



**AGENDA**  
**REGULAR CITY COUNCIL MEETING**  
**35<sup>th</sup> CITY COUNCIL**  
**OAK PARK, MICHIGAN**  
**July 6, 2015**  
**7:00 PM**

---

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**4. APPROVAL OF AGENDA**

**5. CONSENT AGENDA**

The following routine items are presented for City Council approval without discussion, as a single agenda item. Should any Council Member wish to discuss or disapprove any item it must be dropped from the blanket motion of approval and considered as a separate item.

- A. Regular Council Meeting Minutes of June 15, 2015
- B. Emergency Services Council meeting Minutes of May 11, 2015
- C. Request to advertise for bids for the 2015 Block Pruning Project, M-636
- D. Request to authorize the Public Works Department to participate in pre-bid contracts for the purchase of five budgeted Public Works vehicles
- E. Request approval of Proposed Change Order No. 2 to Mattioli Cement Company, LLC. for the 2015 Miscellaneous Concrete Repair Project, M-603 in the amount of (\$17,352.14) and Payment Application No. 2 to the same in the total amount of \$192,572.88
- F. Request approval for payment of invoices from Orchard, Hiltz & McCliment for Water Reservoir Pumping Station Improvements and Traffic Signal Design in the total amount of \$16,529.50
- G. Licenses - New and Renewals as submitted for July 6, 2015

**6. RECOGNITION OF VISITING ELECTED OFFICIALS:**

**7. SPECIAL RECOGNITION/PRESENTATIONS:**

- A. Public Safety Departmental Awards
- B. City Manager Employee Recognition – Steve Lukasik

**8. PUBLIC HEARINGS:** None

**9. COMMUNICATIONS:** None

**10. SPECIAL LICENSES:** None

**11. ACCOUNTING REPORTS:**

- A. Approval for payment of an invoice as submitted by Secret Wardle, Lynch, Hampton, Truex & Morley for legal services in the amount of \$4,643.98

**12. BIDS:**

- A. Request approval of a proposal from PSI, Inc for material testing services for the 2015 Construction Projects, M-606, M-608 and M-609 in the total amount of \$20,910.00

**13. ORDINANCES:**

- A. Second reading and adoption of an Ordinance to Amend Chapter 6, Alcoholic Liquors, Article I, In General; Article II, Minors at Open House Parties; and Article III, Regulation of On-The-Premises Consumption of the Code of Ordinances of the City of Oak Park, Michigan
- B. Second reading and adoption of an Ordinance to amend Article II, Definitions; Article VII, B-1 Neighborhood Business Districts; Article XII, PCD Planned Corridor Development Districts; Article XVII, General Provisions; and Article XIX, Special Land Uses, Appendix A, Zoning, of the Code of Ordinances of the City of Oak Park, Michigan

**14. CITY ATTORNEY:**

**15. CITY MANAGER:**

**Water Department**

- A. Update on water under-billings outstanding from Providence Green and Crown Point

**Finance Department**

- B. Request approval for a Contract Extension with Rehmann Robson to perform the City's financial audit for the fiscal years ending June 30, 2015 through June 30, 2017

**Community and Economic Development**

- C. Request to set a public hearing for July 20, 2015 to establish an Obsolete Property Rehabilitation District for parcels 52-25-19-326-017 and 52-25-19-301-012, otherwise known as Providence Green Apartments
- D. Request to enter into a contract with Global Realty to acquire tax-foreclosed properties in the City of Oak Park and to allow the City Manager to sign on behalf of the City

**16. CALL TO THE AUDIENCE**

Each speaker's remarks are a matter of public record; the speaker, alone, is responsible for his or her comments and the City of Oak Park does not, by permitting such remarks, support, endorse or accept the content, thereof, as being true or accurate. "Any person while being heard at a City Council Meeting may be called to order by the Chair, or any Council Member for failure to be germane to the business of the City, vulgarity, or personal attacks on persons or institutions." There is a three minute time limit per speaker.

**17. CALL TO THE COUNCIL**

**18. CLOSED SESSION**

Pursuant to Section 8 of the Open Meetings Act to discuss Attorney-Client Privileged Communication, Pending Litigation, Collective Bargaining Agreements and/or Contract Negotiations

**19. ADDITIONAL BUSINESS:**

- A. Closed Session Minutes
- B. Request approval to retain Special Counsel, Sullivan, Ward, Asher & Patton, P.C. to assist in preparation of a Deferred Retirement Option Plan (DROP)
- C. Tentative Agreement with the Police Officer's Association of Michigan – Public Safety Officers
- D. Employer's Counter Package Proposal with the Police Officer's Association of Michigan - Dispatchers

**20. ADJOURNMENT**

The City of Oak Park will comply with the spirit and intent of the American with Disabilities Act. We will provide support and make reasonable accommodations to assist people with disabilities to access and participate in our programs, facilities and services. Accommodations to participate at a Council Meeting will be made with 7-day prior notice.



**CITY OF OAK PARK, MICHIGAN  
REGULAR COUNCIL MEETING OF THE  
35<sup>th</sup> OAK PARK CITY COUNCIL  
June 15, 2015  
7:00 PM**

**MINUTES**

The meeting was called to order at 7:00 PM by Mayor McClellan in the Council Chambers of City Hall located at 14000 Oak Park Boulevard, Oak Park, MI 48237.

**PRESENT:** Mayor McClellan, Council Member Burns, Mayor Pro Tem Levine, Council Member Seligson (arrived at 7:08), Council Member Speech

**ABSENT:** None

**OTHERS**

**PRESENT:** City Manager Tungate, City Clerk Norris, City Attorney Murray

**APPROVAL OF AGENDA:**

**CM-06-230-15 (AGENDA ITEM #4) ADOPTION OF THE AGENDA – APPROVED**

Motion by Levine, seconded by Burns, CARRIED UNANIMOUSLY, to approve the agenda as submitted.

**MOTION DECLARED ADOPTED**

**CONSENT AGENDA:**

**CM-06-231-15 (AGENDA ITEM #5A-F) CONSENT AGENDA - APPROVED**

Motion by Burns, seconded by Levine, CARRIED UNANIMOUSLY, to approve the Consent Agenda consisting of the following items:

- A. Regular Council Meeting Minutes of June 1, 2015 **CM-06-232-15**
- B. Library Board Minutes of March 17, 2015, April 21, 2015 and May 19, 2015 **CM-06-233-15**
- C. Request to cancel the June 23, 2015 regularly scheduled meeting of the Zoning Board of Appeals **CM-06-234-15**
- D. Request approval of Payment Application No. 3 (final) for the 2014 Fire Hydrant & Repainting Project, M-590 to F & P Painting, Inc. for the total amount of \$1,000.00 **CM-06-235-15**
- E. Request approval of Proposed Change Order No. 1 to Michigan Joint Sealing, Inc. for the 2015 Joint and Crack Sealing Project, M-604 in the amount of (\$2,112.42) and Payment Application No. 1 to the same in the total amount of \$114,179.58 **CM-06-236-15**
- H Licenses - New and Renewals as submitted for June 15, 2015 **CM-05-237-15**

<u>NEW MERCHANT</u>	<u>ADDRESS</u>	<u>FEE</u>
CRICKET WIRELESS	25246 GREENFIELD	150.00
BOOST MOBILE	13700 EIGHT MILE	150.00
THE SUIT DEPOT	26158 GREENFIELD	150.00

**RENEWALS –**

RYAN POLISHING CORP	10707 CAPITAL	225.00
SILVIA'S EUROPEAN HAIR DESIGN	10132 NINE MILE	450.00

Roll Call Vote:	Yes:	McClellan, Burns, Levine, Speech
	No:	None
	Absent:	Seligson

**MOTION DECLARED ADOPTED**

**RECOGNITION OF VISITING ELECTED OFFICIALS:**

State Representative Robert Wittenberg reported:

- He voted against HB4052, a bill proposing to take away local community control in areas such as wages and human rights. The bill has passed the House and is now in the Senate.
- He voted in favor of the school aid budget, which was adopted and includes increases in per pupil funding for all four school districts in Oak Park.
- He voted against the general budget, primarily because it included \$134 million for a new State Senate building; eliminated the Maxey Training School program which aims to reduce the recidivism rate for youths; eliminated the earned income tax credit completely; and did not address road improvement funding.
- Announced his upcoming Community Conversations:
  - July 6, 10:00 a.m., Huntington Woods Community Center
  - July 8, 6:30 p.m., Hazel Park Public Library
  - July 10, 10:00 a.m., Pleasant Ridge Community Center
  - July 13, 10:30 a.m., Oak Park Public Library
  - July 15, 6:30 p.m., Ferndale Public Library
  - July 16, 10:30 a.m., Berkley Public Library
  - July 21, 6:00 p.m., Royal Oak Township Hall, Room 210

**SPECIAL RECOGNITION/PRESENTATIONS:**

**(AGENDA ITEM #7A) Water and Disposal rate presentation.** City Manager Tungate summarized the process by which water and sewer rates were determined and expressed the need for a water rate study. Beth Bialy from Plante Moran explained the process by which her firm would perform the study

**CM-06-238-15 (AGENDA ITEM #7B) PROFESSIONAL SERVICES AGREEMENT WITH PLANTE MORAN TO CONDUCT A WATER AND SEWER RATE STUDY - APPROVED**

Motion by Levine, seconded by Seligson, CARRIED UNANIMOUSLY, to approve a Professional Services Agreement dated April 29, 2015 with Plante Moran to conduct a water and sewer rate study.

Roll Call Vote:	Yes:	McClellan, Burns, Levine, Seligson, Speech
	No:	None
	Absent:	None

**MOTION DECLARED ADOPTED**

**PUBLIC HEARINGS:** None

**COMMUNICATIONS:** None

**SPECIAL LICENSES:**

**CM-06-239-15 (AGENDA ITEM #10A) SPECIAL EVENT REQUEST –  
OPTIMIST CLUB OF OAK PARK & ROYAL OAK TWP. - APPROVED**

Motion by Speech, seconded by Levine, CARRIED UNANIMOUSLY, to approve the following Special Event request and waiver of application fee only subject to all departmental approvals:

<b>Name</b>	<b>Address</b>	<b>Event</b>	<b>Fee</b>
Optimist Club of Oak Park & Royal Oak Twp.	10000 Woodland Ct. Oak Park MI 48237	Childhood Cancer Awareness June 28, 2015	Application Fee, only, waived.

Voice Vote:            Yes:            McClellan, Seligson, Speech, Burns, Levine  
                              No:            None  
                              Absent:        None

**MOTION DECLARED ADOPTED**

Mayor McClellan noted the City's standard procedure is to waive the application fee only, and Council Member Speech noted rental fees for City facilities are greatly reduced for non-profit organizations.

**CM-06-240-15 (AGENDA ITEM #10B) SPECIAL EVENT REQUEST –  
OPTIMIST CLUB OF OAK PARK & ROYAL OAK TWP. - APPROVED**

Motion by Seligson, seconded by Burns, CARRIED UNANIMOUSLY, to approve the following Special Event request and waiver of application fee only subject to all departmental approvals:

<b>Name</b>	<b>Address</b>	<b>Event</b>	<b>Fee</b>
Optimist Club of Oak Park & Royal Oak Twp.	10000 Woodland Ct. Oak Park MI 48237	Back to School Picnic August 2, 2015	Application Fee, only, waived.

Voice Vote:            Yes:            McClellan, Seligson, Speech, Burns, Levine  
                              No:            None  
                              Absent:        None

**MOTION DECLARED ADOPTED**

**ACCOUNTING REPORTS:**

**CM-06-241-15 (AGENDA ITEM #11A) APPROVAL OF PAYMENT OF AN INVOICE AS SUBMITTED BY HOWARD L. SHIFMAN, P.C. FOR LEGAL SERVICES IN THE TOTAL AMOUNT OF \$18,000.00 - APPROVED**

Motion by Levine, Seconded by Burns, CARRIED UNANIMOUSLY, to approve payment of invoice # 12408 to Howard L. Shifman, P.C. for legal services from June 1, 2015 through September 30, 2015 in the total amount of \$18,000.00.

Roll Call Vote:           Yes:           McClellan, Burns, Levine, Speech, Seligson  
                              No:           None  
                              Absent:       None

**MOTION DECLARED ADOPTED**

**CM-06-242-15 (AGENDA ITEM #11B) APPROVAL FOR PAYMENT OF AN INVOICE AS SUBMITTED BY GARAN, LUCOW, MILLER P.C., FOR LEGAL SERVICES IN THE TOTAL AMOUNT OF \$11,674.05 - APPROVED**

Motion by Speech, seconded by Levine, CARRIED UNANIMOUSLY, to approve payment of invoice # 438835 as submitted by Garan, Lucow, Miller P.C., for legal services in the total amount of \$11,674.05.

Roll Call Vote:           Yes:           McClellan, Burns, Levine, Speech, Seligson  
                              No:           None  
                              Absent:       None

**MOTION DECLARED ADOPTED**

**BIDS:**

**CM-06-243-15 (AGENDA ITEM #12A) BID AWARD FOR THE 2015 SHEPHERD PARK PARKING LOT RECONSTRUCTION PROJECT, M-608 TO NAGLE PAVING OF NOVI, MI FOR THE TOTAL AMOUNT OF \$187,336.50 - APPROVED**

Motion by Speech, seconded by Seligson, CARRIED UNANIMOUSLY, to award the bid for the 2015 Shepherd Park Parking Lot Reconstruction Project, M-608 to Nagle Paving of Novi, MI for the total amount of \$187,336.50.

Roll Call Vote:           Yes:           McClellan, Burns, Levine, Speech, Seligson  
                              No:           None  
                              Absent:       None

**MOTION DECLARED ADOPTED**

Assistant City Manager Yee reported that at the May 18, 2015 regular meeting of the Oak Park City Council, the request to rebid the 2015 Shepherd Park Parking Lot Reconstruction Project, M-608 was approved (CM-05-196-15). The project was advertised and 29 contractors viewed the contract documents. On June 1, 2015, three (3) bids were received and opened. The low bidder, Nagle Paving Company of Novi, MI, submitted a bid of \$187,336.50. References were checked and all had positive responses. Funding is available in the Road Construction Fund for this expenditure.

**CM-06-244-15 (AGENDA ITEM #12B) BID AWARD FOR THE 2015 CATCH BASIN LINE REPLACEMENT AND SEWER LATERAL REPAIR PROJECT, M-606 TO TROELSEN EXCAVATING CO. OF TROY, MI FOR THE TOTAL AMOUNT OF \$369,522.50 - APPROVED**

Motion by Burns, seconded by Speech, CARRIED UNANIMOUSLY, to award the bid for the 2015 Catch Basin Line Replacement and Sewer Lateral Repair Project, M-606 to Troelsen Excavating Co. of Troy, MI for the total amount of \$369,522.50.

Roll Call Vote:            Yes:            McClellan, Burns, Levine, Speech, Seligson  
                                  No:            None  
                                  Absent:       None

**MOTION DECLARED ADOPTED**

Mr. Yee reported that at the May 4, 2015 regular meeting of the Oak Park City Council, the request to rebid the 2015 Catch Basin Line Replacement and Sewer Lateral Repair Project, M-606 was approved (CM-05-176-15). The project was advertised and 31 contractors viewed the contract documents. On May 26, 2015, three (3) bids were received and opened. The low bidder, Troelsen Excavating Co., submitted a bid of \$369,522.50. References were checked and all had positive responses. Funding is available in the Water and Sewer Fund for this expenditure

**ORDINANCES:**

**CM-06-245-15 (AGENDA ITEM #13A) SECOND READING AND ADOPTION OF AN ORDINANCE TO AMEND CHAPTER 82, UTILITIES, OF THE CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN, BY AMENDING SECTION 82-313 THEREOF - APPROVED**

Motion by Speech, Seconded by Seligson, CARRIED UNANIMOUSLY, to approve the Second Reading and adopt the following Ordinance to amend Chapter 82, Utilities, of the Code of Ordinances of the City of Oak Park, Michigan, by amending section 82-313 thereof:

**CITY OF OAK PARK, MICHIGAN  
ORDINANCE NO. O-15-613**

**AN ORDINANCE TO AMEND CHAPTER 82, UTILITIES, OF THE CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN, BY AMENDING SECTION 82-313 THEREOF.**

**THE CITY OF OAK PARK ORDAINS:**

**SECTION 1.** Section 82.313 of Chapter 82, Utilities, of Article V. Rates and Charges, of the Code of Ordinances of the City of Oak Park is hereby amended to read as follows:

**Section 82-313. Determination.**

- (a) *Generally.* The rates and charges to be imposed for the consumption and use of water and sewer services furnished by the city shall be determined by ordinance by the city council from time to time and kept on file in the office of the city clerk.

(b) *Enumeration.* The rates and charges for consumption and use of water and sewer services are as follows:

(1) Water rates. Effective on all bills rendered on or after July 1, 2015 ~~2014~~, the rates to be charged for water service shall be as follows:

(a) Thirty-Eight dollars and fifty-four cents (\$38.54) ~~Thirty-Five dollars and forty-two cents (\$35.42)~~ per thousand cubic feet.

(b) Quarterly meter service and maintenance charges, in addition to subsection (b)(1) of this section as follows:

5/8-inch meter .....	\$4.75
3/4-inch meter .....	5.03
1-inch meter .....	5.42
1 1/2-inch meter .....	8.05
2-inch meter .....	9.14
3-inch meter .....	63.80
4-inch meter .....	69.57
6-inch meter .....	79.40

Minimum quarterly charge (includes water and meter service charge for a 5/8-inch meter service)  
.....\$24.02 ~~\$22.46~~

(c) The minimum quarterly (three-month) water charge to each premises connected with the water supply system shall be the sum of \$24.02 ~~\$22.46~~, provided that if there were two or more premises using the city water supply and such premises use one meter, the minimum consumption charge herein specified shall apply to each such premises and to the owner or tenant of each such premises, as applicable.

(2) Sewage disposal rates. The rates to be charged for sewage disposal services shall be as set forth below, and all bills for service rendered on or after the dates set forth shall be computed at such rates:

(a) Basic sewage disposal rate; minimum quarterly charge. Commencing July 1, 2015 ~~2014~~, the basic sewage disposal rate shall be \$67.12 ~~\$65.93~~ per 1,000 cubic feet of water consumed. The minimum quarterly sewage disposal charge to each sewage disposal services customer shall be \$33.56 ~~\$32.97~~, provided that if there are two or more premises using the city water supply and such premises use one meter, the minimum consumption charge herein specified shall apply to each such premises and to the owner or tenant of each such premises, as applicable.

(b) High strength surcharge. Effective with all bills rendered on or after August 1, 2015 ~~2014~~, for flows beginning on or after July 1, 2015 ~~2014~~, a high strength surcharge shall be levied against commercial and industrial customers, other than restaurants, contributing sewage to the sewage disposal system with concentrations of pollutants exceeding the following levels:

- (1) 275 milligrams per liter (mg/l) of biochemical oxygen demand (BOD);
- (2) 350 milligrams per liter (mg/l) of total suspended solids (TSS);
- (3) 12 milligrams per liter (mg/l) of phosphorus (P);
- (4) 100 milligrams per liter (mg/l) of fats, oils, and grease (fog).

The high strength surcharge will be imposed at the following rates:

<u>Pollutant</u>	<u>Charge per pound of excess pollutant</u>
Biochemical oxygen demand (BOD)	\$0.502
Total suspended solids (TSS)	0.509
Phosphorus (P)	7.508
Fats, oils and grease	0.483

(c ) Industrial waste control charge. Effective with all bills rendered on or after August 1, 2015 ~~2014~~, for flows beginning on or after July 1, ~~2014~~ 2015, an industrial waste control charge shall be levied against non-residential customers in an amount determined by the size of the water meter or meters serving such customers as set forth below:

<u>Water Meter Size</u> (inches)	<u>Monthly Charge</u>
5/8-inch meter .....	\$ 9.04
3/4-inch meter .....	13.56
1-inch meter .....	22.60
1 1/2-inch meter .....	49.72
2-inch meter .....	72.32
3-inch meter .....	131.08
4-inch meter .....	180.80
6-inch meter .....	271.20

No such surcharge shall be levied on the basis of any meter which serves exclusively residential users, including all structures designed for habitation including, but not limited to, single family or two-family dwellings, apartment buildings, condominiums, townhouses, and mobile homes, nor shall such surcharge be levied on the basis of any meter used exclusively for fire protection purposes.

- (3) Collection policy. Charges for water, sewer and garbage and rubbish service furnished by the city to any premises shall be a lien thereon, and on March 1 and on September 1 of each year, the person or agency charged with the management of the systems shall certify any such charges which have been delinquent six months or more, to the city assessor who shall enter the same upon the next available tax roll against the premises to which such services shall have been rendered, together with a penalty of an additional ten percent. The charges shall be collected and the lien shall be enforced in the same manner as provided in the respect to taxes assessed upon such roll; provided, that no such charge shall become a lien when a tenant is responsible for the payment of any such charge against any premises and the city has been so notified by the filing of an affidavit that the lease contains a provision that the landlord shall not be liable for payment of water or sewage system bills accruing subsequent to the filing of the affidavit. The affidavit shall be filed with the official in charge of the water works system and 20 days' notice shall be given by the landlord of any cancellation, change in, or termination of the lease. The affidavit shall contain a notation of the expiration date of the lease. In the event of the filing of such affidavit, no further service shall be rendered by the systems to such premises until payment to the city of a cash deposit in accordance with section 82-316.
- (4) Services outside the city. Water service provided outside the corporate limits of the city shall be provided by contract only with approval of the city council, and in no event shall the rates and charges for such service be less than the rates charged to customers residing within the corporate limits of the city.

**SECTION 3. SEVERABILITY.**

No other portion, paragraph or phrase of the Code of Ordinances of the City of Oak Park shall be affected by this Ordinance, except as to the above sections, and in the event that any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be

construed to affect the validity of any other part or portion of this Ordinance or the Code of Ordinances, City of Oak Park.

**SECTION 4. EFFECTIVE DATE**

This Ordinance shall become effective ten (10) days from the date of its passage and shall be published as required by the Charter of the City of Oak Park.

Roll Call Vote:	Yes:	McClellan, Burns, Levine, Speech, Seligson
	No:	None
	Absent:	None

**MOTION DECLARED ADOPTED**

**CM-06-246-15 (AGENDA ITEM #13B) SECOND READING AND ADOPTION OF AN ORDINANCE TO AMEND CHAPTER 62, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN, BY AMENDING SECTION 62-92 THEREOF - APPROVED**

Motion by Seligson, Seconded by Burns, CARRIED UNANIMOUSLY, to approve the Second Reading and adopt the following Ordinance to amend Chapter 62, Solid Waste, of the Code of Ordinances of the City of Oak Park, Michigan, by amending section 62-92 thereof:

**CITY OF OAK PARK, MICHIGAN  
ORDINANCE NO. O-15-614**

**AN ORDINANCE TO AMEND CHAPTER 62, SOLID WASTE, OF THE CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN, BY AMENDING SECTION 62-92 THEREOF.**

**THE CITY OF OAK PARK ORDAINS:**

**SECTION 1.** Section 62-92, Monthly charge, of Chapter 62, Solid Waste, of Article III, Rates and Charges, of the Code of Ordinances of the City of Oak Park is hereby amended to read as follows:

**ARTICLE III. FEES AND CHARGES**

**Sec. 62-92. Monthly Charge.**

Effective as of July 1, 2015 the monthly charge for each property, including each single-family residence; each unit in a multifamily residence, apartment building or complex, condominium, townhouse or cooperative; and each commercial, industrial or business establishment receiving garbage and rubbish collection services from the city under section 62-91 shall be charged \$10.67 ~~9.77~~ per month, or \$32.00 ~~29.31~~ per quarter.

**SECTION 2. SEVERABILITY.**

No other portion, paragraph or phrase of the Code of Ordinances of the City of Oak Park shall be affected by this Ordinance, except as to the above sections, and in the event that any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or the Code of Ordinances, City of Oak Park.

**SECTION 3. EFFECTIVE DATE.**

This Ordinance shall become effective ten (10) days from the date of its passage and shall be published as required by the Charter of the City of Oak Park.

Roll Call Vote:	Yes:	McClellan, Burns, Levine, Speech, Seligson
	No:	None
	Absent:	None

#### MOTION DECLARED ADOPTED

**CM-06-247-15 (AGENDA ITEM #13C) FIRST READING OF AN ORDINANCE TO AMEND CHAPTER 6, ALCOHOLIC LIQUORS, ARTICLE I, IN GENERAL; ARTICLE II, MINORS AT OPEN HOUSE PARTIES; AND ARTICLE III, REGULATION OF ON-THE-PREMISES CONSUMPTION OF THE CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN - APPROVED**

Motion by Burns, Seconded by Speech, CARRIED UNANIMOUSLY, to approve the First Reading of the following Ordinance to amend Chapter 6, Alcoholic Liquors, Article I, In General; Article II, Minors at Open House Parties; and Article III, Regulation of On-The-Premises Consumption, of the Code of Ordinances of the City of Oak Park, Michigan:

#### Chapter 6 - ALCOHOLIC LIQUORS

##### FOOTNOTE(S):

—(1)—

**Cross reference**— Businesses, ch. 22; offenses and miscellaneous provisions, ch. 50; intoxicating liquor prohibited in public parks, § 54-2.

**State Law reference**— Liquor law, MCL 436.1 et seq.

#### ARTICLE I. - IN GENERAL

##### Sec. 6-1. - Definitions.

The meaning of the terms "alcoholic liquor" and "license" when used in this chapter shall be as defined by state law.

(Code 1973, § 4-1)

**Cross reference**— Definitions generally § 1-2.

**State Law reference**— Definitions, MCL 436.2 et seq **1105 et seq.**

##### Sec. 6-2. - Consumption in public.

No alcoholic liquor shall be consumed on the public streets, parks, or in any other public places, or in any place open to the public, including any store or establishment doing business with the public not licensed to sell alcoholic liquor for consumption on the premises; nor shall anyone who owns, operates or controls any such public establishment or store, permit the consumption of alcoholic liquor therein.

(Code 1973, § 4-2)

**State Law reference**— Consumption on public ways, parks, MCL 436.34.

##### Sec. 6-3. - General sales restrictions.

No licensee, by himself, or another, shall sell, furnish, give or deliver any alcoholic liquor to any person except pursuant to a special license approved in accordance with section 6-9, or a class C liquor license approved in accordance with sections 6-51 to 6-68:

- (1) Who is so intoxicated as not to be in control of all his faculties;
- (2) On any day during the hours not permitted by state law or the state liquor control commission;
- (3) For consumption on the premises, except pursuant to a special license approved in accordance with section 6-9.

(Code 1973, § 4-3; Ord. No. O-08-555, § 1, 12-1-08)

Sec. 6-4. - Possessing or transporting alcoholic liquor in motor vehicles by persons under 21 years.

A person less than 21 years of age shall not knowingly transport or possess, in a motor vehicle, alcoholic liquor unless the person is employed by a licensee under the Michigan Liquor Control Act Code, MCL 436.1 et seq., as amended, the liquor control commission, or an agent of the liquor control commission and transports or possesses the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. A person who violates this section is guilty of a misdemeanor.

(Code 1973, § 4-5)

Sec. 6-5. - Furnishing alcoholic liquor to persons under 21 years.

- (a) Alcoholic liquor shall not be sold or furnished to a person unless the person has attained 21 years of age. A person who knowingly sells or furnishes alcoholic liquor to a person who is less than 21 years of age, or who fails to make a diligent inquiry as to whether the person is less than 21 years of age, is guilty of a misdemeanor.
- (b) "Diligent inquiry" means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification which establishes the identity and age of the person.

(Code 1973, § 4-6; Ord. No. O-97-361, § 1, 3-3-97)

**State Law reference**— Similar provisions, MCL 436.33.

Sec. 6-6. - Furnishing fraudulent identification.

A person who furnishes fraudulent identification to a person less than 21 years of age, or, notwithstanding section 6-8, a person less than 21 years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(Code 1973, § 4-7; Ord. No. O-97-361, § 2, 3-3-97; Ord. No. O-99-396, § 1, 10-18-99; Ord. No. O-00-429, § 1, 11-6-00)

**State Law reference**— Similar provisions, MCL 436.33b.

Sec. 6-7. - State license required for sales.

No person shall engage in the business of selling alcoholic liquor, ~~beer, wine or spirits~~ for consumption in the city without first obtaining a license, as required by the statutes of the state.

(Code 1973, § 4-8)

**State Law reference**— For state licenses, see MCL 436.27.

**Sec. 6-8. - Prohibition relative to persons under 21 years; penalties; exceptions.**

- (a) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section and section 6-4. A person less than 21 years of age who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:
- (1) For the first violation, a fine of not more than \$100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and may be designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c).
  - (2) For a violation of this subsection following a prior conviction or juvenile adjudication for a violation of this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, a fine of not more than \$200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c).
  - (3) For a violation of this subsection following two prior convictions or juvenile adjudications for a violation of this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, a fine of not more than \$500.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c).
- (b) Subsection (a) does not prohibit a person less than 21 years of age from possessing alcoholic liquor:
- (1) During regular working hours and in the course of his or her employment if employed by a person licensed by the liquor control commission, or by an agent of the liquor control commission, if the alcoholic liquor is not possessed for his or her personal consumption; or
  - (2) Consuming alcoholic liquor in a course offered by an accredited post secondary educational institution in an academic building of the institution under the supervision of a faculty member if the purpose of the consumption is solely educational and is a requirement of the course; or
  - (3) Consuming alcoholic liquor, including sacramental wine, in connection with religious services at a church, synagogue, or temple;
  - (4) In an undercover operation under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action;
  - (5) In an undercover operation under the direction of the state police, the liquor control commission, or a local police agency as part of an enforcement action.
- (c) The court may order the person convicted of violating subsection (a) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the public health code, 1978 PA 368, MCL 333.6103 in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.
- (d) An officer or member of the city department of public safety who witnesses a violation of subsection (a) may stop and detain the person for the purposes of obtaining satisfactory identification, seizing illegally possessed alcoholic liquor and issuing an appearance ticket.

