# Requirements for the Establishment of Boards Committees

K-01

| BOARD/COMMISSION | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Advisory Committee for Persons with Disabilities | | | | | | | | | | | R | |
| Advisory Committee for Senior Citizens | | | | R | | | | | | | | |
| Animal Control Appeals Board (Chapter 90) | | | | | | | | | R/O | | | |
| Board of Canvassers | | | | | | | | | | | | S |
| Board of Review | C/S | | | | | | | | | | | |
| Board of Zoning Appeals (Chapter 39) | | | | S/O | | | | | | | | |
| Brownfield Redevelopment Authority | | | | S/R | | | | | | | | |
| Building Code Board of Appeals (Chapter 79) | | | | | | R/O | | | | | | |
| Cable Advisory Board | | R | | | | | | | R | | R | |
| Charter Revision Committee | | | | R | | | | | | | | |
| Civil Service Commission (Act 78) | | | | S | | | | | | | | |
| Downtown Development Authority (Chapter 78) | | | | | | | | | O/R/S | | | |
| Economic Development Corporation | | | | S/R | | | | | | | | |
| Election Commission | C | | | | | | | | | | | |
| Employee Retirement System Board of Trustees (Chapter 10) | | | | O | | | | | | | | O |
| Ethnic Issues Advisory Board | | | | | | | | | R | | | |
| Historic District Commission (Chapter 13) | | | O | | O | | | | | | | |
| Historic District Study Committee (Chapter 13) - (Ad-hoc) | | | | | | | | | | | | |
| Historical Commission (Chapter 12) | | | | | | | O | | | | | |
| Library Advisory Board (Chapter 9) | | | | O | | | | | | | | |
| Liquor Advisory Committee | R | | | | | | | | | | | |
| Local Development Finance Authority | | | | | | R/S | | | | | R/S | |
| Municipal Building Authority | S/R | | | | | | | | | | | |
| Parks and Recreation Board (Chapter 27) | | | | O | | | O | | O | | | |
| Personnel Board (Chapter 11) | | | | O | | | | | | | | |
| Planning Commission (Chapter 39) | | | | | | | | | | | | S/O/C |
| Retiree Health Care Benefits Plan & Trust | | | | R | | | | | | | | R |
| Traffic Committee (Chapter 35) | O | | | | | | | | | | | |
| Troy Daze Committee | | | | | | | | | | | R | |
| Youth Council | | | | | | R | | | | | | |

C - Charter
O - Ordinance
R - Resolution
S - State Statute

# Boards & Committees

**Advisory Committee for Persons with Disabilities:** The Advisory Committee for Persons with Disabilities was created on October 14, 1991. This nine regular member and three alternate member committee primarily advises City Council on areas of concern to persons with disabilities. City Council appoints members for three-year overlapping terms and the committee consists of three members with disabilities, three members in need of transportation and three members from the general populace.

**City Liaison:** Mitch Grusnick, Building & Zoning Department
(248) 524-3344
**Meeting:** 1st Wednesday of each month at 7:00 PM
Troy City Hall

**Advisory Committee for Senior Citizens:** The nine member committee, appointed by City Council for three-year terms, study and forward recommendations to the City Council and City Manager regarding facilities and services for Senior Citizens.

**City Liaison:** Carla Vaughn, Senior Recreation Supervisor
(248) 524-3484
**Meeting:** 1st Thursday of each month at 1:00 PM; except July & August
Troy Community Center

**Animal Control Appeal Board:** The five member Animal Control Board is referenced in Chapter 90-Animals of the Troy City Code and is appointed by the City Council for three-year terms. The Board meets semi-annually to interpret the rules and regulations outlined in the Animal Control Ordinance. Additionally, the Board considers appeals based on ordinance violation decisions of the Animal Control Officer.

**City Liaison:** Police Department
(248) 524-3477
**Meeting:** Semi-annually
Troy City Hall

**Board of Canvassers:** The Board of Canvassers is established in every city and township having more than five precincts, notwithstanding any statutory or charter provision, or any other rule or law to the contrary. The four members of the City of Troy's Board of Canvassers shall be qualified and registered electors of the City of Troy, and are appointed by City Council for four-year terms. Upon

appointment, members must file with the City Clerk an affidavit listing: name, home address, political party affiliation, date of birth, employment and statement of physical disability, if any, to be forwarded to the County Clerk for public inspection. A member of the Board of Canvassers must vacate office if at any time during the term of office the appointee or any member of the appointee's immediate family serves as an election inspector or becomes a candidate for any elective public office at an election to be canvassed by the Board of Canvassers. An appointee must also vacate office if serving as a member of the governing body of the unit for which the board is established. The majority of the Board of Canvassers shall not be composed of members of the same political party. The Board of Canvassers meets immediately following all City Elections to certify the accuracy of the election results.

**City Liaison:** Tonni L. Bartholomew, City Clerk
(248) 524-3316
**Meeting:** Subsequent to all City Elections
Troy City Hall

**Board of Review:** The Board of Review is established by the Home Rule City Act Section 117.27b and State Statute, MCL 211.28, and is referenced in Chapter 9-Taxation, Section 9 of the Troy City Charter. One-third of the three member single board is appointed by the Mayor with the consent of City Council during January of each year for a three year term beginning the first day of February in the year in which the appointment is made. City Council is charged with establishing the compensation of the members of the Board of Review. All members must reside in Troy and two thirds of the members must be Troy taxpayers. Appointees shall be selected based upon their knowledge of property values and the subjects of assessments and taxation. No member shall hold any other public office or public employment, except that of notary public or member of the armed forces. The Board reviews citizen appeals regarding assessed property values annually and will adjust the City Assessor's values if needed. Any Board of Review decision may be appealed to the Michigan Tax Tribunal. The Board of Review meets each year at City Hall, beginning on the Tuesday following the first Monday in March and for as many successive days as necessary until March 31. Prior to the final meeting of the Board of Review, the Board shall give notice to each owner of property whose property is added to the assessment roll.

**City Liaison:** Nino Licari, City Assessor
(248) 524-3311
**Meeting:** Annually in March
Troy City Hall

**Board of Zoning Appeals:** The Board shall consist of seven members appointed by the City Council. One member shall also be a member of the City Planning Commission with the appointment occurring annually. The City Council may also, at its discretion, appoint not more than two alternate members for the same term as regular members of the Board of Appeals, and one alternate representative to the Planning Commission who shall serve for the same one year term as the Planning Commission representative. Members of the Board of Zoning Appeals serve three-year terms. The members hear and determine appeals of any decisions of the City Building Inspector in the enforcement of the zoning ordinance within its jurisdiction.

**City Liaison:** Mark Stimac, Director of Building & Zoning
(248) 524-3344
**Meeting:** 3rd Tuesday of each month at 7:30 PM
Troy City Hall

**Brownfield Redevelopment Authority (BRA):** Pursuant to *Act 381, Public Acts of Michigan 1996*, the Troy City Council established the Brownfield Redevelopment on January 18, 1999 for the purpose of promoting the revitalization of distressed areas in the City**.** The board consists of not less than five nor more than nine members and serve for three year terms as appointed by their Chief Executive Officer subject to the approval of City Council.

**City Liaison:** Brian Murphy, Ass't City Mgr/Economic Development Services
(248) 524-3330
**Meeting:** 3rd Thursday of January, April, July & October @ 3:00 PM
Troy City Hall

**Building Code Board of Appeals:** Pursuant to Chapter 79-General Building *Regulations* of the Troy City Code, this five-person board, appointed by City Council for five year terms, consists of the Building Official, the Director of Public Works, the Fire Chief, a representative of the Oakland County Health Department, and a professional structural or civil engineer of architectural engineering experience. The board to hear appeals due to decisions made by City Building and Fire Officials for refusing to grant a modification of the provisions of the building regulation enacted by City Council, including but not limited to, the Basic National Building Code, the Existing Structure Code, the Fire Prevention Code, Electrical Code, Plumbing Code, Heating Code, Fence Ordinance, Sign Ordinance, but not including the Zoning Ordinance, covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

**City Liaison:** Mark Stimac, Director of Building & Zoning
(248) 524-3344
**Meeting:** 1st Wednesday of each month at 8:30 AM
Troy City Hall

**Cable Advisory Committee:** The seven-member Cable Advisory Committee is appointed for three-year terms by City Council. The committee serves as the advisory body to City Council on matters of cable television such as public access, rate regulations, citizen complaints, service, and any other matters referred by Council. The Committee will also have the opportunity to provide input to the ICCA (Intergovernmental Cable Communications Authority) through the City's representatives.

**City Liaison:** Cindy Stewart, Community Affairs Director
248) 524-1147
**Meeting:** Quarterly at 7:00 PM
Troy City Hall

**Charter Revision Committee:** The Charter Revision Committee consists of seven members appointed by City Council for three-year terms and meet as needed at City Hall. As an advisory committee, the Charter Revision Committee forwards their Charter revision recommendations to City Council for their consideration and possible placement on the ballot for adoption by the electors of the City of Troy.

**City Liaison:** Tonni L. Bartholomew, City Clerk
(248) 524-3316
**Meeting:** As needed
Troy City Hall

**Civil Service Commission (Act 78):** The three-member Civil Service Commission, established by the *Firemen and Policemen Civil Service System Act 78 of 1935*, meets at City Hall as needed. The Civil Service Commission consists of three members each serving for six-year terms. One member is appointed by the Mayor with City Council approval, the paid members of the fire and/or police department select a second member and the members of the Civil Service Commission select the third member. No person shall be eligible for appointment to this Commission who has not been a resident of Troy for a period of one year and an elector of Oakland County for a period of at least three years immediately preceding appointment. No commissioner shall hold any other elective office; nor shall any commissioner serve on any political committee or take an active part in the management of any political campaign. Not more than two of the commissioners at any one time may be members of the same political party. The Commission's charge is to provide a civil service system based upon examination and investigation as to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members of the Police and Fire departments. The Commission provides an avenue of appeal for disciplinary action involving time loss or discharge matters; approves test battery and qualification procedure for promotions and new hires; approves eligibility lists and disqualifications for full-time members of the Police and Fire departments. The Commission also establishes requirements for promotions and advancement

opportunities for full-time police and firefighter positions in addition to overseeing eligibility lists and serving as the appeal process for any disciplinary actions.

**City Liaison:** Tonni L. Bartholomew, City Clerk
(248) 524-3316
**Meeting:** As needed
Troy City Hall

**Downtown Development Authority (DDA):** The Downtown Development Authority, as established by *State Statute, Act 197 of 1975*, is composed of thirteen members of whom twelve members shall be appointed by the Mayor and subject to approval by a majority vote of the City Council for four-year terms. At least seven members of the Board must have a property interest in the Downtown Development District and the City of Troy's Mayor serves as the Boards thirteenth member. The DDA engages in long-range planning for the downtown area; land acquisition and improvement; building construction and improvement, and acquisition and improvement of public facilities for revitalizing the City of Troy's downtown area.

**City Liaison:** Brian Murphy, Ass't City Mgr/Economic Development Services
(248) 524-3330
**Meeting:** 3rd Wednesday of each month at 7:30 AM
Troy City Hall

**Economic Development Corporation:** Pursuant to A*ct 338 of the Public Acts of 1974, MCL 125.1604*, the Economic Development Corporation provides the means for issuance of industrial revenue bonds to assist enterprises in locating and expanding in the City of Troy. The nine-member board of directors serves six-year terms and consists of not more than 3 of who shall be an officer or employee of the City of Troy.

**City Liaison:** Brian Murphy, Ass't City Mgr/Economic Development Services
(248) 524-3330
**Meeting:** Quarterly
Troy City Hall

**Election Commission:** The Election Commission, established by S*ection 7.13 of the City Charter*, consists of the City Clerk, Chair of the Election Commission, and two qualified and registered electors of the City. The Council appoints the two members annually in January for a term of one year. The Election Commission oversees the appointment of the Board of Election Inspectors precinct assignments prior to each election, and has charge of all activities and duties required by Statute and the City Charter relating to the conduct of Elections in the City of Troy.

**City Liaison:** Tonni L. Bartholomew, City Clerk
(248) 524-3316
**Meeting:** As needed and prior to all elections
Troy City Hall

**Employees Retirement System Board of Trustees:** Pursuant to Chapter 10 of the Troy City Code, the Board of Trustees approves employee retirement requests, oversees retirement health care coverage, and manages pension investments. The Board consists of eight members including the City Manager and Assistant City Manager/Finance and a non-voting retiree from the Defined Benefit Plan. Six members serve for three-year terms, three of which are appointed by City Council and three are appointed by the membership.

**City Liaison:** John M. Lamerato, Ass't City Mgr/Finance & Administration
(248) 524-3330
**Meeting:** 2nd Wednesday of each month at 12:00 PM
Troy City Hall

**Ethnic Issues Advisory Board:** Troy City Council established the nine-member Ethnic Issues Advisory Board as an advisory body by resolution on March 18, 2002. The Ethnic Issues Advisory Board adopted the five following primary goals promoting education and multicultural exchange in an effort to achieve the enrichment of harmonious relationships and open communication within the City of Troy's diverse ethnic community: 1. Promote the City's diversity by showcasing individual cultures through programs, brochures and cable programming; 2. Establish a resource listing of regional associations and general information relating to the availability of specific local cultural activities, locations offering ethnic food or contact information for locating individual interpreters for the various ethnic groups; 3. Development and distribution of materials emphasizing the mission and goals of the Board, including, but not limited to, an ethnic directory for new residents and one or more brochures featuring the various ethnic populations in Troy; 4. Serve as an advisory body to the City Council on issues related to ethnicity; 5. Assist in the ongoing expansion of the EthniCity Festival through the encouragement of volunteerism among the various ethnic groups and provide continued support to the Troy Daze Festival, especially as it relates to the EthniCity program.

**City Liaison:** Cindy Stewart, Community Affairs Director
248) 524-1147
**Meeting:** 1st Tuesday of each month at 7:00 PM
Troy City Hall

**Historic District Commission:** The Historic District Commission, established by Chapter 13 of the City Code, consists of seven Troy residents. The Commission includes at least two persons chosen from a list submitted by the Troy Historical Society, one person nominated by the Troy Historical Commission, and one

architect duly registered in the State of Michigan. Commissioners are appointed by the City Council for three-year terms. The Commission must formulate a researched survey of each historical structure under Chapter 13, using the Michigan Historical Site Survey form as a guide, and accepting the work of interested volunteers. Site surveys should be kept as a part of the permanent records of the Commission at a place designated by the Commission. Using the list of structures prepared by the Historic Site Preservation Study Committee, and/or any other sites or structures brought to its attention, the Commission may recommend to the City Council that certain sites or structures be added to or deleted from the Historic Districts. Prior to taking action to amend Chapter 13 by the addition of a Historic District, the City Council shall first obtain a report and recommendation from the City Planning Commission.

**City Liaison:** Loraine Campbell, Museum Manager
(248) 524-3570
**Meeting:** 3rd Tuesday of each month at 7:30 PM; except July & August
Troy Museum

**Historic District Study Committee:** Before establishing, modifying or eliminating any Historic District, City Council shall appoint a Historic District Study Committee. The Committee shall contain a majority of persons who have demonstrated interest in or knowledge of historic preservation, and shall consist of at least one member of the Historic District Commission and shall contain representation from at least one other duly organized local historic preservation organization. The study committee is an ad hoc committee established to consider the establishment, modification or elimination of historic districts in specified areas as determined by City Council and then be dissolved. Duties of the committee are outlined in Chapter 13-Historic Preservation, Section 14. B, of the Troy City Code.

**City Liaison:** Loraine Campbell, Museum Manager
(248) 524-3570
**Meeting:** As needed
Troy Museum

**Historical Commission:** The Historical Commission, established by Chapter 12 of the Troy City Code, is a seven-member body appointed by City Council for three-year terms. The Commission was originally created to preserve the history of the City of Troy. The Historical Commission is also a policy making body and, with the approval of the City Manager, is responsible for the overall operation of the Troy Museum and Historic Village. The policies and responsibilities of the Historical Commission also pertain to additional buildings moved to the Historic Village located at 60 W. Wattles Road.

In general, it is the duty of the Historical Commission to establish policy with regard to the collection, arrangement, cataloguing and preservation of historical material including books, pamphlets, maps, charts, manuscripts, papers, records, and archives, paintings, statuary and other objects and materials relating to the history of the City of Troy and the surrounding area. The Commission will also establish policy for the procurement and preservation of narratives of the early residents of Troy, the collection of materials of every description relative to the history, longevity, literature, progress or decay of Indian tribes; collection, preparation, and resources of the early residents of this are, and to make available from time to time source materials and historical studies relative to and illustrative of the history of the area. The Commission has the authority, with the City Manager, to collect from the public offices in the City of Troy reproductions of any records, files, documents, books and papers which, in the opinion of the Commission, are of historical value.

**City Liaison:** Loraine Campbell, Museum Manager
(248) 524-3570
**Meeting:** 4th Tuesday of January, March, June, September & October
at 7:30 PM
Troy Museum

**Library Advisory Board:** The Library Advisory Board, established by Chapter 9 of the Troy City Code, advises the City Council in matters of policy, and the City Manager in matters of administration, with regard to the establishment, development, and operation of the library. The five-member Library Board is appointed by City Council to serve three-year terms. No member of the Board shall be employed by or be an official of the city. It is the duty of the Library Advisory Board to recommend by-laws, rules and regulations for the control and governing of the library system for consideration and action by the City Manager. The Board shall recommend a reasonable schedule of fines for the infringement of established rules and regulations, and a schedule of fees for the use of library services and facilities by non-Council. The Board, in the name of the City, may accept donations, contributions, and gifts, for either general or specific purposes, provided that all such donations, contributions, or gifts are to become the property of the City with full rights of disposal. The Board may recommend the purchase of books, periodicals, magazines, library equipment and supplies as deemed necessary and proper. The Board may also recommend contracts, rules, regulations, and conditions affecting relations between the Troy Public Library and other libraries in the area and in the State of Michigan for consideration and action by the City Council.

**City Liaison:** Cathy Russ, Library Director
(248) 524-3538
**Meeting:** 2nd Monday of each month at 7:30 PM
Troy Library

**Liquor Advisory Board:** The Liquor Committee, established by resolution in 1956, is a seven-member committee appointed by City Council to serve three-year terms. The committee reviews license applicants and complaints as requested by the Police Chief. Information regarding the liquor licensing policy may be obtained by contacting the City Clerk's Office.

**City Liaison:** Police Department
(248) 524-3477
**Meeting:** 2nd Monday of each month at 7:30 PM
Troy City Hall

**Local Development Finance Authority (LDFA):** The Local Development Finance Authority, as established by *The Local Development Financing Act, Act 281 of 1986, Section 125.2151*, is composed of five members and appointed for four-year terms by the Mayor subject to the approval of City Council. The appointees shall not be elected officials of the City Council. The Authority's primary objective is to encourage local development to prevent conditions of unemployment and to promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing. The LDFA meets as needed at City Hall.

**City Liaison:** Brian Murphy, Ass't City Mgr/Economic Development Services
(248) 524-3330
**Meeting:** As needed
Troy City Hall

**Municipal Building Authority:** Pursuant to the provisions of *Act 31, Public Acts of Michigan 1948 (First Extra Session)*, as amended, the Authority acquires, equips, furnishes, owns, improves, operates and maintains City buildings. The Authority executes contracts and provides for the issuance of revenue bonds. The five member board serves for three-year terms.

**City Liaison:** John M. Lamerato, Ass't City Mgr/Finance & Administration
(248) 524-3330
**Meeting:** 2nd Wednesday of each month at 12:00 PM
Troy City Hall

**Parks and Recreation Board:** The Parks and Recreation Board consists of ten members. Seven representatives serve at-large for three-year overlapping terms and are appointed by City Council. One representative from the Troy School Board of Education serves a one-year term and is nominated by the Board of Education. One representative serves a one-year term from the Troy Daze Committee and is nominated by the Troy Daze Committee. One representative serves a one-year term from the Advisory Committee for Senior Citizens and is nominated by the Advisory Committee. A student representative may be appointed for a one-year term by City Council and will serve as an ex-officio, non-voting member. The Parks and Recreation Director shall serve as an ex-officio, non-voting member and shall be responsible to the City Manager. The Board shall: 1. Recommend to the City Manager a budget providing for a parks and recreation program; 2. Recommend to the City Council policies for operating a parks and recreation program; 3. Recommend to the City Council a long-term capital improvements program for parks and recreation facilities, including the acquisition of park sites; 4. Promote activities that will benefit the City parks and recreation program, including the encouragement of organized team athletic programs.

**City Liaison:** Carol Anderson, Parks & Recreation Director
(248) 524-3484
**Meeting:** 3rd Thursday of each month at 7:00 PM
Troy Community Center

**Personnel Board:** Pursuant to Chapter 11 of the Troy City Code, the Personnel Board consists of five members appointed by City Council for three-year terms. The members of the Board shall be persons familiar with the application of merit principles to public employment. No member of the Board shall be employed by the City; or be a member of any local, state or national committee of a political party or an official or member of a committee in any partisan political club or organization, nor shall any member hold or be a candidate for any governmental elective office. Members of the Board shall serve without compensation, but funds will be provided for reasonable and necessary expenses. The Personnel Board shall advise the City Manager on matters of personnel policy and problems of personnel administration, including personnel rules, job classification and pay plans as they apply to classified employees. Members will represent the public interest in the improvement of personnel administration for classified employees. The Personnel Board elects its own chairperson.

**City Liaison:** Tonni L. Bartholomew, City Clerk
(248) 524-3316
**Meeting:** As needed
Troy City Hall

**Planning Commission:** Pursuant to Chapter 39 of the City of Troy Code *of Ordinances,* the Planning Commission consists of nine members appointed by the Mayor subject to the approval by a majority vote of the City Council elect for three-year terms. A non-voting student representative is also appointed. No members shall hold any other municipal office except that one of such member may be a member of the Board of Zoning Appeals. All members shall hold office until their successors are appointed. The Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties.

**City Liaison:** Mark Miller, Planning Director
(248) 524-3364
**Regular Meetings:** 2nd Tuesday of each month at 7:30 PM
Troy Council Chambers
**Special Study Meetings:** 1st & 4th Tuesday of each month at 7:30 PM
As needed
City Council Boardroom

**Retiree Health Care Benefits Plan & Trust Board:** Pursuant to the *Retiree Health Care Plan & Trust*, the Board of Trustees shall consist of eight trustees which shall be the same elected and appointed individuals that serve on the City of Troy Employees Retirement System Board of Trustees. The general administration, management and responsibility for the proper operation of the Trust and for making effective and construing the provisions of the Trust shall be vested in the Board of Trustees. The term of the appointed and elected Trustees are identical to and coincide respectively with the term of each Trustee serving as a trustee of the City of Troy Employees Retirement System Board of Trustees.

**City Liaison:** John M. Lamerato, Ass't City Mgr/Finance & Administration
(248) 524-3330
**Meeting:** 2nd Wednesday of each month at 12:00 PM
Troy City Hall

**Traffic Committee:** Pursuant to Chapter 35 of the City of Troy Code *of Ordinances*, the Traffic Committee consists of seven members for three-year terms. The Police Chief, Fire Chief and Traffic Engineer or their designated representative are ex-officio members of the Committee without voting privilege. The Traffic Committee's advisory powers pertain to proposed traffic regulations and traffic safety issues and advise the City Manager and City Council on amendments to Chapter 35. The Traffic Committee also holds public hearings for sidewalk variances from citizens requesting relief from the requirements of Chapter 34.

**City Liaison:** William Huotari, Deputy City Engineer
(248) 524-3379
**Meeting:** 3rd Wednesday of each month at 7:30 PM
Troy City Hall

**Troy Daze Committee:** The nine-member Troy Daze Committee is appointed by City Council for three-year terms and was established by resolution in 1988. The mission of the Troy Daze Committee is to coordinate the annual Magic of Fall/Troy Daze Festival scheduled for the second weekend after Labor Day. The Troy Daze Festival showcases the community by promoting the partnership between local community groups and businesses in an effort to provide a community event fostering community spirit that offers a weekend of family entertainment for Troy residents and its surrounding communities.

**City Liaison:** Cindy Stewart, Community Affairs Director
248) 524-1147
**Meeting:** 4th Tuesday of each month at 7:00 PM
Troy Community Center

**Youth Council:** Formed by City Council resolution on March 18, 2002, the Troy Youth Council (TYC) is the newest addition to the 26 advisory boards and commissions currently active in the City of Troy. Student Youth Council members are appointed by City Council for one-year terms and advise City Council on matters specifically related to the youth in Troy.

The goal of the Troy Youth Council is: 1. Address community issues through discussion and recommendations; 2. Encourage and promote the education of youth regarding city government and citizen participation; 3. Advise City Council on issues pertaining to the youth of Troy; and 4. Serve as youth ambassadors for the City of Troy.

**City Liaison:** Scott Mercer, Recreation Supervisor
(248) 524-3487
**Meeting:** 4th Wednesday of each month at 7:00 PM
Troy Community Center

**Regular Meeting October 14, 1991**

Vote on Amended Resolution #91-874

RESOLVED, that an Advisory Committee for Handicapped Persons is hereby created; and

BE IT FURTHER RESOLVED, that the Advisory Committee for Handicapped Persons shall consist of nine (9) members, appointed by the City Council for three year overlapping terms with the first terms having three to expire November 1, 1992, three to expire November 1, 1993 and three to expire November 1, 1994.

Yeas: All-6
Absent: Doyle

Change of Name of Advisory Committee for Handicapped Persons to Advisory Committee for Persons With Disabilities
C-12

Resolution #92-158
Moved by Pallotta
Supported by Schilling

RESOLVED, that the name of the Advisory Committee for Handicapped Persons is hereby changed to Advisory Committee for Persons With Disabilities.

Yeas: All-7

REPORTS AND COMMUNICATIONS

Boards and Committees D-1

Historical Commission January 8, 1992
Advisory Committee f or Handicapped Persons February 5, 1992
Advisory Committee for Senior Citizens February 6, 1992
Employees' Retirement System
Board of TrusteesFebruary 12, 1992

Noted and Filed

Department Reports D-2

Noted and Filed

Michigan Municipal League Federal Information Bulletin Dated February 7, 19-92 - - D-3

Noted and Filed

Troy Medi-Go Report - January, 1992 D-4

Noted and Filed

Communication from Boys and Girls Club of Troy Regarding Funding for Mental Health Worker D-5

Noted and Filed

Report Regarding Police Department Decision Shooting Program D-6

Noted and Filed

Communication from Lynn Janes Bell Regarding Curbside Recycling D-7

Noted and Filed

Communication from Oakland County Department of Public Services, Animal Control Division Regarding 1992 Animal Care Center Rates for Boarding and Disposal D-8

Noted and Filed

Communication from Road Commission for Oakland County Regarding Status of Request for Traffic Signal on Livernois at Winchester D-9

**Appointment of Alternate Members to the Advisory Committee for Persons with Disabilities** **F-5**

Resolution #2000-493
Moved by Howrylak
Seconded by Kaszubski

RESOLVED, That the membership of the Advisory Committee for Persons with Disabilities shall consist of nine (9) members, appointed by City Council for three-year overlapping terms and;

BE IT FURTHER RESOLVED, That three (3) of the members shall be persons with disabilities, three (3) shall be residents in need of transportation, and three (3) shall be from the general populace; and

BE IT FURTHER RESOLVED, That three (3) alternate members shall also be appointed by City Council for three-year overlapping terms with the first term to expire November 1, 2001, another to expire November 1, 2002, an the last to expire November 1, 2003 and

BE IT FURTHER RESOLVED, That the alternate members may be called on a rotating basis to sit as regular members of the committee in the absence of a regular member.

Yes: All-7

TABLED ITEMS - CONTINUED

REPORT ON HOUGHTON DRAIN B-6

Mr. Sieloff discussed the erosion of his property on the ditch line of the Houghten drain.

Resolution #74-136
Moved by Councilman Lynch
Supported by Councilman Shaver

RESOLVED, that the City Manager is hereby authorized and directed to make repairs to the Houghten Drain behind the residence of Mr. Ken Sieloff, 4821 Belzair Drive, and that such repairs shall be made using General Funds of the City of Troy, and are not to exceed $2,500.00.

Yeas: All-7

REGULAR BUSINESS

RESOLUTION APPEALING TO CONSUMERS POWER TO PROVIDE BEAUMONT HOSPITAL WITH NATURAL GAS C-1

Resolution #74-137
Moved by Councilman Molinar
Supported by Councilman Lynch

RESOLVED, that the City Council of the City of Troy hereby appeals to the Consumers Power Company of Michigan to provide natural gas service for the Troy Beaumont Hospital.

Yeas: All-7

REPORT AND RESOLUTION TO ESTABLISH ADVISORY COMMITTEE ON SENIOR CITIZEN'S SERVICES AND FACILITIES C-2

Resolution #74-138
Moved by Councilman Michaelson
Supported by Councilman Pallotta

RESOLVED, that a committee be established to be known as the "Advisory Committee for Senior Citizens," and that the purpose of such a committee will be to study and make recommendations to the City Council and City Manager regarding facilities and services for Senior Citizens, including estimates of cost and sources of funds for said facilities and services which are to be administered by the City Manager and/or his subordinates pursuant to policies adopted by the Troy City Council; and

BE IT FURTHER RESOLVED, that the committee shall be comprised of five (5) members who shall be appointed by the City Council to serve without compensation for terms of three (3) years commencing April 30, 1974. Members of the committee can be removed at the pleasure of the City Council by a majority vote of the members elect. Vacancies occurring shall be filled for the unexpired term by the City Council.

BE IT FURTHER RESOLVED, that the committee be charged in its study and deliberations with coming to a final recommendation that best reflects the thinking and desires of the citizens of the City of Troy.

Yeas: All-7

RECOMMENDATIONS OF TRAFFIC AND SAFETY COMMITTEE C-3

Resolution #74-139
Moved by Councilman Molinar
Supported by Councilman Shaver

RESOLVED, that Traffic Control Order No. 74-1-P for the installation of "No Parking" signs on the north side of Hickory, is hereby approved.

Yeas: All-7

TABLED ITEMS - CONTINUED

RESOLUTION CHANGING RULES OF PROCEDURE REGARDING THE NOMINATION AND APPOINTMENT OF MEMBERS TO BOARDS AND COMMITTEES B-2

Resolution #74-1095
Moved by Councilman Taucher
Supported by Councilman Pallotta

RESOLVED, that Section 5 of the Rules of Procedure of the Troy City Council shall be amended to read as follows:

RULES OF PROCEDURE FOR THE CITY COUNCIL
CITY OF TROY, MICHIGAN

5. Appointments

A. Troy City Council nominations and appointments to Boards, Commissions and Committees.

The Mayor Pro Tem will contact incumbents to determine their interest in being nominated for reappointment.

The Mayor or any Councilman desiring to nominate a person for appointment to a Board, Commission, or Committee shall submit such name in writing, along with a brief summary of background and personal data as to nominee's qualifications, except that such a resume shall not be required for the renomination of a current member, or if the Council unanimously agrees that a resume is not necessary. Resume's will be submitted on or before the time of nomination.

Nominations will occur during any regular meeting of the Council. A resolution to nominate will be considered during the "Regular Business" of the Agenda. All nominations are subject to Section "C" which appears below:

C. Appointments will be acted upon as "Regular Business" at the next regular meeting of the Council following nominations. Exceptions to this rule may be made by the Council during the meeting when nominations are made.

Upon request by any Councilman at the time of nominations, the nominating Councilman will request his nominee to appear at the following Council meeting when appointments are to be considered for possible action.

Yeas: All-7

REGULAR BUSINESS

RESOLUTION TO INCREASE NUMBER OF MEMBERS ON ADVISORY COMMITTEE FOR SENIOR CITIZENS C-1

Resolution #74-1096
Moved by Councilman Bookholder
Supported by Councilman Molinar

RESOLVED, that the membership of the Advisory Committee for Senior Citizens is hereby increased from five members to nine members, whose terms will expire: Two (2) term - April 30, 1975; One (1) term - April 30, 1976 and One (1) term - April 30, 1977.

Yeas: All-7

# CHAPTER 90 - ANIMALS

## GENERAL REGULATIONS

1. Definitions. The following terms when used in this Chapter shall have the meanings set forth in this Section:

   (1) Owner - Any person, group of persons, or a corporation who owns, harbors, keeps, or has a right of property in any animal.

   (2) Person - Any individual, employee, corporation, co-partnership or association.

   (3) At Large - Any animal shall be deemed at large when it is off the property of its owner and not under the reasonable control of a competent person.

   (4) Reasonable Control - An animal is under restraint or reasonable control within the meaning of this Ordinance if it is controlled by a lead, if it is on or within a vehicle being driven or parked on the streets, or if is within the property limits of its owner or keeper, provided only that all of the above controls shall be exercised in a manner sufficient to restrain and prevent any danger to any person or property.

   (5) Exposed to Rabies - An animal has been exposed to rabies within the meaning of this Ordinance if it has been bitten by, or exposed to, any animal known to be infected with rabies.

   (6) Animal Control Officer (herein ACO) - The person or persons employed by the City of Troy as its enforcement officer(s).

   (7) Animal Control Appeal Board (herein ACAB) - The ACAB shall consist of five (5) members appointed by the City Council for three (3) year overlapping terms.

   (8) Animal - Any living creature, domestic or wild, excluding for the purpose of licensing, small caged household pets such as, but not limited to, parakeets and parrots, fish, household cats, insects, common store sold rodents and reptiles, or similar animals of a passive, undangerous nature.

   (Rev. 11-19-73)

   (9) Dangerous Animal - Any wild or exotic mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to persons or property.

   (10) Domestic Animal - Any animal not ferae nature, including, but not limited to horses, cows, steers, ponies, mules, donkeys, sheep, swine and goats. This category shall not include dogs which will be otherwise provided for in this Chapter.

   (Rev. 11-19-73)

10. Permit Period. A permit, if not revoked, shall be valid for the life of the owner, provided only that a new permit shall be required at such time as the ownership of the animal is transferred by sale, gift or other type of conveyance within the City. Subtractions may be logged on the present permit at no charge. The permittee must notify the City within one week of any change of address for himself or the animals.

    (Rev. 08-13-84)

11. Revocation of Permit. The Animal Control Officer may revoke any permit if the person holding the permit refuses or fails to comply with this Ordinance, the regulations promulgated by the Animal Control Board, or any State or local law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten (10) days thereafter remove from his premises or other premises in Troy, all animals being owned, kept, or harbored by such person and no part of the permit fee shall be refunded. The effective date of the revocation shall be postponed pending the outcome of any appeal to the Animal Control Appeal Board, which appeal must be filed within seven (7) days of the date of revocation.

12. Impounding. Unrestrained animals as described in this Chapter may be taken by the Animal Control Officer, Police Officer, or an Agency delegated by the Animal Control Officer and impounded at the Oakland County Animal Care Center, in a humane manner. Animals impounded shall be kept for not less than five (5) days unless reclaimed by their owners. Animals not claimed within five (5) days shall be humanely disposed of or made available for adoption by the Animal Control Officer or by an Agency delegated by him to exercise that Authority.

    (Rev. 07-10-95)

13. Redemption from Pound. An owner reclaiming an impounded animal shall pay a fee in accordance with Chapter 60, Fees and Bonds of the City of Troy Code of Ordinances. The owner may also be proceeded against for violation of this chapter and his permit may be revoked.

    (Rev. 03-17-03)

14. Enforcement. The provisions of this Ordinance shall be enforced by the Animal Control Officer of the City of Troy who shall have the right of inspection of an applicant's facilities both prior to and after the granting of a permit. All decisions of the Animal Control Officer with regard to the issuance or denial of a permit may be appealed to the Animal Control Appeal Board of the City of Troy.

15. Animal Control Appeal Board. There is hereby created an Animal Control Appeal Board. Said Board shall consist of five (5) members appointed by the City Council for three (3) year overlapping terms. The Animal Control Appeal Board shall annually elect from among its members a Chairman, a Vice Chairman and a Secretary. The Chairman shall preside over meetings of the Board and shall have voting privileges. The Vice Chairman shall have voting privileges and preside over meetings of the Board in the absence of the Chairman. The Secretary shall record and file with the City Clerk accurate and complete resolutions, rules and interpretations rendered by the Board. The jurisdiction of said Board shall be limited to interpretation and application of regulations contained in this Ordinance.

    (Rev. 09-08-03)

## TABLED ITEMS

### AMENDMENT TO THE ANIMAL CONTROL ORDINANCE B-2

Mrs. Harriet Barnard questioned the method of issuing permits and asked that the late fee mentioned in the ordinance be clarified.

The Council discussed and made revisions in the proposed ordinance.

Resolution #73-669
Moved by Councilman Taucher
Supported by Councilman Molinar

RESOLVED, that an Ordinance to amend Chapter 90 of Title IX, Police Regulations, of the code of the City of Troy (Animal Control Ordinance) is hereby approved and a copy attached to and made a part of the original minutes.

Yeas: All-6
Absent: Lynch

## REGULAR BUSINESS

### REQUEST FROM DETROIT EDISON COMPANY FOR AN EASEMENT ACROSS #4 FIRE STATION PROPERTY ON MAPLE ROAD C-1

Resolution #73-670
Moved by Councilman Taucher
Supported by Councilman Michaelson

RESOLVED, that the request of the Detroit Edison Company for a power line easement across the front of the #4 Fire Station Site (Lot 14 of Maple Acres) on Maple Road, is hereby approved, and the Mayor and City Clerk are authorized to execute the right of way permit, a copy of which is attached to and made a part of the original minutes.

Yeas: All-6
Absent: Lynch

### FINAL PAYMENT - LIVERNOIS ROAD STORM SEWER - PROJECT 71-P-8 C-2

Resolution #73-671
Moved by Councilman Michaelson
Supported by Councilman Molinar

RESOLVED, that the City Manager is hereby authorized to pay the final installment on Project 71-P-8, Livernois Road Storm Sewer, to Municipal Contractors Inc., in the amount of $3,048.85.

Yeas: All-6
Absent: Lynch

13. Redemption from Pound. An owner reclaiming an impounded animal shall pay a fee as established by the City Council. The owner may also be proceeded against for violation of this Ordinance and his permit may be revoked.

14. Enforcement. The provisions of this Ordinance shall be enforced by the Animal Control Officer of the City of Troy who shall have the right of inspection of an applicant's facilities both prior to and after the granting of a permit. All decisions of the Animal Control Officer with regard to the issuance or denial of a permit may be appealed to the Animal Control Appeal Board of the City of Troy.

15. Animal Control Appeal Board. There is hereby created an Animal Control Appeal Board. Said Board shall consist of five (5) members appointed by the City Commission for three (3) year overlapping terms. The Animal Control Appeal Board shall annually elect from among its members a Chairman, a Vice Chairman and a Secretary. The Chairman shall preside over meetings of the Board and shall have voting privileges. The Vice Chairman shall have voting privileges and preside over meetings of the Board in the absence of the Chairman. The Secretary shall record and file with the City Clerk accurate and complete resolutions, rules and interpretations rendered by the Board. The jurisdiction of said Board shall be limited to interpretation and application of regulations contained in this Ordinance.

Appeals from the decisions of the Animal Control Officer to the Animal Control Appeal Board shall be filed at the office of the City Clerk on blank forms provided by the Clerk. Rulings and interpretations of the Animal Control Appeal Board shall be final. The Animal Control Officer shall enforce all rulings of said Board.

## Dogs

16. Dog Licenses Required. It shall be unlawful for any person to own, keep, or harbor any dog six (6) months of age or over in the City of Troy, unless said dog is licensed as hereinafter provided; or to own, harbor, or keep any dog six (6) months of age or over that does not at all times wear a collar or harness with a metal tag attached as hereinafter provided.

17. License Applications. Individual dog licenses shall be issued by the City Clerk upon application and payment of the license fees provided in this Chapter. The application for a dog license shall be accompanied by a certificate signed by a veterinarian stating that said dog has been properly immunized against rabies. It shall be the duty of any person owning or harboring a dog on or before the 15th day of March of each year, or on or before the date any such dog becomes six (6) months of age, or within thirty (30) days after such person becomes a resident of the City of Troy, or within thirty (30) days after he becomes the owner of a dog six (6) months of age or more, to apply for a license; provided, that no person shall keep more than three (3) dogs of the age of six (6) months or over without first obtaining a kennel license from the State; further provided; that any person who runs a dog kennel that is properly licensed by the State need not apply for individual dog licenses under this Chapter. The applicant for a dog license shall give his full name and address and the age and description of the dog. If the applicant has become a resident of the City within thirty (30) days, or the owner of a dog within thirty (30) days, the applicant shall give the date of becoming a resident or acquiring a dog, as the case may be. All dog licenses hereafter issued shall expire on the 15th day of March in the year following their issuance.

**MICHIGAN ELECTION LAW (EXCERPT)**
**Act 116 of 1954**

## 168.30a Board of city or township canvassers; powers and duties; members, appointment, terms, notice; contract with county for services of board of county canvassers; cost.

