimental to the public welfare, nor the property of other persons located in the vicinity:

See attached letter

In the area provided or on a separate sheet, explain how the requested rezoning is consistent with the goals, policies and Future Land Use Map of the City of South Lyon Master Plan, including any sub-area or corridor studies. If conditions have changed since the Plan was adopted, the consistency with recent development trends in the area:

See attached letter


#### ADDITIONAL REQUIREMENTS

As part of the Application to Request a Rezoning, the City requires a deed as proof that the applicant is owner of record for the property in question. Deeds can be obtained from Oakland County. If applicant is not the owner of the property, the City will require a letter from the owner of record authorizing the applicant to make this application.

**SKETCH:** Include 15 copies of a parcel map drawn at a scale of not less than 1" = 200' if the parcel is under three acres and 1" = 100' if the parcel is three acres or more. This sketch must show the property dimensions, all buildings existing or proposed on the site, the size of all structures within 50 feet of the property, the location and size of other important property characteristics such as easements, public right of way, septic fields, etc.

Mark Schovers

PRINT Name of Applicant



SIGNATURE of Applicant

1.5.18

Date

#### FOR OFFICE USE ONLY

Date Received: \_\_\_\_\_ Checked By: \_\_\_\_\_ Fee Collected: \_\_\_\_\_



## CIB PLANNING

Community Image Builders

January 15, 2018

Planning Commission  
City of South Lyon  
335 South Warren Street  
South Lyon, Michigan 48178

Attention: Megan Blaha, Zoning Administrator

<b>Subject:</b>	500 Stryker Rezoning Request
<b>Description of Application:</b>	The applicant is requesting the parcel at 500 Stryker be rezoned from R3, Single-Family Residential to RM-2, Multiple-Family Residential
<b>Applicant:</b>	DesignHaus Architecture 301 Walnut Boulevard Rochester, MI. 48307
<b>Zoning Request:</b>	RM-2 Multiple-Family Residential
<b>Application Date:</b>	January 5, 2018

Dear Commissioners:

We have reviewed the above application to rezone the above property from R-3, Single Family Residential, to RM-2, Multiple-Family Residential. In 2017 the property owners applied for a received a conditional rezoning of the property to I-1, Light Industrial, to allow the construction of self-storage units. Because the property owners are no longer interested in pursuing this endeavor, the property's zoning reverted back to R3, Single-Family Residential. This proposed rezoning to RM-2 would allow for the construction of multiple-family residential units. The parcel has 261 feet of frontage on Stryker and is characterized as a long rectangular parcel. Currently the parcel has a vacant single-family residential structure at the front of the property, with a majority of the parcel being

undeveloped.

Based upon our review of the zoning ordinance and master plan, discussions with City Staff, and a visit to the site, we offer the following comments for your consideration.

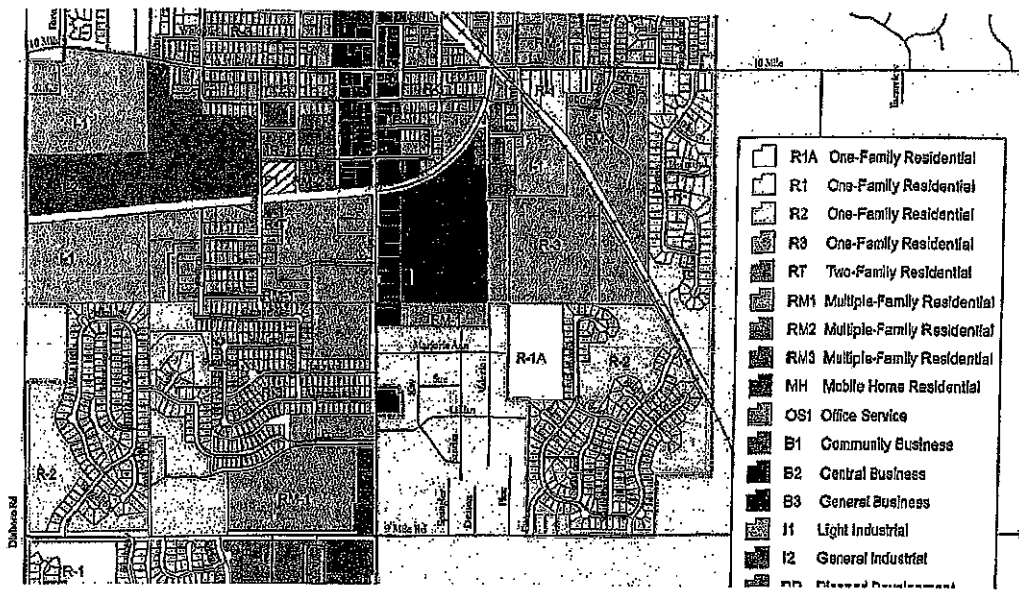
#### LOCATION AND DESCRIPTION

The subject site is surrounded by primarily residential uses, including manufactured homes and two-family residential homes. To the north is a single-family residential structure; to the south is property in Lyon Township (residential uses and zoning); to the east is a city-owned property, South Lyon Cemetery; and to the west is South Lyon Manufactured Housing Community. The parcel is wooded with a significant amount of trees including: Box Elder, Elm, Chinese Elm, Cherry, Maple, and Poplar, with scrub brush. The condition of the trees is not know at this time. The rear third of the parcel is bisected by the Yerkes Drain and difficult to develop. No significant topographic issues are present.

Surrounding Land Use and Zoning			
	Existing Use	Zoning	Future Land Use / Master Plan
Subject Property	Single-Family Residential & Vacant	R-3, Single-Family Residential	Traditional Residential
North	Single-Family Residential	RT, Two-Family Residential	Traditional Residential
South	Residential	Township	Township
East	Governmental (Cemetery)	R-3, Single-Family Residential	Traditional Residential
West	Single-Family Residential	MH-Manufactured Housing	Traditional Residential







The following lists summarize the permitted and special land uses in both the existing and proposed zoning districts.