- (e) A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor. A person less than 21 years of age who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00.
- (f) The city department of public safety, upon determining that a person less than 18 years of age who is not emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (a) shall notify the parent or parents, custodian, or guardian of the person as to the nature of violation if the name of a parent, guardian, or custodian is reasonably ascertainable. The notice shall be made not later than 48 hours after determining that the person who allegedly violated subsection (a) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If a person less than 17 years of age is incarcerated for violating subsection (a), then his or her parents or legal guardian shall be notified immediately.

(Code 1973, § 4-9; Ord. No. O-97-361, § 3, 3-3-97; Ord. No. O-99-396, § 2, 10-18-99)

#### Sec. 6-9. - Special licenses.

The director of public safety, or his designee, may approve the issuance by the state liquor control commission of a special license for the sale of ~~beer and wine~~ alcoholic liquor by the glass under the following circumstances:

A special license will be approved only for a recognized nonprofit organization, exempt from federal taxation under 26 USC Section 501(c)(3).

A completed application, on the state liquor control commission form, for a special one-day license, shall be submitted to the director of public safety for their review at least five working days prior to filing with the state liquor control commission.

A special license will be approved for one day only.

No event will be approved to occur in any city building, or on city property, or outdoors.

A special license will be approved only for an event at which food will be served.

A special license does not permit the sale or advertisement for sale of an unlimited quantity of alcohol beverages at a specific price.

The applicant must submit proof that liability insurance covering the event has been obtained, with limits not less than \$1,000,000.00 per occurrence, \$2,000,000.00 total.

A fee for review of applications shall be charged in an amount to be set by the city council from time to time.

The city manager will submit annual reports to the city council regarding permits approved pursuant hereto along with any recommendations for changes.

(Ord. No. O-08-555, § 2, 12-1-08)

Secs. 6-10—6-30. - Reserved.

## ARTICLE II. - MINORS AT OPEN HOUSE PARTIES

### Sec. 6-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic liquor* means as defined as in section 2 of the Michigan Liquor Control Act, MCL 436.1 et seq., and shall include any beverage containing more than one-half of one percent of alcohol by volume, including beer, wine and spirits.

*Control* means any form of control, regulation or dominion, including a possessory right or the paying or contracting for rental premises.

*Drug* means a controlled substance as defined in MCL 333.7212 et seq., as the same may be amended from time to time.

*Minor* means a person not legally permitted by reason of age to possess or consume alcoholic beverages pursuant to section 33b of the Michigan Liquor Control Act, MCL 436.1 et seq.

*Open house party* means a social gathering of persons at a residence or rental premises which includes persons other than or in addition to the owner or person with rights of possession, and their immediate family members.

*Rental premises* means a hotel room, motel room, hall, or limousine which is rented on a shortterm basis for lodging or a social function.

*Residence* means a home, apartment, condominium or other dwelling unit, and includes the curtilage of such dwelling unit.

(Ord. No. O-94-319, § 1(a), 3-21-94)

**Cross reference**— Definitions generally, § 1-2.

### Sec. 6-32. - Conditions of prohibition; penalties for violation.

No person having control of any residence or rental premises shall allow an open house party to occur or continue at such residence or rental premises if the person knows or reasonably should know that a minor is in possession of or consuming alcoholic liquor or a drug at such residence or rental premises. The penalties for violation of this section shall be as follows:

- (1) For the first violation, a fine not exceeding \$500.00 or imprisonment in the county jail for a term not to exceed 30 days, or by both such fine and imprisonment.
- (2) For subsequent violations, a fine not exceeding \$500.00 or imprisonment in the county jail for a term not to exceed 90 days, or by both such fine and imprisonment.

(Ord. No. O-94-319, § 1(b), 3-21-94)

### Sec. 6-33. - Attendance at gathering.

No person shall knowingly remain present at an open house party where a minor is in possession of or consuming alcoholic liquor. A person who violates this section shall have committed a civil infraction and shall be subject to the following penalties:

- (1) For the first violation, a civil fine of not more than \$25.00.
- (2) For a second violation, a civil fine of not more than \$50.00.
- (3) For a third or subsequent violation, a civil fine of not more than \$100.00.

(Ord. No. O-94-319, § 1(c), 3-21-94)

Sec. 6-34. - Exceptions.

The provisions of this article shall not apply to legally protected religious observances or legally protected educational activities.

(Ord. No. O-94-319, § 1(d), 3-21-94)

Secs. 6-35—6-50. - Reserved.

### ARTICLE III. - REGULATION OF ON-THE-PREMISES CONSUMPTION

Sec. 6-51. - Short title.

This article shall be known and may be cited as the City of Oak Park on-the-Premises Consumption Ordinance.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-52. - Statement of purpose.

The purpose of this article is to allow the city to establish and administer a policy for the issuance and transfer of ~~tavern licenses for the sale of beer and wine for consumption on the premises (“tavern licenses”)~~ **class C liquor licenses (“class C licenses”)** and related permits, to provide for the enforcement of liquor laws, regulations and ordinances, and to manage the number of ~~tavern~~ **class C** licenses in the City of Oak Park.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-53. - Definitions.

(a) The following definitions shall apply in this article:

- (1) *Applicant* means the individual(s); or for partnerships, all partners; for limited liability companies, all managers and members; and for corporations, all directors, officers and stockholders if the stock is not publicly traded, seeking to be licensees hereunder.
- (2) *Licensee* means and include all persons, including their agents, servants and employees, holding a license to sell alcoholic liquor in the city for consumption on the premises issued by the Michigan Liquor Control Commission.
- (3) *Licensed premises* means the Oak Park location at which a licensee is authorized to sell alcoholic liquor for consumption on the premises.
- (4) *License* means a license to sell alcoholic liquor for consumption on the premises issued by the Michigan Liquor Control Commission.
- (5) *Related permit* means any permit issued by the Michigan Liquor Control Commission to a licensee for entertainment or other activity at the licensed premises which legally requires such a permit.
- (6) *Person* means any person, firm, partnership, association or corporation.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-54. - Licensing policy.

- (a) No person shall engage in the business of selling alcoholic liquor for consumption on the premises in the City of Oak Park without first obtaining a liquor license, as required by the statutes of the State of Michigan and the City of Oak Park Code of Ordinances.
  - (b) The city council may establish by resolution the number and type of establishments within the city in which the sale or consumption of alcoholic liquor shall be permitted for consumption on the premises. The number of such establishments may be less, but in no case greater than the number of such establishments permitted by Michigan law.
- (c) New licenses and related permits, transfers of ownership of existing licenses, and transfers of licenses into the city shall require the prior approval, and is at the sole discretion of, the city council.
- (d) An annual review shall be conducted of all existing licenses and related permits in the City of Oak Park.
- (e) No person shall engage in the business of selling alcoholic liquor for consumption on the premises in the City of Oak Park without first obtaining a special land use approval, as required by the Zoning Act, and entering into a contract with the City of Oak Park.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-55. - Restaurant requirements.

- (a) The city council shall not approve any application for a new, a renewal, or transfer into the city of a license to sell alcoholic liquor for consumption on the premises unless the use of the license is in connection with and incidental to a restaurant operation meeting the following requirements and performance standards:
  - (1) There shall at all times be maintained and provided culinary facilities to cook or prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 40 patrons at any time.
  - (2) The proprietor shall make available a varied menu of food items consisting of not less than ten such food items cooked or prepared on the premises.
  - (3) Not more than 50 percent of the gross floor area open to the general public shall be used for purposes other than seating for diners, consisting of tables, chairs, booths, and necessary aisle ways. Public restroom facilities shall not be included in this determination.
  - (4) That during any 90-day period, no more than 50 percent of the gross revenues of the establishment will be or is derived from the sale of alcoholic beverages. Sales of food or alcoholic beverages to hotel or motel guests for consumption within their private rooms shall not be considered in determining the percentage ratio of sales to alcoholic beverages.
  - (5) No admission fees or cover charges shall be levied on any patrons.
  - (6) Restaurant shall stop serving alcoholic beverages at 12:00 a.m. (midnight).

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-56. - Application for license.

- (a) Each applicant for a new license and/or a new related permit, the transfer into the city of a license, or the transfer of ownership of an existing license shall submit to the city clerk an application, on a form provided by the city, containing:
  - (1) The name and address of the applicant, with age for an individual, as well as for each partnership, the persons entitled to share in the profits thereof; and also for a corporation, the purpose for which organized, the names and addresses of the officers and directors; and if a

majority interest of the stock of such corporation is owned by one person or nominee, the name and address of such person.

- (2) The citizenship of the applicant; place of birth; and, if a naturalized citizen, the time and place of naturalization.
- (3) The nature or purpose of the applicant's business, and, in the case of a corporation, the object for which it was formed; applicant shall submit copies of business entity's organizational documents.
- (4) The length of time the applicant has been engaged in the business of that character, or, in the case of a corporation, the date when its charter was issued.
- (5) The location and description of the premises or place of business which is to be operated under such license; applicant shall submit copy of lease, deed, or other proof of applicant's right to use the property.
- (6) A statement whether applicant has operated or made application for a similar or another license on any premises other than described in this application, and the disposition of such license or application.
- (7) A statement as to whether the applicant has ever been convicted of or found responsible for a violation of any federal or state law or administrative rules of the Michigan Liquor Control Commission concerning the manufacture, possession or sale of alcoholic liquor, or similar violation of another state or country or convicted of any felony or misdemeanor, and/or is otherwise disqualified to receive a license by reason of any matter or thing contained in this article or the laws of the State of Michigan.
- (8) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the City of Oak Park or the administrative rules of any regulatory agency in the conduct of its business.
- (9) An accurate record and history of any liquor license complaint violations by the applicant, owners or stockholders of applicant, by a corporation or entity the applicant has worked for or had a substantial interest in, or by a parent or subsidiary corporation of the applicant for the immediate preceding five years.
- (10) The application shall be accompanied by building and site plans showing the entire structure and premises, and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities, and where appropriate, adequate plans for sound barriers and noise control.
- (11) The estimated total cost in dollars to be expended by the licensee for the licensed premises.
- (12) A sample menu for the proposed licensed establishment, together with a breakdown of the anticipated revenues from food and nonalcoholic beverages, alcoholic beverages and other revenues.
- (13) Other information requested on the form provided by the clerk.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-57. - Plan of operation required.

- (a) *Business operation.* An application for a new license or related permit, an application for the transfer of ownership of an existing license or an application for transfer of a license into the city shall require submission of a plan of operation for review and consideration by the city council.
- (b) *Plan of operation.* A plan of operation shall contain an operational statement outlining the manner in which the establishment will be operated, including, but not limited to, the format, schedule of the hours of operation, crowd control, security, alcohol management, staff training, use of the

facilities, parking provisions, plan for interior use and layout, and any other pertinent information requested by the city.

- (c) *Compliance.* A licensee shall comply with all applicable state and city regulations and the plan of operation as approved by the city council. A failure to so comply is a violation of this article and shall provide grounds for the city council recommending to the Michigan Liquor Control Commission that the license be revoked or not renewed.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-58. - Review procedures.

- (a) *City clerk processing.* Upon receipt of an application and fee, as provided herein, the clerk shall distribute the application to appropriate departments within the city for certifications necessary for city council approval, as follows:
- (1) Certification by the city clerk that the proposed licensee has a current valid license for operation of a restaurant at the proposed licensed premises or meets applicable requirements for the issuance of such a license.
  - (2) Certification by the director of technical and planning services that the buildings or structures to which the license will apply meet all applicable building and property maintenance codes or that acceptable building plans for work which will satisfy all such codes have been submitted.
  - (3) Certification by the director of technical and planning services that the proposed licensed premises is appropriately zoned for the use and that any required zoning approvals, including site plan approval, have been applied for or obtained.
  - (4) Certification by the director of public safety based upon a finding that the proposed licensee or licensees are of good moral character.
  - (5) Certification by the director of public safety that the proposed licensed premises are in compliance with all applicable fire safety regulations.
- (b) *Public hearing.*
- (1) When a completed application and fee including public hearing and notice have been received, the city council shall schedule a public hearing to consider the request for a new license and related permit, the transfer of ownership of an existing license, or the transfer of a license into the city.
  - (2) Notice of the public hearing shall be provided to all property owners within 500 feet of the proposed establishment, according to the tax records of the city.
  - (3) Notice of the public hearing shall be provided to all current liquor license holders located in the city, school districts, private schools, public school academies, and churches located in the city.
  - (4) The applicant or an authorized representative shall appear at the city council hearing and make a written and/or oral presentation concerning the request.
- (c) *Review factors.* In reviewing a request for a new license or related permit, a transfer of ownership of an existing license, or a transfer of a license into the city, the city council may consider and/or weigh the following factors:
- (1) Total number of similar licenses in the city.
  - (2) Input from residents and surrounding business owners.
  - (3) Impact of the establishment on surrounding businesses and neighborhoods.
  - (4) Whether a proposed licensed premises is part of a multi-use project with substantial new retail, office, or residential components, and the size of the proposed licensed premises relative to the overall project or development.
  - (5) Crowd control.

- (6) Parking availability.
- (7) Preservation or restoration of historic buildings.
- (8) Location in an underdeveloped area.
- (9) Concentration of establishments and impact on policing requirements.
- (10) Policing requirements.
- (11) Business history.
- (12) Business experience.
- (13) Liquor control commission violation history.
- (14) Percent of floor area devoted to dining versus bar area.
- (15) Size of bar area.
- (16) Overall benefit of the plan to the City of Oak Park.
- (17) Non-payment of taxes or other payment due to the city.
- (18) Any other factor(s) that may affect the health, safety and welfare or the best interests of the community.

(d) *Restrictions on licenses.* No license shall be approved for:

- (1) An applicant or licensee whose license has been revoked for cause.
- (2) An applicant, who at the time of application or at renewal of any license issued hereunder, would not qualify or be eligible therefor.
- (3) A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
- (4) A corporation if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason.
- (5) An applicant or licensee whose place of business is or will be conducted by a manager or agent, unless such manager or agent possesses qualifications similar to those required of the applicant or licensee.
- (6) An applicant or licensee who has been convicted or found responsible for a violation of any federal or state law or administrative rules of the Michigan Liquor Control Commission concerning the manufacture, possession or sale of alcoholic liquor, or similar violation of another state or country.
- (7) An applicant or licensee who does not own the premises for which a license is sought or have a lease therefor for the full period for which the license is issued.
- (8) 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.
- (9) An applicant or licensee who does not have substantial management experience with entities having liquor licenses, or who, for other similar reasons, in the discretion of the city council, is not qualified to receive a license.
- (10) An applicant or licensee that has not submitted a site plan free from violations of the applicable building, electrical, mechanical, plumbing, or fire prevention codes, applicable zoning regulations, or applicable public health regulations;
- (11) Unless an applicant or licensee is selling beer or wine, demonstrably in connection with, and incidental to, a bona fide restaurant operation;
- (12) An applicant or licensee that where the city council has determined that the premises do 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;

- (13) An applicant or licensee that where the city council has determined that the location proposed for a licensed liquor establishment will have an adverse effect on the community, with consideration given to traffic safety conditions, accessibility to major streets or highways, distance from public or private schools, impact on adjacent residential districts, zoning classifications and the availability of parking.
  - (14) An applicant or licensee unless a valid special land use approval is lawfully maintained for the premises.
  - (15) An applicant or licensee unless a valid contract has been entered into with the city.
  - (16) An applicant determined to have been untruthful in the application submitted to the city or to have submitted an application or other documentation with material omissions of fact.
- (e) *Approval.* After a review by staff and recommendation, and a public hearing, if the city council is satisfied that the establishment or operation will provide a benefit the City of Oak Park and constitute an asset to the community, it will adopt a resolution granting approval, subject to the satisfaction of any conditions stated in the resolution. Approval of a license shall be conditioned on any necessary remodeling or new construction for the use of the license be completed within six months of the action of the city council or the Michigan Liquor Control Commission approving such license, whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject the license to revocation.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-59. - Entertainment permits.

- (a) Requests for permits for dance, entertainment, or dance and entertainment shall be reviewed and approved in the discretion of the city council after an evaluation of the factors listed in subsection 658(c). The city will not consider requests for topless entertainment permits.
- (b) No licensee shall knowingly engage in, allow, or permit any of the following activities, without first being granted a permit by both the city and the Michigan Liquor Control Commission, which is in legal effect at the time of the occurrence of such activity, to be conducted by any person upon any licensed premises owned, occupied or controlled by such licensee:
  - (1) Dancing, monologues, dialogues, motion pictures, still slides, closed circuit television, contests or other performances for public viewing on the licensed premises.
- (c) No nudity or topless activity shall be permitted on a licensed premises. As used in this section:
  - (1) *Nudity* means exposure to public view of the whole or part of the pubic region; the whole or part of the anus; the whole or part of the buttocks; the whole or part of the genitals; or the breast area including the nipple or more than 1/2 of the area of the breast.
  - (2) *Topless activity* means activity that includes, but is not limited to, or entertainment or work-related activity performed by any employee, agent, or contractor of the licensee or person acting under the control of or with the permission of the licensee, on the licensed premises in which the female breast area, including the nipple, or more than one-half of the area of the breast, is directly exposed or exposed by means of see-through clothing or a body stocking:

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-60. - Entertainment permit requests.

- (a) The city will review each entertainment permit request to determine whether to approve the temporary permit and, if necessary, make a recommendation to the Michigan Liquor Control Commission regarding issuance of said permit, based upon a licensed establishment operation in a manner consistent with the provisions of this article and all other applicable laws, and regulations of the City of Oak Park and the State of Michigan.

- (b) The city manager shall initiate an investigation and review of each request for an entertainment permit. The investigation and review may include, but not be limited to, the procedures listed in section 6-61.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-61. - Annual license review.

- (a) The city will review each license to determine whether to make a recommendation to the Michigan Liquor Control Commission regarding renewal of said license, based upon a licensed establishment operation in a manner consistent with the provisions of this article and all other applicable laws, and regulations of the City of Oak Park and the State of Michigan.
- (b) The city manager shall annually initiate an investigation and review of each on premises licensed establishment shall cause an investigation to be made relative to each existing license for sales of alcoholic liquor on the premises in the city. The investigation and review shall include, but not be limited to, the following:
- (1) Current valid licenses from appropriate county, state or federal governments authorizing service of food at the establishment.
  - (2) Inspection of the premises compliance with the license, its approved site plan and, if applicable, its plan of operation, as well as any conditions imposed by the city or the Michigan Liquor Control Commission or representations made by the licensee at the time of issuance or transfer of the license.
  - (3) City records to determine that all taxes and other monies due the city are timely paid.
  - (4) Police files or other sources of information to determine that no activity in connection with the licensed premises is in violation of the law, disturbs the public peace and tranquility, constitutes a nuisance, or contributes to the disruption of the normal activities of those in the neighborhood of the licensed premises.
  - (5) Continuous compliance with the applicable conditions or of the criteria as described in subsection 6-58(c) of this article.
  - (6) The operation of the licensed establishment for compliance with any and all representations made by the licensee to the city or the city council.
  - (7) Recommendations from city departments. Following receipt of a fully completed application, fees, and such other information as may be requested by the city, the city clerk shall forward the application to the department of public safety, department of technical and planning services, treasurer's office, and such other departments as required by the city manager, which departments shall make their reviews and recommendations prior to consideration by the city council. In conducting its review, the city may request other pertinent information from the licensee. The complete report shall be reviewed by staff prior to being submitted to the city council.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-62. - Revocation and non-renewal.

- (a) Each establishment within the city for which a license or related permit is granted shall be operated and maintained in accordance with all applicable laws and regulations of the City of Oak Park and the State of Michigan. Upon any violation of this article, the council may, after notice and hearing, request the Michigan Liquor Control Commission to revoke such license and/or permit.
- (b) Upon any violation(s) of this article, the city will notify the licensee of the specific violation(s) and afford the licensee an opportunity to comply with said article. Licensee must comply in the time established by the city manager, but in no event more than ten days after notification to licensee by city of such violation. Absent compliance within that time established by the city manager, the city

may hold a hearing and request that the Michigan Liquor Control Commission not renew and/or revoke such license and/or permit.

- (c) Before filing any objection to renewal or request for revocation of a license or permit with the Michigan Liquor Control Commission, the city shall serve the licensee with notice and proceed in accordance with this article, as amended. The city shall serve the licensee by first-class mail mailed to the licensed premises at least ten days prior to the hearing with notice of hearing, which notice shall contain the following:
- (1) Date, time and place of hearing.
  - (2) Notice of the proposed action.
  - (3) Reasons for the proposed action.
  - (4) Names of any witnesses known at the time who may testify.
  - (5) A statement that the licensee may present evidence or any testimony that may refute or respond to reasons for the proposed action.
  - (6) A statement requiring the licensee to notify the city attorney's office at least three days prior to the hearing date if they intend to contest the proposed action, and to provide the names of witnesses known at the time who will testify on their behalf.
- (d) Upon completion of the hearing, the city council shall submit to the licensee and the Michigan Liquor Control Commission a written statement of the findings and determination.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-63. - Criteria for non-renewal or revocation.

- (a) The city council may recommend non-renewal or revocation of a license or related permit to the liquor control commission upon a determination based upon a preponderance of the evidence presented at the hearing that any of the following exists:
- (1) Failure to comply with all standards, plans or agreements, entered into in consideration for the issuance, transfer or continuance of the license or permit, or failure to comply with all agreements or consent judgments entered into subsequent to the issuance of the license or permit.
  - (2) Failure to comply with an approved plan of operation and other plans, specifications, or representations made or submitted to the city by the licensee.
  - (3) Violations of the state liquor laws or regulations of the liquor control commission.
  - (4) Violations of state laws or local ordinances including, but not limited to those laws or ordinances concerning the public health, safety or public welfare.
  - (5) Failure to meet the requirements of section 6-55 of this article.
  - (6) Maintenance of a nuisance upon or in connection with the licensed premises including, but not limited to, any of the following:
    - (7) Failure to correct, within a reasonable amount of time, violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes, to include the history thereof.
    - (8) A pattern of patron conduct in the neighborhood of the licensed premises, which is a violation of the law and/or disturbs the peace, order and tranquility of the neighborhood, including types of police, fire or medical services related to this operation.
    - (9) Failure to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties.
    - (10) Entertainment on the premises or activity in connection with the licensed premises which by its nature causes, creates or contributes to disorder, disobedience to rules, ordinance or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises.
    - (11) Licensee's hindrance or obstruction of inspection of the licensed premises by the city's agents or employees in connection with the enforcement of this article.
    - (12) Failure to pay taxes or make other payments due to the city in a timely manner.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-64. - Employees to be 21.**

- (a) No person shall be employed to serve or handle any alcoholic beverage in any establishment where such beverage is sold for consumption upon the premises unless said person shall have attained the age of 21 years, provided, however, that persons under the age of 21 years but not under the age of 18 years may be employed to serve or handle alcoholic beverages by special permission of the director of public safety.
- (b) All licensees must have in their possession a birth certificate or other official document showing the place and date of birth of each employee which shall be available for inspection by police officers at all times.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-65. - Sales restricted.**

No licensee under this article, by himself, or another, shall sell, furnish, give or deliver any alcoholic beverage to any person:

- (a) Who is so intoxicated as not to be in control of all his faculties;
- (b) On any day during the hours not permitted by state law or the state liquor control commission.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-66. - Game devices prohibited; presence of devices as prima facie evidence.**

No licensee under this article shall allow upon his licensed premises slot machines, pinball machines, baseball, football, golf or hockey machines, electric ray machines, baffle boards, punch or pull boards, dice games or any gambling or gaming devices or paraphernalia of any nature, type or description, machines or apparatus, or gambling or gaming of any kind whatsoever.

The presence of any such device, machine or apparatus, mentioned in subsection (a) above, upon the premises of any establishment shall be prima facie evidence of a violation of this section.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-67. - Maintenance of peace and good order.**

No person having the management, ownership or control of any premises in the city wherein any alcoholic beverage is sold for consumption on the premises shall permit any boisterous conduct, or in any manner the disturbance of the peace and good order of the neighborhood.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-68. - Soliciting of drinks and fraternizing with customers by employees prohibited.**

No person having the management, ownership, or control of any premises wherein any alcoholic beverage is sold for consumption on the premises, shall permit anyone employed in said business to drink alcoholic beverages with, visit or fraternize with any of the patrons of said establishment in said place of business; nor shall any licensee or person having the management, ownership or control of such premises solicit any customer or patron of such place to purchase any alcoholic or non-alcoholic beverage for himself or any other person therein; provided, however, that this provision shall not apply to any female waitress, manager or licensee regularly employed on the premises who accepts or serves an order to any customer or patron in the regular course of her employment.

(Ord. No. O-13-596, § 1, 7-15-13)

Roll Call Vote:            Yes:            McClellan, Burns, Levine, Speech, Seligson  
                                 No:            None  
                                 Absent:        None

**CM-06-248-15            (AGENDA ITEM #13D) FIRST READING OF AN ORDINANCE TO AMEND ARTICLE II, DEFINITIONS; ARTICLE VII, B-1 NEIGHBORHOOD BUSINESS DISTRICTS; ARTICLE XII, PCD PLANNED CORRIDOR DEVELOPMENT DISTRICTS; ARTICLE XVII, GENERAL PROVISIONS; AND ARTICLE XIX, SPECIAL LAND USES, APPENDIX A, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN - APPROVED**

Motion by Burns, Seconded by Seligson, CARRIED UNANIMOUSLY, to approve the First Reading of the following Ordinance to amend Article II, Definitions; Article VII, B-1 Neighborhood Business Districts; Article XII, PCD Planned Corridor Development Districts; Article XVII, General Provisions; and Article XIX, Special Land Uses, Appendix A, Zoning, of the Code of Ordinances of the City of Oak Park, Michigan:

**Sec. 204. - Definitions N through S.**

*Nonconforming building (nonconforming structure).* A building or structure (or portion thereof) lawfully existing at the time of adoption of this ordinance or a subsequent amendment thereto, that does not conform to the provisions of this ordinance.

*Nonconforming lot.* Means a lot which exists as a legal lot of record and which existed as a legal lot of record at the effective date of adoption or amendment of this ordinance, which does not conform to the lot requirements of this ordinance.

*Nonconforming sign.* A sign existing at the effective date of the adoption of this ordinance which does not adhere to the provisions contained in this ordinance.

*Nonconforming use.* A use of a building or structure or of a parcel, or tract of land, lawfully existing at the time of adoption of the ordinance or a subsequent amendment thereto, that does not conform to the regulations of this ordinance for the zoning district in which it is situated.

*Nonconforming use and building.* A use and a building lawfully existing at the time of adoption of this ordinance or a subsequent amendment thereto which does not conform to the regulations of this ordinance for the zoning district in which it is situated.

*Nuisance.* An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k)

electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, and (o) invasion of non-abutting street frontage.

*Nursery, plant materials.* A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

*Nursery school (day care center).* See "Group child care facilities."

*Nursing home.* See definition of "Convalescent or rest home."

*Occupied.* Used in any way at the time in question.

*Off-street parking lot.* A facility other than for single- or two-family dwellings providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

*Outdoor dining.* An area not enclosed in a building and which is intended as an accessory area to a restaurant which provides food and/or drink to customers for consumption on the premises. The outdoor dining area shall be subject to the same restrictions as an indoor dining area including state regulations regarding smoking.

*Owner.* The person or persons, firm, entity, or corporation having legal or equitable title to a lot or parcel of land, or their leases or agents.

*Park.* A public or private park for outdoor recreation, such as a playground, sports playing field, picnic area, day camp of a church group or other quasipublic organization, or similar use, which does not include overnight camping facilities or outdoor lighting for use of the park property after dark.

*Parking space.* An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, fully accessible for the parking of permitted vehicles.

*Pawnbroker.* Any person, corporation or member, or members of a copartnership or firm, or other entity which loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or which deals in the purchasing of personal property or other valuable thing on condition of selling the same back at a stipulated price.

*Pawnshop.* Any shop, store, building or other location at which a pawnbroker conducts business. *Planning commission.* The planning commission of the City of Oak Park.

*Porch, open.* A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or

structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

*Portable structure.* A trailer or similar type of structure designed and used for hauling and/or storing inventory, merchandise or equipment, and not designed to be a permanent structure.

*Primary caregiver.* A person who is at least 21 years old, who has agreed to assist with a patient's medical use of marihuana and who has been issued and possesses a registry identification card from the State of Michigan under the Michigan Medical Marihuana Act of 2008.

*Principal use.* The primary use to which the premises are devoted and the primary purpose for which the premises exist.

*Projections.* Part of a structure that is exempt, wholly or in part, from the setback requirements of the zoning ordinance.

*Public utility.* A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

*Recreational vehicles and camping equipment.* This term includes any of the following:

1. Boats and boat trailers, which shall include floats and rafts, plus the normal equipment used to transport the same on the highway.
2. Folding tent trailer, which is a folding structure mounted on wheels and designed for travel and vacation use.
3. Motorized home, which is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
4. Pickup camper, which is a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.
5. Travel trailer, which is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and either licensed as a trailer or permanently identified travel trailer by the manufacturer, or a movable or portable dwelling, constructed to be towed on its own chassis and connected to utilities and designed without a permanent foundation for year-round living.
6. Utility trailer, which is a vehicle licensed as a trailer used to transport motorcycles, snowmobiles, go-carts or stock cars or equipment.
7. Any other vehicle which is not licensed for road use which is primarily intended for off-road pleasure activities.