Sec. 30a. (1) A 4-member board of canvassers is established in every city and township having more than 5 precincts, notwithstanding a statutory or charter provision, or other rule or law, to the contrary. All of the powers granted to and duties required by law to be performed by city and township boards of canvassers are granted to and required to be performed by the boards of city and township canvassers in cities and townships having more than 5 precincts. Members of the board of canvassers shall be appointed for terms of 4 years beginning the January 1 after their appointment. Members of the board of canvassers shall be notified of their appointment within 5 days after appointment by their city or township clerk.

(2) The city council or the township board of a city or township having more than 5 precincts may contract with the board of commissioners of the county in which all or the greater portion of the city or township's population resides to provide that the board of county canvassers of that county shall perform all the functions of the board of city or township canvassers. Financial arrangements of a contract with the board of commissioners may provide that the city or township shall bear all or part of the cost of the work of the county board of canvassers.

**History:** Add. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968;—Am. 2003, Act 302, Eff. Jan. 1, 2005.

**Compiler's note:** Section 3 of Act 65 of 1968 provides:

"This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code


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# MICHIGAN ELECTION LAW (EXCERPT)
## Act 116 of 1954

### 168.30b Board of city or township canvassers; members, eligibility, affidavit; holding other office prohibited.

Sec. 30b. Members of the board shall be qualified and registered electors of the city or township in which they serve. No person shall be appointed to a board of canvassers unless such person shall have filed with the city or township clerk an affidavit on a form approved by the state bureau of elections containing at least the following information: name, home address, political party affiliation, date of birth, employment and statement of physical disability, if any. The city or township clerk shall notify the county clerk of the name, address and political affiliation of board members, and the county clerk shall maintain such record for public inspection. A member of the board of canvassers vacates his office if at any time during his term of office he or any member of his immediate family serves as an election inspector or becomes a candidate for any elective public office at an election to be canvassed by his board of canvassers or serves as a member of the governing body of the unit for which his board is established.

**History:** Add. 1963, 2nd Ex. Sess., Act 65, Imd. Eff. Dec. 27, 1963;—Am. 1968, Act 65, Eff. July 1, 1968.

**Compiler's note:** Section 3 of Act 65 of 1968 provides: "This act shall take effect on July 1, 1968, except in any county with a population of 400,000 or more it shall take effect on July 1, 1970."

**Popular name:** Election Code


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**STATE CONSTITUTION (EXCERPT)**
**CONSTITUTION OF MICHIGAN OF 1963**

## § 7 Boards of canvassers.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

**History:** Const. 1963, Art. II, § 7, Eff. Jan. 1, 1964.

**Former constitution:** See Const. 1908, Art. III, § 9.

**Transfer of powers:** See § 16.128.


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# Section 211.28

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**
**Act 206 of 1893**

**211.28 Board of review for township or city; appointment, qualifications, and terms of members; vacancy; eligibility; quorum; adjournment; deciding questions; board of review committees; meetings; size, composition, and manner of appointment of board of review; alternate members; indorsement of assessment roll; duties and responsibilities contained in MCL 211.29.**

Sec. 28.

(1) Those electors of the township appointed by the township board shall constitute a board of review for the township. At least 2/3 of the members shall be property taxpayers of the township. Members appointed to the board of review shall serve for terms of 2 years beginning at noon on January 1 of each odd-numbered year. Each member of the board of review shall qualify by taking the constitutional oath of office within 10 days after appointment. The township board may fill any vacancy that occurs in the membership of the board of review. A member of the township board is not eligible to serve on the board or to fill any vacancy. A spouse, mother, father, sister, brother, son, or daughter, including an adopted child, of the assessor is not eligible to serve on the board or to fill any vacancy. A majority of the board of review constitutes a quorum for the transaction of business, but a lesser number may adjourn and a majority vote of those present shall decide all questions. At least 2 members of a 3-member board of review shall be present to conduct any business or hearings of the board of review.

(2) The township board may appoint 3, 6, or 9 electors of the township, who shall constitute a board of review for the township. If 6 or 9 members are appointed as provided in this subsection, the membership of the board of review shall be divided into board of review committees consisting of 3 members each for the purpose of hearing and deciding issues protested pursuant to section 30. Two of the 3 members of a board of review committee constitute a quorum for the transaction of the business of the committee. All meetings of the members of the board of review and committees shall be held during the same hours of the same day and at the same location.

(3) A township board may appoint not more than 2 alternate members

for the same term as regular members of the board of review. Each alternate member shall be a property taxpayer of the township. Alternate members shall qualify by taking the constitutional oath of office within 10 days after appointment. The township board may fill any vacancy that occurs in the alternate membership of the board of review. A member of the township board is not eligible to serve as an alternate member or to fill any vacancy. A spouse, mother, father, sister, brother, son, or daughter, including an adopted child, of the assessor is not eligible to serve as an alternate member or to fill any vacancy. An alternate member may be called to perform the duties of a regular member of the board of review in the absence of a regular member. An alternate member may also be called to perform the duties of a regular member of the board of review for the purpose of reaching a decision in issues protested in which a regular member has abstained for reasons of conflict of interest.

(4) The size, composition, and manner of appointment of the board of review of a city may be prescribed by the charter of a city. In the absence of or in place of a charter provision, the governing body of the city, by ordinance, may establish the city board of review in the same manner and for the same purposes as provided by this section for townships.

(5) A majority of the entire board of review membership shall indorse the assessment roll as provided in section 30. The duties and responsibilities of the board contained in section 29 shall be carried out by the entire membership of the board of review and a majority of the membership constitutes a quorum for those purposes.

**History:** 1893, Act 206, Eff. June 12, 1893 ;-- CL 1897, 3851 ;-- Am. 1901, Act 129, Eff. Sept. 5, 1901 ;-- CL 1915, 4022 ;-- CL 1929, 3416 ;-- Am. 1944, 1st Ex. Sess., Act 18, Imd. Eff. Feb. 19, 1944 ;-- CL 1948, 211.28 ;-- Am. 1964, Act 275, Eff. Aug. 28, 1964 ;-- Am. 1968, Act 84, Imd. Eff. June 4, 1968 ;-- Am. 1982, Act 539, Eff. Mar. 30, 1983 ;-- Am. 1984, Act 149, Imd. Eff. June 25, 1984 ;-- Am. 1993, Act 292, Imd. Eff. Dec. 28, 1993 ;-- Am. 2006, Act 143, Imd. Eff. May 22, 2006
**Popular Name:** Act 206

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as the same shall appear on the annual assessment and tax rolls of the City, shall be correct to and shall stand as of the tax day of the year to which they apply.

The assessment roll shall show separate figures for the values of the real estate, including buildings, and of personal property.

## Section 9.8 - Notice of Change of Assessment by Assessor:

The Assessor shall give notice by first class mail to each owner of property which has been added to the assessment roll or the value of which has been increased or decreased on such roll. The notice shall be sent to the owner shown on the record of the Assessor's office, and shall be mailed not later than the 12th day of February of each year. Neither the failure of the Assessor to give such notice nor failure to receive the same shall invalidate any assessment roll or any assessment thereon.

## Section 9.9 - Review of Assessments:

All assessments shall be subject to review by the Board of Review, which body shall be organized as hereinafter provided.

The Board of Review shall meet for the purpose of reviewing and correcting the assessment roll, at the place of meeting of the City Council, on the Tuesday following the first Monday of March, and on the second Monday of March, and continue in session during the day and the day following and shall meet in session for not less than six hours each day. On its own motion, or on sufficient cause being shown by any person, the Board of Review shall add to said roll the names of persons, and the description and value of properties both real and personal; shall correct all errors in names, descriptions, assessments and valuation; and shall do whatsoever else may be necessary to complete and correct the assessment roll according to the general laws of the state. The assessment roll as prepared by the Assessor, and as changed and corrected by the Board of Review shall stand as the assessment roll of the city. If, for any cause, a quorum of said Board does not meet during the days mentioned above, the roll prepared by the Assessor shall stand as if approved by the Board of Review.

## Section 9.10 - Notice of Review of Assessments:

The Assessor shall give notice of the meetings of the Board of Review by publishing such notice at least two times in a newspaper of general circulation within the city, the first of which publications shall be not more than ten nor less than three days before the first day of review. Failure to give any of the notices herein specified shall not invalidate the assessment roll or any assessment therein contained.

## Section 9.11 - Board of Review:

The Board of Review shall be composed of three, six, or nine members, as determined by resolution of the City Council, who shall be selected upon the basis of their knowledge of property values and of the subjects of assessments and taxation. No member of the Board shall hold any other public office or public employment, except that of notary public or member of the armed forces. The Mayor of the City, with the advice and consent of the Council, during January of each year, shall appoint one-third of the members of the Board of Review to serve for a three year term, which term shall begin on the first day of February in the year in which the appointment is made. The Council shall fix the compensation of the members of the Board of Review. The Board shall consist of committees of three members which may meet on alternate days or concurrently as determined by the Board.

## Section 9.12 - Notice of Assessment Changes by Board of Review:

Prior to the final meeting of the Board of Review it shall give notice to each owner of property, whose property is added to the assessment roll, or the value of whose property is increased or decreased by the

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# THE HOME RULE CITY ACT (EXCERPT)
## Act 279 of 1909

### 117.27b Board of review; appointment of members, functions.

Sec. 27b. When the charter of any city heretofore adopted provides that the city representatives on the board of supervisors of the county shall be members of the city's board of review or act in any other official capacity or perform any other official function, such city may provide by ordinance for the appointment of the members of the board of review of the city from the citizens of the city and for the filling of such other offices and the performance of such official functions heretofore filled or carried out by such city representatives in such manner as the legislative body of such city shall prescribe.

In the years 1969 and 1970 the legislative body of any city whose charter provides for a board of review consisting of appointed members of the county board of supervisors may appoint a board of review consisting of the same number as those now serving as appointed members consisting of electors resident in the city, to review the assessment roll according to law, notwithstanding the provision of any charter or law to the contrary.

**History:** Add. 1969, Act 2, Imd. Eff. Mar. 25, 1969.


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43.00.00 ARTICLE XLIII BOARD OF ZONING APPEALS

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 Act 207 of Public Acts of 1921, 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 one (1) year term as the Planning Commission representative. Alternate members shall function in accordance with the procedures established by Section 5 of Act 207 of Public Acts of 1921, 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.

43.20.00 MEETINGS:
The Board of Zoning Appeals shall adopt rules of procedure. All meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson and at times as the Board determines. All hearings conducted by the Board shall be open to the public. The Director of Building and Zoning, or his representative shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and official action. Four (4) members of the Board shall constitute a quorum for the conduct of its business. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to matters before it.

(Rev. 05-04-98)

43.30.00 APPEALS:
An appeal may be made to the Board of Appeals by any person or entity affected by a decision of the Director of Building and Zoning. The appeal shall be made by filing with the Director of Building and Zoning an application for hearing before the Board of Zoning Appeals specifying the grounds for appeal. The Director of Building and Zoning shall transmit to the Board all documents relating to the appeal.

(Rev. 05-04-98)

43.40.00 STAY:
An appeal stays the Director of Building and Zoning's decision until the Board makes a decision unless the Director of Building and Zoning certifies to the Board, after the appeal is filed, that a stay would cause imminent peril of life or property. If certification is made, the decision shall not be stayed unless ordered by the Board or the Circuit Court.

(Rev. 05-04-98)

# CITY AND VILLAGE ZONING ACT (EXCERPT)
# Act 207 of 1921

## 125.585 Board of appeals; rules governing procedure; appointment and terms of members; powers and duties of board; appeals; variances; remuneration; finality of decision; judicial review.

Sec. 5. (1) The legislative body of a city or village may act as a board of appeals upon questions arising under a zoning ordinance. The legislative body may establish rules to govern its procedure as a board of appeals. In the alternative, the legislative body may appoint a board of appeals consisting of not less than 5 members, each to be appointed for a term of 3 years. Appointments of the first members shall be for terms of 1, 2, and 3 years, respectively, so as nearly as possible to provide for the subsequent appointment of an equal number of members each year. After the initial appointments, each member shall hold office for the full 3-year term.

(2) Under procedures specified in the zoning ordinance, the legislative body of a city or village may appoint not more than 2 alternate members for the same term as regular members of the board of appeals. The alternate members may be called on a rotating basis as specified in the zoning ordinance to sit as regular members of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member called shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the board of appeals.

(3) The board of appeals shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the enforcement of an ordinance adopted under this act. The board of appeals shall also hear and decide matters referred to the board or upon which the board is required to pass under an ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the board of appeals only if provided for in the zoning ordinance.

(4) In a city or village having a population of less than 1,000,000, the concurring vote of a majority of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of 2/3 of the members of the board is necessary to grant a variance from uses of land permitted in an ordinance. In a city having a population of 1,000,000 or more, the concurring vote of 2/3 of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under an ordinance, or to grant a variance in an ordinance.

(5) An appeal may be taken by a person aggrieved, or by an officer, department, board, or bureau of the city or village. In addition, a variance in an ordinance may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and this act. A board of rules or board of building appeals of a city or village may be enlarged to consist of not less than 5 members, and these may be appointed as the board of appeals as provided in this section.

(6) An appeal under this section shall be taken, within a time prescribed by the board of appeals by general rule, by filing, with the officer or body from whom the appeal is taken and with the board of appeals, a notice of appeal specifying the grounds for the appeal. The officer or body from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(7) An appeal under this section stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the board of appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the board of appeals or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.

(8) The board of appeals shall fix a reasonable time for the hearing of the appeal and give notice of the appeal to the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single and 2-family dwellings within 300 feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If a tenant's name is not known, the term “occupant” may be used. Upon the hearing, a party may appear in person or by agent or by attorney.



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(9) The board of appeals shall decide the appeal within a reasonable time. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make an order, requirement, decision, or determination as in the board's opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal is taken. If there are practical difficulties or unnecessary hardship in carrying out the strict letter of the ordinance, the board of appeals may in passing upon appeals grant a variance in any of its rules or provisions relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done.

(10) The board of appeals may impose conditions upon an affirmative decision, as provided in section 4c(2). The legislative body of a city or village may authorize the remuneration of the members of the board for attendance at each meeting.

(11) The decision of the board of appeals is final. However, a person having an interest affected by the zoning ordinance may appeal to the circuit court. Upon appeal, the circuit court shall review the record and decision of the board of appeals to ensure that the decision meets all of the following requirements:

(a) Complies with the constitution and laws of this state.

(b) Is based upon proper procedure.

(c) Is supported by competent, material, and substantial evidence on the record.

(d) Represents the reasonable exercise of discretion granted by law to the board of appeals.

(12) If the court finds the record of the board of appeals inadequate to make the review required by this section, or that additional material evidence exists that with good reason was not presented to the board of appeals, the court shall order further proceedings before the board of appeals on conditions that the court considers proper. The board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm the original decision. The supplementary record and decision shall be filed with the court.

(13) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the board of appeals.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2637;—Am. 1941, Act 306, Eff. Jan. 10, 1942;—Am. 1947, Act 272, Eff. Oct. 11, 1947;—CL 1948, 125.585;—Am. 1952, Act 97, Eff. Sept. 18, 1952;—Am. 1968, Act 202, Eff. Nov. 15, 1968;—Am. 1973, Act 204, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 638, Eff. Mar. 1, 1979;—Am. 1979, Act 180, Eff. Mar. 18, 1980;—Am. 1986, Act 191, Imd. Eff. July 8, 1986;—Am. 2000, Act 20, Imd. Eff. Mar. 8, 2000.



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**Resolution Creating a Brownfield Redevelopment Authority, Designating Boundaries of the Brownfield Development Zone, and Providing for Other Related Matters** **C-5**

Resolution #99-21
Moved by Pallotta
Seconded by Pryor

WHEREAS, the City Council is authorized by the provisions of Act 381, Public Acts of Michigan, 1996 ("Act 381") to create a brownfield redevelopment authority; and

WHEREAS, pursuant to Act 381, the City Council declared by resolution, on November 16, 1998, its intention to create and provide for a brownfield redevelopment authority; and

WHEREAS, pursuant to Act 381, the City Council is required to hold a public hearing on the establishment of a brownfield redevelopment authority and the designation of a brownfield redevelopment zone in which the brownfield redevelopment authority will exercise its powers; and

WHEREAS, notice of the public hearing has been published twice in a newspaper of general circulation in the City of Troy so that a citizen, taxpayer, official from a taxing jurisdiction whose millage may be subject to capture or property owner of the City of Troy has a right to be heard in regard to the establishment of the brownfield redevelopment authority and boundaries of the proposed zone; and

WHEREAS, on January 18, 1999, the City Council conducted a public hearing on the proposed brownfield redevelopment authority and the designation of the proposed authority district; and

WHEREAS, not more that 30 days have passed since the public hearing,

NOW, THEREFORE BE IT RESOLVED THAT:

1. Definitions. The terms used in this resolution shall have the same meaning as given to them in Act 381 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this resolution:

   "Act 381" means Act 381, Public Acts of Michigan, 1996.

   "Authority" means the City of Troy Brownfield Redevelopment Authority created by this resolution.

   "Board" means the governing body of the Authority.

   "Chief Executive Officer" means the Mayor of the City of Troy.

   "City" means the City of Troy, County of Oakland, Michigan.

   "Zone" means the brownfield redevelopment zone designated by this resolution as now existing or hereafter amended, and within which the Authority shall exercise its powers.

2. Determination of Necessity; Purpose. The City Council hereby determines that it is necessary for the best interests of the public to create a public body corporate which shall operate to promote the revitalization of environmentally distressed areas in the City, pursuant to Act 381.

3. Creation of Authority. There is hereby created pursuant to Act 381 brownfield redevelopment authority for the City. The Authority shall be a public body corporate and shall be known and exercise its powers under title of the "City of Troy Brownfield Redevelopment Authority". The Authority may adopt a seal, may sue and be sued in any court of this State and shall possess all the powers necessary to carry out the purpose of its incorporation as provided by this resolution and Act 381. The enumeration of a power in this resolution or in Act 381 shall not be construed as a limitation upon the general powers of the Authority.

4. Termination. Upon completion of its purposes, the Authority may be dissolved by resolution of the City Council.

5. Description of Zone. The Zone shall consist of the territory in the City described in Exhibit A, attached hereto and made a part hereof, subject to such changes as may hereinafter be made pursuant to this resolution and Act 381. All of the property described in Exhibit A was included in the description of the proposed boundaries contained in the published notice of the public hearing.

6. Board. The Authority shall be under the supervision and control of the Board. The Board shall consist of not less than 5 nor more than 9 persons appointed by the Chief Executive Officer subject to the approval of the City Council. Of the initial members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, and 3 years. Thereafter, each member shall serve for a term of 3 years. A member shall hold office until the member's successor is appointed and qualified. An appointment to fill a vacancy shall be made by the Chief Executive Officer for the unexpired term only. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. Before assuming the duties of office, a member shall qualify by taking and subscribing to the oath of office provided in section 1 of Article XI of the Michigan Constitution of 1963. The members of the Board shall elect 1 of their membership as chairperson and another as vice-chairperson. Subject to the approval of the City Council, the Board shall adopt bylaws for the regulation of its affairs and the conduct of its business.

7. Director of Authority. Subject to the approval of the City Council, the Board may employ and fix the compensation of a Director of the Authority, and such Director shall furnish a bond in the penal sum of fifty thousand dollars ($50,000) payable to the Authority for the use and benefit of the Authority and filed with the City Clerk.

8. Powers of Authority. Except as specifically otherwise provided in this resolution, the Authority shall have all powers provided by law subject to the limitations imposed by law and herein.

9. Fiscal Year; Adoption of Budget.

   (a) The fiscal year of the Authority shall begin on July 1st of each year and end on June 30th of the following year, or such other fiscal year as may hereafter be adopted by the Authority.

   (b) The Authority shall prepare and approve annually a budget for the operation of the Authority for the ensuing fiscal year. The budget shall be prepared in the manner and shall contain the information required of municipal departments. Funds of the City shall not be included in the budget of the Authority except those funds authorized in Act 381 or by the City Council of the City.

   (c) The Authority will not capture local K through 12 school revenue for any public school

district serving the City.

(d) The Authority shall submit annually to the City Council and the State Tax Commission a financial report on the status of activities of the Authority. The report shall include all of the following:

(i) The amount and source of tax increment revenues received.

(ii) The amount and purpose of expenditures of tax increment revenues.

(iii) The amount of principal and interest on all outstanding indebtedness.

(iv) The initial taxable value of all eligible property subject to the brownfield plan.

(v) The captured taxable value realized by the Authority.

(vi) Information concerning any transfer of ownership of or interest in each eligible property within the Zone.

10. Local Site Remediation Revolving Fund. Pursuant to Act 381, the Authority may establish a local site remediation revolving fund which may be used only to pay the costs of eligible activities on eligible property that is located within the Zone.

11. Recording and Filing. The City Clerk shall file a certified copy of the resolution with the Michigan Secretary of State promptly after its adoption.

12. Repealer. All resolutions and parts of resolutions in conflict herewith are hereby repealed.

Yes: All-7

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# INCOMPATIBLE PUBLIC OFFICES (EXCERPT)
## Act 566 of 1978

### 15.183 Public officer or employee as member of governing board of institution of higher education; member of school board as superintendent of schools; public officer or employee as member of board of tax increment finance authority, downtown development authority, or a local development finance authority; applicability; eligibility; conflict of interest; breach of duty; public officer or employee of community mental health services program.

Sec. 3. (1) Section 2 does not prohibit a public officer's or public employee's appointment or election to, or membership on, a governing board of an institution of higher education. However, a public officer or public employee shall not be a member of governing boards of more than 1 institution of higher education simultaneously, and a public officer or public employee shall not be an employee and member of a governing board of an institution of higher education simultaneously.

(2) Section 2 does not prohibit a member of a school board of 1 school district from being a superintendent of schools of another school district.

(3) Section 2 does not prohibit a public officer or public employee of a city, village, township, school district, community college district, or county from being appointed to and serving as a member of the board of a tax increment finance authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, a local development finance authority under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or a brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(4) Section 2 does not do any of the following:

(a) Prohibit public officers or public employees of a city, village, township, or county having a population of less than 25,000 from serving, with or without compensation, as emergency medical services personnel as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(b) Prohibit public officers or public employees of a city, village, township, or county having a population of less than 25,000 from serving, with or without compensation, as a firefighter in that city, village, township, or county if that firefighter is not any of the following:

(*i*) A full-time firefighter.

(*ii*) A fire chief.

(*iii*) A person who negotiates with the city, village, township, or county on behalf of the firefighters.

(c) Limit the authority of the governing body of a city, village, township, or county having a population of less than 25,000 to authorize a public officer or public employee to perform, with or without compensation, other additional services for the unit of local government.

(5) This section does not relieve a person from otherwise meeting statutory or constitutional qualifications for eligibility to, or the continued holding of, a public office.

(6) This section does not allow or sanction activity constituting conflict of interest prohibited by the constitution or laws of this state.

(7) This section does not allow or sanction specific actions taken in the course of performance of duties as a public official or as a member of a governing body of an institution of higher education that would result in a breach of duty as a public officer or board member.

(8) Section 2 does not prohibit a public officer or public employee of a community mental health services program as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, from serving as a public officer or public employee of a separate legal or administrative entity created by 2 or more community mental health services programs under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, a joint board or commission created under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or a regional entity created under section 204b of the mental health code, 1974 PA 258, MCL 330.1204b, whether or not the separate legal or administrative entity, joint board or commission, or regional entity may enter into contracts or agreements with 1 or more of the community mental health services programs.

**History:** 1978, Act 566, Imd. Eff. Dec. 29, 1978;—Am. 1984, Act 72, Imd. Eff. Apr. 18, 1984;—Am. 1992, Act 10, Imd. Eff. Mar. 10, 1992;—Am. 1994, Act 317, Imd. Eff. Oct. 6, 1994;—Am. 2000, Act 455, Imd. Eff. Jan. 9, 2001;—Am. 2004, Act 110, Imd. Eff. May 20, 2004.


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# BROWNFIELD REDEVELOPMENT FINANCING ACT
## Act 381 of 1996

AN ACT to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans; to create brownfield redevelopment zones; to promote the revitalization, redevelopment, and reuse of certain property, including, but not limited to, tax reverted, blighted, or functionally obsolete property; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004.

*The People of the State of Michigan enact:*

### 125.2651 Short title.

Sec. 1. This act shall be known and may be cited as the “brownfield redevelopment financing act”.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2652 Definitions.

Sec. 2. As used in this act:

(a) "Additional response activities" means response activities identified as part of a brownfield plan that are in addition to baseline environmental assessment activities and due care activities for an eligible property.

(b) "Authority" means a brownfield redevelopment authority created under this act.

(c) "Baseline environmental assessment" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) "Baseline environmental assessment activities" means those response activities identified as part of a brownfield plan that are necessary to complete a baseline environmental assessment for an eligible property in the brownfield plan.

(e) "Blighted" means property that meets any of the following criteria:

(*i*) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) Is an attractive nuisance to children because of physical condition, use, or occupancy.

(*iii*) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(*v*) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

(*vi*) Is property owned or under the control of a land bank fast track authority under the land bank fast track act, whether or not located within a qualified local governmental unit. Property included within a brownfield plan prior to the date it meets the requirements of this subdivision to be eligible property shall be considered to become eligible property as of the date the property is determined to have been or becomes qualified as, or is combined with, other eligible property. The sale, lease, or transfer of the property by a land bank fast track authority after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

(f) "Board" means the governing body of an authority.

(g) "Brownfield plan" means a plan that meets the requirements of section 13 and is adopted under section 14.

(h) "Captured taxable value" means the amount in 1 year by which the current taxable value of an eligible property subject to a brownfield plan, including the taxable value or assessed value, as appropriate, of the property for which specific taxes are paid in lieu of property taxes, exceeds the initial taxable value of that eligible property. The state tax commission shall prescribe the method for calculating captured taxable value.

(i) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners.

(j) "Department" means the department of environmental quality.

(k) "Due care activities" means those response activities identified as part of a brownfield plan that are


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necessary to allow the owner or operator of an eligible property in the plan to comply with the requirements of section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(*l*) "Eligible activities" or "eligible activity" does not include activities related to multisource commercial hazardous waste disposal wells as that term is defined in section 62506a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.62506a, but means 1 or more of the following:

(*i*) Baseline environmental assessment activities.

(*ii*) Due care activities.

(*iii*) Additional response activities.

(*iv*) For eligible activities on eligible property that was used or is currently used for commercial, industrial, or residential purposes that is in a qualified local governmental unit, or that is owned or under the control of a land bank fast track authority, and is a facility, functionally obsolete, or blighted, and except for purposes of section 38d of the single business tax act, 1975 PA 228, MCL 208.38d, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(E) Assistance to a land bank fast track authority in clearing or quieting title to, or selling or otherwise conveying, property owned or under the control of a land bank fast track authority.

(*v*) Relocation of public buildings or operations for economic development purposes with prior approval of the Michigan economic development authority.

(*vi*) For eligible activities on eligible property that is a qualified facility that is not located in a qualified local governmental unit and that is a facility, functionally obsolete, or blighted, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(m) "Eligible property" means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes that is either in a qualified local governmental unit and is a facility, functionally obsolete, or blighted or is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property or tax reverted property owned or under the control of a land bank fast track authority. Eligible property includes, to the extent included in the brownfield plan, personal property located on the property. Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(n) "Facility" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(o) "Fiscal year" means the fiscal year of the authority.

(p) "Functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

(q) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(r) "Infrastructure improvements" means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting property owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by



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a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas.

(s) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown either by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, if provided by the brownfield plan, by the next assessment roll for which equalization will be completed following the date the resolution adding that eligible property in the brownfield plan is adopted. Property exempt from taxation at the time the initial taxable value is determined shall be included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax shall not be considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax.

(t) "Land bank fast track authority" means an authority created under the land bank fast track act.

(u) "Local taxes" means all taxes levied other than taxes levied for school operating purposes.

(v) "Municipality" means all of the following:

(*i*) A city.

(*ii*) A village.

(*iii*) A township in those areas of the township that are outside of a village.

(*iv*) A township in those areas of the township that are in a village upon the concurrence by resolution of the village in which the zone would be located.

(*v*) A county.

(w) "Owned or under the control of" means that a land bank fast track authority has 1 or more of the following:

(*i*) An ownership interest in the property.

(*ii*) A tax lien on the property.

(*iii*) A tax deed to the property.

(*iv*) A contract with this state or a political subdivision of this state to enforce a lien on the property.

(*v*) A right to collect delinquent taxes, penalties, or interest on the property.

(*vi*) The ability to exercise its authority over the property.

(x) "Qualified facility" means a landfill facility area of 140 or more contiguous acres that is located in a city and that contains a landfill, a material recycling facility, and an asphalt plant that are no longer in operation.

(y) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797.

(z) "Qualified taxpayer" means that term as defined in sections 38d and 38g of the single business tax act, 1975 PA 228, MCL 208.38d and 208.38g.

(aa) "Remedial action plan" means a plan that meets both of the following requirements:

(*i*) Is a remedial action plan as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*ii*) Describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(bb) "Response activity" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(cc) "Specific taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797; the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786; or that portion of the tax levied under the tax reverted property clean title act that is not required to be distributed to a land bank fast track authority.

(dd) "Tax increment revenues" means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority, tax increment finance authority, or local development



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finance authority if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

(ee) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(ff) "Taxes levied for school operating purposes" means all of the following:

(*i*) The taxes levied by a local school district for operating purposes.

(*ii*) The taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*iii*) That portion of specific taxes attributable to taxes described under subparagraphs (*i*) and (*ii*).

(gg) "Work plan" means a plan that describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(hh) "Zone" means, for an authority established before June 6, 2000, a brownfield redevelopment zone designated under this act.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 254, Imd. Eff. May 1, 2002;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004;—Am. 2003, Act 277, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005.

### 125.2653 Brownfield redevelopment authority; establishment; exercise of powers; alteration or amendment of boundaries; authority as public body corporate; written agreement with county.

Sec. 3. (1) A municipality may establish 1 or more authorities. Except as provided in subsection (4), an authority with zones established before the effective date of the amendatory act that added subsection (2) shall exercise its powers within its designated zones. Except as provided in subsection (4), an authority established after the effective date of the amendatory act that added subsection (2) shall exercise its powers over any eligible property located in the municipality.

(2) An authority with zones established before the effective date of the amendatory act that added this subsection may alter or amend the boundaries of those zones if the authority holds a public hearing on the alteration or amendment using the procedures under section 4(2), (3), and (4).

(3) The authority shall be a public body corporate that may sue and be sued in a court of competent jurisdiction. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act is not a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised whether or not bonds are issued by the authority.

(4) An authority established by a county shall exercise its powers with respect to eligible property within a city, village, or township within the county only if that city, village, or township has concurred with the provisions of a brownfield plan that apply to that eligible property within the city, village, or township.

(5) A city, village, or township including a city, village, or township that is a qualified local governmental unit may enter into a written agreement with the county in which that city, village, or township is located to exercise the powers granted to that specific city, village, or township under this act.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

### 125.2654 Resolution by governing body; adoption; notice; public hearing; proceedings establishing authority; presumption of validity; exercise as essential governmental function; implementation or modification of plan.

Sec. 4. (1) A governing body may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. The notice shall state the date, time, and place of the hearing. At that hearing, a citizen, taxpayer, official from a taxing jurisdiction whose millage may be subject to capture under a brownfield plan, or property owner of the municipality has the right to be heard in regard to the establishment of the authority.

(3) Not more than 30 days after the public hearing, if the governing body intends to proceed with the establishment of the authority, the governing body shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority. The adoption of the resolution is subject to all applicable statutory or charter provisions with respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption.

(4) The proceedings establishing an authority shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after the filing of the resolution with the secretary of state.



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(5) The exercise by an authority of the powers conferred by this act shall be considered to be an essential governmental function and benefit to, and a legitimate public purpose of, the state, the authority, and the municipality or units.

(6) If the board implements or modifies a brownfield plan that contains a qualified facility, the governing body shall mail notice of that implementation or modification to each taxing jurisdiction that levies ad valorem property taxes in the municipality. Not more than 60 days after receipt of that notice, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality in which the qualified facility is located. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2005, Act 101, Imd. Eff. July 22, 2005.

### 125.2655 Designation of board by governing body; membership; trustees; applicability of subsection (2); election of chairperson, vice-chairperson, and other officers; oath; procedural rules; meetings; special meetings; removal of member; records open to public; quorum.

Sec. 5. (1) Each authority shall be under the supervision and control of a board chosen by the governing body. Subject to subsection (2), the governing body may by majority vote designate 1 of the following to constitute the board:

(a) The board of directors of the economic development corporation of the municipality established under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636.

(b) The trustees of the board of a downtown development authority established under 1975 PA 197, MCL 125.1651 to 125.1681.

(c) The trustees of the board of a tax increment financing authority established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(d) The trustees of the board of a local development financing authority established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(e) Not less than 5 nor more than 9 persons appointed by the chief executive officer of the municipality subject to the approval of the governing body. Of the initial members appointed, an equal number, as near as practicable, shall be appointed for 1 year, 2 years, and 3 years. A member shall hold office until the member's successor is appointed and qualified. Thereafter, each member shall serve for a term of 3 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for reasonable actual and necessary expenses.

(2) The governing body of a municipality in which a board described in subsection (1)(b), (c), or (d) has been established shall designate the trustees of 1 of those boards to constitute the board. This subsection shall only apply in the event a board described in subsection (1)(b), (c), or (d) is authorized under subsection (1) to serve as the board of the authority.

(3) The members shall elect 1 of their membership as chairperson and another as vice-chairperson. The members may designate and elect other officers of the board as they consider necessary.

(4) Before assuming the duties of office, a member shall qualify by taking and subscribing to the oath of office provided in section 1 of article XI of the state constitution of 1963.

(5) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) After notice and an opportunity to be heard, a member of the board appointed under subsection (1)(e) may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(7) All financial records of an authority shall be open to the public under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(8) A majority of the members of the board appointed and serving shall constitute a quorum. Action may be taken by the board at a meeting upon a vote of the majority of the members present.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

### 125.2656 Appointment or employment of director, treasurer, secretary, personnel, and consultants; assistance provided by municipality; retirement and insurance programs.



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Sec. 6. (1) The board may employ and fix the compensation of a director of the authority, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the oath of office provided in section 1 of article XI of the state constitution of 1963 and shall furnish bond by posting a bond in the sum specified in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the oath of office referenced in this subsection and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority, as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties as may be delegated by the board.

(4) The board may employ and retain personnel and consultants as considered necessary by the board, including legal counsel to advise the board in the proper performance of its duties and to represent the authority in actions brought by or against the authority.

(5) Upon request of the authority, the municipality may provide assistance to the authority in the performance of its powers and duties.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2657 Powers of authority; determining captured taxable value; transfer of municipality funds to authority.

Sec. 7. (1) An authority may do 1 or more of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Incur and expend funds to pay or reimburse a public or private person for costs of eligible activities attributable to an eligible property.

(c) As approved by the municipality, incur costs and expend funds from the local site remediation revolving fund created under section 8 for purposes authorized in that section.

(d) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties, including, but not limited to, lease purchase agreements, land contracts, installment sales agreements, and loan agreements.

(e) On terms and conditions and in a manner and for consideration the authority considers proper or for no monetary consideration, own, mortgage, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines are reasonably necessary to achieve the purposes of this act, and grant or acquire licenses, easements, and options with respect to the property.

(f) Acquire, maintain, repair, or operate all devices necessary to ensure continued eligible activities on eligible property.

(g) Accept grants and donations of property, labor, or other things of value from a public or private source.

(h) Incur costs in connection with the performance of its authorized functions, including, but not limited to, administrative costs and architect, engineer, legal, or accounting fees.

(i) Study, develop, and prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate the progress under this act.



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(j) Procure insurance against loss in connection with the authority's property, assets, or activities.

(k) Invest the money of the authority at the authority's discretion in obligations determined proper by the authority, and name and use depositories for its money.

(*l*) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property that was the subject of the mortgage at a foreclosure or other sale, acquire and take possession of the property and in that event compute, administer, pay the principal and interest on obligations incurred in connection with that property, and dispose of and otherwise deal with the property, in a manner necessary or desirable to protect the interests of the authority.

(m) Borrow money and issue its bonds and notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of tax increment revenues.

(n) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this act, or other laws that relate to the purposes and responsibilities of the authority.

(2) The authority shall determine the captured taxable value of each parcel of eligible property. The captured taxable value of a parcel shall not be less than zero.

(3) A municipality may transfer the funds of the municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

### 125.2658 Local site remediation revolving fund.

Sec. 8. (1) An authority may establish a local site remediation revolving fund. A local site remediation revolving fund shall consist of money available under section 13(5) and may also consist of money appropriated or otherwise made available from public or private sources. An authority shall separately account for money deposited to the fund that is directly derived from tax increment revenues levied for school operating purposes.

(2) The local site remediation revolving fund may be used only to pay the costs of eligible activities on eligible property that is located within the municipality.

(3) An authority or a municipality on behalf of an authority may incur an obligation for the purpose of funding a local site remediation revolving fund.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

### 125.2659 Authority as instrumentality of political subdivision.

Sec. 9. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2660 Taking, transfer, and use of private property.

Sec. 10. A municipality may transfer private property taken under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, to the authority for use as authorized in the brownfield plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2661 Financing sources of authority activities.

Sec. 11. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions, contractual payments, or appropriations to the authority for the performance of its functions or to pay the costs of a brownfield plan of the authority.

(b) Revenues from a property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Subject to the limitations imposed under sections 8, 13, and 15, 1 or both of the following:

(*i*) Tax increment revenues received under a brownfield plan established under sections 13 and 14.

(*ii*) Proceeds of tax increment bonds and notes issued under section 17.

(d) Proceeds of revenue bonds and notes issued under section 12.


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(e) Revenue available in the local site remediation revolving fund for the costs described in section 8.

(f) Money obtained from all other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance activities authorized under this act.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2662 Bonds and notes of authority.

Sec. 12. (1) The authority may borrow money and issue its negotiable revenue bonds or notes to finance all or part of the costs of eligible activities or of another activity of the authority under this act. Revenue bonds and notes issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. The costs that may be financed by the issuance of revenue bonds or notes may include the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with an activity authorized under this act; engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and all money, revenues, or income received in connection with the property.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged by the authority immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(3) Bonds or notes issued under this section shall be exempt from all taxation in this state except estate and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) Unless otherwise provided by a majority vote of the members of its governing body, the municipality shall not be liable on bonds or notes of the authority issued under this section and the bonds or notes shall not be a debt of the municipality.

(5) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

### 125.2663 Brownfield plan; provisions.

Sec. 13. (1) Subject to section 15, the board may implement a brownfield plan. The brownfield plan may apply to 1 or more parcels of eligible property whether or not those parcels of eligible property are contiguous and may be amended to apply to additional parcels of eligible property. Except as otherwise authorized by this act, if more than 1 parcel of eligible property is included within the plan, the tax increment revenues under the plan shall be determined individually for each parcel of eligible property. Each plan or an amendment to a plan shall be approved by the governing body of the municipality and shall contain all of the following:

(a) A description of the costs of the plan intended to be paid for with the tax increment revenues or, for a plan for eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, a listing of all eligible activities that may be conducted for 1 or more of the eligible properties subject to the plan.

(b) A brief summary of the eligible activities that are proposed for each eligible property or, for a plan for eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, a brief summary of eligible activities conducted for 1 or more of the eligible properties subject to the plan.

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from each parcel of eligible property, or from all eligible properties qualified on the basis that the property is owned or under the control of a land bank fast track authority, and in the aggregate. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local site remediation revolving


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fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(cc), or unless the tax levy is excluded from capture under section 15.

(d) The method by which the costs of the plan will be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The duration of the brownfield plan, which shall not exceed the lesser of the period authorized under subsections (4) and (5) or 30 years.

(g) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is located.

(h) A legal description of each parcel of eligible property to which the plan applies, a map showing the location and dimensions of each eligible property, a statement of the characteristics that qualify the property as eligible property, and a statement of whether personal property is included as part of the eligible property. If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(i) Estimates of the number of persons residing on each eligible property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, the plan shall include a demographic survey of the persons to be displaced, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(j) A plan for establishing priority for the relocation of persons displaced by implementation of the plan.

(k) Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646.

(*l*) A strategy for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(m) A description of proposed use of the local site remediation revolving fund.

(n) Other material that the authority or governing body considers pertinent.

(2) The percentage of all taxes levied on a parcel of eligible property for school operating expenses that is captured and used under a brownfield plan and all tax increment finance plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, shall not be greater than the combination of the plans' percentage capture and use of all local taxes levied for purposes other than for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local unit of government. This subsection shall apply only when taxes levied for school operating purposes are subject to capture under section 15.

(3) Except as provided in this subsection and subsections (5), (15), and (16), tax increment revenues related to a brownfield plan shall be used only for costs of eligible activities attributable to the eligible property, the captured taxable value of which produces the tax increment revenues, including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities attributable to the eligible property, and the reasonable costs of preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under section 15. For property owned or under the control of a land bank fast track authority, tax increment revenues related to a brownfield plan may be used for eligible activities attributable to any eligible property owned or under the control of the land bank fast track authority, the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities, the reasonable costs of preparing a work plan or remedial action plan, and the actual cost of the review of the work plan or remedial action plan under section 15. Tax increment revenues captured from taxes levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or taxes levied by a local school district shall not be used for eligible activities described in section 2(*l*)(*iv*)(E).

