



**CITY OF OAK PARK, MICHIGAN
REGULAR COUNCIL MEETING OF THE
36th OAK PARK CITY COUNCIL
October 6, 2016
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. (248) 691-7544.

PRESENT: Mayor McClellan, Mayor Pro Tem Burns, Council Member Radner, Council Member Rich, Council Member Speech

ABSENT: None

OTHERS

PRESENT: City Manager Tungate, Deputy City Clerk Brown, City Attorney Duff

APPROVAL OF AGENDA:

**CM-10-340-16 (AGENDA ITEM #4) ADOPTION OF THE AGENDA AS AMENDED
– APPROVED**

Motion by Burns, seconded by Radner, CARRIED UNANIMOUSLY, to approve the agenda with the following changes:

- Removal of Item 15A, Purchase agreement for 14011 Ten Mile Road, due to buyer withdrawing offer; and
- Removal of Items 15C, 15D and 15E, Resolutions extending moratoriums on accepting applications for Smoke Lounges, Smoke Shops and Marijuana Dispensaries; and
- Addition of Item 15A Approval of contract between State Court Administrative Office (SCAO) and 45th District Court for 2017 Veterans Treatment Court Program; and
- Addition of Item 15C, Approval of contract between State Court Administrative Office (SCAO) and 45th District Court for 2017 Mental Health Court-Planning Program.

Voice Vote: Yes: McClellan, Burns, Radner, Rich, Speech
 No: None
 Absent: None

MOTION DECLARED ADOPTED

CONSENT AGENDA:

CM-10-341-16 (AGENDA ITEM #5A-F) CONSENT AGENDA - APPROVED

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

- A. Regular Council Meeting Minutes of September 19, 2016 **CM-10-342-16**
- B. Special Council Meeting Minutes of September 19, 2016 **CM-10-343-16**
- C. Beautification Advisory Commission Meeting Minutes of June 21, 2016 **CM-10-344-16**
- D. Public Safety Activity Summary Report for August, 2016 **CM-10-345-16**
- E. Payment Application No. 1 in the amount of \$92,196.39 to Mattioli Cement Co., LLC for the 2016 Sidewalk Replacement Project, M-627 **CM-10-346-16**
- F. Licenses - New and Renewals as submitted for October 6, 2016 **CM-10-347-16**

MERCHANT'S LICENSES – October 6, 2016
(Subject to All Departmental Approvals)

<u>NEW MERCHANT</u>	<u>ADDRESS</u>	<u>FEE</u>	<u>BUSINESS TYPE</u>
Premier Insurance Agency	12708 Nine Mile	\$150	Insurance Sales Community
Ferndale Friends	10440 Nine Mile	\$150	Newspaper
Medsource Pharmacy	15300 Nine Mile Ste. 2	\$150	Retail Pharmacy
Major Deals	24721 Coolidge	\$150	Electronical Sales
Pump Bar Shoetique	15401 Nine Mile	\$150	Women's Shoe Retail

<u>RENEWALS</u>	<u>ADDRESS</u>	<u>FEE</u>	
One Stop Cash Advance	8530 Nine Mile Ste. A	\$225	Pay Day Advance
Star Factory Artist Development	13650 Eight Mile	\$225	Musical Training Machine Parts
Paramount Precision Products	15255 Eleven Mile	\$225	Supplier
Salon Saga	8440 Nine Mile Ste. A	\$225	Beauty Salon Family Support
Jewish Family Services	25900 Greenfield Ste. 405	\$675	Services

Voice Vote: Yes: McClellan, Burns, Radner, Rich, Speech
 No: None
 Absent: None

MOTION DECLARED ADOPTED

RECOGNITION OF VISITING ELECTED OFFICIALS: None

SPECIAL RECOGNITION/PRESENTATIONS: None

PUBLIC HEARINGS: None

COMMUNICATIONS: None

SPECIAL LICENSES: None

ACCOUNTING REPORTS:

CM-10-348-16 (AGENDA ITEM #11A) APPROVAL FOR PAYMENT OF INVOICES SUBMITTED BY GARAN, LUCOW, MILLER, P.C. FOR LEGAL SERVICES IN THE TOTAL AMOUNT OF \$364.00 - APPROVED

Motion by Rich, seconded by Radner, CARRIED UNANIMOUSLY, to approve payment of invoice #463775 submitted Garan Lucow Miller P.C., for legal services rendered through August 31, 2016 in the total amount of \$364.00.

Roll Call Vote: Yes: McClellan, Burns, Radner, Rich, Speech
 No: None
 Absent: None

MOTION DECLARED ADOPTED

BIDS: None

ORDINANCES:

CM-10-349-16 (AGENDA ITEM #13A) FIRST READING OF AN ORDINANCE TO AMEND CHAPTER 22, BUSINESSES, BY ADDING A NEW ARTICLE XIV, SMOKING LOUNGES, TO LICENSE AND REGULATE SMOKING LOUNGES AND FACILITIES COMMONLY DESCRIBED AS TOBACCO RETAIL SPECIALTY SHOPS, CIGAR BARS, ZERO NICOTINE ESTABLISHMENTS, HOOKAH LOUNGES AND BARS, AND OTHER SMOKING FACILITIES BY ANY OTHER NAME FOR THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITY OF OAK PARK AND PERSONS WITHIN ITS JURISDICTIONAL BOUNDARIES - APPROVED

Motion by Speech, Seconded by Burns, CARRIED UNANIMOUSLY, to approve the first reading of the following ordinance to amend Chapter 22, Businesses, by adding a new Article XIV, Smoking Lounges, to license and regulate smoking lounges and facilities commonly described as tobacco retail specialty shops, cigar bars, zero nicotine establishments, hookah lounges and bars, and other smoking facilities by any other name for the public health, safety and welfare of the City of Oak Park and persons within its jurisdictional boundaries, of the code of ordinances, City of Oak Park:

PROPOSED ORDINANCE

SMOKING LOUNGES – FIRST READING

PROPOSED ORDINANCE TO AMEND CHAPTER 22. BUSINESSES, BY ADDING A NEW ARTICLE XIV, SMOKING LOUNGES, TO LICENSE AND REGULATE SMOKING LOUNGES AND FACILITIES COMMONLY DESCRIBED AS TOBACCO RETAIL SPECIALTY SHOPS, CIGAR BARS, ZERO NICOTINE ESTABLISHMENTS, HOOKAH LOUNGES AND BARS, AND OTHER SMOKING FACILITIES BY ANY OTHER NAME FOR THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITY OF OAK PARK AND PERSONS WITHIN ITS JURISDICTIONAL BOUNDARIES.

