

City Council Regular Meeting
Madison Heights, Michigan
February 13, 2023

A City Council Regular Meeting was held on Monday, February 13, 2023 at 7:30 PM at City Hall - Council Chambers, 300 W. 13 Mile Rd.

PRESENT

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

ABSENT

Councilor Emily Rohrbach.

OTHERS PRESENT

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

Mayor Pro Tem Bliss gave the invocations and the Pledge of Allegiance followed.

CM-23-24. Excuse Councilmember.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Soltis, to excuse Councilor Rohrbach from tonight's meeting.

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

Absent: Councilor Rohrbach

Motion carried.

PRESENTATIONS:

2023 Random Acts of Kindness Resolution

City Manager Marsh read the Random Act of Kindness Resolution and encouraged all citizens to join in observing the week by committing acts of goodwill towards others and to make kindness a way of life.

Mayor Grafstein presented the resolution to former Councilwoman Margene Scott. Ms. Scott gave the history of how the Random Acts of Kindness week came to the City of Madison Heights. She thanked the citizens for participating in this event and noted that kindness should be the norm and thanked Council for their continued support.

CM-23-25. Special Approval Request PSP 22-11 - 1275 & 1301 W. 14 Mile Road - Auto Wash

City Manager Marsh reviewed Special Approval Request PSP 22-11.

Mayor Grafstein opened the public hearing at 7:39 p.m.

Attorney Dennis Cowan from Plunket Cooney and Samantha Burgner, applicant, Alrig USA, were present along with the applicant's engineer and traffic study consultant. Mr. Cowan stated this is a mixed-use proposal that meets the City's use standards. The proposal is for an El Car Wash and Mojo Donuts which are Florida companies that want to come to southeast Michigan. Ms. Burgner stated that El Car Wash was established four years ago and now has 26 sites in Florida. The Madison Heights location will be the first in Michigan. The proposed mixed-use includes a retail space and outdoor patio space with connectivity to the neighborhood. They will be locally connected and service the members of the community. She stated that they have "takeover days" which utilize operations for fundraisers, collaborate with the local Chamber of Commerce and partner with local businesses for discount opportunities. The traffic study shows minor impact. They will have two electric vehicle charging stations, are committed to sustainability by looking out for their carbon footprint and they will recycle 95% of the water used; further, all vacuum motors are encased in concrete or inside the building to minimize the sound impact. The site will always be staffed to allow for customer service. They are very excited to come to Madison Heights and they feel this will enhance the corridor.

Martha Covert, resident, stated that the City already has nine car washes and two other donut shops in the area. She asked who pays for the EV charge?

Seeing no one further wishing to speak, Mayor Grafstein closed the public hearing at 7:49 p.m.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Fleming, to approve Special Approval Request PSP 22-11 for 1275 & 1301 W. 14 Mile Road for an auto wash facility in a B-3, General Business district, with the following conditions:

- 1) Combine the two (2) separate parcels into a single parcel via the lot combination process.
- 2) Include a retail/food component and outdoor patio area on the site plan to activate the 14 Mile Road streetscape. The patio area shall be substantially consistent with the renderings, the exact location and design of which may be determined during the site plan review process.
- 3) Provide a pedestrian sidewalk connection between the 'pre-wash' spaces and the retail component. The pedestrian connection shall be improved with an alternate paving material (e.g. stamped concrete/asphalt) where it crosses vehicular drive aisles. The exact location and design of the pedestrian connection may be determined during the site plan review process.
- 4) Improve the pedestrian connection from W. 14 Mile Road with an alternate paving material (e.g. stamped concrete/asphalt) where it crosses vehicular drive aisles.

- 5) Provide a minimum of two (2) electric vehicle (EV) charging stations, level two or above, on the site. The exact location of the charging stations may be determined during the site plan review process.
- 6) Modify the location of the bypass lane into the parking/vacuum area to ensure that drivers and emergency vehicles can escape a long queue line, if needed. The exact location of the bypass lane may be determined during the site plan review process.
- 7) Seek approval from the Road Commission for Oakland County (RCOC) for a right-turn deceleration taper lane along 14 Mile Road in accordance with the Fleis & Vandenbrink traffic study.
- 8) Obtain a variance from the Zoning Board of Appeals for outdoor vacuuming stations, which are prohibited per Section 10.326(8)(q).
- 9) Modify the hours of operation to satisfy the use-specific condition of Section 10.326(8)(c), "the time of operation shall be limited between the hours of 8:00 a.m. and 10:00 p.m." or seek a variance from the Zoning Board of Appeals.
- 10) Revise the location of the proposed roof sign to comply with sign regulations, Section 10.511, or seek a variance from the Zoning Board of Appeals. PSP 22-11 – 1275 & 1301 W. 14 Mile Rd. – Auto Wash Page 7
- 11) Remove the existing nonconforming pylon sign. All new wall and ground signage shall be in compliance with city sign regulations, 10.511 of the Zoning Ordinance.
- 12) Building elevations submitted for site plan review shall be substantially consistent with the provided renderings. the applicant shall have the ability to work with the Community & Economic Development Department to develop alternative elevations that meet the spirit of the renderings

