DATE: August 22, 2006

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Agenda Item – Announcement of Public Hearing (September 18, 2006) - Michigan Zoning Enabling Act, Pa 110 Of 2006, Zoning Ordinance Text Amendment (File No: ZOTA 224) – Articles II, III, X, XXXIV, XXXV and XLIII

RECOMMENDATION

The Planning Commission recommended approval of ZOTA 224 at the August 8, 2006 Regular Meeting. City Management concurs with the Planning Commission and recommends approval of ZOTA 224.

BACKGROUND

Public Act 110 of 2006, the new Michigan Zoning Enabling Act, became effective on July 1, 2006. The purpose of the law is to establish consistent zoning procedures in all local units of government. There were three (3) separate acts governing zoning in Michigan – the City and Village Zoning Act, the County Zoning Act and the Township Zoning Act. The new law repeals the three (3) existing zoning acts and consolidates them into one single act.

The new law retains many of the existing provisions of the City and Village Zoning Act. The attached memorandum, which was prepared by the City Attorney's Office, analyzes the changes from the requirements of the City and Village Zoning Act. While there are no substantial changes from the requirements of the City and Village Zoning Act required, some minor revisions to the Zoning Ordinance are required. The most significant change is for increased public hearing notification requirements.

Reviewed as to Form and Legality: _____ _____
Lori Grigg Bluhm Date
City Attorney

Attachments:
1. Memo from City Attorneys Office, dated 7/17/06.
2. Draft ZOTA 224.

Prepared by RBS/MFM

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TO: Members of the City of Troy Planning Commission, Members of the City of Troy Board of Zoning Appeals, Mark Miller, Planning Director and Mark Stimac, Director of Building and Zoning.

FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney

DATE: July 17, 2006

SUBJECT: New Michigan Zoning Enabling Act

On April 7, 2006, Governor, Jennifer Granholm signed Public Act 110 of 2006, the new Michigan Zoning Enabling Act, MCL125.3101-MCL 125.3702. The purpose of the law is to establish consistent zoning procedures in all local units of government. Currently, there are three (3) separate acts governing zoning in Michigan – the City and Village Zoning Act, the County Zoning Act and the Township Zoning Act. The new law repeals the three (3) existing zoning acts and replaces them with one new single act. The effective date of the new law is July 1, 2006.

The new law retains many of the existing provisions of the City and Village Zoning Act. However, there are some changes, which are discussed below. The act is divided into seven (7) different articles. In this memorandum, we analyze each article and point out the provisions that require an amendment to Troy's Zoning Ordinance. We have also prepared a proposed amendment to the zoning ordinance to implement the changes required by the new law. We have attached a copy of the proposed amendment for your review and comment.

ARTICLE I: GENERAL PROVISIONS

Section 101, MCL 125.3101, indicates the new act will be known as the "Michigan Zoning Enabling Act".

Section 102, MCL 125.3102, provides definitions of various terms as used in the act. Many of the definitions are the same as those set forth in the City and Village Zoning Act. However, the new act also includes definitions for the following terms: "Improvements", "Legislative Body", "Local Unit of Government", "Population", "Site Plan", "State Licensed Residential Facility", "Zoning Board", "Zoning Commission", and "Zoning Jurisdiction".

Section 103, MCL 125.3103, establishes the most significant variation from the City and Village Zoning Act. Under this section, all public hearings that must be held with respect to the zoning ordinance require a notice to be published in a newspaper of general circulation in the unit of local government at least 15 days before the date of the hearing. Additionally, the notice must be sent by mail or personal delivery to the owners of the property for which approval is being considered, all persons to whom real property is assessed within 300 feet of the subject property, and to the occupants of all the structures within 300 feet of the property, regardless of whether the property or occupant is located in the zoning jurisdiction. There is an exception to the 300-foot requirement for zoning

amendments involving 11 or more adjacent properties. Each notice of public hearing must also contain specific information, depending upon the type of approval being sought. We have included the specific notice provisions as required under the act in the proposed amendment to Troy's Zoning Ordinance. For public hearings that have already been scheduled for a date after July 1, 2006, there is no need to comply with the new notice provisions as long as the notice was provided before July 1, 2006 in accordance with the current law. However, all notices of a public hearing provided after July 1, 2006 must comply with the new act, even if the proposed amendment to Troy's Zoning Ordinance has not yet taken effect by that date.