## Existing Zoning

### R-3, One Family Residential

#### ***Permitted Uses***

- Single-Family *attached* dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### ***Special Uses***

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

## Proposed Zoning

### RM-2 Multiple Family Residential

#### *Permitted Uses*

- Single-Family *attached* dwellings
- Two-family dwellings (duplexes)
- Multiple-family Dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### *Special Land Uses*

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

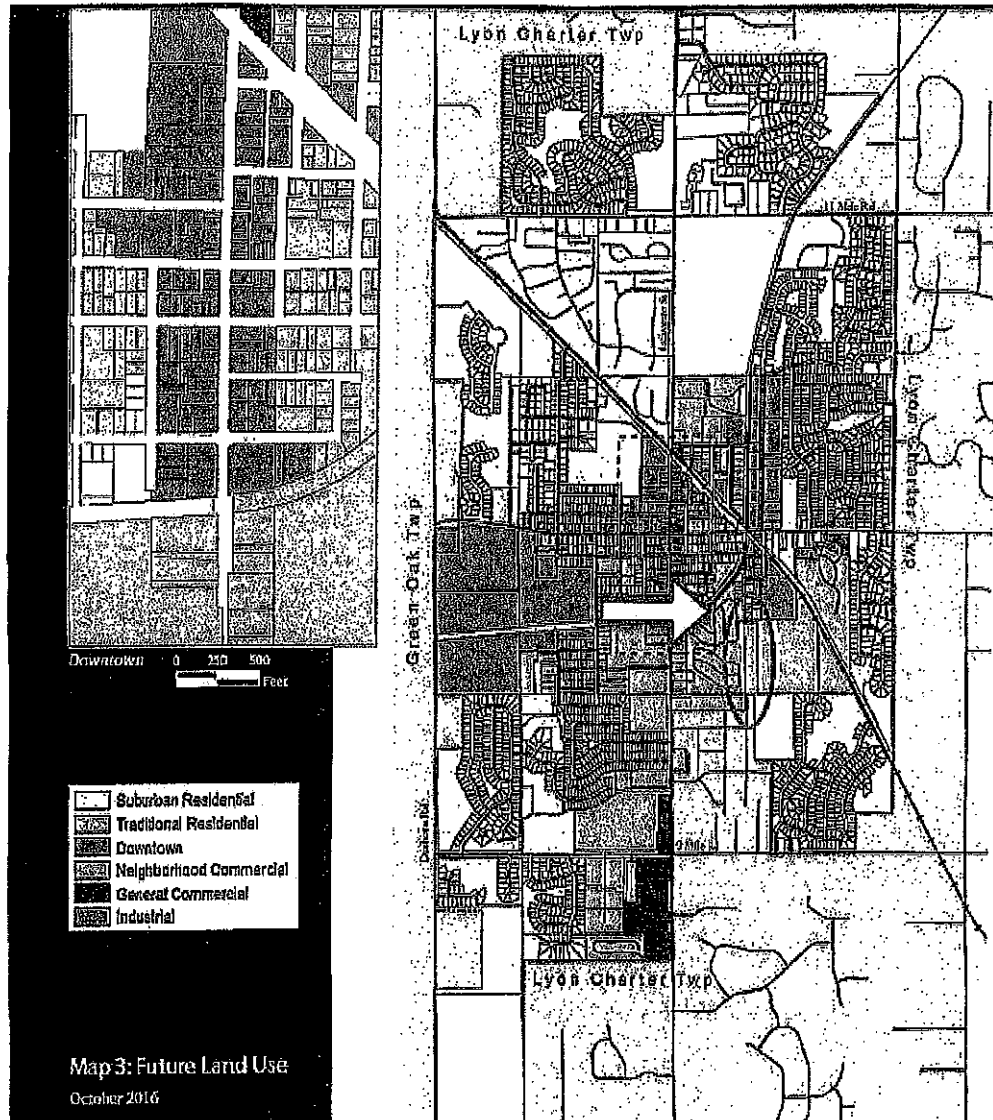
## FINDINGS

The rezoning request was reviewed based on the following criteria:

- a. *Consistency with the goals, policies, and Future Land Use Map of the City of South Lyon Master Plan, including any subarea or corridor studies. If conditions have changed since the City of South Lyon Master Plan was drafted, the consistency with recent development trends in the area.*

The Master Plan designates this site as Traditional Residential on the Future Land Use Map, along with abutting parcels to the north, south, east, and west. Traditional Residential is described as: higher density; smaller lot size; single-, two-, and multiple-family residential use; rectilinear and grid pattern streets; established neighborhoods; urban in character; and manufactured home parks. The corresponding Land Use and Policy Goals text indicates that Traditional Residential shall "encourage new developments to include high-quality, secure, and affordable housing and to provide housing that matches the varied needs and incomes of present and future populations in the City of South Lyon." The proposed

rezoning matches the Future Land Use designation for the subject site.



- b. *Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.*

The parcel is surrounded by existing residential uses. The site is large enough to accommodate the uses permitted in the RM-2 District, however, there is a wooded and wet area south of the Yerkes Drain (which divides the southern one-third of the property) that may remain undeveloped due to physical constraints and the cost of improvements required to cross the drain.

- c. *Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.*

The current zoning allows single-family residential housing. It is unlikely that a reasonable return on investment can be obtained by developing the property for single-family residential use given: the size and shape of the parcel; difficulties in crossing the Yerkes Drain to access the rear third of the parcel; lot size minimums and setback constraints; the requirement for two points of access to the residential development; and the varying uses on adjacent properties.

- d. *The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.*

The residential uses allowed in the RM-2 Multiple Family Zoning District are compatible with surrounding land uses and with proper site design would have minimal impact in terms of traffic, environment, aesthetics, etc.

- e. *The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the City.*

Should the property be rezoned, the proposed development of the property will require the extension of water and sewer into the property. Water and sewer lines are currently located along Stryker and the adequate public services should be available to the site.

- f. *The apparent demand for the types of uses permitted in the requested zoning district in the City in relation to the amount of land in the City currently zoned to accommodate the demand.*

The City of South Lyon land use inventory is rich in residential development, however a majority of the residential use is single-family residential; representing sixty percent (60%) of the land within the City. Only four percent (4.3%) of the City's housing inventory is multiple family residential. It is challenging to find affordable, quality housing that serves young families, seniors, empty-nesters, young adults, and diverse populations in this area of Oakland County and Michigan. Given the lack of developable land in the City, the City should secure opportunities to provide diverse and affordable housing.

- g. *Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.*

The Master Plan designates this site for Residential use so no other zoning districts would therefore not be more appropriate.

## RECOMMENDATION

Given the above analysis, we recommend approval of the rezoning request from R3, Single-Family Residential District, to RM-2, Multiple-Family Residential District for the following reasons:

1. The proposed rezoning is consistent with the City of South Lyon Master Plan, and more specifically, the Future Land Use Plan;
2. There is a need to provide land that is zoned for multiple-family housing;
3. Rezoning the land to multiple-family residential addresses a community need (multiple family housing represents only 4.3 % of the City's land uses);
4. The site is capable of accommodating the range of uses permitted in the RM-2 District;
5. Adequate public services are available to service this site; and
6. Residential use at this location is appropriate due to adjacent, existing single- and multiple-family housing.

If you have any further questions, please contact us at 810-335-3800.