CITY OF OAK PARK, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITY OF OAK PARK BY PROVIDING REQUIREMENTS AND STANDARDS GOVERNING SMOKING LOUNGES AND FACILITIES COMMONLY DESCRIBED AS TOBACCO RETAIL SPECIALTY SHOPS, CIGAR BARS, ZERO NICOTINE ESTABLISHMENTS, HOOKAH LOUNGES AND BARS, AND OTHER SMOKING FACILITIES BY ANY OTHER NAME

AMEND CHAPTER 22. BUSINESSES, BY ADDING A NEW ARTICLE XIV, SMOKING LOUNGES.

THE CITY OF OAK PARK ORDAINS:

SECTION 1. ORDINANCE - Chapter 22, Businesses, of the Code of Ordinances of the City of Oak Park is hereby amended by the addition of a new Article XIV, Smoking Lounges, which shall read as follows:

Sec. 22-527. -- Purpose.

On May 1, 2010, the State of Michigan implemented Public Act 188 of 2009 which bans tobacco smoking in all public places and worksites including, but not limited to, bars, restaurants, hospitals, hotels, shopping malls, and bowling alleys. The Oak Park City Council recognizes the harm caused by smoking tobacco and non-tobacco products (including second hand smoke), the state's mandate to move toward a totally smoke free environment, and the potential for negative impact on commercial development as a result of an area saturated with smoking lounges. Therefore, regulation and licensing of such establishments, and their employees, are necessary in the interest of the public welfare of the citizens of the city. This Article is designed to establish reasonable, objective, and uniform regulations to minimize the potential for adverse community impact relating to these establishments.

Sec. 22-528. -- Definitions.

The following definitions shall apply in the interpretation of this chapter:

Cigar shall mean any roll of tobacco weighing three (3) or more pounds per 1,000, which roll has a wrapper or cover consisting of tobacco.

Cigar bar shall mean an establishment or area within an establishment that is open to the public and is designated for the smoking of cigars that has a State issued exemption certificate.

Disqualifying criminal act shall mean any of the following:

- (1) Any of the following misdemeanor or felony offenses under any of the following statutes, as amended, for which less than seven (7) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
 - i Michigan Penal Code, Chapter X, Arson and Burning;
 - ii Michigan Penal Code, Chapter XI, Assaults, except MCL 750.81(1) and (2);
 - iii Michigan Penal Code, Chapter XVII, Bribery and Corruption;
 - iv Michigan Penal Code, Chapter XXII, Compounding Offenses;
 - v Michigan Penal Code, Chapter XXVA, Criminal Enterprises;
 - vi Michigan Penal Code, Chapter XXVIII, Disorderly Persons;
 - vii Michigan Penal Code, Chapter XXXI, Embezzlement;
 - viii Michigan Penal Code, Chapter XXXIII, Explosives, Bombs, Harmful Devices;

- ix Michigan Penal Code, Chapter XXXIV, Extortion;
- x Michigan Penal Code, Chapter XLIII, Frauds and Cheats;
- xi Michigan Penal Code, Chapter XLIV, Gambling;
- xii Michigan Penal Code, Chapter XLV, Homicide;
- xiii Michigan Penal Code, Chapter XLVIII, Indecency and Immorality;
- xiv Michigan Penal Code, Chapter LVIII, Mayhem;
- xv Michigan Penal Code, Chapter LXVII, Prostitution;
- xvi Michigan Penal Code, Chapter LXVIIA, Human Trafficking;
- xvii Michigan Penal Code, Chapter LXXVI, Sexual Conduct;
- xviii Michigan Penal Code, Chapter LXXVIII, Robbery;
- xix Michigan Penal Code, Chapter LXXXIII-A, Michigan Anti-Terrorism Act;
- xx Michigan Compiled Laws, 333, Part 74, Controlled Substances – Offense and Penalties;
- xxi Michigan Compiled Laws Section 205.27, Taxation-Prohibited Acts, including tax evasion;

- (2) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (3) Any offense enumerated in the City Code of Ordinances which substantially corresponds to one of the foregoing state offenses; or
- (4) Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan, would have constituted any of the foregoing offenses.

Influential interest shall mean any of the following:

- (1) actual power to operate or control the operation, management, or policies of a current or prospective business; include the manager of the prospective business, or
- (2) ownership of a financial interest in the business, or ownership of an interest that is ten percent (10%) or more of the total interest of a current or prospective business, including such business entities as a firm, partnership, limited partnership, association, limited liability company, or corporation; or
- (3) holding an office, such as president, vice president, secretary, treasurer, managing member, managing director, or similar position in a legal entity which operates a current or prospective business.

Minor shall mean any person under eighteen (18) years of age.

Non-tobacco smoking products or substances shall include any product or substance that can be consumed by smoking such as, but is not limited to: e-cigarettes, bidis, kreteks, clove cigarettes, herbal cigarettes, electronic and herbal hookah, steam stones, smoking gels or other smoked product.