ARTICLE II: ZONING AUTHORIZATION AND INITIATION

Sections 201 –211 (MCL 125.3201-MCL 125.3211) are provisions that may appear to be a change in existing law because of the way they are worded. However, a close review of these sections reveals there is no significant change from the requirements of the City and Village Zoning Act.

Section 201, MCL 125.3201, authorizes local units of government to provide by zoning ordinance for the regulation of land and development and the establishment of one or more zoning districts within its zoning jurisdiction. Under this section, a local unit of government may adopt land development regulations limiting the locations, height, bulk, number of stories, uses and size of dwellings, buildings, and structures that may be erected or altered, including tents and recreational vehicles. Section 201 provides regulations substantially similar to those included in sections 1 & 2 (MCL 125.581 and MCL 125.582) of the City and Village Zoning Act.

Section 202, MCL 125.3202, provides a legislative body of a local unit of government may provide by ordinance for the manner in which regulations and boundaries of districts and zones shall be determined and enforced or amended, supplemented or changed. This language is similar to the language set forth in section 4, MCL 125.584, of the City and Village Zoning Act. Section 202 also provides that if more than ten (10) adjacent properties are proposed for re-zoning, the requirement to send notice to all properties within 300 feet of the subject property is not applicable. This section also provides that amendments to the zoning ordinance in cities and villages are subject to a protest petition. Additionally, under section 201, a legislative body may adopt amendments for the purpose of conforming to a court order without referring the amendments to any other board or agency. The foregoing provisions are not a change from the requirements of the City and Village Zoning Act, and therefore, no amendment to Troy's Zoning Ordinance is required.

Section 203, MCL 125.3203, incorporates provisions similar to those set forth in section 1 (MCL 125.581) and section 1a (MCL 125.581a) of the City and Village Zoning Act regarding the requirement a zoning ordinance shall be based upon a plan and requiring the incorporation of an airport layout plan, if an airport approach plan has been filed with the local unit of government. Since these provisions are not new regulations for cities and villages, there if no reason to amend the City of Troy Zoning Ordinance based upon Section 203.

Section 204, MCL 125.3204, requires that a zoning ordinance provide for the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence. This provision is the same as the current Section 3c, MCL 125.583c, of the City and Village Zoning Act.

Section 205, MCL 125.3205, provides a zoning ordinance is subject to the electric transmission lines certification act, MCL 460.561 to 460.575. Additionally, this section indicates counties and townships shall not regulate or control the operation of oil or gas wells. There is no reason to amend Troy's Zoning Ordinance based on section 205.

Section 206, MCL 125.3206, provides that a state licensed residential facility shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones. A residential facility is defined under Section 102, MCL 125.3102, as a facility providing residential services for six (6) or fewer persons. Section 206 also requires counties and townships to allow group daycare homes (up to 12 children) by special use permit in residentially zoned areas. Cities and villages may provide for group daycare homes by special use permit or other such permit. Licensed or registered family or group daycare homes that operated before March 30, 1989 are not required to comply with requirements of Section 206. However, this section of the statute also indicates that it shall not be construed to prevent a local unit of government from inspecting and enforcing a family or group daycare home for the home's compliance with the zoning ordinance. In counties and townships, a zoning ordinance shall not be more restrictive with respect to family or group daycare homes than as provided under MCL 722.111 to 722.128.
The provisions of the new act have not changed with respect to licensed residential facilities serving six (6) or fewer persons. Troy is in the process of amending its zoning ordinance with respect to group daycare homes. The proposed amendments are in compliance with the new act.

Section 207, MCL 125.3207, prohibits exclusionary zoning. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of land use within a local unit of government in the presence of a demonstrated need for such land use. This provision is the same as that set forth in section 12 of the City and Village Zoning Act, MCL 125.592.