(4) Except as provided in subsection (5), a brownfield plan shall not authorize the capture of tax increment revenue from eligible property after the year in which the total amount of tax increment revenues captured is equal to the sum of the costs permitted to be funded with tax increment revenues under this act.



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(5) A brownfield plan may authorize the capture of additional tax increment revenue from an eligible property in excess of the amount authorized under subsection (4) during the time of capture for the purpose of paying the costs permitted under subsection (3), or for not more than 5 years after the time that capture is required for the purpose of paying the costs permitted under subsection (3), or both. Excess revenues captured under this subsection shall be deposited in the local site remediation revolving fund created under section 8 and used for the purposes authorized in section 8. If tax increment revenues attributable to taxes levied for school operating purposes from eligible property are captured by the authority for purposes authorized under subsection (3), the tax increment revenues captured for deposit in the local site remediation revolving fund also may include tax increment revenues attributable to taxes levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property by the authority for the purposes authorized under subsection (3). Excess tax increment revenues from taxes levied for school operating purposes for eligible activities authorized under subsection (15) by the Michigan economic growth authority shall not be captured for deposit in the local site remediation revolving fund.

(6) An authority shall not expend tax increment revenues to acquire or prepare eligible property, unless the acquisition or preparation is an eligible activity.

(7) Costs of eligible activities attributable to eligible property include all costs that are necessary or related to a release from the eligible property, including eligible activities on properties affected by a release from the eligible property. For purposes of this subsection, "release" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(8) Costs of a response activity paid with tax increment revenues that are captured pursuant to subsection (3) may be recovered from a person who is liable for the costs of eligible activities at an eligible property. This state or an authority may undertake cost recovery for tax increment revenue captured. Before an authority or this state may institute a cost recovery action, it must provide the other with 120 days' notice. This state or an authority that recovers costs under this subsection shall apply those recovered costs to the following, in the following order of priority:

(a) The reasonable attorney fees and costs incurred by this state or an authority in obtaining the cost recovery.

(b) One of the following:

(*i*) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority. If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(*ii*) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(*iii*) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or 1 on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (*i*) and (*ii*) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

(9) Approval of the brownfield plan or an amendment to a brownfield plan shall be in accordance with the notice and approval provisions of this section and section 14.

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 or more than 40 days before the date set for the hearing.

(11) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this section.

(c) Any other information that the governing body considers appropriate.

(12) At the time set for the hearing on the brownfield plan required under subsection (10), the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the brownfield plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.



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(13) Not less than 20 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan.

(14) The authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the captured taxable value of an eligible property. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(15) Except as provided by subsection (18), if a brownfield plan includes the capture of taxes levied for school operating purposes or the use of tax increment revenues related to a brownfield plan for the cost of eligible activities attributable to more than 1 eligible property that is adjacent and contiguous to all other eligible properties covered by the development agreement, whether or not the captured taxes are levied for school operating purposes, approval of a work plan by the Michigan economic growth authority before January 1, 2008 to use school operating taxes and a development agreement between the municipality and an owner or developer of eligible property are required if the revenues will be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or asbestos abatement, or site preparation that is not response activity under section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101. The eligible activities to be conducted described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this subsection.

(16) The limitations of section 15(1) upon use of tax increment revenues by an authority shall not apply to the following costs and expenses:

(a) In each fiscal year of the authority, $75,000.00 for the following purposes for tax increment revenues attributable to local taxes:

(*i*) Reasonable and actual administrative and operating expenses of the authority.

(*ii*) Baseline environmental assessments, due care activities, and additional response activities related directly to work conducted on prospective eligible properties prior to approval of the brownfield plan.

(b) Reasonable costs of preparing a work plan or remedial action plan or the cost of the review of a work plan for which tax increment revenues may be used under section 13(3).

(17) A brownfield authority may reimburse advances, with or without interest, made by a municipality under section 7(3), a land bank fast track authority, or any other person or entity for costs of eligible activities with any source of revenue available for use of the brownfield authority under this act and may enter into agreements related to those reimbursements. A reimbursement agreement for these purposes and the obligations under that reimbursement agreement shall not be subject to section 12 or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(18) If a brownfield plan includes the capture of taxes levied for school operating purposes, approval of a work plan by the Michigan economic growth authority in the manner required under section 15(14) to (16) is required in order to use tax increment revenues attributable to taxes levied for school operating purposes for purposes of eligible activities described in section 2(*l*)(*iv*)(E) for 1 or more parcels of eligible property. The work plan to be submitted to the Michigan economic growth authority under this subsection shall be in a form prescribed by the Michigan economic growth authority. The eligible activities to be conducted and described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this section.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 259, Imd. Eff. Jan. 5, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005.

### 125.2664 Brownfield plan as public purpose; determination; amendments to plan; validity of procedure, notice, and findings; presumption.

Sec. 14. (1) Not less than 10 days after notice of the proposed brownfield plan is provided to the taxing jurisdictions, the governing body shall determine whether the plan constitutes a public purpose. If the governing body determines that the plan does not constitute a public purpose, the governing body shall reject the plan. If the governing body determines that the plan constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following


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considerations:

(a) Whether the plan meets the requirements of section 13.

(b) Whether the proposed method of financing the costs of eligible activities is feasible and the authority has the ability to arrange the financing.

(c) Whether the costs of eligible activities proposed are reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured taxable value estimated to result from adoption of the plan is reasonable.

(2) Except as provided in this subsection, amendments to an approved brownfield plan must be submitted by the authority to the governing body for approval or rejection following the same notice necessary for approval or rejection of the original plan. Notice is not required for revisions in the estimates of captured taxable value or tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured taxable value shall be presumptively valid unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the brownfield plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the original resolution adopting the plan is not therefore open to contest.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2665 Prohibited conduct; work plan or remedial action plan; documents to be submitted for approval; factors to be considered in plan review; written request pertaining to baseline environmental assessment activities or due care activities; additional response activities; reimbursement of costs to review work plan or remedial action plan; report; distribution of remaining funds; use of school operating taxes.

Sec. 15. (1) An authority shall not do any of the following:

(a) For eligible activities not described in section 13(15), use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan approved by the department after July 24, 1996 and before January 1, 2008.

(b) For eligible activities not described in section 13(15), use funds from a local site remediation revolving fund that are derived from taxes levied for school operating purposes unless the eligible activities to be conducted are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan that has been approved by the department after July 24, 1996.

(c) Use funds from a local site remediation revolving fund created pursuant to section 8 that are derived from taxes levied for school operating purposes for the eligible activities described in section 13(15) unless the eligible activities to be conducted are consistent with a work plan approved by the Michigan economic growth authority.

(d) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan except for costs described in section 13(16).

(e) Use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party liable under section 20126 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126, except that a municipality that established the authority, for taxes levied after 2004, may use taxes levied for school operating purposes captured from eligible property for response activities associated with a landfill.

(f) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority except for costs described in section 13(16) and for the reasonable costs for preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under this section.

(2) To seek department approval of a work plan under subsection (1)(a) or (b) or remedial action plan, the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property,



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including a brief summary of site conditions and what is known about environmental contamination as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan or remedial action plan, or part of a work plan or remedial action plan, for each eligible activity to be undertaken.

(3) Upon receipt of a request for approval of a work plan or remedial action plan under subsection (2) that pertains to baseline environmental assessment activities or due care activities, or both, or a portion of a work plan or remedial action plan that pertains to only baseline environmental assessment activities or due care activities, or both, the department shall provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval.

(b) A conditional approval that delineates specific necessary modifications to the work plan or remedial action plan, including, but not limited to, individual activities to be added or deleted from the work plan or remedial action plan and revision of costs.

(c) If the work plan or remedial action plan lacks sufficient information for the department to respond under subdivision (a) or (b), a letter stating with specificity the necessary additions or changes to the work plan or remedial action plan to be submitted before a plan will be considered by the department.

(4) In its review of a work plan or remedial action plan, the department shall consider all of the following:

(a) Whether the individual activities included in the work plan or remedial action plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan or remedial action plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(5) If the department fails to provide a written response under subsection (3) within 60 days after receipt of a request for approval of a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, the authority may proceed with the baseline environmental assessment activities or due care activities, or both, as outlined in the work plan or remedial action plan as submitted for approval. Except as provided in subsection (6), baseline environmental assessment activities or due care activities, or both, conducted pursuant to a work plan or remedial action plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (3) shall be considered approved for the purposes of subsection (1).

(6) The department may issue a written response to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan or remedial action plan as it was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under subsection (1) for the eligible activities described in the work plan or remedial action plan initially submitted under subsection (5). In addition, at the option of the authority, these additional individual activities shall be considered part of the work plan or remedial action plan of the authority and approved for purposes of subsection (1). However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy the baseline environmental assessment or due care requirements, or both, of part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily completed for the baseline environmental assessment or due care activities, or both, to be considered acceptable for the purposes of compliance with part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(7) If the department issues a written response under subsection (6) to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, and if the department's written response modifies an individual activity proposed by the work plan or remedial action plan of the authority in a manner that reduces or eliminates a proposed response activity, the authority must complete those individual activities included in the baseline environmental assessment or due care activities, or both, in accordance with the department's response in order for that portion of the work plan or remedial action plan to be considered approved for purposes of subsection (1), unless 1 or more of the following conditions apply:

(a) Obligations for the individual activity have been issued by the authority, or by a municipality on behalf of the authority, to fund the individual activity prior to issuance of the department's response.



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(b) The individual activity has commenced or payment for the work has been irrevocably obligated prior to issuance of the department's response.

(8) It shall be in the sole discretion of an authority to propose to undertake additional response activities at an eligible property under a brownfield plan. The department shall not require a work plan or remedial action plan for either baseline environmental assessment activities or due care activities, or both, to include additional response activities.

(9) The department may reject the portion of a work plan or remedial action plan that includes additional response activities and may consider the level of risk reduction that will be accomplished by the additional response activities in determining whether to approve or reject the work plan or remedial action plan or a portion of a plan.

(10) The department's approval or rejection of a work plan under subsection (1)(a) or (b) or remedial action plan for additional response activities is final.

(11) The authority shall reimburse the department for the actual cost incurred by the department or a contractor of the department to review a work plan under subsection (1)(a) or (b) or remedial action plan under this section. Funds paid to the department under this subsection shall be deposited in the cost recovery subaccount of the cleanup and redevelopment fund created under section 20108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108.

(12) The department shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (2).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(13) To seek Michigan economic growth authority approval of a work plan under subsection (1)(c) or section 13(15), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity described in section 13(15) to be undertaken.

(g) A copy of the development agreement required under section 13(15), which shall include, but is not limited to, a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

(14) Upon receipt of a request for approval of a work plan, the Michigan economic growth authority shall provide 1 of the following written responses to the requesting authority within 65 days:

(a) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(b) A conditional approval that delineates specific necessary modifications to the work plan, including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the work plan may be subsequently resubmitted.

(15) In its review of a work plan under subsection (1)(c) or section 13(15), the Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

(a) Whether the individual activities included in the work plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(d) The overall benefit to the public.

(e) The extent of reuse of vacant buildings and redevelopment of blighted property.

(f) Creation of jobs.

(g) Whether the eligible property is in an area of high unemployment.

(h) The level and extent of contamination alleviated by or in connection with the eligible activities.



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(i) The level of private sector contribution.

(j) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(k) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.

(*l*) Whether the financial statements of the developer, landowner, or corporate entity indicate that the developer, landowner, or corporate entity is financially sound and that the project of the developer, landowner, or corporate entity that is included in the work plan is economically sound.

(m) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.

(n) Any other criteria that the Michigan economic growth authority considers appropriate for the determination of eligibility or for approval of the work plan.

(16) If the Michigan economic growth authority fails to provide a written response under subsection (14) within 65 days after receipt of a request for approval of a work plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in section 13(15) as outlined in the work plan as submitted for approval.

(17) The Michigan economic growth authority's approval of a work plan under section 13(15) is final.

(18) The authority shall reimburse the Michigan economic growth authority for the actual cost incurred by the Michigan economic growth authority or a contractor of the Michigan economic growth authority to review a work plan under this section.

(19) The Michigan economic growth authority shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (13).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(20) All taxes levied for school operating purposes that are not used for eligible activities consistent with a work plan approved by the department or the Michigan economic growth authority or for the payment of interest under section 13 and that are not deposited in a local site remediation revolving fund shall be distributed proportionately between the local school district and the school aid fund.

(21) An authority shall not use taxes levied for school operating purposes captured from eligible property for eligible activities for a qualified facility.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000;—Am. 2002, Act 727, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 283, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 101, Imd. Eff. July 22, 2005.

### 125.2666 Tax increment revenues; transmission to authority; expenditure; reversion of surplus funds; abolishment of plan; financial status report; collection of financial reports by department and state tax commission.

Sec. 16. (1) The municipal and county treasurers shall transmit tax increment revenues to the authority not more than 30 days after tax increment revenues are collected.

(2) The authority shall expend the tax increment revenues received only in accordance with the brownfield plan. All surplus funds not deposited in the local site remediation revolving fund of the authority under section 13(5) shall revert proportionately to the respective taxing bodies, except as provided in section 15(20). The governing body may abolish the plan when it finds that the purposes for which the plan was established are accomplished. However, the plan shall not be abolished until the principal and interest on bonds issued under section 17 and all other obligations to which the tax increment revenues are pledged have been paid or funds sufficient to make the payment have been segregated.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the activities of the authority. The report shall include all of the following:

(a) The amount and source of tax increment revenues received.

(b) The amount and purpose of expenditures of tax increment revenues.

(c) The amount of principal and interest on all outstanding indebtedness.

(d) The initial taxable value of all eligible property subject to the brownfield plan.

(e) The captured taxable value realized by the authority.

(f) Information concerning any transfer of ownership of or interest in each eligible property.

(g) All additional information that the governing body or the state tax commission considers necessary.


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(4) The state tax commission shall collect the financial reports submitted under subsection (3), compile and analyze the information contained in those reports, and submit annually a report based on that information to all of the following standing committees of the legislature:

(a) In the house of representatives, the committees responsible for natural resource management, conservation, environmental protection, and taxation.

(b) In the senate, the committees responsible for natural resource management, conservation, environmental protection, and taxation.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

### 125.2667 Authorization, issuance, and sale of tax increment bonds and notes.

Sec. 17. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds and notes, subject to the limitations set forth in this section, to finance the purposes of a brownfield plan. The bonds or notes shall be payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds or notes may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

(3) The bonds or notes issued under this section shall be secured by 1 or more sources of revenue identified in section 7 as sources of financing of activities of the authority, as provided by resolution of the authority.

(4) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for 1 or more of the purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

(5) The bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2503.

(6) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2002, Act 413, Imd. Eff. June 3, 2002.

**Compiler's note:** The following communication was received:

"September 12, 1999
The Honorable John Engler
Capitol Building
Lansing, Michigan
Subject: PA 381 of 1996
Dear Governor Engler:

A review of the Senate and House Journals has revealed an error in Enrolled Senate Bill 923, which was filed with the Secretary of State on July 24, 1996, and assigned Public Act No. 381 of 1996. The bill presented to the Governor on July 17, 1996, did not accurately reflect what was agreed to by both houses of the Legislature. Specifically, Section 17, subsection (1), the third sentence incorrectly stated:

'The terms of the municipal finance act, Act No. 202 of the Public Acts of 1943, apply to bonds issued under this section.'

The sentence agreed to by both houses is:

'Except for the requirement of the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, that the authority receive the approval or an exception from approval from the department of treasury prior to the issuance of bonds under this subsection, the terms of Act No. 202 of the Public Acts of 1943 shall not apply to bonds issued under this section.'

Therefore, we are presenting a correct Enrolled Senate Bill 923 for your signature and filing with the Secretary of State. Upon filing, the defective Enrolled Senate Bill 923 will be replaced with the correct Enrolled Senate Bill 923 and assigned the same public act number. The effective date of the Public Act No. 381 of 1996 will be the date the correct bill is filed.

This procedure ensures the integrity of the process while providing notification to the public. We apologize for any inconvenience this may have caused you or the citizens of the state of Michigan. If you have any questions, please feel free to contact us.

Sincerely,
Carol Morey Viventi Melvin J. DeStigter
Secretary of the Senate Clerk of the House of Representatives
cc: Candice S. Miller, Secretary of State"


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### 125.2668 Operating budget.

Sec. 18. (1) The authority shall prepare and approve a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Funds of a municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body of the municipality.

(2) The governing body of a municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the authority under an appropriate item in its budget.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2669 Dissolution of authority; distribution of tax revenues and interest.

Sec. 19. (1) An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. Except as provided in subsection (2), the property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

(2) Tax increment revenues and the interest earned on tax increment revenues shall be distributed as provided under section 16(2).

**History:** 1996, Act 381, Eff. Sept. 16, 1996;—Am. 2000, Act 145, Imd. Eff. June 6, 2000.

### 125.2670 Enforcement proceedings.

Sec. 20. The state tax commission may institute proceedings to compel enforcement of the requirements of this act.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2671 Taxes levied before December 31, 1996.

Sec. 21. An authority shall not capture tax increment revenues from taxes levied before December 31, 1996.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.

### 125.2672 Conditional effective date.

Sec. 22. This act shall not take effect unless Senate Bill No. 919 of the 88th Legislature is enacted into law.

**History:** 1996, Act 381, Eff. Sept. 16, 1996.


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(*i*) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority. If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(*ii*) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(*iii*) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or 1 on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (*i*) and (*ii*) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

(9) Approval of the brownfield plan or an amendment to a brownfield plan shall be in accordance with the notice and approval provisions of this section and section 14. [FN4]

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. By resolution, the governing body may delegate the public hearing process to the authority or to a subcommittee of the governing body subject to final approval by the governing body. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, not less than 10 or more than 40 days before the date set for the hearing.

(11) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this section.

(c) Any other information that the governing body considers appropriate.

(12) At the time set for the hearing on the brownfield plan required under subsection (10), the governing body shall ensure that interested persons have an opportunity to be heard and that written communications with reference to the brownfield plan are received and considered. The governing body shall ensure that a record of the public hearing is made and preserved, including all data presented at the hearing.

(13) Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan. Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the department if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require the approval of a work plan by the department under section 15(1)(a) and the Michigan economic growth authority, or its designee, if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to subsection (15) or

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116.2 Membership of Board. The Board of Appeals shall consist of the following: 1. The Building Official. 2. The Director of Public Works. 3. The Fire Chief. 4. Representative of the Oakland County Health Department. 5. Professional structural or civil engineer of architectural engineering experience, who shall be appointed by the City Council for a period of five (5) years.

(Rev. 7/23/01)

116.2.1 Absence of Members. During absence of a member by reason of disability or disqualification, the City Council shall designate a qualified substitute.

(Rev. 7/23/01)

116.2.2 Compensation of Board of Appeals. Compensation of appointed members of the board shall be determined by the City Council.

(Rev. 7/23/01)

116.3 Public Hearing. All hearings shall be public; and the appellant, his representative, the official of the municipality and any other person whose interests may be affected by the matter on appeal, shall be given an opportunity to be heard; it shall be the rule in cases heard for variance to Chapter 83, Fences, to notify all owners of record or property within 300 feet of the premise in question, such notices to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. The Board may require any party applying to the Board for relief to give such notice to other interested parties as it shall prescribe.

(Rev. 7/23/01)

## ARTICLE 25

## MECHANICAL CODE

2500.0 Adoption of Code by Reference. Pursuant to the provisions of Section 3 (k) of Act 279 of 1909 State of Michigan, as amended, Michigan Complied Laws 117.3(k) and the Michigan Mechanical Code is adopted herein by reference by the City of Troy for the purpose of governing the requirements for the design and installation of H.V.A.C. systems is building in the City of Troy. Complete and printed copies of the Michigan Mechanical Code are available for public use and inspection at the office of the City Clerk.

(Rev. 7/23/01)

June 21, 1968

To: Paul York, City Manager

From: Fred W. Stanley, Chief Building Inspector

Subject: Board of Appeals for BOCA and Sign Ordinance

As requested, we have surveyed several communities in the surrounding area to determine what they do for a Building Board of Appeals.

Attached is a copy of that survey.

We have also reviewed the proposed amendments to Section 128 of the BOCA Code and submit the following as alternates for Sections 128.21 and 128.22:

Section 128.21 Membership of Board. - The Board of Appeals shall consist of the following: 1. The Building Official. 2. The Director of Public Works. 3. The Fire Chief. 4. Representative of the Oakland County Health Department. 5. Professional structural or civil engineer of architectual engineering experience, who shall be appointed by the City Commission for a period of five (5) years.

Section 128.22 Delete in Toto.

Fred W. Stanley

FWS/jb

## VISITORS (3)

No one wished to be heard.

## OLD BUSINESS

### BOARD OF APPEALS FOR BOCA & SIGN ORDINANCE (4)

Resolution #68-532
By Commissioner Taucher
Supported by Commissioner Jones

RESOLVED, that an ordinance to amend Sections 128.1, 128.21, 128.23, and 128.3, and delete Sections 128.22, 128.43 and 128.53 of Title VIII of Chapter 79, of the Code of the City of Troy, a copy of which is attached to and made a part of the original minutes, is hereby approved.

Yeas: All-6
Nays: None
Absent: Houghten

### PROPOSED POLICY CHANGES RE DRAINAGE REGULATIONS (5)

Resolution #68-533
By Commissioner Taucher
Supported by Commissioner Gratopp

RESOLVED, that an ordinance to amend Sections 8.182, 8.184, 8.185 and 8.188 of Chapter 80, Title VIII of the Code of the City of Troy, is hereby approved.

Yeas: All-6
Nays: None
Absent: Houghten

Resolution #68-534
By Commissioner Taucher
Supported by Commissioner Gratopp

RESOLVED, that an ordinance to amend Sections 113.6 and 118, and to add a new section, designated as Section 121.7, of Chapter 79, Title VIII of the Code of the City of Troy, is hereby approved.

Yeas: All-6
Nays: None
Absent: Houghten

NOMINATIONS TO CHARTER REVISION COMMITTEE C-7

To appear on the Agenda for October 18, 1982

RESOLUTION TO CREATE CATV ADVISORY COMMITTEE C-8

Resolution #82-1425
Moved by Husk
Supported by Liebrecht

RESOLVED, That the City Council consider the creation of a CATV Advisory Committee; and

BE IT FURTHER RESOLVED, That the duties and responsibilities of said committee are to advise the City Council as to the following:

A. Planning for public access by:
   I) Formation of public access corporation
   II) Structure, duties and responsibilities of public access advisory committee(s).

B. New technologies in CATV as to:
   I) State of development for implementation.
   II) Moderation or implementation by franchisee.

C. Requests for rate changes which may be requested after the initial rates of the first years as guaranteed.

D. Quality of service.

E. Additional subjects requested by City Council.

BE IT FURTHER RESOLVED, That the membership of the Committee shall consist of representatives of the following five (5) interest groups, plus four (4) persons having a broad committee interest and without allegiance or affiliation with the same interests:

1) Municipal Services
   a) Public Safety
   b) Library
   c) Parks and Recreation
   d) Public Services, water meter reading, traffic monitoring and control
   e) Public meetings and special events
   f) Citizens surveys

2) Educational:
   a) Elementary
   b) Secondary
   c) College

3) Business and Economic

4) Religious

5) Cultural:
   a) Arts Council
   b) Theatrical groups

BE IT FINALLY RESOLVED, That the terms of the members shall initially be three (3) for one (1) year, three (3) for two (2) years and three (3) for three (3) years so that after the initial appointments have expired there will be staggered terms of three (3) years; the deadline for submitting resumes shall be December 15, 1982, and consideration will not be given to persons currently serving on other boards or committees.

Yeas: All-6
Absent: Taucher

CITY OF TROY
Cable Advisory Committee
Minutes of March 24, 1983

The initial meeting of the Troy Cable Advisory Committee was called to order at 7:35 p.m. by Frank Gerstenecker, City Manager.

Roll Call:

Present: D. Marine, M. Gholz, M. Roche, C. Patrick, D. Hicks, M. Chester, D. Spencer, J. Dubeck, W. Semple, R. Kowalski, F. Gerstenecker

Absent: None

Visitors: None

Mr. Gerstenecker and Mr. Kowalski reviewed the purpose of the committee, its charge from the City Council based on the Council resolution establishing the Committee and the Committee's relationship to the Intergrovernmental Cable Communications Authority (I.C.C.A.) and the proposed Oakland County Cable Communications Commission (O.C.4).

The Committee serves as the advisory body to City Council in matters of cable television such as public access, rate regulations, citizen complaints and service and any other matters referred by Council. The Committee will have the opportunity to provide input to the ICCA through the City's representatives, Mr. Gerstenecker and Mr. Kowalski. The Committee will have input to OC4 through its representative which will be appointed by City Council.

Establishment of regular meeting date - The Committee discussed its meeting requirements and decided to establish the third Wednesday of each month as its regular meeting date with special meetings as necessary to conduct business. Regular meetings will be held at 7:30 p.m. in the City Hall.

Election of Officers - After considerable discussion it was determined that before electing officers the Committee should establish bylaws and rules of procedure. Members Hicks, Chester, Patrick and Spencer volunteered to serve as bylaws committee to prepare a darft of the bylaws for presentation at the regular April meeting. Mr. Kowalski will gather sample bylaws of other cities for use by the bylaws committee. The bylaws committee will appoint their own temporary chairman to serve until the bylaws are adopted.

Staff support - Mr. Gerstenecker explained that Mr. Kowalski would serve as staff liaison for the committee and that requests for information from City staff, other cities or other sources should be directed through Mr. Kowalski.

Media contacts - The Committee discussed who should be the committee's spokesman and it was decided that the Committee would allow their minutes to speak for them rather than any individual.

Requests for information -

Educational session - The Committee requested that a meeting be

RESOLVED, That the Public Hearing scheduled for September 28, 1987 to consider the request from Northfield Hills Corporate Park is hereby cancelled and a new hearing is established for September 14, 1987.

Yeas: All-7

REGULAR BUSINESS

NOMINATIONS TO BOARDS AND COMMITTEES: (a) HISTORIC DISTRICT COMMISSION, (b) CATV COMMITTEE, (c) ANIMAL CONTROL APPEAL BOARD, (d) PARKS AND RECREATION BOARD C-1

(a) Historic District Commission

To appear next week.

(b) CATV Committee

8-17-87

Resolution #87-1013
Moved by Taucher
Supported by Husk

RESOLVED, That the membership of this committee is hereby decreased to seven (7) in number with the vacant term ending February 28, 1988.

Yeas: All-7

(c) Animal Control Appeal Board

Mayor Pro-Tem Liebrecht nominated Harriet Barnard and Jayne Saeger for reappointment.

Resoluion #87-1014
Moved by Husk
Supported by Schilling

RESOLVED, That the Rules of Procedure are hereby waived and Harriet Barnard and Jayne Saeger are hereby reappointed to serve as members of the Animal Control Appeal Board for three year terms with said terms to expire on September 30, 1990.

Yeas: All-7

(c) Parks and Recreation Board

Mayor Pro-Tem Liebrecht nominated Lloyd Stage for reappointment.

PRIVATE AGREEMENTS: (a) TROY CORNER SHOPPING CENTER, 10-60 WEST SQUARE LAKE ROAD - DRIVEWAYS AND ACCELERATION/DECELERATION LANES - PROJECT 87.909.3 (b) C.F. STINSON, INC., 601 STEPHENSON - STORM SEWER - PROEJCT 87.303.3, (c) STANDARD FEDERAL BANK, 2401 WEST BIG BEAVER - ROADWAY TO FIRE STATION, DECELERATION LANE AT BIG BEAVER, SIDEWALK AT BIG BEAVER, 12" WATER MAIN, STORM SEWER EXTENSION A-2

(a) Troy Corner Shopping Center - 10 - 60 West Square Lake Road - Driveways and Acceleration/Deceleration Lanes - Project 87.909.3

Resolution #87-1015
Moved by Husk
Supported by Pallotta

RESOLVED, That the Private Agreement between the City of Troy and Troy Corner Shopping Center for the installation of driveways and acceleration/deceleration lanes to serve 10-60 West Square Lake Road, Project 87.909.3 is hereby approved and the Mayor and City Clerk are authorized to execute the documents, a copy of which shall be attached to the original minutes of this meeting.

Yeas: All-7

| | |
|---|---|
| George Yeokum<br>Cass' Mkt. | $ 5.60<br>.35 |
| | $1980.11 |
| Kenower, MacArthur | 4700.00 |
| | $6680.11 |

Yeas: All-7
Nays: None
Absent: None

Resolution #57-207
Moved by Commissioner Gray, Supported by Commissioner Yeokum that Commission Meeting time be changed to 7:30 p.m. instead of 8:00 p.m., effective April 28, 1957.

Yeas: All-7
Nays: None
Absent: None

Suggested that each Commissioner place 1 name in the hat and that 5 names be drawn by the Manager and those 5 names be approved as Charter Revision Members.

Norman Barnard, Ben Jones, Gerald Scofield, Donald Lance, Clarence Long

Resolution #57-208
Moved by Commissioner Ford, supported by Commissioner Yeokum, that these five men be appointed as Charter Revision Commission and to appoint their own Chairmen.

Yeas: All-7
Nays: None
Absent: None

Resolution #57-209
Moved by Commissioner Ford, supported by Commissioner Gray, that Sunnycrest Subdivision #2 be returned to Vilican for re-consideration of size of lots, to give history of this plat as when received and whether approved under Ordinance #22 or #23. What should be the effective date of Ordinance #23? To secure legal advice, if necessary, due to City Attorney representing this company in previous issues.

Yeas: All-7
Nays: None
Absent: None

Resolution #57-210
Moved by Commissioner Lowe, supported by Commissioner Sutermeister that Insurance Committee and City Manager recommend an Insurance Councelor and to make recommendation to City Commission for further consideration.

Yeas: All-7
Nays: None
Absent: None

Resolution #57-211
Moved by Commissioner Gray, supported by Commissioner Ford, that request of Mr. Hendrixson for church in:

City Clerk

Charter Revision Committee

Minutes of May 9, 1957

Present: Lance, Long, Jones, Barnard, Hutson, Costello, Lukins, Scofield.

Absent: None

Election: Ben Jones, Chairman
Gerald Scofield, Secretary

Procedure:
1. Five(5) voting members
2. Mayor, City Manager, Attorney are members in advisory capacity only.

Suggested that changes in the Charter be made in writing by:

a. City Commission
b. City Manager
c. General public

Suggestions presented at the next meeting for consideration and study.

Motion made that the Secretary record the minutes and after approval of committee, file a copy with the City Clerk as public record.

Motion made that there will be two (2) meetings a month. Time of meeting 8 P.M. to be held on the first and third Wednesday.

Motion made that three (3) members constitute a quorum.

Motion made that Charter Revision Committee complete its work by November 6, 1957.

The meeting was adjourned at 9:30 P.M.

Respectfully submitted

Gerald Scofield
Secretary

# HOW THE CHARTER REVISION COMMITTEE WORKED

A committee to recommend amendments to the Charter was a new thing in Troy. There was no previous experience to draw on, no tried and true course to follow. We were faced with suggestions from one extreme to the other. "Scrap the whole thing and start over," said some, while others indicated that "The Charter is o.k. as it is."

Our approach was first to find out exactly what the people in Troy wanted changed. We began by asking you, the Mayor and Commissioners, for suggested changes. We reasoned that you had lived closer to the Charter than any of us, that you would know its weaknesses and loop holes. We asked the City Attorney, the City Manager and his staff to point out portions of the Charter that were not working, or to make suggestions that would make our City operate more efficiently. Realizing that the interest in Troy's Charter is not confined to City Hall, we asked all of Troy to make suggestions. Private citizens, home owners' groups, clubs and associations were invited to participate. The local papers advertised our requests for suggested changes. Our only requirement was that the request be in writing.

As each proposal came in, copies were made for each member of the committee and one was filed with the City Clerk for public records. Recommendations were discussed as they came to us.

There are five members of the committee. In addition, the Mayor or a Commissioner, the City Manager and the City Attorney sat in as ex-officio members. All meetings were open to the public and to the press. Every person who submitted a request was invited to a meeting when his suggestion was being discussed.

The committee obtained a certified copy of the original Charter to be sure that we were not discussing printing mistakes. Legal questions were referred to the City Attorney for a written opinion. Each of us received a copy for study and a copy was filed with the City Clerk. Where changes pertained to existing fields of city government, representatives of those offices met with us. The Election Commission, Justice of the Peace, Treasurer, as well as the City Manager, have been represented at our meetings when proposals were being discussed that would be of particular concern to them.

We have checked with the members of the original charter committee to ask why they put certain phrases the way they did. Charters of other cities have been checked to see how they handled particular situations.

We have constantly reminded one another that our committee has but one purpose, and that is to recommend to the City Commission any change that we think will improve our Charter. It is not our job to determine what will be on the ballot, or to speculate on what will be politically popular.

With this approach, we have gone through every request made to our committee, nineteen in all. Every proposal made is being turned over to you, the City Commission, along with our recommendation concerning it. Our recommendation is accompanied by a written summary of the reasons we do or do not favor a change. It is our understanding that you will hold further public meetings before determining what shall appear on the ballot.

Actually, we are recommending few changes. This is certainly a tribute to those who originally wrote the Charter. We continually found sections, paragraphs, and phrases that were specifically put in to protect the public. There are blocks to malpractice in office, checks to prevent group favoritism, safe-guards against railroading the public. We find these things good and want to keep them. We also want to add others as they become apparent.

We hope this approach meets with your approval and that it may be of use to similar committees in the future.

CHARTER REVISION COMMITTEE

-10-61

Amendment to Resolution #57-208
Amendment #61-440
By Commissioner McAvoy
Supported by Commissioner Carey

WHEREAS, Resolution No. 57-208 of the City of Troy establishes the Charter Revision Committee for said City and provides that appointments to such Committee shall be made by the City Commission of the City of Troy; and

WHEREAS, the City Commission deems it necessary to increase the number of members of the Charter Revision Committee in order to better accomplish the purposes of said Committee;

NOW, THEREFORE, BE IT RESOLVED, that the members of the Charter Revision Committee shall be seven (7) in number and shall be selected by a majority vote of the City Commission. The members of the Committee shall serve for a term of three (3) years. Two (2) members shall be selected to serve a term that shall expire April 1, 1962; two (2) members shall be selected to serve a term that shall expire April 1, 1963; and three (3) members shall be selected to serve a term that shall expire April 1, 1964. All members selected after the above date shall serve for a term of three (3) years.

Yeas: All-7
Nays: None
Absent: None

4/24/61

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 57-208 of the City of Troy is hereby amended to provide that all appointments to the Charter Revision Committee shall be for a three (3) year term and made by a majority vote of the City Commission commencing with the appointments for the January, 1962, terms.

Yeas: All-6
Nays: None
Absent: Huber

See Res 68-440 terminating April 1

The following are members of the Charter Revision Committee:

Norman Barnard ..... for 3-year term ..... expires 1/1/64.
Ben Jones ..... for 2-year term ..... expires 1/1/63.
Donald Lance ..... for 2-year term ..... expires 1/1/63.
Clarence Long ..... for 1-year term ..... expires 1/1/62.
Harold Scofield ..... for 1-year term ..... expires 1/1/62.

# FIREMEN AND POLICEMEN CIVIL SERVICE SYSTEM
## Act 78 of 1935

AN ACT to establish and provide a board of civil service commissioners in cities, villages, and municipalities having full-time paid members in the fire or police departments, or both; to provide a civil service system based upon examination and investigation as to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members appointed in the fire and police departments and respective cities, villages, and municipalities; to regulate the transfer, reinstatement, suspension, and discharge of officers, fire fighters, and police officers; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986;—Am. 1998, Act 199, Eff. Mar. 23, 1999.

**Popular name:** Police and Fire Civil Service Act

*The People of the State of Michigan enact:*

### 38.501 Fire and police department civil service commissions; creation.

Sec. 1. Within 30 days after this act shall take effect there may be created a civil service commission in each city, village or municipality of any population whatsoever having a fire and/or police department, any of the members of which are full paid by said city, village or municipality.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.501.

**Popular name:** Police and Fire Civil Service Act

### 38.502 Civil service commission; membership, appointment, terms; election of president.

Sec. 2. The civil service commission shall consist of 3 members, 1 of whom shall be appointed by the principal elected officer of the city, village or municipality with the approval of the legislative body; and he shall serve for a period of 6 years from the date of his appointment. The second member of the commission shall be selected by the paid members of the fire and/or police department and he shall serve for a period of 4 years from the date of his appointment; a majority vote of the members of the fire and/or police department shall be necessary to select such member. The third member of the commission shall be selected by the aforesaid members of the commission and he shall serve for a period of 2 years from the date of his appointment. Thereafter all appointments shall be made for a period of 6 years each; each commissioner to serve until his successor is appointed and qualified by the appointing power hereinbefore designated.

The 3 members of the commission shall together elect 1 of their number to act as president of the commission, who shall serve for 1 year. Each year thereafter the commissioners shall elect 1 of their number, president, the member so elected to serve 1 year.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.502;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1957, Act 43, Eff. Sept. 27, 1957.

**Popular name:** Police and Fire Civil Service Act

### 38.503 Civil service commission; members, qualifications.

Sec. 3. No person shall be appointed a member of said commission who is not a citizen of the United States and who has not been a resident of said city, village or municipality for a period of 1 year and an elector of said county for a period of at least 3 years immediately preceding such appointment. No commissioner shall hold any other elective office, place or position under the United States, state of Michigan, or any city, county or other political subdivision thereof; nor shall any commissioner serve on any political committee or take any active part in the management of any political campaign. Not more than 2 of the said commissioners, at any 1 time, shall be adherents of the same political party.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.503;—Am. 1949, Act 271, Eff. Sept. 23, 1949.

**Popular name:** Police and Fire Civil Service Act

### 38.504 Civil service commission; vacancies, removal, petition, hearing.

Sec. 4. In event that any commissioner of said civil service commission shall cease to be a member thereof by virtue of death, removal or other cause, a new commissioner shall be appointed to fill out the unexpired term of said commissioner within 10 days after said commissioner shall have ceased to be a member of said commission. Such appointment shall be made by the officer or body who in the first instance appointed the commissioner who is no longer a member of the commission. The mayor or principal executive officer shall at any time remove any commissioner for incompetency, dereliction of duty, malfeasance in office or any


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other good cause, which shall be stated in writing and made a part of the records of the commission, and a copy of the removal shall be served on said commissioner forthwith: Provided, however, That once the mayor or principal executive officer has to remove any commissioner, such removal shall be temporary only and shall be in effect for a period of 10 days. If at the end of said period of 10 days the said commissioner shall fail to make answer thereto, he shall be deemed removed, otherwise the mayor shall file in the office of the clerk of the circuit court of said county a petition setting forth in full the reason for said removal and praying for the confirmation by said circuit court of the action of the mayor in so removing the said commissioner. A copy of said petition, in writing, shall be served upon the commissioner so removed simultaneously with its filing in the office of the clerk of the circuit court and shall have precedence on the docket of the said court and shall be heard by said court as soon as the removed commissioner shall demand. All rights hereby vested in said circuit court may be exercised by the judge thereof during a vacation. In event that no term of court is being held at the time of filing of said petition, and the judge thereof cannot be reached in the county wherein the petition was filed, said petition shall be heard at the next succeeding term of said circuit court, whether regular or special, and the commissioner so suspended shall remain suspended until a hearing is had upon the petition of the mayor. The court, or the judge thereof, in vacation, shall hear and decide upon said petition. The contestant, against whom the decision of the court or judge thereof, in vacation, shall be rendered, shall have the right of appearing in person and by counsel and presenting his defense and to petition the supreme court for a review of the decision of the circuit court, or the judge thereof in vacation, as in chancery cases. In event that the mayor shall fail to file this petition in the office of the clerk of the circuit court, as hereinbefore provided, within 10 days after the removal of said commissioner, such commissioner shall immediately resume his position as a member of the civil service commission.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.504;—Am. 1949, Act 271, Eff. Sept. 23, 1949.

**Popular name:** Police and Fire Civil Service Act

### 38.505 Civil service commission; clerk.

Sec. 5. The city clerk or city recorder of any city, village or municipality under the terms of this act shall “ex officio” be clerk of the civil service commission and shall supply to the commission without extra compensation all necessary clerical and stenographic services for the work of the civil service commission.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.505.

**Popular name:** Police and Fire Civil Service Act

### 38.506 Fire and police civil service; eligibility for permanent appointment.

Sec. 6. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this act, all persons holding a position in the fire and/or police department, including the chief thereof, when this act takes effect, who shall have served in such position for a period of at least 6 months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation: Provided, however, That any employee with less than 6 months' service shall be classed as probationer under this act.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.506;—Am. 1951, Act 15, Eff. Sept. 28, 1951.

**Popular name:** Police and Fire Civil Service Act

### 38.507 Appointments and promotions; competitive examinations; provisions applicable to appointment, reinstatement, promotion, or discharge; applicability of section.