In response to Mayor Pro Tem Bliss's question, Ms. Burgner stated that the company has control over electric charging rates, so they can structure the rate to provide some free charging time.

In response to Councilman Soltis's question, Ms. Burgner stated that there is about a 5% water loss through the filtration process. Mr. Cowan noted that up until about a decade ago, most carwashes didn't have recycling efforts. He added that there is some run off as well. Councilman Soltis stated he is concerned about volume of waste and questioned the viability of the donuts and carwash concept. Ms. Burner responded that they currently have this combination of use in other locations, and it has been successful.

In response to Mayor Grafstein's concern with a third donut shop in this area, Ms. Burgner noted their commitment is to keep it a food space, even if the donut concept doesn't work out.

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

Motion carried.

MEETING OPEN TO THE PUBLIC:

Martha Covert, resident, spoke in support of the City coming together and in opposition to being politically divided in a non-partisan arena. She stated she would like to see more Councilmembers at the Coffee Concerts.

City Clerk Rottmann read a letter from Jerry Dzeroogian thanking City Council for their Certificate of Recognition on his behalf.

CONSENT AGENDA:

Motion made by Councilwoman Aaron, Seconded by Councilor Wright, to approve the Consent Agenda as read.

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-26. CED Fee Schedule Amendment - Landlord Licensing Term.

Motion made by Councilwoman Aaron, Seconded by Councilor Wright, to approve the following resolution to extended landlord license terms from three to four-year terms, effective immediately:

RESOLUTION
AMENDMENT TO COMMUNITY DEVELOPMENT DEPARTMENT
FEE SCHEDULE

WHEREAS, the City of Madison Heights has adopted a City Code containing building regulations including the property maintenance code and other provisions such as landlord licensing, to protect public health safety and welfare; and

WHEREAS, the City Code provides that fees and term of a landlord license shall be established by City Council; and

THEREFORE, BE IT RESOLVED, that the Community Development Fee Schedule be amended as follows:

Landlord licensing registrations and renewals calculated on a 48-month basis with fees set according to the following schedule:

<u>Four-Year Registration Fees:</u>	<u>New Registrations and Renewals Through Renewal Date*</u>
Single-family	\$200.00
2 to 4 units	\$245.00
5 or more units	\$47.50 per unit

*Code enforcement action will commence if the applications and fee are not received before the current expiration date; if the renewal is not completed within thirty (30) days after the renewal date; or if a new application is not completed within thirty (30) days of the initial application date.

A fee of \$70 per inspection shall be charged for all locked-out inspections and the second re-inspection of all failed inspections.

Note: All renewal licenses are for forty-eight (48) months. New and pro-rated licenses may be for less than forty-eight (48) months. All licenses for the same landlord will expire on the same date.

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-27. City Council Special Meeting Minutes of January 23, 2023.

Motion made by Councilwoman Aaron, Seconded by Councilor Wright, to approve the City Council Special Meeting minutes of January 23, 2023, as printed.

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-28. City Council Regular Meeting Minutes of January 23, 2023.

Motion made by Councilwoman Aaron, Seconded by Councilor Wright, to approve the City Council Regular Meeting minutes of January 23, 2023, as printed.

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-29. Interlocal Agreement - Oakland Together Senior Center Matching Grant.

Motion made by Councilwoman Aaron, Seconded by Councilor Wright, to approve the Interlocal Agreement between the City of Madison Heights and Oakland County for the Oakland Together Senior Center Matching Grant and authorize the City Manager to execute this agreement on behalf of the City.

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-30. Amendment of Parks/Facility Naming Policy Criteria.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Fleming, to amend the Parks/Facility Naming Policy criteria to remove the provision "A person, deceased more than two (2) years, who provided an exceptional service in the interest of the park system as a whole or for the community as a whole" and to also send the policy to Historical Commission to revise in its entirety and resubmit to the City Council for consideration by the end of the year.