Section 208, MCL 125.3208, sets forth regulations with respect to non-conforming uses or structures. These provisions are substantially similar to those set forth in Section 3a of the City and Village Zoning Act, MCL 125.583a. Therefore, there is no reason to amend Troy's Zoning Ordinance with respect to non-conforming uses and structures.

Section 209, MCL 125.3209, is not applicable to cities. This section provides that a township that has enacted a zoning ordinance is not subject to any zoning regulations adopted by a county.

Section 210, MCL 125.3210, provides that that an ordinance adopted under the new Michigan Zoning Enabling Act is controlling in the case of any inconsistency between the zoning ordinance and an ordinance adopted under any other law. This provision is

somewhat similar to Section 6 of the City and Village Zoning Act, MCL 125.586 that specifically indicates the situations in which a zoning ordinance prevails over other ordinances in the event of a conflict. In any event, there is no reason to amend Troy's Zoning Ordinances as a result of section 210.

Section 211, MCL 125.3211, provides for the appointment of a zoning commission for the purpose of formulating a zoning ordinance. However, since Troy already has a zoning ordinance, this section is not applicable to Troy.

ARTICLE III: ZONING COMMISSION

Article III of the new act, MCL 125.3301 through MCL 125.3308, are provisions regulating the establishment, powers, and duty of a zoning commission (planning commission). Although Section 301, MCL 125.3301, addresses the creation of a "zoning commission", this section also indicates a "planning commission" exercising the authority of a zoning board before the effective date of the act may continue to exercise that authority subject to the act. Additionally, the legislative body of all local units of government must transfer the powers of a zoning commission to the planning commission within five years of the effective date of the new act. The intent of 301 is to eliminate some of the confusion that has resulted based upon the various names given to different boards and commissions under various state laws that were initially charged with the duties of being the planning body for a municipality. Depending on the municipality (township, county, city or village) and the statute relied upon by the municipality when such commission was initially organized, the planning body of a municipality may have been called a zoning commission, a zoning board, or a planning commission. Since the City of Troy has established a planning commission, there is no need to create a zoning commission just for the purpose of transferring the duties of that commission to the planning commission within five (5) years.

With regard to powers, duties, membership, and removal of members and officers of the zoning commission, section 301 includes provisions similar to those set forth in the Municipal Planning Act, MCL 125.301 et seq. Since our present zoning ordinance provisions relating to the planning commission are based upon the Municipal Planning Act, and since the new act indicates a previously established planning commission may continue as the zoning commission, there are only a few changes, in our opinion, that need to be made to the zoning ordinance with respect to the planning commission.

Section 301(9), MCL 125.3301(9), states the legislative body "shall provide for the removal of a member of the zoning commission (planning commission) for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing". This language differs slightly from the language set forth in the Municipal Planning Act and our current zoning ordinance. Although the current language in our zoning ordinance is consistent with the Municipal Planning Act, we recommend changing the ordinance with respect to removal of planning commissioners to that set forth in the Michigan Zoning Enabling Act. We make this recommendation because the new act, as will be discussed below, has similar requirements with respect to removal of members of a zoning board of

appeals. Thus, the attached proposed amendment to the zoning ordinance has provisions with regard to removal of members of the Troy's Planning Commission that are identical to those proposed for removal of members of Troy's Board of Zoning Appeals.

Section 306, MCL 125.3306, requires the planning commission to comply with the new notice requirements with respect public hearings. The new notice requirements are set forth in the proposed amendment to Troy's Zoning Ordinance.

Under section 308, MCL 125.3308, the zoning commission (planning commission) "shall at least one per year prepare for a legislative body a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance". Presently section 02.20.00 of Troy's Zoning Ordinance provides the Troy City Council may, from time to time, on recommendation from the Planning Commission, amend the zoning ordinance. Since the new act requires a yearly report from the planning commission, the proposed amendment to Troy's Zoning Ordinance includes language to meet this requirement.