Sincerely,

CIB PLANNING



Carmine P. Avantini, AICP  
President



January 5, 2018

City of South Lyon  
335 S. Warren Street  
South Lyon, MI 48178  
Attn.: Carmine Avantini

Re: 500 Stryker Street – Rezoning  
Parcel I.D.: 21-29-176-012  
Zoning: Current R-3 One Family Residential, Requested RM-2 Multiple-Family Residential District

Mr. Avantini,

Designhaus Architecture of Rochester, Michigan and has been retained by Mr. Raymond Schovers to pursue the rezoning of his property in the City of South Lyon. The property is located on Stryker Street, between Nine and Ten Mile Roads, east of S. Lafayette St. and west of Griswold Road on 6.989 acres.

This parcel is currently vacant and zoned R-3 One Family Residential. To the west is zoned MH Mobile Home Residence, to the east is R-3 One Family Residential – the use is a cemetery, to the north is R-T Two-Family Residential and the southern property line is a residential use in Lyon Township.

Due to the site location and shape, surrounding uses and Yerkes Drain, we are asking to be rezoned to RM-2 Multiple-Family Residential Districts. Screening and buffering on site will be provided in accordance to city ordinance and presented during the site plan approval process. Zoning codes and building codes will be upheld in the design and construction of the multi-family facility.

Based on previous conversations with the Planning Department, we have submitted a site survey (included with this letter). We are asking that this rezoning request be placed on the next available Planning Commission meeting.

Please review the included application and survey. We will be happy to discuss any comments or concerns at future meetings.

Sincerely, Designhaus Architecture

Signed,

A handwritten signature in black ink, appearing to read "Peter Stuhlreyer", written over a horizontal line.

Peter Stuhlreyer, Principal Architect

# January is busiest month for divorce filings



**Tales From  
The Front Lines**  
By Michelle  
HSA TODAY NETWORK —  
MICHIGAN

Q: I have read that January is the busiest month for new divorces being filed. Is this true?

A: You are talking a good issue. Studies have shown that January is the busiest month for new divorces being filed. Following are some of my thoughts on this issue.

■ Think of that Christmas and New Year's scene, with one big happy family congregating together to celebrate the Christmas and/or New Year's holiday season. Really is often far from the ideal. Coming together for the holidays is often fraught with tension and conflict.

■ Therapists are very busy during the holidays because people are so unhappy in their marriages that they are seeking someone becoming more resolved to move forward and file for a divorce after the holidays.

■ I have had marriages break up over one drink too many at an office Christ-

mas party. Often alcoholism will tear us ugly head during the holidays, when people tend to let loose.

■ An infestation can happen at the office party, where someone is acting inappropriately with someone who is not his or her spouse.

■ People are often very disappointed with the holidays because of unrealistic expectations of family and holiday traditions.

■ Issues that have been festering for months or years can be exacerbated over the holidays.

■ I see many people toward the end of the year who are considering a divorce, but want to wait until after the holidays so as not to spoil the holidays for their children or other family members.

■ People will make resolutions during the holidays to make sure that this is the last one to spend with a spouse.

■ A common New Year's resolution will be to get rid of a spouse and not spend another year in an unhappy marriage. I have had a wife resolve to lose 200 pounds of ugly fat — her husband!

■ You may have your in-laws or other relatives and decide that enough is

enough. Dealing with them during the holidays can be daunting.

■ Sometimes the holidays will escalate an abusive situation. Alcohol, drugs and abuse often go hand in hand. There is often a lot of domestic abuse during the holidays.

■ The year end is a time for reckoning and taking account of your personal life, as well as your career. People often decide to change jobs as well as spouses.

■ There may be a bonus that does not come through or is too small, with the result that this can bring more tension to your marriage.

■ People often act more rashly during the holidays. The result can be a divorce being filed in January.

■ Holidays are during the dark, cold, winter months, when people are often more depressed than during the spring and summer. This can lead to tension and a divorce as well.

■ Discontentment in life, unreasonable expectations, a failure to communicate. These are all issues that people will look at and take stock of as the end of the year and bring in the new year.

■ This could mean that change is

necessary, including a divorce.

■ To recap, drinking, alcohol, drugs, infidelity, money issues, lack of communication and growing apart are just some of the many examples that lead to divorces being filed at a higher rate in January than any other month.

■ Last but not least, we have the use of Facebook and other social media, which means that everything is being shared. We are losing our privacy, which contributes to more divorces being filed after the new year as well.

These are some of my thoughts. Please share yours.

Henry S. Cornblith specializes in all aspects of family law. He is a partner in the Birmingham law firm of **Lippitt O'Keefe Cornblith PLLC**, where he heads the family law unit. He is creator and host of the award-winning radio television show "Practical Law," with more than 200 episodes aired to date. He is the author of the book **Divorce Demystified: Everything You Need To Know Before You File For Divorce**. Contact him at [lgornblith@lippittokeefe.com](mailto:lgornblith@lippittokeefe.com) or 248-646-8292.

## Installing security cameras takes careful deliberation



**Condo Living**  
By Michelle  
HSA TODAY NETWORK —  
MICHIGAN

Q: I'm on the board of directors of our townhouse-style condo association and we just received a request from a new co-owner who wants to install a security camera outside her unit. She has explained that she was previously a victim of assault committed in her prior home. For the by-laws, the co-owners must get the association's permission before modifying the common elements. We're leaning toward letting her do it, but are there any risks involved?

A: This reminds me of a famous case from California, *Frances T. v. Village Green Owners Association*, which I frequently cited by my law students. The court found that there was a foreseeable danger to an owner due to a prior burglary of the unit and lack of exterior lighting and, with respect to a subsequent break-in and assault, the court found the association and individual directors could be held responsible for negligence in not addressing the lack of exterior lighting.

Does this mean that you must allow the security camera in your situation? Not necessarily. The facts applicable to *Frances* that led the court to conclude there was a foreseeable danger to the owner from your situation is that there was a break-in at that particular unit. It may be that even if you were to deny installation of the camera and a crime subsequently occurred at the unit, you would be able to argue that the crime was not foreseeable and that you did not have a duty to allow a security camera. And associations do not have a general duty to protect residents from crime. On the other hand, if you have experienced so-

curity issues recently in the development, I would want to know how those have been addressed.

Of course, if you allow one person to install a camera, you might expect others to request the same and you would have to approve other reasonable requests to install cameras. Just you face a claim of disparate treatment or discrimination. Note that it would probably not be defensible to require that the applicant had previously been a victim of assault.

If you decide to allow co-owners to install cameras, the board should adopt rules that: 1) provide standard approved camera models to ensure uniformity (and choose a model that you can observe which direction it is pointed); 2) require that surveillance be limited to the areas immediately outside of the unit and specifically do not monitor neighbors or amenities in the common elements (such as pool); and 3) require the co-owner enter into a standard modification of common elements agreement with the association.