*Restaurant, sit-down.* An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.

*Restaurant, carry-out.* An establishment that offers quick food service, which is accomplished through a limited menu of items, already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers. These facilities may or may not have a drive-thru pick-up window.

*Restaurant, drive-in.* A business establishment serving food and/or beverages that is so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons who will consume the food and/or beverages in the motor vehicles while on the premises of the drive-in establishment.

*Restaurant, serving alcoholic liquor.* An establishment that serves food and is licensed by the Michigan Liquor Control Commission for the sale of on-premises consumption. Such establishment shall be subject to the requirements of section 1930.

*Right-of-way line.* The dividing line between the public street (including adjacent publicly owned land) and a lot.

*Rubbish.* Means the miscellaneous waste materials resulting from housekeeping, mercantile enterprise, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combination thereof.

*Setback.* The distance required to obtain front, side or rear yard open space provisions of this Ordinance.

*Setback line, required.* A line marking the setback distance from the street right of way or lot lines, which establishes the minimum required front, side or rear open space of a lot.

*Signs.* The term "sign" shall mean the use of any words, numerals, figures, sculpture, devices, designs, insignia, imprints or trademarks by which anything is made known, advertised, or to promote the interests of any person, firm or corporation when the same is placed in view of the general public, whether displayed on a permanent or portable structure attached or not attached to a building, including painted directly on an exterior building wall or awning, and shall include, but not be limited to, all of the following:

- (a) *Accessory sign:* A sign, the language of which is incidental to the use of the principal building on the premises.
- (b) *Advertising sign (non-accessory sign):* A sign relating to a business activity, use or service not performed on the premises or to a product not fabricated, produced, handled or sold on the same premises upon which the sign is displayed.
- (c) *Awning:* A rooflike cover, typically constructed of canvas, vinyl or similar fabric stretched over a framework, and that projects from the wall of a building for the purpose of shielding

a doorway, window, or pedestrians from the elements. All backlighted awnings shall constitute signs for purposes of this section.

- (d) *Awning sign:* A sign panel affixed to, sewn into or painted on an awning, and all backlighted awnings. For purposes of this ordinance, awning signs shall be considered wall signs.
- (e) *Billboard sign:* An advertising sign upon which a display is pasted, painted or otherwise affixed in a manner which is readily changed.
- (f) *Decorative banner or flag:* A banner or flag containing no words, symbol, log, emblem or trademark naming, describing, or otherwise related to any business located or conducted on the premises.
- (g) *Directional sign:* Indicating ingress and egress for parking lots, may also bear the name of the operator of the lot and enterprise it is intended to serve.

#### Directional Signs

- (h) *Directory sign:* A wall-mounted sign, subordinate to a building identification sign, stating only the name and suite number of each tenant.

#### Directory Sign

- (i) *Display window:* Shall include any window area designated to permit customers outside the building to view merchandise inside a store or that displays store merchandise in a specially designed area immediately inside the window glass, whether or not the rest of the store interior is visible.
- (j) *Ground sign (free-standing sign):* A sign supported by one or more uprights, poles or braces placed in the ground surface and not attached to any building or other structure. Ground signs (freestanding signs) may include monument, pylon, and pole type signs.

#### Ground Sign

- (k) *Icon sign:* Shall mean a pedestrian-oriented sign that advertises a particular good or service by means of a symbol associated with that good or service, i.e. a mortar and pestle to represent a pharmacy, or by a similar, simple message.
- (l) *Institutional sign:* A structure containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institution, and the announcement of its services or activities.
- (m) *Ladderboard sign:* shall mean a sign for a multi-tenant development with separate panels for each individual tenant. A ladderboard sign shall also include a sign for a single tenant space that lists goods, services, and the like on a series of separate panels which may or may not be changeable.

- (n) *Marquee*: Canopy or other covered rooflike structure projecting from and supported in whole or in part by a building and extending beyond the building wall or building line. That part of the roof extending beyond the parapet or exterior, or columns of a flat-roofed building, if less than 20 feet above grade.
- (o) *Marquee or canopy sign*: An identification sign attached to, or inscribed on, fully supported by or made an integral part of the marquee.
- (p) *Multi-tenant building*: Shall mean any office, retail, or industrial building with two or more separate tenant spaces.
- (q) *Parasite sign*: A sign fastened to or hanging from an approved sign or the sign structure, or the attachment of any sign to a building or appurtenance other than a wall sign or an icon sign.
- (r) *Portable sign*: A freestanding sign or sign board not permanently anchored or secured to either a building, structure or the ground, such as, but not limited to, so-called "A" frame, "T" shaped or inverted "T" shaped stands, also any sign attached to a trailer or other vehicle not accessory to the vehicle or its use, but used with the express intent of advertising.
- (s) *Real estate sign*: A business sign placed upon a property advertising that particular property for sale, rent or lease.
- (t) *Replacement sign*: Shall mean the lawful replacement of a sign panel within an existing sign or sign structure that does not increase sign area or otherwise modify the size of the sign.
- (u) *Roof sign*: A sign which is erected, constructed and maintained on or above the roof of a building or any portion thereof.
- (v) *Sign area*: Area of a sign shall be determined by multiplying the height, including ornamental features, times the length, including ornamental features, and for a circle the area shall be determined from the outer circumference. For a sign which consists of individual cut-out letters attached directly to a building or structure, the area shall be calculated by multiplying the height times the length of a rectangle that would fully enclose all the letters of the sign. For a sign which consists of parallel panels facing in opposite directions, the area of the largest of the panels shall be used in calculating the area of the sign. Any sign with panels facing in opposite directions that are not parallel shall be cause for both faces to be calculated as sign area.
- (w) *Temporary signs*: Any sign or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, wood, metal, or other material intended to be displayed for a period of 30 days or less.
- (x) *Temporary and permanent banners*: Shall refer to any plastic film, paper, cloth or similar material and its associated message area that is designed to be tied, or otherwise fastened to a building or other structure so as to constitute a sign.
- (y) *Temporary political sign*: A sign relating to the election of a person to public office, to a political party, or a matter to be voted upon at any election called by a governmental body, intended for temporary display.

- (z) *Temporary window sign*: Shall mean any paper, poster board, plastic film, cloth or similar material and its associated message area that is designed to be placed on or behind a display window for 14 days or less and visible from outside a business building.
- (aa) *Wall sign*: Any sign attached to or painted on or erected against a wall or parapet wall of a building or structure with the exposed face of the sign in a plane approximately parallel to the plane of such wall and projecting outward from the wall not more than 12 inches. Wall Sign

*Self-storage warehouse*. A structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases for varying periods of time.

*Site condominium subdivision*. A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act (P.A. 288 of 1967), as amended, and is subject to the requirements of the Condominium Act (Act 59 of 1978), as amended.

*Site plan*. A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this ordinance.

*Soil removal*. Means the removal of any kind of soil or earth matter which includes topsoil, sand, gravel, clay or similar materials or any combination thereof, except common household gardening and general farm care.

*Special land uses*. Certain uses which may be necessary or desirable to allow in certain locations in certain districts, which due to actual or potential impact on neighboring uses or public facilities, there is a need to specifically regulate them with respect to their design and location for the protection of the community. These uses, due to their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

*State licensed residential facility*. A structure constructed for residential purposes that is licensed by the state pursuant to Act No. 218 of the Public Acts of 1979, as amended, or Act No. 116 of the Public Acts of 1973, as amended, which provides resident services or care for six or fewer persons under 24-hour supervision for persons in need of that supervision or care, as provided for in Act No. 207 of the Public Acts of 1921, as amended. This section does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions. A proposed residential facility shall not be located within a 1,500 foot radius of another state licensed residential facility. *Story*. That part of a building, except a mezzanine or basement, as defined herein, included between the surface on one floor and the surface of the next floor above it, or any portion of a building between the topmost floor and the roof having a usable floor area equal to at least 50 percent of the usable floor area of the floor immediately below it.

*Story, half.* An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet, six inches. For the purposes of this ordinance, the usable floor area is only that area having at least four feet clear height between floor and ceiling.

*Basic Structural Terms*

*Street.* A public thoroughfare which affords the principal means of access to abutting property.

*Structure.* Any constructed or erected material, the use of which requires locations on the ground or attachment to something having location on the ground, including but not limited to buildings, towers, sheds, and signs, but excepting walks, drives, pavements, fences, and similar access or circulation facilities.

(Ord. No. O-05-517, § 1, 11-7-05; Ord. No. O-10-570, § 2, 4-19-10; Ord. No. O-13-597, § 3, 7-15-13; Ord. No. O-14-603, § 1, 6-2-14)

Sec. 702. - Special land uses.

The following uses may be permitted by the city council upon submission of a site plan and such additional information as may be necessary to document the scope and intensity of the proposed use. Said uses may be permitted upon a finding by the city council that the use will comply with any specific requirements contained herein, and that the proposed location of the use will be desirable to the public convenience or welfare and in harmony with the various elements and objectives of the master plan of the City of Oak Park, as from time to time amended:

- A. Vehicle convenience stations, subject to the provisions specified in section 1902.
- B. Vehicle service centers, subject to provisions of section 1903.
- C. More than four mechanical amusement devices, as an accessory use to a permitted use, upon the following conditions:

Floor space required. Each mechanical amusement device shall be provided machine and operating space of at least 50 square feet, and each device shall have one foot of clear space on each side and to the rear, and five feet of clear space in front for the operator. The total floor space required for devices, including operating space, shall not exceed eight percent of the useable floor area of the establishment. In addition, total minimum useable floor areas shall be required as follows:

4,000 sq. ft. to 6,000 sq. ft., not permitted more than five devices.

6,000 sq. ft. to 8,000 sq. ft., not permitted more than six devices.

8,000 sq. ft. to 9,500 sq. ft., not permitted more than eight devices.

Over 9,500 sq. ft., not permitted more than ten devices.

- D. Local utility structures, subject to the provisions in section 1918.
- E. An establishment holding an SDD (specially designated distributor) or SDM (specially designated merchant) license from the Michigan Liquor Control Commission, subject to the provisions of section 1929.
- F. Restaurants serving **alcoholic liquor**, subject to the provisions specified in section 1930.

(Ord. No. O-00-417, § 2, 2-21-00; Ord. No. O-13-597, § 4, 7-15-13)

#### Sec. 1202. - Special land uses.

The following uses may be permitted by the city council upon submission of a site plan and such additional information as may be necessary to document the scope and intensity of the proposed use. Said uses may be permitted upon a finding by the city council that the use will comply with any specific requirements contained herein, and that the proposed location of the use will be desirable to the public convenience or welfare and in harmony with the various elements and objectives of the master plan of the City of Oak Park, as from time to time amended:

- A. Local utility structures and wireless communications towers, subject to the provisions in section 1918.
- B. Establishments holding an SDD (specially designated distributor) or SDM (specially designated merchant) license from the Michigan Liquor Control Commission, subject to the provisions of section 1929.
- C. Restaurants serving **alcoholic liquor**, subject to the provisions specified in section 1930.

(Ord. No. O-00-419, § 2, 2-21-00; Ord. No. O-13-597, § 7, 7-15-13)

#### ARTICLE XIV. - PUD PLANNED UNIT DEVELOPMENT DISTRICTS Sec.

##### 1400. - Intent.

The PUD, Planned Unit Development District, is designed to provide for a variety of commercial, service and industrial uses fronting on major thoroughfares. To assure optimum site planning relationships and minimum internal and external traffic conflict, each use will be reviewed as it relates to its site and abutting sites and as it relates to the entire district and abutting districts. This type of district is further created so as to provide a zone of transition between residential districts and major thoroughfares or expressways.

(Ord. No. 0-01-447, § 1, 7-2-01)

Sec. 1401. - Permitted uses.

In the PUD, planned unit development district, the following uses shall be permitted:

A. Any of the following commercial uses when carried out entirely within an enclosed building:

1. Stores and shops for the conducting of any retail businesses.
2. Establishments which perform personal services on the premises, such as beauty parlors, barber shops, repair shops (including watches, radios, televisions, shoes, and tailor shops), and dry cleaning establishments, provided cleaning equipment is used to service only the premises at which it is located.
3. Photographic studios, interior decorating studios, and art galleries.
4. Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, engineers and similar or allied professions, administrative and business offices.
5. Banks and similar financial institutions.
6. Restaurants, tea rooms, cafes and other places serving food or beverage, including drive-thru facilities and drive-ins. Outdoor dining as an accessory area to a restaurant and subject to the provisions in section 1709.
7. Vehicle convenience station, subject to the provisions in section 1902 (special land use approval not required), vehicle repair garage, subject to the provisions in section 1903 (special land use approval not required), vehicle service center, subject to the provisions in section 1904 (special land use approval not required).

B. Any of the following industrial uses when carried out entirely within an enclosed building, except as otherwise provided below:

1. The manufacturing, compounding, processing, packaging, treatment, or fabrication of such products as: bakery goods, candy, ceramics, cosmetics, clothing, electrical and electronic equipment, jewelry, instruments, optical goods, pharmaceutical, toiletries, hardware, cutlery and pottery.
2. The manufacturing, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, textiles, wood, yarns, sheet metal, wax and wire.
3. Research, experimental, film or testing laboratories.
4. Assembly of electrical appliances, electronic instruments or precision devices, radios, phonographs (including the manufacture of parts), musical instruments, toys, novelties, sporting goods, and photographic equipment.
5. Printing, lithographic, blueprinting and similar uses.
6. Cold storage, warehousing and distribution uses, and similar businesses involved in the receipt, storage, sales, and delivery of products.
7. Medical and dental clinics and laboratories.
8. Meeting halls for industrial worker organizations.

9. Offices of engineering, drafting, architectural, electrical, plumbing, or industrial design firm.
  10. Self-storage facilities.
  11. Tool, die, gauge, metal polishing, metal plating, and machine shops.
  12. Commercial uses which have an industrial character because of outdoor storage requirements or activities including a lumberyard, home center, building materials outlet, nursery or greenhouse, automobile or lawn and garden implements sales.
  13. Electronic data processing center.
  14. Showroom and workshop of a plumber, electrician, decorator or similar trade.
  15. Municipal buildings and uses including outdoor storage areas.
- C. Uses similar to the above, when located and arranged according to a plan demonstrating compatibility with other permitted commercial and industrial uses in the district.
- D. Outdoor storage which is clearly accessory to the permitted use, limited in scale, and incidental to the primary indoor use(s) of the site, subject to the provisions of section 1925 (special land use approval not required).
- E. Accessory uses and buildings.
- F. Special land uses. The following uses may be permitted by the city council upon submission of a site plan and such additional information as may be necessary to document the scope and intensity of the proposed use. Said uses may be permitted upon a finding by the city council that the use will comply with any specific requirements contained herein, and that the proposed location of the use will be desirable to the public convenience or welfare and in harmony with the various elements and objectives of the master plan of the City of Oak Park, as from time to time amended:
1. Restaurants serving alcoholic liquor, subject to the provisions specified in section 1930.

(Ord. No. 0-01-447, § 1, 7-2-01; Ord. No. O-05-517, § 3, 11-7-05; Ord. No. O-13-597, § 8, 7-15-13; Ord. No. O14-603, § 5, 6-2-14)

**Sec. 1402. - Approval process.**

In a PUD, Planned Unit Development District, no building shall be erected, used, or structurally altered, nor land nor premises used, in whole or in part until approval of a PUD development plan by the city council, acting upon the recommendation of the planning commission, in accordance with the following procedures and requirements:

- A. *Ownership.* The entire parcel for which application is made must be under one ownership or the application must be made with the written authorization of all property owners.
- B. *Approval procedure.* The PUD development plan approval process shall involve two phases, the preliminary phase and the final phase.
- C. *Preliminary phase.* The preliminary phase shall involve a review of a conceptual PUD development plan. Based upon the following standards, the city council, acting upon the recommendation of the

planning commission, may approve, approve with conditions, or deny approval of the conceptual PUD development plan:

1. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare or convenience or any combination thereof, on present and potential surrounding land uses.
2. The uses proposed will not adversely affect the public utility and circulation systems, surrounding properties or the environment.
3. The uses proposed shall be of such location, size and character that they will be in harmony with the appropriate and orderly development of the surrounding area and neighborhoods.
4. The uses proposed shall be of such location, size intensity, site layout and periods of operation to eliminate possible nuisances emanating therefrom which might be noxious to the occupants of any other nearby permitted uses whether by reason of dust, noise, fumes, vibration, smoke or lights.
5. The uses proposed shall not cause substantial injury to the value of other property in the area or neighborhoods in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the area or neighborhoods in which it is to be located.
6. The uses proposed shall be consistent with the land use plans adopted by the city.
7. Appropriate consideration shall be given to the preservation of significant historical and architectural features and natural resources.

D. *Material to be submitted.* The applicant shall submit the following technical and/or graphic materials for PUD preliminary phase approval:

1. A complete application, in form determined by the department of technical and planning services, together with a conceptual PUD development plan showing the proposed site design including proposed uses, gross site area, street and vehicular access areas, and open space.
2. The conceptual PUD development plan shall show the area and use of land adjacent to the parcel to be developed, any unusual problems of topography, utility service, land usage or land ownership and a staging plan showing the general time schedule of and expected completion dates of the various elements of the plan.
3. A developer may submit detailed site plans at the same time he submits the conceptual PUD development plan, if he is willing to expend additional funds from the outset and prior to obtaining conceptual PUD development plan approval.
4. The applicant may be required by the planning commission to present material regarding the objectives and purposes to be served; economic feasibility and estimated cost; conformity to plans and policies of the city; market needs; impact on public schools, utilities and circulation facilities; impact on natural resources; and impact on the general area and adjacent property.

F. *Preliminary phase PUD development plan review.*

1. The applicant shall submit to the city planner sufficient copies of the conceptual PUD development plan for distribution to city departments and agencies and the planning commission, together with the review fees as established by the city council from time to time. Copies of the plan as submitted shall be distributed by the city planner to the

appropriate city departments and agencies for review to determine if the development concept can be accommodated by the existing public utility, street and general city service facilities, or if any additions to or extensions of facilities are necessary for the project.

2. The department of technical and planning services shall notify the applicant of any questions raised by the city departments and agencies as a result of said review and shall submit like information to the planning commission for its consideration, along with a report which evaluates the planning aspects of the project and its impact on the present and future development of that part of the city in which it is located.
  3. The planning commission shall conduct a public hearing on the PUD development plan in accordance with applicable law. Following the public hearing, the planning commission shall make its recommendations to the city council. The planning commission may recommend approval, approval subject to conditions, or denial of approval of the conceptual development plan.
  4. If the PUD development plan is rejected by the planning commission, the reasons therefor shall be specified in writing.
  5. The planning commission's recommendations and all related reports shall be submitted to the city council for its consideration. The city council shall take final action on said development plan and may approve, approve with conditions, or deny approval of the conceptual PUD development plan.
  6. The city council, acting upon the recommendation of the planning commission, may, if determined necessary and appropriate to achieve the goals of this ordinance, while encouraging development consistent with good planning principles, require:
    - a. More or less usable open space than that required by this Code.
    - b. More or less parking than that required by this Code.
    - c. More or less landscaping than that required by this Code.
    - d. More or less setbacks than that required by this Code.
  7. The applicant shall satisfy any conditions of approval required by the city council prior to subsequent final phase site plan approval and prior to the issuance of any building permits. The city shall keep a record of all approved PUD development plans and approval conditions.
- F. Effect of preliminary phase approval of PUD development plans. Approval of the conceptual PUD development plan by the city council shall confer upon the owner the right to proceed through the subsequent planning phase in accordance with regulations and ordinances in effect at the time of the city council's approval for a period not to exceed three years from the date of approval, unless subsequent regulations or ordinances are specifically made applicable to developments which have been so approved. If final phase site plans have not been submitted for approval before the termination of said three-year period, said subsequent site planning must conform to the regulations, ordinances and laws in effect at the time said site plan is submitted.*

G. *Final phase.* The final phase shall require detailed site plans for any part of the conceptual PUD development plan prior to the issuance of building permits.

*H. Final phase PUD site plan approval.* 1. The applicant shall submit to the city planner sufficient copies of the PUD site plan for all or any part of the development, in accordance with the uses and concepts as shown on the approved conceptual PUD development plan, for distribution to city departments and agencies and the planning commission, together with review fees established by the city council from time to time. The site plan for each stage shall include final detailed information as required in section 1725.

2. Copies of this PUD site plan as submitted shall be distributed by the city planner to the appropriate city departments and agencies for review and comment regarding the legal requirements of the city.
  3. The department of technical and planning services shall notify the applicant of any questions raised by the city agencies during said review and shall submit like information to the planning commission for its consideration.
  4. The planning commission shall review the PUD site plan and department reports and recommendations, and make its recommendation to the city council. The planning commission may recommend approval, approval subject to conditions, or denial of approval of the PUD site plan.
  5. If the PUD site plan is rejected by the planning commission, its reasons therefor shall be specified in writing.
  6. The planning commission's recommendation and all related reports shall be submitted to the city council for its consideration.
  7. The city council shall, after reviewing said PUD site plan, take final action to approve, approve with conditions, or deny approval of the PUD site plan. The decision of the city council shall be based upon compliance of the PUD site plan with all requirements of this ordinance, including the standards in section 1402C., and conditions imposed by the city council upon approving the conceptual PUD development plans. The city council, acting upon the recommendation of the planning commission, may, if determined necessary and appropriate to achieve the goals of this ordinance, while encouraging development consistent with good planning principles, require:
    - a. More or less usable open space than that required by this Code.
    - b. More or less parking than that required by this Code.
    - c. More or less landscaping than that required by this Code.
    - d. More or less setbacks than that required by this Code.
  8. If the PUD site plan is rejected by the city council, its reasons shall be in writing and based upon the standard of review listed above.
  9. Approval of the final PUD site plan shall entitle the owner to apply for building permits.
- I. *Time for completion of development.* Substantial construction of the proposed planned unit development must be started within two years of the preliminary phase approval of the

development plan and work must be continued in a reasonably diligent manner. All proposed buildings, parking spaces, landscaping, usable open space and amenities must be completed within five years of the preliminary phase approval of the development plan. Said five-year period may be extended by the city council upon application by the petitioner and recommendation of the planning commission if it is demonstrated that the applicant has diligently pursued completion of the PUD development plan, that a majority of the improvements have been installed, or that market or economic conditions have so changed that it would be economically6/3/2015 Oak Park, MI Code of Ordinances

infeasible to complete all of the improvements of the plan within the specified time. Absent approval of an extension, all construction shall be stopped at the conclusion of the five year period.

J. *Deviations from approved PUD site plan.* Minor changes to a previously approved PUD site plan may be approved without the necessity of planning commission or city council action thereon if the director of the technical and planning services certifies in writing that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the plan as agreed upon by the planning commission and the city council. The department of technical and planning services shall record all such changes on the original PUD site plan and shall advise the planning commission and the city council of all said minor revisions of said administrative approval. Minor alterations or revisions under this section shall be limited to:

1. Shifting of buildings, heights and elevations, providing such shifting does not exceed ten percent of the previously approved dimensions and providing such shifting does not significantly alter the conceptual integrity of the plan.
2. Any decrease in building size is no more than ten percent.
3. Construction of additional or alteration of approved sidewalks; provided, that the full intent of pedestrian movement through and around the site is not inhibited thereby.
4. Shifting of, additions to, or changes in species of landscape materials; provided, that such changes do not reduce the minimum landscaped requirements.
5. Relocation of refuse collection stations.
6. Internal rearrangement of parking lots and curb cut locations, provided such functional rearrangement does not reduce the total number of parking spaces required; and further provided, that the minimum landscape requirements are maintained; and further provided, that such rearrangement does not inhibit good traffic flow or circulation.
7. Construction and location of bus stop locations.
8. Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.

(Ord. No. 0-01-447, § 1, 7-2-01)

Sec. 1403. - Required conditions.

- A. In all PUD districts, on all property lines which are adjacent to residentially zoned properties, and otherwise as determined by the city council upon PUD development plan review to be necessary to

protect adjacent uses of property, there shall be erected a contiguous masonry wall of brick, stone or poured concrete with a decorative pattern, at least six feet high. Such wall shall be subject to approval as to design and material by the city council, upon recommendation by the planning commission. The city council, upon application by the property owner of the PUD planned unit development property, may modify the wall requirements for walls where in unusual circumstances undue hardship would be suffered or no good purpose would be served by compliance with the requirements of this section.

- B. No machinery, equipment, vehicles or other materials, either discarded or showing evidence of need for repairs or maintenance, shall be stored or parked or permitted to stand in any open area that is clearly visible from the street, public place or adjoining residential property.

(Ord. No. 0-01-447, § 1, 7-2-01)

Sec. 1404. - Additional site development standards.6/3/2015 Oak Park, MI Code of Ordinances

All permitted uses shall comply with all applicable provisions of the zoning ordinance including those listed below as a reference guide, except as amended herein or varied or waived by the city council, upon recommendation of the planning commission in the course of development plan review and approval.

- A. Article II: Definitions.
- B. Article XVI: Schedule of district regulations (minimum lot width and area, setbacks, maximum height, etc.).
- C. Article XVII: General provisions for: visibility at intersections and corner clearance; visibility-walls, fences, hedges; accessory buildings and structures; swimming pools; erection of more than one principle structure on a lot; radio, television and satellite dish antenna; right-of-way-streets, alleys and railroad; access required: dwelling in other than main structures; building grades; performance standards for all land uses; screening and landscaping; fences, walls, and other barriers; moved buildings or structures; recreational and commercial vehicles; site plan review; off street parking and loading.
- D. Article XVIII: Signs.
- E. Article XX: Nonconforming lots, uses and structures.
- F. Article XXI: General exceptions for: essential services; height limits; projections into yards.

(Ord. No. 0-01-447, § 1, 7-2-01)

Sec. 1930. - Restaurants serving **alcoholic liquor**.

Restaurants serving **alcoholic liquor** may be permitted in certain districts specified in this section, if the establishment is continually operated according to the following requirements and performance standards:

- A. There shall at all times be maintained and provided culinary facilities to cook or prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 40 patrons at any time.
- B. The proprietor shall make available a varied menu of food items consisting of not less than ten such food items cooked or prepared on the premises.
- C. Not more than 50 percent of the gross floor area open to the general public shall be used for purposes other than seating for diners, consisting of tables, chairs, booths, and necessary aisle ways. Public restroom facilities shall not be considered in this determination.
- D. During any 90-day period, no more than 50 percent of the gross revenues of the establishment shall be derived from the sale of **alcoholic liquor**. Admission charges or cover charges which exceed ten percent of the establishment's gross revenues shall be considered as derived from the sale of **alcoholic liquor** for purposes of determining the percentage of sales of **alcoholic liquor**. Sales of food or **alcoholic liquor** to hotel or motel guests for consumption within their private rooms shall not be considered in determining the percentage ratio of sales of **alcoholic liquor**.
- E. Restaurants, serving **alcoholic liquor** are required to stop serving alcoholic beverages no later than 12:00 a.m. (midnight), and otherwise operate consistent with the hours established by the Liquor Control Commission for such establishments.
- F. The proposed restaurant serving **alcoholic liquor** is not located within 500 feet of a school, park, or place of worship, regardless of community boundaries. Measurement of distances between restaurants, serving alcoholic liquor and a school, park, or place of worship shall be from the outermost boundaries of the parcel or lot of each use.
- G. The layout of the site of the proposed restaurant, serving **alcoholic liquor** and its relationship to streets providing access to the site shall be in a manner that vehicular and pedestrian traffic to and from the proposed restaurant, serving **alcoholic liquor** and the potential assembly of persons connected therewith, will not be hazardous, endangering, or inconvenient to the surrounding neighborhood and commercial district.
- H. The proposed restaurant serving **alcoholic liquor** will be compatible with adjacent uses of land, considering the proximity of residential dwellings, churches, schools, public structures, and other places of public gatherings.
- I. The proposed restaurant serving **alcoholic liquor** will not be contrary to the public interest or injurious to nearby properties.
- J. The proposed restaurant serving **alcoholic liquor** will not have the possible effect of downgrading and blighting the surrounding neighborhood.
- K. The proposed restaurant serving **alcoholic liquor** will not reasonably be expected to diminish the value of properties in the immediate area.

Sec. 1709. - Outdoor dining.

Outdoor dining areas are permitted as an accessory use for restaurants subject to the following: A.

*Approval process.*

1. Outdoor dining areas proposed as part of a new restaurant use, an addition to an existing restaurant, a restaurant that serves alcoholic liquor or a dining area on a public sidewalk or right-of-way, shall require site plan review and approval by the planning commission and city council as outlined in section 1725.
2. Outdoor dining areas proposed to be added to an existing restaurant with no other building or significant site modifications, shall submit a site development plan to the department of community and economic development for review and administrative approval.
  - a. The following information is required on the site development plan:
    - i. A completed application.
    - ii. A detailed plan showing the design, relevant details and location of all permanent and temporary structures such as decks, awnings, planters, landscaping, railings, tables, chairs, table, umbrellas, electrical outlets or appliances, hydrants, all ingress and egress, lighting and other equipment. The site development plan shall be submitted on a sheet no smaller than 11 inches x 17 inches at a scale showing detail sufficient for proper review.
    - iii. The applicant's entire property and adjacent properties on a location map with streets for a distance of at least 25 feet.