ARTICLE IV: ZONING ADOPTION AND ENFORCEMENT

Sections 401-407, MCL 125.3401 through MCL 125.3407, provide regulations for adoption of a zoning ordinance and amendments. Under Section 401, MCL 125.3401, the procedure to approve a rezoning request or a zoning ordinance text amendment is essentially the same as that provided in the City and Village Zoning Act. After the planning commission holds at least one public hearing (section 306, MCL 125.3306) on a proposed amendment, the legislative body "may" hold another public hearing if it considers it necessary or as may otherwise be required. Section 3.21.06 of Troy's Zoning Ordinance now requires City Council to hold a public hearing on a rezoning request, and this procedure has been followed with regard to text amendments. The legislative body, under section 401, may refer any proposed amendment to the proposed text amendment or rezoning back to the planning commission for consideration and comment within a time period specified by the legislative body. Once again, this is not a change from the current requirements of the City and Village Act. Section 401 also requires the legislative body to grant a hearing on a proposed amendment to a property owner who makes a request for a hearing by certified mail. Since Troy's City Council already holds a public hearing with respect to all zoning amendments (including rezoning requests), it is our opinion there is no need to amend the procedural provisions of Troy's zoning ordinance with respect to hearings requested by a property owner.

Under Sections 401(6) and (7), MCL 125.3401 (6) and (7), once a zoning ordinance text amendment or rezoning is approved, the amendment must be published in a newspaper of general circulation within 15 days after adoption (this is not a new requirement) and it shall take effect upon the expiration of seven (7) days after publication or at such later date after publication as may be specified by the legislative body (this is a new requirement). Presently, chapter 5 of the City of Troy Charter requires that all ordinance amendments be published within ten (10) days after enactment and the effective date shall be set forth in the ordinance, but it shall not be earlier that ten (10) days after enactment nor before publication thereof. Section 401(10), MCL 125.3401(10), states the filing and publication

requirements of section 401 supersede any other statutory requirements relating to filing and publication of ordinances. Thus, the provisions of the new act would prevail over conflicting provisions of the Home Rule Cities Act. However, in our opinion, there is no need to amend the zoning ordinance based on the new provisions regarding the effective date for zoning ordinance amendments. Rather, we suggest all amendments to the zoning ordinance approved by City Council include a provision stating the amendment shall take effect seven days after publication or on a specific date to occur sometime more than seven (7) days after publication. All other requirements under section 401 are the same as those set forth under Section 4 of the City and Village Zoning Act, MCL 125.584.

Thus, with respect to the procedure for zoning ordinance text amendments and rezoning, there is no reason to amend Troy's Zoning Ordinance except with regard to the public hearing notice requirements. The proposed amendment attached to this memorandum includes the necessary provisions to comply with the public hearing notice requirements.

Section 402, MCL 125.3402, is only applicable to townships and counties. This section authorizes a referendum requiring a zoning ordinance to be submitted to the voters for approval or rejection if a petition is filed meeting certain time limitation and signature requirements. The provisions in this section are similar to current provisions of the township and county zoning acts. Although the Michigan Zoning Enabling Act does not provide for a right of referendum in cities and villages, home rule cities are authorized to include referendum provisions in their charters, and those provisions have been held applicable to zoning ordinance amendments.

Under section 403, MCL 125.3403, zoning ordinance amendments in cities and villages are subject to a protest petition. The provisions set forth in this section are the same as those set forth in Section 4(5) of the City and Village Zoning Act, MCL 125. 584(5). Since Section 403 does not represent a change from existing provisions of the City and Village Zoning Act, there is no reason to amend the protest requirements of Troy's Zoning Ordinance.

Section 404, MCL125.3404, provides for an interim zoning ordinance in those units of local government that are in the process of preparing the enactment of an initial zoning ordinance. Thus, section 404 is not applicable to Troy.

Section 405, MCL 125.3405, provides for conditional rezoning. The language set forth in this section is the same language that was added last year to the City and Village Zoning Act with regard to conditional rezoning. Troy is presently in the process of adopting an amendment to its zoning ordinance to allow for conditional rezoning. The proposed amendment complies with section 405.

Section 406, MCL125.3406, authorizes a legislative body to require payment of fees for zoning permits as a condition to the granting of authority to use, erect, alter, or locate dwellings, buildings, and structures within a zoning district as established under the act. Since Troy's Zoning Ordinance already provides for the submission of the appropriate fee

with various zoning approval applications, there is no need to amend Troy's Zoning Ordinance as a result of Section 406.