Premises shall mean the location for which a smoking lounge establishment operates under a State issued exemption certificate and includes the land, and all improvements located thereon, including the primary building and all accessory and out-buildings, and is not limited to the smoking area.

Sale shall mean, the exchange, barter, traffic, furnishing, or giving away of tobacco products and non-tobacco smoking products and substances which is regulated by the State of Michigan and pursuant to this ordinance.

Smoking lounge shall mean an establishment, which has a State issued smoking ban exemption certificate, and that allows smoking of tobacco products or non-tobacco products or substances on the premises. The term “smoking lounge” includes, but is not limited to, facilities commonly described as tobacco specialty stores, cigar bars and lounges, hookah cafés and lounges, tobacco bars and lounges, tobacco clubs or zero nicotine establishments.

State shall mean the State of Michigan.

State issued exemption certificate shall mean a valid exemption certificate issued by the State of Michigan for the premises, from the Public Act 188 of 2009 smoking in public ban which allows indoor smoking on the premises in compliance with the Act.

Tobacco product shall mean a product that contains tobacco and is intended for human consumption, including but not limited to, cigars, cigarettes, non-cigarette smoking tobacco or smokeless tobacco as defined by the Tobacco Products Tax Act, MCL 205.422.

Tobacco specialty retail store shall mean an establishment that has a State issued exemption certificate and for which the primary purpose is the retail sale of tobacco products, non-tobacco smoking products and substances, and smoking paraphernalia.

Sec. 22-529. -- License Required.

A person shall not operate a smoking lounge in the City without first obtaining a smoking lounge business license issued pursuant to the provisions of this ordinance.

Sec. 22-530. -- License Procedure.

- (a) Any applicant for a license shall present a fully completed application and a business license fee to the city clerk pursuant to chapter 22, businesses, of this Code. In addition, the city may also charge the applicant any additional out-of-pocket costs incurred in conducting background checks on the applicant and the applicant's employees, including fingerprint review by the department of state police. The applicant shall provide certification that the city will be held harmless in the event of litigation against the city involving the smoking lounge, and proof that the applicant has a policy of liability insurance issued by a company satisfactory to the city clerk, covering the smoking lounge in an amount not less than \$500,000, and proof that the insurance carrier will notify the city if the policy is canceled, suspended, revoked or lapses, and upon such notice the city clerk may at his or her discretion suspend the license pursuant to chapter 22 of this Code until such time as the insurance policy is renewed. The license issued shall be renewed by the licensee each year, and the business license fee paid, in accordance with the procedures set forth in chapter 22, businesses, of this Code.
- (b) Each application shall contain the information in subsections (b)(1)—(20). (Note: All provisions which refer to applicant include an applicant which may be a corporation or partnership. If an applicant is a corporation, the application requirements of this section shall apply to all the corporation officers and directors. In addition, shareholders owning more than ten percent of the stock of such corporation shall comply with these requirements unless otherwise provided. If an applicant is a partnership, the application requirements of this section shall apply to all the partners, both general and limited.)
 - (1) The business name, business address, zoning classification, legal description, parcel identification number, and all telephone numbers of the establishment or proposed establishment;
 - (2) A statement of the services to be provided;
 - (3) The true name, home address and telephone number of each applicant and whether the applicant is a sole proprietorship, partnership or corporation;
 - a. If applicant is a corporation, it shall set forth the name, residence address and telephone number of each of its officers and directors of said corporation and of each stock holder owning more than ten percent of the stock of the corporation. In addition, the address of the corporation itself, if different from the address of the establishment.
 - b. If applicant is a partnership, it shall set forth the name, residence address and telephone number of each of the partners, including both general and limited partners. In addition, the address of the partnership itself, if different from the address of the establishment.
 - (4) Proof that the applicant is at least 18 years of age, except that if the applicant is a corporation such proof shall apply only to the directors and officers of said corporation;

- (5) The name and address of each person who is a secured or unsecured debtor and/or creditor of the applicant;
- (6) The principal business of the proprietor of the proposed establishment if a sole proprietorship; if a partnership, the principal occupation of all partners; if a corporation, the principal enterprise of such corporation;
- (7) The business name and address of any establishment, owned or operated by any person whose name is required to be given in subsection (b)(3) of this section wherein the business or profession of a smoking lounge is carried on;
- (8) The smoking lounge or similar business license history of the applicant, whether the applicant is previously operating in this or another county or state has had a business license denied, revoked or suspended and the reason therefor. In the event the applicant has had a business license denied, revoked or suspended, the name and address of the agency denying, revoking or suspending the license;
- (9) The business, occupation or employment of the applicant for the five years immediately preceding the date of application;
- (10) How long the applicant has resided at its principal residence in the city. If not a resident of the city continuously for the last five years, previous principal residence addresses during that period. If the applicant is a partnership or corporation, the principal address for the partnership or corporation for the last five years;
- (11) A description of any other business to be operated on the same premises or adjoining premises owned or controlled by the applicant;
- (12) Whether the applicant or anyone owning an interest in the business or proposed business has ever been convicted of or forfeited bail to any crime, excluding minor traffic offenses. If so, state the charge and nature of the crime, the name and location of the court in which the case was filed, and if different, the name and location of the convicting court and the disposition thereof;
- (13) A copy of the State issued exemption certificate for the premises; or if a transfer has been applied for, a copy of the application filed with the State;
- (14) The name and business address of the designated local agent who is responsible to supervise the premises and activities and who is authorized to receive service of process.
- (15) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license;
- (16) The names, current addresses and written statements of at least three bona fide permanent residents of the United States that the applicant is of good moral character. If applicant is able, the statements must be furnished from the residents of the city, then the state, and lastly from the rest of the United States. These references must be persons other than relatives and business associates;
- (17) All assumed names or aliases which have been or are used by any person whose name appears on an application;
- (18) Such other relevant identification and information necessary as the city clerk may reasonably require to discover the truth of the matters herein specified as required to be set forth in the application;
- (19) A statement of whether any applicant has been convicted of or has plead guilty or nolo contendere to a disqualifying criminal act as defined in this article, and if so, specify each criminal act involved, including the date, place, and jurisdiction of each, as well as, the dates of conviction and release from confinement, where applicable.
- (20) A statement as to whether any business in which an applicant has had an influential interest, has, in the previous seven (7) years, and at the time during which the applicant had the influential interest:

- i. Been declared by a court of law to be a nuisance, as defined under the Revised Judicature Act, MCL 600.3801; or
 - ii. Been subject to a court order of closure or padlocking;
- (c) *Signature required.* If a person who wishes to operate the business is an individual, the person shall sign the application. If a person who wishes to operate a business is other than an individual, each person with an influential interest in the business shall sign the application or a license as applicant.
- (d) *Disclosure.* The information provided by an applicant in connection with an application for a license under this article shall be maintained by the City Clerk's Office and all personal information shall be deemed confidential and may be disclosed only as required by law or by court order.
- (e) *Pre-existing businesses.* All smoking lounges operating pursuant to a valid certificate of occupancy on the effective date of this ordinance are hereby granted a de facto temporary license to continue operating for a period of one hundred and eighty (180) days following the effective date. During this period all smoking lounge businesses shall apply for a license pursuant to this article; and by the expiration date of the one hundred and eighty (180) days shall conform to all requirements for issuance of a license.
- (f) *Application review.* Upon the filing of a completed application for a smoking lounge business, the City Clerk will accept the application for necessary investigations and for compliance with the requirements of all applicable ordinances and codes. The holder of a smoking lounge license shall notify the city clerk of each change in any of the data required to be furnished by this section within ten (10) days after such change occurs.
- (g) The application shall be referred to the Department of Public Safety and Department of Technical and Planning Services for certification pursuant to chapter 22, and for recommendations as to the approval or denial of the license. Their recommendations will be forwarded to the City Council and City Clerk.
 - (1) The Public Safety Director shall recommend denial of an application for a license if the character, reputation, integrity, or physical or mental condition of the applicant or his/her employees is found to be inimical to the health, safety, moral or general welfare of the public. In making his determination hereunder, the Director of Public Safety shall consider:
 - a. Criminal history: All applicant's convictions, the reasons therefor, and the demeanor of the applicant subsequent to his release. A conviction of a felony or crime of moral turpitude shall be sufficient grounds to recommend denial.
 - b. License and permit history: The license and permit history of the applicant; whether such person has previously operated in this city or state or in another city or state under a license or permit; whether such person has had such license or permit revoked or suspended; the reasons therefor; and the demeanor of the applicant subsequent to such action.
 - c. Any information set forth in the application.
 - (2) The Department of Technical and Planning Services and the Department of Public Safety shall inspect the premises proposed to be devoted to the smoking lounge and shall make within a reasonable time separate recommendations to the City Manager concerning compliance with the requirements of this Code.
- (h) No license shall be issued until approval of the application therefor by the City Council and upon certification from the Department of Public Safety and the Department of Technical and Planning Services.

Sec. 22 – 531. -- License fee, annual expiration.

The business license fee for a smoking lounge shall be in the amount prescribed by the city council by ordinance or resolution. The license year shall be the period from the date of license issuance to December 31 next, inclusive, unless otherwise provided. All licenses issued for the license year shall expire on the thirty-first day of December unless suspended or revoked.

Sec. 22 – 532. -- License renewal.

Application to renew a license to operate a smoking lounge shall be filed at least thirty (30) days prior to the date of expiration. The application to renew a license shall be accompanied by a sworn affidavit by the applicants that the matters contained in the original application have not changed. The application shall be referred to the director of public safety, who shall investigate the criminal history of the applicant and any employees since the grant of the original license.

Sec. 22 – 533. -- License grounds for suspension or revocation.

The following shall be grounds for suspension or revocation of a license issued under the provisions of this chapter:

- (1) The license was procured by fraud or false representation of facts; or
- (2) The knowing violation of or failure to comply with the provisions of this chapter by the licensee or any of his servants, agents or employees and the conviction or bail forfeiture thereof; or
- (3) The conviction or bail forfeiture of a licensee for violation of a federal, state or local law, subsequent to the date of issuance of the license, relating to:
 - a. An offense involving the use of force or violence upon the person of another that amounts to a felony or misdemeanor; or
 - b. An offense involving sexual misconduct; or
 - c. An offense involving possession, use or sale of narcotics, dangerous drugs or alcoholic beverages; or
 - d. An offense involving dangerous weapons which amounts to a felony; or
 - e. An offense involving moral turpitude or the conviction or bail forfeiture of any of the licensee's servants, agents or employees of an offense involving moral turpitude committed on the premises in which the licensed establishment is located.
- (4) It is determined that the further operation of such establishment would be detrimental to the public health or welfare of the citizens of the city.

Sec. 22 – 534. -- Denial.

In the event the City Clerk issues a written notice to deny for failure to comply with the requirements of this Ordinance, the provisions of section 22-537 providing for an appeal hearing shall apply.

Sec. 22 – 535. -- Suspension.

The City Clerk shall suspend the license for a period of thirty (30) days if the licensee has knowingly violated this Ordinance or has knowingly allowed an employee to violate this Ordinance. Upon receiving notice of a violation, the Clerk shall issue a written notice to suspend, which shall include the grounds for suspension, the effective date of the suspension, and that the licensee may within twenty (20) days, request in writing, an appeal hearing before the City Council pursuant to the provisions of section 22-537. The suspension shall take effect twenty-one (21) days after the date of the notice of suspension.