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-31. Naming of the Library's Children's Room for Robert J. Corbett.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Fleming, to name the Library Children's Room for Robert J. Corbett

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-32. Naming of the Monroe Park Pavilion for Robert B. Gettings.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Fleming, to name the pavilion in Monroe Park for Robert B. Gettings.

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

Voting Nay: Councilman Soltis

Absent: Councilor Rohrbach

Motion carried.

CM-23-33. Renaming Ambassador Park for Gary R. McGillivray.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilman Fleming, to rename Ambassador Park for Gary R. McGillivray.

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

Absent: Councilor Rohrbach

Motion carried.

County Commissioner Gary McGillivray stated that it was an honor to be alive and have a park named after you. He noted that he served on the Parks and Recreation Advisory Board for 20 years and currently is the Chair of the Oakland County Parks Commission. Parks are his passion, and he truly appreciates Council honoring him in this manner.

CM-23-34. Charter Amendment Study Group Appointments.

Motion made by Councilman Fleming, Seconded by Mayor Pro Tem Bliss, to appoint the following to the Charter Amendment Study Group:

Martha Covert
Steve Dombroski
Anthony Klepacki
Margene Scott
Kevin Wright

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-35. DPS - 2023 Water Main Pipe and Parts Bid Award.

Motion made by Mayor Pro Tem Bliss, Seconded by Councilwoman Aaron, to award the bid for the 2023 water main replacement pipe and parts to the lowest responsible bidder who bid on all items listed, Core & Main, of Shelby Township, Michigan, for the unit prices specified for a total project cost of \$266,272.54; and approve extending this bid to the upcoming proposed stand-alone water main projects at the unit prices identified, subject to FY 2023-24 Budget approval.

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

Absent: Councilor Rohrbach

Motion carried.

CM-23-36. Ordinance 2192 (Illicit Discharge Elimination Plan (IDEP) Ordinance) - Second Reading.

Motion made by Councilwoman Aaron, Seconded by Councilor Wright, to approve Ordinance No. 2192, Illicit Discharge Elimination Plan (IDEP) Ordinance on Second Reading, as follows:

ORDINANCE NO. 2192
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, by amending, in part, Chapter 29, Article V, Section 29-116 to provide for the health, safety, and general welfare of the citizens of the City of Madison Heights through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.

THE CITY OF MADISON HEIGHTS ORDAINS

Section 1.

That Chapter 29, Article V, Section 29-116 of the Code of Ordinances of the City of Madison Heights is hereby amended in its entirety to read as follows:

Sec. 29-116 Exclusion of Stormwater from Sanitary Sewers & Illicit Discharge Elimination

A. **Purposes:** To provide for the health, safety, and general welfare of the citizens of the City of Madison Heights through the regulation of non-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 contribution of pollutants to the municipal storm sewer system by stormwater discharges by any user.
- (2) To prohibit illicit connections and discharges to the municipal storm sewer system.
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article.

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 a different meaning:

Authorized enforcement agency means the City of Madison Heights Department of Public Services and its authorized representatives, which shall specifically include all inspectors and code enforcement, and any other individual designated by the City Manager or Mayor of the City of Madison Heights to enforce this Ordinance. Where applicable, the terms may also mean the director of the Michigan Department of

Environment, Great Lakes, and Energy (EGLE) or his/her designated official, and/or the United States EPA Administrator or his/her designated official.

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.

City means the City of Madison Heights.

Clean Water Act means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

County means the County of Oakland.

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.

Hazardous materials mean any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge means any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in sub-section G of this Ordinance.

Illicit connections mean either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited, to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial activity means activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

MS4 means a municipal separate storm sewer system.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means a permit issued by the United States Environmental Protection Agency

(EPA), or by the State of Michigan under authority delegated pursuant to 33 USC § 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 pollutants to waters of the United States or State of Michigan, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge means any discharge to the storm drain system that is not composed entirely of stormwater.

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.

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; floatables; pesticides, herbicides, and fertilizers; 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.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Sanitary sewer system means the publicly owned facilities consisting of, but not limited to, transporting pipes, pumping equipment, storage containment, treatment operations and other structures for purpose of wastewater remediation for the management of water-carried wastes from residences, business buildings, institutions, commercial and industrial establishments.

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, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

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

Stormwater pollution prevention plan means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

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

C. Exclusion of stormwater from sanitary sewers:

- (1) Direct connection of any stormwater source to sanitary sewers is not allowed.

- (2) Subsurface water collected by edge drains, sump pumps or other means of conveyance must be discharged into a storm sewer or on surface with positive drainage to an approved point of collection.
- (3) Sanitary sewer systems shall be periodically checked for infiltration and repaired as needed.

