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April 14, 2010

Mr. Gregory Hooper, President
City Council
City of Rochester Hills
1000 Rochester Hills
Rochester Hills, MI 48309

Re: *Firearms in City Parks*

Dear President Hooper:

Recently, a City resident suggested City Code Section 74-108, which prohibits possession or use of firearms and weapons in City parks, is preempted by state law. I have previously advised that the City's firearms possession prohibition in the Park's Ordinance probably is not enforceable under state law. After updating my research further, I can unequivocally state that under the State Firearms Law, as construed by Michigan appellate court cases, City Code Section 74-108's prohibition of firearms possession in parks is not consistent with state law and is not enforceable. The City may prohibit use of firearms in a park, but the City may not prohibit possession of firearms in a park, because the transportation and possession of firearms is regulated exclusively by the state which does not prohibit possession of firearms in a park.

The City's options are to leave the current ordinance in place and hope that folks will abide by it, even though it is not enforceable as to possession of firearms. The City would be at risk of having the ordinance challenged in Court, and the City would likely lose the challenge. Alternatively, the City may amend City Code Section 74-108 to repeal the prohibition on possessing a firearm in a City park. For your review, I have prepared and enclosed a proposed ordinance to do just that – repeal the prohibition on possession, but keep in place the prohibition on firearms usage in a City park.

Very truly yours,


John D. Staran

JDS/ijd
Enclosure

cc: Mayor Bryan K. Barnett (w/enc.)
Mr. Michael Hartner, Parks Department (w/enc.)