Among other things, the modification agreement should identify where the camera is allowed to be placed and indemnify the association from any damage or injury caused by the installation/operation of the camera or any failure of the camera to function.

Of course, all of this should be considered further and prepared with assistance from your experienced community association attorney.

**Robert M. Meisner, Esq.**, is principal attorney of *The Meisner Law Group*, based in *Birmingham*, which provides legal representation for condominium, homeowner associations, individual co-owners and developers. He can be reached at 248-664-4433 or [rmeisner@meisner-law.com](mailto:rmeisner@meisner-law.com). Go to the firm's blog at [meisner-law.com/blog](http://meisner-law.com/blog).

## Peripheral arterial disease and narrowing of arteries



**Healthy Living**  
By Michelle  
HSA TODAY NETWORK —  
MICHIGAN

Have you ever discussed peripheral arterial disease with your spouse or a parent? Do you recall a time when you have ever discussed this health topic with your physician?

For most adults in our community, the answer is no. And this reality alarms me.

Peripheral arterial disease occurs when plaque accumulates and narrows or clogs the arteries, reducing blood flow to limbs or organs.

Don't think this affects you or someone you love? Statistics suggest otherwise. According to the Centers for Disease Control and Prevention, approximately 8.5 million people in the United States have PAD.

PAD most commonly affects blood flow to the legs, feet and toes. What may begin as light tingling following physical activity could lead to cramping and numbness. Those affected will sense a loss of energy and stamina. Even walking a short distance to the mailbox may prove challenging.

If not addressed by a physician promptly, symptoms can worsen and could lead to pain during rest, which can get so severe that it can wake people from their sleep. If left unchecked, PAD in your legs could lead to sores

that don't heal, gangrene and even amputation.

The aorta, artery located in your neck, is another common artery where narrowing or clogging can occur. This is the most dangerous form of PAD, since blood is limited or stopped from reaching your brain. This can result in a stroke. Symptoms may include vision disturbances, facial droop, arm weakness or speech impairment.

If you ever feel these symptoms, call 9-1-1 immediately and get to your nearest emergency room. This is life-threatening and time is of the essence. Do not wait or delay.

The National Institutes of Health lists these enticement risk factors:

■ Be physically active.  
■ Get a checkup for PAD. A simple doctor's office test, called an ankle-brachial index or ABI, can help determine whether you have PAD.

■ Follow heart-healthy eating.  
■ If you smoke, quit. Speak with your doctor or a local hospital about programs and products that can help you quit smoking.

■ If you're overweight or obese, work with your doctor to create a reasonable weight-loss plan.

The important thing to remember is that it's never too late to begin making healthy lifestyle choices.

**Bipinsharda Patel, D.O.**, is a vascular surgeon at *St. Mary Mercy* hospital.

**CITY OF SOUTH LYON  
PUBLIC HEARING**

A Public Hearing will be held by the Planning Commission of the City of South Lyon on City Hall, 315 S. Warren, South Lyon, Michigan, on Thursday, February 8, 2018 at 7:00 p.m., or as soon thereafter as the agenda will permit, to consider a rezoning request to change the zoning for the following described property from R-3 (One-Family Residential) District to RM-2 (Multiple-Family Residential) District:

The subject property address is 200 Starkey and is located on the north side of Starkey Street, east of the South Lyon Cemetery and east of South Woods Manufactured Housing Community, and the Parcel # is 21-20-176-012.

Comments can be expressed at the Public Hearing, or written comments can be directed to the attention of the Planning Department, City of South Lyon, 315 S. Warren, South Lyon, Michigan 48176, or by e-mail to [planning@cityofsouthlyon.com](mailto:planning@cityofsouthlyon.com) no later than 12:00 p.m. one day prior to the date of the meeting. If you have questions you may contact the Planning Department by e-mail or by phone at (248) 134-1155.

The application on file is being viewed at the Planning Department, City of South Lyon, 315 S. Warren, South Lyon, Michigan 48176.

Notice and information for public hearings will also be posted on the City website at [www.cityofsouthlyon.com](http://www.cityofsouthlyon.com).

Lisa Denton City Clerk

**NOTICE:** Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by calling (248) 457-7353 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

2. Michael L. Davis 12.2018

**To Hawkeya Petroleum Land Services, Inc.**

I, the undersigned, an authorized agent of the owner of the following described land situated in Oakland County, Michigan, to wit:

Part of West 1/2 of the Southwest 1/4 of Section 23, Town 1 North, Range 7 East, Lion Township, Oakland County, Michigan, described as follows: Beginning at the Southeast corner of said Section 23; 2028.27 feet to the West 1/4 corner of Section 23; thence South 89 degrees 00 minutes 00 seconds East, along the East-West 1/4 line of Section 23, 1315.64 feet; thence South 89 degrees 00 minutes 00 seconds West 2327.64 feet; thence North 89 degrees 00 minutes 00 seconds West 611.70 feet; thence North 89 degrees 00 minutes 00 seconds West, along the South line of Section 23, 1315.64 feet to the point of beginning. EXCEPTING therefrom all of the oil, gas and other mineral rights in and under said land upon which a lease dated as of September 17, 1989 was given to Hawkeya Petroleum Land Services, Inc. (lease), do hereby certify that the term of said lease has expired, that I hereby elect to declare and do declare the said lease forfeited and void, and that unless you do within 30 days from this date notify the register of deeds of said county as provided by law that said lease has been forfeited, I will file with the said register of deeds an affidavit of forfeiture as provided by law; and I hereby demand that you execute or have executed a proper surrender of said lease and that you pay the same on record in the office of the register of deeds in said county within 30 days from this date.

Dated this 14th day of January, 2018.

Michelle G. Canzano, Authorized Agent of Four Seasons Land Holding Company, LLC  
Notarized January 11, 2018 at 11:00 AM in Detroit, MI

**To Smith Petroleum Company:**

I, the undersigned, an authorized agent of the owner of the following described land situated in Oakland County, Michigan, to wit:

Part of West 1/2 of the Southwest 1/4 of Section 23, Town 1 North, Range 7 East, Lion Township, Oakland County, Michigan, described as follows: Beginning at the Southeast corner of said Section 23; 2028.27 feet to the West 1/4 corner of Section 23; thence South 89 degrees 00 minutes 00 seconds East, along the East-West 1/4 line of Section 23, 1315.64 feet; thence South 89 degrees 00 minutes 00 seconds West 2327.64 feet; thence North 89 degrees 00 minutes 00 seconds West 611.70 feet; thence North 89 degrees 00 minutes 00 seconds West, along the South line of Section 23, 1315.64 feet to the point of beginning. EXCEPTING therefrom all of the oil, gas and other mineral rights in and under said land upon which a lease dated as of September 17, 1989 was given to Hawkeya Petroleum Land Services, Inc. (lease), do hereby certify that the term of said lease has expired, that I hereby elect to declare and do declare the said lease forfeited and void, and that unless you do within 30 days from this date notify the register of deeds of said county as provided by law that said lease has been forfeited, I will file with the said register of deeds an affidavit of forfeiture as provided by law; and I hereby demand that you execute or have executed a proper surrender of said lease and that you pay the same on record in the office of the register of deeds in said county within 30 days from this date.