Sec. 7. Appointments to and promotions in all paid fire or police departments, or both of cities, villages, and municipalities shall be made only according to qualifications and fitness to be ascertained by competitive examinations, and no person shall be appointed, reinstated, promoted, or discharged as a full-time paid member of a department, regardless of rank or position, in any fire or police department of any city, village, or municipality in this state except as provided in this act. This section applies only to full-time paid members as defined in section 17.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.507;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

**Popular name:** Police and Fire Civil Service Act


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### 38.508 Civil service commission; assistance by municipal executive officers; printing, supplies.

Sec. 8. It shall be the duty of the mayor, or principal executive officer, and heads of departments of every city, village or municipality to aid the civil service commission in all proper ways in carrying out the provisions of this act, and to allow the reasonable use of public buildings and to cause suitable and convenient rooms and accommodations to be assigned and provided, and to be furnished, heated and lighted for carrying on the work and examinations of the civil service commission and in all proper ways to facilitate the same. The civil service commission may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.508.

**Popular name:** Police and Fire Civil Service Act

### 38.509 Civil service commission; powers and duties.

Sec. 9. The civil service commission in each city, village or municipality, within the terms of this act, shall

First, Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this act. All rules so prepared may, from time to time, be added to, amended or rescinded.

Second, Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for office, received by the said commission or by any officer having authority to make appointments to office, shall be kept and preserved for a period of 10 years, and all such records, recommendations of former employers accepted, and all written causes of removal, filed with it, shall, subject to reasonable regulation, be open to public inspection. It shall keep a roster of the members of the fire and police department, together with a record of service, military or naval experience, file statements on all matters relating to the character and quality of the work done and the attitude of the individual to his work and such other matters as may have a bearing on promotion, transfer or discharge.

Third, Make investigations, either sitting in a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of this act, and the rules and regulations prescribed thereunder, concerning the action of any examiner or subordinate of the commission, or any person in the public service in respect to the execution of this act; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations, and to take testimony.

Fourth, Have power to subpoena and require the attendance of witnesses, and the production thereby of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them and such public records as it shall require, in relation to any matter which it has the authority to investigate. The fees of such witnesses for attendance and travel shall be the same as for witnesses before the circuit courts, and shall be paid from the appropriations for the incidental expenses of the commission. All officers in the public service, and their deputies, clerks, subordinates and employees shall attend and testify when required to do so by said commission. Any disobedience to, or neglect of, any subpoena issued by the said commissioners, or any 1 of them, to any person, shall be held a contempt of court, and shall be punished by the circuit court, within the county in which the said subpoena has been issued. Any judge of any of said courts shall, upon the application of any 1 of said commissioners, in such cases cause the process of said court to issue to compel such person or persons, disobeying or neglecting any such subpoena, to appear and to give testimony before the said commissioners; any 1 of them shall have power to punish any such contempt.

Fifth, Make an annual report to the mayor or principal executive officer showing its own action, and rules and regulations, and all exceptions thereto in force, and the practical effects thereof, and any suggestions it may approve for the more effectual accomplishments of the purpose of this act. Such reports shall be available for public inspection 5 days after the same shall have been delivered to the mayor or principal executive officer of any city, village or municipality.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1941, Act 151, Eff. Jan. 10, 1942;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.509.

**Popular name:** Police and Fire Civil Service Act

### 38.510 Application for examination; filing; contents; forms; refusal to examine or certify applicant; public hearing for aggrieved applicant; review; testimony; decision; physical examination; certification; age requirement; reinstatement or reappointment; rank.

Sec. 10. (1) The civil service commission in each city, village, or municipality shall require an individual applying for admission to an examination provided for under this act or under the rules and regulations of the commission to file in its office, within a reasonable time before the proposed examination, a formal application in which the applicant shall state under oath or affirmation all of the following:


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(a) Full name, residence, and post-office address.

(b) United States citizenship.

(c) Attainment of the age of majority.

(d) Health and physical capacity for the position for which the applicant is applying.

(e) Each residence and business or place of employment for not less than the 3 previous years. The commission shall establish educational requirements, but the requirements shall not call for less than an eighth grade education. After acceptance by the civil service commission, the applicant shall be governed as to residence by the city or village charter.

(f) Other information as may reasonably and legally be requested regarding the applicant's qualifications and fitness for the position for which the applicant is applying.

(2) Blank forms for applications shall be furnished by the commission, without charge, to all individuals requesting applications. The commission may require, in connection with an application, certificates of citizens, physicians, or others having knowledge of the applicant as the good of the service requires. The commission may refuse to examine an applicant or, after examination, to certify as eligible, an applicant who falls under any of the following disqualifications:

(a) Lacks any of the established preliminary requirements for the examination or position of employment for which the applicant applied.

(b) Is so disabled as to be rendered unfit for the performance of the duties of the position to which the applicant seeks appointment.

(c) Is a habitual user of intoxicating liquors or an illegal user of 1 or more controlled substances.

(d) Has been found guilty of any felony.

(e) Has been dismissed from the public service for delinquency or misconduct.

(f) Has made a false statement of a material fact or practiced or attempted to practice a deception or fraud in the application, in the examination, or in securing eligibility.

(g) Refuses to comply with the rules and regulations of the commission.

(3) If an applicant feels aggrieved by the action of the commission in refusing to examine the applicant or, after an examination, to certify the applicant as eligible, the commission, at the request of the applicant, shall appoint a time and a place for a public hearing at which time the applicant may appear, personally or with counsel, and the commission shall then review its refusal of examination or certification, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by the applicant. After review, the commission shall file the testimony taken in its records and shall again make a decision, which decision shall be final.

(4) Before appointment, all applicants for a position in the fire or police department shall undergo a physical examination, which may be performed by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner, to determine that an applicant is free from defects, deformity, or diseases that might incapacitate the applicant from the performance of the duties of the position desired. Applications will not be accepted if the person applying has not attained the age of majority under state law. If an applicant has formerly served upon the fire or police department of the city, village, or municipality to which application is made and has resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against the applicant, within a period of 2 years next preceding the date of the application, and is a resident of the city, village, or municipality or the area authorized by city charter, then the applicant shall be eligible for reinstatement at the discretion of a civil service commission. The applicant, providing the former term of service justifies, may be reappointed to the fire or police department without examination other than a physical examination. If an applicant is reinstated to the fire or police department, the applicant shall be the lowest in rank in the department next above the probationers of the department. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.510;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1956, Act 162, Eff. Aug. 11, 1956;—Am. 1957, Act 94, Eff. Sept. 27, 1957;—Am. 1966, Act 96, Eff. Mar. 10, 1967;—Am. 1977, Act 12, Imd. Eff. May 11, 1977;—Am. 1982, Act 419, Imd. Eff. Dec. 28, 1982;—Am. 1985, Act 6, Imd. Eff. Mar. 27, 1985;—Am. 1986, Act 155, Imd. Eff. July 3, 1986;—Am. 2004, Act 133, Imd. Eff. June 3, 2004.

**Popular name:** Police and Fire Civil Service Act

### 38.510a Repealed. 1986, Act 155, Imd. Eff. July 3, 1986.

**Compiler's note:** The repealed section pertained to applications for employment in certain municipalities.

**Popular name:** Police and Fire Civil Service Act


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**38.511 Rules for examinations; minimum passing grade; notice and distribution of rules; probationary period; final appointment; hearing; procedure for filling position or vacancy; temporary appointments; special examinations; "appointing officer" defined.**

Sec. 11. (1) The civil service commission in each city, village, or municipality shall make rules providing for examinations of applicants for positions in the paid fire or police departments in each city, village, or municipality under this act, for appointments, and for such other matters as are necessary to carry out the purposes of this act. The minimum passing grade for numerically scored entry level examinations shall be at least 70. Seventy shall designate the applicant's demonstration of the minimum acceptable level of performance on the individual or cumulative selection procedures, or both. After initial appointment, the minimum passing grade for any examination shall be at least 70%. Due notice of the contents of the rules and of any modifications to the rules shall be given, by mail, in due season, to appointing officers affected thereby, and the rules and rule modifications shall be printed also for public distribution. All original appointments to any positions in a fire department, within the terms of this act, shall be for a probationary period of 6 months. All original appointments to any positions in a police department, within the terms of this act, shall be for a probationary period of 1 year after the completion of legally required courses of basic training. At any time during the probationary period, an appointee may be dismissed for cause, in the manner provided in this act. If at the close of this probationary term the conduct or capacity of the probationer has not been satisfactory to the appointing officer, the probationer shall be notified within 10 days, in writing, that he or she will not receive permanent appointment, whereupon his or her employment shall cease. Otherwise, his or her retention in the service shall be equivalent to final appointment. The probationer shall be entitled to a hearing before the commission as provided in section 14.

(2) Every entry position, unless filled by reinstatement, shall be filled only in the following manner: The appointing officer shall notify the civil service commission of any vacancy in the service which he or she desires to be filled, and shall request the certification of eligibles. The commission immediately shall certify from the eligible list the names of the persons who received the highest 5 average composite scores on examinations held under the provisions of this act within a period of 2 years next preceding the date of the appointment. The appointing officer, thereupon, with sole reference to the merit and fitness of the candidates, shall make the appointment from the names certified. As each subsequent vacancy occurs, precisely the same procedure shall be followed. When an appointment is made under this section, it shall be in the first instance for the probationary period, as provided in this act.

(3) All positions, other than entry, shall be filled only in the following manner: The appointing officer shall notify the civil service commission of any vacancy in the service which he or she desires to be filled and shall request the certification of eligibles. The commission immediately shall certify from the eligible list the name of the person who received the highest average at preceding examinations held under the provisions of this act within a period of 2 years next preceding the date of the appointment. The appointing officer, thereupon, with sole reference to the merit and fitness of the candidates, shall make the appointment certified. As each subsequent vacancy occurs, precisely the same procedure shall be followed. When an appointment is made under this section, it shall be in the first instance for the probationary period, as provided in this act.

(4) Whenever there are urgent reasons for filling a vacancy in any position in the fire or police department and there is no list of persons eligible for appointment, the appointing officer may nominate a person to the civil service commission for a noncompetitive examination. If the nominee is certified by the commission as qualified, after a noncompetitive examination, he or she may be appointed temporarily to fill the vacancy until a selection and appointment can be made after a competitive examination, and in the manner prescribed in this act. However, the temporary appointment shall not continue for more than 3 months, nor shall successive temporary appointments be made to the same position. In the event of an emergency due to a war in which this country is involved, the civil service commission may make temporary appointments to fill vacancies when appointments cannot be made under the provisions of this act. These appointments shall be temporary, and only during hostilities, and for 6 months thereafter.

(5) In event any position as an electrician, mechanic, radio engineer, fire inspector, or fire alarm operator is to be filled in a paid fire or police department, then the examination to be given to applicants shall be so drawn as to test only the qualifications of the applicants in regard to their ability as an electrician, mechanic, radio engineer, fire inspector, or fire alarm operator. The examinations shall be special examinations.

(6) As used in this section, "appointing officer" means the mayor or principal administrative or executive officer in any city, village, or municipality.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1941, Act 151, Eff. Jan. 10, 1942;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.511;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1956, Act 162, Eff.


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Aug. 11, 1956;—Am. 1971, Act 47, Imd. Eff. June 28, 1971;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

**Popular name:** Police and Fire Civil Service Act

### 38.512 Examinations; nature; contents; notice; commencement of examination for promotion; eligible list; discrimination prohibited; competitive vacancies filled by promotions; probationary period; hearing.

Sec. 12. (1) All examinations for positions shall be practical in their character and shall relate to those matters and shall include those inquiries as will fairly and fully test the comparative merit and fitness of the persons examined to discharge the duties of the employment sought by them. All examinations shall be open to all applicants who have fulfilled the preliminary requirements prescribed by this act. Notice of the time and place for accepting applications shall be given by the commission by publication for 2 weeks in the official paper of the city, village, or municipality, and the notice shall be posted by the commission in a conspicuous place in the office and on the bulletin boards of the city, village, or municipality for 2 weeks. Further notice may be given as the commission shall prescribe. However, a newspaper advertisement shall not be required for an examination for a promotion. The examination process shall begin within 6 months after the closing date for the acceptance of applications. However, the commission may delay or cancel the examination process for good cause. The commission shall post, in a public place at its office, the eligible list containing the names and grades of those who have passed examinations for positions or promotions in fire or police departments under this act, and shall indicate any appointments that will be made from the list. No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiries be made concerning those opinions or affiliations; and all disclosures thereof shall be discouraged. Discrimination shall not be exercised, threatened, or promised by any person in the fire or police department against or in favor of an eligible applicant or employee in fire or police departments under this act because of his or her political or religious opinions or affiliations.

(2) Vacancies in positions in the fire and police departments above the rank of fire fighter or police officer shall be competitive and shall be filled by promotions from among persons holding positions in the next lower rank in the departments who have completed 2 years in that rank and who have at least 5 years in the department. If there are more vacancies than there are persons with 5 years in the department, the commission may lower the requirements to 3 years in the department. If no person or persons have completed 2 years in the next lower rank, the commission may hold examinations among persons in such rank as to all intent and purposes as though 2 years of service had been completed by those persons. Promotions shall be based upon merit to be ascertained by tests to be provided by the civil service commission and upon the superior qualifications of the persons promoted as shown by his or her previous service and experience. In the event of only 1 person in the next lower rank, 1 or more persons in the second lower rank who have completed at least 5 years in the department may compete for the vacancy. Whenever a position becomes vacant for which examinations are held, the appointing power shall ask the commission for the name of the person eligible for appointment. The commission shall certify the name of the person highest on the eligible list at preceding examinations held under this act within a period of 2 years next preceding the date of the appointment for the class to which the vacant position has been allocated, who is willing to accept employment. If more than 1 vacancy is to be filled, an additional name shall be certified for each additional vacancy. The appointing power immediately shall appoint the person to the position. To enable the appointing power to exercise a choice in the filling of positions of promotion in the fire or police service, a promotion shall not be considered complete until after the expiration of a period of 6 months' probationary service, and if at the end of the probationary period the appointing authority finds that the conduct or capacity of the probationer has not been satisfactory, the appointing authority shall notify the probationer and the commission in writing. Otherwise, his or her retention in the higher position shall be equivalent to receiving full status and regular employment in the higher position. The probationer, upon receiving notice that his or her conduct or capacity has not been satisfactory in the higher position, may demand a written statement of particulars of reasons for that determination and may demand a hearing before the commission. The demands shall be in writing. In such a case, the probationer shall be entitled to a hearing before the commission and to a statement of particulars to be served not less than 7 days before the date of the hearing. The commission may affirm or reverse the decision of the appointing authority or may order an additional probation period not to exceed 6 months. The decision of the commission shall be final. If the probationer does not receive full status and regular employment in the higher position, he or she shall resume the duties of his or her former position, and the appointing power shall be entitled to another certification of eligibles in accordance with this act.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1941, Act 151, Eff. Jan. 10, 1942;—Am. 1943, Act 173, Eff. July 30, 1943;—


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Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.512;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1965, Act 298, Eff. Mar. 31, 1966;—Am. 1969, Act 198, Imd. Eff. Aug. 6, 1969;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

**Popular name:** Police and Fire Civil Service Act

### 38.513 Reduction in pay, suspension or discharge; discrimination prohibited; hearing by civil service commission.

Sec. 13. No person shall be reduced in pay or position, laid off, suspended, discharged or otherwise discriminated against by any appointing officer for religious or political reasons or affiliations. In all cases of reductions, layoff, or suspension of an employee or subordinate, whether appointed for a definite term or otherwise the appointing authority shall furnish such employees or subordinate with a copy of reasons for layoff, reduction, or suspension and his reasons for the same, and give such employee or subordinate a reasonable time in which to make and file an explanation. Such order together with the explanation, if any, of the subordinate shall be filed with the commission: Provided, however, That the employee or subordinate shall be entitled to a hearing before the commission as provided in section 14. Nothing in this act contained shall limit the power of an appointing officer to suspend without pay, for purposes of discipline, an employee or subordinate for a reasonable period, not exceeding 30 days: Provided, however, That successive suspensions shall not be allowed, and after such suspension, employees shall be entitled to a hearing as provided for in this section and in section 14: And provided further, That the provisions of this act shall not apply to temporary and exceptional appointments made under the authority of this act.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.513;—Am. 1949, Act 271, Eff. Sept. 23, 1949.

**Popular name:** Police and Fire Civil Service Act

### 38.514 Tenure; grounds for removal, discharge, suspension, or deprivation of privileges; cause; written statement of charges; answer; hearing; reinstatement; record of testimony; appeal; counsel; reduction of full-time paid members; new appointments.

Sec. 14. (1) The tenure of each person holding an office, place, position, or employment under this act shall be only during good behavior and efficient service, and any person may be removed or discharged, suspended without pay, and deprived of vacation privileges or other special privileges by the civil service commission for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment to the public, neglect of duty, a violation of this act or of the rules of the commission, or for any other failure of good behavior, or for any other acts of misfeasance, malfeasance, or nonfeasance in office. However, a member of any fire or police department encompassed by this act shall not be removed, discharged, reduced in rank or pay, suspended, or otherwise punished except for cause, and in no event until he or she has been furnished with a written statement of the charges and the reasons for the actions. In addition, all charges shall be void unless filed within 90 days after the date the violation occurred, except in the case of a probationer, whose violations may accumulate for the probationary period. In each case where charges have been made a copy of the statement of the reasons for the charges and the answers thereto, if the person sought to be removed desires to file a written answer, shall be furnished to the civil service commission and entered upon its records. The answer shall be filed by the member within 5 days after service of the charges upon him or her. If the person sought to be removed or reduced demands it, the civil service commission shall grant him or her a public hearing, which hearing shall be held within a period of 10 days after the filing of the charges in writing and a written answer thereto. Pending the period between the making of the charges as a basis for removal and the decision thereon by the commission, the member shall remain in office. At the hearing, the burden shall be upon the removing officer to justify his or her action. If the removing officer fails to make charges to the satisfaction of a member or members of a fire or police department in a city, village, or municipality, the member or members of the fire or police department may present the information to the civil service commission. If the civil service commission fails to justify the action of the removing officer, then the person sought to be removed shall be reinstated with full pay for the entire period during which time he or she may have been prevented from performing his or her usual employment, and no charges shall be officially recorded against his or her record. A written record of all testimony taken at the hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be made available for public inspection if an appeal is not taken from the action of the commission. If the civil service commission sustains the action of the removing officer, the person removed shall have an immediate right of appeal to the circuit court of the county in which the city, village, or municipality is situated. The appeal shall be taken within 90 days after the date the civil service commission enters its final order. If an appeal is made, the circuit court shall hear the appeal upon the original record, and additional proof shall not be offered into evidence. The circuit court's decision shall be final. However, the


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employee has the right to petition the supreme court for a review of the court's decision. The removing officer and the person sought to be removed at all times, both before the civil service commission and upon appeal, may employ counsel to represent either of them before the civil service commission and, upon appeal, before the circuit court.

(2) If for reasons of economy it shall be deemed necessary by any city, village, or municipality to reduce the number of full-time paid members of any fire or police department, the municipality shall follow the following procedure: Removals shall be accomplished by suspending in numerical order, commencing with the last employee appointed to the fire or police department, all recent appointees to the fire or police department until the reductions are made. However, if the fire or police department increases in numbers to the strength existing before the reductions were made, the fire fighters or police officers suspended last under this act shall be reinstated before any new appointments to the fire or police department are made.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.514;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

**Popular name:** Police and Fire Civil Service Act

### 38.515 Violation of act; misdemeanor.

Sec. 15. Any commissioner or examiner, or, any other person, who shall wilfully, by himself or in cooperation with 1 or more persons, defeat, deceive or obstruct any person in respect to his right of examination or registration according to this act, or to any rules or regulations prescribed pursuant thereto, or who shall wilfully or corruptly, falsely, mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified, pursuant to the provisions of this act, or aid in doing so, or who shall wilfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment of any person so examined, registered, or certified, or to be examined, registered or certified; or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination or registration, or application or request to be examined or registered, shall, for each offense be deemed guilty of a misdemeanor.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.515.

**Popular name:** Police and Fire Civil Service Act

### 38.516 Violation of act; penalty.

Sec. 16. Whoever makes an appointment to office, or selects a person for employment contrary to the provisions of this act, or wilfully refuses or neglects otherwise to comply with, or conform to, any of the provisions of this act, or violates any of such provisions, shall be deemed guilty of a misdemeanor. Misdemeanors under the provisions of this act shall be punishable by a fine of not less than $100.00, nor more than $1,000.00 or by imprisonment in state prison for a term not exceeding 2 years, or by both fine and imprisonment, in the discretion of the court.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.516.

**Popular name:** Police and Fire Civil Service Act

### 38.517 Definitions.

Sec. 17. As used in this act:

(a) “Appointing power” means each person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position, or employment subject to civil service.

(b) “Appointment” means selection, promotion, appointing, or employing any person to hold any office, place, or position of employment subject to civil service.

(c) “City” means a city, village, or other municipality that has a full-time paid fire or police department, or both.

(d) “Commission” means the civil service commission created by this act.

(e) “Commissioner” means any 1 of the 3 commissioners of the commission.

(f) “Examination” means any test, process, evaluation, or any other procedure used to determine a candidate's merit, suitability, or fitness for the position for which he or she is applying.

(g) “Full-time paid member” means an officer, fire fighter, or police officer who is paid regularly by the city and devotes his or her whole time to fire fighting, law enforcement, or related activities.


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(h) “Municipality” means a township, charter township, city, or incorporated village.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.517;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

**Popular name:** Police and Fire Civil Service Act

### 38.517a Approval of act by majority of electors; submission of question by resolution; petition; form of ballot; canvass; certification of results; effect of adoption.

Sec. 17a. (1) This act does not affect any city, village, or municipality until approved by a majority of the electors voting thereon at an election at which the question of adoption of this act for that city, village, or municipality is properly submitted.

(2) The governing body of any city, village, or municipality, by resolution, may submit the question described in subsection (1) to the electors of the city, village, or municipality at any regular or special election. In addition, the governing body of any city, village, or municipality, by resolution, shall submit the question described in subsection (1) to the electors of the city, village, or municipality at any regular or special election on the filing of a petition requesting a submission with the governing body, which petition is signed in accordance with the provisions of the city, village, or municipal charter for referendums on ordinances. If there are no provisions in the city, village, or municipal charter governing the submission of ordinances by referendum petition, then the petition must be signed by 10% of the registered voters in the city, village, or municipality.

(3) The form of ballot shall be as follows:

“Shall Act No. 78 of the Public Acts of 1935, entitled as amended, 'An act to establish and provide a board of civil service commissioners in cities, villages, and municipalities having full-time paid members in the fire or police departments, or both; to provide a civil service system based upon examination and investigation as to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members appointed in the fire and police departments and respective cities, villages, and municipalities; to regulate the transfer, reinstatement, suspension, and discharge of officers, fire fighters, and police officers; and to repeal certain acts and parts of acts,' be adopted?

Yes ( )

No ( ).”

(4) The ballots shall be cast and canvassed, and the results of the election certified in the same manner as ballots on any question submitted to the electors of the city, village, or municipality. If the majority of the qualified electors of the city, village, or municipality vote in favor of the adoption of this act, then this act shall be in full force and effect in that city, village, or municipality.

**History:** 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.517a;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

**Popular name:** Police and Fire Civil Service Act

### 38.517b Violation of §§ 168.1 to 168.992 applicable to petitions; penalties.

Sec. 17b. A petition under section 17a, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 199, Eff. Mar. 23, 1999.

**Popular name:** Police and Fire Civil Service Act

### 38.518 Rescission of act by majority of electors; submission of question; form of ballot; canvass; certification of results; effect of vote in favor of rescission.

Sec. 18. (1) This act shall continue in full force and effect in any city, village, or municipality in which it has been properly adopted until rescinded by a majority of the electors voting thereon at an election at which the question of rescission of this act for that city, village, or municipality is properly submitted.

(2) The governing body of any city, village, or municipality, by resolution, may submit the question of rescission of this act, as it relates to the fire department or police department, or both, to the electors of that city, village, or municipality at any regular or special election.

(3) The form of ballot shall be as follows:

“Shall Act No. 78 of the Public Acts of 1935, entitled as amended, 'An act to establish and provide a board of civil service commissioners in cities, villages, and municipalities having full-time paid members in the fire or police departments, or both; to provide a civil service system based upon examination and investigation as


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to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members appointed in the fire and police departments and respective cities, villages, and municipalities; to regulate the transfer, reinstatement, suspension, and discharge of officers, fire fighters, and police officers; and to repeal certain acts and parts of acts,' be rescinded?

Yes ( )

No ( ).”

The ballots shall be cast and canvassed, and the results of the election certified in the same manner as ballots on any question submitted to the electors of the city, village, or municipality. If the majority of the qualified electors of the city, village, or municipality vote in favor of the rescission of this act, then this act is rescinded in that city, village, or municipality.

**History:** Add. 1951, Act 88, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

**Former law:** See section 18 of Act 78 of 1935, which was repealed by Act 267 of 1945.

**Popular name:** Police and Fire Civil Service Act


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# *FORMATION*

*of the*

# *DOWNTOWN DEVELOPMENT AUTHORITY*

*State Law*
*M.C.L.A., Chapter 125*

*Council Resolution 93-3*

Chief Executive officer — Mayor
Chief Administrative officer — Manager
(per John Martin - 8/3/98)

M.C.L.A. 125.1654

**MICHIGAN COMPILED LAWS ANNOTATED**
**CHAPTER 125. PLANNING, HOUSING, AND ZONING**
**DOWNTOWN DEVELOPMENT AUTHORITY**

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Current through P.A. 1993, No. 25

125.1654. Governing board of authority or authorities

Sec. 4. (1) Except as provided in subsections (7) and (8), ar authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than 1 of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board shall adopt rules consistent with Act No. 267 of the Public Acts of 1976 governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) In addition to the items and records prescribed in subsection (5), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act,

Absent: Allemon

Mayor Stine presented proclamations to the members of the team.

Meeting of July 12, 1993

PUBLIC HEARINGS

Establishment of Downtown Development Authority and Designation of Downtown District (Continued from June 21 , 1993 A-3

The Public Hearing was opened. No one wished to be heard and the Public Hearing was closed.

Resolution #93-624
Moved by Stevens
Seconded by Pryor

BE IT ORDAINED, that Ordinance No. 78 to create a Downtown Development Authority for the City of Troy, designating boundaries of the Downtown District and providing for other matters related thereto, as presented on this date, is hereby adopted, and a copy of the Ordinance shall be attached to the original minutes of this meeting.

Amendment to Resolution #93-624

Moved by Husk
Supported by Pallotta

RESOLVED, That the Ordinance be amended by changing "Mayor" to "City Manager" in Sections 3 and 7.

Yeas: Husk, Pallotta
Nays: Gosselin, Pryor, Stevens, Stine
Absent: Allemon
Amendment FAILED

Vote on Original Resolution #93-624

Yeas: Gosselin, Pryor, Stevens, Stine
Nays: Husk, Pallotta
Absent: Allemon
Motion Passed

Request to Abandon Platted Public Utility Easements - Section 25 -Sussex Park Subdivision, South 6 Feet of Lot 92 and North 6 Feet of Lot 61, Sidwell #88-20-25-309-028 A-4

Resolution #93-625
Moved by Pallotta
Seconded by Stevens

RESOLVED, that the request from Lassale Building Company for abandonment of the City's interest in two platted public utility easements located in Section 25, Sussex Park Subdivision, being the south 6 feet of Lot 92 and the north 6 feet of Lot 61, having Sidwell #88-20-25-309-028, is hereby approved; and

BE IT FURTHER RESOLVED, that the Law Department of the City of Troy is hereby authorized to execute a Consent Judgment to vacate the easement pursuant to this resolution.

Yeas: All-6
Absent: Allemon

Establishment of Downtown Development Authority and Designation of Downtown District (**Continued** from June 21, 1993 A-3

The Public Hearing was opened. No one wished to be heard and the Public Hearing was closed.

Resolution #93-624
Moved by Stevens
Seconded by Pryor

BE IT ORDAINED, that Ordinance No. 78 to create a Downtown Development Authority for the City of Troy, designating boundaries of the Downtown District and providing for other matters related thereto, as presented on this date, is hereby adopted, and a copy of the Ordinance shall be attached to the original minutes of this meeting.

Amendment to Resolution #93-624

Moved by Husk
Supported by Pallotta

RESOLVED, That the Ordinance be amended by changing "Mayor" to "City Manager" in Sections 3 and 7.

Yeas: Husk, Pallotta
Nays: Gosselin, Pryor, Stevens, Stine
Absent: Allemon
Amendment FAILED

Vote on Original Resolution #93-624

Yeas: Gosselin, Pryor, Stevens, Stine
Nays: Husk, Pallotta
Absent: Allemon
Motion Passed

Request to Abandon Platted Public Utility Easements - Section 25 -Sussex Park Subdivision, South 6 Feet of Lot 92 and North 6 Feet of Lot 61, Sidwell #88-20-25-309-028 A-4

Resolution #93-625
Moved by Pallotta
Seconded by Stevens

RESOLVED, that the request from Lassale Building Company for abandonment of the City's interest in two platted public utility easements located in Section 25, Sussex Park Subdivision, being the south 6 feet of Lot 92 and the north 6 feet of Lot 61, having Sidwell #88-20-25-309-028, is hereby approved; and

BE IT FURTHER RESOLVED, that the Law Department of the City of Troy is hereby authorized to execute a Consent Judgment to vacate the easement pursuant to this resolution.

Yeas: All-6
Absent: Allemon

Proposed Street Vacation - Former Elbow Lane Right of Way, South of Butterfield - Section 29 A-5

Resolution #93-626
Moved by Husk
Seconded by Pallotta

RESOLVED, That this item be TABLED to July 26, 1993.

Yeas: All-6
Absent: Allemon

Cat - A - 3
7-12-93

# ORDINANCE 78

AN ORDINANCE CREATING A DOWNTOWN DEVELOPMENT AUTHORITY FOR THE CITY OF TROY, DESIGNATING BOUNDARIES OF THE DOWNTOWN DISTRICT, AND PROVIDING FOR OTHER MATTERS RELATED THERETO.

THE CITY OF TROY ORDAINS:

Section 1. Title

This ordinance shall be known as the "Downtown Development Authority Ordinance" of the City of Troy.

Section 2. Determination of Necessity; Purpose

The City Council hereby determines that it is necessary for the best interests of the public to create a public body corporate which shall operate to halt property value deterioration, eliminate the causes of that deterioration, increase property tax valuation where possible in the business district of the City, and promote economic growth, pursuant to Act 197 of the Public Acts of Michigan, 1975, as amended.

Section 3. Definitions

The terms used in this ordinance shall have the same meaning as given to them in Act 197 or as hereinafter in this section provided unless the context clearly indicates to the contrary. As used in this ordinance:

"Authority" means the Downtown Development Authority of the City of Troy created by this ordinance.

"Act 197" means Act No. 197 of the Public Acts of Michigan of 1975, as amended.

"Board" or "Board of Directors" means the Board of Directors of the Authority, the governing body of the Authority.

"Chief Executive Officer" means the Mayor of the City.

"City" means the City of Troy, Michigan.

"Council" or "City Council" means the City Council of the City.

"Downtown District" means the downtown district designated by this ordinance, as now existing or hereafter amended, and within which the Authority shall exercise its powers.

Section 4. Creation of Authority

There is hereby created pursuant to Act 197 a downtown development authority for the City. The Authority shall be a public body corporate and shall be known and exercise its powers under title of the "Downtown Development Authority of the City of Troy." The Authority may adopt a seal, may sue and be sued in any court of this State and shall possess all of the powers necessary to carry out the purposes of its incorporation as provided by this ordinance and Act 197. The enumeration of a power in this ordinance or in Act 197 shall not be construed as a limitation upon the general powers of the Authority.

Section 5. Termination.

On December 31, 2024 or upon the retirement of all bonded debt, whichever shall later occur, the Authority shall be dissolved by the Council. The property and assets of the Authority, after dissolution and satisfaction of its obligations, shall revert to the City.

Section 6. Description of Downtown District

The Downtown District shall consist of the territory in the City described in Exhibit A, attached hereto and made a part hereof, subject to such changes as may hereinafter be made pursuant to this ordinance and Act 197.

Section 7. Board of Directors

The Authority shall be under the supervision and control of the Board. The Board shall consist of the Mayor and twelve (12) members. Members shall be appointed by the Chief Executive Officer, subject to approval by the Council. Not less than a majority of the members shall be persons having an interest in property located in the Downtown District. Not less than 1 of the members shall be a resident of the Downtown District, if the Downtown District has 100 or more persons residing within it. Members shall be appointed to serve for a term of four years, except that of the members first appointed, an equal number, as near as is practicable, shall be appointed for terms of 1 year, 2 years, 3 years and 4 years. A member shall hold office until the member's successor is appointed and qualified. Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office. An appointment to fill a vacancy shall be made by the Chief Executive Officer for the unexpired term subject to approval by the Council. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the Board shall be elected by the Board. The Boards shall adopt Bylaws governing its procedures subject to the approval of the Council. In the event that the Board determines to employ a Director of the Authority, such Director shall furnish a bond in a penal sum as determined by the Authority payable to the Authority for use and benefit of the Authority and shall file the same with the City Clerk of the city.

Section 8. Powers of Authority

Except as specifically otherwise provided in this ordinance, the Authority shall have all powers provided by law subject to the limitations imposed by law and herein.

Section 9. Fiscal Year; Adoption of Budget

(a) The fiscal year of the Authority shall begin on July 1st of each year and end on June 30 of the following year, or such other fiscal year as may hereafter be adopted by the Council.

(b) The Board shall prepare annually a budget and shall submit it in the manner provided by the City Charter.

(c) The Authority shall submit financial reports to the Council and shall be audited annually in the manner provided by the City Charter.

Section 10. Section Headings; Severability; Repealer

Section headings are provided for convenience only and are not intended to be part of this ordinance. If any portion of this ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 11. Publication, Recording and Filing

This ordinance shall be published once after its adoption in full in a newspaper of general circulation in the City of Troy and the City Clerk shall file a certified copy of the ordinance with the Michigan Secretary of State promptly after its adoption.

Section 12. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon 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 on the 12th day of July, 1993.

Jeanne M. Stine, Mayor

Kenneth L. Courtney, City Clerk

## CERTIFICATES

I hereby certify that the foregoing is a true and complete copy of Ordinance No. 78, duly adopted by the City Council of the City of Troy, County of Oakland, State of Michigan, at a regular meeting held on July 12, 1993, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by such Act.

I further certify that the following members were present at said meeting: Gosselin, Husk, Pallotta, Pryor, Stevens, and Stine, and that the following member was absent: Allemon.

I further certify that Councilman Stevens moved adoption of said Ordinance and Councilman Pryor supported the motion.

I further certify that the following Council members voted for adoption of said Ordinance: Gosselin, Pryor, Stevens, and Stine and that the following Council members voted against adoption of said Ordinance: Husk, Pallotta.

_____

Kenneth L. Courtney
City Clerk

I hereby certify that the foregoing ordinance received legal publication and that a certified copy of the foregoing ordinance was filed with the Michigan Secretary of State on , 1993.

_____

Kenneth L. Courtney
City Clerk

# CITY OF TROY

# DOWNTOWN DEVELOPMENT AUTHORITY

# BOARD OF DIRECTORS

## BY-LAWS AND RULES OF PROCEDURE

The purpose of the following By-Laws is to establish the rules of operation for the Board of Directors. In addition to establishing procedure, the By-Laws also describe the organizational framework of the Board of Directors, and, in general terms, define the duties and responsibilities of the Board of Directors.

City of Troy
Oakland County,
Michigan

DDA Adoption: #93-3 - 10-14-93
City Council: _____

# CITY OF TROY
# DOWNTOWN DEVELOPMENT AUTHORITY
# BOARD OF DIRECTORS

## BY-LAWS AND RULES OF PROCEDURE

### ARTICLE I: AUTHORITY

The rules and procedures of the City of Troy Downtown Development Authority Board of Directors are subordinate and subject to the Public Act 197 of 1975 of the State of Michigan, as amended, and Ordinance No. 78, of the City of Troy, Michigan.

### ARTICLE II: TITLE

The title of the governing body of the Downtown Development Authority as established by the City Council of the City of Troy shall be the "Troy Downtown Development Authority", or "BOARD".

### ARTICLE III: MEMBERS

#### Section 1. Membership

The BOARD shall be composed of the following thirteen (13) members: The Mayor of the City of Troy and twelve (12) persons who shall be appointed by the Mayor; each appointment to the BOARD is subject to approval by a majority vote of the City Council of the City of Troy. At least seven (7) members of the BOARD shall have a property interest in the Downtown Development District.

#### Section 2. Term of Office

The terms of office of the members of the BOARD shall begin immediately upon their appointment. The term of office of each member of the BOARD shall be four (4) years, except that in the case of the first BOARD appointed hereunder, three (3) of the members shall be appointed for a term of one (1) year, three (3) for a term of two (2) years, three (3) for a term of three (3) years and three (3) for a term of four (4) years. All members shall continue to hold office until their successors are appointed. Vacancies occurring through other than the normal expiration of the term of appointment shall be filled for the unexpired term by the Mayor of the City of Troy, subject to approval by a majority of the City Council.

### Section 3. Removal

Members of the BOARD may be removed from office by the City Council for cause.

## ARTICLE IV: OFFICERS AND PERSONNEL

### Section 1. Officers

The officers of the BOARD shall be:

A. **Chairman:** The Chairman shall preside at all meetings and shall have such other duties as further prescribed in the By-Laws, and shall have authority to preside at all Adjourned Meetings and call and preside at all Special Meetings.

B. **Vice-Chairman:** The Vice-Chairman shall, in the absence of the Chairman or his/her inability to act, preside at all Regular, Adjourned, or Special Meetings, public hearings, and committee meetings of the BOARD and shall have the power to function in the same capacity as the Chairman.

C. **Secretary:** The Secretary shall have authority to execute documents in the name of the BOARD and shall perform such other duties as the BOARD may, from time to time, determine. The Secretary is not required to be a member of the BOARD.

D. **Treasurer:** The Treasurer shall disburse the funds of the Authority as may be ordered by the BOARD, taking proper vouchers for such disbursements, and shall render to the BOARD, at the regular meetings of the BOARD, or whenever they may require, an account of all transactions as Treasurer and of the financial condition of the Authority. The Treasurer is not required to be a member of the BOARD. The Treasurer shall give the Authority a bond, if required by the BOARD in a sum, and with one or more sureties satisfactory to the BOARD, for the faithful performance of the duties of the office, and for the restoration to the Authority in case of his/her death, resignation, retirement, or removal from office of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Authority.

### Section 2. Terms

Each officer of the BOARD shall be elected annually by a majority of the BOARD for a one-year term by the BOARD at their first regular meeting in January, and shall hold office until a successor is elected and assumes office.

### Section 3. Delegation of Duties

In the absence of an officer of the Authority, or for any other reason that the BOARD may deem sufficient, the BOARD may delegate, from time to time and for such time as it may deem appropriate, the powers or duties, or any of them, of such officer to any other officer, or to any director, provided that said duties are delegated by a majority vote of the BOARD.

### Section 4. Executive Director

The Executive Director for the BOARD shall be the City Manager of the City of Troy or in the absence of the City Manager, the BOARD may designate a qualified person as acting Director to perform the duties of the office. The Executive Director shall function as the chief executive officer and business manager of the BOARD. The Executive Director shall supervise the preparations of plans and the performance of the functions of the Authority in the manner authorized by the State Act. The Director shall attend all meetings of the BOARD and shall have full right of discussion, but shall not have a vote on any matters coming before the BOARD. The Director shall be responsible for preparation of the budget of the BOARD and shall render to the BOARD and the City Council a regular report covering the activities and the financial condition of the Authority.

### Section 5. City Personnel

The BOARD shall make use of appropriate City personnel and consultants, including the City Attorney, City Engineer, and City Planner. The City shall be reimbursed by the BOARD for any and all additional costs incurred by the City because of the operation of the Authority. The BOARD may contract for additional services or employ personnel or consultants other than those appointed to serve the City following approval of the City Council.

## ARTICLE V: MEETINGS

### Section 1. Times and Dates

At the annual meeting, the BOARD shall determine the date, time and place of each regular meeting of the BOARD for the ensuing year. Any regular meeting may be adjourned to a definite date or alternate site, by a majority vote of a quorum of the members. Adjourned or special meetings may be held at any time or place established by the BOARD. Notice of all meetings shall be provided as required by State law. Special meetings shall be subject to the call of the Chairman, Acting Chairman or Executive Director. A special meeting may also be called upon the written request of seven (7) members of the BOARD.

## ARTICLE VI: THE ORDER OF BUSINESS

### Section 1. Regular Meetings

The order of business for a Regular Meeting shall be:

1. Call to order by Chairman or Vice-Chairman.
2. Roll call.
3. Determination of a quorum.
4. Approval of Minutes of last preceding meeting.
5. Hearings.
6. Old business.
7. New business.
8. Adjournment.

### Section 2. Chairman's Discretion

The Chairman shall have the discretion to change the order of business whenever he or she deems it advisable to do so either before or during the progress of the meeting.

