

City Council Regular Meeting
Madison Heights, Michigan
October 24, 2022

A City Council Regular Meeting was held on Monday, October 24, 2022 at 7:30 PM at Fire Station 1 Training Room - 31313 Brush Street

PRESENT

Mayor Roslyn Grafstein
Councilwoman Toya Aaron
Mayor Pro Tem Mark Bliss
Councilman Sean Fleming
Councilor Emily Rohrbach
Councilman David Soltis
Councilor Quinn Wright

OTHERS PRESENT

City Manager Melissa Marsh
Assistant City Attorney Tim Burns
City Clerk Cheryl Rottmann

The invocation was given by Councilman Fleming and the Pledge of Allegiance followed.

MEETING OPEN TO THE PUBLIC:

DPS Director Almas spoke on the contributions of Jerry Dzerogian to the Parks and Recreation Advisory Board and to the City of Madison Heights and thanked him for his 54 years of service to the community.

Friends of the Library President Deborah Shepherd stated that the Friends exist solely to promote and build up the library in the community. The Friends are proud to be part of making Madison Heights and the Madison Heights Library a great place.

CONSENT AGENDA:

Motion made by Mayor Pro Tem Bliss, Seconded by Councilor Rohrbach to approve the Consent Agenda, as read.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

CM-22-300. Regular City Council Meeting Minutes of October 10, 2022.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilor Rohrbach to approve the Regular City Council Meeting Minutes of October 10, 2022, as printed.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

CM-22-301. Friends of the Library Memorandum of Understanding.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilor Rohrbach to approve the Friends of the Library Memorandum of Understanding with the Friends of the Madison Heights Public Library as presented.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

CM-22-302. Vehicle #484, Parks Division Pick-Up Truck, Scheduled Replacement.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilor Rohrbach to approve the purchase of one 2022 Chevy Silverado from Todd Wenzel Chevrolet, of Hudsonville, Michigan, in the amount of \$33,251.00.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

CM-22-303. DPS Director - Ordinance No. 2189 - Stormwater Ordinance Update, Second Reading.

Motion made by Councilor Rohrbach, Seconded by Councilman Fleming to approve Ordinance No. 2189, Stormwater Ordinance Update, on Second Reading as follows:

**ORDINANCE NO. 2189
CITY OF MADISON HEIGHTS
OAKLAND COUNTY, MICHIGAN**

AMENDMENT TO THE CODE OF ORDINANCES

An Ordinance to amend Ordinance 571, being an Ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, Michigan by amending Chapter 29, Article V, Section 117 of the Code of Ordinances to provide a program for post construction stormwater management and modifying the current Chapter 29, Article V, Section 117, Ordinances in Conflict to Chapter 29, Article V, Section 118, Ordinances in Conflict.

THE CITY OF MADISON HEIGHTS ORDAINS

Section 1.

That Chapter 29, Article V, Section 117 of the City of Madison Heights, Michigan, Code of Ordinances is hereby amended in its entirety to read as follows:

Sec. 29-117. POST CONSTRUCTION STORMWATER MANAGEMENT PROGRAM

A. Purposes: The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Madison Heights through the regulation of stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the quality and quantity of stormwater discharge from a private property into a municipal storm sewer, enclosed or open conveyance systems.
- (2) To establish legal authority to implement permitting and delegation of monitoring and maintenance responsibilities necessary to ensure compliance with this article.
- (3) To adopt the Stormwater Engineering Design Standards set forth by the Oakland County Water Resources Commissioner's Office and that application of said standards shall be subject to the review and approval of City Engineers who make or allow exceptions to said standards as they determine appropriate in any specific case.

B. Definitions: The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates another meaning:

- (1) **Authorized Enforcement Agency** means the city engineer and his/her authorized representatives, which shall specifically include all inspectors and code enforcement, and any other individual designated by the City Manager to enforce this ordinance. Where applicable the term may also mean the director of the Michigan Department of Environment, Great Lakes and Energy (EGLE) and/or his/her designated official, and/or the United States EPA Administrator or his/her designated official
- (2) **Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating

procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

- (3) **City** means the City of Madison Heights, Michigan.
- (4) **Clean Water Act** means the Federal Water Pollution Control Act (33 U.S.C. section 1251, et seq.), and any subsequent amendments thereto.
- (5) **County** means the County of Oakland.
- (6) **Construction Activity** means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of five acres or more requiring an issued permit and small construction activities impacting one to five acres of land deemed to operate under a national permit. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.
- (7) **MS4** means a municipal separate storm sewer system
- (8) **National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit** means a permit issued by United States Environmental Protection Agency (EPA), or by the State of Michigan under authority delegated pursuant to 33 USC section 1342(b) and codified in the Michigan Natural Resources and Environmental Protection Act Protection at MCL 324.101 et seq., that authorizes the discharge of wastewater to waters of the United States or State of Michigan, whether the permit is applicable on an individual, group, or general area-wide basis.
- (9) **Person** means any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.
- (10) **Pollutant** means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (11) **Premises** means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (12) **Storm sewer system or storm drainage system** means a publicly owned facility by which stormwater is collected and/or conveyed,

including, but not limited to, road drainage systems, inlets, catch basins, or other drainage structures, piped/enclosed storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, excluding surface waters.