Section 407, MCL 125.3407, provides that a violation of a zoning ordinance is a nuisance per se, entitling a unit of local government to a court order to abate such nuisance. This section also authorizes local units of government to establish a penalty for a violation or designate that violations are municipal civil infractions. Section 407 is similar to Section 7 of the City and Village Zoning Act, MCL 125.587. There is no need to amend Troy's Zoning Ordinance based on Section 407.

ARTICLE V: SPECIAL ZONING PROVISIONS

Article V establishes provisions applicable to several types of zoning approvals. Section 501, MCL 125.3501, establishes the procedure with respect to approval of site plans. Section 502, MCL 125.3502, establishes regulations governing special land uses. Section 503, MCL 125.3503, governs planned unit developments. Section 504, MCL 125.3504, is concerned with regulations, standards, and conditions that may be imposed with respect to special land uses and planned unit developments. Section 505, MCL 125.3505, provides that a local unit of government may require a performance guarantee to insure compliance with a zoning ordinance. Section 506, MCL 125.3506, establishes open space preservation requirements and regulations that must be provided in a zoning ordinance. Section 507-509, MCL 125.3507 through MCL 125.3509, provide regulations with respect to purchase of development rights.

All of the foregoing provisions are substantially similar to those now included in the City and Village Zoning Act. The only difference is the public hearing notice requirements with respect to certain types of land use approvals. Accordingly, there is no need to amend Troy's Zoning Ordinance with respect to the matters addressed in Article V, except the public hearing notice requirements. The proposed amendment to Troy's Zoning Ordinance includes those public hearing notice requirements for all zoning approvals.

ARTICLE VI: ZONING BOARD OF APPEALS

Article VI of the new act, MCL 125.3601 through MCL 125.3607, provides regulations with respect to the appointment and duties of the zoning board appeals.

Section 601, MCL 125.3601, establishes regulations regarding the appointment of a zoning board of appeals. The new act now mandates that one member of the zoning board of appeals also be a member of the planning commission. However, Troy's Zoning Ordinance already provides that one member of its Board of Zoning Appeals shall be a member of the Planning Commission. Section 601 also allows a member of the legislative body to serve as a member of the zoning board of appeals as long as he/she is not chairperson of the board. Under the new act, a member of the board may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon "written charges" and after public hearing. The proposed amendment to Troy's Zoning Ordinance reflects this new requirement. Additionally, any vacancy on the board must be filled within one (1) month. The proposed amendment to Troy's Zoning Ordinance also reflects this new requirement.

The provisions set forth in sections 602, 603, and 604, of the act, MCL 125.3602, MCL 125.3603 and MCL 125.3604, govern the meetings of the zoning board of appeals and its power with respect to deciding questions that arise in the administration of a zoning ordinance. The provisions are essentially the same as those set forth in Section 5 of the City and Village Zoning Act, MCL 125.585. Accordingly, there is no immediate need to amend Troy's Zoning Ordinance with regard to the powers and duties of Troy's Board of Zoning Appeals. Section 604(9), MCL 125.3604(9), clarifies that cities and villages may grant use variances, but in townships and counties, a use variance may only be granted if the zoning ordinance for the township or county expressly authorized the granting of use variances as of February 15, 2006. Section 604(11), MCL 125.3604(11), makes it clear the authority to grant use variances is permissive. Troy's Zoning Ordinance currently does not allow use variances.

Section 605, MCL 125.3605, varies slightly from the comparable provisions of the City and Village Zoning Act. Under that section, only a party "aggrieved" by a decision of the zoning board of appeals may appeal to Circuit Court. Under the current City and Village Zoning Act, a person affected by the zoning ordinance may appeal to Circuit Court. Troy's Zoning Ordinance also indicates that a person "affected by the Zoning Ordinance may appeal" to Circuit Court. Troy's Zoning Ordinance should be amended to reflect the change in State Law. The proposed amendment includes language to carry out this requirement.

The remaining sections in Article VI govern Circuit Court procedure. It is not necessary to include the circuit court procedures in Troy's Zoning Ordinance.