Dated this 14th day of January, 2018.

Michelle G. Canzano, Authorized Agent of Four Seasons Land Holding Company, LLC  
Notarized January 11, 2018 at 11:00 AM in Detroit, MI



**MICHIGAN.COM – Serving the  
OBSERVER & ECCENTRIC and HOMETOWN WEEKLY NEWSPAPERS  
6200 Metropolitan Pkwy, Sterling Heights, MI 48312**

**BE IT MADE KNOWN THAT THE FOLLOWING ADVERTISEMENT APPEARED IN:**  
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**Publication: South Lyon Herald  
Placed by: City of South Lyon  
Subject: Public Hearing 500 Stryker  
Date of Publication: January 18, 2018**

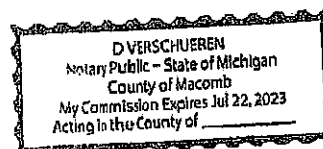
*Susan Totoraitis* (Susan Totoraitis), being duly sworn, deposes  
and says that the advertising illustrated above/attached was published in the  
South Lyon Herald Newspaper on the following date/s/: January 18, 2018,  
INVOICE Number 337671, and as an authorized employee of the Observer and  
Eccentric Media, she knows well the facts stated/herein. Cost: \$159.30.

**STATE OF MICHIGAN**

**NOTARIZED BY:** *D Verschueren*

**Commission Expires: July 22, 2023**

**(Acting in County of) Macomb Notary Public in and for said County**





**City of South Lyon  
Planning Commission  
Regular Meeting Minutes  
February 8, 2018**

Approved: \_\_\_\_\_

The meeting was called to order by Chairman, Scott Lanam at 7:00 p.m.

Roll Call:        Scott Lanam, Chair  
                     Keith Bradley, Vice Chair  
                     Steve Mosier, Commissioner  
                     Mike Joseph, Commissioner  
                     Jason Rose, Commissioner  
                     Erin Kopkowski, Commissioner

Absent:            Wayne Chubb, Commissioner, Excused

Also Present: Megan Blaha, City of South Lyon  
                     Kelly McIntyre, Planning Consultant  
                     Judy Pieper, Deputy Clerk  
                     Tim Wilhelm, City Attorney

**Motion to excuse Commissioner Chubb's absence as advised by Attorney Wilhelm**  
**Motion by Kopkowski, Second by Bradley**

Voice Vote: Ayes:     Unanimous  
                     Nays:        None

**Motion Approved**

**Approval of Agenda**

Attorney Wilhelm asks the Commission to add New Business Item #4, to schedule the 2018 Planning Commission meetings. Commissioner Bradley adds that we need to make a few more changes, he states that item #2 needs to be moved to #1 Public Hearings, and the new #2 should be Sun Steele Site Plan Review – Addition #2.

**Motion to approve Agenda as amended**  
**Motion by Bradley, Second by Kopkowski**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

### **Approval of Minutes**

Chair Lanam gets a clarification from Commissioner Mosier regarding the statement that he made about Alexander's on page 3 of the minutes at the end of the Planning Consultant Report.

**Motion to approve Minutes as amended**  
**Motion by Mosier, Second by Rose**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

### **Public Comments**

None

Attorney Wilhelm brings up that he has seen other community's add a standard agenda item for Conflicts of Interest. This has come up at the Council level and this would be a proactive move.

**Motion to add Conflict of Interest to the regular agenda items**  
**Motion by Rose, Second by Bradley**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

### **Public Hearing**

Rezoning of 500 Stryker Street

Public hearing open at 7:10 p.m. and closed at 7:12 p.m.

Planning Consultant, Kelly McIntyre, begins with a bit of history on the zoning and rezoning of 500 Stryker Street. Stating that in 2017 the original owners of the property applied for and received a conditional zoning of property to light industrial to do storage units. For a number of reasons, they changed their mind so with that it went back to R3 single family. They are now asking for a rezoning to R2, which would be multiple family. She stated when rezoning is looked at, we look at the surrounding properties as well as the master plan. This property is surrounded by the mobile home park as well as some residential. Per the master plan this will serve as transitional residential district and we believe there is an abundance of housing in South Lyon and there is a need for multiple housing which is also in the master plan. She stated for a number of reasons, they are supporting their request. Kopkowski asked if they gave any information on what they are wanting to do, or are they just asking for the rezoning. McIntyre stated we have an idea, but we can't base our decision on the rezoning issue. Commissioner asked what their reason for was not building the storage facility. McIntyre stated they had a concern about a new storage facility that had recently opened and the competition. Mark Schober of 301 Walnut Blvd in Rochester Hills. He then stated there was a new facility that is being erected and that absorbed a lot of the market so they decided to go in a new direction. Commissioner Lanam stated there seems to be some concern about buffering around the Cemetery. Mr. Schober stated there will be a buffer between them and the cemetery as well as them and the mobile park. Lanam asked if he realizes there is a drain that is there. Mr. Schober stated they don't plan on crossing over the drain. Kopkowski asked if you are looking at ranch or with stairs. Mr. Schober stated they are looking at both.

**MOTION TO RECOMMEND COUNCIL TO APPROVE REZONING OF 500 STRYKER STREET FROM R3 TO RM2**

Motion by Kopkowski, supported by Bradley

VOTE: 1 OPPOSED



## CIB PLANNING

Community Image Builders

January 15, 2018

Planning Commission  
City of South Lyon  
335 South Warren Street  
South Lyon, Michigan 48178

Attention: Megan Blaha, Zoning Administrator

<b>Subject:</b>	500 Stryker Rezoning Request
<b>Description of Application:</b>	The applicant is requesting the parcel at 500 Stryker be rezoned from R3, Single-Family Residential to RM-2, Multiple-Family Residential
<b>Applicant:</b>	DesignHaus Architecture 301 Walnut Boulevard Rochester, MI. 48307
<b>Zoning Request:</b>	RM-2 Multiple-Family Residential
<b>Application Date:</b>	January 5, 2018