*B. General standards.*

1. Outdoor dining shall only be permitted between March 1 and November 30 with all furniture and fixtures including, but not limited to, tables, chairs and waste receptacles removed from the exterior premises after November 30.
2. The hours of operation for the outside dining area shall be consistent with the hours of operation inside the restaurant.
3. For plans showing more than 20 occupants within the outdoor dining area, additional off-street parking shall be provided as required in subsection 1726.G(39) Restaurants - Sit down.
4. Tables, chairs, umbrellas and any other objects provided with outdoor dining areas shall be of good quality and of a durable material such as wood or metal. The design, materials and workmanship of these items should ensure the safety and convenience of the users and enhance the visual and aesthetic quality of the outdoor area.
5. No table umbrella or other outdoor fixture in the outdoor dining area shall contain any sign or advertising matter.
6. Lighting for the outdoor dining area shall be shielded downward and away from adjacent properties and installed so that the surface of light shall not be visible from adjacent properties or to passing traffic.
7. The restaurant shall clean the entire outdoor dining area and all other adjacent landscaped and sidewalk areas by removing debris, trash, sweeping and washing down the area each

day. The cleaning shall be conducted as frequently each day as necessary to prevent debris and trash from being blown or scattered onto other properties. A thorough sweeping and cleaning shall be conducted at the close of business each day.

8. Outdoor dining areas shall be enclosed in instances where there is **alcoholic liquors** service. Enclosures shall consist of metal railing, wood railing, brick walls or other suitable materials approved by the planning commission, city council or administratively, as applicable.
9. No food preparation, preparation equipment or bars shall be permitted in the outside dining area, including heating or cooking on open flames.

*C. Additional requirements for outdoor dining areas located on a public sidewalk.*

1. Outdoor dining areas, on a public sidewalk, shall be located in a manner to maintain a minimum pathway width of five feet (clear of structures such as light poles, trees and hydrants) so as not to interfere with pedestrian traffic moving around the outdoor dining area.
2. Outside dining areas located on a public sidewalk or within any public right-of-way requires approval by the corresponding jurisdiction (City of Oak Park, MDOT, Road Commission of Oakland County). A license agreement in a form deemed acceptable to the city attorney's office shall also be required.
3. Any restaurant approved to operate an outdoor dining area on a public sidewalk shall pay to the city treasurer a license fee in the amount established by resolution of the city council.
4. Outdoor dining areas located on a public sidewalk are required to provide a policy or certificate of insurance, in an amount acceptable to the city, including workers compensation, naming the city as additionally insured. Establishments serving **alcoholic liquors** shall provide a liquor liability policy or certificate of insurance naming the city as additionally insured. A company authorized to do business in the state shall issue such insurance. Required insurance amounts shall be set by resolution of city council. The policy or certificate shall contain a clause requiring the insuring company to give 15 days' written notice to the city manager prior to cancelling the policy. The required insurance certificate shall be in effect for any period during which the outdoor dining area is in operation. No establishment shall operate an outdoor dining area on a public sidewalk without filing proof of proper insurance. Failure to provide a current insurance certificate shall be cause for immediate discontinuation of use of sidewalk for an outdoor dining area.
5. The owner of the restaurant with the outdoor dining area on a public sidewalk assumes full responsibility for damage to public property caused by the placement and operation of the outside dining area. The restaurant will also repair any damage to public property at their own expense.

(Ord. No. O-14-603, § 7, 6-2-14)

**CITY ATTORNEY REPORT:**

**CM-06-249-15 (AGENDA ITEM #14A) AUTHORIZATION FOR THE CITY ATTORNEY TO FILE AN APPEARANCE ON BEHALF OF THE CITY IN THE TAX TRIBUNAL MATTER FOR SEARS HOLDINGS CORPORATION (STORE #3730) V. CITY OF OAK PARK, MTT DOCKET NO. 15-001493 - APPROVED**

Motion by Seligson, Seconded by Burns, CARRIED UNANIMOUSLY, to authorize the City Attorney to file an appearance on behalf of the City in the Tax Tribunal matter Sears Holdings Corporation (Store #3730) v. City of Oak Park, MTT Docket No. 15-001493

Voice Vote:            Yes:            McClellan, Burns, Levine, Seligson, Speech  
                              No:            None  
                              Absent:

**MOTION DECLARED ADOPTED**

City Attorney Murphy reported that on or about May 22, 2015, Petitioner Sears Holdings Corporation (Store #3730) filed a Petition with the Michigan Tax Tribunal appealing the 2015 valuations for the referenced property. The property is currently a vacant 87,014 square foot commercial building (former Kmart store), located at 26200 Greenfield, identified as parcel 52-25-19-101-033. The Petitioner is requesting a reduction of \$1,216,100 in the assessed and taxable value of the Petitioner's property from \$1,616,100 to \$400,000, which amounts to a reduction of approximately \$45,735 in City tax.

**CITY MANAGER:**

City Clerk

**CM-06-250-15 (AGENDA ITEM #15A) CITY OF OAK PARK, MICHIGAN FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES AND GUIDELINES AND PUBLIC SUMMARY OF PROCEDURES AND GUIDELINES - APPROVED**

Motion by Burns, seconded by Speech, CARRIED UNANIMOUSLY, to adopt the City of Oak Park, Michigan Freedom of Information Act (FOIA) Procedures and Guidelines and Public Summary of Procedures and Guidelines.

Roll Call Vote:        Yes:            McClellan, Burns, Levine, Speech, Seligson  
                              No:            None  
                              Absent:        None

**MOTION DECLARED ADOPTED**

Assistant City Clerk Hotz reported that legislation adopted during the final session of 2014 by the State Legislature (the Governor signed the new legislation into law as PA 563 of 2014) requires public bodies to establish specific written procedures and guidelines for Freedom of Information Act requests, including a separate written summary informing the public on how to submit requests, how to understand the public body's responses to FOIA requests, deposit requirements, fee calculations, and avenues for challenging and appealing the public body's denial of a request and/or the fees assessed.

**CM-06-251-15**

**(AGENDA ITEM #15B) RESOLUTIONS APPROVING THE REQUEST OF SZASZA, INC., D/B/A SAHARA RESTAURANT & GRILL, LOCATED AT 24770 COOLIDGE, OAK PARK MI 48237 TO TRANSFER THE CLASSIFICATION OF ITS EXISTING LICENSE PERMITTING THE CONSUMPTION OF BEER AND WINE ON THE PREMISES OF A RESTAURANT OPERATION TO A CLASS C LIQUOR LICENSE ON THE PREMISES OF A RESTAURANT OPERATION AND FOR THE CONTINUATION OF ITS DANCE PERMIT - APPROVED**

Motion by Speech, seconded by Burns, CARRIED UNANIMOUSLY, to approve the following resolutions approving the Request of SZASZA, INC., d/b/a Sahara Restaurant & Grill, located at 24770 Coolidge, Oak Park MI 48237 to Transfer the Classification of its Existing License Permitting the Consumption of Beer and Wine on the Premises of a Restaurant Operation to a Class C Liquor License on the Premises of a Restaurant Operation and for the Continuation of its Dance Permit:

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LIQUOR CONTROL COMMISSION (MLCC)**

**LOCAL GOVERNMENT APPROVAL  
(AUTHORIZED BY MCL 436.1501)**

At a Regular meeting of the Oak Park, Michigan City Council called to order by Mayor Marian McClellan on June 15, 2015 at 7:00 PM the following resolution was offered:

Moved by Council Member Speech and supported by Council Member Burns that the application from SZASZA, Inc., D/B/A Sahara Restaurant and Grille for the following license(s): Transfer of Classification of a Tavern License to a Class C liquor License to be located at 24770 Coolidge Highway, Oak Park, Michigan 48237.

It is the consensus of this body that it recommends this application be considered for approval by the Michigan Liquor Control Commission.

I hereby certify that the forgoing constitutes a true and complete copy of a resolution adopted by the City Council of the City of Oak Park, County of Oakland, State of Michigan, at a regular meeting held on June 15, 2015 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Public Acts of 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

---

T. Edwin Norris, City Clerk

**A RESOLUTION OF THE OAK PARK, MICHIGAN CITY COUNCIL APPROVING THE REQUEST OF SZASZA, INC., D/B/A SAHARA RESTAURANT AND GRILLE, 24770 COOLIDGE HIGHWAY TO TRANSFER THE CLASSIFICATION OF ITS EXISTING LICENSE PERMITTING THE CONSUMPTION OF BEER AND WINE ON THE PREMISES OF A RESTAURANT OPERATION TO A CLASS C LIQUOR LICENSE ON THE PREMISES OF A RESTAURANT OPERATION AND FOR THE CONTINUATION OF ITS DANCE PERMIT**

WHEREAS, pursuant to state law and the Code of Ordinances, City of Oak Park, Michigan it is unlawful for any person to sell, or possess for sale, any alcoholic beverage unless licensed to do so and all licenses required are in full force and effect; and

WHEREAS, at a Special Election held on May 5, 2015 the voters in the City of Oak Park approved a proposition to allow the sale of spirits in addition to beer and wine for consumption on the premises; and

WHEREAS, Szasza, Inc. d/b/a Sahara Restaurant and Grille (hereinafter referred to as Sahara) located at 24770 Coolidge Highway had previously applied for and obtained a Tavern License at that address from both the State of Michigan Liquor Control Commission and the City of Oak Park along with a Dance Permit and also obtained the renewal of those licenses and the permit in 2015 with expiration dates of April 30, 2016; and

WHEREAS, Sahara is seeking the transfer of the classification of its existing Tavern License (License permitting the Consumption of Beer and Wine on the Premises of a Restaurant Operation) to a Class C Liquor License to allow the sale of spirits along with the continuation of its Dance Permit.

NOW, THEREFORE, BE IT RESOLVED, that Sahara's request to transfer the classification of its existing Tavern License to a Class C Liquor License to allow the sale of spirits on the Premises of a Restaurant Operation along with the continuation of its Dance Permit is hereby approved subject to the following conditions:

1. The Michigan Liquor Control Commission issuing a Class C Liquor License and a Dance Permit for use by Szasza, Inc. d/b/a Sahara Restaurant and Grille located at 24770 Coolidge Highway, Oak Park, Michigan 48237.
2. Upon issuance of the Class C Liquor License and Dance Permit by the Michigan Liquor Control Commission Sahara provide the City Clerk's Office with copies of the license/permit and a Certificate of Liquor Insurance for the subject business.
3. Sahara executes amendments to its Contract for Tavern License and Agreement Regarding a Dance Permit with the City of Oak Park, Michigan.

BE IT FURTHER RESOLVED, that subject to the conditions described in the immediately preceding paragraph and all departmental authorizations, upon approval of a Class C Liquor License and a Dance Permit by the Michigan Liquor Control Commission for Szasza, Inc. d/b/a Sahara Restaurant and Grille located at 24770 Coolidge Highway, Oak Park, Michigan 48237, the City Clerk is hereby authorized to issue a Class C Liquor License on the Premises of a Restaurant Operation and a Dance Permit with expiration dates of April 30, 2016 to Sahara; and

BE IT FURTHER RESOLVED, that this Resolution shall be effective upon its approval by the City Council.

I hereby certify that the forgoing constitutes a true and complete copy of a resolution adopted by the City Council of the City of Oak Park, County of Oakland, State of Michigan, at a regular meeting held on June 15, 2015 and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Public Acts of 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

---

T. Edwin Norris, City Clerk

Roll Call Vote:        Yes:            McClellan, Burns, Levine, Speech, Seligson  
                              No:             None  
                              Absent:        None

**MOTION DECLARED ADOPTED**

City Manager Tungate reported that Szasza, Inc. d/b/a Sahara Restaurant and Grille located at 24770 Coolidge Highway had previously applied for and obtained a Tavern License at that address from both the State of Michigan Liquor Control Commission and the City of Oak Park along with a Dance Permit and also obtained the renewal of those licenses and the permit in 2015 with expiration dates of April 30, 2016. At a Special Election held on May 5, 2015 the voters in the City of Oak Park approved a proposition to allow the sale of spirits in addition to beer and wine for consumption on the premises. As a result of that election, Sahara is seeking the transfer of the classification of its existing Tavern License (License permitting the Consumption of Beer and Wine on the Premises of a Restaurant Operation) to a Class C Liquor License to allow the sale of spirits along with the continuation of its Dance Permit.

**Community and Economic Development**

**CM-06-252-15                    (AGENDA ITEM #15C) AUTHORIZATION FOR THE CITY  
ATTORNEY TO DRAFT A CONTRACT THAT ALLOWS THE CITY  
OF OAK PARK TO ENTER INTO AN AGREEMENT WITH GLOBAL  
REALTY TO PURCHASE TAX FORECLOSED PROPERTIES  
- APPROVED**

Motion by Burns, Seconded by Levine, CARRIED UNANIMOUSLY, to authorize the City Attorney to draft a contract that allows the City of Oak Park to enter into an agreement with Global Realty to purchase tax foreclosed properties.

Roll Call Vote:        Yes:            McClellan, Burns, Levine, Seligson, Speech  
                              No:             None  
                              Absent:        None

**MOTION DECLARED ADOPTED**

Community and Economic Development Manager Marrone reported that the City of Oak Park is given the opportunity to purchase tax foreclosed properties each year. This typically happens in July and the city is given less than a week to make a decision on which properties to purchase. The city is concerned with the high level of rental units within the city and would like to see more opportunities for owner occupied homes. Most tax foreclosed properties are sold to landlords who use them as rental units. The city has been approached by a company that can assist in acquiring the properties and turning a majority back into owner occupied homes with a small portion as rental units which they would manage and on many occasions enter into a land contract with the occupant. The company is Global Realty and they have been providing these services to many communities, such as: City of Wayne, City of Harper Woods, Redford Twp., Wayne County, and City of Southgate. We have also discussed the tax foreclosures with other companies and after careful consideration recommend entering into a one year contract with Global Realty. The contract would be drafted by our attorney and sufficient to meet the terms of the city. Representatives from Global Realty presented information about their company and Council discussed the merits of the program.

City Manager Tungate introduced Denise DeSantis as the new Director of Community Engagement and Public Information.

**CALL TO THE AUDIENCE:**

**Zena Attisha** from Sahara Restaurant thanked everyone for their support of the Class C Liquor initiative and the City for their recommendation to approve their license transfer.

**Nancy Hatcher**, 23040 Wildwood, expressed concerns about the aging trees in Oak Park and the damage that can be caused by their roots and limbs. She asked for the city to implement a process to remove them. City Manager Tungate indicated that he would have staff look into the matter.

**Brandi Mermell**, 22101 Beverly, expressed concerns about a snow removal special assessment on her property.

**CALL TO THE COUNCIL:**

**Mayor McClellan** recognized Recreation Director Julie Hall who reminded everyone about upcoming City events including the Independence Day Celebration and Parade which will be held on July 3, 2015.

**Council Member Seligson** wished everyone a good night.

**Council Member Burns** thanked everyone for coming out and being engaged at the City Council Meeting. She applauded the great recycling event sponsored by the City and thanked Public Safety for doing such a great job. She also reminded everyone to monitor their outdoor pets.

**Council Member Speech** reminded everyone to be safe and secure by locking doors and windows. Please maintain your own garbage to help keep rodents away. Happy Father's Day!

**Mayor ProTem Levine** reported on recent Emergency Services Council meetings and thanked the many volunteers who have agreed to help out in the event of an emergency. He also reminded everyone that there will be a slow roll bike event leaving from the Library at 7:00 PM on Tuesdays this summer.

**ADJOURNMENT:**

There being no further business to come before the City Council, Mayor McClellan adjourned the meeting at 9:20 P.M.

---

T. Edwin Norris, City Clerk

---

Marian McClellan, Mayor

**Emergency Services Council Meeting**

May 11, 2015 at 7:00 p.m.

14000 Oak Park Blvd, Oak Park City Hall

**Present:** Jerry Begel, Nynier Hall Brown, Ken Gaynor, Teresa Roscoe, Rena Tennenberg, John Hines, Director Cooper, Rocco Fortura, Council Member Levine, Officer Benson,

**Absent:** none

**Excused:** none

**Board Vacancies:** Public Information Officer

**Guest:** Val Moskalik (citizen), Mike Loper (Oakland County Homeland Security)

Meeting Called to order at 7:06 p.m.

Meeting minutes from April 13, 2015 were reviewed and approved.

**Old Business:**

## 1. Independence Day Celebration on July 3, 1025:

- a. J. Begel brought give away items donated by Oakland County Homeland Security.
- b. Thank you note to be sent to Sarah Stoddard for these items.
- c. Officer Benson has some fire safety coloring books for children.
- d. Fire safety will be incorporated into the Emergency Services Council table.
- e. A fire extinguisher demonstration will also take place.

2. Meet & Greet at June 8<sup>th</sup> meeting:

- a. Director Cooper will provide pizza and beverages from his budget.
- b. Citizens who have expressed an interest in the volunteer force will be invited.
- c. City members will briefly describe their role to the group.
- d. Attendees will be asked if they can volunteer for the July 3<sup>rd</sup> event or if they have any special skills.

## 3. Budget for this council:

- a. \$3,000.00 has been added to the 2016 city budget for this council.

## 4. City is interviewing for a full time Public Information Director.

**Presentation by Mike Loper, Oakland County Homeland Security:**

1. Know your hazards (weather, power outages, flood, etc.)
2. Make a plan, build a kit and stay informed.
  - a. Various websites have information, [www.ready.gov](http://www.ready.gov) or [www.oakgov.com](http://www.oakgov.com)
3. Shelter in place – usually the best plan. Be prepared to evacuate area if instructed.
4. Pet supplies should also be considered during emergencies. If using a shelter, you will need an appropriate cage for your pet.
5. Be informed, prepare:
  - a. NOAA weather radios
  - b. Oak Alert – sign up at [www.oakgov.com](http://www.oakgov.com) for email and text alerts
6. Warning sirens – 274 in Oakland County. The most in Michigan.
7. Incident Management Systems
  - a. Free on-line courses (IS-100)
8. Emergency operations plan available for viewing on [www.oakgov.com](http://www.oakgov.com)
9. American Disabilities Act (ADA):
  - a. Shelters need to comply with ADA.
  - b. Oak Park High School has been designated a shelter for the Red Cross.
  - c. Avoid using the term, “Shelter” if you cannot comply with ADA. Use, “warming” or “cooling” reception center.
10. If you see something, say something.
11. Keep cash available at all times. Small and larger bills will be necessary to purchase needed items if stores cannot process credit/debit cards.

Meeting adjourned at 8:40

The next meeting will be conducted on Monday, June 8, 2015 at 7:00 p.m. in the Oak Park Public City Hall. Address is 14000 Oak Park Blvd.

Respectfully submitted by Ken Gaynor



**BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN**

**AGENDA OF:** July 6, 2015                      **AGENDA #**

**SUBJECT:** Request authorization to bid the 2015 Block Pruning Project, M-636.

**DEPARTMENT:** DPW - KJY

**SUMMARY:** Plans and specifications are complete for the 2015 Block Pruning Project, M-636. This project will trim trees throughout the City based on need.

**FINANCIAL STATEMENT:** Funding is available in the FY 2015-16 Major and Local Street Funds for this expenditure.

**RECOMMENDED ACTION:** It is recommended that the request to advertise for bids for the 2015 Block Pruning Project, M-636 be approved. Funding is available in Major and Local Street Funds for this expenditure.

**APPROVALS:**

City Manager: \_\_\_\_\_

Department Director: \_\_\_\_\_

Finance Director: \_\_\_\_\_

**EXHIBITS:** None



**BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN**

**AGENDA OF:** July 6, 2015

**AGENDA #**

**SUBJECT:** Request Authorization to purchase budgeted Public Works vehicles.

**DEPARTMENT:** Public Works

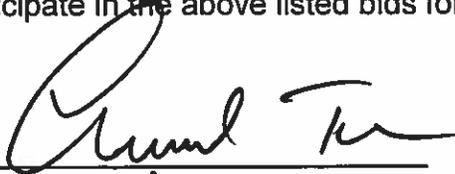
**SUMMARY:** The Public Works Department is requesting authorization to purchase the following vehicles from the assigned pre-bid contracts:

<u>Vehicle</u>	<u>Amount</u>	<u>Account</u>	<u>Bid</u>
2015 GMC 3 yard dump truck	\$63,632.00	592-18-538-970	Oakland County
2015 Ram Quad Cab pick up	\$25,950.00	592-18-538-970	MIDEAL
<b>Total W &amp; S Amt:</b>	<b>\$89,582.00</b>		
2015 GMC 3 yard dump truck	\$63,632.00	202-18-479-970	Oakland County
2015 GMC 2500 pick up	\$32,832.00	202-18-479-970	Oakland County
<b>Total Major Street Amt:</b>	<b>\$96,464.00</b>		
2015 Ford Focus	\$15,709.00	654-18-875-970	Macomb County
<b>Total Motor Pool Amt:</b>	<b>\$15,709.00</b>		

**FINANCIAL STATEMENT:** Funding for the above vehicles is available as follows:  
 \$90,000 has been allocated in account 592-18-538-970.  
 \$105,000.00 has been allocated in account 202-18-479-970.  
 \$16,000 has been allocated in account 654-18-875-970.

**RECOMMENDED ACTION:** It is recommended that City Council authorize the Public Works Department to participate in the above listed bids for the purchase of vehicles as listed.

**APPROVALS:**

City Manager: 

Director of Public Works: 

Director of Finance: \_\_\_\_\_

**EXHIBITS:** none



**BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN**

**AGENDA OF:** July 6, 2015 **AGENDA #**

**SUBJECT:** Proposed Change Order no. 2 and Payment Application no. 2 for the 2015 Miscellaneous Concrete Repair Project, M-603.

**DEPARTMENT:** DPW/Technical & Planning – Engineering *KJY*

**SUMMARY:** Attached are Proposed Change Order no. 2 and Payment Application no. 2 for the 2015 Miscellaneous Concrete Repair Project, M-603. The proposed Change Order is a reduction due to as constructed measurements. The project is now 95% complete.

<b><u>FINANCIAL STATEMENT:</u></b>	Original Contract Amount:	\$ 266,727.60
	Change Order no. 1:	\$ 61,090.00
	Proposed Change Order no. 2:	<u>(\$ 17,352.14)</u>
	New Contract Amount:	\$ 310,465.46
	Total Completed to Date:	\$ 310,465.46
	Less Retainage:	\$ 5,000.00
	Net Earned:	\$ 305,465.46
	Deductions:	\$ 0.00
	Balance:	\$ 305,465.46
	Payments to Date:	<u>\$ 112,892.58</u>
	Amount Due Mattioli Cement Company, LLC.:	\$ 192,572.88

**RECOMMENDED ACTION:** It is recommended that Proposed Change Order no. 2 for the 2015 Miscellaneous Concrete Repair Project, M-603 to Mattioli Cement Company, LLC be approved for the amount of (\$17,352.14). It is further recommended that Payment Application no 2 for the same be approved in the amount of \$192,572.88. Funding is available in the Water & Sewer Fund and Local Street Fund for this project.

**APPROVALS:**  
City Manager: *Charles T...*

Department Director: *KJY*

Finance Director: \_\_\_\_\_

**EXHIBITS:** Proposed Change Order no. 2 and Payment Application no. 2

# CHANGE ORDER

**PROJECT:** 2015 Misc. Concrete Project

**JOB NUMBER:** M-603

**OWNER:** City of Oak Park, Michigan

**CHANGE ORDER NO.:** 2

**CONTRACTOR:** Mattioli Cement Co.  
6085 McGuffe Rd.  
Fenton, MI 48430

**PAGE:** 1

**TO THE CONTRACTOR:**

You are hereby directed to comply with the changes/letters to the contract documents.  
The change order reflects work completed or anticipated. Documentation supporting these changes is on file with the City Engineer.

**THE FOLLOWING ITEMS AND OR CONTRACT UNITS PRICES SHALL BE ADDED TO THE CONTRACT AMOUNT**

Item No.	Description	Original Bid Quantity	Unit	Unit Price	Increased Quantity	Quantity to Date	TOTAL Amount
3	SIDWALK CONC. NON-BEING & SIDWALK/DRIVE APPROACH	900	SFT	\$ 4.80	255.92	1,155.92	\$1,228.42
4	SIDWALK CONC. NON-BEING & SIDWALK	2,200	SFT	\$ 4.25	1,424.08	3,624.08	\$6,052.34
5	CONC. PAVT 2" CURB & GUTTER SECTION NON BEING & CONC.	30	LFT	\$ 36.00	240.83	270.83	\$8,669.88
6	ADJUSTING DRAINAGE STRUCTURES	2	EA	\$ 400.00	7.00	9.00	\$2,800.00
7	CAST IN PLACE DETECTABLE/RACTILE WARNING SURFAC	25	SFT	\$ 24.00	25.00	50.00	\$600.00
9	AGGREGATE BASE UNDER 4" & 2" CONC. (3" 21AA OR LIMESTONE)	300	BYD	\$ 4.00	3,494.76	3,794.76	\$13,979.04
13	COOLDRS ISLAND REMOVAL	0	187DM	\$ 3,020.56	1.00	1.00	\$3,020.56
<b>TOTALS</b>							<b>\$36,350.24</b>

Item No.	Description	Original Bid Quantity	Unit	Unit Price	Decreased Quantity	Quantity to Date	TOTAL Amount
1	REMOVE CONCRETE PAVEMENT	4,300	SYD	\$ 9.00	-249.19	4,050.81	\$ (2,242.71)
2	CONCRETE PAVT W/INT CURB & GUTTER 9" CONC.	3,900	BYD	\$ 44.60	-522.71	3,377.29	\$ (23,312.87)
8	AGGREGATE BASE UNDER 9" CONC. (3" 21AA OR LIMESTONE)	3,900	BYD	\$ 6.00	-3,713.08	186.92	\$ (22,278.48)
10	DRAINAGE STRUCTURE COVER	760	138	\$ 1.75	-607	153.00	\$ (1,068.37)
13	INSPECTION OPEN DAYS	15	DAY	\$ 320.00	-15	0.00	\$ (4,800.00)
<b>TOTALS</b>							<b>(\$53,702.38)</b>

**SUMMARY**

Total Increase \$36,350.24  
 Total Decrease (\$53,702.38)  
 Total for Change Order No. 2: **-\$17,382.14**

*Robert Barrett* 6/15/2015  
 Robert Barrett - City of Oak Park Date

**THE CONTRACT SHALL BE DECREASED BY THE SUM OF:**  
 Original Contract Amount 266,727.60  
 Change Order No. 1: 61,090.00  
 Change Order No. 2: -17,352.14  
 New Contract Amount: **\$310,465.46**

*Robert Barrett* 6/11/15  
 Mattioli Cement Co. Date

PAYMENT APPLICATION

PROJECT: 2015 Miscellaneous Concrete Project

OWNER: CITY OF OAK PARK, MICHIGAN

CONTRACTOR: MATTOUJ CEMENT COMPANY

8086 MCQUIRE RD  
FENTON, MI 48430

JOB NUMBER: M-803

APPLICATION NO.: 2

PERIOD ENDING: 8/4/2014

ITEM	DESCRIPTION	ORIGINAL BID QUANTITY	UNIT	PRICE	PERIOD QUANTITY	PERIOD AMOUNT	QUANTITY TO DATE	AMOUNT TO DATE
1	REMOVE CONCRETE PAVEMENT	4,300	SYD	8.00	1,648.32	\$14,834.88	4,050.81	\$36,457.29
2	CONCRETE P/MT W/INT CURB & GUTTER, 9" CONC.	3,900	SYD	44.60	1,630.45	\$72,718.07	3,377.29	\$150,627.13
3	SIDEWALK CONC. NON-REINF 6" SIDEWALK/DRIVE APPROACH	900	SFT	4.80	1,155.92	\$5,548.42	1,155.92	\$5,548.42
4	SIDEWALK CONC. NON-REINF 4" SIDEWALK	2,200	SFT	4.25	3,489.08	\$14,828.58	3,624.08	\$15,402.34
5	CONC. P/MT 24" CURB & GUTTER SECTION NON REINF 9" CONC.	30	LFT	36.00	270.83	\$9,749.88	270.83	\$9,749.88
6	ADJUSTING DRAINAGE STRUCTURES	2	EA	400.00	4.00	\$1,600.00	9.00	\$3,600.00
7	CAST IN PLACE DETECTABLE/TACTILE WARNING SURFACE	25	SFT	24.00	60.00	\$1,200.00	60.00	\$1,200.00
8	AGGREGATE BASE UNDER 9" CONC. (9" 21AA CR LIMESTONE)	3900	SYD	6.00	12.00	\$72.00	186.92	\$1,121.52
9	AGGREGATE BASE UNDER 4" & 8" & 9" CONC. (9" 21AA CR LIMESTONE)	300	SYD	4.00	1,567.19	\$6,268.76	3,794.78	\$16,179.04
10	DRAINAGE STRUCTURE COVER	760	LBS	1.76	0.00	\$0.00	153.00	\$269.28
11	MINOR TRAFFIC DEVICES	1	LSUM	6,500.00	0.00	\$0.00	1.00	\$6,500.00
12	PROJECT CLEAN UP	1	LSUM	700.00	1.00	\$700.00	1.00	\$700.00
13	INSPECTION CREW DAYS	15	DAY	320.00	0.00	\$0.00	0.00	\$0.00
14	PAVEMENT REPAIR (TYLER FROM LINCOLN TO MANHATTAN)	15	LSUM	81,090.00	1.00	\$81,090.00	1.00	\$81,090.00
15	COOLIDGE ISLAND REMOVAL	15	LSUM	3,020.56	1.00	\$3,020.56	1.00	\$3,020.56

Period Total Amount:

\$188,610.60

Earnings This Period: \$188,610.60

Total Amount to Date: \$310,485.46

Original Contract Amount: \$ 286,727.80  
 Change Order #1: \$ 61,090.00  
 Proposed New Change Order #2: (17,362.14)  
 Current Contract Amount: \$ 310,465.46

Total Earnings to Date: \$310,485.46  
 Less Retainage: \$5,000.00  
 Net Earned: \$305,485.46  
 Deductions: \$0.00  
 Balances: \$305,485.46  
 Payments to Date: \$112,892.59

AMOUNT DUE MATTOUJ CEMENT CO. SERVICES: \$192,572.88

Accepted By:   
 Mattouj Cement Co.