### Section 3. Annual Meeting

The order of business for the Annual Meeting, to be the BOARD's first Regular Meeting in January, shall be:

1. Call to order by Chairman or Vice-Chairman.
2. Roll call.
3. Determination of a quorum.
4. Election of new Chairman.
5. Taking of Chair by new Chairman.
6. Election of other officers.
7. Establishing of regular meeting dates, time and location.
8. Regular order of business.

## ARTICLE VII: QUORUM

For the transaction of ordinary business at any Regular Meeting, adjourned meeting, or special meeting, seven (7) members shall constitute a quorum. Except as otherwise stated in these By-Laws, an affirmative vote of a majority of the members present at a duly called meeting of the BOARD shall be necessary in order to make a decision.

## ARTICLE VIII: MINUTES

### Section 1. Responsibility

The Secretary of the BOARD shall be responsible for ensuring that a complete and accurate set of Minutes for all regular, adjourned or special meetings where official business was transacted is prepared. These Minutes shall become a matter of public record, shall be kept in a separate Minute book, and shall be placed on file with the City Clerk.

### Section 2. Signatures

The Secretary and the Chairman shall sign all Minutes, after approval by the BOARD members, at the next official meeting.

## ARTICLE IX: COMMITTEES

There may be special committees established by the BOARD as the BOARD may deem necessary. Membership of these committees may be from within or outside of the membership of the BOARD.

## ARTICLE X: AMENDMENT OF BY-LAWS

These By-Laws may be changed or added to by the affirmative vote of seven (7) members. No amendment shall be discussed and adopted unless a written notice to amend the By-Laws shall be filed with the Secretary at the Regular Meeting preceding the meeting at which the motion to change is to be made. This requirement may be waived by the BOARD by a unanimous vote of the full BOARD. Any amendment to these By-Laws is subject to approval by the City Council of the City of Troy.

## ARTICLE XI: CONTRACTS, LOANS, CHECKS AND DEPOSITS

### Section 1. Contracts

The BOARD may authorize by a resolution, adopted by an affirmative vote of seven (7) members, that the Executive Director may enter into any contract or execute and deliver any instrument in the name of and on behalf of the BOARD and that such authorization may be general or confined to specific instances.

Section 2. Loans

Any funds expended by the City of Troy on behalf of the BOARD or on any related function of the Downtown Development Authority, including costs of organization, shall be considered a debt of the BOARD, shall be noted in the books of account of the BOARD and the City, and shall be repaid to the City as appropriate funds become available to the BOARD.

Section 3. Payments

All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the BOARD, shall be signed manually or by an approved facsimile signature by such officer or officers, agent or agents of the BOARD and in such manner as shall from time to time be determined by resolution of the BOARD.

Section 4. Deposits

All funds of the Authority not otherwise employed shall be deposited from time to time to the credit of the Authority by the Treasurer in such banks, trust companies, or other depositories as the BOARD may designate.

## ARTICLE XII: REPRESENTATION AND INDEMNIFICATION

The members of the City of Troy Downtown Development Authority shall be represented and indemnified for claims and civil action made against them as provided for elected and appointed officials and employees of the City in Chapter 4, Section 10, of the Troy City Code.

## ARTICLE XIII: FISCAL YEAR

The fiscal year of the Authority shall correspond at all times to the fiscal year of the City of Troy, Oakland County, Michigan.

## ARTICLE XIV: CERTIFICATION

The undersigned, being, respectively, the duly appointed and acting Clerk of the City of Troy, Oakland County, Michigan, and the duly appointed and acting Secretary of the Downtown Development Authority of the City of Troy, do hereby certify that the foregoing By-Laws were adopted by the Board of Directors of the City of Troy Downtown Development Authority at a meeting of the BOARD on the _____ day of _____, 1993, and approved at a regular meeting of the City Council of the City of Troy on the _____ day of _____, 1993.

_____

City Clerk, City of Troy

_____

Secretary, City of Troy Downtown Development Authority

April 19, 2006

TO: John Lamerato, Acting City Manager

FROM: Doug Smith, Real Estate and Development Director

SUBJECT: AGENDA ITEM – Downtown Development Authority Bylaw Changes

With John Szerlag departing, a vacancy occurs in the appointment of an Executive Director for the Downtown Development Authority (DDA). The DDA reviewed their bylaws and determined that currently, as drafted, the bylaws only permitted an appointment other than the City Manager to serve as Executive Director only on a temporary basis in the absence of the City Manager.

The DDA determined they wanted to allow, as State Law permits, the ability to appoint either the City Manager or another individual to serve as their Executive Director. Following are the recommended bylaw changes that are required to permit the DDA to appoint either the City Manager or another individual as Executive Director. The Downtown Development Authority also recommended that Doug Smith be appointed as Executive Director.

Article IV – Officers and Personnel

**Section 4. Executive Director**

The Executive Director for the BOARD ~~shall~~ **may** be the City Manager of the City of Troy or ~~in the absence of the City Manager~~ the BOARD may designate a qualified person as ~~acting~~ **Executive** Director to perform the duties of the office. The Executive Director shall function as the chief executive officer and business manager of the BOARD. The Executive Director shall supervise the preparations of plans and the performance of the functions of the Authority in the manner authorized by the State Act. The Director shall attend all meetings of the BOARD and shall have full right of discussion, but shall not have a vote on any matters coming before the BOARD. The Director shall be responsible for preparation of the budget of the BOARD and shall render to the BOARD and the CITY COUNCIL a regular report covering the activities and the financial condition of the Authority.

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

**E-1b Address of "E" Items Removed for Discussion by City Council and/or the Public**

**E-2 Approval of City Council Minutes**

Resolution #2006-05-203
Moved by Lambert
Seconded by Beltramini

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of April 17, 2006 and the Minutes of the 7:30 PM Regular City Council Meeting of April 24, 2006 be **APPROVED** as submitted; and the Minutes of the 7:30 PM Special Meeting of May 1, 2006 be **APPROVED** as **CORRECTED** to reflect that City Council directed City Management to prepare recommendations as to where reductions would occur to allow for an .02 mill reduction; and the Minutes of the 10:04 PM Special Meeting of May 1, 2006 be **APPROVED** as submitted.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

**E-10 Approval of Placement of Temporary Sales Trailer Monarch Condominiums**

Resolution #2006-05-204
Moved by Stine
Seconded by Lambert

RESOLVED, That the request from Christopher Priddy of Joseph Freed and Associates for the placement of temporary office trailers on the site of the Monarch Condominium Development, is hereby **APPROVED** for a twelve month period in accordance with Chapter 47, House Trailers and Trailer Courts, Section 6.41(3), of the Code of the City of Troy.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

## PUBLIC COMMENT: Limited to Items Not on the Agenda

## REGULAR BUSINESS:

**F-3 Downtown Development Authority Bylaw Changes**

Resolution #2006-05-205
Moved by Stine
Seconded by Lambert

WHEREAS, The Troy Downtown Development Authority approved and recommended to City Council amendments to Article IV, Section 4 of the DDA Bylaws to strike "shall" and insert "may" in Line 1 "in the absence of" in Line 2 and in Line 3 strike "acting" and insert "Executive" to provide flexibility in the appointment of the Executive Director.

BE IT RESOLVED, That City Council **APPROVES** the following amendments to Article IV, Section 4 of the DDA Bylaws to strike "shall" and insert "may" in Line 1, "in the absence of" in Line 2 and in Line 3 strike "acting" and insert "Executive**"** of the DDA Bylaws.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

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**F-4 Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards**

Resolution
Moved by Beltramini
Seconded by Schilling

RESOLVED, That Chapter 28 – Tree and Plant Ordinance, a copy of which shall be **INCLUDED** in the original Minutes of this meeting, is hereby **ADOPTED**.

**Vote on Resolution to Postpone**

Resolution #2006-05-206
Moved by Lambert
Seconded by Fleming

RESOLVED, That Troy City Council hereby **POSTPONES** the *Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards* until the Regular City Council Meeting scheduled for Monday, June 19, 2006 and **DIRECT** City Management to solicit input from outside parties on this proposed ordinance.

Yes: Lambert, Fleming
No: Stine, Schilling, Beltramini
Absent: Broomfield, Howrylak

**MOTION FAILED**

**Vote on Resolution to Postpone**

Resolution #2006-05-207
Moved by Beltramini
Seconded by Stine

RESOLVED, That Troy City Council hereby **POSTPONES** the *Adoption of City Ordinance, Chapter 28 – Tree Ordinance and the Landscape Design & Tree Preservation Standards* until the Regular City Council Meeting scheduled for Monday, June 5, 2006.

Yes: All-5
No: None
Absent: Broomfield, Howrylak

# CITY OF TROY

# DOWNTOWN DEVELOPMENT AUTHORITY

# BOARD OF DIRECTORS

# BY-LAWS

The purpose of the following By-Laws is to establish the rules of operation for the Board of Directors. The By-Laws also describe the organizational framework of the Board of Directors, and, in general terms, define the duties and responsibilities of the Board of Directors.

City of Troy
Downtown Development Authority
Board of Directors

By-Laws

## ARTICLE I: AUTHORITY

The By-laws and rules and procedures of the City of Troy Downtown Development Authority Board of Directors are subordinate and subject to the Public Act 197 of 1975 of the State of Michigan, as amended, and Ordinance No. 78, of the City of Troy, Michigan.

## ARTICLE II: TITLE

The title of the governing body of the Downtown Development Authority as established by the City Council of the City of Troy shall be the "Troy Downtown Development Authority", or "BOARD".

## ARTICLE III: MEMBERS

### Section 1. Membership

The BOARD shall be composed of the following thirteen (13) members: The Mayor of the City of Troy and twelve (12) persons who shall be appointed by the Mayor; each appointment to the BOARD is subject to approval by a majority vote of the City Council of the City of Troy. At least seven (7) members of the BOARD shall have a property interest in the Downtown Development District.

### Section 2. Term of Office

The terms of office of the members of the BOARD shall begin immediately upon their appointment. The term of office of each member of the BOARD shall be four (4) years, except that in the case of the first BOARD appointed hereunder, three (3) of the members shall be appointed for a term of one (1) year, three (3) for a term of two (2) years, three (3) for a term of three (3) years and three (3) for a term of four (4) years. All members shall continue to hold office until their successors are appointed. Vacancies occurring through other than the normal expiration of the term of appointment shall be filled for the unexpired term by the Mayor and the City of Troy, subject to approval by a majority of the City Council.

### Section 3. Removal

Members of the BOARD may be removed from office by the City Council for cause.

## ARTICLE IV: OFFICERS AND PERSONNEL

### Section 1. Officers

The officers of the BOARD shall be:

A. **Chairman:** The Chairman shall preside at all meetings and shall have such other duties as further prescribed in the By-Laws, and shall have authority to preside at all Adjourned Meetings and call and preside at all Special Meetings.

B. **Vice-Chairman:** The Vice-Chairman shall, in the absence of the Chairman or his/her inability to act, preside at all Regular, Adjourned, or Special Meetings, public hearings, and committee meetings of the BOARD and shall have the power to function in the same capacity as the Chairman.

C. **Secretary:** The Secretary shall have authority to execute documents in the name of the BOARD and shall perform such other duties as the BOARD may, from time to time, determine. The Secretary is not required to be a member of the BOARD.

D. **Treasurer:** The Treasurer shall disburse the funds of the Authority as may be ordered by the BOARD, taking proper vouchers for such disbursements, and shall render to the BOARD, at the regular meetings of the BOARD, or whenever they may require, an account of all transactions as Treasurer and of the financial condition of the Authority. The Treasurer is not required to be a member of the BOARD. The Treasurer shall give the Authority a bond, if required by the BOARD in a sum, and with one or more sureties satisfactory to the BOARD, for the faithful performance of the duties of the office, and for the restoration to the Authority in case of his/her death, resignation, retirement, or removal from office of all books, papers, vouchers, money, and other property of whatever kind in his/her possession or under his/her control belonging to the Authority.

### Section 2. Terms

Each officer of the BOARD shall be elected annually by a majority of the BOARD for a one-year term by the BOARD at their first regular meeting in October, and shall hold office until a successor is elected and assumes office.

### Section 3. Delegation of Duties

In the absence of an office of the Authority, or for any other reason that the BOARD may deem sufficient, the BOARD may delegate, from time to time and for such time as it may deem appropriate, the powers or duties, or any of them,

of such officer to any other officer, or to any director, provided that said duties are delegated by a majority vote of the BOARD.

**Section 4. Executive Director**

The Executive Director for the BOARD may be the City Manager of the City of Troy or the BOARD may designate a qualified person as Executive Director to perform the duties of the office. The Executive Director shall function as the chief executive officer and business manager of the BOARD. The Executive Director shall supervise the preparations of plans and the performance of the functions of the Authority in the manner authorized by the State Act. The Director shall attend all meetings of the BOARD and shall have full right of discussion, but shall not have a vote on any matters coming before the BOARD. The Director shall be responsible for preparation of the budget of the Board and shall render to the Board and the City Council a regular report covering the activities and the financial condition of the Authority.

**Section 5. City Personnel**

The BOARD shall make use of appropriate City personnel and consultants, including the City Attorney, City Engineer, and City Planner. The City shall be reimbursed by the BOARD for any and all additional costs incurred by the City because of the operation of the Authority. The BOARD may contract for additional services or employ personnel or consultants other than those appointed to serve the City following approval of the City Council.

## ARTICLE V: MEETINGS

**Section 1. Times and Dates**

At the annual meeting, the BOARD shall determine the date, time and place of each regular meeting of the BOARD for the ensuing year. Any regular meeting may be adjourned to a definite date or alternate site, by a majority vote of a quorum of the members. Adjourned or special meetings may be held at any time or place established by the BOARD. Notice of all meetings shall be provided as required by State law. Special meetings shall be subject to the call of the Chairman, acting Chairman or Executive Director. A special meeting may also be called upon the written request of seven (7) members of the BOARD.

## ARTICLE VI : COMMITTEES

There may be special committees established by the BOARD as the BOARD may deem necessary. Membership of these committees may be from within or outside of the membership of the BOARD.

## ARTICLE VII: AMENDMENT OF BY-LAWS

These By-Laws may be changed or added to by the affirmative vote of seven (7) members. No amendment shall be discussed and adopted unless a written notice to amend the By-Laws shall be filed with the Secretary at the Regular Meeting preceding the meeting at which the motion to change is to be made. This requirement may be waived by the BOARD by a unanimous vote of the full BOARD. Any amendment to these By-Laws is subject to approval by the City Council of the City of Troy.

## ARTICLE VIII: CONTRACTS, LOANS, CHECKS AND DEPOSITS

### Section 1. Contracts

The BOARD may authorize by resolution, adopted by an affirmative vote of seven (7) members, that the Executive Director may enter into any contract or execute and deliver any instrument in the name of and on behalf of the BOARD and that such authorization may be general or confined to specific instances.

### Section 2. Loans

Any funds expended by the City of Troy on behalf of the BOARD or on any related function of the Downtown Development Authority, including costs of organization, shall be considered a debt of the BOARD, shall be noted in the books of account of the BOARD and the City, and shall be repaid to the City as appropriate funds become available to the BOARD.

### Section 3. Payments

All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the BOARD, shall be signed manually or by an approved facsimile signature by such office or officers, agent or agents of the BOARD and in such manner as shall from time to time be determined by resolution of the BOARD.

### Section 4. Deposits

All funds of the Authority not otherwise employed shall be deposited from time to time to the credit of the Authority by the Treasurer in such banks, trust companies or other depositories as the BOARD may designate.

## ARTICLE IX: REPRESENTATION AND INDEMNIFICATION

The members of the City of Troy Downtown Development Authority shall be represented and indemnified for claims and civil action made against them as

provided for elected and appointed officials and employees of the City in Chapter 4, Section 10, of the Troy City Code.

## ARTICLE X: FISCAL YEAR

The fiscal year of the Authority shall correspond at all times to the fiscal year of the City of Troy, Oakland County, Michigan.

## ARTICLE XI: PARLIAMENTARY AUTHORITY

The Troy Downtown Development Authority adopts Roberts Rules of Order, latest edition, as its parliamentary authority, except as preempted by City Charter or City Code or as modified by Rules of Procedure adopted by the BOARD.

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CERTIFICATION

The undersigned, being, respectively, the duly appointed and acting Clerk of the City of Troy, Oakland County, Michigan, and the duly appointed and acting Secretary of the Downtown Development Authority of the City of Troy, do hereby certify that the foregoing By-Laws were adopted by the Board of Directors of the City of Troy Downtown Development Authority and approved at a regular meeting of the City Council of the City of Troy on October 14, 1993.

Amended: March 15, 2006- DDA
May 8, 2006- City Council
June 1, 2006- DDA
July 24, 2006- City Council

BE IT FINALLY RESOLVED, That the City Clerk is hereby **AUTHORIZED TO COMPLETE** the Application and **TRANSMIT** same to the State Tax Commission, Treasury Building, P.O. Box 30471, Lansing, MI. 48909-7971.

Yes: Beltramini, Broomfield, Fleming, Lambert, Stine, Schilling
No: Howrylak

**MOTION CARRIED**

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**C-3 Rezoning Application (File Number Z-722) – Northwest Corner of Maple and Thorncroft, East of Maplelawn, Section 29 – R-C to B-3**

The Mayor opened the Public Hearing for public comment.
The Mayor closed the Public Hearing after receiving no comment from the petitioner and the public.

Resolution #2007-06-170
Moved by Howrylak
Seconded by Beltramini

RESOLVED, That the R-C to B-3 rezoning request, located on the northwest corner of Maple and Thorncroft, east of Maplelawn, in Section 29, part of parcel 88-20-29-426-033, being 3.18 acres in size, is described in the following legal description and illustrated on the **ATTACHED** sketch of survey drawing:

> T2N, R11E, SE ¼ of Section 29
>
> The south 540 ft. of Lot 12 of Maplelawn Industrial Park No. 2 (Liber 119, page 35, of Oakland County Plats). Containing ±3.18 ac. more or less, and subject to restrictions and easements of record;

BE IT FURTHER RESOLVED, The rezoning is **RECOMMENDED** by the Planning Commission; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **AMENDS** the City of Troy Zoning District Map from R-C to B-3, as requested.

Yes: All-7

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**C-4 Troy Downtown Development Authority's (TDDA's) Development Plan #6 and the Big Beaver Corridor Study**

The Mayor opened the Public Hearing for public comment.
The Mayor closed the Public Hearing after receiving no comment from the petitioner and comment from the following members of the public:

Victor Lenivov – Oppose
Mary Ann Bernardi – Oppose
James Savage - Oppose

Resolution #2007-06-171
Moved by Beltramini
Seconded by Stine

WHEREAS, The City of Troy (the "City") as authorized by the provisions of Act 197, Public Acts of Michigan, 1975, as amended, has created a Downtown Development Authority;

WHEREAS, It is necessary, for the best interests of the public, to halt property value deterioration and increase property tax valuation where possible in the business district of the City of Troy, to eliminate the causes of such deterioration, and to promote economic growth;

WHEREAS, City of Troy Ordinance 78, designated a Downtown Development Authority, and Ordinance 80 created Development and Tax Increment Financing Plans pursuant to Public Act 197, as amended, has been adopted by the Troy City Council;

WHEREAS, The Troy Downtown Development Authority wishes to modify the Development Plan to include the implementation of the key concepts of the Big Beaver Corridor Plan;

WHEREAS, The Troy Downtown Development Authority has prepared Downtown Development Plan #6 and Tax Increment Financing Plan #6 incorporating the previous development plans and tax increment financing plans;

WHEREAS, The Troy Downtown Development Authority has requested the Troy City Council consider Development Plan #6 and Tax Increment Plan #6; and

WHEREAS, A public hearing has been published and posted in accordance with applicable local and state law as required by Act 197, as amended;

THEREFORE, BE IT RESOLVED, That Troy City Council **DETERMINES** that it is necessary and in the best interest of the public to maintain a Downtown Development Authority pursuant to Act 197, as amended, in order to halt property value deterioration and increase property tax valuation where possible in the business district of the City of Troy, to eliminate the causes of such deterioration, and to promote economic growth, and that Downtown Development Plan #6 and Tax Increment Financing Plan #6 constitute a public purpose, since they provide for the implementation of the key concepts of the Big Beaver Corridor Plan; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **APPROVES** the Downtown Development Plan #6 and **AMENDS** City of Troy Ordinance 80; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **APPROVES** the Tax Increment Financing Plan #6 and **AMENDS** City of Troy Ordinance 80; and

BE IT FINALLY RESOLVED, That Troy City Council hereby **DIRECTS** City Management to bind and incorporate Exhibit #2-*Big Beaver Corridor Study* and Exhibit #3–*Chesapeake Group Report* as part of the bound project document.

Yes: Fleming, Lambert, Stine, Schilling, Beltramini, Broomfield
No: Howrylak

# Development Plan #6
# Tax Increment Financing Plan #6

**City of Troy**
**Downtown Development Authority**

# BACKGROUND AND PURPOSE

## A. Purpose of the Downtown Development Authority Act

Act 197 of Public Acts of 1975, as amended, of the State of Michigan, commonly referred to as the Downtown Development Authority Act ("Act 197" or the "Act") authorizes the establishment of a downtown development authority and was created in part to correct and prevent deterioration of business districts; to promote economic growth and revitalization; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the levy and collection of taxes; the issuance of bonds and the use of tax increment financing to finance downtown development contained in locally adopted development plans.

The Act seeks to attack problems of urban decline, strengthen existing areas and encourage new private developments in Michigan's downtown communities. It seeks to accomplish this goal by providing these communities with the necessary legal, monetary and organizational tools to revitalize downtown districts either through publicly initiated projects or in concert with private developments. The method chosen by downtown development authorities to make use of these tools depends on the problems and opportunities facing the district and the development priorities established by the community for the revitalization of the business area.

## B. Creation of the Troy Downtown Development Authority

In December of 1993, the Troy City Council adopted Ordinance 80, which created the Troy Downtown Development Authority (**"**TDDA**"**). TDDA was given all of the powers and duties prescribed for a Downtown Development Authority pursuant to the Act.

## C. Basis for the Tax Increment Plan and Development Plan

Act 197 provides the legal mechanism for local officials to address the need for economic development in the business district. In Troy, the Downtown Development Authority District can be generally described as the commercial area along Big Beaver Road from Rochester Road on the east to Newport on the west, (the "Authority" or the "District"). At the time the TDDA was created, the Development Area and the Tax Increment Financing Area were established as coterminous with the boundaries of the Authority. A development plan and a tax increment-financing plan were adopted for the purpose of implementing specific development programs and/or projects in the Development Area.

For purposes of financing activities of a downtown development authority within a Downtown district, Act 197 provides for establishment of a Tax Increment Plan. By definition, a Tax Increment Financing Plan seeks to capitalize on and make use of the increased tax base created by economic development within the boundaries of a Downtown district.

## D. The Current TDDA Development Plan and the TDDA Tax Increment Financing Plan

The Tax Increment Financing Plan (the "TIF") of the TDDA was approved and adopted by the Troy City Council on November 3, 1993, on which date the City also approved and adopted Development Plan #1, which included reconstruction and improvements to Big Beaver Road and a public parking deck. The TIF provided for capture and use by the TDDA of all tax increment revenues generated from the captured assessed value of all taxable real and personal property within the District for purposes of the Development Plan.

An amendment to Development Plan #1 was approved and adopted by the City on September 28, 1998 (referred to for purposes hereof as "Development Plan #2"). Development Plan #2 incorporated the area north of Cunningham Road for purposes of the construction of a data center for K-Mart and the proposed civic center site at Big Beaver and I-75.

Development Plan #2 expressly incorporated and restated the TIF Plan previously adopted by the TDDA to finance development programs and projects within the District.

This second amendment to the TDDA Development Plan (referred to for purposes hereof as "Development Plan #3"), expressly incorporated and restated the development programs and projects described in Development Plan #1 and Development Plan #2 and described two additional major road projects including the widening of Big Beaver Road between I-75 and Rochester Road and from I-75 to the northern DDA boundary deemed necessary by the TDDA for the future economic vitality of the District, and with respect thereto, set forth the plans for development and financing of said projects as required under Act 197.

Development Plan #3 was structured to provide the TDDA with the continued ability to utilize Tax Increment Financing to address the needs of the Troy Downtown Development Authority Area.

Development Plan #4 was the third amendment to the TDDA Development Plan and incorporated the project known as “Troy Place Improvement Project”. This project provided the local match required for a local company to receive financial incentives from the State of Michigan in order to retain its headquarters in the City of Troy and the State of Michigan.

Development Plan #5 was the fourth amendment to the TDDA Development Plan and incorporated the project known as “Sheffield Plaza Building #2 Improvement Project”. This project provided the local match required for a local company to receive financial incentives from the State of Michigan in order to retain its headquarters in the State of Michigan.

## E. Relationship Between Development Plan #6 and Previous Development Plans

The intent of Development Plan #6 is to amend the previous Development Plans by incorporating the project to be known as “Big Beaver Corridor Study Implementation Plan” (Exhibit #1). The projects in Development Plan #6 are identified in the following manner:

MEGA Local Match – The TDDA can make a local commitment of incentives with the Michigan Economic Growth Alliance (MEGA), after it has been determined that local tax abatements cannot satisfy the local commitment requirements. TDDA funds can be used to improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, and repair any building, and any necessary or desirable

appurtenances to that property which, in the opinion of the board, halts property value deterioration and/or aids in the economic growth of the downtown district.

This includes a local match for the package of incentives offered through the Michigan Economic Growth Alliance (MEGA) provided to LenderLive for the location of its headquarters at 888 West Big Beaver, Troy, Michigan. Following negotiations between City staff, LenderLive and the State of Michigan, it was determined that the local commitment would be fulfilled through a combination of services provided through the Troy Downtown Development Authority valued at $20,000. The services include a combination of: hosting a Job Fair for Lenderlive at the Community Center, paying occupancy permit fees, providing Community Center membership passes, and improvements for the subject building. The State of Michigan has committed personal income tax withholding credit on the new jobs created by LenderLive at 888 West Big Beaver, Troy, Michigan.

I-75 Interchange Improvements – The project includes all roadwork, pathway/sidewalk, lighting, bridge improvement and landscaping at the I-75/Big Beaver interchange and parts of the I-75/Rochester interchange located in the TDDA boundaries.

Public Thoroughfares, Intersections and Service Roads – The project includes improvements to the thoroughfares, intersections and installation of service roads consistent with the Big Beaver Corridor Plan including landscaping, pathways, sidewalks, bridges, and lighting in public rights-of-way within the TDDA boundaries.

Park Improvements – The project includes aesthetic improvements, art work, and other physical improvements to create open areas consistent with the Parks and Recreation Master Plan and the Big Beaver Corridor Study.

Property Acquisition – The TDDA can acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to that property. Further, the TDDA can improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.

Further, the existing Tax Increment Financing Plan adopted and approved at the time of adoption of Development Plan #1, Development Plan #2, Development Plan #3, Development Plan #4, and Development Plan #5 will be retained and modified to include the new development consistent with state law.

## F. General Development Plan for the Troy Development District

The need for establishing the Development Plan described in Section E (background and purpose) is based on the need to continue Troy's efforts to retain jobs, to improve public areas of facilities and improve property values in the district, and to prevent deterioration of the Big Beaver commercial area. This continuing effort will depend upon the readiness and ability of the City to initiate public improvements that strengthen the commercial area and to encourage and participate, where feasible, in the development of new private uses that clearly demonstrate the creation of new jobs, the attraction of new business, and the generation of additional tax revenues.

The business district within the Development Area can be characterized as an aggregation of different Commercial and Office Zones that reflect the historic development of the Community. The core of the business district and community stretches along Big Beaver Road between Rochester Road on the east and Cunningham on the west.

## DEVELOPMENT PLAN NO. 6

**1. DESIGNATION OF BOUNDARIES OF THE DEVELOPMENT AREA AND NEW PROJECTS**

The Development Area Boundary is located within the jurisdictional limits of the City of Troy and coterminous with the TDDA. The City of Troy established the TDDA pursuant to Act 197 of Public Acts of 1975, as amended, through the adoption and publication of Ordinance 80. The boundary for the TDDA and Development Area is shown on Exhibit #1.

**2. LOCATION AND EXTENT OF OTHER PUBLIC FACILITIES WITHIN THE DEVELOPMENT AREA, LOCATION, CHARACTER AND EXTENT OF PUBLIC AND PRIVATE LAND USES**

**Public Land Uses**

Public land within Development Area #6 includes the rights-of-way under the jurisdiction of the City of Troy, Oakland County, and the State of Michigan, and real property under the ownership of the City of Troy.

**Private Land Uses**

***A.*** **Residential** – There are single-family residential and multi-family residential units in Development Plan #6. The single family housing is generally located on the north side of Big Beaver between Livernois and Rochester, and on the west side of Rochester south of Big Beaver. Multi-family housing is generally located on the south side of Big Beaver, west of Crooks Road. The residentially-zoned land includes: All beginning 80-20, then: 26-102-001, 26-102-002, 26-102-003, 26-102-004, 27-228-011, 28-201-006, 28-226-035, 28-251-007, 28-251-012, 28-251-013, 28-251-03020-402-052, 20-402-053,20-402-054, 20-402-055.

***B.*** **Commercial and Office** – There is commercial- and office-zoned private property in Development Plan #6. The commercial- and office-zoned property includes: All beginning 80-20, then: 19-430-002, 19-453-005, 19-453-008, 19-453-009, 19-453-010, 19-476-001, 20-351-004, 20-351-005, 20-351-008, 20-351-010, 20-376-001, 20-376-004, 20-376-006, 20-401-024, 20-402-041, 20-476-012, 20-476-030, 20-476-031, 20-476-036, 20-476-039, 20-476-043, 20-476-047, 20-476-049, 20-476-050, 20-476-054, 20-476-055, 21-304-025, 21-351-012, 21-351-013, 21-401-002, 21-476-018, 21-476-019, 22-355-025, 22-358-019, 22-379-021, 22-379-023, 22-380-033, 22-380-038, 22-477-040, 22-477-048, 22-477-052, 22-477-053, 22-477-054, 22-477-059, 22-477-060, 22-477-062, 23-354-047, 26-102-013, 27-101-020, 27-101-055, 27-101-058, 27-101-060, 27-101-061, 27-101-065, 27-102-026, 27-126-027, 27-201-013, 27-201-014, 27-201-049, 27-201-050, 27-201-053, 27-201-059, 27-226-026, 27-227-010, 27-227-011, 27-228-017, 27-228-018, 28-101-032, 28-101-034, 28-101-050, 28-101-051, 28-101-052, 28-101-053, 28-101-054, 28-101-063, 28-101-064, 28-203-030, 28-203-035, 28-203-037, 28-203-038, 28-226-033, 28-226-034, 28-251-037, 28-251-038, 28-251-039, 28-252-016, 28-252-017, 28-252-018, 28-276-044, 28-276-048, 28-276-049, 28-277-008, 28-430-017, 29-101-004, 29-101-006, 29-101-009, 29-101-010, 29-101-011, 29-127-023, 29-127-025, 29-201-001, 29-201-023, 29-201-024, 29-201-025, 29-226-002, 29-226-003, 29-226-004, 29-226-005, 29-226-016, 29-226-043, 29-226-046, 29-226-047, 29-226-048, 29-226-049, 29-226-050, 29-226-051, 29-226-052, 29-226-053, 29-226-054, 29-226-055, 29-226-056, 29-226-057, 29-226-058, 29-226-059, 29-226-060, 29-226-061, 29-226-062, 29-226-063, 29-226-064, 29-226-065, 29-226-066, 29-226-067, 29-226-068, 29-226-069, 29-226-070, 29-226-072, 29-226-073, 29-226-074, 29-226-075, 29-227-026, 30-202-004, 30-202-005, 30-226-001, 30-226-008, 30-226-009, 30-226-010.

**C.** **Kresge Foundation –** is located on the south side of Big Beaver Road, west of Coolidge.

**Recreational Uses**

There are recreational uses including an aquatic center, the tennis bubble, and open space land uses within the Civic Center Area found in Development Plan #2.

**Semi-Public Uses**

Semi-Public uses include: Streets, sidewalks, parking lots, and public or common area of all buildings.

**Educational Uses**

Northwood University has an outreach/program center that is located at 1900 West Big Beaver.

Cornerstone University has a satellite campus that is located at 2100 West Big Beaver. Programs offered include: Associates, Bachelors and Masters in Management.

**Vacant Land**

There is undeveloped property in Development Area #6, generally located on the north side of Big Beaver between Livernois and Rochester. The vacant land includes: All beginning 80-20, then: 20-351-009, 21-326-008, 21-326-009, 22-356-014, 22-383-001, 22-383-002, 22-383-003, 22-383-006, 26-101-002, 26-101-003, 26-101-004, 26-101-005, 26-101-006, 27-201-008, 27-201-009, 27-201-010, 27-201-055, 27-201-058, 27-201-060, 27-227-009, 28-101-039, 28-101-047, 28-201-007, 28-201-008, 28-201-009, 28-203-034, 28-204-001, 28-204-002, 28-204-003, 28-204-004, 28-204-007, 28-204-008, 28-226-036, 29-201-022, 30-228-001, 30-228-002, 26-102-005, 26-102-006, 27-228-009, 27-228-010, 28-251-008, 28-251-009, 28-251-010, 28-251-011.

## 3. LOCATION AND EXTENT OF PROPOSED PUBLIC AND PRIVATE LAND USES

When the Troy City Council created the Troy Downtown Development District and Authority, it was envisioned that the Authority would use an integration of public and private land uses as a means of enhancing, strengthening, and expanding the economic base of the DDA District. Development Plan #1 used strategically placed public improvements to accomplish this vision for the District. Development Plan #2 and #3 added private and public sector projects to the overall Development Plan to maintain the City's economic base and further expand the vision of the DDA district. Development Plan #4 and #5 provided financial support for strategically placed publicly accessed area improvements to private facilities, and used TDDA monies as a match for state incentives for companies in the TDDA area. To further accomplish this vision Development Plan #6 will:

- Continue to provide financial support for strategically placed publicly accessed area improvements to private facilities as permitted in MCL 125.1657(i), and
- Use TDDA monies as a match for state incentives for companies in the TDDA area, and
- Use TDDA monies as a match for state and federal grants for the TDDA area, and
- Acquire land and property for implementation of approved TDDA plans, and
- Continue to use and improve strategically placed public improvements.

## 4. LEGAL DESCRIPTION OF THE DEVELOPMENT AREA

**Development Area (Coterminous with Authority Boundaries)**

Property lying on either side of Big Beaver Road between Golfview on the west and Fire Station #1 on the east and south to I-75 and Rochester Road and including the following Sidwells:

All beginning: 88-20-, then:

19-430-002; 19-453-005; 19-453-008; 19-453-009; 19-453-010; 19-476-001; 20-351-001; 20-351-004; 20-351-005; 20-351-008; 20-351-009; 20-351-010; 20-376-001; 20-376-004; 20-376-005; 20-376-006; 20-401-024; 20-402-041; 20-402-052; 20-402-053; 20-402-054; 20-402-055; 20-476-012; 20-476-030; 20-476-031; 20-476-036; 20-476-039; 20-476-043; 20-476-047; 20-476-049; 20-476-054; 20-476-055; 21-304-024; 21-326-007; 21-326-008; 20-326-009; 21-351-012; 21-351-013; 21-401-001; 21-401-002; 21-476-015; 21-476-018; 21-476-019; 22-355-025; 22-356-031; 22-357-031; 22-358-019; 22-358-028; 22-379-021; 22-379-023; 22-380-033; 22-380-038; 22-383-001; 22-383-002; 22-383-003; 22-383-006; 22-477-040; 22-477-048; 22-477-052; 22-477-053; 22-477-054; 22-477-059; 22-477-060; 22-477-062; 22-478-007; 23-354-047; 26-101-001; 26-101-006; 26-101-009; 26-102-001; 26-102-001; 26-102-002; 26-102-003; 26-102-004; 26-102-005; 26-102-006; 26-102-013; 27-101-020; 27-101-055; 27-101-058; 27-101-060; 27-101-061; 27-101-065; 27-102-026; 27-102-027; 27-201-008; 27-201-009; 27-201-010; 27-201-013; 27-201-014; 27-201-049; 27-201-050; 27-201-053; 27-201-055; 27-201-058; 27-201-058; 27-201-059; 27-201-060; 27-226-026; 27-226-027; 27-227-009; 27-227-010; 27-227-011; 27-228-009; 27-228-010; 27-228-011; 27-228 017; 27-228-018; 27-277-017; 28-101-032; 28 101-034; 28-101-039; 28-101-047; 28-101-050; 28-101-051; 28-101-052; 28-101-053, 28-101-054, 28-101-063; 28-101-064; 28-201-006; 28-201-007; 28-201-008; 28-201-009; 28-203-030; 28-203-034; 28-203-035; 28-203-037; 28-203-038; 28-204-001; 28-204-002; 28-204-003; 28-204-004; 28-204-007; 28-204-008; 28-226-033; 28-226-034; 28-226-035; 28-226-036; 28-227-006; 28-227-007; 28-251-007; 28-251-008; 28-251-009; 28-251-010; 28-251-011; 28-251-012; 28-251-013; 28-251-030; 28-251-037; 28-251-038; 28-251-039; 28-252-016; 28-252-017; 28-252-018; 28-276-044; 28-276-048; 28-276-049; 28-276-050; 28-277-008; 28-430-017; 29-101-004; 29-101-006; 29-101-009; 29-101-010; 29-101-011; 29-127-023; 29-127-025; 29-201-001; 29-201-022; 29-201-023; 29-201-024; 29-201-025; 29-226-002; 29-226-005; 29-226-016; 29-226-043; 29-226-046; 29-226-047; 29-226-048; 29-226-049; 29-226-050; 29-226-051; 29-226-052; 29-226-053; 29-226-054; 29-226-055; 29-226-056; 29-226-057; 29-226-058; 29-226-059; 29-226-060; 29-226-061; 29-226-062; 29-226-063; 29-226-064; 29-226-065; 29-226-066; 29-226-067; 29-226-068; 29-226-069; 29-226-070; 29-226-072; 29-226-073; 29-226-074; 29-226-075; 29-277-026; 30-202-004; 30-202-005; 30-226-001; 30-226-008; 30-226-009; 30-226-010; 30-228-001; and 30-228-002.