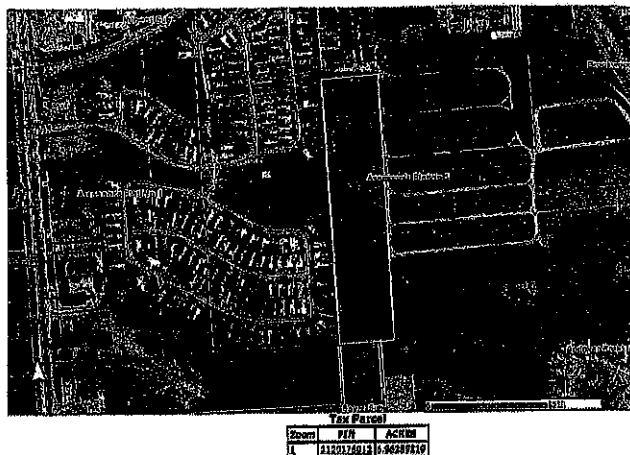
Dear Commissioners:

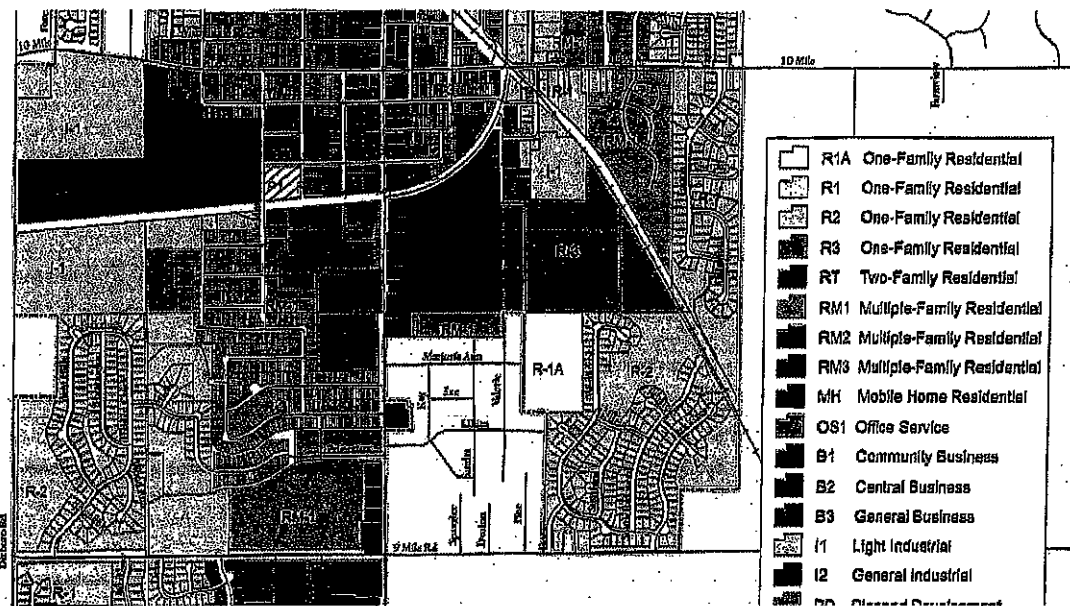
We have reviewed the above application to rezone the above property from R-3, Single Family Residential, to RM-2, Multiple-Family Residential. In 2017 the property owners applied for a received a conditional rezoning of the property to I-1, Light Industrial, to allow the construction of self-storage units. Because the property owners are no longer interested in pursuing this endeavor, the property's zoning reverted back to R3, Single-Family Residential. This proposed rezoning to RM-2 would allow for the construction of multiple-family residential units. The parcel has 261 feet of frontage on Stryker and is characterized as a long rectangular parcel. Currently the parcel has a vacant single-family residential structure at the front of the property, with a majority of the parcel being

Based upon our review of the zoning ordinance and master plan, discussions with City Staff, and a visit to the site, we offer the following comments for your consideration.

The subject site is surrounded by primarily residential uses, including manufactured homes and two-family residential homes. To the north is a single-family residential structure; to the south is property in Lyon Township (residential uses and zoning); to the east is a city-owned property, South Lyon Cemetery; and to the west is South Lyon Manufactured Housing Community. The parcel is wooded with a significant amount of trees including: Box Elder, Elm, Chinese Elm, Cherry, Maple, and Poplar, with scrub brush. The condition of the trees is not know at this time. The rear third of the parcel is bisected by the Yerkes Drain and difficult to develop. No significant topographic issues are present.

Surrounding Land Use and Zoning			
	Existing Use	Zoning	Future Land Use / Master Plan
<b>Subject Property</b>	Single-Family Residential & Vacant	R-3, Single-Family Residential	Traditional Residential
North	Single-Family Residential	RT, Two-Family Residential	Traditional Residential
South	Residential	Township	Township
East	Governmental (Cemetery)	R-3, Single-Family Residential	Traditional Residential
West	Single-Family Residential	MH-Manufactured Housing	Traditional Residential





The following lists summarize the permitted and special land uses in both the existing and proposed zoning districts.

## Existing Zoning

### **R-3, One Family Residential**

#### ***Permitted Uses***

- Single-Family *attached* dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### ***Special Uses***

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

## Proposed Zoning

### RM-2 Multiple Family Residential

#### *Permitted Uses*

- Single-Family *attached* dwellings
- Two-family dwellings (duplexes)
- Multiple-family Dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### *Special Land Uses*