Approved By:   
 Robert Barrett, Director Technical Accounting Services  
 City of Oak Park, Michigan

Date: 6/18/15  
 Date: 6/18/15



**BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN**

**AGENDA OF:** July 6, 2015

**AGENDA #**

**SUBJECT:** Payment request from Orchard, Hiltz, & McCliment for Engineering Consulting Services.

**DEPARTMENT:** DPW/Technical & Planning – Engineering *KJY*

**SUMMARY:** Attached are invoices from Orchard, Hiltz & McCliment for the project listed below:

Project	This Period	Prior Billings	To Date	Current Contract	Account Number
CE – Water Reservoir Pumping Station Improvements	\$2,772.50	\$21,032.25	\$23,804.75	\$30,000.00	592-18-540-801
PE – Traffic Signal Design	\$13,757.00	\$55,657.00	\$69,414.00	\$114,060.00	202-18-474-801
<b>Totals</b>	<b>\$16,529.50</b>	<b>\$76,689.25</b>	<b>\$93,218.75</b>	<b>\$144,060.00</b>	

**RECOMMENDED ACTION:** It is recommended that the invoices from OHM for the above listed projects be approved for the total amount of \$16,529.50. Funding is available in the above listed account.

**APPROVALS:**

City Manager: *[Signature]*

Department Director: *[Signature]*

Finance Director: \_\_\_\_\_

**EXHIBITS:** Invoices



ARCHITECTS. ENGINEERS. PLANNERS.

**CITY OF OAK PARK**  
**Attn: Kevin Yee, City Engineer**  
**13700 OAK PARK BLVD.**  
**OAK PARK, MI 48237**

**Invoice Date:** 06/05/2015  
**Invoice #:** 171604  
**Project:** 0037-13-0023

**Project Name:** Construction Services – Oak Park Reservoir Pump Sta & Fill Control Valve

---

**For Professional Services Rendered through: 5/23/2015**

<i>Description</i>	<i>Fee</i>	<i>Prior Billed</i>	<i>Total Available</i>	<i>Current Billing</i>
Professional Services	30,000.00	21,032.25	8,967.75	<u>2,772.50</u>
		<b>Amount Due This Invoice **</b>		<b>2,772.50</b>

---

**REMIT TO:**

OHM Advisors  
34000 PLYMOUTH RD  
LIVONIA, MICHIGAN 48150-1512

T 734.522.6711  
F 734.522.6427

OHM-Advisors.com

ARCHITECTS. ENGINEERS. PLANNERS.



**CITY OF OAK PARK**  
**Attn: Kevin Yee, City Engineer**  
**13700 OAK PARK BLVD.**  
**OAK PARK, MI 48237**

**Invoice Date: 06/05/2015**  
**Invoice #: 171604**  
**Project: 0037-13-0023**

---

---

**Professional Services**

**Fixed Rates Labor**

**Classification**

	<i>Hours</i>	<i>Rate</i>	<i>Amount</i>
Associate	4.25	160.0000	680.00
Professional Engineer/Architect IV	13.50	155.0000	2,092.50
			<hr/>
	Fixed Rates Labor subtotal	17.75	2,772.50
	<b>Total Professional Services</b>		<hr/> <b>2,772.50</b>

---

---

**Total Project: 0037130023 - Construction Services – Oak Park** **2,772.50**

**REMIT TO:**

OHM Advisors  
34000 PLYMOUTH RD  
LIVONIA, MICHIGAN 48150-1512

T 734.522.6711  
F 734.522.6427

OHM-Advisors.com

ARCHITECTS. ENGINEERS. PLANNERS.



**CITY OF OAK PARK**  
**Attn: Kevin Yee, City Engineer**  
**13700 OAK PARK BLVD.**  
**OAK PARK, MI 48237**

**Invoice Date:** 06/05/2015  
**Invoice #:** 171605  
**Project:** 0037-14-0021

**Project Name:** Design of Eight Traffic Signals

---

**For Professional Services Rendered through: 5/23/2015**

<i>Description</i>	<i>Fee</i>	<i>Prior Billed</i>	<i>Total Available</i>	<i>Current Billing</i>
Professional Services	114,060.00	55,657.00	58,403.00	13,757.00
		<b>Amount Due This Invoice **</b>		<b>13,757.00</b>

---

**REMIT TO:**

OHM Advisors  
34000 PLYMOUTH RD  
LIVONIA, MICHIGAN 48150-1512

T 734.522.6711  
F 734.522.6427

OHM-Advisors.com



ARCHITECTS. ENGINEERS. PLANNERS.

**CITY OF OAK PARK**  
**Attn: Kevin Yee, City Engineer**  
**13700 OAK PARK BLVD.**  
**OAK PARK, MI 48237**

**Invoice Date: 06/05/2015**  
**Invoice #: 171605**  
**Project: 0037-14-0021**

---

---

**Professional Services**

**Fixed Rates Labor**

<b>Classification</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Associate	13.25	160.0000	2,120.00
Professional Engineer/Architect II	52.50	125.0000	6,562.50
Professional Engineer/Architect III	1.50	135.0000	202.50
Technician II	56.00	87.0000	4,872.00
	<b>Fixed Rates Labor subtotal</b>	<b>123.25</b>	<b>13,757.00</b>
	<b>Total Professional Services</b>		<b>13,757.00</b>

---

---

**Total Project: 0037140021 - Design of Eight Traffic Signals**

**13,757.00**

**REMIT TO:**

OHM Advisors  
34000 PLYMOUTH RD  
LIVONIA, MICHIGAN 48150-1512

T 734.522.6711  
F 734.522.6427

OHM-Advisors.com

SECRET  
**SW**  
 WARDLE

SECRET, WARDLE, LYNCH  
 HAMPTON, TRUEX & MORLEY  
 2600 TROY CENTER DRIVE P.O. BOX 5025  
 TROY, MICHIGAN 48007-5025  
 (248) 851-9500

IRS # 38-1863919

City of Oak Park  
 Erik Tungate  
 13600 Oak Park Blvd  
 Oak Park, MI 48237

June 10, 2015  
 Invoice # 1268138  
 Client No. M1409  
 Matter No. 100314

RE: Oak Park, City of (Building Fund)

**INTERIM**

Services Rendered: CLAIM #

**CURRENT BILLING SUMMARY THROUGH MAY 31, 2015**

Fees for Professional Services	\$4,526.50
Expenses Advanced	\$117.48
<b>CURRENT BILL DUE</b>	<b>\$4,643.98</b>

PLEASE REMIT TO: SECRET, WARDLE, LYNCH,  
 HAMPTON, TRUEX & MORLEY, PC  
 P.O. BOX 772725  
 CHICAGO, IL 60677-2007

**BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN****AGENDA OF:** July 6, 2015      **AGENDA #****SUBJECT:** Proposals for professional services for material testing services for the 2015 Construction Projects, M-606, M-608 and M-609.**DEPARTMENT:** Technical & Planning – Engineering *RMB***SUMMARY:** Attached is a tabulation of proposals for material testing services for the 2015 Construction Projects, M-606, M-608 and M-609. The low proposal, submitted by Professional Services Industries, Inc. (PSI), is for a total amount of \$20,910.00.**FINANCIAL STATEMENT:** Funding is available in the Road Bond Construction Fund and the Water and Sewer Fund for this expenditure.**RECOMMENDED ACTION:** It is recommended that the proposal from PSI, Inc. for professional services for material testing services for the 2015 Construction Projects, M-606, M-608 and M-609, be approved for total amount of \$20,910.00. Funding is available from the Road Construction Fund number 450-82-900-801 and Water and Sewer Fund numbers 592-18-550-801 and 592-18-538-801.**APPROVALS:**

City Manager: \_\_\_\_\_

Department Director: \_\_\_\_\_

Finance Director: \_\_\_\_\_

**EXHIBITS:** Proposal Tabulation

## REQUEST FOR PROPOSAL TABULATION

**Proposal Due Date:**

June 26, 2014 @ 3:00 PM

2015 WATER MAIN REPLACEMENT PROJECT, M-609 2015 SHEPHERD PARK PARKING LOT RECONSTRUCTION PROJECT, M-608 2015 CATCH BASIN LINE REPLACEMENT & SEWER LATERAL REPAIR PROJECT, M-606	Professional Service Industries, Inc. 45749 Helm Street Plymouth, MI 48170 (734) 453-7900	Testing Engineers & Consultants, Inc. 1343 Rochester Road Troy, MI 48099 (248) 588-6200	
ITEM	DESCRIPTION	TOTAL AMOUNT	TOTAL AMOUNT
1	Monitor and test the onsite compaction of materials, perform analysis for material approvals, testing for the placement of stone base for concrete & asphalt pavement.	\$20,910.00	\$24,000.00

**Additional Bidders:**

No Additional Bidders

## Chapter 6 - ALCOHOLIC LIQUORS

## FOOTNOTE(S):

— (1) —

**Cross reference**— Businesses, ch. 22; offenses and miscellaneous provisions, ch. 50; intoxicating liquor prohibited in public parks, § 54-2.

**State Law reference**— Liquor law, MCL 436.1 et seq.

## ARTICLE I. - IN GENERAL

## Sec. 6-1. - Definitions.

The meaning of the terms "alcoholic liquor" and "license" when used in this chapter shall be as defined by state law.

(Code 1973, § 4-1)

**Cross reference**— Definitions generally, § 1-2.

**State Law reference**— Definitions, MCL 436.2-et-seq [1105 et seq.](#)

Formatted: Right: 1.31"

## Sec. 6-2. - Consumption in public.

No alcoholic liquor shall be consumed on the public streets, parks, or in any other public places, or in any place open to the public, including any store or establishment doing business with the public not licensed to sell alcoholic liquor for consumption on the premises; nor shall anyone who owns, operates or controls any such public establishment or store, permit the consumption of alcoholic liquor therein.

(Code 1973, § 4-2)

**State Law reference**— Consumption on public ways, parks, MCL 436.34.

## Sec. 6-3. - General sales restrictions.

No licensee, by himself, or another, shall sell, furnish, give or deliver any alcoholic liquor to any person except pursuant to a special license approved in accordance with section 6-9, or a class C liquor license approved in accordance with sections 6-51 to 6-68:

Formatted: No underline

- (1) Who is so intoxicated as not to be in control of all his faculties;
- (2) On any day during the hours not permitted by state law or the state liquor control commission;
- (3) For consumption on the premises, except pursuant to a special license approved in accordance with section 6-9.

(Code 1973, § 4-3; Ord. No. O-08-555, § 1, 12-1-08)

## Sec. 6-4. - Possessing or transporting alcoholic liquor in motor vehicles by persons under 21 years.

A person less than 21 years of age shall not knowingly transport or possess, in a motor vehicle, alcoholic liquor unless the person is employed by a licensee under the Michigan Liquor Control [ActCode](#), MCL 436.1 et seq., as amended, the liquor control commission, or an agent of the liquor control commission

and transports or possesses the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. A person who violates this section is guilty of a misdemeanor.

(Code 1973, § 4-5)

Sec. 6-5. - Furnishing alcoholic liquor to persons under 21 years.

(a) Alcoholic liquor shall not be sold or furnished to a person unless the person has attained 21 years of age. A person who knowingly sells or furnishes alcoholic liquor to a person who is less than 21 years of age, or who fails to make a diligent inquiry as to whether the person is less than 21 years of age, is guilty of a misdemeanor.

(b) "Diligent inquiry" means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification which establishes the identity and age of the person.

(Code 1973, § 4-6; Ord. No. O-97-361, § 1, 3-3-97)

**State Law reference**— Similar provisions, MCL 436.33.

Sec. 6-6. - Furnishing fraudulent identification.

A person who furnishes fraudulent identification to a person less than 21 years of age, or, notwithstanding section 6-8, a person less than 21 years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(Code 1973, § 4-7; Ord. No. O-97-361, § 2, 3-3-97; Ord. No. O-99-396, § 1, 10-18-99; Ord. No. O-00-429, § 1, 11-6-00)

**State Law reference**— Similar provisions, MCL 436.33b.

Sec. 6-7. - State license required for sales.

No person shall engage in the business of selling alcoholic liquor, ~~beer, wine or spirits~~ for consumption in the city without first obtaining a license ~~therefor~~, as required by the statutes of the state.

**Commented [FM1]:** The term "alcoholic liquor," as defined under MCL 436.1105(3), includes beer, wine, and spirits, and thus this language is redundant and was removed.

(Code 1973, § 4-8)

**State Law reference**— For state licenses, see MCL 436.27.

Sec. 6-8. - Prohibition relative to persons under 21 years; penalties; exceptions.

(a) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section and section 6-4. A person less than 21 years of age who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions:

- (1) For the first violation, a fine of not more than \$100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and may be designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c).

- (2) For a violation of this subsection following a prior conviction or juvenile adjudication for a violation of this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, a fine of not more than \$200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c).
  - (3) For a violation of this subsection following two prior convictions or juvenile adjudications for a violation of this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, a fine of not more than \$500.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (c).
- (b) Subsection (a) does not prohibit a person less than 21 years of age from possessing alcoholic liquor:
- (1) During regular working hours and in the course of his or her employment if employed by a person licensed by the liquor control commission, or by an agent of the liquor control commission, if the alcoholic liquor is not possessed for his or her personal consumption; or
  - (2) Consuming alcoholic liquor in a course offered by an accredited post secondary educational institution in an academic building of the institution under the supervision of a faculty member if the purpose of the consumption is solely educational and is a requirement of the course; or
  - (3) Consuming alcoholic liquor, including sacramental wine, in connection with religious services at a church, synagogue, or temple;
  - (4) In an undercover operation under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action;
  - (5) In an undercover operation under the direction of the state police, the liquor control commission, or a local police agency as part of an enforcement action.
- (c) The court may order the person convicted of violating subsection (a) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the public health code, 1978 PA 368, MCL 333.6103 in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.
- (d) An officer or member of the city department of public safety who witnesses a violation of subsection (a) may stop and detain the person for the purposes of obtaining satisfactory identification, seizing illegally possessed alcoholic liquor and issuing an appearance ticket.
- (e) A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor. A person less than 21 years of age who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

(f) The city department of public safety, upon determining that a person less than 18 years of age who is not emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (a) shall notify the parent or parents, custodian, or guardian of the person as to the nature of violation if the name of a parent, guardian, or custodian is reasonably ascertainable. The notice shall be made not later than 48 hours after determining that the person who allegedly violated subsection (a) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If a person less than 17 years of age is incarcerated for violating subsection (a), then his or her parents or legal guardian shall be notified immediately.

(Code 1973, § 4-9; Ord. No. O-97-361, § 3, 3-3-97; Ord. No. O-99-396, § 2, 10-18-99)

Sec. 6-9. - Special licenses.

The director of public safety, or his designee, may approve the issuance by the state liquor control commission of a special license for the sale of ~~beer and wine~~ **alcoholic liquor** by the glass under the following circumstances:

**Formatted:** Indent: First line: 0", Right: 1.75", Space Before: 0 pt, Line spacing: Exactly 21.2 pt

**Commented [FM2]:**  
FYI The statute only requires approval by a law enforcement officer of an agency with primary jurisdiction where the event is held. Local government approval is not required for a special license unless the event will occur on a military base. However, if the event occurs on government-owned property, permission must be obtained from the City

(1) A special license will be approved only for a recognized nonprofit organization, exempt from federal taxation under 26 USC Section 501(c)(3).

(2) A completed application, on the state liquor control commission form, for a special one-day license, shall be submitted to the director of public safety for ~~his~~ **their** review at least five working days prior to filing with the state liquor control commission.

(3) A special license will be approved for one day only.

(4) No event will be approved to occur in any city building, or on city property, or outdoors.

**Commented [FM3]:** Note that this has been amended.

(5) ~~No sale or consumption of distilled spirits will be allowed; only beer and wine may be permitted.~~

**Commented [FM4]:** Delete if the sale of distilled spirits will be permissible for special licenses. Note that Ferndale allows for the sale of distilled spirits at its annual Pig & Whiskey event. The sale of distilled spirits may be something the City of Oak Park would therefore want to allow to compete with other local municipalities.

(6) A special license will be approved only for an event at which food will be served.

**Commented [FM5]:** This is not required by statute

(7) A special license does not permit the sale or advertisement for sale of an unlimited quantity of alcohol beverages at a specific price.

(8) The applicant must submit proof that liability insurance covering the event has been obtained, with limits not less than \$1,000,000.00 per occurrence, \$2,000,000.00 total.

(9) A fee for review of applications shall be charged in an amount to be set by the city council from time to time.

(10) The city manager will submit annual reports to the city council regarding permits approved pursuant hereto along with any recommendations for changes.

(Ord. No. O-08-555, § 2, 12-1-08)

Secs. 6-10—6-30. - Reserved.

ARTICLE II. - MINORS AT OPEN HOUSE PARTIES

Sec. 6-31. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Formatted: Right: 1.75", Space Before: 0 pt, Line spacing: Exactly 21.2 pt

*Alcoholic liquor* means as defined as in section 2 of the Michigan Liquor Control Act, MCL 436.1 et seq., and shall include any beverage containing more than one-half of one percent of alcohol by volume, including beer, wine and spirits.

*Control* means any form of control, regulation or dominion, including a possessory right or the paying or contracting for rental premises.

*Drug* means a controlled substance as defined in MCL 333.7212 et seq., as the same may be amended from time to time.

*Minor* means a person not legally permitted by reason of age to possess or consume alcoholic beverages pursuant to section 33b of the Michigan Liquor Control Act, MCL 436.1 et seq.

*Open house party* means a social gathering of persons at a residence or rental premises which includes persons other than or in addition to the owner or person with rights of possession, and their immediate family members.

*Rental premises* means a hotel room, motel room, hall, or limousine which is rented on a shortterm basis for lodging or a social function.

*Residence* means a home, apartment, condominium or other dwelling unit, and includes the curtilage of such dwelling unit.

(Ord. No. O-94-319, § 1(a), 3-21-94)

Formatted: Right: 0.35", Space Before: 10.75 pt

Formatted: Right: 0.35", Space Before: 10.75 pt, Line spacing: Exactly 16.1 pt

Formatted: Indent: First line: 0.3", Right: 0.35", Space Before: 10.75 pt, Line spacing: Exactly 16.1 pt

**Cross reference—** Definitions generally, § 1-2.

**Sec. 6-32. - Conditions of prohibition; penalties for violation.**

No person having control of any residence or rental premises shall allow an open house party to occur or continue at such residence or rental premises if the person knows or reasonably should know that a minor is in possession of or consuming alcoholic liquor or a drug at such residence or rental premises. The penalties for violation of this section shall be as follows:

- (1) For the first violation, a fine not exceeding \$500.00 or imprisonment in the county jail for a term not to exceed 30 days, or by both such fine and imprisonment.
- (2) For subsequent violations, a fine not exceeding \$500.00 or imprisonment in the county jail for a term not to exceed 90 days, or by both such fine and imprisonment.

(Ord. No. O-94-319, § 1(b), 3-21-94)

**Sec. 6-33. - Attendance at gathering.**

No person shall knowingly remain present at an open house party where a minor is in possession of or consuming alcoholic liquor. A person who violates this section shall have committed a civil infraction and shall be subject to the following penalties:

- (1) For the first violation, a civil fine of not more than \$25.00.
- (2) For a second violation, a civil fine of not more than \$50.00.
- (3) For a third or subsequent violation, a civil fine of not more than \$100.00.

(Ord. No. O-94-319, § 1(c), 3-21-94)

**Sec. 6-34. - Exceptions.**

The provisions of this article shall not apply to legally protected religious observances or legally protected educational activities.

(Ord. No. O-94-319, § 1(d), 3-21-94)

**Secs. 6-35—6-50. - Reserved.****ARTICLE III. - REGULATION OF ON-THE-PREMISES CONSUMPTION****Sec. 6-51. - Short title.**

This article shall be known and may be cited as the City of Oak Park on-the-Premises Consumption Ordinance.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-52. - Statement of purpose.**

The purpose of this article is to allow the city to establish and administer a policy for the issuance and transfer of ~~tavern licenses for the sale of beer and wine for consumption on the premises ("tavern licenses")~~ class C liquor licenses ("class C licenses") and related permits, to provide for the enforcement of liquor laws, regulations and ordinances, and to manage the number of ~~tavern-class C~~ licenses in the City of Oak Park.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-53. - Definitions.**

(a) The following definitions shall apply in this article:

- (1) *Applicant* means the individual(s); or for partnerships, all partners; for limited liability companies, all managers and members; and for corporations, all directors, officers and stockholders if the stock is not publicly traded, seeking to be licensees hereunder.
- (2) *Licensee* means and include all persons, including their agents, servants and employees, holding a license to sell alcoholic liquor in the city for consumption on the premises issued by the Michigan Liquor Control Commission.
- (3) *Licensed premises* means the Oak Park location at which a licensee is authorized to sell alcoholic liquor for consumption on the premises.
- (4) *License* means a license to sell alcoholic liquor for consumption on the premises issued by the Michigan Liquor Control Commission.
- (5) *Related permit* means any permit issued by the Michigan Liquor Control Commission to a licensee for entertainment or other activity at the licensed premises which legally requires such a permit.
- (6) *Person* means any person, firm, partnership, association or corporation.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-54. - Licensing policy.**

- (a) No person shall engage in the business of selling alcoholic liquor for consumption on the premises in the City of Oak Park without first obtaining a liquor license ~~therefor~~, as required by the statutes of the State of Michigan and the City of Oak Park Code of Ordinances.
- (b) The city council may establish by resolution the number and type of establishments within the city in which the sale or consumption of alcoholic liquor shall be permitted for consumption on the premises.

The number of such establishments may be less, but in no case greater than the number of

such establishments permitted by Michigan law.

- (c) New licenses and related permits, transfers of ownership of existing licenses, and transfers of licenses into the city shall require the prior approval, and is at the sole discretion of, the city council.
- (d) An annual review shall be conducted of all existing licenses and related permits in the City of Oak Park.
- (e) No person shall engage in the business of selling alcoholic liquor for consumption on the premises in the City of Oak Park without first obtaining a special land use approval, as required by the Zoning Act, and entering into a contract with the City of Oak Park.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-55. - Restaurant requirements.

(a) The city council shall not approve any application for a new, a renewal, or transfer into the city of a license to sell alcoholic liquor for consumption on the premises unless the use of the license is in connection with and incidental to a restaurant operation meeting the following requirements and performance standards:

- (1) There shall at all times be maintained and provided culinary facilities to cook or prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 40 patrons at any time.
- (2) The proprietor shall make available a varied menu of food items consisting of not less than ten such food items cooked or prepared on the premises.
- (3) Not more than 50 percent of the gross floor area open to the general public shall be used for purposes other than seating for diners, consisting of tables, chairs, booths, and necessary aisle ways. Public restroom facilities shall not be included in this determination.
- (4) That during any 90-day period, no more than 50 percent of the gross revenues of the establishment will be or is derived from the sale of alcoholic beverages. Sales of food or alcoholic beverages to hotel or motel guests for consumption within their private rooms shall not be considered in determining the percentage ratio of sales to alcoholic beverages.
- (5) No admission fees or cover charges shall be levied on any patrons.
- (6) **Restaurant shall stop serving alcoholic beverages at 12:00 a.m. (midnight).**

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-56. - Application for license.

(a) Each applicant for a new license and/or a new related permit, the transfer into the city of a license, or the transfer of ownership of an existing license shall submit to the city clerk an application, on a form provided by the city, containing:

- ( 1 ) The name and address of the applicant, with age for an individual, as well as for each partnership, the persons entitled to share in the profits thereof; and also for a corporation, the purpose for which organized, the names and addresses of the officers and directors; and if a majority interest of the stock of such corporation is owned by one person or nominee, the name and address of such person.
- ( 2 ) The citizenship of the applicant; place of birth; and, if a naturalized citizen, the time and place of naturalization.
- ( 3 )

**Commented [FM6]:** The Michigan Liquor Control Code only requires local government approval of "quota" or new licenses that have never before been issued by the MLCC. Pursuant to MLCC Bulletin 2012-12, licensees and applicants are no longer required by the MLCC to obtain municipal approval to transfer ownership, transfer interest, or transfer the location of an existing license. (MLCC interpretation of MCL 436.1501). To retain control over the transfer of liquor licenses, therefore, this provision should remain as is.

**Commented [FM7]:** Having a special land use approval requirement provides the City with the authority to control the licensee without the need to process a revocation or nonrenewal of the liquor license. Thus, we recommend keeping the special land use approval system in place, as this will allow the City to exercise control without having to consider specific criteria before seeking revocation and/or nonrenewal from the MLCC.

**Commented [FM8]:** Requiring licensees to enter into an agreement is a way for City to exert control over the future transfer of the liquor license or to expedite remedies for the municipality if the licensee breaches the agreement. However, while the MLCC will generally recognize these agreements, it will not enforce them. It is also noteworthy that such agreements have not yet been challenged in the Courts. The City should be aware that such agreements could be found to be unenforceable.

The nature or purpose of the applicant's business, and, in the case of a corporation, the object for which it was formed; applicant shall submit copies of business entity's organizational documents.

- (4) The length of time the applicant has been engaged in the business of that character, or, in the case of a corporation, the date when its charter was issued.
- (5) The location and description of the premises or place of business which is to be operated under such license; applicant shall submit copy of lease, deed, or other proof of applicant's right to use the property.
- (6) A statement whether applicant has operated or made application for a similar or another license on any premises other than described in this application, and the disposition of such license or application.
- (7) A statement as to whether the applicant has ever been convicted of or found responsible for a violation of any federal or state law or administrative rules of the Michigan Liquor Control Commission concerning the manufacture, possession or sale of alcoholic liquor, or similar violation of another state or country or convicted of any felony or misdemeanor, and/or is otherwise disqualified to receive a license by reason of any matter or thing contained in this article or the laws of the State of Michigan.
- (8) A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the City of Oak Park or the administrative rules of any regulatory agency in the conduct of its business.
- (9) An accurate record and history of any liquor license complaint violations by the applicant, owners or stockholders of applicant, by a corporation or entity the applicant has worked for or had a substantial interest in, or by a parent or subsidiary corporation of the applicant for the immediate preceding five years.
- (10) The application shall be accompanied by building and site plans showing the entire structure and premises, and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities, and where appropriate, adequate plans for sound barriers and noise control.
- (11) The estimated total cost in dollars to be expended by the licensee for the licensed premises.
- (12) A sample menu for the proposed licensed establishment, together with a breakdown of the anticipated revenues from food and nonalcoholic beverages, alcoholic beverages and other revenues.
- (13) Other information requested on the form provided by the clerk.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-57. - Plan of operation required.**

- (a) *Business operation.* An application for a new license or related permit, an application for the transfer of ownership of an existing license or an application for transfer of a license into the city shall require submission of a plan of operation for review and consideration by the city council.
- (b) *Plan of operation.* A plan of operation shall contain an operational statement outlining the manner in which the establishment will be operated, including, but not limited to, the format, schedule of the hours of operation, crowd control, security, alcohol management, staff training, use of the facilities, parking provisions, plan for interior use and layout, and any other pertinent information requested by the city.
- (c)

**Commented [FM9]:** A plan of operation is not required by statute. However, Birmingham, Royal Oak and Ferndale all require submission of a plan of operation for approval of an application for a new license or to transfer a license. Thus, we recommend leaving this as is.

*Compliance.* A licensee shall comply with all applicable state and city regulations and the plan of operation as approved by the city council. A failure to so comply is a violation of this article and shall provide grounds for the city council recommending to the Michigan Liquor Control Commission that the license be revoked or not renewed.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-58. - Review procedures.

(a) *City clerk processing.* Upon receipt of an application and fee, as provided herein, the clerk shall distribute the application to appropriate departments within the city for certifications necessary for city council approval, as follows:

- (1) Certification by the city clerk that the proposed licensee has a current valid license for operation of a restaurant at the proposed licensed premises or meets applicable requirements for the issuance of such a license.
- (2) Certification by the director of technical and planning services that the buildings or structures to which the license will apply meet all applicable building and property maintenance codes or that acceptable building plans for work which will satisfy all such codes have been submitted.
- (3) Certification by the director of technical and planning services that the proposed licensed premises is appropriately zoned for the use and that any required zoning approvals, including site plan approval, have been applied for or obtained.
- (4) Certification by the director of public safety based upon a finding that the proposed licensee or licensees are of good moral character.
- (5) Certification by the director of public safety that the proposed licensed premises are in compliance with all applicable fire safety regulations.

(b) *Public hearing.*

- (1) When a completed application and fee including public hearing and notice have been received, the city council shall schedule a public hearing to consider the request for a new license and related permit, the transfer of ownership of an existing license, or the transfer of a license into the city.
- (2) Notice of the public hearing shall be provided to all property owners within 500 feet of the proposed establishment, according to the tax records of the city.
- (3) Notice of the public hearing shall be provided to all current liquor license holders located in the city, school districts, private schools, public school academies, and churches located in the city.
- (4) The applicant or an authorized representative shall appear at the city council hearing and make a written and/or oral presentation concerning the request.