**Development Area/Project Area**

METES AND BOUNDS DESCRIPTION

(North of Big Beaver from West to East)
Part of the SE ¼ of Section 19, South ½ of Section 20, South ½ of Section 21, South ½ of Section 22, SW ¼ of Section 23, NW ¼ of Section 26, North ½ of Section 27, North ½ of Section 28, SE ¼ of Section 28, North ½ of Section 29, and NE ¼ of Section 30, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan. Commencing at the South ¼ Corner of said section 19; thence North 89 degrees 30 minutes 00 seconds East, along the south line of said section 19, also being the centerline of Big Beaver Road, 360.04 feet to the Point of Beginning of the Downtown Development Authority

Area also being South 89 degrees 30 minutes 00 seconds West 2298.59 feet from the southeast corner of said section 19; thence North 00 degrees 21 minutes 23 seconds East 102.01 feet to the north line of Big Beaver Road; thence continuing North 00 degrees 21 minutes 23 seconds East 1528.00 feet; thence North 65 degrees 09 minutes 05 seconds East 366.53 feet; thence North 89 degrees 49 minutes 05 seconds East 1495.00 feet; thence South 00 degrees 01 minutes 30 seconds East 88.57 feet; thence North 89 degrees 58 minutes 30 seconds East 400.00 feet to the west line of Coolidge Road; thence North 89 degrees 58 minutes 30 seconds East 60.00 feet to the east line of said section 19, also being North 00 degrees 01 minutes 30 seconds West 1680.32 feet from the southeast corner of said section 19; thence continuing North 89 degrees 58 minutes 30 seconds East 90.00 feet to the east line of Coolidge Road; thence South 00 degrees 01 minutes 30 seconds East, along said line, 409.46 feet to the north line of Cunningham Road; thence South 45 degrees 18 minutes 22 seconds East, along said north line, 42.22 feet; thence North 89 degrees 24 minutes 45 seconds East, along said line, 124.67 feet; thence along a curve to the left having a radius of 350.00 feet, a delta angle of 37 degrees 02 minutes 15 seconds, and a chord bearing and distance of North 70 degrees 53 minutes 36 seconds East 222.33 feet; thence North 52 degrees 22 minutes 28 seconds East, along said line, 176.28 feet; thence along a curve to the right, along said line, having a radius of 1000.00 feet, a delta angle of 44 degrees 00 minutes 08 seconds, and a chord bearing and distance of North 74 degrees 22 minutes 32 seconds East 749.25 feet; thence along a curve to the right, along said line, having a radius of 285.00 feet, a delta angle of 83 degrees 41 minutes 37 seconds, and a chord bearing and distance of South 41 degrees 46 minutes 38 seconds East 380.27 feet; thence North 89 degrees 24 minutes 45 seconds East 87.59 feet to the southwest corner of “Somerset North Subdivision”, as recorded in Liber 213, Pages 35-38, Oakland County, Michigan records; thence North 89 degrees 24 minutes 45 seconds East, along said south line, 603.02 feet; thence South 00 degrees 01 minutes 30 seconds East, along said south line, 37.78 feet; thence North 89 degrees 24 minutes 45 seconds East, along said line, 387.42 feet to the southeast corner of said plat and the west line of “Muer’s Garden Farms”, as recorded in Liber 15, Page 45, Oakland County, Michigan records, also being the north and south ¼ line of said section 20; thence South 00 degrees 19 minutes 48 seconds East, along said line, 857.17 feet to the northwest corner of Lot 3 of said plat, also being North 00 degrees 19 minutes 48 seconds West 430.00 feet from the south ¼ corner of said section 20, and a change in the bearing base to match said plat; thence East, along the north line of Lots 3, 93, 125, and 85 of said plat, 1328.64 feet to the east line of said plat; thence North 01 degrees 02 minutes East, along said east line, 886.10 feet to an angle point in said east line, thence South 89 degrees 03 minutes 00 seconds East, along said east line, 1257.16 feet to the west line of Crooks Road; thence South 89 degrees 03 minutes 00 seconds East 60.00 feet to the east line of said Section 20, being North 02 degrees 00 minutes 29 seconds West 1294.12 feet from the southeast corner of said section 20, and a change in the bearing base to match the plat of “Wilshire Estates” as recorded in Liber 190, Pages 26-28, Oakland County, Michigan records; thence North 02 degrees 00 minutes 29 seconds West, along said east line, 50.18 feet; thence North 87 degrees 59 minutes 31 seconds East, 60.00 feet to the southwest corner of said “Wilshire Estates” and the east line of Crooks Road; thence continuing North 87 degrees 59 minutes 31 seconds East, along the south line of said plat, 30.36 feet to an angle point in said plat; thence North 64 degrees 50 minutes 49 seconds East, along said south line, 371.71 feet to an angle point in said plat; thence North 87 degrees 28 minutes 55 seconds East, along said south line, 886.52 feet to the southeast corner of said plat; thence North 02 degrees 01 minutes 28 seconds West, along the east line of said plat and the east line of “Troyknoll Subdivision No. 1”, as recorded in Liber 104, Page 32, Oakland County, Michigan records, 1099.12 feet to the south line of “Washington Square Estates”, as recorded in Liber 124, Page 33, Oakland County, Michigan records, also being the east and west ¼ line of said section 20; thence North 87 degrees 40 minutes 05 seconds East (R=South 89 degrees 11 minutes 30 seconds East), along said line, 838.45 feet to the west line of Interstate 75; thence North

87 degrees 42 minutes 26 seconds East, along said line, 488.93 feet to the east line of Interstate 75 and the Center Post of said Section 21 and a change in the bearing base to match an ALTA Boundary Survey of Troy Civic Center being North 01 degrees 33 minutes 19 seconds East 2581.69 feet from the South ¼ Corner of said Section 21; thence South 89 degrees 13 minutes 52 seconds East, along said east and west ¼ line, 1312.01 feet to the west line of "Westwood Park Subdivision", as recorded in Liber 249, Pages 11-15, Oakland County, Michigan records; thence South 01 degrees 01 minutes 02 seconds West, along said west line, 220.54 feet to the southwest corner of said plat; thence South 01 degrees 17 minutes 00 seconds West, along the west line of "Supervisor's Plat No. 26", as recorded in Liber 57, Page 59, Oakland County, Michigan records, 384.22 feet to the north line of Town Center Drive; thence South 88 degrees 53 minutes 06 seconds East, along said north line, 796.70 feet; thence South 01 degrees 16 minutes 54 seconds West, along the west line of Lot 17 of said plat, 399.40 feet to the southwest corner of said lot 17; thence South 88 degrees 53 minutes 06 seconds East, along the south line of said plat, 468.93 feet to the west line of Livernois Road; thence South 88 degrees 53 minutes 06 seconds East 60.00 feet to the east line of said Section 21, being North 01 degrees 20 minutes 46 seconds East 1648.14 feet from the southeast corner of said section 21; thence South 88 degrees 53 minutes 06 seconds East 53.00 feet to the east line of Livernois Road; thence South 01 degrees 20 minutes 46 seconds West, along said east line, 96.05 to the north line of "Eysters Beaver Gardens", as recorded in Liber 26, Page 14, Oakland County, Michigan records; thence North 88 degrees 37 minutes 14 seconds West (R=North 89 degrees 20 minutes West), along said north line, 20.00 feet to the east line of Livernois Road; thence South 01 degrees 20 minutes 46 seconds West (R=South 01 degrees 52 minutes West), along said east line, 664.50 feet to the southwest corner of lot 152 of said plat, also being the north line of Hartland Ave. and a change in the bearing base to match said plat; thence South 88 degrees 40 minutes 00 seconds East, along said north line, 265.00 feet to the southeast corner of lot 133 of said plat and the west line of Louis Ave.; thence South 01 degrees 52 minutes 00 seconds West, along said west line, 728.00 feet to the northeast corner of lot 13 of said plat; thence South 88 degrees 40 minutes 00 seconds East, along the north line of lots 14 through 37 of said plat, 588.00 feet to the northeast corner of lot 37 and the west line of Frankton Ave.; thence North 01 degrees 52 minutes 00 seconds East, along said west line, 18.00 feet to the southeast corner of lot 91 of said plat; thence South 88 degrees 40 minutes 00 seconds East, along the south line of lot 68 of said plat, 172.00 feet to the southeast corner of said lot 68; thence North 01 degrees 52 minutes 00 seconds East, along the east line of said lot, 110.00 feet to the northeast corner of said lot; thence South 88 degrees 40 minutes 00 seconds East, along the north line of lots 67 and 44 of said plat, 302.00 feet to the northeast corner of said lot 44 and the west line of "Big Beaver", as recorded in Liber 21, Page 19, Oakland County, Michigan records; thence North 00 degrees 51 minutes 00 seconds East, along the said west line 25.00 feet to the southwest corner of lot 17 of said plat; thence South 88 degrees 40 minutes 00 seconds East, along the south line of lot 17, 278.30 feet to the southeast corner of said lot and the west line of Talbot Ave.; thence North 01 degrees 31 minutes 36 seconds East, along the said west line, 75.00 feet to the northeast corner of said lot 17; thence South 88 degrees 40 minutes 00 seconds East, along the north line of lot 60 of said plat, 323.00 feet to the northeast corner of said lot 60; thence South 01 degrees 31 minutes 36 seconds West, along the east line of lots 60 and 59, 150.00 feet to the southwest corner of lot 58 of said plat; thence South 88 degrees 40 minutes 00 seconds East, along the south line of said lot, 163.80 feet to the northwest corner of lot 14 of said plat; thence South 01 degrees 31 minutes 36 seconds West, along the west line of said lot 14, 13.00 feet; thence South 88 degrees 40 minutes 00 seconds East, 109.20 feet to the west line of Kilmer Ave.; thence North 01 degrees 31 minutes 36 seconds East, along the said west line, 113.00 feet; thence South 88 degrees 40 minutes 00 seconds East 50.00 feet to the east line of Kilmer Ave. and the southwest corner of Lot 19 of "Burgess Bungalow Subdivision", as recorded in Liber 46, Page 34, Oakland County, Michigan records; thence South 88 degrees 40 minutes 00 seconds East, along the south line of Lots 19-22

of said plat 273.00 feet to the east line of said plat and the west line of “Supervisors Plat No. 9”, as recorded in Liber 46, Page 41, Oakland County, Michigan records being North 88 degrees 40 minutes West 165.00 feet and North 01 degrees 30 minutes East 336.00 feet from the south ¼ corner of said section 22; thence North 01 degrees 30 minutes 00 seconds East, along said line, 240.77 feet; thence South 89 degrees 00 minutes 00 seconds East 165.89 feet to the northwest corner of lot 5 of said plat; thence South 89 degrees 00 minutes 00 seconds East, along the north line of said plat, 2009.59 feet to an angle point along the north line of said plat; thence South 87 degrees 41 minutes 00 seconds East, along said north line, 251.65 feet to the southwest corner of lot 25 of said plat and a change in the bearing base to match Rochester Road ROW acquisition documents; thence North 89 degrees 18 minutes 15 seconds East, along the south line of said lot 25, 146.56 feet to the west line of Rochester Road; thence North 89 degrees 18 minutes 15 seconds East 171.16 feet to the east line of Rochester Road; thence South 17 degrees 01 minutes 45 seconds West, along the said east line, 129.38 feet; thence on a curve to the left having a radius of 1925.12 feet, a delta angle of 00 degrees 25 minutes 04 seconds, and a chord bearing and distance of South 16 degrees 49 minutes 13 seconds West 14.03 feet; thence South 38 degrees 51 minutes 10 seconds East, along said east line, 28.72 feet to the north line of Urbancrest Ave. of “Supervisor’s Plat No. 13” as recorded in Liber 49, Page 1, Oakland County, Michigan records; thence North 86 degrees 38 minutes 09 seconds East, along said north line, 492.62 feet to the southeast corner of lot 9 of said plat and a change in the bearing base to match said plat; thence South 03 degrees 30 minutes West, along the east line of lot 7 of said plat, 209.00 feet to the southeast corner of lot 7 of said plat and the north line of “Supervisors Plat No. 11”, as recorded in Liber 46, Page 46, Oakland County, Michigan records; thence North 88 degrees 05 minutes West, along said north line, 7.83 feet to the northeast corner of lot 17 of said plat; thence South 01 degrees 15 minutes 18 seconds West, along the east line of said lot 17, 106.49 feet to the north line of Big Beaver Road; thence South 01 degrees 15 minutes 18 seconds West 102.00 feet to the south line of said section 23, also being the centerline of Big Beaver Road and South 88 degrees 45 minutes East 376.02 feet from the southwest corner of said section 23;

(South of Big Beaver from East to West)

thence North 88 degrees 45 minutes 00 seconds West, along the said south line, 99.62 feet; thence South 01 degrees 28 minutes West, along the west line of Lot 25 of “Supervisors Plat No. 11”, as recorded in Liber 46, Page 46, of Oakland County, Michigan records, 818.08 feet to the north line of Interstate 75 Right of Way and a change in bearing base to match “Ladendorf-Tobias Subdivision” as recorded in Liber 37, Page 23, Oakland County, Michigan records; thence North 53 degrees 08 minutes 01 seconds West 92.65 feet; thence North 89 degrees 16 minutes 00 seconds West 457.45 feet; thence North 13 degrees 06 minutes 00 seconds East 3.95 feet; thence North 89 degrees 16 minutes 00 seconds West 119.77 feet to the east line of Rochester Road, as per said plat; thence South 13 degrees 06 minutes 00 seconds West 308.60 feet to a change in the bearing base to match “Ford Subdivision”, as recorded in Liber 58, Page 24, Oakland County, Michigan records; thence North 88 degrees 58 minutes 40 seconds West 266.88 feet; thence North 13 degrees 34 minutes 50 seconds East 140.00 feet to the southeast corner of Lot 8 of said plat; thence North 88 degrees 58 minutes 40 seconds West, along the south line of said lot, 41.80 feet; thence North 01 degrees 23 minutes 10 seconds East, along the west line of said lot, 283.07 feet; thence North 02 degrees 34 minutes 37 seconds East 60.02 feet to the southeast corner of Lot 26 of said plat; thence North 12 degrees 54 minutes 50 seconds East 260.00 feet; thence North 07 degrees 06 minutes 40 seconds East 110.95 feet to the northeast corner of said “Ford Subdivision”; thence North 88 degrees 15 minutes 20 seconds West 195.85 feet to an angle point in said plat; thence North 89 degrees West 475.88 feet to plat angle point; thence South 01 degrees 30 minutes 50 seconds West 27.00 feet to the southeast corner of Lot 51 of said plat; thence North 89 degrees 01 minutes 20 seconds West, along the

south line of Lots 51-41 of said plat, 682.88 feet to the southwest corner of Lot 41; thence North 01 degrees 23 minutes 10 seconds East, along the west line of Lot 41, 136.73 feet to the south line of Big Beaver Road and a change in the bearing base to match parcel #88-20-27-201-001 tax description; thence South 89 degrees 44 minutes 48 seconds West, along said south line, 639.76 feet; thence North 89 degrees 55 minutes 50 seconds West, along said south line, 404.54 feet being North 89 degrees 55 minutes 50 seconds West 402.68 feet and South 00 degrees 57 minutes 14 seconds West 102.00 feet from the North ¼ Corner of Section 27; thence South 00 degrees 57 minutes 14 seconds West 298.00 feet; thence North 89 degrees 55 minutes 50 seconds West 95.00 feet to the east line of "Frosty Sunny Acres", as recorded in Liber 64, Page 9, Oakland County, Michigan records; thence South 00 degrees 57 minutes 14 seconds West, along said east line, 270.38 feet to the northeast corner of "Beaver Heights", as recorded in Liber 23, Page 11, Oakland County, Michigan records; thence South 00 degrees 42 minutes 09 seconds West, along the east line of said plat, 424.15 feet to the north line of Interstate 75 Right of Way and a change in bearing base to match the said plat of "Beaver Heights"; thence South 89 degrees 12 minutes 00 seconds West 2152.54 feet to the east line of Livernois Road, being South 01 degrees East 1081.90 feet and North 89 degrees 12 minutes East 60.00 feet from the Northwest Corner of Section 27; thence South 01 degrees East, along said east line, 1601+/- feet to the intersection of the said east line and the north line of "Summit Park Subdivision", as recorded in Liber 17, Page 35, Oakland County, Michigan records, extended easterly and a change in bearing base to match said "Summit Park Subdivision"; thence South 01 degrees 47 minutes 00 seconds West 200.54 feet to the intersection of said east line and the south line of Olympia Blvd. extended easterly; thence North 88 degrees 32 minutes 00 seconds West, along the said south line, 469.00 feet; thence North 01 degrees 47 minutes 00 seconds East, along the west line of lot 196 of said plat, 198.83 feet to the north line of said plat; thence North 88 degrees 44 minutes 30 seconds West, along said north line and south line of "Royal Ridge Little Farms", as recorded in Liber 21, Page 17, Oakland County, Michigan records, 1158.35 feet, being 8.12 feet west of the southeast corner of Lot 4 of said plat, and a change in the bearing base to match said "Royal Ridge Little Farms"; thence Due North, parallel to the east line of said Lot 4, 510.00 feet to the north line of Lot 4 and the south line of Kirts Blvd.; thence South 89 degrees 35 minutes 30 seconds West, along the said south line, 515.17 feet to the northeast corner of Lot 2 of said plat; thence South 00 degrees 47 minutes 00 seconds East, along the east line of said Lot 2, 0.23 feet; thence, along said south line of Kirts Blvd., on a curve to right having a radius of 1260.00 feet, a central angle of 00 degrees 02 minutes 42 seconds, and a chord bearing and distance of North 76 degrees 53 minutes 40 seconds West 0.99 feet; thence, continuing along said south line, on a curve to the right having a radius 1260.00 feet, a central angle of 02 degrees 23 minutes 35 seconds, and a chord bearing and distance of North 75 degrees 40 minutes 32 seconds West 52.62 feet; thence North 74 degrees 28 minutes 45 seconds West, along said south line, 400.00 feet; thence, along south line, on a curve to the left having a radius of 1140.00 feet, a central angle of 03 degrees 58 minutes 53 seconds, and a chord bearing and distance of North 76 degrees 28 minutes 11 seconds West 79.20 feet; thence, along said line, on a curve to the left having a radius of 1140.00 feet, a central angle of 01 degrees 16 minutes 59 seconds, and a chord bearing and distance of North 79 degrees 06 minutes 08 seconds West 25.53 feet to the east line "F.J. Kirts Farm", as recorded in Liber 31, Page 1, Oakland County, Michigan records and a change in bearing base to match said plat; thence North 00 degrees 46 minutes West, along said east line and south line of Kirts Blvd., +/-6.73 feet to the northeast corner of Lot 23 of said plat; thence South 89 degrees 33 minutes 00 seconds West, along the south line of Kirts Blvd., 1302.00 feet to the northwest corner of Lot 14; thence North 00 degrees 23 minutes 39 seconds West 120.00 feet to the southeast corner of Unit 1 of "Troy Center Professional Building Condominium", as recorded in Condominium Plan #1437, Oakland County, Michigan records, being the west line of Troy Center Drive, and a change in bearing base to match said condo; thence North 00 degrees 04 minutes 37 seconds West, along said west line, 572.01 feet to the northeast

corner of said Unit 1 and a change in bearing base to match #88-20-28-101-048 tax description; thence South 87 degrees 23 minutes 39 seconds West, along west line, 7.08 feet; thence, along west line, on a curve to the left having a radius of 1140.00 feet, a central angle of 07 degrees 31 minutes 05 seconds, and a chord bearing and distance of North 15 degrees 40 minutes 45 seconds West 149.48 feet; thence North 19 degrees 26 minutes 18 seconds West, along said west line, 397.91 feet; thence, along said west line of Town Center Drive, on a curve to the right having a radius of 1260.00 feet, a central angle of 08 degrees 21 minutes 58 seconds, and a chord bearing and distance of North 15 degrees 15 minutes 18 seconds West 183.82 feet; thence South 87 degrees 28 minutes 55 seconds West 564.02 feet; thence South 02 degrees 31 minutes 05 seconds East 306.70 feet; thence South 87 degrees 23 minutes 39 seconds West 589.37 feet to the west line of Section 28, being South 02 degrees 25 minutes 41 seconds East 934.61 feet from the Northwest Corner of Section 28, thence South 87 degrees 23 minutes 39 seconds West 33.00 feet to the east line of “Supervisor’s Plat of Butterfield Farm”, as recorded in Liber 48, Page 44, Oakland County, Michigan records and the west line of Crooks Road; thence North 02 degrees 25 minutes 41 seconds West, along said line, 490.49 feet to the northeast corner of Lot 18 of said plat and a change in bearing base to match said plat; thence South 88 degrees 10 minutes West, along the north line of Lots 18-33, inclusive, of said plat, 1725.40 feet to the northeast corner of Lot 34 of said plat; thence South 01 degrees 27 minutes East, along the east line of said lot, 31.00 feet; thence South 88 degrees 10 minutes West 106.00 feet to the west line of said Lot 34 and the east line of Todd Road; thence South 01 degrees 27 minutes East, along the said east line and the east line of Lot 6 of “Supervisor’s Plat of Walker Farms”, as recorded in Liber 65, Page 36, Oakland County, Michigan records, 854.86 feet to the southeast corner of said Lot 6; thence South 88 degrees 51 minutes 20 seconds West, along the south line of said plat, 790.70 feet to the southwest corner of said plat; thence North 01 degrees 15 minutes West, along the west line of said plat, 122.82 feet to the southeast corner of “Supervisor’s Plat No. 15”, as recorded in Liber 34, Page 44, Oakland County, Michigan records and a change in bearing base to match said plat; thence North 88 degrees 35 minutes 10 seconds West 33.01 feet to the southeast corner of Lot 14 of said plat; thence North 00 degrees 02 minutes 20 seconds East, along the east line of Lots 14-17, inclusive, of said plat, 536.50 feet to the northeast corner of Lot 17; thence South 89 degrees 20 minutes 20 seconds West, along the north line of Lot 17, 593.35 feet to the northwest corner of Lot 17; thence Due South, along the west line of Lots 17 and 16, 276.44 feet to the north line of Lot 14 of “Troy Apartment Sub. No. 4”, as recorded in Liber 121, Pages 10-14, Oakland County, Michigan records, being the south line of Golfview Drive, and a change in bearing base to match said plat; thence, along said south line, on a curve to the left having a radius of 320.00 feet, a central angle of 11 degrees 53 minutes 58 seconds, and a chord bearing and distance of South 84 degrees 04 minutes 35 seconds West 66.34 feet to the northwest corner of said Lot 14; thence South 78 degrees 07 minutes 37 seconds West, along the south line of Golfview Drive and north line of Outlet A and Lot 10 of said plat, 1065.28 feet; thence North 89 degrees 22 minutes 00 seconds West, along said south line, 860.28 feet to the northwest corner of Lot 9 of said plat and the east line of Coolidge Road; thence South 01 degrees 12 minutes 00 seconds West, along the said east line, 75.58 feet to a change in the bearing base to match “Buckingham Woods Subdivision No. 2”, as recorded in Liber 140, Pages 39-41, Oakland County, Michigan records; thence North 88 degrees 54 minutes 05 seconds West 60.00 feet to the east line of Section 30, being South 01 degrees 12 minutes 28 seconds West 1273.45 feet from the Northeast Corner of Section 30; thence North 88 degrees 54 minutes 05 seconds West 886.80 feet to the south line of Golfview Drive and the southeast corner of Lot 196 of said “Buckingham Woods Subdivision No. 2”; thence North 43 degrees 54 minutes 05 seconds West, along the said south line, 238.90 feet; thence North 58 degrees 57 minutes 30 seconds West, along said line, 43.62 feet; thence, along said line, on a curve to the left having a radius of 257.00 feet, a central angle of 29 degrees 56 minutes 35 seconds, and a chord bearing and distance of North 73 degrees 55 minutes 47 seconds West 132.79 feet; thence North 88 degrees 54

minutes 05 seconds West, along said line, 395.71 feet; thence, continuing along said line, on a curve to the right having a radius of 428.00 feet, a central angle of 89 degrees 38 minutes 02 seconds, and a chord bearing and distance of North 44 degrees 05 minutes 04 seconds West 603.35 feet; thence North 00 degrees 43 minutes 57 seconds East, along the west line of said Golfview Drive, 508.09 feet to the northeast corner of Lot 147 of said plat and the south line of Big Beaver Road; thence North 89 degrees 16 minutes 03 seconds West, along said south line, 246.99 feet; thence North 00 degrees 43 minutes 57 seconds East 102.00 feet to the north line of Section 30 and the Point of Beginning.

SIDWELL DESCRIPTION
All beginning: 88-20-, then:

19-430-002; 19-453-005; 19-453-008; 19-453-009; 19-453-010; 19-476-001; 20-351-001; 20-351-004; 20-351-005; 20-351-008; 20-351-009; 20-351-010; 20-376-001; 20-376-004; 20-376-005; 20-376-006; 20-401-024; 20-402-041; 20-402-052; 20-402-053; 20-402-054; 20-402-055; 20-476-012; 20-476-030; 20-476-031; 20-476-036; 20-476-039; 20-476-043; 20-476-047; 20-476-049; 20-476-054; 20-476-055; 21-304-024; 21-326-007; 21-326-008; 20-326-009; 21-351-012; 21-351-013; 21-401-001; 21-401-002; 21-476-015; 21-476-018; 21-476-019; 22-355-025; 22-356-031; 22-357-031; 22-358-019; 22-358-028; 22-379-021; 22-379-023; 22-380-033; 22-380-038; 22-383-001; 22-383-002; 22-383-003; 22-383-006; 22-477-040; 22-477-048; 22-477-052; 22-477-053; 22-477-054; 22-477-059; 22-477-060; 22-477-062; 22-478-007; 23-354-047; 26-101-001; 26-101-006; 26-101-009; 26-102-001; 26-102-001; 26-102-002; 26-102-003; 26-102-004; 26-102-005; 26-102-006; 26-102-013; 27-101-020; 27-101-055; 27-101-058; 27-101-060; 27-101-061; 27-101-065; 27-102-026; 27-102-027; 27-201-008; 27-201-009; 27-201-010; 27-201-013; 27-201-014; 27-201-049; 27-201-050; 27-201-053; 27-201-055; 27-201-058; 27-201-058; 27-201-059; 27-201-060; 27-226-026; 27-226-027; 27-227-009; 27-227-010; 27-227-011; 27-228-009; 27-228-010; 27-228-011; 27-228 017; 27-228-018; 27-277-017; 28-101-032; 28 101-034; 28-101-039; 28-101-047; 28-101-050; 28-101-051; 28-101-052; 28-101-053, 28-101-054, 28-101-063; 28-101-064; 28-201-006; 28-201-007; 28-201-008; 28-201-009; 28-203-030; 28-203-034; 28-203-035; 28-203-037; 28-203-038; 28-204-001; 28-204-002; 28-204-003; 28-204-004; 28-204-007; 28-204-008; 28-226-033; 28-226-034; 28-226-035; 28-226-036; 28-227-006; 28-227-007; 28-251-007; 28-251-008; 28-251-009; 28-251-010; 28-251-011; 28-251-012; 28-251-013; 28-251-030; 28-251-037; 28-251-038; 28-251-039; 28-252-016; 28-252-017; 28-252-018; 28-276-044; 28-276-048; 28-276-049; 28-276-050; 28-277-008; 28-430-017; 29-101-004; 29-101-006; 29-101-009; 29-101-010; 29-101-011; 29-127-023; 29-127-025; 29-201-001; 29-201-022; 29-201-023; 29-201-024; 29-201-025; 29-226-002; 29-226-005; 29-226-016; 29-226-043; 29-226-046; 29-226-047; 29-226-048; 29-226-049; 29-226-050; 29-226-051; 29-226-052; 29-226-053; 29-226-054; 29-226-055; 29-226-056; 29-226-057; 29-226-058; 29-226-059; 29-226-060; 29-226-061; 29-226-062; 29-226-063; 29-226-064; 29-226-065; 29-226-066; 29-226-067; 29-226-068; 29-226-069; 29-226-070; 29-226-072; 29-226-073; 29-226-074; 29-226-075; 29-277-026; 30-202-004; 30-202-005; 30-226-001; 30-226-008; 30-226-009; 30-226-010; 30-228-001; and 30-228-002.

## 5. EXISTING IMPROVEMENTS IN THE DEVELOPMENT AREA TO BE DEMOLISHED, REPAIRED OR ALTERED AND TIME REQUIRED FOR COMPLETION

The proposed work program for Development Plan #6 incorporates the integration of public and private improvements. Descriptions of the work elements and the schedule for phasing of the projects are delineated in the next section. The “Big Beaver Corridor Study Implementation Plan” may require the renovation of existing public improvements, including but not limited to thoroughfares, sidewalks, landscaping, parking and terrace areas.

## 6. THE LOCATION, EXTENT, CHARACTER AND ESTIMATED COST OF IMPROVEMENTS INCLUDING REHABILITATION FOR THE DEVELOPMENT AREA

Development Plan #6 includes:
MEGA Local Match – The TDDA can make a local commitment of incentives with the Michigan Economic Growth Alliance (MEGA), after it has been determined that local tax abatements cannot satisfy the local commitment requirements. TDDA funds can be used to improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, and repair any building, and any necessary or desirable appurtenances to that property which, in the opinion of the board, aids in the economic growth of the downtown district.

I-75 Interchange Improvements – The project includes all roadwork, pathway/sidewalk, lighting, bridge improvement and landscaping at the I-75/Big Beaver interchange and parts of the I-75/Rochester interchange located in the TDDA boundaries.

Public Thoroughfares, Intersections and Service Roads – The project includes improvements to the thoroughfares, intersections and installation of service roads consistent with the Big Beaver Corridor Plan including landscaping, pathways, sidewalks, bridges, and lighting in public rights-of-way within the TDDA boundaries.

Park Improvements – The project includes aesthetic improvements, art work, and other physical improvements to create open areas consistent with the Parks and Recreation Master Plan and the Big Beaver Corridor Study.

Property Acquisition – The TDDA can acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to that property. Further, the TDDA can improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.

A copy of the Big Beaver Corridor Study is attached as Exhibit # 2.

Funding sources include, but are not limited to, TDDA Funds/Bonds, General Obligation Bonds, State/Federal Funds, State/Federal/Charitable Grants, and Private Funds. Public investment is estimated at $27,500,000.

The TDDA commissioned a study by the Chesapeake Group to determine the private investment potential created by implementing the key concepts in the Big Beaver Corridor Study. The report indicates that the total private investment potential is estimated at $3,647,500,000. The report is attached as Exhibit # 3.

## 7. STATEMENT OF THE CONSTRUCTION OR STAGES OF CONSTRUCTION PLANNED, AND THE ESTIMATED TIME OF COMPLETION

Generally, implementation will commence in Summer 2007. It is expected that the work on the Development Plan will continue through the duration of the Authority, which is enabled through the collection of taxes levied through December of 2018.

**8. PARTS OF THE DEVELOPMENT AREA TO BE LEFT AS OPEN SPACE AND CONTEMPLATED USE**

There is a one-acre ± site on the northeast corner of Big Beaver and Rochester Road that likely will be developed into a passive park use.

**9. PORTIONS OF THE DEVELOPMENT AREA WHICH THE AUTHORITY DESIRES TO SELL, DONATE, EXCHANGE, OR LEASE TO OR FROM THE MUNICIPALITY AND THE PROPOSED TERMS**

None

**10. DESIRED ZONING CHANGES AND CHANGES IN STREETS, STREET LEVELS, INTERSECTIONS AND UTILITIES**

No zoning changes are anticipated by the Authority for the project in Development Plan #6. The Planning Commission is currently updating the City of Troy Master Land Use Plan, which likely will result in zoning changes and/or the development of overlay districts. Changes are required in streets, intersections and utilities in keeping with the terms and conditions of the "Big Beaver Corridor Study".

**11. ESTIMATE OF THE COST OF THE DEVELOPMENT, PROPOSED METHOD OF FINANCING AND ABILITY OF THE AUTHORITY TO ARRANGE THE FINANCING**

Financing for the project would be provided through funds generated by the Tax Increment Financing Plan induced by annual increases in property valuations from normal growth and new construction within the DDA District.

**12. DESIGNATION OF PERSON OR PERSONS, NATURAL OR CORPORATE, TO WHOM ALL OR A PORTION OF THE DEVELOPMENT IS TO BE LEASED, SOLD, OR CONVEYED IN ANY MANNER AND FOR WHOSE BENEFIT THE PROJECT IS BEING UNDERTAKEN IF THAT INFORMATION IS AVAILABLE TO THE AUTHORITY**

The public improvements undertaken pursuant to Development Plan #6 will remain in public ownership for the public benefit. TDDA funds used to satisfy a local match with MEGA can be used to improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, and repair any building, and any necessary or desirable appurtenances to that property. The improvements will immediately benefit the private property owner and/or tenant, but will also benefit the public, surrounding businesses and neighbors by aiding in the economic growth of the downtown district and improving the physical infrastructure.

**13. PROCEDURES FOR BIDDING FOR THE LEASING, PURCHASING, OR CONVEYING OF ALL OR A PORTION OF THE DEVELOPMENT UPON ITS COMPLETION, IF THERE IS NO EXPRESS OR IMPLIED AGREEMENT BETWEEN THE AUTHORITY AND PERSONS, NATURAL OR CORPORATE, THAT ALL OR A PORTION OF THE DEVELOPMENT WILL BE LEASED, SOLD, CONVEYED TO THOSE PERSONS**

Any land acquisitions will be in accordance with the procedures of Act 344 of the Michigan Public Acts of 1945, as amended; Act 87 of the Michigan Public Acts of 1980, as amended, and the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 as amended, and the regulations promulgated thereunder by the US Department of Housing and Urban Development.

Any such sale, lease or exchange shall be conducted by TDDA or the City of Troy pursuant to requirements specified in Act 197 of Public Acts of 1975, as amended. If needed, more detailed procedures will be developed prior to the transactions, in accordance with applicable City policy, Michigan State Law and Federal Law.

## 14. ESTIMATE OF THE NUMBER OF PERSONS RESIDING IN THE DEVELOPMENT AREA AND THE NUMBER OF FAMILIES AND INDIVIDUALS TO BE DISPLACED

Development Plan #6 does not require the acquisition and clearance of occupied residential property or the displacement of individuals and families within the Development Area. As a result, a plan for compliance of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended need not be addressed. Should it become necessary to address relocation at some future date, the TDDA shall abide by requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

## 15. PLAN FOR ESTABLISHING PRIORITY FOR THE RELOCATION OF PERSONS DISPLACED BY THE DEVELOPMENT IN ANY NEW HOUSING IN THE DEVELOPMENT AREA

Development Plan #6 does not require the acquisition and clearance of occupied residential property or the displacement of individuals and families. As a result, a plan for compliance of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended need not be addressed. Should it become necessary to address relocation at some future date, the TDDA shall abide by requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

## 16. PROVISION FOR THE COSTS OF RELOCATING PERSONS DISPLACED BY THE DEVELOPMENT, AND FINANCIAL ASSISTANCE AND REIMBURSEMENT OF EXPENSES, INCLUDING LITIGATION EXPENSES AND EXPENSES INCIDENT TO THE TRANSFER OF TITLE IN ACCORDANCE WITH THE STANDARDS AND PROVISIONS OF THE FEDERAL UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Development Plan #6 does not require the acquisition and clearance of occupied residential property or the displacement of individuals and families. As a result, a plan for compliance of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended need not be addressed. Should it become necessary to address relocation at some future date, the TDDA shall abide by requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Act 227 of Public Acts of 1972, as amended.

## 17. PLAN FOR COMPLIANCE WITH THE FEDERAL UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AND ACT 227 OF THE PUBLIC ACTS OF 1972 AS AMENDED

Act 227 of Public Acts of 1972, as amended, is an Act to provide financial assistance, advisory services and reimbursement of certain expenses to persons displaced from real property or deprived of certain rights in real property. This Act requires procedures and policies comparable to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Since Development Plan #6 does not require the acquisition of residential property and displacement of persons, a plan for compliance with Act 227 is not addressed. Should the TDDA find it necessary to acquire occupied residential properties, a plan for compliance with Act 227 will be prepared.

## TAX INCREMENT FINANCING PLAN NO. 6

### 1. DEFINITIONS USED IN THIS PLAN

**A. <u>Captured Assessed Value</u>** -- (CAV) means the amount in any one (1) year by which the current assessed value, as equalized, of the eligible property identified in the Tax Increment Financing Plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in Subdivision (c) exceeds the Initial Assessed Value. The State Tax Commission shall prescribe the method for calculating Captured Assessed Value.

**B. <u>Initial Assessed Value</u>** – (IAV) means the assessed value, as equalized, of the eligible property identified in the Tax Increment Financing Plan at the time the Resolution establishing the Tax Increment Financing Plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the Resolution is adopted. Property exempt from taxation at the time of the determination of the Initial Assessed Value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The Initial Assessed Value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in Subdivision (c).

"Assessed value" means one of the following:

1. For valuations made before January 1, 1996, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

2. For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

**C. <u>Specific Local Taxes</u>** – means a tax levied under Act 198 of the Public Acts of 1974, being sections 207.551 to 207.571 of the Michigan Compiled Laws, the Commercial Redevelopment Act, Act No. 255 of the Public Acts of 1978, being Section 207.651 to 207.668 of the Michigan Compiled Laws, the Enterprise Zone Act, Act No. 2424 of the Public Acts of 1985, being Sections 125.2101 to 125.2122 of the Michigan Compiled Laws, and the Technology Park Development Act, Act No. 285 of the Public Acts of 1984, being Sections 207.701 to 207.718 of the Michigan Compiled Laws. The Initial Assessed Value or Current Assessed Value of property subject to specific local tax shall be the quotient of the specific local tax paid dividend by the ad valorem millage rate.

### 2. PURPOSE OF THE TAX INCREMENT FINANCING PLAN

If the Board determines that it is necessary for the achievement of the purposes of the Downtown Development Act, it shall prepare and submit a Tax Increment Financing Plan to the Governing Body, which shall contain the following:

The City of Troy's Downtown Development Area wishes to avoid deterioration of its property values. In order to avoid property tax value deterioration and to continue to increase property tax valuations and facilitate the overall economic growth of its Business District, it is deemed to be beneficial and necessary to create and provide for the operation of a Downtown

Development Authority in the city under the provisions of Act 197 Public Acts of Michigan, 1975 as amended (the "Act").

The Authority has determined that a Tax Increment Financing Plan is necessary for the achievement of the purposes of the Act and it is authorized to prepare and submit said Plan to the Governing Body. The Tax Increment Financing Plan (the "Plan"), set forth herein shall include a Development Plan, a detailed explanation of the Tax Increment procedure, the maximum amount of bonded indebtedness to be incurred, the duration of the program, the impact of Tax Increment Financing on the assessed values of all taxing jurisdictions in which the Development Area is located and a statement of the portion of the Captured Assessed Value to be used by the Authority.

## 3. EXPLANATION OF THE TAX INCREMENT PROCEDURE

The theory of Tax Increment Financing holds that investment is necessary and capital improvements in a designated area within a Municipality will result in greater property tax revenues from that area than would otherwise occur if no special development were undertaken. This section is intended to explain the Tax Increment procedure.

A. In order to provide a Downtown Development Authority with the means of financing development proposals, the Act affords the opportunity to undertake Tax Increment Financing or Development Programs. These programs must be identified in a Tax Increment Financing Plan, which has been approved by the Governing Body of a Municipality. Tax Increment Financing permits the Authority to capture incremental tax revenues attributable to increases in value of Real and Personal Property located within an approved Development area. The increases in property value may be attributable to new construction, rehabilitation, remodeling, alterations, additions or any other factors, which cause growth in value.

B. At the time the Resolution establishing a Tax Increment Financing Plan is approved, the sum of the most recently assessed values, as equalized, of those taxable properties located within the Development Area is established as the "Initial Assessed Value." Property exempt from taxation at the time of determination of the Initial Assessed Value is included as zero. In each subsequent year, the total Real and Personal Property within the District, including abated property on separate rolls is established as the "Current Assessed Value."

C. The amount by which the Total Assessed Value exceeds the IAV is the CAV. During the period in which a Tax Increment financing Plan is in effect, local taxing jurisdictions continue to receive ad valorem taxes based on the IAV. Property taxes paid on a predetermined portion of the CAV in years subsequent to the adoption of a Tax Increment Financing Plan, however, are payable to an Authority for the purposes established in the Tax Increment Financing Plan.

## 4. TAXING JURISDICTION AGREEMENTS

Tax increment revenues for the Downtown Development authority result from the application of the general tax rates of the incorporated municipalities and all other political subdivisions, which levy taxes in the Development Area to the Captured Assessed Value. Since the Plan may provide for the use of all or part of the captured tax increment revenue, the Downtown Development authority may enter into agreements which any of the taxing units to share a portion of the revenue of the District.

The Authority intends to utilize all captured revenue from the District for projects identified under its Work Program for the duration of this Development Plan and TIF Plan.

## 5. PROPERTY VALUATIONS AND CAPTURED REVENUE

The property valuation on which incremental tax revenues will be captured is the difference between the Initial Assessed Valuation and the Captured Assessed Valuation. The purpose of this section is to set forth the Initial Assessed Valuation, the projected Captured Assessed Valuation and the anticipated increment revenues to be received by the Authority from the Local Taxing Jurisdictions including the City of Troy, the and any other authorities or special tax districts that may be eligible to levy property taxes within the boundaries of the Downtown Development authority, herein collectively referred to as the "Local Taxing Jurisdictions."

a) The Initial Assessed Valuation entails that previously established through Tax Increment Financing Plan #1. It is based on the 1993 State Equalized Valuations on Real and Personal Property on all non-exempt parcels within the Development Area. The Initial Assessed Valuation is detailed below:

| | |
|---|---|
| Total Real Property | $342,342,400 |
| Total Personal Property | $ 86,936,130 |
| Initial Assessed Valuation | $429,278,530 |

b) The anticipated Captured Assessed Value is equivalent to the annual total assessed value within the Authority Boundaries less the Initial Assessed Value as described above. The CAV then becomes the basis for the property tax levy on which incremental taxes are collected. The CAV is projected based on a number of factors including historical growth patterns, recent construction trends, economic indicators and the impact of certain development projects anticipated to be undertaken by the Downtown Development Authority. For projection purposes, the inflationary growth factor applied to annual valuation is 1.0%.

c) The Authority will receive that portion of the tax levy of all taxing jurisdictions paid each year on the Captured Assessed Value of the eligible property included in the Development Area). Provided the captured tax increment revenues are not directed back to the local taxing jurisdictions by agreement, the Authority may use the revenues for any legal purpose as is established under the Act. Millage specifically levied for the payment of principal of and interest on obligations approved by the Electors or obligations pledging the unlimited taxing power of the Local Governmental Unit shall be captured but reimbursed to the appropriate taxing jurisdictions.

For instance, if the tax rate is 60.00 mills per $1,000 of assessed valuation, the tax increment will be 60.00 mills applied to the total Captured Assessed Valuation unless tax abatements have been granted to specific industries whereby the tax increment may be collected on a lower millage amount.

The City Treasurer will collect the general property taxes from property owners in the Downtown Area. After taxes are collected, the Treasurer will deduct that portion of the total tax that is captured assessed value of the Downtown Development Authority and distribute them to the authority to use for purposes outlined in the Development Plan.

A review of the 2001 millage rates for all Local Taxing Jurisdictions in the Development Area is as set forth in Table #1 TDDA – Tax Increment Revenue.

## 6. MAXIMUM INDEBTEDNESS

Changes to Tax Increment Financing imposed through approval of Proposal A in March 1994 prohibit the use of such revenues for reimbursement of bond indebtedness in projects established after December 31, 1993. The state legislature amended Proposal A to allow for non-school revenues to be used by Downtown Development Authorities to issue bonds.