Finally, all notices of public hearings of the zoning board of appeals are required to comply with the previously discussed notice requirements of the new act. The proposed amendment to Troy's Zoning Ordinance includes the new notice provisions as required.

ARTICLE VII: STATUTORY COMPLIANCE AND REPEALER

Section 701, MCL 125.3701, merely indicates all meetings under the act are subject to the Open Meetings Act, and all writings prepared as required under the act are subject to the Freedom of Information Act. This is not a change from previous law and therefore no amendment to the Troy's Zoning Ordinance is required based on Section 701.

Section 702, MCL 125.3702, repeals the City and Village Zoning Act, the County Zoning Act, and the Township Zoning Act. Accordingly, as of July 1, 2006, the foregoing acts will be repealed and the Michigan Zoning Enabling Act will govern all zoning matters. Since some of the provisions of Troy's Zoning Ordinance specifically refer to the City and Village Zoning Act, the proposed amendment to the ordinance revise those provisions as appropriate.

SUMMARY

The new Michigan Zoning Enabling Act represents the state legislature's attempt to consolidate all zoning laws into one statute as opposed to three. There is no substantial

change from the requirements of the City and Village Zoning Act. Some minor revisions to Troy's Zoning Ordinance are required, and those changes are included in the attached proposed amendment to the ordinance. We recommend submitting the proposed amendment to the Planning Commission as soon as possible for review and recommendation to City Council. The new provisions with respect to public hearing notices must be followed as of July 1, 2006, regardless of whether or not the amendment to the zoning ordinance is approved by that date.

Please let us know if you should have any questions.

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

(Underlining, except existing section titles, and Strikeout denotes changes).

Section 2. Amendment

Chapter 39 of the Code of the City of Troy is amended by amending sections 02.10.00, 02.10.01, 02.20.00, 10.20.08, 10.25.03, 34.60.05, 43.10.00, 43.45.00, and 43.65.00, and by adding new sections 03.25.00, 03.34.00, 35.60.03, and 43.46.00, as follows:

02.10.00 PLANNING COMMISSION:
The City Planning Commission heretofore created pursuant to Public Act 285 of 1931, MCL 125.31, et. seq., as amended, and the City Charter, is hereby continued. Pursuant to section 301(2) of Act 110 of the Public Acts of 2006, MCL 125.3301(2), all powers and duties of a zoning commission are hereby transferred to ~~T~~the City Planning Commission, which ~~is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, MCL 125.584, as amended, and~~ shall perform the duties of said Commission as provided in the Statute in connection with the amendment of this Chapter.

02.10.01 MEMBERS, TERMS
The City Planning Commission shall consist of nine (9) members who shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive as compensation for his services a sum to be determined by City Council (Resolution #2004-10-537-E14). The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, upon written charges and after a public hearing, be removed by the Mayor for ~~inefficiency, neglect of duty~~misfeasance, nonfeasance or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor, subject to the approval by a majority vote of City Council.

02.20.00 CHANGES AND AMENDMENTS

The Troy City Council may from time to time, on recommendation from the City Planning Commission, or on petition amend, supplement or change the District boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act ~~207~~110 of the Public Acts of ~~1921~~2006 as amended. The City Planning Commission shall at least once per year prepare for the Troy City Council a report on the administration and enforcement of the zoning ordinance and recommendations for amendments or supplements to the ordinance.

03.25.00 PUBLIC NOTICE OF PROPOSED REZONINGS AND TEXT AMENDMENTS:

A. If an application for rezoning or a zoning ordinance text amendment is complete and the matter is ready to proceed to a public hearing in accordance with Act 110 of the Public Acts 0f 2006, notice shall be given not less than 15 days before each public hearing at which the application will be considered. Notice shall be given by publication in a newspaper that circulates in the City of Troy, and by personal delivery or mailing to the following:

1. The applicant.

2. The owner(s) of the property, if the applicant is not the owner.

3. If the rezoning or zoning amendment involves less than 11 adjacent properties: the owners of all real property within 300 feet of the boundary for the property for which approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within the City of Troy.

4. If the rezoning or zoning amendment involves less than 11 adjacent properties: occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located within the City of Troy.