(c) *Review factors.* In reviewing a request for a new license or related permit, a transfer of ownership of an existing license, or a transfer of a license into the city, the city council may consider and/or weigh the following factors:

- (1) Total number of similar licenses in the city.
- (2) Input from residents and surrounding business owners.
- (3) Impact of the establishment on surrounding businesses and neighborhoods.
- (4) Whether a proposed licensed premises is part of a multi-use project with substantial new retail, office, or residential components, and the size of the proposed licensed premises relative to the overall project or development.

Unless an applicant or licensee is selling beer or wine, demonstrably in connection with, and incidental to, a bona fide restaurant operation;

- (12) An applicant or licensee that where the city council has determined that the premises do 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;
  - (13) An applicant or licensee that where the city council has determined that the location proposed for a licensed liquor establishment will have an adverse effect on the community, with consideration given to traffic safety conditions, accessibility to major streets or highways, distance from public or private schools, impact on adjacent residential districts, zoning classifications and the availability of parking.
  - (14) An applicant or licensee unless a valid special land use approval is lawfully maintained for the premises.
  - (15) An applicant or licensee unless a valid contract has been entered into with the city.
  - (16) An applicant determined to have been untruthful in the application submitted to the city or to have submitted an application or other documentation with material omissions of fact.
- (e) *Approval.* After a review by staff and recommendation, and a public hearing, if the city council is satisfied that the establishment or operation will provide a benefit the City of Oak Park and constitute an asset to the community, it will adopt a resolution granting approval, subject to the satisfaction of any conditions stated in the resolution. Approval of a license shall be conditioned on any necessary remodeling or new construction for the use of the license be completed within six months of the action of the city council or the Michigan Liquor Control Commission approving such license, whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject the license to revocation.

Commented [FM11]: Again, City Council must be careful not to arbitrarily deny liquor licenses without documented bases.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-59. - Entertainment permits.

- (a) Requests for permits for dance, entertainment, or dance and entertainment shall be reviewed and approved in the discretion of the city council after an evaluation of the factors listed in subsection 658(c). The city will not consider requests for topless entertainment permits.
- (b) No licensee shall knowingly engage in, allow, or permit any of the following activities, without first being granted a permit by both the city and the Michigan Liquor Control Commission, which is in legal effect at the time of the occurrence of such activity, to be conducted by any person upon any licensed premises owned, occupied or controlled by such licensee:
  - (1) Dancing, monologues, dialogues, motion pictures, still slides, closed circuit television, contests or other performances for public viewing on the licensed premises.
- (c) No nudity or topless activity shall be permitted on a licensed premises. As used in this section:
  - (1) *Nudity* means exposure to public view of the whole or part of the pubic region; the whole or part of the anus; the whole or part of the buttocks; the whole or part of the genitals; or the breast area including the nipple or more than 1/2 of the area of the breast.
  - (2) *Topless activity* means activity that includes, but is not limited to, or entertainment or work-related activity performed by any employee, agent, or contractor of the licensee or person acting under the control of or with the permission of the licensee, on the licensed premises in which the

female breast area, including the nipple, or more than one-half of the area of the breast, is directly exposed or exposed by means of see-through clothing or a body stocking:

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-60. - Entertainment permit requests.

- (a) The city will review each entertainment permit request to determine whether to approve the temporary permit and, if necessary, make a recommendation to the Michigan Liquor Control Commission regarding issuance of said permit, based upon a licensed establishment operation in a manner consistent with the provisions of this article and all other applicable laws, and regulations of the City of Oak Park and the State of Michigan.
- (b) The city manager shall initiate an investigation and review of each request for an entertainment permit. The investigation and review may include, but not be limited to, the procedures listed in [section 6-61](#).

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-61. - Annual license review.

- (a) The city will review each license to determine whether to make a recommendation to the Michigan Liquor Control Commission regarding renewal of said license, based upon a licensed establishment operation in a manner consistent with the provisions of this article and all other applicable laws, and regulations of the City of Oak Park and the State of Michigan.
- (b) The city manager shall annually initiate an investigation and review of each on premises licensed establishment [shall cause an investigation to be made relative to each existing license for sales of alcoholic liquor on the premises in the city](#). The investigation and review shall include, but not be limited to, the following:
  - (1) Current valid licenses from appropriate county, state or federal governments authorizing service of food at the establishment.
  - (2) Inspection of the premises compliance with the license, its approved site plan and, if applicable, its plan of operation, as well as any conditions imposed by the city or the Michigan Liquor Control Commission or representations made by the licensee at the time of issuance or transfer of the license.
  - (3) City records to determine that all taxes and other monies due the city are timely paid.
  - (4) Police files or other sources of information to determine that no activity in connection with the licensed premises is in violation of the law, disturbs the public peace and tranquility, constitutes a nuisance, or contributes to the disruption of the normal activities of those in the neighborhood of the licensed premises.
  - (5) Continuous compliance with the applicable conditions or of the criteria as described in subsection [6-58\(c\)](#) of this article.
  - (6) The operation of the licensed establishment for compliance with any and all representations made by the licensee to the city or the city council.
  - (7) Recommendations from city departments. Following receipt of a fully completed application, fees, and such other information as may be requested by the city, the city clerk shall forward the application to the department of public safety, department of technical and planning services, treasurer's office, and such other departments as required by the city manager, which departments shall make their reviews and recommendations prior to consideration by the city council. In conducting its review, the city may request other pertinent information from the

**Commented [FM12]:** Does the City Manager really want to be responsible for the inspections?

We recommend changing this language to, "In January of each year, the city manager shall cause an investigation to be made relative to each existing license for sales of alcoholic liquor on the premises in the city."

This language makes clear that the City Manager can delegate this task to personnel in other departments. It also provides a time when the annual review is to take place. Annual reviews should be completed by mid-February of each year to ensure timely notification to the MLCC if nonrenewal or revocation is sought.

licensee. The complete report shall be reviewed by staff prior to being submitted to the city council.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-62. - Revocation and non-renewal.

- (a) Each establishment within the city for which a license or related permit is granted shall be operated and maintained in accordance with all applicable laws and regulations of the City of Oak Park and the State of Michigan. Upon any violation of this article, the council may, after notice and hearing, request the Michigan Liquor Control Commission to revoke such license and/or permit.
- (b) Upon any violation(s) of this article, the city will notify the licensee of the specific violation(s) and afford the licensee an opportunity to comply with said article. Licensee must comply in the time established by the city manager, but in no event more than ten days after notification to licensee by city of such violation. Absent compliance within that time established by the city manager, the city may hold a hearing and request that the Michigan Liquor Control Commission not renew and/or revoke such license and/or permit.
- (c) Before filing any objection to renewal or request for revocation of a license or permit with the Michigan Liquor Control Commission, the city shall serve the licensee with notice and proceed in accordance with this article, as amended. The city shall serve the licensee by first-class mail mailed to the licensed premises at least ten days prior to the hearing with notice of hearing, which notice shall contain the following:
- (1) Date, time and place of hearing.
  - (2) Notice of the proposed action.
  - (3) Reasons for the proposed action.
  - (4) Names of any witnesses known at the time who may testify.
  - (5) A statement that the licensee may present evidence or any testimony that may refute or respond to reasons for the proposed action.
  - (6) A statement requiring the licensee to notify the city attorney's office at least three days prior to the hearing date if they intend to contest the proposed action, and to provide the names of witnesses known at the time who will testify on their behalf.
- (d) Upon completion of the hearing, the city council shall submit to the licensee and the Michigan Liquor Control Commission a written statement of the findings and determination.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-63. - Criteria for non-renewal or revocation.

- (a) The city council may recommend non-renewal or revocation of a license or related permit to the liquor control commission upon a determination based upon a preponderance of the evidence presented at the hearing that any of the following exists:
- (1) Failure to comply with all standards, plans or agreements, entered into in consideration for the issuance, transfer or continuance of the license or permit, or failure to comply with all agreements or consent judgments entered into subsequent to the issuance of the license or permit.
  - (2) Failure to comply with an approved plan of operation and other plans, specifications, or representations made or submitted to the city by the licensee.
  - (3) Violations of the state liquor laws or regulations of the liquor control commission.
  - (4) Violations of state laws or local ordinances including, but not limited to those laws or ordinances concerning the public health, safety or public welfare.

**Commented [FM13]:** Good to have criteria, although non-renewal or revocation may be able to be accomplished if an establishment is found to violate the zoning ordinance.

**Commented [FM14]:** The City should be aware that the MLCC may consider the agreement, but will not enforce it. Also, as noted above, the agreements could later be found unenforceable depending on their terms. For example, municipalities are frequently controlling the transfer of licenses by way of agreements, however, if challenged, such an agreement may be held unenforceable in court. Nevertheless, having such agreements in place is a regulatory measure that benefits the City

- (5) Failure to meet the requirements of section 6-55 of this article.
- (6) Maintenance of a nuisance upon or in connection with the licensed premises including, but not limited to, any of the following:
- (7) Failure to correct, within a reasonable amount of time, violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes, to include the history thereof.
- (8) A pattern of patron conduct in the neighborhood of the licensed premises, which is a violation of the law and/or disturbs the peace, order and tranquility of the neighborhood, including types of police, fire or medical services related to this operation.
- (9) Failure to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties.
- (10) Entertainment on the premises or activity in connection with the licensed premises which by its nature causes, creates or contributes to disorder, disobedience to rules, ordinance or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises.
- (11) Licensee's hindrance or obstruction of inspection of the licensed premises by the city's agents or employees in connection with the enforcement of this article.
- (12) Failure to pay taxes or make other payments due to the city in a timely manner.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-64. - Employees to be 21.

- (a) No person shall be employed to serve or handle any alcoholic beverage in any establishment where such beverage is sold for consumption upon the premises unless said person shall have attained the age of 21 years, provided, however, that persons under the age of 21 years but not under the age of 18 years may be employed to serve or handle alcoholic beverages by special permission of the director of public safety.
- (b) All licensees must have in their possession a birth certificate or other official document showing the place and date of birth of each employee which shall be available for inspection by police officers at all times.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-65. - Sales restricted.

No licensee under this article, by himself, or another, shall sell, furnish, give or deliver any alcoholic beverage to any person:

- (1) Who is so intoxicated as not to be in control of all his faculties;
- (2) On any day during the hours not permitted by state law or the state liquor control commission.

(Ord. No. O-13-596, § 1, 7-15-13)

Sec. 6-66. - Game devices prohibited; presence of devices as prima facie evidence.

- ( a ) No licensee under this article shall allow upon his licensed premises slot machines, pinball machines, baseball, football, golf or hockey machines, electric ray machines, baffle boards, punch or pull boards, dice games or any gambling or gaming devices or paraphernalia of any nature, type or description, machines or apparatus, or gambling or gaming of any kind whatsoever.
- ( b )

The presence of any such device, machine or apparatus, mentioned in subsection (a) above, upon the premises of any establishment shall be prima facie evidence of a violation of this section.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-67. - Maintenance of peace and good order.**

No person having the management, ownership or control of any premises in the city wherein any alcoholic beverage is sold for consumption on the premises shall permit any boisterous conduct, or in any manner the disturbance of the peace and good order of the neighborhood.

(Ord. No. O-13-596, § 1, 7-15-13)

**Sec. 6-68. - Soliciting of drinks and fraternizing with customers by employees prohibited.**

No person having the management, ownership, or control of any premises wherein any alcoholic beverage is sold for consumption on the premises, shall permit anyone employed in said business to drink alcoholic beverages with, visit or fraternize with any of the patrons of said establishment in said place of business; nor shall any licensee or person having the management, ownership or control of such premises solicit any customer or patron of such place to purchase any alcoholic or non-alcoholic beverage for himself or any other person therein; provided, however, that this provision shall not apply to any female waitress, manager or licensee regularly employed on the premises who accepts or serves an order to any customer or patron in the regular course of her employment.

(Ord. No. O-13-596, § 1, 7-15-13)

- (5) Crowd control.
- (6) Parking availability.
- (7) Preservation or restoration of historic buildings.
- (8) Location in an underdeveloped area.
- (9) Concentration of establishments and impact on policing requirements.
- (10) Policing requirements.
- (11) Business history.
- (12) Business experience.
- (13) Liquor control commission violation history.
- (14) Percent of floor area devoted to dining versus bar area.
- (15) Size of bar area.
- (16) Overall benefit of the plan to the City of Oak Park.
- (17) Non-payment of taxes or other payment due to the city.
- (18) Any other factor(s) that may affect the health, safety and welfare or the best interests of the community.

(d) *Restrictions on licenses.* No license shall be approved for:

- (1) An applicant or licensee whose license has been revoked for cause.
- (2) An applicant, who at the time of application or at renewal of any license issued hereunder, would not qualify or be eligible therefor.
- (3) A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
- (4) A corporation if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason.
- (5) An applicant or licensee whose place of business is or will be conducted by a manager or agent, unless such manager or agent possesses qualifications similar to those required of the applicant or licensee.
- (6) An applicant or licensee who has been convicted or found responsible for a violation of any federal or state law or administrative rules of the Michigan Liquor Control Commission concerning the manufacture, possession or sale of alcoholic liquor, or similar violation of another state or country.
- (7) An applicant or licensee who does not own the premises for which a license is sought or have a lease therefor for the full period for which the license is issued.
- (8) 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. An applicant or licensee who does not have substantial management experience with entities having liquor licenses, or who, for other similar reasons, in the discretion of the city council, is not qualified to receive a license.
- (9) An applicant or licensee that has not submitted a site plan free from violations of the applicable building, electrical, mechanical, plumbing, or fire prevention codes, applicable zoning regulations, or applicable public health regulations;

(10)

**Commented [FM10]:** Where the criteria are not definitive, City Council must carefully document its reasons for denying a liquor license so that their decisions are not perceived as arbitrary.

Sec. 204. - Definitions N through S.

**Nonconforming building (nonconforming structure).** A building or structure (or portion thereof) lawfully existing at the time of adoption of this ordinance or a subsequent amendment thereto, that does not conform to the provisions of this ordinance.

**Nonconforming lot.** Means a lot which exists as a legal lot of record and which existed as a legal lot of record at the effective date of adoption or amendment of this ordinance, which does not conform to the lot requirements of this ordinance.

**Nonconforming sign.** A sign existing at the effective date of the adoption of this ordinance which does not adhere to the provisions contained in this ordinance.

**Nonconforming use.** A use of a building or structure or of a parcel, or tract of land, lawfully existing at the time of adoption of the ordinance or a subsequent amendment thereto, that does not conform to the regulations of this ordinance for the zoning district in which it is situated.

**Nonconforming use and building.** A use and a building lawfully existing at the time of adoption of this ordinance or a subsequent amendment thereto which does not conform to the regulations of this ordinance for the zoning district in which it is situated.

**Nuisance.** An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, and (o) invasion of non-abutting street frontage.

**Nursery, plant materials.** A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

**Nursery school (day care center).** See "Group child care facilities."

**Nursing home.** See definition of "Convalescent or rest home."

**Occupied.** Used in any way at the time in question.

**Off-street parking lot.** A facility other than for single- or two-family dwellings providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

**Outdoor dining.** An area not enclosed in a building and which is intended as an accessory area to a restaurant which provides food and/or drink to customers for consumption on the premises. The outdoor dining area shall be subject to the same restrictions as an indoor dining area including state regulations

regarding smoking.

**Owner.** The person or persons, firm, entity, or corporation having legal or equitable title to a lot or parcel of land, or their leases or agents.

**Park.** A public or private park for outdoor recreation, such as a playground, sports playing field, picnic area, day camp of a church group or other quasipublic organization, or similar use, which does not include overnight camping facilities or outdoor lighting for use of the park property after dark.

**Parking space.** An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, fully accessible for the parking of permitted vehicles.

**Pawnbroker.** Any person, corporation or member, or members of a copartnership or firm, or other entity which loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or which deals in the purchasing of personal property or other valuable thing on condition of selling the same back at a stipulated price.

**Pawnshop.** Any shop, store, building or other location at which a pawnbroker conducts business.

**Planning commission.** The planning commission of the City of Oak Park.

**Porch, open.** A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

**Portable structure.** A trailer or similar type of structure designed and used for hauling and/or storing inventory, merchandise or equipment, and not designed to be a permanent structure.

**Primary caregiver.** A person who is at least 21 years old, who has agreed to assist with a patient's medical use of marihuana and who has been issued and possesses a registry identification card from the State of Michigan under the Michigan Medical Marihuana Act of 2008.

**Principal use.** The primary use to which the premises are devoted and the primary purpose for which the premises exist.

**Projections.** Part of a structure that is exempt, wholly or in part, from the setback requirements of the zoning ordinance.

**Public utility.** A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

**Recreational vehicles and camping equipment.** This term includes any of the following:

1. Boats and boat trailers, which shall include floats and rafts, plus the normal equipment used to transport the same on the highway.
2. Folding tent trailer, which is a folding structure mounted on wheels and designed for travel and vacation use.
- 3.

Motorized home, which is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

4. Pickup camper, which is a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.
5. Travel trailer, which is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and either licensed as a trailer or permanently identified travel trailer by the manufacturer, or a movable or portable dwelling, constructed to be towed on its own chassis and connected to utilities and designed without a permanent foundation for year-round living.
6. Utility trailer, which is a vehicle licensed as a trailer used to transport motorcycles, snowmobiles, go-carts or stock cars or equipment.
7. Any other vehicle which is not licensed for road use which is primarily intended for off-road pleasure activities.

*Restaurant, sit-down.* An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.

*Restaurant, carry-out.* An establishment that offers quick food service, which is accomplished through a limited menu of items, already prepared and held for service, or prepared, fried, or grilled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers. These facilities may or may not have a drive-thru pick-up window.

*Restaurant, drive-in.* A business establishment serving food and/or beverages that is so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons who will consume the food and/or beverages in the motor vehicles while on the premises of the drive-in establishment.

*Restaurant, serving ~~beer or wine~~ alcoholic liquor.* An establishment that serves food and is licensed by the Michigan Liquor Control Commission for the sale of ~~for~~ on-premises consumption. Such establishment shall be subject to the requirements of section 1930.

*Right-of-way line.* The dividing line between the public street (including adjacent publicly owned land) and a lot.

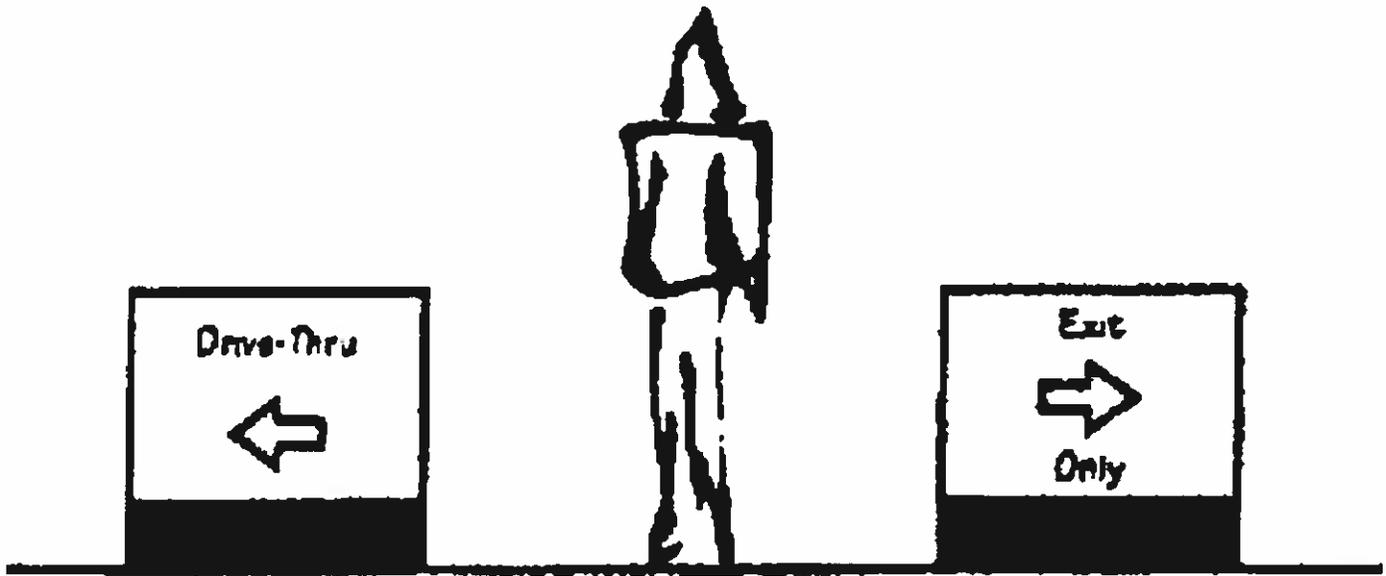
*Rubbish.* Means the miscellaneous waste materials resulting from housekeeping, mercantile enterprise, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combination thereof.

*Setback.* The distance required to obtain front, side or rear yard open space provisions of this Ordinance.

*Setback line, required.* A line marking the setback distance from the street right of way or lot lines, which establishes the minimum required front, side or rear open space of a lot.

**Signs.** The term "sign" shall mean the use of any words, numerals, figures, sculpture, devices, designs, insignia, imprints or trademarks by which anything is made known, advertised, or to promote the interests of any person, firm or corporation when the same is placed in view of the general public, whether displayed on a permanent or portable structure attached or not attached to a building, including painted directly on an exterior building wall or awning, and shall include, but not be limited to, all of the following:

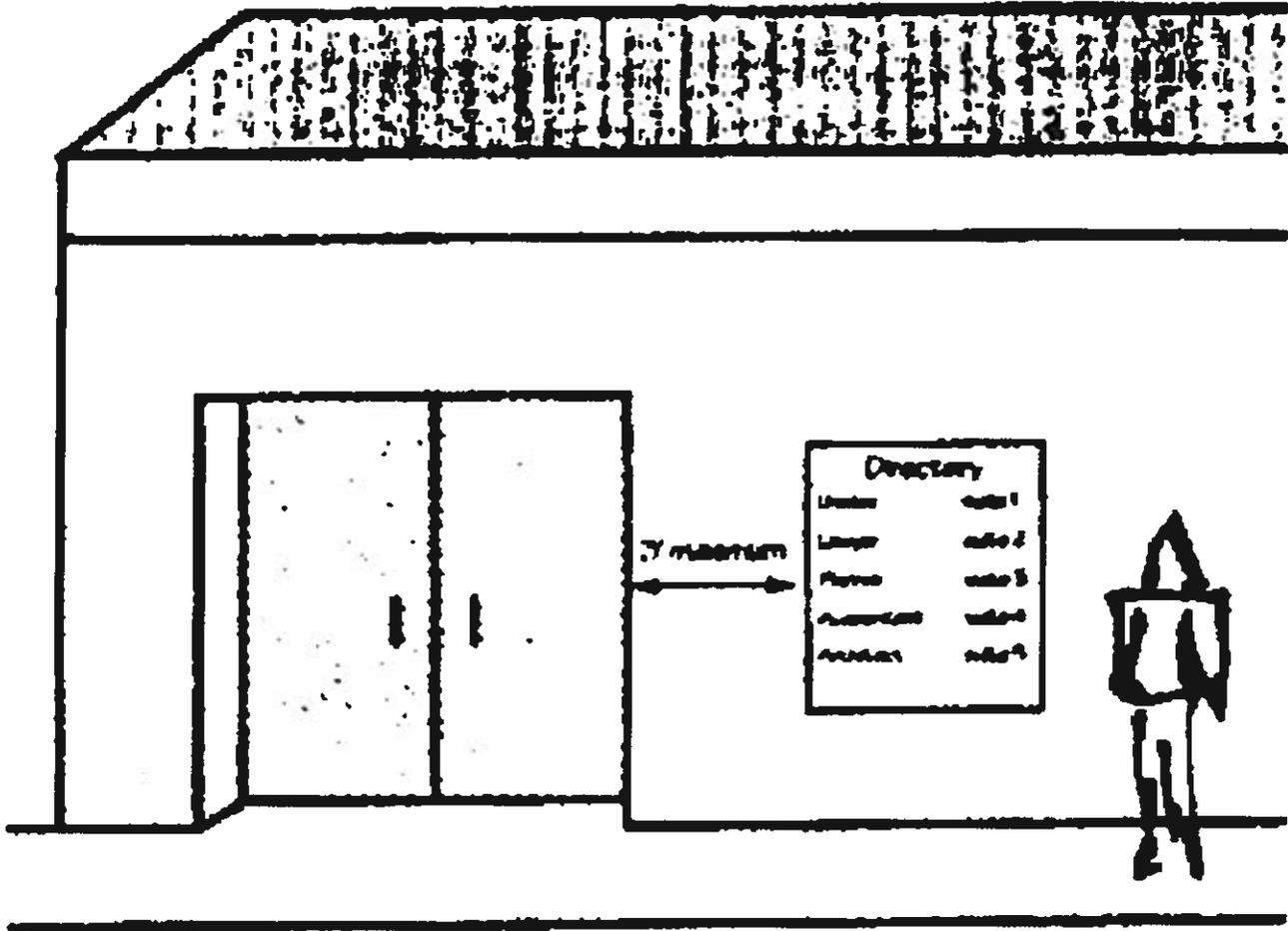
- (a) **Accessory sign:** A sign, the language of which is incidental to the use of the principal building on the premises.
- (b) **Advertising sign (non-accessory sign):** A sign relating to a business activity, use or service not performed on the premises or to a product not fabricated, produced, handled or sold on the same premises upon which the sign is displayed.
- (c) **Awning:** A rooflike cover, typically constructed of canvas, vinyl or similar fabric stretched over a framework, and that projects from the wall of a building for the purpose of shielding a doorway, window, or pedestrians from the elements. All backlighted awnings shall constitute signs for purposes of this section.
- (d) **Awning sign:** A sign panel affixed to, sewn into or painted on an awning, and all backlighted awnings. For purposes of this ordinance, awning signs shall be considered wall signs.
- (e) **Billboard sign:** An advertising sign upon which a display is pasted, painted or otherwise affixed in a manner which is readily changed.
- (f) **Decorative banner or flag:** A banner or flag containing no words, symbol, log, emblem or trademark naming, describing, or otherwise related to any business located or conducted on the premises.
- (g) **Directional sign:** Indicating ingress and egress for parking lots, may also bear the name of the operator of the lot and enterprise it is intended to serve.



## Directional Signs

### Directional Signs

- (h) *Directory sign:* A wall-mounted sign, subordinate to a building identification sign, stating only the name and suite number of each tenant.

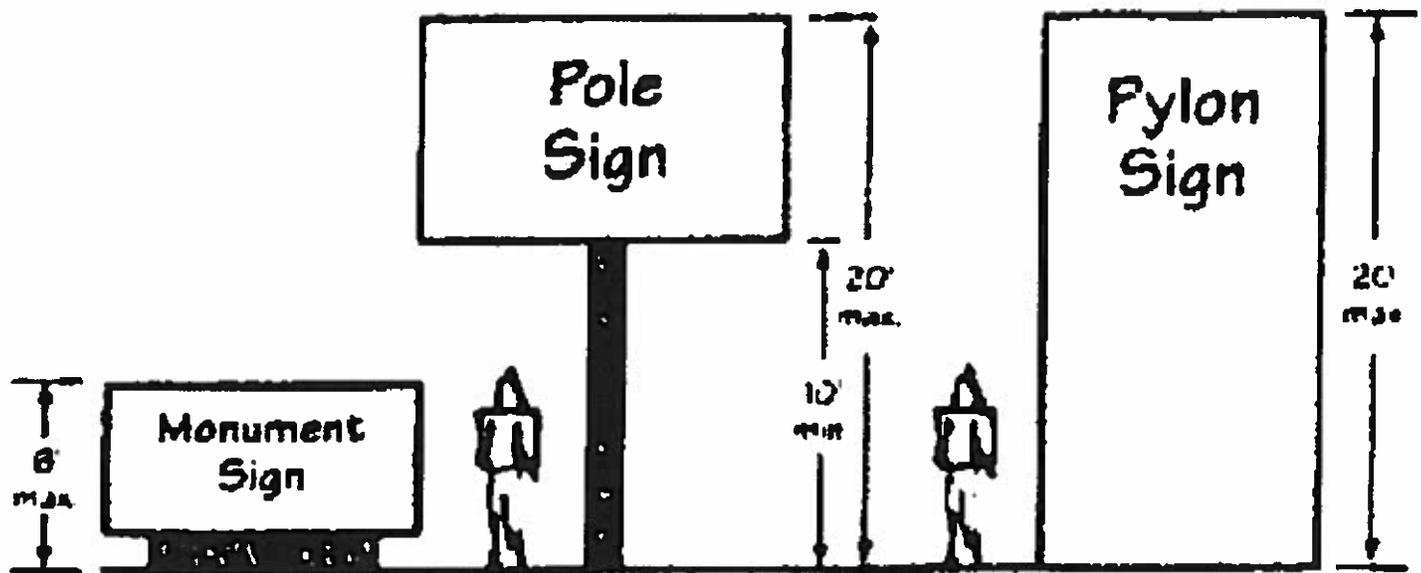


## Directory Sign

- **Maximum Total Area: 30 sq. ft.**
- **Maximum Tenant Area: 6 sq. ft.**

### Directory Sign

- (i) *Display window:* Shall include any window area designated to permit customers outside the building to view merchandise inside a store or that displays store merchandise in a specially designed area immediately inside the window glass, whether or not the rest of the store interior is visible.
- (j) *Ground sign (free-standing sign):* A sign supported by one or more uprights, poles or braces placed in the ground surface and not attached to any building or other structure. Ground signs (freestanding signs) may include monument, pylon, and pole type signs.