Sec. 22 – 536. -- Revocation, non-renewal.

- (a) *Violation after previous suspension.* The City Clerk shall issue a written notice of revocation if the licensee knowingly violates this Ordinance or has knowingly allowed an employee to violate this Ordinance and the licensee's license has been suspended within the previous twelve (12) month period.
- (b) *Grounds for revocation/non-renewal.* The City Clerk shall issue written notice to revoke or non-renewal of the license if:

- (1) The licensee would not meet the standards set forth in this Ordinance if the licensee were an applicant for a new license.
 - (2) The licensee has knowingly or recklessly allowed two (2) or more violations of the regulations of this Ordinance in the preceding twelve (12) month period.
 - (3) The licensee has knowingly or recklessly allowed a nuisance, as defined under the Revised Judicature Act, MCL 600.3801, to be maintained upon the premises.
 - (4) The subject premises have existing violations of building, zoning, plumbing, mechanical, electrical, health or fire prevention codes.
 - (5) The operation of the licensed establishment has resulted in a pattern of patron conduct in the neighborhood of the establishment that substantially disturbs the peace, order, and tranquility of the neighborhood.
 - (6) The licensee has failed to maintain the grounds and exterior of the licensee's establishment by allowing litter, debris, and/or refuse to unreasonably remain on the property or adjoining properties.
 - (7) The licensee knowingly or recklessly operated the business during a period of time when the license was suspended.
 - (8) The licensee has knowingly or recklessly engaged in illegal activity or allowed any illegal activity to occur in or on the licensed premises.
- (c) *Effect of appeal of conviction.* The fact that any relevant conviction is being appealed shall have no effect on the revocation/non-renewal of the license, provided that, if any conviction which serves as a basis of a license revocation/non-renewal is overturned or reversed on appeal, that conviction shall be treated as null and of no effect and the license shall be reinstated.
- (d) *Effective date.* The revocation/non-renewal shall not take effect for twenty-one (21) days from the date of the notice of revocation/non-renewal.
- (e) *Appeal.* The written notice to revoke/non-renewal, shall include the grounds for the revocation/non-renewal, the effective date of the revocation/non-renewal, and that the licensee may request in writing, within twenty (20) days of the date of the notice of suspension, or revocation/non-renewal, an appeal hearing before the City Council pursuant to the provisions of section 22-537. If not appealed, the suspension shall take effect twenty-one (21) days after the date of the notice of suspension.

Sec. 22 – 537. -- Appeal hearing.

- (a) *Notice of hearing.* Upon receipt of a request for appeal, the City Council shall provide the licensee with notice and an opportunity to be heard. The City Council shall serve notice upon the licensee by certified mail, no less than twenty (20) days prior to the hearing date. The notice shall state:
- (1) The date, time and place of the hearing.
 - (2) A statement that the licensee may present evidence and testimony, and may be represented by an attorney.
- (b) *Hearing and decision.* The hearing shall be conducted by the City Council and shall be open to the public. The City Council shall submit to the licensee a written statement of its findings, decision, specific grounds for its decision, and a statement that the decision may be appealed to a court of competent jurisdiction.

Sec. 22 – 538. -- Inspections.

- (a) A licensee or any employee, servant or agent shall make the licensed premises available for inspection by the director of public safety or his designees during regular business hours or when the licensed premises are occupied by the licensee or a servant, agent or employee of the licensee for the purpose of enforcing this chapter or other ordinances, or regulations of the city relating to the public health, safety and welfare. No

duly authorized representative of the city shall be denied or refused entry to the premises for the purpose of making lawful inspections as authorized herein.

- (b) The person conducting any inspection shall have immediate access to the following information and shall have the right to inspect and copy the same:
 - (1) The list of all names and addresses of current employees including any other names for which that employee is known or may have used.
 - (2) Social security numbers of all current employees.
 - (3) All financial records showing current receipts and expenditures, specifically indicating daily and weekly receipts, type of expenditure made, bank account numbers in which all deposits are made, check register statements, bank statements and any other financial information kept and maintained in the normal and ordinary course of business.
- (c) To the extent permitted by law, copies of any information obtained hereunder and any information received by the city shall be kept confidential and is assumed to be privileged and not subject to public disclosure except however, as evidence in the commencement of any civil or criminal judicial proceeding or administrative hearing against the licensee or any agent, operator or manager.
- (d) Copies of any inspection report kept and maintained by the city arising from any inspection authorized hereunder, shall be provided to the licensee or any owner, operator or manager.

Sec. 22 – 539. -- Mechanical ventilation required.

Mechanical ventilation shall be supplied in compliance with the Michigan Mechanical Code to ensure sufficient ventilation of the smoking lounge. The recirculation and the natural ventilation of air from the smoking lounge is prohibited; and the air supplied to the smoking lounge shall be exhausted and discharged to an approved location in compliance with the Michigan Mechanical Code.

Sec. 22 – 540. -- Storage lockers prohibited.

Storage lockers shall be prohibited on the premises of a smoking lounge, except that onsite humidors may be permitted in the smoking area of a cigar bar.

Sec. 22 – 541. -- Outdoor activities prohibited.

There shall not be any outdoor activities, outdoor public admission events, or outdoor seating. The business activities shall be conducted wholly indoors. In no event shall designated onsite parking areas be used for any other purpose than parking of passenger vehicles. To ensure that the smoke is contained within the smoking area, all windows and doors shall remain closed to ensure that the smoke does not infiltrate nonsmoking areas and is not emitted to passersby.

Sec. 22 – 542. -- Prohibited activities.