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

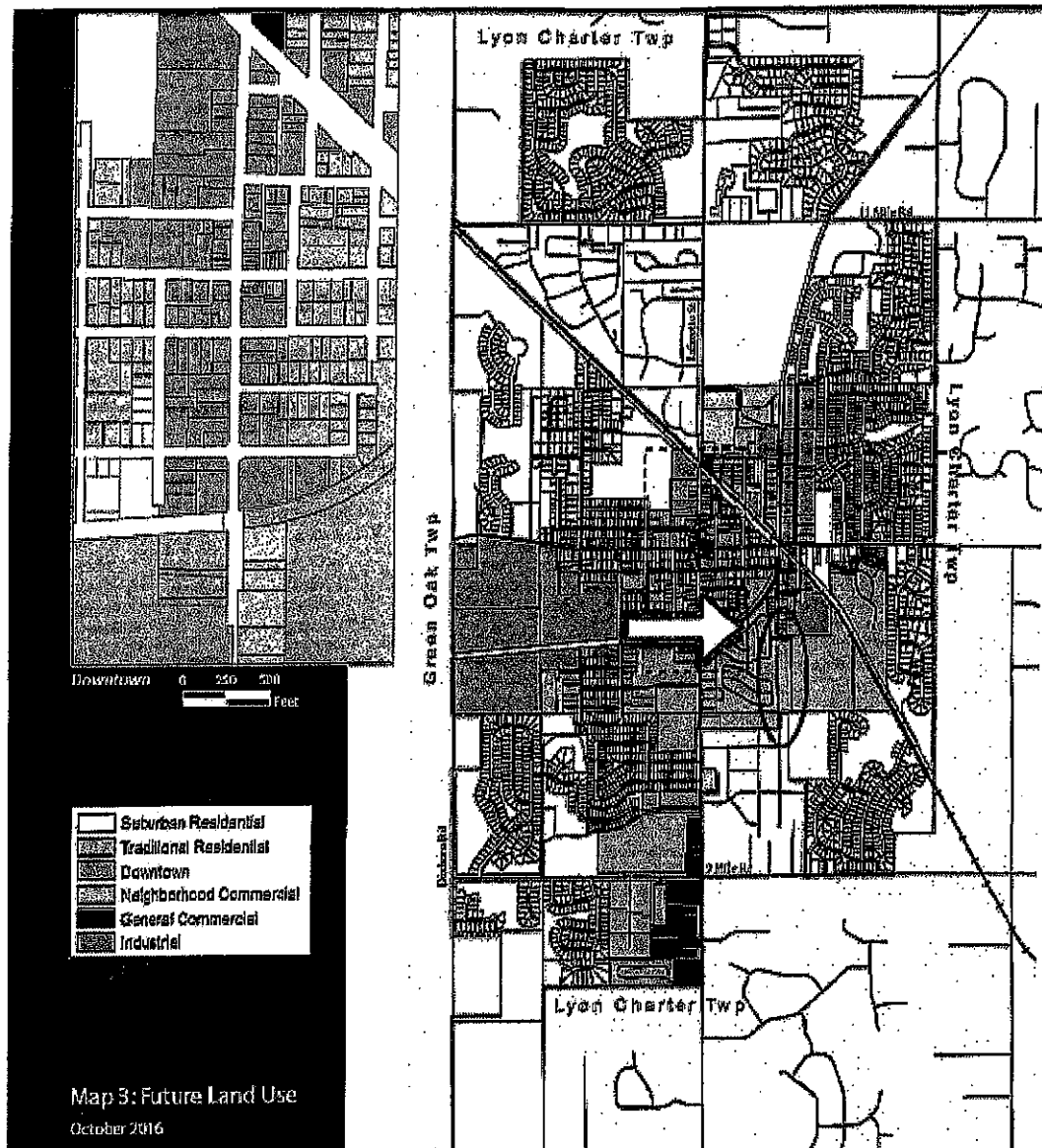
## FINDINGS

The rezoning request was reviewed based on the following criteria:

- a. *Consistency with the goals, policies, and Future Land Use Map of the City of South Lyon Master Plan, including any subarea or corridor studies. If conditions have changed since the City of South Lyon Master Plan was drafted, the consistency with recent development trends in the area.*

The Master Plan designates this site as Traditional Residential on the Future Land Use Map, along with abutting parcels to the north, south, east, and west. Traditional Residential is described as: higher density; smaller lot size; single-, two-, and multiple-family residential use; rectilinear and grid pattern streets; established neighborhoods; urban in character; and manufactured home parks. The corresponding Land Use and Policy Goals text indicates that Traditional Residential shall "encourage new developments to include high-quality, secure, and affordable housing and to provide housing that matches the varied needs and incomes of present and future populations in the City of South Lyon." The proposed

rezoning matches the Future Land Use designation for the subject site.



- b. *Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.*

The parcel is surrounded by existing residential uses. The site is large enough to accommodate the uses permitted in the RM-2 District, however, there is a wooded and wet area south of the Yerkes Drain (which divides the southern one-third of the property) that may remain undeveloped due to physical constraints and the cost of improvements required to cross the drain.

- c. *Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.*



The current zoning allows single-family residential housing. It is unlikely that a reasonable return on investment can be obtained by developing the property for single-family residential use given: the size and shape of the parcel; difficulties in crossing the Yerkes Drain to access the rear third of the parcel; lot size minimums and setback constraints; the requirement for two points of access to the residential development; and the varying uses on adjacent properties.

- d. *The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.*

The residential uses allowed in the RM-2 Multiple Family Zoning District are compatible with surrounding land uses and with proper site design would have minimal impact in terms of traffic, environment, aesthetics, etc.

- e. *The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the City.*

Should the property be rezoned, the proposed development of the property will require the extension of water and sewer into the property. Water and sewer lines are currently located along Stryker and the adequate public services should be available to the site.

- f. *The apparent demand for the types of uses permitted in the requested zoning district in the City in relation to the amount of land in the City currently zoned to accommodate the demand.*

The City of South Lyon land use inventory is rich in residential development, however a majority of the residential use is single-family residential; representing sixty percent (60%) of the land within the City. Only four percent (4.3%) of the City's housing inventory is multiple family residential. It is challenging to find affordable, quality housing that serves young families, seniors, empty-nesters, young adults, and diverse populations in this area of Oakland County and Michigan. Given the lack of developable land in the City, the City should secure opportunities to provide diverse and affordable housing.

- g. *Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.*

The Master Plan designates this site for Residential use so no other zoning districts would therefore not be more appropriate.

## RECOMMENDATION

Given the above analysis, we recommend approval of the rezoning request from R3, Single-Family Residential District, to RM-2, Multiple-Family Residential District for the following reasons:

1. The proposed rezoning is consistent with the City of South Lyon Master Plan, and more specifically, the Future Land Use Plan;
2. There is a need to provide land that is zoned for multiple-family housing;
3. Rezoning the land to multiple-family residential addresses a community need (multiple family housing represents only 4.3 % of the City's land uses);
4. The site is capable of accommodating the range of uses permitted in the RM-2 District;
5. Adequate public services are available to service this site; and
6. Residential use at this location is appropriate due to adjacent, existing single- and multiple-family housing.

If you have any further questions, please contact us at 810-335-3800.

Sincerely,

CIB PLANNING

A handwritten signature in cursive script, reading "Carmine P. Avantini".

Carmine P. Avantini, AICP  
President

# AGENDA NOTE

OLD #2

**MEETING DATE:** April 23, 2018

**PERSON PLACING ITEM ON AGENDA:** Last addressed by Council 4/9/18 (motion to approve 2<sup>nd</sup> reading of 1/22/18 version failed)

**AGENDA TOPIC:** Liquor License Ordinance – First Reading

**EXPLANATION OF TOPIC:** The City began the process of preparing and adopting a liquor license ordinance in mid-2017. The City has reviewed a number of versions of a liquor license ordinance. Initially, the Council approving a first reading in October 2017.

Thereafter, in the latter part of 2017, City staff met with license holders and others to obtain additional input on the ordinance. A revised draft ordinance was presented for first reading in January 2018, although the matter was postponed to allow for further revision to narrow its scope and remove restrictions and make it more consistent with the Michigan Liquor Control Code.