(13) **Stormwater** means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

(14) **Wastewater** means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

C. Applicability: This ordinance shall apply to all development and redevelopment sites discharging to the City's MS4 as outlines in Oakland County's new stormwater engineering design standards, here forth referred to as the Oakland County Stormwater Standards.

D. Enforcement, Responsibility for Administration: This ordinance shall be enforceable by the City Engineer, building official, or other authorized enforcement agency.

E. Minimum Standards: The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

F. Right of Entry: The City Engineer, building official, or other authorized enforcement agency shall be permitted to enter upon all properties for the purposes of inspection of stormwater BMPs in accordance with the provisions of this article. Refusal of reasonable access to the City Engineer, building official, and/or representatives of the authorized enforcement agency to any part of the premises is a violation of this article.

G. Requirements to Manage Stormwater by Following Oakland County Stormwater Standards: The city adopts the requirements set out in the Oakland County Stormwater Standards. The Standards lay out a consistent county wide best managements practices (BMPs) to regulate stormwater quantity and quality discharge as approved by EGLE. The owner of a new development or redevelopment meeting the thresholds set out in the Oakland County Stormwater Standards shall, at their own expense, apply for and obtain a permit ahead of starting construction, engineered stormwater controls contained within the applicant's property meeting the design criteria of the Oakland County Stormwater standards. The property owner, upon completion of construction, must enter into a binding long-term maintenance agreement with the city, at their own expense, to document, routinely monitor and maintain the stormwater quantity and quality BMPs so they continue to operate as designed. The agreement shall be set up that if the property owner should be determined to be nonresponsive to a notice of required maintenance actions, that the city may enter the property to perform the maintenance required.

H. Enforcement:

- (1) Notice of Violation: Whenever the City engineer, Director of Public Services or its designee, building inspector, or code enforcement finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the city may order compliance by written notice of violation. Such notice may require without limitation:

The performance condition monitoring and measuring; The performance maintenance work in order to get BMPs functioning as designed; Payment of fines and cost to cover reimbursement of direct and administrative costs; In some cases, a bond to be posted.

- (2) Abatement of Violation: If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator failed to remediate or restore within the established deadline, the work will be done by the City or its designee at the violator's expense.

- I. Appeal Of Notice of Violation: Any person receiving a Notice of Violation may appeal the determination of the City. The notice of appeal must be received within 21 days from the date of the Notice of violation. Hearing on the appeal before the appropriate authority or designee shall take place within 14 days from the date of the receipt of the notice of appeal. The decision of the City or designee shall be final.

- J. Enforcement Measures After Appeal: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or in the event of an appeal, within 25 Item 5. 5 14 days of the decision of the City upholding its decision, then representatives of the City or designees may enter upon the subject private property and are authorized to take any and measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the City or its designees to enter upon the premises for the purposes set forth above.

- K. Cost Of Abatement of Violation: The cost of actual abatement and administration costs shall be the responsibility of the owner of the property. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs, in writing. The property owner may file a written objection to the amount assessed with 10 days of the date of the notice of costs. If the amount due is not paid in a timely manner, as determined by the City, or by the expiration of the time in which to file a timely appeal, the costs will become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of five (5%) per annum

shall be assessed on the balance beginning on the first day following discovery of the violation.

- L. Injunctive Relief: It shall be unlawful for any person to violate any provision or fail to comply with any of the requirement of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City may petition for a permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation in violation.
- M. Other Proceedings: In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the city may impose upon a violator alternative compensatory action, including but not limited to storm drain stenciling, attendance at compliance workshops, and other cleanup.
- N. Violations Deemed a Public Nuisance: In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provision of this ordinances is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense. The City may also simultaneously or alternatively initiate a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.
- O. Criminal Prosecution: Any person who has violated this ordinance shall be guilty of a misdemeanor and subject to 90 days in jail and/or a \$500 fine, plus attorney's fees, court costs, abatement costs, costs associated with enforcement of this ordinance including monitoring and maintenance expenses, and any other costs determined by the Court. A separate violation occurs for each day that the violation exists without complete abatement.
- P. Remedies Not Exclusive: The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the city and/or authorized enforcement agency to seek cumulative remedies.