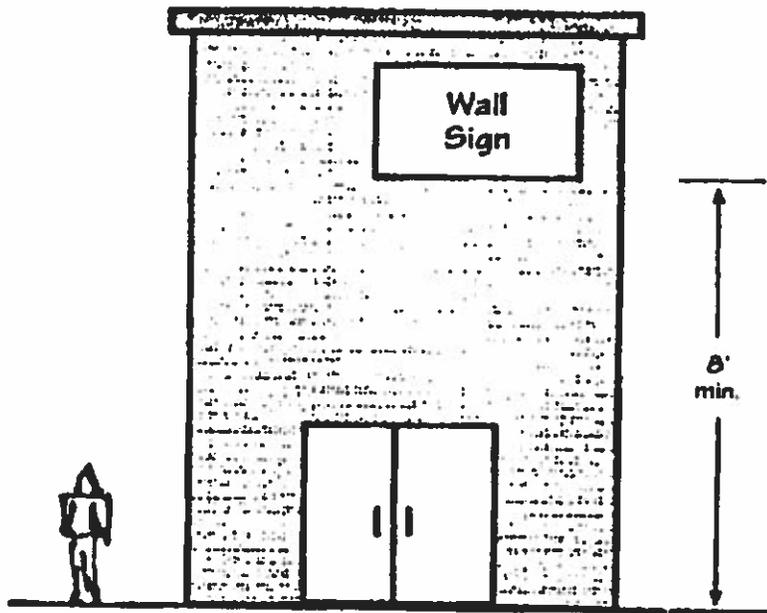


## Ground Signs

### Ground Sign

- (k) *Icon sign*: Shall mean a pedestrian-oriented sign that advertises a particular good or service by means of a symbol associated with that good or service, i.e. a mortar and pestle to represent a pharmacy, or by a similar, simple message.
- (l) *Institutional sign*: A structure containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institution, and the announcement of its services or activities.
- (m) *Ladderboard sign*: shall mean a sign for a multi-tenant development with separate panels for each individual tenant. A ladderboard sign shall also include a sign for a single tenant space that lists goods, services, and the like on a series of separate panels which may or may not be changeable.
- (n) *Marquee*: Canopy or other covered rooflike structure projecting from and supported in whole or in part by a building and extending beyond the building wall or building line. That part of the roof extending beyond the parapet or exterior, or columns of a flat-roofed building, if less than 20 feet above grade.
- (o) *Marquee or canopy sign*: An identification sign attached to, or inscribed on, fully supported by or made an integral part of the marquee.
- (p) *Multi-tenant building*: Shall mean any office, retail, or industrial building with two or more separate tenant spaces.
- (q) *Parasite sign*: A sign fastened to or hanging from an approved sign or the sign structure, or the attachment of any sign to a building or appurtenance other than a wall sign or an icon sign.

- (r) *Portable sign:* A freestanding sign or sign board not permanently anchored or secured to either a building, structure or the ground, such as, but not limited to, so-called "A" frame, "T" shaped or inverted "T" shaped stands, also any sign attached to a trailer or other vehicle not accessory to the vehicle or its use, but used with the express intent of advertising.
- (s) *Real estate sign:* A business sign placed upon a property advertising that particular property for sale, rent or lease.
- (t) *Replacement sign:* Shall mean the lawful replacement of a sign panel within an existing sign or sign structure that does not increase sign area or otherwise modify the size of the sign.
- (u) *Roof sign:* A sign which is erected, constructed and maintained on or above the roof of a building or any portion thereof.
- (v) *Sign area:* Area of a sign shall be determined by multiplying the height, including ornamental features, times the length, including ornamental features, and for a circle the area shall be determined from the outer circumference. For a sign which consists of individual cut-out letters attached directly to a building or structure, the area shall be calculated by multiplying the height times the length of a rectangle that would fully enclose all the letters of the sign. For a sign which consists of parallel panels facing in opposite directions, the area of the largest of the panels shall be used in calculating the area of the sign. Any sign with panels facing in opposite directions that are not parallel shall be cause for both faces to be calculated as sign area.
- (w) *Temporary signs:* Any sign or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, wood, metal, or other material intended to be displayed for a period of 30 days or less.
- (x) *Temporary and permanent banners:* Shall refer to any plastic film, paper, cloth or similar material and its associated message area that is designed to be tied, or otherwise fastened to a building or other structure so as to constitute a sign.
- (y) *Temporary political sign:* A sign relating to the election of a person to public office, to a political party, or a matter to be voted upon at any election called by a governmental body, intended for temporary display.
- (z) *Temporary window sign:* Shall mean any paper, poster board, plastic film, cloth or similar material and its associated message area that is designed to be placed on or behind a display window for 14 days or less and visible from outside a business building.
- (aa) *Wall sign:* Any sign attached to or painted on or erected against a wall or parapet wall of a building or structure with the exposed face of the sign in a plane approximately parallel to the plane of such wall and projecting outward from the wall not more than 12 inches.



### Wall Sign

**Self-storage warehouse.** A structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases for varying periods of time.

**Site condominium subdivision.** A division of land on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act (P.A. 288 of 1967), as amended, and is subject to the requirements of the Condominium Act (Act 59 of 1978), as amended.

**Site plan.** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this ordinance.

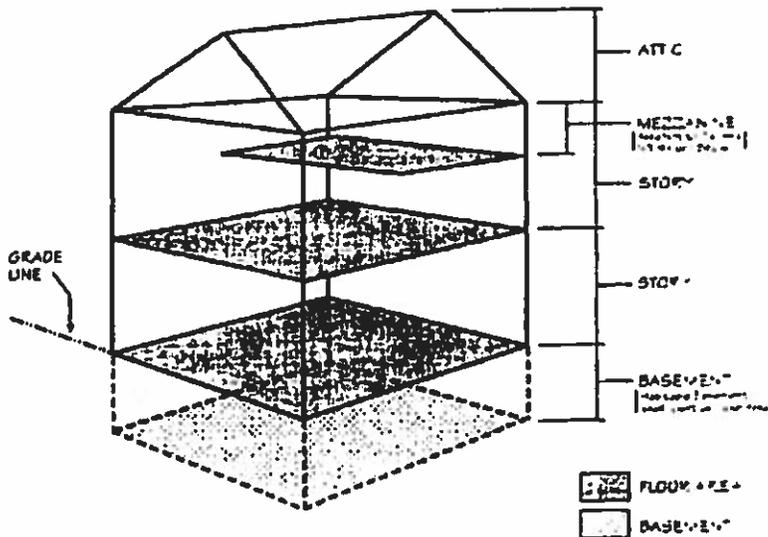
**Soil removal.** Means the removal of any kind of soil or earth matter which includes topsoil, sand, gravel, clay or similar materials or any combination thereof, except common household gardening and general farm care.

**Special land uses.** Certain uses which may be necessary or desirable to allow in certain locations in certain districts, which due to actual or potential impact on neighboring uses or public facilities, there is a need to specifically regulate them with respect to their design and location for the protection of the community. These uses, due to their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

**State licensed residential facility.** A structure constructed for residential purposes that is licensed by the state pursuant to Act No. 218 of the Public Acts of 1979, as amended, or Act No. 116 of the Public Acts of 1973, as amended, which provides resident services or care for six or fewer persons under 24-hour supervision for persons in need of that supervision or care, as provided for in Act No. 207 of the Public Acts of 1921, as amended. This section does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions. A proposed residential facility shall not be located within a 1,500 foot radius of another state licensed residential facility.

**Story.** That part of a building, except a mezzanine or basement, as defined herein, included between the surface on one floor and the surface of the next floor above it, or any portion of a building between the topmost floor and the roof having a usable floor area equal to at least 50 percent of the usable floor area of the floor immediately below it.

**Story, half.** An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet, six inches. For the purposes of this ordinance, the usable floor area is only that area having at least four feet clear height between floor and ceiling.



### Basic Structural Terms

**Street.** A public thoroughfare which affords the principal means of access to abutting property.

**Structure.** Any constructed or erected material, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to buildings, towers, sheds, and signs, but excepting walks, drives, pavements, fences, and similar access or circulation facilities.

(Ord. No. O-05-517, § 1, 11-7-05; Ord. No. O-10-570, § 2, 4-19-10; Ord. No. O-13-597, § 3, 7-15-13; Ord. No. O-14-603, § 1, 6-2-14)

Sec. 702. - Special land uses.

The following uses may be permitted by the city council upon submission of a site plan and such additional information as may be necessary to document the scope and intensity of the proposed use. Said uses may be permitted upon a finding by the city council that the use will comply with any specific requirements contained herein, and that the proposed location of the use will be desirable to the public convenience or welfare and in harmony with the various elements and objectives of the master plan of the City of Oak Park, as from time to time amended:

- A. Vehicle convenience stations, subject to the provisions specified in section 1902.
- B. Vehicle service centers, subject to provisions of section 1903.
- C. More than four mechanical amusement devices, as an accessory use to a permitted use, upon the following conditions:

Floor space required. Each mechanical amusement device shall be provided machine and operating space of at least 50 square feet, and each device shall have one foot of clear space on each side and to the rear, and five feet of clear space in front for the operator. The total floor space required for devices, including operating space, shall not exceed eight percent of the useable floor area of the establishment. In addition, total minimum useable floor areas shall be required as follows:

4,000 sq. ft. to 6,000 sq. ft., not permitted more than five devices.

6,000 sq. ft. to 8,000 sq. ft., not permitted more than six devices.

8,000 sq. ft. to 9,500 sq. ft., not permitted more than eight devices.

Over 9,500 sq. ft., not permitted more than ten devices.

- D. Local utility structures, subject to the provisions in section 1918.
- E. An establishment holding an SDD (specially designated distributor) or SDM (specially designated merchant) license from the Michigan Liquor Control Commission, subject to the provisions of section 1929.
- F. Restaurants serving ~~beer or wine~~alcoholic liquor, subject to the provisions specified in section 1930. (Ord. No. O-00-417, § 2, 2-21-00; Ord. No. O-13-597, § 4, 7-15-13)

Sec. 1202. - Special land uses.

The following uses may be permitted by the city council upon submission of a site plan and such additional information as may be necessary to document the scope and intensity of the proposed use. Said uses may be permitted upon a finding by the city council that the use will comply with any specific requirements contained herein, and that the proposed location of the use will be desirable to the public convenience or welfare and in harmony with the various elements and objectives of the master plan of the City of Oak Park, as from time to time amended:

- A. Local utility structures and wireless communications towers, subject to the provisions in section 1918.
- B. Establishments holding an SDD (specially designated distributor) or SDM (specially designated merchant) license from the Michigan Liquor Control Commission, subject to the provisions of section 1929.
- C. Restaurants serving ~~beer or wine~~alcoholic liquor, subject to the provisions specified in section 1930. (Ord. No. O-00-419, § 2, 2-21-00; Ord. No. O-13-597, § 7, 7-15-13)

## ARTICLE XIV. - PUD PLANNED UNIT DEVELOPMENT DISTRICTS

### Sec. 1400. - Intent.

The PUD, Planned Unit Development District, is designed to provide for a variety of commercial, service and industrial uses fronting on major thoroughfares. To assure optimum site planning relationships and minimum internal and external traffic conflict, each use will be reviewed as it relates to its site and abutting sites and as it relates to the entire district and abutting districts. This type of district is further created so as to provide a zone of transition between residential districts and major thoroughfares or expressways.

(Ord. No. 0-01-447, § 1, 7-2-01)

### Sec. 1401. - Permitted uses.

In the PUD, planned unit development district, the following uses shall be permitted:

#### A. Any of the following commercial uses when carried out entirely within an enclosed building:

1. Stores and shops for the conducting of any retail businesses.
2. Establishments which perform personal services on the premises, such as beauty parlors, barber shops, repair shops (including watches, radios, televisions, shoes, and tailor shops), and dry cleaning establishments, provided cleaning equipment is used to service only the premises at which it is located.
3. Photographic studios, interior decorating studios, and art galleries.
4. Professional offices of doctors, lawyers, dentists, chiropractors, osteopaths, engineers and similar or allied professions, administrative and business offices.
5. Banks and similar financial institutions.
6. Restaurants, tea rooms, cafes and other places serving food or beverage, including drive-thru facilities and drive-ins. Outdoor dining as an accessory area to a restaurant and subject to the provisions in section 1709.
7. Vehicle convenience station, subject to the provisions in section 1902 (special land use approval not required), vehicle repair garage, subject to the provisions in section 1903 (special land use approval not required), vehicle service center, subject to the provisions in section 1904 (special land use approval not required).

#### B. Any of the following industrial uses when carried out entirely within an enclosed building, except as otherwise provided below:

1. The manufacturing, compounding, processing, packaging, treatment, or fabrication of such products as: bakery goods, candy, ceramics, cosmetics, clothing, electrical and electronic equipment, jewelry, instruments, optical goods, pharmaceutical, toiletries, hardware, cutlery and pottery.
2. The manufacturing, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, textiles, wood, yarns, sheet metal, wax and wire.

3. Research, experimental, film or testing laboratories.
  4. Assembly of electrical appliances, electronic instruments or precision devices, radios, phonographs (including the manufacture of parts), musical instruments, toys, novelties, sporting goods, and photographic equipment.
  5. Printing, lithographic, blueprinting and similar uses.
  6. Cold storage, warehousing and distribution uses, and similar businesses involved in the receipt, storage, sales, and delivery of products.
  7. Medical and dental clinics and laboratories.
  8. Meeting halls for industrial worker organizations.
  9. Offices of engineering, drafting, architectural, electrical, plumbing, or industrial design firm.
  10. Self-storage facilities.
  11. Tool, die, gauge, metal polishing, metal plating, and machine shops.
  12. Commercial uses which have an industrial character because of outdoor storage requirements or activities including a lumberyard, home center, building materials outlet, nursery or greenhouse, automobile or lawn and garden implements sales.
  13. Electronic data processing center.
  14. Showroom and workshop of a plumber, electrician, decorator or similar trade.
  15. Municipal buildings and uses including outdoor storage areas.
- C. Uses similar to the above, when located and arranged according to a plan demonstrating compatibility with other permitted commercial and industrial uses in the district.
- D. Outdoor storage which is clearly accessory to the permitted use, limited in scale, and incidental to the primary indoor use(s) of the site, subject to the provisions of section 1925 (special land use approval not required).
- E. Accessory uses and buildings.
- F. Special land uses. The following uses may be permitted by the city council upon submission of a site plan and such additional information as may be necessary to document the scope and intensity of the proposed use. Said uses may be permitted upon a finding by the city council that the use will comply with any specific requirements contained herein, and that the proposed location of the use will be desirable to the public convenience or welfare and in harmony with the various elements and objectives of the master plan of the City of Oak Park, as from time to time amended:
1. Restaurants serving ~~beer or wine~~ alcoholic liquor, subject to the provisions specified in section 1930.

(Ord. No. 0-01-447, § 1, 7-2-01; Ord. No. O-05-517, § 3, 11-7-05; Ord. No. O-13-597, § 8, 7-15-13; Ord. No. O-14-603, § 5, 6-2-14)

#### Sec. 1402. - Approval process.

In a PUD, Planned Unit Development District, no building shall be erected, used, or structurally altered, nor land nor premises used, in whole or in part until approval of a PUD development plan by the city council, acting upon the recommendation of the planning commission, in accordance with the following procedures and requirements:

- A. *Ownership*. The entire parcel for which application is made must be under one ownership or the application must be made with the written authorization of all property owners.

- B. *Approval procedure.* The PUD development plan approval process shall involve two phases, the preliminary phase and the final phase.
- C. *Preliminary phase.* The preliminary phase shall involve a review of a conceptual PUD development plan. Based upon the following standards, the city council, acting upon the recommendation of the planning commission, may approve, approve with conditions, or deny approval of the conceptual PUD development plan:
1. The uses proposed will have a beneficial effect, in terms of public health, safety, welfare or convenience or any combination thereof, on present and potential surrounding land uses.
  2. The uses proposed will not adversely affect the public utility and circulation systems, surrounding properties or the environment.
  3. The uses proposed shall be of such location, size and character that they will be in harmony with the appropriate and orderly development of the surrounding area and neighborhoods.
  4. The uses proposed shall be of such location, size intensity, site layout and periods of operation to eliminate possible nuisances emanating therefrom which might be noxious to the occupants of any other nearby permitted uses whether by reason of dust, noise, fumes, vibration, smoke or lights.
  5. The uses proposed shall not cause substantial injury to the value of other property in the area or neighborhoods in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the area or neighborhoods in which it is to be located.
  6. The uses proposed shall be consistent with the land use plans adopted by the city.
  7. Appropriate consideration shall be given to the preservation of significant historical and architectural features and natural resources.
- D. *Material to be submitted.* The applicant shall submit the following technical and/or graphic materials for PUD preliminary phase approval:
1. A complete application, in form determined by the department of technical and planning services, together with a conceptual PUD development plan showing the proposed site design including proposed uses, gross site area, street and vehicular access areas, and open space.
  2. The conceptual PUD development plan shall show the area and use of land adjacent to the parcel to be developed, any unusual problems of topography, utility service, land usage or land ownership and a staging plan showing the general time schedule of and expected completion dates of the various elements of the plan.
  3. A developer may submit detailed site plans at the same time he submits the conceptual PUD development plan, if he is willing to expend additional funds from the outset and prior to obtaining conceptual PUD development plan approval.
  4. The applicant may be required by the planning commission to present material regarding the objectives and purposes to be served; economic feasibility and estimated cost; conformity to plans and policies of the city; market needs; impact on public schools, utilities and circulation facilities; impact on natural resources; and impact on the general area and adjacent property.
- F. *Preliminary phase PUD development plan review.*
1. The applicant shall submit to the city planner sufficient copies of the conceptual PUD development plan for distribution to city departments and agencies and the planning commission, together with the review fees as established by the city council from time to

time. Copies of the plan as submitted shall be distributed by the city planner to the appropriate city departments and agencies for review to determine if the development concept can be accommodated by the existing public utility, street and general city service facilities, or if any additions to or extensions of facilities are necessary for the project.

2. The department of technical and planning services shall notify the applicant of any questions raised by the city departments and agencies as a result of said review and shall submit like information to the planning commission for its consideration, along with a report which evaluates the planning aspects of the project and its impact on the present and future development of that part of the city in which it is located.
  3. The planning commission shall conduct a public hearing on the PUD development plan in accordance with applicable law. Following the public hearing, the planning commission shall make its recommendations to the city council. The planning commission may recommend approval, approval subject to conditions, or denial of approval of the conceptual development plan.
  4. If the PUD development plan is rejected by the planning commission, the reasons therefor shall be specified in writing.
  5. The planning commission's recommendations and all related reports shall be submitted to the city council for its consideration. The city council shall take final action on said development plan and may approve, approve with conditions, or deny approval of the conceptual PUD development plan.
  6. The city council, acting upon the recommendation of the planning commission, may, if determined necessary and appropriate to achieve the goals of this ordinance, while encouraging development consistent with good planning principles, require:
    - a. More or less usable open space than that required by this Code.
    - b. More or less parking than that required by this Code.
    - c. More or less landscaping than that required by this Code.
    - d. More or less setbacks than that required by this Code.
  7. The applicant shall satisfy any conditions of approval required by the city council prior to subsequent final phase site plan approval and prior to the issuance of any building permits. The city shall keep a record of all approved PUD development plans and approval conditions.
- F. Effect Of preliminary phase approval of PUD development plans.* Approval of the conceptual PUD development plan by the city council shall confer upon the owner the right to proceed through the subsequent planning phase in accordance with regulations and ordinances in effect at the time of the city council's approval for a period not to exceed three years from the date of approval, unless subsequent regulations or ordinances are specifically made applicable to developments which have been so approved. If final phase site plans have not been submitted for approval before the termination of said three-year period, said subsequent site planning must conform to the regulations, ordinances and laws in effect at the time said site plan is submitted.
- G. Final phase.* The final phase shall require detailed site plans for any part of the conceptual PUD development plan prior to the issuance of building permits.
- H. Final phase PUD site plan approval.*
- 1.

The applicant shall submit to the city planner sufficient copies of the PUD site plan for all or any part of the development, in accordance with the uses and concepts as shown on the approved conceptual PUD development plan, for distribution to city departments and agencies and the planning commission, together with review fees established by the city council from time to time. The site plan for each stage shall include final detailed information as required in section 1725.

2. Copies of this PUD site plan as submitted shall be distributed by the city planner to the appropriate city departments and agencies for review and comment regarding the legal requirements of the city.
  3. The department of technical and planning services shall notify the applicant of any questions raised by the city agencies during said review and shall submit like information to the planning commission for its consideration.
  4. The planning commission shall review the PUD site plan and department reports and recommendations, and make its recommendation to the city council. The planning commission may recommend approval, approval subject to conditions, or denial of approval of the PUD site plan.
  5. If the PUD site plan is rejected by the planning commission, its reasons therefor shall be specified in writing.
  6. The planning commission's recommendation and all related reports shall be submitted to the city council for its consideration.
  7. The city council shall, after reviewing said PUD site plan, take final action to approve, approve with conditions, or deny approval of the PUD site plan. The decision of the city council shall be based upon compliance of the PUD site plan with all requirements of this ordinance, including the standards in section 1402C., and conditions imposed by the city council upon approving the conceptual PUD development plans. The city council, acting upon the recommendation of the planning commission, may, if determined necessary and appropriate to achieve the goals of this ordinance, while encouraging development consistent with good planning principles, require:
    - a. More or less usable open space than that required by this Code.
    - b. More or less parking than that required by this Code.
    - c. More or less landscaping than that required by this Code.
    - d. More or less setbacks than that required by this Code.
  8. If the PUD site plan is rejected by the city council, its reasons shall be in writing and based upon the standard of review listed above.
  9. Approval of the final PUD site plan shall entitle the owner to apply for building permits.
- I. *Time for completion of development.* Substantial construction of the proposed planned unit development must be started within two years of the preliminary phase approval of the development plan and work must be continued in a reasonably diligent manner. All proposed buildings, parking spaces, landscaping, usable open space and amenities must be completed within five years of the preliminary phase approval of the development plan. Said five-year period may be extended by the city council upon application by the petitioner and recommendation of the planning commission if it is demonstrated that the applicant has diligently pursued completion of the PUD development plan, that a majority of the improvements have been installed, or that market or economic conditions have so changed that it would be economically

infeasible to complete all of the improvements of the plan within the specified time. Absent approval of an extension, all construction shall be stopped at the conclusion of the five year period.

- J. *Deviations from approved PUD site plan.* Minor changes to a previously approved PUD site plan may be approved without the necessity of planning commission or city council action thereon if the director of the technical and planning services certifies in writing that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the plan as agreed upon by the planning commission and the city council. The department of technical and planning services shall record all such changes on the original PUD site plan and shall advise the planning commission and the city council of all said minor revisions of said administrative approval. Minor alterations or revisions under this section shall be limited to:
1. Shifting of buildings, heights and elevations, providing such shifting does not exceed ten percent of the previously approved dimensions and providing such shifting does not significantly alter the conceptual integrity of the plan.
  2. Any decrease in building size is no more than ten percent.
  3. Construction of additional or alteration of approved sidewalks; provided, that the full intent of pedestrian movement through and around the site is not inhibited thereby.
  4. Shifting of, additions to, or changes in species of landscape materials; provided, that such changes do not reduce the minimum landscaped requirements.
  5. Relocation of refuse collection stations.
  6. Internal rearrangement of parking lots and curb cut locations, provided such functional rearrangement does not reduce the total number of parking spaces required; and further provided, that the minimum landscape requirements are maintained; and further provided, that such rearrangement does not inhibit good traffic flow or circulation.
  7. Construction and location of bus stop locations.
  8. Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.

(Ord. No. 0-01-447, § 1, 7-2-01)

Sec. 1403. - Required conditions.

- A. In all PUD districts, on all property lines which are adjacent to residentially zoned properties, and otherwise as determined by the city council upon PUD development plan review to be necessary to protect adjacent uses of property, there shall be erected a contiguous masonry wall of brick, stone or poured concrete with a decorative pattern, at least six feet high. Such wall shall be subject to approval as to design and material by the city council, upon recommendation by the planning commission. The city council, upon application by the property owner of the PUD planned unit development property, may modify the wall requirements for walls where in unusual circumstances undue hardship would be suffered or no good purpose would be served by compliance with the requirements of this section.
- B. No machinery, equipment, vehicles or other materials, either discarded or showing evidence of need for repairs or maintenance, shall be stored or parked or permitted to stand in any open area that is clearly visible from the street, public place or adjoining residential property.

(Ord. No. 0-01-447, § 1, 7-2-01)

Sec. 1404. - Additional site development standards.

All permitted uses shall comply with all applicable provisions of the zoning ordinance including those listed below as a reference guide, except as amended herein or varied or waived by the city council, upon recommendation of the planning commission in the course of development plan review and approval.

- A. Article II: Definitions.
- B. Article XVI: Schedule of district regulations (minimum lot width and area, setbacks, maximum height, etc.).
- C. Article XVII: General provisions for: visibility at intersections and corner clearance; visibility-walls, fences, hedges; accessory buildings and structures; swimming pools; erection of more than one principle structure on a lot; radio, television and satellite dish antenna; right-of-way-streets, alleys and railroad; access required: dwelling in other than main structures; building grades; performance standards for all land uses; screening and landscaping; fences, walls, and other barriers; moved buildings or structures; recreational and commercial vehicles; site plan review; off street parking and loading.
- D. Article XVIII: Signs.
- E. Article XX: Nonconforming lots, uses and structures.
- F. Article XXI: General exceptions for: essential services; height limits; projections into yards.

(Ord. No. 0-01-447, § 1, 7-2-01)

**Sec. 1709. - Outdoor dining.**

Outdoor dining areas are permitted as an accessory use for restaurants subject to the following: A.

***Approval process.***

1. Outdoor dining areas proposed as part of a new restaurant use, an addition to an existing restaurant, a restaurant that serves alcoholic liquor~~beer or wine~~ or a dining area on a public sidewalk or right-of-way, shall require site plan review and approval by the planning commission and city council as outlined in section 1725.
2. Outdoor dining areas proposed to be added to an existing restaurant with no other building or significant site modifications, shall submit a site development plan to the department of community and economic development for review and administrative approval.
  - a. The following information is required on the site development plan:
    - i. A completed application.
    - ii. A detailed plan showing the design, relevant details and location of all permanent and temporary structures such as decks, awnings, planters, landscaping, railings, tables, chairs, table, umbrellas, electrical outlets or appliances, hydrants, all ingress and egress, lighting and other equipment. The site development plan shall be submitted on a sheet no smaller than 11 inches x 17 inches at a scale showing detail sufficient for proper review.
    - iii. The applicant's entire property and adjacent properties on a location map with streets for a distance of at least 25 feet.

***B. General standards.***

1. Outdoor dining shall only be permitted between March 1 and November 30 with all furniture and fixtures including, but not limited to, tables, chairs and waste receptacles removed from the exterior premises after November 30.
2. The hours of operation for the outside dining area shall be consistent with the hours of operation inside the restaurant.
3. For plans showing more than 20 occupants within the outdoor dining area, additional off-street parking shall be provided as required in subsection 1726.G(39) Restaurants - Sit down.
4. Tables, chairs, umbrellas and any other objects provided with outdoor dining areas shall be of good quality and of a durable material such as wood or metal. The design, materials and workmanship of these items should ensure the safety and convenience of the users and enhance the visual and aesthetic quality of the outdoor area.
5. No table umbrella or other outdoor fixture in the outdoor dining area shall contain any sign or advertising matter.
6. Lighting for the outdoor dining area shall be shielded downward and away from adjacent properties and installed so that the surface of light shall not be visible from adjacent properties or to passing traffic.
7. The restaurant shall clean the entire outdoor dining area and all other adjacent landscaped and sidewalk areas by removing debris, trash, sweeping and washing down the area each day. The cleaning shall be conducted as frequently each day as necessary to prevent debris

and trash from being blown or scattered onto other properties. A thorough sweeping and cleaning shall be conducted at the close of business each day.

- 8. Outdoor dining areas shall be enclosed in instances where there is ~~beer and wine~~[alcoholic liquors](#) service. Enclosures shall consist of metal railing, wood railing, brick walls or other suitable materials approved by the planning commission, city council or administratively, as applicable.
- 9. No food preparation, preparation equipment or bars shall be permitted in the outside dining area, including heating or cooking on open flames.

*C. Additional requirements for outdoor dining areas located on a public sidewalk.*

- 1. Outdoor dining areas, on a public sidewalk, shall be located in a manner to maintain a minimum pathway width of five feet (clear of structures such as light poles, trees and hydrants) so as not to interfere with pedestrian traffic moving around the outdoor dining area.
- 2. Outside dining areas located on a public sidewalk or within any public right-of-way requires approval by the corresponding jurisdiction (City of Oak Park, MDOT, Road Commission of Oakland County). A license agreement in a form deemed acceptable to the city attorney's office shall also be required.
- 3. Any restaurant approved to operate an outdoor dining area on a public sidewalk shall pay to the city treasurer a license fee in the amount established by resolution of the city council.
- 4. Outdoor dining areas located on a public sidewalk are required to provide a policy or certificate of insurance, in an amount acceptable to the city, including workers compensation, naming the city as additionally insured. Establishments serving ~~beer or wine~~[alcoholic liquors](#) shall provide a liquor liability policy or certificate of insurance naming the city as additionally insured. A company authorized to do business in the state shall issue such insurance. Required insurance amounts shall be set by resolution of city council. The policy or certificate shall contain a clause requiring the insuring company to give 15 days' written notice to the city manager prior to cancelling the policy. The required insurance certificate shall be in effect for any period during which the outdoor dining area is in operation. No establishment shall operate an outdoor dining area on a public sidewalk without filing proof of proper insurance. Failure to provide a current insurance certificate shall be cause for immediate discontinuation of use of sidewalk for an outdoor dining area.
- 5. The owner of the restaurant with the outdoor dining area on a public sidewalk assumes full responsibility for damage to public property caused by the placement and operation of the outside dining area. The restaurant will also repair any damage to public property at their own expense.