B. The notice shall include:

1. The nature of the rezoning or zoning amendment being requested.

2. The property(ies) for which the zoning amendment has been proposed.

3. If the rezoning or zoning amendment involves less than 11 adjacent properties, a listing of all existing street addresses within the property(ies) which is(are) the subject of the rezoning or zoning amendment. Street addresses do not need to be created and listed if no such addresses exist. If there are no street addresses, another means of identification may be used.

4. The location where the application documents can be viewed and copied prior to the date the application will be considered.

5. The date, time and location of when the hearing on the application will take place.

6. The address at which written comments should be directed prior to the consideration.

03.34.00 PUBLIC NOTICE FOR SPECIAL USE APPROVALS:

A. If the application for Special Use Approval is complete, notice shall be given not less than 15 days before each public hearing at which the application will be considered. Notice shall be given by publication in a newspaper that circulates in the City of Troy, and by personal delivery or mailing to the following:

1. The applicant.

2. The owner(s) of the property, if the applicant is not the owner.

3. The owners of all real property within 300 feet of the boundary for the property for which approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within the City of Troy.

4. The occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located within the City of Troy.

B. The notice shall include:

1. The nature of the special use being requested.

2. The property(ies) for which the request has been made.

3. A listing of all existing street addresses within the property(ies) which is(are) the subject of the special use. Street addresses do not need to be created and listed if no such addresses exist. If there are no street addresses, another means of identification may be used.

4. The location where the application documents can be viewed and copied prior to the date the application will be considered.

5. The date, time and location of when the hearing on the application will take place.

6. The address at which written comments should be directed prior to the consideration.

10.20.08 The Open Space Preservation Option may be utilized in the R-1A and R-1B districts, to comply with ~~PA 179 of 2001 (amendment to City and Village Zoning Act)~~MCL 125.3506, as amended, subject to the requirements of Section 34.60.00.

10.25.03 Adult Foster Care Facilities, as defined by Section 400.70~~2~~3 (4) of Act 218, of 1979 of the State of Michigan, as provided for by said Act and to the extent exempted from local regulation by Section 400.733 (Sec. 33) thereof, and by Section ~~3~~206 ~~(b)~~ of Act ~~207~~110 of ~~1921~~2006 as amended (the Michigan Zoning Enabling Act).

34.60.05 Regulatory Flexibility: To comply with the "open space preservation" provisions of the ~~City and Village~~ Michigan Zoning Enabling Act, the City may permit specific departures from the requirements of the Zoning Ordinance for yards and lots as a part of the approval process. The applicant may cluster the dwellings on smaller lots, provided the following:

A. Overall density shall not exceed the number determined in the parallel plan.

B. Setback provisions shall be as follows:

1. Setback requirements for main buildings at the perimeter of the development shall be equal to existing, underlying zoning.

2. Setback requirement s for main buildings on the interior of the development shall be provided to newly created streets, an interior property line, or from the open space preservation area. If property lines do not exist between buildings, the setbacks shall be measured to an imaginary line between the buildings. The minimum setbacks shall be as follows:

Front	25'
Rear	35'
Sides	10'

C. All regulations applicable to parking and loading, general provisions, and other requirements shall be met.

D. The permitted uses shall be restricted to single family detached residential development, residential accessory structures, and non-commercial recreation uses.

35.60.03 PUBLIC NOTICE FOR PLANNED UNIT DEVELOPMENT PUBLIC HEARINGS:

A. For public hearings required with respect to a Planned Unit Development, notice shall be given not less than 15 days before each public hearing at

which the Planned Unit Development will be considered. Notice shall be given by publication in a newspaper that circulates in the City of Troy, and by personal delivery or mailing to the following:

1. The applicant.

2. The owner(s) of the property, if the applicant is not the owner.

3. The owners of all real property within 300 feet of the boundary for the property for which approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within the City of Troy.

4. The occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located within the City of Troy.

B. The notice shall include:

1. The nature of the Planned Unit Development being proposed.

2. The property(ies) for which the request has been made.

3. A listing of all existing street addresses within the property(ies) which is(are) the subject of the proposed Planned Unit Development. Street addresses do not need to be created and listed if no such addresses exist. If there are no street addresses, another means of identification may be used.