It is unlawful for a licensee or local agent to knowingly violate the following regulations or to knowingly allow an employee, patron or any other person to violate the following regulations. The license or local agent shall remove anyone violating the following regulations:

- (a) *Minors prohibited.* No one shall be allowed on the premises of a smoking lounge business unless the individual is eighteen (18) years of age or older. The licensee and local agent shall ensure that identifications of individuals on the premises have been checked to determine that every individual is eighteen (18) years of age or older before entry into the premises. The exit doors shall be monitored to

ensure that no one has attempted to gain secret entry into the premises. A sign shall be posted near the entrance stating "No one under the age of eighteen (18) allowed."

- (b) *Alcoholic liquor.* No person shall sell, offer for sale, trade, provide, allow, possess, consume or attempt to consume any alcoholic liquor on the premises unless the licensee has obtained the appropriate license from the Liquor Control Commission pursuant to MCL 436.1101 *et seq.*, as amended, and this Code of Ordinances.
- (c) *Nudity prohibited.* No one shall be allowed on the premises of a smoking lounge business to appear nude or in a state of nudity as defined in section 6-125 of this article.
- (d) *Controlled substances prohibited.* It shall be unlawful to permit sales, offer for sale, trade, provide, allow, possession, consumption or attempt to consume any controlled substance on the premises in violation of Article 7 of the Public Health Code, MCL 333.1101 *et seq.*

Sec. 22 – 543. -- Name of business.

No person licensed to do business as provided in this chapter shall operate under any name or conduct his business under any designation not specified in his license.

Sec. 22 – 544. -- Hours of operation.

No smoking lounge shall be open to the public for business between the hours of 12:00 midnight and 8:00 a.m. No one shall be allowed on the premises except employees after 12:30 a.m. Only employees and/or contractors shall remain on the premises after closing and shall carry proof of employment.

Sec. 22 – 545. -- Local agent on premises.

The licensee, or the local agent designated in the application, shall remain on the premises while open for business to supervise the activities and shall be responsible to ensure compliance with the regulations of this article. In the event a licensee changes the local agent, the licensee shall immediately notify the Clerk in writing of the name and business address of the new local agent. All managers or local agents shall be over the age of twenty-one (21) years old.

Sec. 22 – 546. -- Sale or transfer.

(a) A licensee shall not transfer the license to another, nor shall a licensee operate a smoking lounge under the authority of a license at any place other than the address designated in the smoking lounge license application. Any transfer shall be grounds for suspension and revocation. A proposed transfer shall require a new application be filed and shall be subject to the same procedures, standards and fees required for a new license. Each location operated by a licensee requires a separate license.

(b) Approval of the transfer of a State issued exemption certificate by the State of Michigan shall not abrogate the requirement to apply for and obtain a smoking lounge license as required by this article. There shall be no transfer into the City of Oak Park of a State of Michigan Exemption Permit under the Dr. Ron. L. Davis Act of 2009; MCL 333.12601, *et seq.*, as amended.

Sec. 22 – 547. -- Change of location.

A change of location of any licensed premises shall be approved by the city clerk provided the requirements set forth herein as well as all other provisions of this code and state law are complied with.

Sec. 22 – 548. -- Extension or expansion.

Any extension or expansion of the licensed premises shall require inspection and shall require compliance with section 22-404 of this chapter.

Sec. 22 – 549. -- Applicability of regulations to existing facilities.

The provisions of this chapter shall be applicable to all persons and facilities described herein, whether the herein described activities were established before or after the effective date of this chapter and including any person or persons whose application is presently under consideration or investigation by the city.

Sec. 22 – 550. -- Penalties and enforcements.

(a) *Misdemeanor.* A person who violates or fails to comply with any of the provisions of this Ordinance shall be guilty of a misdemeanor, punishable by a maximum fine of Five Hundred Dollars (\$500.00) and/or a maximum of ninety (90) days imprisonment. Each day a violation is committed, or permitted to continue, it shall constitute a separate offense and shall be treated as a separate offense.

(b) *Civil proceedings.* The City Attorney or designee is hereby authorized to institute civil proceedings necessary for the enforcement of this Ordinance to restrain or correct ordinance violations, and for the recovery of costs and expenses incurred by the City, as authorized by law. Such proceedings, including injunctive relief, shall be brought in the name of the City, however, the institution of civil proceedings shall not preclude enforcement of misdemeanor, administrative, or any other proceeding authorized by ordinance, state or federal law.

Secs. 22–551 -- 22-559. -- Reserved.

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, Radner, Rich, Speech
	No:	None
	Absent:	None

MOTION DECLARED ADOPTED

CM-10-350-16 (AGENDA ITEM #13B) FIRST READING OF A PROPOSED TEXT AMENDMENT TO THE CITY OF OAK PARK ZONING ORDINANCE, ARTICLE VIII, B-2, GENERAL BUSINESS DISTRICT, SECTION 801 PERMITTED USES (THE TEXT AMENDMENT WOULD ALLOW SMOKING LOUNGES AS A PERMITTED USE) - APPROVED

Motion by Speech, seconded by Radner, CARRIED UNANIMOUSLY, to approve the first reading of the following proposed text amendment to the City of Oak Park Zoning Ordinance, Article VIII, B-2, General Business District, Section 801 Permitted Uses:

CITY OF OAK PARK, MICHIGAN

ORDINANCE NO.

AN ORDINANCE TO AMEND SECTION 801, PERMITTED USES, OF ARTICLE VIII, B-2, GENERAL BUSINESS DISTRICT, APPENDIX A, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN.

THE CITY OF OAK PARK, MICHIGAN ORDAINS:

SECTION 1. Article VIII, B-2, General Business Districts, Appendix "A", Zoning, of the Code of Ordinances of the City of Oak Park, is hereby amended to add the following:

Section 801. Permitted uses.

P. Smoking Lounges provided that:

- 1) The proposed Smoking Lounge is not located within 500 feet of a school, park, or place of worship.
- 2) The proposed Smoking Lounge is not located within 1,000 feet of any other Smoking Lounge.
- 3) Measurement of distances stated herein shall be in accordance with Section 1929(D) - Regulated Uses, Measurement.