*Effective upon the retirement, redemption or other defeasance of all Outstanding Bonds*, the provisions of Section 14(2) of Plan #1 are amended to conform with the statutory provisions of Act 197, as amended, in effect at the time of the issuance of any future indebted ness of the City, the TDDA or both. The more restrictive provisions in Plan #1 or Plan #2 of the TDDA including, but not limited to, limitations set for the in Section 14(2) of Plan #1 on the percentage and/or amount of TDDA tax increment revenues that may be pledged and restrictions on the total aggregate amount of borrowing of the TDDA shall be of no further force and effect with respect to such future indebtedness.

## 7. USE OF CAPTURED REVENUES

Revenues captured through this Tax Increment Finance Plan will be used to finance Work Program Activities outlined in Section 6 of the Development Plan. Captured revenues will be used to pay for costs associated with the operation of this Development Plan.

## 8. DURATION OF THE PROGRAM

The duration of the Development Plan shall extend through the collection of taxes levied through December of 2018.

## 9. PLAN IMPACT ON LOCAL TAXING JURISDICTIONS

The Authority recognizes that future development in the city's business district cannot be fully achieved in the absence of Tax Increment Financing. The authority also recognizes that enhancement of the value of nearby property will indirectly benefit all Local Governmental Units included in this Plan. It is expected that the effected Local Taxing Jurisdictions will experience some loss of property tax revenues during the first ten (10) years of the Plan and should realize increased property tax revenues thereafter as a result of Capital Improvements financed by the Plan. Such future benefits cannot be accurately quantified at this time.

## 10. RELEASE OF CAPTURED REVENUES

When the Development and Financing Plans have been accomplished, the captured revenue shall be released and the Local Taxing Jurisdictions shall receive their revenue share due following the date of release.

**DOWNTOWN DEVELOPMENT AUTHORITY**
**Act 197 of 1975**

AN ACT to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

*The People of the State of Michigan enact:*

## 125.1651 Definitions.

Sec. 1. As used in this act:

(a) "Advance" means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) "Assessed value" means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a downtown development authority created pursuant to this act.

(d) "Board" means the governing body of an authority.

(e) "Business district" means an area in the downtown of a municipality zoned and used principally for business.

(f) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the project area, including the assessed value of property for which specific local taxes are paid in lieu of property taxes as determined in subdivision (y), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(g) "Chief executive officer" means the mayor or city manager of a city, the president or village manager of a village, or the supervisor of a township or, if designated by the township board for purposes of this act, the township superintendent or township manager of a township.

(h) "Development area" means that area to which a development plan is applicable.

(i) "Development plan" means that information and those requirements for a development plan set forth in section 17.

(j) "Development program" means the implementation of the development plan.

(k) "Downtown district" means that part of an area in a business district that is specifically designated by ordinance of the governing body of the municipality pursuant to this act. A downtown district may include 1 or more separate and distinct geographic areas in a business district as determined by the municipality if the municipality enters into an agreement with a qualified township under section 3(7) or if the municipality is a city that surrounds another city and that other city lies between the 2 separate and distinct geographic areas. If the downtown district contains more than 1 separate and distinct geographic area in the downtown district, the separate and distinct geographic areas shall be considered 1 downtown district.

(*l*) "Eligible advance" means an advance made before August 19, 1993.

(m) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(n) "Fire alarm system" means a system designed to detect and annunciate the presence of fire, or


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by-products of fire. Fire alarm system includes smoke detectors.

(o) "Fiscal year" means the fiscal year of the authority.

(p) "Governing body of a municipality" means the elected body of a municipality having legislative powers.

(q) "Initial assessed value" means the assessed value, as equalized, of all the taxable property within the boundaries of the development area at the time the ordinance establishing the tax increment financing plan is approved, as shown by the most recent assessment roll of the municipality for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. For the purpose of determining initial assessed value, property for which a specific local tax is paid in lieu of a property tax shall not be considered to be property that is exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of a property tax shall be determined as provided in subdivision (y). In the case of a municipality having a population of less than 35,000 that established an authority prior to 1985, created a district or districts, and approved a development plan or tax increment financing plan or amendments to a plan, and which plan or tax increment financing plan or amendments to a plan, and which plan expired by its terms December 31, 1991, the initial assessed value for the purpose of any plan or plan amendment adopted as an extension of the expired plan shall be determined as if the plan had not expired December 31, 1991. For a development area designated before 1997 in which a renaissance zone has subsequently been designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, the initial assessed value of the development area otherwise determined under this subdivision shall be reduced by the amount by which the current assessed value of the development area was reduced in 1997 due to the exemption of property under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, but in no case shall the initial assessed value be less than zero.

(r) "Municipality" means a city, village, or township.

(s) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(t) "On behalf of an authority", in relation to an eligible advance made by a municipality, or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by the municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.

(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(u) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the authority and planning of its activities.

(v) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*), (*iii*), or (*iv*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.


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(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before December 31, 1993, for which a contract for final design is entered into by or on behalf of the municipality or authority before March 1, 1994 or for which a written agreement with a developer, titled preferred development agreement, was entered into by or on behalf of the municipality or authority in July 1993.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An obligation incurred by the authority evidenced by or to finance a contract to purchase real property within a development area or a contract to develop that property within the development area, or both, if all of the following requirements are met:

(A) The authority purchased the real property in 1993.

(B) Before June 30, 1995, the authority enters a contract for the development of the real property located within the development area.

(C) In 1993, the authority or municipality on behalf of the authority received approval for a grant from both of the following:

(I) The department of natural resources for site reclamation of the real property.

(II) The department of consumer and industry services for development of the real property.

(*v*) An ongoing management or professional services contract with the governing body of a county which was entered into before March 1, 1994 and which was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(*vi*) A loan from a municipality to an authority if the loan was approved by the legislative body of the municipality on April 18, 1994.

(*vii*) Funds expended to match a grant received by a municipality on behalf of an authority for sidewalk improvements from the Michigan department of transportation if the legislative body of the municipality approved the grant application on April 5, 1993 and the grant was received by the municipality in June 1993.

(*viii*) For taxes captured in 1994, an obligation described in this subparagraph issued or incurred to finance a project. An obligation is considered issued or incurred to finance a project described in this subparagraph only if all of the following are met:

(A) The obligation requires raising capital for the project or paying for the project, whether or not a borrowing is involved.

(B) The obligation was part of a development plan and the tax increment financing plan was approved by a municipality on May 6, 1991.

(C) The obligation is in the form of a written memorandum of understanding between a municipality and a public utility dated October 27, 1994.

(D) The authority or municipality captured school taxes during 1994.

(w) "Public facility" means a street, plaza, pedestrian mall, and any improvements to a street, plaza, or pedestrian mall including street furniture and beautification, park, parking facility, recreational facility, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building, and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by a public agency. Public facility includes an improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(x) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the obligation is issued to refund a qualified refunding obligation issued in November 1997 and any subsequent refundings of that obligation issued before January 1, 2010 or the refunding obligation meets both of the following:

(*i*) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The net present value of the sum of the tax increment revenues described in subdivision (bb)(*ii*) and the distributions under section 13b to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (bb)(*ii*) and the distributions under section 13b to repay the obligation being refunded, as calculated using a method approved by the department of


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treasury.

(y) "Qualified township" means a township that meets all of the following requirements:

(*i*) Was not eligible to create an authority prior to January 3, 2005.

(*ii*) Adjoins a municipality that previously created an authority.

(*iii*) Along with the adjoining municipality that previously created an authority, is a member of the same joint planning commission under the joint municipal planning act, 2003 PA 226, MCL 125.131 to 125.143.

(z) "Specific local tax" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the technology park development act, 1984 PA 385, MCL 207.701 to 207.718, and 1953 PA 189, MCL 211.181 to 211.182. The initial assessed value or current assessed value of property subject to a specific local tax shall be the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(aa) "State fiscal year" means the annual period commencing October 1 of each year.

(bb) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the development area, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), to repay eligible advances, eligible obligations, and other protected obligations.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to such ad valorem property taxes.

(B) Ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority or specific local taxes attributable to such ad valorem property taxes.

(C) Ad valorem property taxes exempted from capture under section 3(3) or specific local taxes attributable to such ad valorem property taxes.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*) or (*v*), and required to be transmitted to the authority under section 14(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*) or (*v*).

(*v*) Tax increment revenues include ad valorem property taxes and specific local taxes, in an annual amount and for each year approved by the state treasurer, attributable to the levy by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and by local or intermediate school districts, upon the captured assessed value of real and personal property in the development area of an authority established in a city with a population of 750,000 or more to pay for, or reimburse an advance for, not more than $8,000,000.00 for the demolition of buildings or structures on public or privately owned property within a development area that commences in 2005, or to pay the annual principal of or interest on an obligation, the terms of which are approved by the state treasurer, issued by an authority, or by a city on behalf of an authority, to pay not more than $8,000,000.00 of the costs to demolish buildings or structures on public or privately owned property within a development area that commences in 2005.



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**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1985, Act 221, Imd. Eff. Jan. 10, 1986;—Am. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 1994, Act 280, Imd. Eff. July 11, 1994;—Am. 1994, Act 330, Imd. Eff. Oct. 14, 1994;—Am. 1994, Act 381, Imd. Eff. Dec. 28, 1994;—Am. 1996, Act 269, Imd. Eff. June 12, 1996;—Am. 1996, Act 454, Imd. Eff. Dec. 19, 1996;—Am. 1997, Act 202, Imd. Eff. Jan. 13, 1998;—Am. 2003, Act 136, Imd. Eff. Aug. 1, 2003;—Am. 2004, Act 66, Imd. Eff. Apr. 20, 2004;—Am. 2004, Act 158, Imd. Eff. June 17, 2004;—Am. 2004, Act 196, Imd. Eff. July 8, 2004;—Am. 2005, Act 13, Imd. Eff. May 4, 2005;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005.

**Compiler's note:** Enacting section 1 of Act 202 of 1997 provides:

"The provisions of section 1 and section 13b, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1651a Legislative findings.

Sec. 1a. The legislature finds all of the following:

(a) That there exists in this state conditions of property value deterioration detrimental to the state economy and the economic growth of the state and its local units of government.

(b) That government programs are desirable and necessary to eliminate the causes of property value deterioration thereby benefiting the economic growth of the state.

(c) That it is appropriate to finance these government programs by means available to the state and local units of government in the state, including tax increment financing.

(d) That tax increment financing is a government financing program that contributes to economic growth and development by dedicating a portion of the increase in the tax base resulting from economic growth and development to facilities, structures, or improvements within a development area thereby facilitating economic growth and development.

(e) That it is necessary for the legislature to exercise its power to legislate tax increment financing as authorized in this act and in the exercise of this power to mandate the transfer of tax increment revenues by city, village, township, school district, and county treasurers to authorities created under this act in order to effectuate the legislative government programs to eliminate property value deterioration and to promote economic growth.

(f) That halting property value deterioration and promoting economic growth in the state are essential governmental functions and constitute essential public purposes.

(g) That economic development strengthens the tax base upon which local units of government rely and that government programs to eliminate property value deterioration benefit local units of government and are for the use of the local units of government.

(h) That the provisions of this act are enacted to provide a means for local units of government to eliminate property value deterioration and to promote economic growth in the communities served by those local units of government.

**History:** Add. 1988, Act 425, Imd. Eff. Dec. 27, 1988.

**Compiler's note:** Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1652 Authority; establishment; restriction; public body corporate; powers generally.

Sec. 2. (1) Except as otherwise provided in this subsection, a municipality may establish 1 authority. If, before November 1, 1985, a municipality establishes more than 1 authority, those authorities may continue to exist as separate authorities. Under the conditions described in section 3a, a municipality may have more than 1 authority within that municipality's boundaries. A parcel of property shall not be included in more than 1 authority created by this act.

(2) An authority shall be a public body corporate which may sue and be sued in any court of this state. An authority possesses all the powers necessary to carry out the purpose of its incorporation. The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1653 Resolution of intent to create and provide for operation of authority; public hearing on proposed ordinance creating authority and designating boundaries of downtown


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**district; notice; exemption of taxes from capture; adoption, filing, and publication of ordinance; altering or amending boundaries; agreement with adjoining municipality; agreement with qualified township.**

Sec. 3. (1) When the governing body of a municipality determines that it is necessary for the best interests of the public to halt property value deterioration and increase property tax valuation where possible in its business district, to eliminate the causes of that deterioration, and to promote economic growth, the governing body may, by resolution, declare its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body shall set a date for the holding of a public hearing on the adoption of a proposed ordinance creating the authority and designating the boundaries of the downtown district. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 or more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in the proposed district and for a public hearing to be held after February 15, 1994 to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the proposed downtown district not less than 20 days before the hearing. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed downtown district. A citizen, taxpayer, or property owner of the municipality or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of the proposed downtown district. The governing body of the municipality shall not incorporate land into the downtown district not included in the description contained in the notice of public hearing, but it may eliminate described lands from the downtown district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction levying ad valorem property taxes that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body of the municipality intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members, an ordinance establishing the authority and designating the boundaries of the downtown district within which the authority shall exercise its powers. The adoption of the ordinance is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the chief executive or other officer of the municipality and the adoption of an ordinance over his or her veto. This ordinance shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body of the municipality may alter or amend the boundaries of the downtown district to include or exclude lands from the downtown district pursuant to the same requirements for adopting the ordinance creating the authority.

(6) A municipality that has created an authority may enter into an agreement with an adjoining municipality that has created an authority to jointly operate and administer those authorities under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(7) A municipality that has created an authority may enter into an agreement with a qualified township to operate its authority in a downtown district in the qualified township under an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512. The interlocal agreement between the municipality and the qualified township shall provide for, but is not limited to, all of the following:

(a) Size and makeup of the board.

(b) Determination and modification of downtown district, business district, and development area.

(c) Modification of development area and development plan.

(d) Issuance and repayment of obligations.

(e) Capture of taxes.


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(f) Notice, hearing, and exemption of taxes from capture provisions described in this section.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 2004, Act 521, Imd. Eff. Jan. 3, 2005;—Am. 2005, Act 13, Imd. Eff. May 4, 2005;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1653a Authority of annexing or consolidated municipality; obligations, agreements, and bonds.

Sec. 3a. If a downtown district is part of an area annexed to or consolidated with another municipality, the authority managing that district shall become an authority of the annexing or consolidated municipality. Obligations of that authority incurred under a development or tax increment plan, agreements related to a development or tax increment plan, and bonds issued under this act shall remain in effect following the annexation or consolidation.

**History:** Add. 1985, Act 159, Imd. Eff. Nov. 15, 1985.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1653b Ratification and validation of ordinance and actions; applicability of section.

Sec. 3b. (1) An ordinance enacted by a municipality that has a population of less than 50,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken under that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, if the notice was published or posted at least 15 days before the hearing or the authority was established in 1984 by a village that filed the ordinance with the secretary of state not later than March, 1986. This section applies only to an ordinance adopted by a municipality before February 1, 1991, and shall include any bonds or amounts to be used by the authority to pay the principal of and interest on bonds that have been issued or that are to be issued by the authority, the incorporating municipality, or a county on behalf of the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(4) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before October 1, 1991. As used in this section, "notice was published" means publication of the notice occurred at least once.

(2) A development plan and tax increment financing plan approved by a resolution adopted by the village council of a village having a population of less than 3,000 before June 15, 1988 rather than by adoption of an ordinance is ratified and validated, if an amendment to the plans was adopted by the village council in compliance with sections 18 and 19.

**History:** Add. 1989, Act 242, Imd. Eff. Dec. 21, 1989;—Am. 1991, Act 66, Imd. Eff. July 3, 1991;—Am. 1993, Act 42, Imd. Eff. May 27, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1653c Proceedings or findings; validity.

Sec. 3c. The validity of the proceedings or findings establishing an authority, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan is conclusive with respect to the capture of tax increment revenues for an other protected obligation that is a bond issued after October 1, 1994.

**History:** Add. 1994, Act 381, Imd. Eff. Dec. 28, 1994.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1653d Establishment or amendment of authority, district, or plan; notice; publication or posting.

Sec. 3d. An ordinance enacted by a municipality that has a population of greater than 1,000 and less than 2,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken or to be taken under


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that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, provided that the notice was either published or posted at least 10 days before the hearing or that the authority was established in 1990 by a municipality that filed the ordinance with the secretary of state not later than July 1991. This section applies only to an ordinance or an amendment adopted by a municipality before January 1, 1999 and shall include any bonds or amounts to be used by the authority to pay the principal of and interest on bonds that have been issued or that are to be issued by the authority or the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(3) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before December 31, 2002. The validity of the proceedings or findings establishing an authority described in this section, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan for an authority described in this section is conclusive with respect to the capture of tax increment revenues for a bond issued after June 1, 2002 and before June 1, 2006. As used in this section, "notice was either published or posted" means either publication or posting of the notice occurred at least once.

**History:** Add. 2002, Act 460, Imd. Eff. June 21, 2002.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1654 Board; appointment, terms, and qualifications of members; vacancy; compensation and expenses; election of chairperson; oath; conducting business at public meeting; public notice; special meetings; removal of members; review; expense items and financial records; availability of writings to public; single board governing all authorities; member as resident or having interest in property; planning commission serving as board in certain municipalities; modification by interlocal agreement.

Sec. 4. (1) Except as provided in subsections (7), (8), and (9), an authority shall be under the supervision and control of a board consisting of the chief executive officer of the municipality and not less than 8 or more than 12 members as determined by the governing body of the municipality. Members shall be appointed by the chief executive officer of the municipality, subject to approval by the governing body of the municipality. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than 1 of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Of the members first appointed, an equal number of the members, as near as is practicable, shall be appointed for 1 year, 2 years, 3 years, and 4 years. A member shall hold office until the member's successor is appointed. Thereafter, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made by the chief executive officer of the municipality for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board.

(2) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(3) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held if called in the manner provided in the rules of the board.

(4) Pursuant to notice and after having been given an opportunity to be heard, a member of the board may be removed for cause by the governing body. Removal of a member is subject to review by the circuit court.

(5) All expense items of the authority shall be publicized monthly and the financial records shall always be open to the public.

(6) In addition to the items and records prescribed in subsection (5), a writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) By resolution of its governing body, a municipality having more than 1 authority may establish a single board to govern all authorities in the municipality. The governing body may designate the board of an existing authority as the board for all authorities or may establish by resolution a new board in the same manner as


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provided in subsection (1). A member of a board governing more than 1 authority may be a resident of or have an interest in property in any of the downtown districts controlled by the board in order to meet the requirements of this section.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to 1931 PA 285, MCL 125.31 to 125.45, serve as the board provided for in subsection (1).

(9) If a municipality enters into an agreement with a qualified township under section 3(7), the membership of the board may be modified by the interlocal agreement described in section 3(7).

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1978, Act 521, Imd. Eff. Dec. 20, 1978;—Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985;—Am. 1987, Act 66, Imd. Eff. June 25, 1987;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1655 Director, acting director, treasurer, secretary, legal counsel, and other personnel.

Sec. 5. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body of the municipality. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of his office, the director shall take and subscribe to the constitutional oath, and furnish bond, by posting a bond in the penal sum determined in the ordinance establishing the authority payable to the authority for use and benefit of the authority, approved by the board, and filed with the municipal clerk. The premium on the bond shall be deemed an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise, and be responsible for, the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board, and shall render to the board and to the governing body of the municipality a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of his office, the acting director shall take and subscribe to the oath, and furnish bond, as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may employ and fix the compensation of a treasurer, who shall keep the financial records of the authority and who, together with the director, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform such other duties as may be delegated to him by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may employ and fix the compensation of a secretary, who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings, and shall perform such other duties delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel shall represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel deemed necessary by the board.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1656 Participation of employees in municipal retirement and insurance programs.

Sec. 6. The employees of an authority shall be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees except that the employees of an authority are not civil service employees.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1657 Powers of board.

Sec. 7. The board may:

(a) Prepare an analysis of economic changes taking place in the downtown district.

(b) Study and analyze the impact of metropolitan growth upon the downtown district.

(c) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration,


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preservation, or reconstruction of a public facility, an existing building, or a multiple-family dwelling unit which may be necessary or appropriate to the execution of a plan which, in the opinion of the board, aids in the economic growth of the downtown district.

(d) Plan, propose, and implement an improvement to a public facility within the development area to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(e) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, designed to halt the deterioration of property values in the downtown district and to promote the economic growth of the downtown district, and take such steps as may be necessary to persuade property owners to implement the plans to the fullest extent possible.

(f) Implement any plan of development in the downtown district necessary to achieve the purposes of this act, in accordance with the powers of the authority as granted by this act.

(g) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties.

(h) Acquire by purchase or otherwise, on terms and conditions and in a manner the authority considers proper or own, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to that property.

(i) Improve land and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, and operate any building, including multiple-family dwellings, and any necessary or desirable appurtenances to that property, within the downtown district for the use, in whole or in part, of any public or private person or corporation, or a combination of them.

(j) Fix, charge, and collect fees, rents, and charges for the use of any building or property under its control or any part thereof, or facility therein, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(k) Lease any building or property under its control, or any part of a building or property.

(*l*) Accept grants and donations of property, labor, or other things of value from a public or private source.

(m) Acquire and construct public facilities.

(n) Create, operate, and fund marketing initiatives that benefit only retail and general marketing of the downtown district.

(o) Contract for broadband service and wireless technology service in the downtown district.

(p) Operate and perform all duties and exercise all responsibilities described in this section in a qualified township if the qualified township has entered into an agreement with the municipality under section 3(7).

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1985, Act 221, Imd. Eff. Jan. 10, 1986;—Am. 2004, Act 196, Imd. Eff. July 8, 2004;—Am. 2005, Act 115, Imd. Eff. Sept. 22, 2005.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1658 Board serving as planning commission; agenda.

Sec. 8. If a board created under this act serves as the planning commission under section 2 of Act No. 285 of the Public Acts of 1931, being section 125.32 of the Michigan Compiled Laws, the board shall include planning commission business in its agenda.

**History:** Add. 1987, Act 66, Imd. Eff. June 25, 1987.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1659 Authority as instrumentality of political subdivision.

Sec. 9. The authority shall be deemed an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1660 Taking, transfer, and use of private property.

Sec. 10. A municipality may take private property under Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use in an approved development, on terms and conditions it deems appropriate, and the taking, transfer, and use shall be considered necessary for public


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purposes and for the benefit of the public.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1661 Financing activities of authority; disposition of money received by authority; municipal obligations.

Sec. 11. (1) The activities of the authority shall be financed from 1 or more of the following sources:

(a) Donations to the authority for the performance of its functions.

(b) Proceeds of a tax imposed pursuant to section 12.

(c) Money borrowed and to be repaid as authorized by sections 13 and 13a.

(d) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(e) Proceeds of a tax increment financing plan, established under sections 14 to 16.

(f) Proceeds from a special assessment district created as provided by law.

(g) Money obtained from other sources approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(h) Money obtained pursuant to section 13b.

(i) Revenue from the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, or revenue transferred pursuant to section 11a of chapter 2 of the city income tax act, Act No. 284 of the Public Acts of 1964, being section 141.611a of the Michigan Compiled Laws.

(j) Revenue from the federal data facility act, Act No. 126 of the Public Acts of 1993, being sections 3.951 to 3.961 of the Michigan Compiled Laws, or revenue transferred pursuant to section 11b of chapter 2 of the city income tax act, Act No. 284 of the Public Acts of 1964, being section 141.611b of the Michigan Compiled Laws.

(2) Money received by the authority and not covered under subsection (1) shall immediately be deposited to the credit of the authority, subject to disbursement pursuant to this act. Except as provided in this act, the municipality shall not obligate itself, nor shall it ever be obligated to pay any sums from public funds, other than money received by the municipality pursuant to this section, for or on account of the activities of the authority.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 122, Imd. Eff. July 20, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1662 Ad valorem tax; borrowing in anticipation of collection.

Sec. 12. (1) An authority with the approval of the municipal governing body may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than 1 mill if the downtown district is in a municipality having a population of 1,000,000 or more, or not more than 2 mills if the downtown district is in a municipality having a population of less than 1,000,000. The tax shall be collected by the municipality creating the authority levying the tax. The municipality shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of the authority.

(2) The municipality may at the request of the authority borrow money and issue its notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1983, Act 86, Imd. Eff. June 16, 1983;—Am. 2002, Act 234, Imd. Eff. Apr. 29, 2002.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1663 Revenue bonds.

Sec. 13. The authority may borrow money and issue its negotiable revenue bonds therefor pursuant to Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Revenue bonds issued by the authority shall not except as hereinafter provided be deemed a debt of the municipality or the state. The municipality by majority vote of the members of its governing body may pledge


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its full faith and credit to support the authority's revenue bonds.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1663a Borrowing money; issuing revenue bonds or notes; purpose; costs; security; pledge and lien of pledge valid and binding; filing or recordation not required; tax exemption; bonds or notes neither liability nor debt of municipality; statement; investment and deposit of bonds and notes.

Sec. 13a. (1) The authority may with approval of the local governing body borrow money and issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with the implementation of a development plan in the downtown district or to refund or refund in advance bonds or notes issued pursuant to this section. The costs which may be financed by the issuance of revenue bonds or notes may include the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with the implementation of a development plan in the downtown district; any engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and any money, revenues, or income received in connection therewith.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged by the authority immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of such a pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise, against the authority, irrespective of whether the parties have notice of the lien. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be filed or recorded.

(3) Bonds or notes issued pursuant to this section shall be exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) The municipality shall not be liable on bonds or notes of the authority issued pursuant to this section and the bonds or notes shall not be a debt of the municipality. The bonds or notes shall contain on their face a statement to that effect.

(5) The bonds and notes of the authority may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

**History:** Add. 1981, Act 151, Imd. Eff. Nov. 19, 1981.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1663b Insufficient tax increment revenues to repay advance or pay obligation; contents, time, and payment of claim; appropriation and distribution of aggregate amount; limitations; distribution subject to lien; obligation as debt or liability; certification of distribution amount; basis for calculation of distributions and claim reports.

Sec. 13b. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the school code of 1976, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 15 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).

(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.


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(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, excluding taxes exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, if property taxes were levied by local school districts for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the tax increment revenues the authority actually received for the fiscal year.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).

(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.


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(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

**History:** Add. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 1994, Act 280, Imd. Eff. July 11, 1994;—Am. 1996, Act 269, Imd. Eff. June 12, 1996;—Am. 1996, Act 454, Imd. Eff. Dec. 19, 1996;—Am. 1997, Act 202, Imd. Eff. Jan. 13, 1998.

**Compiler's note:** Enacting section 1 of Act 202 of 1997 provides:

"The provisions of section 1 and section 13b, as amended by this amendatory act, are retroactive and effective for taxes levied after 1993."

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1664 Tax increment financing plan; preparation and contents; limitation; definition; public hearing; fiscal and economic implications; recommendations; agreements; modification of plan.

Sec. 14. (1) When the authority determines that it is necessary for the achievement of the purposes of this act, the authority shall prepare and submit a tax increment financing plan to the governing body of the municipality. The plan shall include a development plan as provided in section 17, a detailed explanation of the tax increment procedure, the maximum amount of bonded indebtedness to be incurred, and the duration of the program, and shall be in compliance with section 15. The plan shall contain a statement of the estimated impact of tax increment financing on the assessed values of all taxing jurisdictions in which the development area is located. The plan may provide for the use of part or all of the captured assessed value, but the portion intended to be used by the authority shall be clearly stated in the tax increment financing plan. The authority or municipality may exclude from captured assessed value growth in property value resulting solely from inflation. The plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(2) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan shall not be greater than the plan's percentage capture and use of taxes levied by a municipality or county for operating purposes. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, Act No. 62 of the Public Acts of 1933, being sections 211.201 to 211.217a of the Michigan Compiled Laws. For purposes of this subsection, tax increment revenues used to pay bonds issued by a municipality under section 16(1) shall be considered to be used by the tax increment financing plan rather than shared with the municipality. The limitation of this subsection does not apply to the portion of the captured assessed value shared pursuant to an agreement entered into before 1989 with a county or with a city in which an enterprise zone is approved under section 13 of the enterprise zone act, Act No. 224 of the Public Acts of 1985, being section 125.2113 of the Michigan Compiled Laws.

(3) Approval of the tax increment financing plan shall be pursuant to the notice, hearing, and disclosure provisions of section 18. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together.

(4) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with the governing body. The authority shall fully inform the taxing jurisdictions of the fiscal and economic implications of the proposed development area. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the development area is located to share a portion of the captured assessed value of the district.

(5) A tax increment financing plan may be modified if the modification is approved by the governing body upon notice and after public hearings and agreements as are required for approval of the original plan.


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**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1979, Act 26, Imd. Eff. June 6, 1979;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1986, Act 229, Imd. Eff. Oct. 1, 1986;—Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988;—Am. 1989, Act 108, Imd. Eff. June 23, 1989;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

**Compiler's note:** Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1665 Transmitting and expending tax increments revenues; reversion of surplus funds; abolition of tax increment financing plan; conditions; annual report on status of tax increment financing account; contents; publication.

Sec. 15. (1) The municipal and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only pursuant to the tax increment financing plan. Surplus funds shall revert proportionately to the respective taxing bodies. These revenues shall not be used to circumvent existing property tax limitations. The governing body of the municipality may abolish the tax increment financing plan when it finds that the purposes for which it was established are accomplished. However, the tax increment financing plan shall not be abolished until the principal of, and interest on, bonds issued pursuant to section 16 have been paid or funds sufficient to make the payment have been segregated.

(3) Annually the authority shall submit to the governing body of the municipality and the state tax commission a report on the status of the tax increment financing account. The report shall be published in a newspaper of general circulation in the municipality and shall include the following:

(a) The amount and source of revenue in the account.

(b) The amount in any bond reserve account.

(c) The amount and purpose of expenditures from the account.

(d) The amount of principal and interest on any outstanding bonded indebtedness.

(e) The initial assessed value of the project area.

(f) The captured assessed value retained by the authority.

(g) The tax increment revenues received.

(h) The number of jobs created as a result of the implementation of the tax increment financing plan.

(i) Any additional information the governing body or the state tax commission considers necessary.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1979, Act 26, Imd. Eff. June 6, 1979;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1986, Act 229, Imd. Eff. Oct. 1, 1986;—Am. 1988, Act 425, Imd. Eff. Dec. 27, 1988;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

**Compiler's note:** Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1666 General obligation bonds and tax increment bonds; qualified refunding obligation.

Sec. 16. (1) The municipality may by resolution of its governing body authorize, issue, and sell general obligation bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 11. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2801.


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(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority pursuant to this subsection may be secured by any other revenues identified in section 11 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued pursuant to this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 11 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 13b by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1981, Act 34, Imd. Eff. May 11, 1981;—Am. 1983, Act 34, Imd. Eff. May 10, 1983;—Am. 1985, Act 159, Imd. Eff. Nov. 15, 1985;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 122, Imd. Eff. July 20, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994;—Am. 1996, Act 269, Imd. Eff. June 12, 1996;—Am. 2002, Act 234, Imd. Eff. Apr. 29, 2002.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1667 Development plan; preparation; contents; improvements related to qualified facility.

Sec. 17. (1) When a board decides to finance a project in the downtown district by the use of revenue bonds as authorized in section 13 or tax increment financing as authorized in sections 14, 15, and 16, it shall prepare a development plan.

(2) The development plan shall contain all of the following:

(a) The designation of boundaries of the development area in relation to highways, streets, streams, or otherwise.

(b) The location and extent of existing streets and other public facilities within the development area, shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the development area, including residential, recreational, commercial, industrial, educational, and other uses, and shall include a legal description of the development area.

(c) A description of existing improvements in the development area to be demolished, repaired, or altered, a description of any repairs and alterations, and an estimate of the time required for completion.

(d) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the development area and an estimate of the time required for completion.

(e) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(f) A description of any parts of the development area to be left as open space and the use contemplated for the space.

(g) A description of any portions of the development area that the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.

(h) A description of desired zoning changes and changes in streets, street levels, intersections, or utilities.


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(i) An estimate of the cost of the development, a statement of the proposed method of financing the development, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the development is to be leased, sold, or conveyed in any manner and for whose benefit the project is being undertaken if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying in any manner of all or a portion of the development upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed in any manner to those persons.

(*l*) Estimates of the number of persons residing in the development area and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those units in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development in any new housing in the development area.

(n) Provision for the costs of relocating persons displaced by the development and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, being Public Law 91-646, 42 U.S.C. sections 4601, et seq.

(o) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(p) Other material that the authority, local public agency, or governing body considers pertinent.

(3) A development plan may provide for improvements related to a qualified facility, as defined in the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, that is located outside of the boundaries of the development area but within the district, including the cost of construction, renovation, rehabilitation, or acquisition of that qualified facility or of public facilities and improvements related to that qualified facility.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1992, Act 279, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 122, Imd. Eff. July 20, 1993.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1668 Ordinance approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 18. (1) The governing body, before adoption of an ordinance approving or amending a development plan or approving or amending a tax increment financing plan, shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 days before the date set for the hearing. Notice of the hearing shall be posted in at least 20 conspicuous and public places in the downtown district not less than 20 days before the hearing. Notice shall also be mailed to all property taxpayers of record in the downtown district not less than 20 days before the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain: a description of the proposed development area in relation to highways, streets, streams, or otherwise; a statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing; and other information that the governing body considers appropriate. At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the development plan. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to


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the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented thereat.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 2005, Act 13, Imd. Eff. May 4, 2005.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1669 Development plan or tax increment financing plan as constituting public purpose; determination; ordinance; considerations.

Sec. 19. (1) The governing body after a public hearing on the development plan or the tax increment financing plan, or both, with notice thereof given in accordance with section 18, shall determine whether the development plan or tax increment financing plan constitutes a public purpose. If it determines that the development plan or tax increment financing plan constitutes a public purpose, it shall then approve or reject the plan, or approve it with modification, by ordinance based on the following considerations:

(a) The findings and recommendations of a development area citizens council, if a development area citizens council was formed.

(b) The plan meets the requirements set forth in section 17 (2).

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing.

(d) The development is reasonable and necessary to carry out the purposes of this act.

(e) The land included within the development area to be acquired is reasonably necessary to carry out the purposes of the plan and of this act in an efficient and economically satisfactory manner.

(f) The development plan is in reasonable accord with the master plan of the municipality.

(g) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area.

(h) Changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1670 Notice to vacate.

Sec. 20. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1671 Development area citizens council; establishment; appointment and qualifications of members; representative of development area.

Sec. 21. (1) If a proposed development area has residing within it 100 or more residents, a development area citizens council shall be established at least 90 days before the public hearing on the development or tax increment financing plan. The development area citizens council shall be established by the governing body and shall consist of not less than 9 members. The members of the development area citizens council shall be residents of the development area and shall be appointed by the governing body. A member of a development area citizens council shall be at least 18 years of age.

(2) A development area citizens council shall be representative of the development area.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1672 Development area citizens council; advisory body.

Sec. 22. A development area citizens council established pursuant to this act shall act an advisory body to the authority and the governing body in the adoption of the development or tax increment financing plans.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.


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**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1673 Consultation.

Sec. 23. Periodically a representative of the authority responsible for preparation of a development or tax increment financing plan within the development area shall consult with and advise the development area citizens council regarding the aspects of a development plan, including the development of new housing for relocation purposes located either inside or outside of the development area. The consultation shall begin before any final decisions by the authority and the governing body regarding a development or tax increment financing plan. The consultation shall continue throughout the preparation and implementation of the development or tax increment financing plan.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1674 Development area citizens council; meetings; notice; record; information and technical assistance; failure to organize, consult, or advise.

Sec. 24. (1) Meetings of the development area citizens council shall be open to the public. Notice of the time and place of the meetings shall be given by publication in a newspaper of general circulation not less than 5 days before the dates set for meetings of the development area citizens council. A person present at those meetings shall have reasonable opportunity to be heard.

(2) A record of the meetings of a development area citizens council, including information and data presented, shall be maintained by the council.

(3) A development area citizens council may request of and receive from the authority information and technical assistance relevant to the preparation of the development plan for the development area.

(4) Failure of a development area citizens council to organize or to consult with and be advised by the authority, or failure to advise the governing body, as provided in this act, shall not preclude the adoption of a development plan by a municipality if the municipality complies with the other provisions of this act.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1675 Citizens district council as development area citizens council.

Sec. 25. In a development area where a citizens district council established according to Act No. 344 of the Public Acts of 1945, as amended, being sections 125.71 to 125.84 of the Michigan Compiled Laws, already exists the governing body may designate it as the development area citizens council authorized by this act.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1676 Notice of findings and recommendations.

Sec. 26. Within 20 days after the public hearing on a development or tax increment financing plan, the development area citizens council shall notify the governing body, in writing, of its findings and recommendations concerning a proposed development plan.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1677 Development area citizens council; dissolution.

Sec. 27. A development area citizens council may not be required and, if formed, may be dissolved in any of the following situations:

(a) On petition of not less than 20% of the adult resident population of the development area by the last federal decennial or municipal census, a governing body, after public hearing with notice thereof given in accordance with section 18 and by a 2/3 vote, may adopt an ordinance for the development area to eliminate the necessity of a development area citizens council.

(b) When there are less than 18 residents, real property owners, or representatives of establishments located in the development area eligible to serve on the development area citizens council.


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(c) Upon termination of the authority by ordinance of the governing body.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1678 Budget; cost of handling and auditing funds.

Sec. 28. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body of the municipality. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body of the municipality.

(2) The governing body of the municipality may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1679 Historic sites.

Sec. 29. (1) A public facility, building, or structure that is determined by the municipality to have significant historical interests shall be preserved in a manner as considered necessary by the municipality in accordance with laws relative to the preservation of historical sites. The preservation of facilities, buildings, or structures determined to be historic sites by a municipality shall include, at a minimum, equipping the historic site with a fire alarm system.

(2) An authority shall refer all proposed changes to the exterior of sites listed on the state register of historic sites and the national register of historic places to the applicable historic district commission created under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, or the department of history, arts, and libraries for review.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 2001, Act 68, Imd. Eff. July 24, 2001;—Am. 2004, Act 66, Imd. Eff. Apr. 20, 2004.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1680 Dissolution of authority; disposition of property and assets; reinstatement of authority; contesting validity of proceedings, findings, and determinations.

Sec. 30. (1) An authority that has completed the purposes for which it was organized shall be dissolved by ordinance of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority belong to the municipality.

(2) An authority established under this act before December 31, 1988, that is dissolved by ordinance of the governing body before September 30, 1990 and that is reinstated by ordinance of the governing body after notice and public hearing as provided in section 3(2) shall not be invalidated pursuant to a claim that, based upon the standards set forth in section 3(1), a governing body improperly determined that the necessary conditions existed for the reinstatement of an authority under the act if at the time the governing body established the authority the governing body determined or could have determined that the necessary conditions existed for the establishment of an authority under this act or could have determined that establishment of an authority under this act would serve to promote economic growth and notwithstanding that the boundaries of the downtown district are altered at the time of reinstatement of the authority.

(3) In the resolution of intent, the municipality shall set a date for the holding of a public hearing on the adoption of a proposed ordinance reinstating the authority. The procedure for publishing the notice of hearing, holding the hearing, and adopting the ordinance reinstating the authority shall be as provided in section 3(2), (4), and (5).

(4) The validity of the proceedings, findings, and determinations reinstating an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following occurs:

(a) Publication of the ordinance reinstating the authority as adopted.

(b) Filing of the ordinance reinstating the authority with the secretary of state.


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(c) May 27, 1993.

**History:** 1975, Act 197, Imd. Eff. Aug. 13, 1975;—Am. 1993, Act 42, Imd. Eff. May 27, 1993;—Am. 1993, Act 323, Eff. Mar. 15, 1994.

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA

### 125.1681 Proceedings to compel enforcement of act; rules.

Sec. 31. (1) The state tax commission may institute proceedings to compel enforcement of this act.

(2) The state tax commission may promulgate rules necessary for the administration of this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

**History:** Add. 1988, Act 425, Imd. Eff. Dec. 27, 1988.

**Compiler's note:** Section 2 of Act 425 of 1988 provides: "This amendatory act is effective beginning with taxes levied in 1989. However, for taxes levied before 1989, tax increment revenues based on the definition of initial assessed value provided for in this amendatory act that were received by an authority are validated."

**Popular name:** Downtown Development Authority Act

**Popular name:** DDA


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RESOLUTION TO APPROVE FIRE WORKS FOR MON JIN LAU RESTAURANT - FEBRUARY 5, 1981 C-4

Resolution #81-72
Moved by McKenna
Supported by Taucher

RESOLVED, That Mr. Marshall Chin, Vice President of Mon Jin Lau Restaurant, located at 1515 East Maple Road, is hereby permitted to conduct a "Lion Dance", along with the use of small fireworks in the celebration of the Chinese New Year, on Thursday, February 5, 1981, all in accordance with Act 164 of the Public Acts of 1962.