D. Applicability: This Ordinance shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless expressly exempted by an authorized enforcement agency.

E. Enforcement, Responsibility for Administration: This Ordinance shall be enforceable by the City of Madison Heights Department of Public Services or other authorized enforcement agency, as appropriate.

F. 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.

G. Discharge Prohibitions:

- (1) Prohibition of illegal discharges.

No person shall discharge or cause to be discharged into the storm drain system or watercourses, any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited; however, the following discharges are exempt from prohibition as described:

- (a) The discharges and flows from firefighting activities if they are identified as not being a significant source of pollutants to the waters of the state.
- (b) Discharges specified in writing by the City of Madison Heights Department of Public Services as being necessary to protect public health and safety.
- (c) Dye testing, when there has been verbal notification to the Department of Public Services and state department of environmental quality procedures have been followed.
- (d) Discharges permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.
- (e) The following discharges or flows if they are identified as not being a significant contributor to violations of water quality standards: water line flushing and discharges from potable water sources; landscape irrigation runoff, lawn watering runoff, and irrigation waters; diverted stream flows and flows from

riparian habitats and wetlands; rising groundwaters and springs; uncontaminated pumped groundwater, except for groundwater cleanups specifically authorized by NPDES permits; foundation drains, water from crawl space pumps, footing drains and basement sump pumps; air conditioning condensation; waters from noncommercial car washing; street wash water; dechlorinated swimming pool water from single-, two- or three-family residences. Other swimming pools shall not be discharged to stormwater or to surface waters of the state without NPDES permit authorization from EGLE.

(2) Prohibition of illicit connections.

(a) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

(b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this article if the person connects a line conveying sewage to a storm drain system or MS4 or allows such a connection to continue.

(3) Prohibition of Direct Dumping or Disposal of Materials into the MS4.

The direct dumping of materials or discharges into the MS4 is prohibited except for those illicit discharges identified as not being a significant contributor to violations of water quality standards.

H. Right of Entry: The City of Madison Heights Department of Public Services or other authorized enforcement agency shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing of suspected non-stormwater discharges in accordance with the provisions of this article. Refusal of reasonable access to the City and/or representatives of the authorized enforcement agency to any part of the premises is a violation of this article.

I. Suspension of Storm Sewer System Access:

- (1) Suspension due to illicit discharges in emergency situations: The Department of Public Services or other authorized enforcement agency may, without prior notice, suspend storm sewer system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm sewer system or the Waters of the United States or this state. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the storm sewer system or waters of the United States or this state, or to minimize danger to persons.

- (2) Suspension due to the detection of illicit discharge: Any person discharging to the storm sewer system in violation of this article may have their storm sewer system access terminated if such termination would abate or reduce an illicit discharge. The Department of Public Services will notify a violator of the proposed termination of its storm sewer system access. The violator may petition the City for reconsideration and hearing.
- (3) Violations: A person violates this article if the person reinstates storm sewer system access to premises terminated pursuant to this section, without the prior approval of the Department of Public Services or other authorized enforcement agency.

J. Industrial or Construction Activity Discharges: Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city engineer prior to the allowing of discharges to the MS4.

K. Monitoring of Discharges: The City of Madison Heights Department of Public Services has the right to require non-residential dischargers to install monitoring equipment as necessary if a non-stormwater discharge is suspected. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

L. Requirements to prevent, control, and reduce storm water pollutants by the use of best management practices: The City of Madison Heights Department of Public Services or his designee will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

M. Watercourse Protection: Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or

adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

N. Notification of Spills: Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Madison Heights Department of Public Services within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 3 years.

O. Enforcement:

(1) Notice of Violation: Whenever the city engineer or his designee finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the City of Madison Heights may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination of hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

(2) Abatement of a 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 fail to remediate or restore within the established deadline, the work will be performed by the City of Madison Heights or its designee at the violator's expense.

P. Appeal of Notice of Violation: Any person receiving a Notice of Violation may appeal the determination of the City of Madison Heights. The notice of appeal must be received by the City Clerk within 30 days from the date of the Notice of Violation. Hearing on the appeal by the City Council's appointed hearing officer shall take place within 15 days

from the date of receipt of the notice of appeal. The decision of the hearing officer shall be final.

Q. Enforcement of 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 30 days of the decision of the City of Madison Heights upholding its decision, then representatives of the City or its designees shall enter upon the subject private property and are authorized to take any and all 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 designee to enter upon the premises for the purposes set forth above.