Section 2.

That Chapter 29, Article V, Section 117 of the City of Madison Heights, Michigan, Code of Ordinances is hereby amended to Chapter 29, Article V, Section 118 and shall read as follows:

Sec. 29-118. Ordinance in conflict.

All ordinances or parts of ordinances of the City of Madison Heights in conflict with this article are superseded by this article only to the extent necessary to give this article full force and effect.

Section 3.

In the event any section, subdivision, clause or phrase of this Ordinance be declared by the Courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part so invalidated.

Section 4.

All other provisions of the code of ordinances of the City of Madison Heights, Michigan except as herein modified are hereby expressly ratified and affirmed. This ordinance shall become effective upon passage and publication.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

CM-22-304. Zoning Text Amendment ZTA 22-02 [Ordinance 2188] - Caregiver Marihuana Grow Overlay District Amendment, Second Reading.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilwoman Aaron to approve Ordinance No. 2188, Zoning Text Amendment 22-02, Caregiver Marihuana Grow Overlay District Amendment, on Second Reading as follows:

**ORDINANCE NO. 2188
CITY OF MADISON HEIGHTS
OAKLAND COUNTY, MICHIGAN
ZONING TEXT AMENDMENT 22-02**

An ordinance to amend Ordinance 571, being an ordinance codifying and adopting a new Code of Ordinances for the City of Madison Heights, by amending Appendix A, Section 10.350 – Caregiver Marihuana Grow Overlay District Requirements – to limit primary caregiver marihuana grow operations to properties that are zoned M-1, Light Industrial, or M-2, Heavy Industrial, and located at a parcel identified within the Caregiver Marihuana Grow Overlay District.

The City of Madison Heights ordains:

Section 1. Section 10.350 – Caregiver Marihuana Grow Overlay District Requirements – is hereby amended to read as follows:

The following standards and requirements shall apply to any location at which the cultivation of medical marihuana is conducted by a primary caregiver.

- (a) Registered primary caregivers authorized under this article shall be located in an M-1, Light Industrial, or M-2, Heavy Industrial zoning district and shall be located at a parcel that is identified within the Caregiver Marihuana Grow Overlay District.
- (b) The cultivation of medical marihuana by a caregiver shall comply at all times with the MMMA and the MMMA General Rules, as amended.
- (c) Not more than one registered primary caregiver shall be permitted to operate at any one parcel located with the Caregiver Marihuana Grow Overlay District.

- (d) The cultivation of medical marihuana by a primary caregiver shall be conducted entirely within an "enclosed, locked facility" (as that phrase is defined by the MMMA), up to 12 marihuana plants for each registered qualifying patient with whom the registered primary caregiver is connected through the registration process established by the Department of Licensing and Regulatory Affairs, and up to 12 additional marihuana plants for personal use, if the primary caregiver is also registered as a qualifying patient under the MMMA. The number of marihuana plants shall not exceed the number of marihuana plants permitted by the MMMA in total aggregate at any location or multiple locations whether located in the city or outside of the city.
- (e) No sign identifying the location by word, image or otherwise, or indicating that the cultivation of medical marihuana is taking place on the premises, shall be permitted; nor shall any vehicle having such a sign be parked anywhere on the premises.
- (f) Distribution of marihuana or use of items in the administration of marihuana shall not occur at or on the parcel where medical marihuana is cultivated. A qualifying patient shall not visit, come to, or be present at the parcel where medical marihuana is cultivated to purchase, smoke, consume, obtain or receive possession of any marihuana.
- (g) No on-site consumption or smoking of marihuana shall be permitted within the parcel (or on the property) where medical marihuana is cultivated, except for lawful medical marihuana consumption by the primary caregiver if registered as a qualifying patient under the MMMA.
- (h) Medical marihuana shall not be grown, processed, handled or possessed at the location where medical marihuana is cultivated beyond that which is permitted by law.
- (i) A certificate of occupancy, together with a required site plan review, shall be obtained from the city and all necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a building or structure in which equipment and devices that support the cultivation, growing or harvesting of marihuana are located or used.
- (j) If marihuana is grown or located in a room with windows, all interior lighting shall be shielded to prevent ambient light from creating a distraction for adjacent properties.
- (k) Related merchandise or products shall not be sold or distributed from the property.

- (l) There shall be no exterior storage or parking of materials or equipment.
- (m) No nuisance shall be generated by any heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases or matters at any time.
- (n) The entire parcel and all enclosed, locked facilities shall be available for inspection upon request by the zoning administrator, building official, fire official or law enforcement official during reasonable business hours.