There have been subsequent revisions and postponements to allow for more revisions to narrow the scope of the ordinance. The Council approved a first reading on 3/26/18, but on 4/9/18, it failed to pass a motion to approve a second reading with discussion indicating a desire for an even narrower ordinance that would be more "business friendly" and does not duplicate the MLCC application process.

Pursuant to the 4/9/18 meeting, the ordinance has been revised again to further narrow it and limit its application to liquor licenses which require approval of the local legislative body (as designated in the MLCC Chart) which would include, among others, Class C on-premises (quota licenses), hotel, banquet facility, brewpub, club, resort, tavern. The transfer provisions have been removed entirely. The plan of operation has been removed, and the 3-year time frame for continuing enforcement of an approved operation have similarly been removed.

To the extent there is a desire to revise or remove application requirements or review criteria, Council should provide that input.

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 Objections to renewal and requests for revocation

Section 8-37 Fees  
Section 8-38 Nudity  
Sections 8-39 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.

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 which require the approval of the local legislative body per the MLCC chart.

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, and the application fee established. 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.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Revised ordinance – clean 4/19/18 version
- Ordinance – redline showing changes from 3/21/18
- MCL 436.1501
- Overview of MLCC
- MLCC Approval Chart

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

**RECOMMENDATION:** Deny first reading of 4/19/18 version, and approve second reading of 1/22/18 version of liquor license ordinance. Staff and Attorney have concerns that the 4/19/18 version removes too many regulatory provisions which the City may need to protect its interests and the interests of its residents with respect to valuable liquor licenses and the effects of licensed premises. Also, there are concerns that this ordinance relies too heavily on the MLCC process and the MLCC acting in the best interests of the City.

**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 [04/19/18] \_\_\_\_\_ to the City of South Lyon Code of Ordinances to provide policies, procedures and regulations for liquor licenses.

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 CERTAIN ON-PREMISES  
LIQUOR LICENSES.

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  
designated as requiring local legislative body approval by the Michigan Liquor Control  
Commission, and for the renewal and revocation of liquor licenses. The process is intended to  
ensure that the individuals and entities seeking City approval for liquor 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 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 liquor license requiring local legislative body approval 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 factor 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) *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.

(l) *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. – 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. 8-37. – 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 8-38. – 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. 8-39 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 CERTAIN ON-PREMISES LIQUOR LICENSES.

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, transfer of on-premises licenses into and within designated as requiring local legislative body approval by the city and among owners and/or applicants Michigan Liquor Control Commission, and for the renewal and revocation of liquor licenses. The process is intended to ensure that the individuals and entities seeking City approval for liquor 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.

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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 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 3,000 barrels of beer per calendar year in Michigan and sell at the 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, liquor license requiring local legislative body approval~~ 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 review 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 the 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~~ factor 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)(h) 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)(i) 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 license.

#### 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.~~

(a) ~~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;~~

(2) ~~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.~~

(b) ~~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.

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(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. 8-3937. – 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 8-3938. – Nudity.

No person, while appearing in a state of public nudity as defined in Section 5n 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. 8-4039 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

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

**436.1601 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.

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**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.

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**LARA Contacts**

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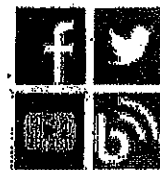
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Michigan Department of Licensing and Regulatory Affairs  
Liquor Control Commission (MLCC)  
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Mailing Address: PO Box 30005, Lansing, MI 48909  
Toll Free 866-813-0011 – [www.michigan.gov/lcc](http://www.michigan.gov/lcc)

### **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.

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### **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.

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#### **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.

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#### **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

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#### **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.
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### **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.

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### **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).
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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 options required to be considered?				MLCC investigation required?				Inspection Fees?				Base Fees			
Add Space		No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes								
Change Specific Purpose Permit hours		No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No								
Change status		No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No								
Correct address		No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes								
Drop Space (current licensees)		No	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes								
New Additional Bar		No	No	No	No	No	No	No	No	No	No	No	No	No	No	No	No								
New A-Hotel License		Yes	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Aircraft License		No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Banquet Facility Permit		Yes	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New B-Hotel License		Yes*	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Brewpub License		Yes*	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Catering Permit		No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	No	No	No	No								
New Class C issued under MCL 436.1521a(1)(a)		Yes	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Class C issued under MCL 436.1521a(1)(b)		Yes	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Class C License		Yes*	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Class G-1 License		Yes*	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Class G-2 License		Yes*	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								
New Club License		Yes*	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes								

\*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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On Premise Transactions	Is Local Legislative Body or Police approval required?				MLCC Investigation options required to be considered?			Inspection Fees?		Base Fees
	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police approval required?	Is Local Police approval required?	Is Local Legislative Body or Police approval required?	Is Local Legislative Body or Police approval required?	Is Local Legislative Body or Police approval required?	Inspection Fees?	Inspection Fees?	
New Continuing Care Retirement Center License	Yes*	No	No	No	Yes	Yes	Yes	Yes	Yes	\$600.00
New Dance Permit	No	No	No	No	Yes	Yes	No	Yes	Yes	
New Dance-Entertainment Permit	No	No	No	No	Yes	Yes	No	Yes	Yes	
New Direct Connection	No	No	No	No	No	Yes	Yes	No	No	
New Entertainment Permit	No	No	No	No	Yes	No	No	Yes	Yes	
New Extended Hours Permit (Dance, Topless Activity, Entertainment)	No	No	No	No	Yes	No	No	Yes	Yes	
New Living Quarters Permit	No	No	No	No	Yes	No	No	Yes	Yes	
New Outdoor Service	No	No	No	No	No	Yes	Yes	No	No	
New Participation Permit	No	No	No	No	Yes	No	No	Yes	Yes	
New Resort A-Hotel License	Yes*	No	No	No	Yes	Yes	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort B-Hotel License	Yes*	No	No	No	Yes	Yes	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort Class C License	Yes*	No	No	No	Yes	Yes	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort Tavern License	Yes*	No	No	No	Yes	Yes	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New SDM in conj with On Premise license	No	No	No	No	Yes	Yes	Yes	Yes	Yes	\$100.00
New Specific Purpose Permit (Food, Golf, etc.)	No	No	No	No	Yes	No	No	Yes	Yes	
New Sunday Sales Permit (AM)	No	No	No	No	Yes	No	No	No	No	\$160.00
New Sunday Sales Permit (PM)	No	No	No	No	Yes	No	No	No	No	15% of total license fee
New Tavern License	Yes*	No	No	No	Yes	Yes	Yes	Yes	Yes	\$250.00

\*except in a city having a population of 660,000 or more, pursuant to MCL 436.1501(2)

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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
New Tapless 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	Yes	Yes	\$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

\*except in a city having a population of 600,000 or more, pursuant to MCL 436.150(2)

Last updated on 12-21-2012