R. Cost of the Abatement of the Violation: Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the City of Madison Heights or by the expiration of the time in which to file an appeal, the charges shall 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 percent (5%) per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

S. Injunctive Relief: It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the City of Madison Heights may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

T. Appeal of Notice of Violation: In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the City of Madison Heights may impose upon a violator's alternative compensatory actions; including, but not limited to: storm drain stenciling, attendance at compliance workshops, and creek cleanup.

U. 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 provisions of this Ordinance 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 of Madison Heights may also simultaneously or alternatively initiate a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.

V. Criminal Prosecution:

- (1) Any person who violates this ordinance shall be guilty of a misdemeanor and subject to the penalties set forth in Sec 1-7 of the City of Madison Heights Code.

- (2) The City of Madison Heights may recover all attorney's fees; court costs; and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

W. 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 authorized enforcement agency to seek cumulative remedies.

Section 2.

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.

Should any section, subdivision, clause, or phrase of this Ordinance be declared by a Court of competent jurisdiction 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.

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 commenced.

Section 5.

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

Section 6.

A copy of this ordinance may be inspected or purchased at the City Clerk's office at 300 West Thirteen Mile Road, Madison Heights, Michigan, between the hours of 8:00 a.m. and 11:30 a.m. and between the hours of 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, Councilman Soltis, Councilor Wright

Absent: Councilor Rohrbach

Motion carried.

COUNCIL COMMENTS:

Councilwoman Aaron recollected the Random Acts of Kindness week from when she first moved into the City 14 years ago and her mom's pleasure of meeting local celebrity Margene Scott. She announced that from February 14-20th, she is going to be kind to six senior citizens in the City and offered to help in any way; please reach out to her for assistance. She stated that another local celebrity, Jennifer Ramirez, was recognized globally for her snow storm sharks. Ms. Ramirez has become world renowned and she would like to honor her.

Mayor Pro Tem Bliss concurred that Councilwoman Scott is a celebrity. He stated that the last meeting was about looking forward, this meeting, we were able to honor those that helped to get us where we are today. He noted that he is looking forward to formally honoring these individuals at their naming ceremonies.

Councilor Wright wished all a Happy Black History Month. We want to make sure we are intentional and inclusive and thanked Anthony Austin for inviting him and Councilwoman Aaron to a presentation of Don Stiver artwork to Lamphere schools. He noted that he has been the beneficiary of Random Acts of Kindness in the City and he urged all to remember to be kind and recognize that we are all doing the best we can. He gave kudos to Jennifer Rameriez for her recognition and the encouragement she gives to all kids to be creative and do what you love.

Assistant City Attorney Burns stated that he had the privilege of serving on the County Board with both George Suarez and County Commissioner Gary McGillivray, and both are tremendous leaders for the community of Madison Heights. He stated that he is pleased that both have parks named after them and he thanked them for being inspirational leaders.

City Manager Marsh had no comments this evening.

City Clerk Rottmann had no comments this evening.

Councilman Fleming stated that Oakland County is holding a Veterans Resource Fair and lots of great resources will be available. The Fair is at the Plumbers Union Local 98 Hall located at 555 Horace Brown from 9 a.m. to noon. He wished City Attorney Larry Sherman a Happy Birthday.

Councilman Soltis noted that Councilwoman Margene Scott was always so nice and kind to him, and she is truly an inspiration to others. Her efforts on Random Acts of Kindness week really shows who she is as a person. Congratulations to Gary McGillivray on the naming of the park, you do a great job for the City and we appreciate it.

Mayor Grafstein thanked Mayor Pro Tem Bliss for chairing the last meeting while she attended a dinner with the Japanese Consulate. She stated that she took a bag with several items representing the City and it was a great meeting and conversation. She discussed what makes a community, safety, and proposed planning and zoning changes to be more friendly to businesses. It was a great honor. She thanked the organizers of the Martin Luther King Vigil for inviting Council to participate. She also thanked those who attended a vigil honoring the victims of the horrendous killings in California. She stated that she enjoys going to the Coffee Concerts and thanked Councilwoman Scott for bringing Random Acts of Kindness to the City. The Memorial Day Parade Committee will be having a fundraiser March 24th. She thanked Andy McGillivray for his assistance in putting the Memorial Day Parade together. She stated that she agrees with proposed changes to the naming policy, including shortening the criteria to one-year after a death for eligibility for naming. She stated that all the applicants appointed this evening to the Charter Amendment study group are involved and engaged in the City and it is a good mix of residents; she thanked everyone who applied. The next City Council meeting is February 27th.

ADJOURNMENT:

Having no further business, Mayor Grafstein adjourned the meeting at 8:50 p.m.

Roslyn Grafstein, Mayor

Cheryl E. Rottmann, City Clerk