SECTION 2. Conflicting Provisions Repealed

All ordinances in conflict with the provisions of this ordinance are repealed only to the extent necessary to give this ordinance full force and effect; provided that all other provisions of the Oak Park Code of Ordinances as heretofore amended shall remain in full force and effect.

SECTION 3. Severability

No other portion, paragraph or phrase of the Code of Ordinances of the City of Oak Park, Michigan shall be affected by this ordinance except as to the above sections, and in the event 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 of the Code of Ordinances of the City of Oak Park, Michigan.

SECTION 4. Effective Date

This ordinance shall be published as required by the Charter of the City of Oak Park and shall become effective ten (10) days from the date of its passage or upon the expiration of seven (7) days after its publication, whichever is later.

MADE, PASSED AND ADOPTED by the Council of the City of Oak Park on this _____ day of _____, 2016.

Roll Call Vote:	Yes:	McClellan, Burns, Radner, Rich, Speech
	No:	None
	Absent:	None

MOTION DECLARED ADOPTED

CM-10-351-16

(AGENDA ITEM #13C) FIRST READING OF AN ORDINANCE TO AMEND ARTICLE V, DANGEROUS BUILDINGS, OF CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, OF THE CODE OF ORDINANCES BY AMENDING SECTION 18-213 (THE AMENDMENT ALLOWS THE OWNER TO REQUEST A PUBLIC HEARING CONDUCTED BY THE BUILDING BOARD OF APPEALS WHEN A CHALLENGE IS MADE TO A DANGEROUS BUILDING ORDER) - APPROVED

Motion by Speech, seconded by Burns, CARRIED UNANIMOUSLY, to approve the first reading of the following ordinance to amend Article V, Dangerous Buildings, of Chapter 18, Buildings and Building Regulations, of the Code of Ordinances by amending Section 18-213:

CITY OF OAK PARK, MICHIGAN
ORDINANCE NO.

AN ORDINANCE TO AMEND ARTIVLE V, DANGEROUS BUILDINGS, OF CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, OF THE CODE OF ORDINANCES BY AMENDING SECTION 18-213.

THE CITY OF OAK PARK ORDAINS:

SECTION 1. Article V, Dangerous Buildings, of Chapter 18, Buildings and Building Regulations, of the Code of Ordinances of the City of Oak Park is hereby amended to read as follows:

Sec. 18-213. Hearing; testimony; order; nonappearance or noncompliance; costs.

- (a) ~~Unless a hearing is waived by the owner as described in section 18-212~~If requested by the owner, the building board of appeals shall conduct a public hearing at which the owner may show cause why the determination of the department of technical and planning services, as set forth in the notice and order to show cause, should not be complied with.
- (b) The building board of appeals shall take testimony of the enforcing agency, the owner of the property and any interested party. The building board of appeals may inspect any building or structure or premises involved in the hearing proceedings prior to the proceedings. The building board of appeals shall render a written decision either closing the proceedings or ordering the building or structure to be demolished or otherwise made safe. No building or structure shall be ordered demolished or removed unless the cost of repair of the building or structure will exceed 50 percent of the true cash value of the building or structure.
- (c) If it is determined by the building board of appeals that the building or structure should be demolished or otherwise made safe, it shall so order, fixing a time in the order by which the requirements of the order shall commence and be completed. Notice of the findings and order shall be given to the owner, and the occupant, if any, in the same manner as provided in section 18-209.
- (d) If the owner fails to comply with the decision and order provided for in subsection (c) of this section, the department of technical and planning services shall cause such building to be demolished or otherwise made safe. The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the city, who shall assess the cost against the property on which the building is located. The costs referred to in this subsection shall include, but are not limited to, attorney fees, title search costs, recording and termination fees related to lis pendens, and administrative fees.
- (e) The owner in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the amount within 30 days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the city, and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the city. The costs referred to in this subsection shall include,

but are not limited to, attorney fees, title search costs, recording and termination fees related to lis pendens, and administrative fees.

(Code 1973, § 9-47; Ord. No. O-97-364, § 1, 5-19-97)

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 section and in the event 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 of the Code of Ordinances of the 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.

MADE, PASSED AND ADOPTED by the Council of the City of Oak Park, on this 17th day of August, 2015.

Roll Call Vote:	Yes:	McClellan, Burns, Radner, Rich, Speech
	No:	None
	Absent:	None

MOTION DECLARED ADOPTED

CITY ATTORNEY: None

CITY MANAGER:

Community and Economic Development

(AGENDA ITEM #15A) Authorization for the City Manager to sign a purchase agreement and closing documents for the purchase of 14011 Ten Mile Road **(Removed from the Agenda)**

CM-10-352-16 **(AGENDA-AS AMENDED-ITEM #15A) RESOLUTION APPROVING A CONTRACT BETWEEN THE STATE COURT ADMINISTRATIVE OFFICE (SCAO) AND THE 45TH DISTRICT COURT FOR THE 2017 VETERANS TREATMENT COURT PROGRAM – APPROVED**

Motion by Burns, seconded by Speech, CARRIED UNANIMOUSLY, to adopt the following resolution approving a contract between the State Court Administrative Office (SCAO) and the 45th District Court for the 2017 Veterans Treatment Court Program:

CITY OF OAK PARK
OAKLAND COUNTY, MICHIGAN

RESOLUTION APPROVING A CONTRACT BETWEEN THE STATE COURT ADMINISTRATIVE OFFICE (SCAO) AND THE 45TH DISTRICT COURT FOR THE 2017 VETERANS TREATMENT COURT PROGRAM

At a Regular Meeting of the City Council of the City of Oak Park, Oakland County, Michigan, held at Oak Park City Hall located at 14000 Oak Park Boulevard on the 6th day of October, 2016, at 7:00 p.m.