4. The location where the application documents can be viewed and copied prior to the date the application will be considered.

5. The date, time and location of when the hearing on the application will take place.

6. The address at which written comments should be directed prior to the consideration.

43.10.00 CREATION AND MEMBERSHIP

There is hereby established a Board of Zoning Appeals, which shall perform its duties and exercise its powers as provided in ~~Section 5~~ Article VI of Act ~~207~~110 of Public Acts of ~~1921~~2006, as amended, and in a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done. The Board shall consist of seven (7) members appointed by the City Council, one (1) of whom shall be a member of the City Planning Commission with appointment occurring annually. The City Council may also, at its discretion, appoint not more than two (2) alternate members, for the same term as regular members of the Board of Appeals, and one (1) alternate to the Planning Commission representative

who shall serve for the same (1) year term as the Planning Commission representative. Alternate members shall function in accordance with the procedures established by ~~Section 5~~ Article VI of Act ~~207~~110 of Public Acts of ~~1921~~2006, as amended. The Board shall annually elect a Chairperson and Vice Chairperson. The compensation of the appointed members of the Board may be fixed by the City Council. A member of the Board of Zoning Appeals may be removed by City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. Whenever a vacancy occurs, a successor shall be appointed not more than one month from the date of the vacancy or the last date of the term of the preceding member. Vacancies for unexpired terms shall be filled for the remainder of the term.

43.45.00 ~~NOTICE OF~~ HEARING ON~~F~~ APPEALS AND REQUESTS FOR VARIANCES:
The Board of Zoning Appeals shall schedule ~~the~~a hearing ~~of the~~ on all appeals and requests for variances and give notice ~~of the appeal to persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single and two family dwellings within 300 feet~~as set forth below. ~~The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given on the last assessment roll. If the tenant's name is not know, the term occupant may be used.~~ The Board of Zoning Appeals shall make a decision~~decide~~ on the appeal and/or variance request within a reasonable time. ~~The~~ A party may appear at the hearing in person or by a representative. The Board of Zoning Appeals may reverse, affirm or modify the decision of the Director of Building and Zoning. The Board of Appeals may grant or deny a request for a variance, or grant a lesser variance than requested. The Board of Appeals may impose conditions allowed by this ordinance and the Michigan Zoning Enabling Act.

43.46.00 PUBLIC NOTICE FOR HEARINGS ON APPEALS AND VARIANCES:

A. If the application for an appeal or variance is complete, notice shall be given not less than 15 days before each public hearing at which the application will be considered. Notice shall be given by publication in a newspaper that circulates in the City of Troy, and by personal delivery or mailing to the following:

1. The applicant.

2. The owner(s) of the property, if the applicant is not the owner.

3. The owners of all real property within 300 feet of the boundary for the property for which an appeal or variance has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located within the City of Troy.

4. The occupants of any structures within 300 feet of the boundary for the property for which an appeal or variance has been requested, regardless of whether the owner and property is located within the City of Troy.

B. The notice shall include:

1. The nature of the appeal or variance being requested.

2. The property(ies) for which the request has been made.

3. A listing of all existing street addresses within the property(ies) which is(are) the subject of the appeal or variance. Street addresses do not need to be created and listed if no such addresses exist. If there are no street addresses, another means of identification may be used.

4. The location where the application documents can be viewed and copied prior to the date the application will be considered.

5. The date, time and location of when the hearing on the application will take place.

6. The address at which written comments should be directed prior to the consideration.

43.65.00 REVIEW BY CIRCUIT COURT

A person ~~affected by the Zoning Ordinance may~~ aggrieved by a decision of the Board of Zoning Appeals may appeal the decision ~~of the Board~~ to Circuit Court, as provided by law. An appeal to Circuit Court shall be filed within 30 days after the Board of Zoning Appeals certifies its decision in writing or approves the minutes of its decision.

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective

date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective July 1, 2006 or seven days after the date of publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

_____
Louise E. Schilling, Mayor

_____
Tonni Bartholomew. City Clerk