(Ord. No. O-14-603, § 7, 6-2-14)

**Sec. 1930. - Restaurants serving ~~beer or wine~~alcoholic liquor.**

Restaurants serving ~~beer or wine~~alcoholic liquor may be permitted in certain districts specified in this section, if the establishment is continually operated according to the following requirements and performance standards:

- A. There shall at all times be maintained and provided culinary facilities to cook or prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 40 patrons at any time.
- B. The proprietor shall make available a varied menu of food items consisting of not less than ten such food items cooked or prepared on the premises.
- C. Not more than 50 percent of the gross floor area open to the general public shall be used for purposes other than seating for diners, consisting of tables, chairs, booths, and necessary aisle ways. Public restroom facilities shall not be considered in this determination.
- D. During any 90-day period, no more than 50 percent of the gross revenues of the establishment shall be derived from the sale of ~~beer and wine~~alcoholic liquor. Admission charges or cover charges which exceed ten percent of the establishment's gross revenues shall be considered as derived from the sale of ~~beer and wine~~alcoholic liquor for purposes of determining the percentage of sales of ~~beer and wine~~alcoholic liquor. Sales of food or ~~beer and wine~~alcoholic liquor to hotel or motel guests for consumption within their private rooms shall not be considered in determining the percentage ratio of sales of ~~beer and wine~~alcoholic liquor.
- E. Restaurants, serving ~~beer or wine~~alcoholic liquor are required to stop serving alcoholic beverages no later than 12:00 a.m. (midnight), and otherwise operate consistent with the hours established by the Liquor Control Commission for such establishments.
- F. The proposed restaurant, serving ~~beer or wine~~alcoholic liquor is not located within 500 feet of a school, park, or place of worship, regardless of community boundaries. Measurement of distances between restaurants, serving ~~beer and wine~~alcoholic liquor and a school, park, or place of worship shall be from the outermost boundaries of the parcel or lot of each use.
- G. The layout of the site of the proposed restaurant, serving ~~beer or wine~~alcoholic liquor and its relationship to streets providing access to the site shall be in a manner that vehicular and pedestrian traffic to and from the proposed restaurant, serving ~~beer or wine~~alcoholic liquor and the potential assembly of persons connected therewith, will not be hazardous, endangering, or inconvenient to the surrounding neighborhood and commercial district.
- H. The proposed restaurant, serving ~~beer or wine~~alcoholic liquor will be compatible with adjacent uses of land, considering the proximity of residential dwellings, churches, schools, public structures, and other places of public gatherings.
- I. The proposed restaurant, serving ~~beer or wine~~alcoholic liquor will not be contrary to the public interest or injurious to nearby properties.
- J. The proposed restaurant, serving ~~beer or wine~~alcoholic liquor will not have the possible effect of downgrading and blighting the surrounding neighborhood.
- K. The proposed restaurant, serving ~~beer or wine~~alcoholic liquor will not reasonably be expected to diminish the value of properties in the immediate area.

**Commented [FM1]:** Regulating liquor licenses via zoning is one of the best ways to exercise authority over the liquor licensure process.

**Commented [FM2]:** Is this provision desired? If not, removal should be considered.

**Commented [FM3]:** The administrative rules allow a business to be open until 2:00 a.m. Monday through Saturday, and on Sunday if an entity has a Sunday Sales Permit. R 436.1403, 436.2115. As an FYI, it is possible that this could be challenged in Court as violating the establishment's rights to operate within the hours prescribed by the MLCC.

**Commented [FM4]:** R 436.1503(1) provides that a "new application for a license to sell alcoholic beverages at retail, or a request to transfer location of an existing license, shall be denied if the contemplated location is within 500 feet of a church or school building." There is no requirement that the location not be within 500 feet of a park.



**BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN**

**AGENDA OF:** July 6, 2015

**SUBJECT:** Audit Contract Extension Proposal

**DEPARTMENT:** Finance

**SUMMARY:** The City's current auditor Rehmann Robson has submitted a proposal to extend the current contract for the audit of the financial statements of the City of Oak Park for the fiscal years ending June 30, 2015 through 2017 (along with an option for two additional years). The current contract expired following the issuance of the report for the fiscal year ending June 30, 2014.

The maximum not-to-exceed fee for the audits:

Fiscal year ending June 30, 2015	\$	45,500
Fiscal year ending June 30, 2016		47,000
Fiscal year ending June 30, 2017		48,500
Fiscal year ending June 30, 2018 (City Option)		50,000
Fiscal year ending June 30, 2019 (City Option)		51,500

**RECOMMENDED ACTION:** Approve a contract extension with Rehmann Robson for the fiscal years ending June 30, 2015 through June 30, 2017.

**APPROVALS:**

City Manager: \_\_\_\_\_

Department Director: \_\_\_\_\_

Finance Director: \_\_\_\_\_

**EXHIBITS:**

**Audit Contract Extension Proposal dated November 4, 2014**

November 4, 2014

Mr. Erik Tungate, City Manager  
City of Oak Park, Michigan  
13600 Oak Park Blvd  
Oak Park, Michigan 48237

**Re: Audit Contract Extension Proposal**

Dear Mr. Tungate:

We are pleased to submit this proposal to extend the current contract for the audit of the financial statements of the *City of Oak Park, Michigan* for the years ending June 30, 2015 through 2017 (along with an option for two additional years). The current contract expires following the issuance of our report on the financial statements for the year ended June 30, 2014.

We appreciate the opportunity to serve the City of Oak Park and look forward to extending our professional relationship.

Very truly yours,

**REHMANN ROBSON**

A handwritten signature in black ink that reads 'Mark T. Kettner'.

Mark T. Kettner, CPA, CGFM  
Principal

**City of Oak Park, Michigan**  
**Price Proposal - Audit Contract Extension**

	<u><b>Total</b></u>
<b>Maximum not-to-exceed fee for the:</b>	
Year ending June 30, 2015	\$ 45,500
Year ending June 30, 2016	47,000
Year ending June 30, 2017	48,500
Year ending June 30, 2018 (City option)	50,000
Year ending June 30, 2019 (City option)	51,500

*Note*: The above quoted fees may be subject to renegotiation in the event of significant changes in the scope of the audit or the financial activities of the City. Also, the above quoted fees do not include services not directly related to performing the annual audit or not reasonably anticipated in performing such an engagement.

Also, the above quoted fees do not include fees for the audit of federal awards pursuant to OMB Circular A-133; if such an audit is required the additional fee will range from \$3,000 to \$3,500 depending on the nature and extent of funding.

Finally, the above quoted fees do not include such additional audit procedures that may be required (to the extent that they are significant) by the AICPA for the audit of pension or OPEB plans under GASB 67/68 or similar standards.



BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN

**AGENDA OF:** July 6, 2015

**AGENDA #**

**SUBJECT:** Obsolete Property Rehabilitation Act

**DEPARTMENT:** Community & Economic Development

**SUMMARY:** The Community & Economic Development Department recommends to city council to set a public hearing for the July 20, 2015 city council meeting to discuss the establishment of an Obsolete Property Rehabilitation District for the Providence Green Apartment complex parcels 52-25-19-326-017 and 52-25-19-301-012. The purpose of establishing the district is to encourage redevelopment of the blighted buildings. The incentive, if granted, would essentially freeze the local property taxes for a period of up to 12 years, exempting from local property tax all real property improvements. Establishing the district will allow Oak Park to target these parcels as areas for redevelopment.

**FINANCIAL STATEMENT:**

**RECOMMENDED ACTION:** City Council pass a resolution to set a public hearing for July 20, 2015 at the regularly scheduled city council meeting to establish an Obsolete Property Rehabilitation District for parcels 52-25-19-326-017 and 52-25-19-301-012 otherwise known as Providence Green Apartments.

**APPROVALS:**

City Manager: \_\_\_\_\_

Director: \_\_\_\_\_

Finance Director: \_\_\_\_\_

**EXHIBITS:** Resolution

**RESOLUTION TO ESTABLISH AN OBSOLETE PROPERTY  
REHABILITATION DISTRICT**

Minutes of a regular meeting of the city council of the city of Oak Park, held on Monday July 20, at city council chambers in Oak Park at 7 p.m..

PRESENT:

ABSENT:

The following preamble and resolution were offered by \_\_\_\_\_, and supported by \_\_\_\_\_.

**Resolution (resolution number) Establishing an Obsolete Property Rehabilitation  
(OPRA) District for the City of Oak Park**

WHEREAS, pursuant to PA 146 of 2000, the city of Oak Park has the authority to establish "Obsolete Property Rehabilitation Districts" within the City of Oak Park; and

WHEREAS, the city of Oak Park has filed a written request with the clerk of the city of Oak Park requesting the establishment of the Obsolete Property Rehabilitation District for an area in the vicinity of 15205-15243 Northgate and 25430-25840 Lincoln Terrace located in the city of Oak Park hereinafter described; and

WHEREAS, the city council of the city of Oak Park determined that the district meets the requirements set forth in section 3(1) of PA 146 of 2000; and

WHEREAS, written notice has been given by mail to all owners of real property located within the proposed district and to the public by newspaper advertisement in the (newspaper name) and/or by public posting of the hearing on the establishment of the proposed district; and

WHEREAS, on July 20, 2015, a public hearing was held and all residents and taxpayers of the city of Oak Park were afforded an opportunity to be heard thereon; and

WHEREAS, the city council deems it to be in the public interest of the city of Oak Park to establish the Obsolete Property Rehabilitation District as proposed.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Oak Park that the following described parcel(s) of land situated in the city of Oak Park, Oakland County, and State of Michigan, to wit:

Parcel 52-25-19-301-012

T1N, R11E, SEC 19 PART OF SW 1/4 BEG AT PT DIST S 626 FT FROM W 1/4 COR, TH S 89-35-47 E 1282.76 FT, TH S 00-51-25 W 702.21 FT, TH N 89-22-35 W 1272.30 FT, TH N 697.32 FT ALG W SEC LI TO BEG 20.52 A 5-9-05 FR S 25-19-301-008 ANNEX

Parcel 52-25-19-326-017

T1N, R11E, SEC 19 PART OF SW 1/4 BEG AT PT DIST W 882.83 FT & S 00-27-00 W 423.00 FT FROM CEN OF SEC, TH S 00-27-00 W 904.62 FT, TH S 89-55-00 W 410.30 FT, TH N 00-27-00 E 1328.22 FT, TH E 205.04 FT, TH S 00-27-00 W 423.00 FT, TH E 205.26 FT TO BEG EXC N 43 FT TAKEN FOR LINCOLN AVE 10.31 A FR S 25-19-326-001 ANNEX

be and here is established as an Obsolete Property Rehabilitation District pursuant to the provisions of PA 146 of 2000 to be known as Oak Park Obsolete Property Rehabilitation District No. 1.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the city council of the city of Oak Park, County of Oakland, Michigan at a regular meeting held on July 20, 2015.

---

Clerk



BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN

**AGENDA OF:** July 6, 2015

**AGENDA #**

**SUBJECT:** Tax Foreclosed Properties

**DEPARTMENT:** Community & Economic Development

**SUMMARY:** A presentation was given by Global Realty at the June 15 City Council meeting in regards to acquiring the tax-foreclosed properties in the city of Oak Park. Since the presentation the City Manager, City Attorneys and Manager of Community & Economic Development have drafted a contract to propose a partnership for one year with Global Realty. The contract is attached and is recommended to be approved by city council.

**FINANCIAL STATEMENT:**

**RECOMMENDED ACTION:** Approve the city of Oak Park to enter into a contract with Global Realty and allowing city manager, Erik Tungate to sign on behalf of the city.

**APPROVALS:**

City Manager:

Director:

Finance Director: \_\_\_\_\_

**EXHIBITS:** Contract

PURCHASE AGREEMENT

MLS#

Table with 2 columns: Listing Broker/Agent and Selling Broker/Agent. Fields include Agent ID #, Office ID, and Phone.

1. PROPERTY DESCRIPTION: The undersigned Buyer hereby offers and agrees to purchase property located in Michigan, City of OAK PARK County of OAKLAND Tax ID# Legal description Also commonly known as SEE ADDENDUM "OAK PARK TAX SALE 2015" Zip 48237

Property described above shall include all available sub surface and mineral rights, all fixtures, improvements and appurtenances now in or on the property, including all built-in appliances/equipment, shelving, cabinets, all lighting fixtures, ceiling fans, attached carpeting, all window treatments and hardware, attached mirrors, telephone network, television antennae, satellite dishes (if owned) and complete rotor equipment, storm doors, storm windows, screens, awnings, garage door openers and transmitters, water softeners and security systems (if owned), mailboxes, fences, fireplace inserts, doors, screens, gas logs, grates, gas attachments and equipment, attached humidifiers, all landscaping, fuel in tanks, central vacuum and attachments, and AS-IS

Seller shall provide a bill of sale for all included personal property at closing. Exclusions specified in listing contract that are NOT specifically excluded herein shall be included in this sale. Excluded Items: AS-IS

2. PRICE: Purchaser agrees to pay the sum of Dollars (\$ ) in consideration for which Seller will provide a QUIT CLAIM deed subject to existing building and use restrictions and easements and rights of way of record.

3. METHOD OF PAYMENT: All money must be paid in U.S. funds by certified, cashiers or a licensed title company check acceptable to closing agent. Sale shall be completed by the following method: (Mark only the box that applies.)

- X A. CASH SALE. DELIVERY OF THE QUIT CLAIM DEED CONVEYING MARKETABLE TITLE AND PAYMENT OF THE PURCHASE PRICE.
B. CASH SALE WITH NEW MORTGAGE. Agreement contingent upon Purchaser securing a mortgage, not contingent upon sale or closing of other assets, in the amount of \$ and paying \$ down plus mortgage costs, prepaid items, adjustments and flood insurance if required by lender.
C. SALE TO EXISTING FINANCING, LAND CONTRACT OR PURCHASE MONEY MORTGAGE. (See appropriate finance addendum attached and made a part hereof.)

4. EARNEST MONEY: Purchaser is tendering with offer \$100,000.00 in the form of a check. All monies shall be deposited by Broker/escrow agent in accordance with rules and regulation of the State of Michigan and applied to purchase price at closing. Earnest monies shall be disbursed ONLY in accordance with either: (a) the terms hereof; (b) a fully executed mutual release; or (c) upon order of appropriate authority. If offer made is not accepted by Seller, earnest monies shall be returned to Purchaser without the written consent of the Seller.

5. ACKNOWLEDGEMENT OF EARNEST MONEY DEPOSIT: Received by: VISIONARY TITLE AGENCY Company Name

DIANA SLOAN

Agent

Signature

6. CLOSING: Subject to all conditions herein, closing shall take place on or before DATE TO BE DETERMINED BY CITY at the Listing Office or otherwise mutually agreed location. Date

POSSESSION: PURCHASER RECOGNIZES THAT SOME PROPERTIES MAY BE OCCUPIED AND PURCHASER IS SOLELY RESPONSIBLE FOR THE CONTINUED OCCUPANCY/RELOCATION/EVICTION OF ANY OCCUPANTS. Page 1 of 4

Purchaser(s) Initials

Seller(s) Initials

- 8. AVAILABILITY OF HOME PROTECTION PLANS:** Buyer and Seller acknowledge having been advised of the availability of home protection plans.
- 9. SEWER AND WATER CHARGES:**
- 10. TITLE EVIDENCE AND SURVEY:** Seller agrees to order title insurance within fourteen (14) calendar days of acceptance of offer and to furnish Buyer a Commitment of Title Ins TITLE INSURANCE HAS BEEN RECOMMENDED BY THE REAL ESTATE BROKER(S).
- 11. TITLE OBJECTIONS:** If objection to title is made, based upon written notice that title is not in marketable condition required for performance hereunder, Seller shall have 30 calendar days from date notified in writing of particular defects claimed, to either: (a.) remedy title; or (b.) obtain title insurance satisfactory to Buyer. Buyer agrees to complete sale within 10 calendar days of written notification or by date specified if later. If Seller is unable or unwilling to remedy title within time specified, Buyer will waive requirement in writing within 10 calendar days of written notification thereof, or Agreement may become null and void at Buyer's option.
- 12. PROPERTY TAXES:** BUYER TO PAY 2015SUMMER TAXES, INCLUDING ANY SPECIAL ASSESSMENTS AND RELATED CHARGES.
- 13. ASSESSMENTS:** Seller shall discharge in full all public authority charges confirmed by said municipality or taxing unit(s) (special assessments, water, sewer, paving charges, etc.) which are currently due and payable Buyer is responsible for other assessments including, but not limited to, capital and lateral charges (assessed, but value not yet determined) which are confirmed and become due and payable after closing.
- 14. CONDOMINIUM/HOMEOWNERS ASSOCIATION ASSESSMENTS:** Current dues shall be prorated to date of closing. Any delinquent condominium/homeowner association dues/assessments/liens shall be paid by Seller at closing. Any and all dues/assessments/liens confirmed and becoming due and payable after closing will be paid by Buyer. (See Condominium Addendum made a part hereof if applicable)
- 15. MAINTENANCE OF PROPERTY:** Seller is responsible to keep property in substantially the same condition as of date of Agreement, Seller is responsible to maintain grounds and keep all systems in working order until property is vacated and keys are surrendered by Seller except for conditions disclosed in Seller's Disclosure Statement or conditions discovered by Buyer as part of inspections. In the event property has been winterized, it shall be the obligation and expense of Seller to de-winterize property prior to closing. Seller agrees to leave property broom-clean and free of debris and personal property. WITHIN 7 DAYS OF CLOSING, BUYER WILL SECURE THE PROPERTY AND BEGIN MAINTENANCE.
- 16. RISK OF LOSS:** If loss or damage to property occurs before closing for any reason (including, but not limited to, fire, vandalism or acts of God) risk of loss shall be on Seller. If property is destroyed or substantially damaged before closing, at Buyer's option, this Agreement may become null and void, or Buyer may accept property and take assignment of insurance proceeds as available.
- 17. DISCLAIMER OF BROKER(S):** Broker(s) and Salesperson(s) specifically disclaim responsibility for condition of property and/or for performance of Agreement by the parties. Parties acknowledge that they are not relying on any representation or warranties that may have been made other than those in writing.
- 18. FINAL WALK-THROUGH PRIOR TO CLOSING:** Buyer reserves right to walk through property within 48 hours prior to closing to determine whether terms of Agreement have been met.
- 19. ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between Buyer and Seller. No agreement shall be binding except those in writing and signed by all parties involved. Prior negotiations and verbal agreements will not be binding.
- 20. SUCCESSORS AND ASSIGNS:** This Agreement shall bind executors, administrators, successors and assigns of the parties.
- 21. FACSIMILE/ELECTRONIC AUTHORITY:** Parties agree that this offer, any counteroffer or acceptance, may be delivered by use of facsimile/electronic authority with signatures, and that initials and modifications shall be deemed valid and binding upon the parties as if original signatures.
- 22. TIME IS OF THE ESSENCE:** Buyer and Seller understand that no extensions of time limits contained herein are expected or agreed to unless specified in writing and signed by both Buyer and Seller. Time is of the essence.





# SULLIVAN, WARD, ASHER & PATTON, P.C.

ATTORNEYS AND COUNSELORS AT LAW



1000 MACCABEES CENTER  
25800 NORTHWESTERN HIGHWAY  
SOUTHFIELD, MICHIGAN 48075 8412

TELEPHONE: (248) 746-0700

FAX: (248) 746-2760

WEB SITE: [www.swappc.com](http://www.swappc.com)

ROBERT E. SULLIVAN, SR. (1922-1998)  
DAVID M. TYLER (1930-2002)  
RICHARD C. WARD (1929-2015)

CYNTHIA J. BILLINGS  
[cbillings@swappc.com](mailto:cbillings@swappc.com)  
(248) 746-2747

June 24, 2015

Mr. Erik Tungate  
City Manager  
City of Oak Park  
c/o Howard L. Shifman, Esq.  
370 E. Maple Road – Suite 200  
Birmingham MI 48009

Re: City of Oak Park  
Deferred Retirement Option Plan ("DROP")

Dear Mr. Tungate:

We are pleased that Sullivan, Ward, Asher & Patton, P.C. has been engaged to assist in the preparation of a Deferred Retirement Option Plan (DROP).

Per my discussion with Howard L. Shifman and our standard procedures, this letter confirms the terms of our engagement. Therefore, we would appreciate your reviewing the terms of this letter to be certain they conform to your understanding.

I will have primary responsibility for your representation. The firm will utilize other attorneys when appropriate. Our services will be rendered under the following terms and conditions:

1. Legal counsel shall be compensated at the rate of \$175.00 per hour and shall be reimbursed for out-of-pocket expenses incurred on behalf of the City of Oak Park.
  - a. Legal counsel shall submit itemized statements to the City of Oak Park monthly;
  - b. Legal counsel shall bill for her time in 1/4 hour increments and shall only bill 1/2 time for travel to and from meetings with the City of Oak Park;

# SULLIVAN, WARD, ASHER & PATTON, P.C.

ATTORNEYS AND COUNSELORS AT LAW

Mr. Erik Tungate  
June 24, 2015  
Page 2

- c. "Out-of-pocket expenses" are understood to be expenses not usually incurred in the normal operation of a law office and therefore will not include normal secretarial or receptionist services, normal in-office domestic telephone and telefacsimile services, normal in-office copying costs, regular domestic first class mail costs, normal in-office library upkeep and updating, or normal rental, maintenance, and supply expenses, but will include litigation costs such as filing fees, motion fees, judgment fees, witness fees, transcript fees, expenses incurred in the course of discovery and the like, and other unusual expenses incurred on behalf of the City of Oak Park.
2. This relationship may be terminated by the City of Oak Park;
3. Legal counsel may terminate this relationship upon 60 days written notice; and
4. Legal counsel may provide services regarding issues only as to those matters directed by the City of Oak Park or its designated representative.
5. Sullivan, Ward, Asher & Patton, P.C. covenants on behalf of itself and its subcontractors not to discriminate against an employee or applicant for employment, who is to be employed in the performance of the contract, with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of contract.

If you have any objections regarding the foregoing, please give me a call. We highly regard your business and are happy to discuss with you any aspect of our representation. Furthermore, if the above does not comport with your understanding of the terms of our retention, please advise immediately. Otherwise, it would be appreciated if you would sign this retainer letter.

**SULLIVAN, WARD, ASHER & PATTON, P.C.**

ATTORNEYS AND COUNSELORS AT LAW

Mr. Erik Tungate

June 24, 2015

Page 3

We look forward to serving the City of Oak Park.

Very truly yours,

**SULLIVAN, WARD  
ASHER & PATTON, P.C.**

  
Cynthia J. Billings

CJB/lak

---

Acknowledgement of Agreement and  
Concurrence with the Above.

Dated: \_\_\_\_\_, 2015

W1650226.DOC

**CITY OF OAK PARK**

**AND**

**POLICE OFFICERS ASSOCIATION OF MICHIGAN**  
**For the Public Safety Officers**

**TENTATIVE AGREEMENT**

**April 8, 2015**

**CITY OF OAK PARK  
AND  
POLICE OFFICERS ASSOCIATION OF MICHIGAN  
Public Safety Officers  
TENTATIVE AGREEMENT**

**April 8, 2015**

**1. Duration:**

July 1, 2014 – June 30, 2016

**2. Healthcare:**

Language for Health Care Reform:

- A. The City will comply with all provisions of the Patient Protection and Affordable Care Act [Public Law 111-148 of the 111<sup>th</sup> Congress, 42 U.S.C. 18001]. As such, Health Insurance Plans may be subject to change in order to remain in compliance with same and avoid penalties.
- B. The City or the Union may reopen the Collective Bargaining Agreement to address Patient Protection and Affordable Care Act issues only.
- C. The parties agree that the City will remain a hard cap community under PA 152 for the duration of the contract.

**3. Wages:**

A lump sum one-time payment equal to 2% of base salary effective upon ratification.

July 1, 2015            1.5% increase in base salary

**4. Health Insurance:**

**For eligible retirees:**

For members of the bargaining unit who are eligible and meet eligibility requirements for retiree healthcare, the following will apply:

Should prescription benefits provided to active employees as defined in this Article change in this contract and future contracts, then prescription coverage provided for retirees shall also be changed to the same provided to active employees. Should prescription coverage provided to active employees cease for any reason, the insurance last covering the retirees will remain in effect.

The parties agree that if any other bargaining unit receives a better benefit on this issue through negotiations it will apply to this Unit. This excludes Act 312 awards.

**5. The parties have agreed on a DROP Plan subject to the following provisions:**

- A. A 3-year DROP Plan would be established;
- B. Employee contributions to the pension system will continue at 7.5% with no additional benefit being provided;
- C. Healthcare will be provided to eligible members based upon the provisions in the collective bargaining agreement in effect at the time they actually leave the employment of the City by leaving or the end of the DROP program. (This will include mirroring for prescriptions.);
- D. A 2% interest rate will be paid to the employee' pension amount in the DROP;
- E.
  - (1) Members in the DROP Plan will not have any sick, vacation or personal leave time.
  - (2) It will be replaced by a 180-hour annual paid time off bank, which will be payable as of April 1 in each year. For those

members who enter the DROP after April 1, they will receive a pro-rata share of the 180 hours until the following April 1<sup>st</sup>.

- (3) Members who participate in the DROP may also, at their discretion, roll over up to 100 hours of time accumulated before they enter the DROP which would have been payable to them at the time of retirement, excluding any sick time, when they enter the DROP period.
- (4) On the first March 31<sup>st</sup> after their entry into the DROP, this 100 hours, or any lesser amount they rolled over, in their bank will be paid to them. It may not be carried forward.
- (5) The 180-hour bank given to a member in the DROP each year must be used in that year except that a member may roll over 40 hours to the following year at their discretion. Any remaining hours in the annual paid time off bank at the conclusion of the DROP program, or their participation in it, will not be redeemable for payment.
- (6) When a member enters the DROP, leave time shall be paid out in accordance with the DROP agreement and members will have no prior leave time except as noted in this Agreement. The provisions of the previous collective bargaining agreement pertaining to holidays, longevity, and promotions will remain status quo and without modification.
- (7) An actuary report will be ordered by the City and the results of that actuary report must be satisfactory to both sides.

F. The parties must agree upon the applicable contract language for the DROP and a letter of agreement regarding implementation. Should the parties be unable to reach such an agreement, the parties agree that this tentative agreement will be null and void and will not be utilized by either side in any future negotiations.

G. It is anticipated that the City will draft the Letter of Agreement pertaining to the DROP, and containing the applicable DROP provisions, for review by the Union as contemplated under paragraph G within 45 days after ratification of the Tentative Agreement.

**6. Article 31 – Pensions**

Section 29.9 – Eliminate the purchase of municipal time for employees hired on or after April 1, 2015.

**7. Voluntary Physical Fitness Program -**

The parties will continue to discuss.

CITY OF OAK PARK

POLICE OFFICERS ASS'N OF  
MICHIGAN – Public Safety Officers

\_\_\_\_\_  
BY: DATE

DEARFL 6-30-15  
\_\_\_\_\_  
BY: DATE

**CITY OF OAK PARK**

**AND**

**POLICE OFFICER'S ASSOCIATION OF  
MICHIGAN - Dispatchers**

**Employer's Counter Package Proposal  
June 26, 2015**

*The Employer reserves its right to add to, amend or delete its proposal during the course of negotiations.*

**CITY OF OAK PARK  
AND  
POLICE OFFICER'S ASSOCIATION OF MICHIGAN –  
Dispatchers**

**Employer's Counter Package Proposal**

**June 26, 2015**

---

1. Duration: 2 years.

July 1, 2014 – June 30, 2016

2. Wages –

A 2% of base wage lump sum one-time payment will be made after ratification. This payment will not be included or change annual base wages.

July 1, 2015 1.5% increase

3. Health Insurance –

For eligible retirees:

For members of the bargaining unit who are eligible and meet eligibility requirements for retiree healthcare and retire on or after July 1, 2014, the following will apply:

**Effective for retirees after July 1, 2014:**

Should prescription benefits provided to active employees as defined in this Article change in this contract and future contracts, then prescription coverage provided for retirees shall also be changed to the same provided to active employees. Should prescription coverage provided to active employees cease for any reason, the insurance last covering the retirees will remain in effect.

The parties agree that if any other bargaining unit receives a better benefit through negotiations it will apply to this Unit. This excludes Act 312 awards.

4. Pension --

Section 4 – Delete purchase of Municipal Time.

5. Healthcare -

Language for Health Care Reform:

- A. The City will comply with all provisions of the Patient Protection and Affordable Care Act [Public Law 111-148 of the 111<sup>th</sup> Congress, 42 U.S.C. 18001]. As such, Health Insurance Plans may be subject to change in order to remain in compliance with same and avoid penalties.
- B. The City or the Union may reopen the Collective Bargaining Agreement to address Patient Protection and Affordable Care Act issues only.

The parties agree that the City will remain a hard cap community under PA 152 for the duration of the contract.

- 6. Update pension and healthcare Articles to reflect the employees who still remain in the bargaining unit.
- 7. Union proposal regarding show up time.
- 8. The parties will continue to discuss the pay and classification structure of this position.

*Handwritten signatures and date:*  
T.A. [unclear] [unclear]  
M.A. 6/26/2015  
P.O. A.M.