Section 2. Repealer

All ordinances or parts of ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

Section 3. Severability

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

Section 4. Savings

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Section 5. Effective Date

This ordinance as ordered shall take effect ten (10) days after its adoption and upon publication.

Section 6. Enactment

A copy of this ordinance may be inspected or purchased at the City Clerk's office between the hours of 8:00 a.m. and 11:30 a.m. and between 12:30 p.m. and 4:30 p.m. on regular business days.

Voting Yea: Mayor Grafstein, Councilwoman Aaron, Mayor Pro Tem Bliss, Councilman Fleming, Councilor Rohrbach, Councilman Soltis, Councilor Wright

Motion carried.

Council Comments:

Councilwoman Aaron announced that her son Jordon will be part of the CADCA Youth Leadership Training of Trainers (TOT) cohort 2023 representing the Madison Heights Youth Coalition as a Student Representative. Lamphere High School will be holding their fall lunch and play for seniors; information is available at Lamphere High School and on their Facebook page. She stated that it was a great pleasure working with Jerry Dzerogian. She commented that a friend had a gun pulled on her at local hospital, 2 nurses were shot in Texas, and a nurse was

stabbed in psychiatric hospital. Just like front-line workers, healthcare workers go to their jobs and don't know if they will make it home. Please pray for all our front-line workers and for all walks of life. Thank you, front-line workers, for all your hard work and all you do.

Mayor Pro Tem Bliss expressed congratulations to Jordon for his selection for CADCA training. He stated that he appreciates everything Jerry Dzerogian has done for the city, it has been an honor and privilege to serve with him and he will be missed. The Arts Board Pumpkin Walk was a phenomenal event and thank you to all that put in your time and effort to make it happen. If you haven't voted yet, please do so at the City Clerk's office. He stated that this meeting had 10 minutes of City business; if we adopt a Charter Amendment on required meetings, it will create flexibility for other reasons other than just religious holidays. He stated that he supports a Charter Amendment because it would benefit us not only from an inclusive standpoint, but fiscally since not holding a meeting will save on payroll expenses for staff as well.

Councilor Wright stated that he attended MML Fall Conference last week and it was a phenomenal event. It helped to improve understanding the potential and opportunities we have to work together and encourage him to dream big on what we can do together. He concurs with the Charter Amendment proposal on meeting requirements and wished everyone a Happy Halloween. Please remember to be kind.

Assistant City Attorney Burns stated that Council will be receiving some ordinance updates in the next couple weeks based on changes in criminal law at the State level.

City Manager Marsh thank Jerry Dzerogi for all his work and noted he will be missed. The art project is underway to provide local artwork for City Hall; if you are interested in participating, please submit your work. Send a jpeg or pdf of your work to the City Manager's office; submittals are open through December.

City Clerk Rottmann stated today was the last day to register to vote for the November 8th election by any method other than in person at the City Clerk's office. In-person registration continues until 8 p.m. on November 8th. Tomorrow, the Clerk's office is having pop-up office hours and will be open until 7 p.m. to handle any resident's election business. Come in and register to voter, receive your absentee ballot or get a sample ballot before you go to the polls on Election Day. All polling locations will be open from 7 a.m. to 8 p.m. Sample ballots and polling location information is also available on the City Clerk's page on the city website. Please remember that the people staffing these polling places are your neighbors, family members and fellow citizens and we couldn't administer elections without them - remember to be kind.

Councilor Rohrbach expressed thanks to the Friends of the Library for continue support of our library. Thank you to Jerry Dzerogian; she appreciates his humor and leadership.

Councilman Fleming stated that the Crime Commission completed their annual 2023 planning goals which includes holding a townhall for residents to talk to the Police Department. He attended the SEMCOG General Assembly and participated in seminars on electric vehicle fleets and reviving downtowns. Today starts the Hindu Festival of Diwali; Happy Diwali to those celebrating. Leaf pickup has begun, please put them on the curb for pickup.

Councilman Soltis had no comments this evening

Mayor Grafstein wished a Happy Diwali to everyone celebrating. Rake with the Mayor is November 5th; reach out to City Manager if you are interested in volunteering. The Tree Lighting is November 28th. Thank you to Police and Fire departments for all that you do for our residents

and for participating in the Pumpkin Walk. There appears to be an increase of violence on everyone and we need to be aware, so please think about what you are saying. To Jerry Dzerogian, on behalf of all, we appreciate everything you have done for the city.

ADJOURNMENT

Having no further business, the meeting was adjourned at 7:56 p.m.

Roslyn Grafstein
Mayor

Cheryl E. Rottmann
City Clerk