The following preamble and resolution was offered by _____ and seconded by _____.

WHEREAS, the Michigan Supreme Court State Administrative Office (SCAO) is providing a Michigan Veterans Treatment Court Grant to the 45th District Court in the amount of \$38,000.00 for year 2017: and

WHEREAS, the contract for the Grant Program commences on 10/1/2016 and terminates on 9/30/2017;

NOW, THEREFORE, BE IT RESOLVED that the Oak Park City Council approves the Michigan Supreme Court State Court Administrative Office Michigan Veterans Treatment Court Grant Program FY 2017 Contract (#7249) and authorizes the Mayor and City Manager to sign the contract on behalf of the 45th District Court and the City of Oak Park.

Voice Vote:	Yes:	McClellan, Burns, Radner Rich, Speech
	No:	None
	Absent:	None

MOTION DECLARED ADOPTED

CM-10-353-16 (AGENDA ITEM #15B) REQUEST TO APPROVE A FACADE IMPROVEMENT GRANT TO SHERYL COLLIER, STUDIO 45, 26035 COOLIDGE, FOR 50% OF THE PROJECTED COSTS IN AN AMOUNT NOT TO EXCEED \$2,500.00 - APPROVED

Motion by Burns, seconded by Radner, CARRIED UNANIMOUSLY, to approve a Façade Improvement Grant to Sheryl Collier, Studio 45, 26035 Coolidge, for 50% of the projected costs in an amount not to exceed \$2,500.00.

Roll Call Vote:	Yes:	McClellan, Burns, Radner Rich, Speech
	No:	None
	Absent:	None

MOTION DECLARED ADOPTED

Community and Economic Development Director Marrone reported the proposed project specifications meet city guidelines for the Façade Improvement Grant program. The project consists of re-facing the building façade to match the neighbor's current renovation. Similar types of materials and colors will be used to match. Both quotes exceed \$5,000 to qualify for the maximum grant amount of \$2,500.

Council

(AGENDA ITEM #15C) Resolution extending the moratorium on accepting applications for Smoke Lounges (Removed from the Agenda)

(AGENDA ITEM #15D) Resolution extending the moratorium on accepting applications for Smoke Shops (Removed from the Agenda)

(AGENDA ITEM #15E) Resolution extending the moratorium on accepting applications for Medical Marijuana Grow Facilities and Medical Marijuana Dispensaries **(Removed from the Agenda)**

45th District Court

CM-10-354-16 (AGENDA-AS AMENDED-ITEM #15C) RESOLUTION APPROVING A CONTRACT BETWEEN THE STATE COURT ADMINISTRATIVE OFFICE (SCAO) AND THE 45TH DISTRICT COURT FOR THE 2017 MENTAL HEALTH COURT-PLANNING PROGRAM – APPROVED

Motion by Radner, seconded by Burns, CARRIED UNANIMOUSLY, to adopt the following resolution approving a contract between the State Court Administrative Office (SCAO) and the 45th District Court for the 2017 Mental Health Court – Planning Program:

**CITY OF OAK PARK
OAKLAND COUNTY, MICHIGAN**

RESOLUTION APPROVING A CONTRACT BETWEEN THE STATE COURT ADMINISTRATIVE OFFICE (SCAO) AND THE 45TH DISTRICT COURT FOR THE 2017 MENTAL HEALTH COURT – PLANNING PROGRAM

At a Regular Meeting of the City Council of the City of Oak Park, Oakland County, Michigan, held at Oak Park City Hall located at 14000 Oak Park Boulevard on the 6th day of October, 2016, at 7:00 p.m.

The following preamble and resolution was offered by _____ and seconded by _____.

WHEREAS, the Michigan Supreme Court State Administrative Office, Lansing Michigan (SCAO) is providing a Michigan Mental Health Court - Planning Grant to the 45th District Court in the amount of \$55,510.00 for year 2017: and

WHEREAS, the contract for the Grant Program commences on 10/1/2016 and terminates on 9/30/2017;

NOW, THEREFORE, BE IT RESOLVED that the Oak Park City Council approves the Michigan Supreme Court State Court Administrative Office Michigan Mental Health Court - Planning Grant Program FY 2017 Contract (#8148) and authorizes the Mayor and City Manager to sign the contract on behalf of the 45th District Court and the City of Oak Park.

Voice Vote:	Yes:	McClellan, Burns, Radner Rich, Speech
	No:	None
	Absent:	None

MOTION DECLARED ADOPTED

CALL TO THE AUDIENCE: None

CALL TO THE COUNCIL:

Mayor McClellan requested Assistant City Manager/Director of Public Works Yee present an update on the MDOT Victoria Park Project.

Mr. Yee reported the project is in the final stages of completion with most of Church St. having been re-poured and most of the playground equipment having been installed. He noted additional pavement on Church St. will be replaced, with the parking lot and sidewalks to be completed possibly by the second week in November. Mr. Yee indicated the landscape plan will be started this year and completed in the spring along with any remaining restoration work.

Mayor McClellan shared comments from a resident commending Water Supervisor Steve Lukasik.

Mayor Pro Tem Burns thanked everyone for attending the meeting and wished them a pleasant evening.

Council Member Speech commended City staff for the quick completion of the Sidewalk Replacement Program, reminded residents to turn on their porch lights now that the sun is setting earlier, and asked residents to pay attention to street sweeping signs.

Council Member Radner echoed Mayor Pro Tem Burns' comments.

Council Member Rich thanked everyone for attending the meeting and wished them a great night.

ADJOURNMENT:

There being no further business to come before the City Council, Mayor McClellan adjourned the meeting at 7:31 P.M.

Cherilynn Brown, Deputy City Clerk

Marian McClellan, Mayor