Yeas: All-7

RESOLUTION TO ADOPT ECONOMIC DEVELOPMENT CORPORATION BYLAWS C-5

Resolution #81-73
Moved by Liebrecht
Supported by Husk

WHEREAS, The Bylaws of the Economic Development Corporation of the City of Troy (the "Corporation") were adopted by the Board of Directors on January 7, 1981; and

WHEREAS, The Articles of Incorporation of the Corporation also require approval of Bylaws by the City Council;

NOW, THEREFORE, BE IT RESOLVED, That the Bylaws of the Economic Development Corporation of the City of Troy are approved as submitted by the Board of Directors of the Economic Development Corporation, which Bylaws are attached hereto and made a part of the original minutes of this meeting.

Yeas: All-7

RESOLUTION TO ESTABLISH EDC PROJECT AREA AND PROJECT DISTRICT BOUNDARIES FOR FAIRVIEW-WEBSTER BUILDING COMPANY AND APPOINTMENT OF TWO DIRECTORS C-6

Resolution #71-74
Moved by Husk
Supported by Taucher

RESOLVED, That this item be Tabled to February 2, 1981.

Yeas: All-7

AUTHORIZATION FOR COUNCIL MEMBERS TO ATTEND NATIONAL LEAGUE OF CITIES CONGRESSIONAL-CITY CONFERENCE IN WASHINGTON, D.C. - FEBRUARY 28 - MARCH 3, 1981 C-7

Resolution #81-75
Moved by Taucher
Supported by Stine

RESOLVED, That pursuant to the Rules of Procedure of the City Council of the City of Troy, the City Council hereby approves the payment and use of City funds for transportation, food and lodging for City Council members to attend the National League of Cities Congressional-City Conference in Washington, D.C., February 28 - March 3, 1981, all in accordance with the Rules of Procedure of the Troy City Council and the accounting procedures of the City of Troy.

Yeas: All-7

RESOLUTION REGARDING PROPOSED PARK AND RIDE LOT - I-75 AND BIG BEAVER C-8

Resolution #81-76
Moved by Pallotta
Supported by McKenna

WHEREAS, Correspondence received from SEMTA officials indicates the need for a Park and Ride Lot at I-75 and Big Beaver; and

# BYLAWS

# OF

# THE ECONOMIC DEVELOPMENT CORPORATION

# OF THE CITY OF TROY

(A Michigan Economic Development Corporation formed pursuant to Act 338 of the Public Acts of 1974, as amended)

## ARTICLE I

### Name, Registered Office and Registered Agent

Section 1. Name. The name of this corporation is The Economic Development Corporation of the City of Troy (the "Corporation").

Section 2. Registered Office and Agent. The Corporation shall continuously maintain a registered office in the City of Troy, State of Michigan and a registered agent whose office address is identical to such registered office. The registered office and agent may be changed from time to time by the Board of Directors of the Corporation (the "Board") subject to the approval of the legislative body of the City of Troy (the "Incorporating Unit").

Section 3. Other Offices. The Corporation may have such other offices as the Board may determine or the affairs of the Corporation may require from time to time.

## ARTICLE II

## DIRECTORS

Section 1. General Powers. The business and affairs of the Corporation shall be managed by its Board except as otherwise provided by statute, by its Articles of Incorporation or by these Bylaws.

Section 2. Replacement and Vacancies. Subsequent directors shall be appointed in the same manner as original appointments at the expiration of each director's term of office. A director whose term of office has expired shall continue to hold office until his successor has been appointment with the advice and consent of the legislative body of the Incorporating Unit. A director may be reappointed with the advice and consent of the legislative body of the Incorporating Unit to serve additional terms. If a vacancy is created by death or resignation, a successor shall be appointed with the advice and consent of the legislative body of the Incorporating Unit within thirty (30) days to hold office for the remainder of the term of office so vacated.

Section 3. Removal. A director may be removed from office for inefficiency, neglect of duty, or misconduct or malfeasance by a majority vote of the legislative body of the Incorporating Unit or this Board.

Section 4. Conflict of Interest. A director who has a direct interest in any matter before the Corporation shall disclose his interest prior to the Corporation's consideration of the matter of its taking action with respect to the matter, which disclosure shall become a part of the record of the Corporation's official proceedings. Said interested

director shall abstain from all discussion, consideration, or action relating to said matter.

Section 5. Meetings. Meetings of the Board may be called by or at the request of the Chief Executive Officer of the Board or any two directors. The meetings of the Board shall be public, and the appropriate notice of such meetings shall be provided to the public.

Section 6. Notice. Notice of any meetings shall be given in accordance with the Open Meetings Act (Act No. 267) of the Public Acts of 1976).

Section 7. Quorum. A majority of the members of the Board then in office for a particular project constitutes a quorum for the transaction of business for that matter at any meeting of the Board provided, that if less than a majority of the directors are present at the meeting, a majority of the directors present may adjourn the meeting from time to time without further notice. The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the Board unless the vote of a larger number is required by statutes, the Articles of Incorporation or these Bylaws. Amendment of the Bylaws by the Board requires the vote of not less than a majority of the members of the Board then in office.

Section 8. Committees. The Board may, by resolution, designate one or more committees, each committee to consist of one or more of the directors. The Board may designate one or more directors as alternate members of a committee, who may replace an absent or disqualified member at a meeting of the committee. In the absence or disqualification of a member of a committee, the members thereof present

at a meeting and not disqualified from voting, whether or not they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of such an absent or disqualified member. A committee, and each member thereof, shall serve at the pleasure of the Board.

## ARTICLE III

## Officers

Section 1. Officers. The officers of the Corporation shall be elected by the Board and shall consist of a chairman, secretary and treasurer. The Board may also appoint a deputy secretary and treasurer who need not be members of the board but shall in the case of the deputy treasurer give bond for the faithful discharge of duties of office in such sum and with such sureties as the Board may determine. Two or more offices may be held by the same person but an officer shall not execute, acknowledge or verify an instrument in more than one capacity if the instrument is required by law or the articles or bylaws are to be executed, acknowledged or verified by two or more officers.

Section 2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board. If the election of officers shall not be held or made at such meeting, such election shall be held or made as soon thereafter as is convenient. Each officer so elected or appointed shall hold office for the term of which he is elected or appointed and until his successor is elected or appointed and qualified, or until his resignation or removal.

Section 3. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled at any meeting of the Board for the unexpired portion of the term of such office.

Section 4. Chief Executive Officer. The Chairman shall be the chief executive officer of the Corporation, but he may from time to time delegate all or any part of his duties to the Secretary. He shall preside at all meetings of the directors; he shall have general and active management of the business of the Corporation and shall perform all duties of the office as provided by the Articles of Incorporation. These duties shall include but not be limited to signing and executing all authorized bonds, contracts, checks and other obligations and executing interest coupons, all with his facsimile signature in the name of the Corporation when so authorized by the Board of Directors. The Chairman shall be ex officio a member of all standing committees and shall have the general power and duties of supervision and management of the Corporation.

Section 5. Secretary. The Secretary shall attend all meetings of the Board and record all votes and the minutes of all proceedings in a book to be kept for that purpose; and shall perform like duties for the standing committees when required. He shall further perform all duties of the office of Secretary as provided by the Articles of Incorporation. These duties shall include but not be limited to signing with the Chairman all bonds, contracts, and other obligations and executing interest coupons, all with his facsimile signature in the

name of the Corporation when so authorized by the Board of Directors. The Secretary shall be sworn to the faithful discharge of all his duties.

Section 6. Treasurer. The treasurer shall perform all duties of the office of Treasurer as provided in the Articles of Incorporation. He shall disburse the funds of the Corporation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the Board, at the regular meetings of the Board, or whenever they may require, an account of all his transactions as Treasurer and of the financial condition of the Corporation. He shall give the Corporation a bond if required by the Board in a sum, and with one or more sureties satisfactory to the Board, for the faithful performance of the duties of his office, and for the restoration to the corporation in case of his death, resignation, retirement or removal from office of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Corporation.

Section 7. Delegation of Duties of officers. In the absence of any officer of the Corporation, or for any other reason that the Board may deem sufficient, the Board may delegate, from time to time and for such time as it may deem appropriate, the powers or duties, or any of them, of such officer to any other officer, or to any director, provided a majority of the Board then in office concurs therein.

## ARTICLE IV

### Contracts, Loans, Checks and Deposits

Section 1. Contracts. The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board.

Section 3. Deposits. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may select.

## ARTICLE V

### Fiscal Year

The fiscal year of the Corporation shall correspond at all times to the fiscal year of the Incorporating Unit.

## ARTICLE VI

### Initiation of Projects

All requests for the assistance of this Corporation shall be made in written form and should be addressed to the Secretary of this Board.

Such requests shall include the following information:

1. Name, address and business status of applicant.

2. Brief personal or business history of applicant.

3. Narrative description of proposed project, including type of business to be conducted thereon and services to be provided thereby.

4. Description and location of project area.

5. Number of employment opportunities that will be afforded or retained in the community by the project.

Upon receipt of said application the Board shall tentatively assess the public purpose of the project, its desirability, suitability, and its economic feasibility. The Board may request such other data and information from the applicant as it deems appropriate. The Board shall not proceed with the project unless such tentative findings are made.

## ARTICLE VII

## Miscellaneous

Section 1. Seal. The Board shall provide a corporate seal which shall be in the form of two concentric circles and shall have inscribed thereon the name of the Corporation.

Section 2. Waiver of Notice. When the Corporation or any committee thereof may take action after notice to any person or after lapse of a prescribed period of time, the action may be taken without notice and without lapse of the period of time, if at any time before or after the action is completed the person entitled to notice or to participate in the action to be taken submits a signed waiver of such requirements.

## ARTICLE VIII

### Amendments

These Bylaws may be altered or amended or repealed by the affirmative vote of the Board then in office at any regular or special meeting called for that purpose.

I HEREBY CERTIFY that the above bylaws were adopted the 7th day of January, 1981.

_____
Secretary

99370-1 B412v 11/24/80

**ECONOMIC DEVELOPMENT CORPORATIONS ACT (EXCERPT)**
**Act 338 of 1974**

## 125.1604 Economic development corporation; incorporation; application; notice; hearing; approval; board of directors; appointment, qualifications, terms, and compensation of directors; public meetings; directors as public officers; vacancy; removal; disclosure of interest; planning commission of certain municipalities serving as board of directors.

Sec. 4. (1) Application, in writing, may be made by a group of 3 or more persons to the governing body for permission to incorporate the economic development corporation for the municipality. Application shall include proposed articles of incorporation. The governing body shall give public notice of the application, and after public hearing, with notice of the hearing given in accordance with section 17(1), may approve the application. As a part of the approval, the governing body may make such amendments to the proposed articles of incorporation as it considers appropriate.

(2) The board of directors of the corporation shall consist of not less than 9 persons, not more than 3 of whom shall be an officer or employee of the municipality. The chief executive officer and any member of the governing body of the municipality may serve on the board of directors. These directors shall be appointed for terms of 6 years, except of the directors first appointed, 4 shall be appointed for 6 years, 1 for 5 years, 1 for 4 years, 1 for 3 years, 1 for 2 years, and 1 for 1 year. The corporation shall notify the chief executive officer of the municipality in writing upon the corporation's designation of the project area as provided in section 8(1), and there shall be appointed promptly after that notice 2 additional directors of the corporation who shall serve only in respect to that project and shall be representative of neighborhood residents and business interests likely to be affected by the project proposed by the corporation and who shall cease to serve when the project for which they are appointed is either abandoned or, if undertaken, is completed in accordance with the project plan. Directors shall serve without salary, but may be reimbursed their actual expenses incurred in the performance of their official duties, and may receive a per diem of not more than $50.00. The meetings of the board of directors shall be public. Directors shall be public officers.

(3) The chief executive officer of a municipality, with the advice and consent of the governing body, or in the case of a county where there is not an elected chief executive officer, the chairperson of the county board of commissioners, with the advice and consent of the county board of commissioners, shall appoint the members of the board of directors.

(4) Subsequent directors shall be appointed in the same manner as original appointments at the expiration of each director's term of office.

(5) A director whose term of office has expired shall continue to hold office until the director's successor has been appointed with the advice and consent of the governing body. A director may be reappointed with the advice and consent of the governing body to serve additional terms. If a vacancy is created by death or resignation or removal by operation of law, a successor shall be appointed with the advice and consent of the governing body within 30 days to hold office for the remainder of the term of the vacated office.

(6) A director may be removed from office for cause by a majority vote of the governing body.

(7) A director who has a direct interest in any matter before the corporation shall disclose the director's interest before the corporation takes any action with respect to the matter, which disclosure shall become a part of the record of the corporation's official proceedings and the interested director shall further refrain from participation in the corporation's proceedings relating to the matter.

(8) By ordinance, the governing body of a municipality that has a population of less than 5,000 may have the municipality's planning commission created pursuant to Act No. 285 of the Public Acts of 1931, being sections 125.31 to 125.45 of the Michigan Compiled Laws, serve as the board of directors provided for in this section.

**History:** 1974, Act 338, Imd. Eff. Dec. 18, 1974;—Am. 1976, Act 175, Imd. Eff. June 29, 1976;—Am. 1978, Act 467, Imd. Eff. Oct. 16, 1978;—Am. 1980, Act 501, Imd. Eff. Jan. 22, 1981;—Am. 1987, Act 67, Imd. Eff. June 25, 1987.

**Compiler's note:** Section 2 of Act 501 of 1980 provides: "This amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."

Act 86 of 1984 amended enacting section 2 of Act No. 501 of 1980 to read as follows: "Section 2. Except for the issuance of bonds and entry into loan agreements by a corporation to refund bonds issued before January 21, 1981, under Act No. 62 of the Public Acts of 1963, being sections 125.1251 to 125.1267 of the Michigan Compiled Laws, this amendatory act shall not take effect in a city with a population of greater than 750,000 persons until a subsidiary corporation described under section 6a has been created by the corporation of that city. In addition, any project for which a corporation has designated the project area at the time this amendatory act takes effect shall be exempt from the requirement of payment of the prevailing wage and fringe benefit rates described in section 8(4)(h)."


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## Section 7.13 - Election Commission:

An election commission is hereby created consisting of the Clerk and two qualified and registered electors of the City, who during their term of office shall not be candidates for elective city offices. These two members shall serve without compensation. These two members shall be appointed by the council annually in January for a term of one year. The Clerk shall be Chairman of the Election Commission and that the Election Commission shall appoint the Board of Election Inspectors for each precinct and have charge of all activities and duties required of it by Statute and this Charter relating to the conduct of Elections in this City. The compensation of Election personnel shall be determined in advance by the City Council. In any case where Election procedure is in doubt, the Election Commission shall prescribe the procedure to follow: Provided only that such procedure comply with all applicable State Statutes and the Constitution of the State of Michigan.

## RETIREMENT SYSTEM ORDINANCE

The Retirement System Ordinance was discussed by the Finance Director, Mr. Courtney, and the City Commission.

Resolution #64-1029
By Commissioner Hudson
Supported by Commissioner McAvoy

RESOLVED, to adopt the Ordinance dated December 2, 1963, as revised.

| | |
|---|---|
| yeas | All-6 |
| nays | none |
| absent | Gratopp |

Ordinance attached and made a part of these minutes.

## CIVIL SERVICE ORDINANCE #50

Resolution #64-1030
By Commissioner Sutermeister
Supported by Commissioner Fonseth

RESOLVED, that this matter be tabled until the City Manager submits a letter to City Employees informing them of their opportunity to submit a name to the Commission for appointment to the Civil Service Board.

| | |
|---|---|
| yeas | All-6 |
| nays | none |
| absent | Gratopp |

## CONSIDERATION OF MICHIGAN MUNICIPAL LEAGUE PROPOSAL (ACT 78)

Members of the Civil Service Board (Act 78), Mr. Deighan, Mr. Harrington, and Mr. Blair, were present to discuss this proposal with the members of the City Commission.

Resolution #64-1031
By Commissioner Hudson
Supported by Commissioner Houghtan

RESOLVED, that the Manager be authorized to respond to the letter from the Michigan Municipal League, November 12, 1964, concurring the recommendation as presented for review to Act #78, Fire and Police, plus the addition of Section 11 "Rule of One" regarding promotions on ability, to consider hiring top 2 or 3 on the test scoring.

No vote taken.

RETIREMENT SYSTEM ORDINANCE

City of Troy

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF TROY BY ADDING A NEW CHAPTER WHICH SHALL BE DESIGNATED AS CHAPTER 10 OF TITLE I OF SAID CODE

AN ORDINANCE to create and establish a retirement system, by authority given in Chapter 17, section 17.13 of the Charter of the City of Troy, to provide for the retirement of employees of the City who become superannuated due to age or disability; to provide conditions of membership in the retirement system; to provide pensions and other benefits to be paid upon the retirement of members and under certain conditions to the dependents of members who die before or after retirement; to provide for the financing of the retirement system by contributions to be made by members and the City; to provide for the return of contributions of members who leave City employment before becoming eligible to retire; to provide a board of trustees to administer the system; to provide for the investment of moneys of the system; and to delegate certain authority and responsibilities to the board of trustees.

THE CITY OF TROY ORDAINS:

Establishment of System: Effective Date:

Section 1.1. By authority given in Chapter 17, section 17.13 of the Charter of the City of Troy, there is hereby created and established the City of Troy Employees Retirement System.

Section 1.2. The effective date of the retirement system shall be January 1,1965.

Short Title:

Section 1.3. This ordinance may be cited as the City of Troy retirement system ordinance.

Definitions:

Section 2.1. The following words and phrases as used in this ordinance, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) "City" means the City of Troy, Michigan, and shall include its several departments, commissions, boards and agencies and shall include its predecessor, the township of Troy, Michigan.

(b) "Commission" means the Commission of the City of Troy.

(c) "Retirement system" or "system" means the City of Troy Employees Retirement System created and established by this ordinance.

(d) "Board of Trustees" or "Board" means the board of trustees provided for in this ordinance.

(e) "Employee" means any person in the employ of the City and shall include any person who holds an official position in the government of the City.

(f) "Member" means any employee who is included in the membership of the retirement system.

(g) "Retirant" means any member who retires with a pension payable from funds of the retirement system.

(h) "Beneficiary" means any person, except a retirant, who is in receipt of, or who has entitlement to, a pension or other benefit, payable from the funds of the retirement system.

(i) "Service" means personal service rendered to the City by an employee of the City.

(j) "Prior service" means the sum of (i) service rendered prior to January 1, 1965 but subsequent to December 31, 1961; plus (ii) one-half of service rendered prior to January 1, 1962.

(k) "Membership service" means service rendered after December 31, 1964

(l) "Credited Service" means the total of a member's prior service and membership service, to the extent such service is credited him by the Board of Trustees in accordance with the provisions of this ordinance.

(m) "Compensation" means the salary or wages paid an employee for personal services rendered by him to the City. The term "compensation" shall not include any allowances for clothing, equipment, travel expense or other similar items.

(n) "Final average compensation" means the average of the annual compensations paid a member during the period of 5 consecutive years of his credited service, producing the highest average, contained within his 10 years of credited service immediately preceding termination of his last employment with the City.

(o) "Regular interest" means such rate or rates of interest per annum, compounded annually, as the Board of Trustees shall from time to time adopt.

(p) "Accumulated contributions" means the sum of all amounts deducted from the compensations of a member and credited to his individual account in the members deposit fund, together with regular interest thereon.

(q) "Pension" means an annual amount payable by the retirement system throughout the future life of a person or for a temporary period as provided in this ordinance. All pensions shall be paid in equal monthly instalments.

(r) "Pension reserve" means the present value of all payments to be made on account of any pension, computed on the basis of such mortality and other tables of experience, and regular interest, as the Board of Trustees shall from time to time adopt.

(s) "Retirement" means a member's withdrawal from the employ of the City with a pension payable from the funds of the retirement system.

(t) The masculine gender shall include the feminine gender, and words of the singular number with respect to persons shall include the plural number, and vice versa.

Board of Trustees:

Section 3.1. There is hereby created a Board of Trustees in whom is vested the power and authority to administer, manage and operate the retirement system, and to construe and make effective the provisions of this ordinance. The Board shall consist of 5 trustees as follows:

(a) The City Manager, by virtue of his position.

(b) A Commissioner to be selected by the City Commission and to serve at the pleasure of the City Commission.

(c) A citizen, who is an elector of the City, and who is neither a member, retirant nor beneficiary of the retirement system, to be appointed by the Commission.

(d) Two members of the retirement system to be elected by the members of the system in accordance with such rules and regulations as the Board shall from time to time adopt to govern such elections: Provided, that no more than 1 such member trustee shall be from any 1 City department. The City Manager shall appoint such member trustees to serve on the first board.

Trustees' Terms of Office:

Section 3.2. For the first board of Trustees the term of office of the appointed citizen trustee shall expire December 31, 1967, and the terms of office of the 2 member trustees shall expire December 31, 1965 and December 31, 1966, as the City Manager shall designate. Thereafter, the regular term of office for the appointed citizen trustee and the 2 member trustees shall be 3 years. Each trustee shall continue to serve as trustee until his successor has qualified for the office of trustee.

Trustees' Terms of Office:

Section 3.2. For the first Board of Trustees the term of office of the appointed citizen trustee shall expire December 31, 1967, and the terms of office of the 2 member trustees shall expire December 31, 1965 and December 31, 1966 as the City Manager shall designate. Thereafter, the regular term of office for the appointed citizen trustee and the 2 member trustees shall be 3 years. Each trustee shall continue to serve as trustee until his successor has qualified for the office of trustee.

Trustees' Oath of Office:

Section 3.3. Each Trustee shall, within 10 days from and after his appointment or election as trustee take an oath of office before the City Clerk.

Vacancy on Board; How Filled:

Section 3.4. In the event a trustee fails to attend 3 consecutive meetings of the Board of Trustees, unless in each case excused for cause by the remaining trustees attending such meetings, or in the event a member trustee leaves the employ of the City, he shall be considered to have resigned from the Board and the Board shall, by resolution, declare his office of trustee vacated as of the date of such resolution. If a vacancy occurs in the office of trustee the vacancy shall be filled, for the unexpired portion of the term, in the same manner as the office was previously filled.

Board Quorum; Vote; Meetings; Proceedings:

Section 3.5. Three trustees shall constitute a quorum at any meeting of the Board of Trustees. Each trustee shall be entitled to 1 vote on each question before the Board and at least 3 concurring votes shall be required for a decision by the Board at any of its meetings. The Board shall hold meetings regularly, at least 1 in each quarter year and shall designate the time and place therof. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Board shall be public.

Board Chairman; Retirement System Officers; Employees:

Section 3.6. (a) The Board of Trustees shall designate from its own number a chairman and a vice-chairman.

(b) The City Clerk shall serve as secretary to the Board of Trustees.

(c) The City Treasurer shall be the treasurer of the retirement system, and he shall be the custodian of its moneys and investments.

(d) The Finance Director shall be the administrative officer of the retirement system.

(e) The City Attorney shall be the legal advisor to the Board of Trustees.

(f) The Board of Trustees shall designate an actuary who shall be the technical advisor to the Board and who shall perform such other duties as are required of him under this ordinance.

(g) The Board of Trustees may employ such other services as are approved by the City Manager and authorized by the Commission.

Records; Annual Reports:

Section 3.7. The administrative officer shall keep, or cause to be kept, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the retirement system. The Board of Trustees shall annually render a report to the Commission showing the fiscal transactions of the system for the preceding fiscal year, and shall furnish the Commission such additional information regarding the operation of the system as the Commission shall from time to time request.

Experience Tables; Regular Interest; Adoption of:

Section 3.8. The Board of Trustees shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are required in the proper operation of the retirement system: Provided, that no such rate or rates of regular interest shall exceed four percent per annum, compounded annually.

Membership in Retirement System:

Section 4.1. (a) The membership of the retirement system shall include, subject to paragraph (c) of this section, all persons who are in the employ of the City on December 31, 1964 and who continue in the employ of the City on and after the effective date of the retirement system: Provided, that any such employee may elect, prior to April 1, 1965, to decline membership in the retirement system by filing his written notice of declination, on a form provided by the Board of Trustees, with the Board prior to April 1, 1965. An employee who

has elected to decline membership may subsequently elect to become a member of the retirement system by filing written applic tion with the Board on a form provided by the Board: Provided, that in no case shall such employee receive credit for service rendered prior to the date he becomes a member.

(b) The membership of the retirement system shall include, subject to paragraph (c) of this section, all persons who become employed or become reemployed by the City on and after the effective date of the retirement system, notwithstanding that such person may have previously declined membership.

(c) The membership of the retirement system shall not include (1) any employee who is employed by the City in a position normally requiring less than 1000 hours of work per annum, (2) any employee whose services are compensated on a contractual or fee basis, except as reviewed by the Board of Trustees and approved by the City Commission, (3) volunteer firemen as such, and (4) elected officials of the City.

(d) In any case of doubt as to the membership status of any employee, the Board of Trustees shall decide the question.

Termination of Membership:

Section 4.2. Should any member cease to be employed in a position covered by the retirement system, for any reason except his leave of absence, approved by the City Manager, retirement, or death, he shall thereupon cease to be a member and his credited service at that time shall be forfeited by him, unless otherwise provided in this ordinance. In the event he is re-employed by the City in a position covered by the system he shall again become a member, notwithstanding that he may have previously declined membership. Should his said re-employment occur within a period of 5 years from and after the date he last ceased to be a member, his credited service last forfeited by him shall be restored to his credit, provided he returns to the members deposit fund the amount, if any, he withdrew therefrom, together with regular interest thereon from the date of withdrawal to the date of repayment. Upon a member's retirement, he shall thereupon cease to be a member of the system.

Service Credit:

Section 4.3. The Board shall fix and determine by appropriate rules and regulations the amount of service to be credited any member: Provided, that in no case shall less than 10 days of service rendered by him in any calendar

month be credited as a month of service, nor shall less than 10 months of service rendered by him in any calendar year be credited as a year of service, nor shall more than 1 year of service be credited any member for all service rendered by him in any calendar year. Based on such rules and regulations, and the provisions of this ordinance, the Board shall credit each member with the service rendered by him before and after January 1, 1965.

Military Service Credit:

Section 4.4. In the event an employee of the City, who while employed by the City, entered, or a member enters, the armed forces of the United States during any period of compulsory military service, such armed service shall be credited him as City service: Provided, that (1) he re-enters the employ of the City, in a position covered by this retirement system, within 6 months from and after termination of such armed service actually required of him, and (2) he pays into the members deposit fund the amount, if any, he may have withdrawn therefrom, together with regular interest from the date of withdrawal to the date of repayment, and (3) in no case shall any member be credited with more than 5 years of service for all such armed service rendered by him. In any case of doubt as to the period to be so credited any member, the Board of Trustees shall have final power to determine such period. During the period of such armed service and until his return to the employ of the City in a position covered by this retirement system shall be suspended.

Voluntary Retirement:

Section 5.1. Any member, who has attained age 60 years and has 10 or more years of credited service in force, may retire upon his written application filed with the Board of Trustees setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. Upon his retirement he shall be entitled to a pension provided for in section 6.1 of this ordinance.

Normal Retirement:

Section 5.2. Any member shall be separated from the employ of the City the first day of the calendar month next following the month in which he attains age 65 years: Provided, that such a member may be continued in City employment

[illegible] his attainment of age 65 years for periods not to extend beyond his attainment of age 68 years, if (1) he requests in writing to be continued in City employment, and (2) his request is approved by the City Manager or the Commission, as the case may be. If a member, who is so separated from City employment has 10 or more years of credited service in force he shall be retired and he shall be entitled to a pension provided for in section 6.3 of this ordinance.

Deferred Retirement:

Section 5.3. In the event a member who has attained age 50 years and has 15 or more years of credited service, or who has 20 or more years of credited service regardless of age, leaves the employ of the City before he is eligible to retire as provided in section 5.1 of this ordinance, he shall be entitled to a pension computed according to the provisions of section 6.1 of this ordinance in force at the time of the said member's separation from City employment: Provided, that he does not withdraw his accumulated contributions from the members deposit fund. His said pension shall begin the first day of the calendar month next following the month in which he files his application for same with the Board of Trustees on or after his attainment of age 65 years.

Straight Life Pension:

Section 6.1. Upon a member's retirement, as provided in this ordinance, he shall receive a straight life pension equal to the number of years, and fraction of a year, of his credited service multiplied by the sum of 1 percent of the first $4800 of his final average compensation plus 1.5 percent of the portion, if any, of his final average compensation in excess of $4800.

Terminal Payments:

Section 6.2. In the event a retirant dies before he has received in straight life pension payments an aggregate amount equal to his accumulated contributions standing to his credit in the members deposit fund at the time of his retirement, the difference between his said accumulated contributions and the said aggregate amount of straight life pension payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person or persons surviving the said retirant, such difference, if any, shall be paid to his [illegible] shall any benefits be paid under this section on account [illegible] for in section 6.3 of this ordinance.

Pension Options:

Section 6.3. Prior to the effective date of his retirement, but not thereafter, a member may elect to receive his pension as a straight life pension payable throughout his life; or, he may elect to receive the actuarial equivalent, at that time, of his straight life pension in a reduced pension payable throughout his life, and nominate a beneficiary, in accordance with the provisions of option A or B set forth below:

Option A. Joint and Survivor Pension: Upon the death of a retirant, who elected option A, his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees prior to the date of his retirement; or

Option B. Modified Joint and Survivor Pension: Upon the death of a retirant, who elected option B, one-half of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board of Trustees prior to the date of his reitrement.

Disability Retirement:

Section 7.1. Upon the application of a member, or his department head, a member who (1) is in the employ of the City, (2) has 10 or more years of credited service, and (3) becomes totally and permanently incapacitated for duty in the employ of the City, by reqson of a personal injury or disease, may be retired by the Board of Trustees: Provided, that after a medical examination of the said member made by or under the direction of a medical committee consisting of 2 physicians, 1 of whom shall be named by the Board, and 1 by the said member, the said medical committee reports to the Board, in writing, (1) that the said member is mentally or physically totally incapacitated for duty in the employ of the City, (2) that his incapacity will probably be permanent, and (3) that the said member should be retired. In the event that the 2 physicians constituting the said medical committee do not agree in their findings, then the Board may, in its discretion, appoint a third physician to examine said member and based upon the report, in writing, of the third physician, the Board may retire said member. The 10 years credited service requirement contained in this section shall be waived in the

case of a member whom the Board finds (1) to be totally and permanently incapacitated for duty in the employ of the City as a natural and proximate result of a personal injury or disease arising out of and in the course of his actual performance of duty in the employ of the City and (2) to be in receipt of workmen's compensation on account of his disability arising out of and in the course of his City employment.

Disability Pension:

Section 7.2. Upon the retirement of a member on account of disability, as provided in section 7.1 of this ordinance, he shall receive a pension computed in accordance with the provisions of section 6.1 of this ordinance: Provided, that his straight life disability pension shall not be less than the sum of 10 percent of the first $4800 of his final average compensation plus 15 percent of the portion, if any, of his final average compensation in excess of $4800; and provided further, that his said disability pension shall be subject to sections 7.3, 7.4, 7.5 and 7.6 of this ordinance. Upon his retirement, he shall have the right to elect an option provided for in section 6.3 of this ordinance.

Service Credit for Workmen's Compensation Period:

Section 7.3. Upon termination of the statutory period for payment of a retirant's workmen's compensation, if he was in receipt of workmen's compensation on account of his disability arising out of and in the course of his City employment, his credited service at time of disability retirement shall be increased by the statutory period for the payment of his workmen's compensation and his disability pension shall be recomputed based upon such increased credited service: Provided, that in no case shall such recomputed disability pension be less than the sum of 10 percent of the first $4800 of his final average compensation plus 15 percent of the portion, if any, of his final average compensation in excess of $4800.

Re-Examination of Disability Retirant:

Section 7.4. At least once each year during the first 5 years following a member's retirement on account of disability, and at least once in every 3 year period thereafter, the Board of Trustees may, and upon the retirant's application shall, require any disability retirant who has not attained age 60

years to undergo a medical examination to be made by or under the direction of a physician designated by the Board. If the said retirant refuses to submit to such medical examination in any such period his disability pension may be suspended by the Board until his withdrawal of such refusal. Should such refusal continue for 1 year all his rights in and to a disability pension may be revoked by the Board. If upon such medical examination of said retirant, the said physician reports to the Board that the said retirant is physically able and capable of resuming employment with the City he shall be returned to City employment and his disability pension shall terminate: Provided, that the report of the said physician is concurred in by the Board. In returning the said retirant to City employment reasonable latitude shall be allowed the City in placing him in a position commensurate with his type of work and compensation at the time of his retirement.

Section 7.5. A disability retirant who is returned to City employment, as provided in section 7.4 of this ordinance, shall again become a member of the retirement system. His credited service at the time of his retirement shall be restored to full force and effect. He shall be given service credit for the period he was in receipt of workmen's compensation on account of his disability arising out of and in the course of his City employment; otherwise he shall not be given service credit for such period.

Section 7.6. In the event a disability retirant, who has not attained age 60 years becomes engaged in gainful occupation, business, or employment paying him more than the difference between his annual rate of compensation at the time of his retirement and his disability pension, his said pension shall be reduced to an amount which together with the amount so earned by him shall equal but not exceed his said annual rate of compensation. Should the said retirant's earnings change, the reduction of his said pension shall be adjusted accordingly.

Duty Death Pension:

Section 8.1. In the event a member dies as the result of a personal injury or disease arising solely and exclusively out of and in the course of his employment with the City, and such death, or injury or disease resulting in such death, be found by the Board of Trustees to have been the result of his actual performance of duty in the employ of the City, the applicable benefits

provided in section 8.2 of this ordinance shall be paid, subject to the condition that workmen's compensation becomes payable on account of the death of the said member, and subject to paragraph (d) of section 8.2 of this ordinance.

Section 8.2 (a) The said member's accumulated contributions standing to his credit in the members deposit fund at the time of his death shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If no such designated person or persons survives the said member, his accumulated contributions shall be paid to his estate.

(b) His widow shall receive a pension equal to 25 percent of the said member's final average compensation. The said widow's pension shall begin as of the date of death of the said member and shall terminate upon her death or remarriage.

(c) If there be no widow , or if the widow's pension shall cease, for any reason, the said member's dependent children shall share equally in a pension equal to 25 percent of the said member's final average compensation. Each child's pension shall terminate when the said child has either died, married, or attained age 18 years.

(d) As used in this section, the term "widow" means any person to whom the said member was married at the time his employment with the City is terminated. In no event shall benefits be paid concurrently under this section and under sections 8.3 or 8.4 on account of the death of said member.

Non-Duty Death Pensions:

Section 8.3 Any member who continues in the employ of the City after the date he either (1) acquires 25 years of credited service, or (2) attains age 55 years and has 10 or more years of credited service, may, at any time prior to the effective date of his retirement, elect option A provided for in section 6.3 of this ordinance, and nominate a beneficiary whom the Board of trustees finds to be dependent upon the said member for at least 50 percent of his financial support. At any time prior to the effective date of his retirement, the said member may revoke his election of option A and nomination of beneficiary and he may again elect option A and nominate a beneficiary

and he may again elect option A and nominate a beneficiary as provided in this section. Upon the death of a member who has an option election in force as provided in this section, his beneficiary shall immediately receive a pension computed in the same manner in all respects as if the said member had retired the day preceding the date of his death, notwithstanding that he might not have been otherwise eligible to retire. In the event a member has an option election in force at the time of his retirement his said election of option and nomination of beneficiary shall thereafter continue in force.

Section 8.4. Any member who continues in the employ of the City after the date he either (1) acquires 25 years of credited service, or (2) attains age 55 years and has 10 or more years of credited service, and in either case does not have an option election in force as provided in section 8.3 of this ordinance, and (1) dies while in the employ of the City, and (2) leaves a widow, or in the case of a female member leaves a widower whom the Board of Trustees finds to be totally and permanently disabled and to be dependent upon the said female member for at least 50 percent of his financial support, the said widow or widower, as the case may be, shall immediately receive a pension computed in the same manner in all respects as if the said member had (1) retired the day preceding the date of his death, notwithstanding that he might not have been otherwise eligible to retire, (2) elected option A provided for in section 6.3 of this ordinance, and (3) nominated his said widow or widower, as the case may be, as beneficiary. Upon the remarriage of the said widow or widower her or his pension shall terminate.

Members Deposit Fund:

Section 9.1. The members deposit fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contributions of members, and from which shall be made refunds and transfers of accumulated contributions, as provided in this ordinance.

Section 9.2. A member's contributions to the retirement system shall be the sum of 3 percent of the first $4800 of his annual compensation plus 5 percent of the portion, if any, of his annual compensation in excess of $4800.

Section 9.3. The officer or officers responsible for making up the payroll shall cause the contributions provided for in section 9.2 of this ordinance to be deducted from the compensations of each member on each and every payroll, for each and every payroll period, from the date of his entrance in the retirement system to the date his City employment terminates. The members' contributions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member is thereby changed. Each member shall be deemed to consent and agree to the deductions made and provided for herein. Payment of his compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by him during the period covered by such payment, except as to benefits provided by this ordinance. When deducted, each of said contributions shall be paid to the retirement system and shall be credited to the member's individual account in the members deposit fund from whose compensation said deduction was made.

Section 9.4. In addition to the contributions deducted from the compensations of a member, as hereinbefore provided, a member shall deposit in the members deposit fund, by a single contribution or by an increased rate of contribution approved by the Board, all amounts he may have withdrawn therefrom and not repaid thereto, together with regular interest thereon from the date of withdrawal to the date of repayment. In no case shall any member be given credit for service rendered prior to the date he withdrew his accumulated contributions until he repays to the members deposit fund the amounts due said fund by him.

Section 9.5. Upon a member's retirement, his accumulated contributions standing to his credit in the members deposit fund shall be transferred to the retirement reserve fund. Except as otherwise provided in this ordinance, at the expiration of a period of 7 years from and after the date a member ceases to be an employee of the City, any balance standing to his credit in the members deposit fund, unclaimed by the said member or his legal representative, shall be transferred to the income fund.

Refund of Member's Contributions:

Section 9.6. Should any member cease to be employed by the City and not be entitled to a pension payable from funds of the retirement system, he shall

be paid the balance standing to his credit in the members deposit fund, provided he files his written application for same with the Board of Trustees.

Section 9.7. Upon the death of a member, if no pension becomes payable on account of his City employment, the balance standing to his credit in the members deposit fund at the time of his death shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board of Trustees. If no such designated person or persons survives the said member his said accumulated contributions shall be paid to his estate.

Section 9.8. Payment of refunds of members deposit fund balances, as provided in this section, may be made in equal instalments according to such rules and regulations as the Board of Trustees shall from time to time adopt.

Pension Reserve Fund:

Section 10.1. The pension reserve fund is hereby created. It shall be the fund in which shall be accumulated the contributions made by the City to the retirement system and from which shall be made transfers of pensions reserves, as provided in this section.

Section 10.2 Upon the basis of such mortality and other tables of experience, and regular interest, as the Board of Trustees shall from time to time adopt, the actuary shall annually compute the pension reserves for service rendered and to be rendered by members, and the pension reserves for pensions being paid retirants and beneficiaries. The pension reserve liabilities so determined shall be financed by annual City contributions to be appropriated by the Commission; said contributions to be in accordance with the provisions of sub-paragraphs (a), (b) and (c) set forth below:

(a) The appropriations for members' current service shall be a percent of their annual compensations which will produce an amount which if paid annually by the City during their future service will be sufficient, at the time of their retirements, to provide the pension reserves, not financed by members' future contributions, for the portions of the pensions to be paid them based upon their future service; and

(b) The appropriation for members' accrued service shall be a percent of their annual compensations which will produce an amount which if paid annually by the City over a period of years, to be determined by the Commission, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they may be entitled upon retirement; and

(c) The appropriation for pensions being paid retirants and beneficiaries shall be a percent of the annual compensations of members which will produce an amount which if paid annually by the City over a period of years, to be determined by the Commission, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

Section 10.3. In the event the amount appropriated in the budget in any fiscal year is insufficient to pay in full the amounts due in said year to all retirants and beneficiaries of the retirement system the amount of such insufficiency shall thereupon be provided by the City.

Section 10.4. Upon the retirement of a member the difference between the pension reserve for the pension payable on his account and his accumulated contributions shall be transferred from the pension reserve fund to the retirement reserve fund.

Retirement Reserve Fund:

Section 10.5. The retirement reserve fund is hereby created. It shall be the fund from which shall be paid all pensions as provided in this ordinance. In the event a disability retirant returns to City employment his pension reserve at that time shall be transferred from the retirement reserve fund to the members deposit fund and the pension reserve fund in the same proportion as the pension reserve was originally transferred.

Income Fund:

Section 10.6. The income fund is hereby created. It shall be the fund to which shall be credited all interest, dividends, and other income from investments of the retirement system; all transfers from the members deposit fund by reason of lack of claimant; and all other moneys received by the retirement system, the disposition of which is not specifically otherwise

provided for in this ordinance. The boar of Trustees may accept gifts and bequests and the same shall be credited to the income fund. There shall be transferred from the income fund all amounts required to credit regular interest to the members deposit fund, retirement reserve fund, and pension reserve fund, as provided in this ordinance. Whenever the Board determines that the balance in the income fund is more than sufficient to cover the current charges to the fund, the Board may, by resolution, provide for contingency reserves, or for the transfer of such excess or portion thereof to cover the needs of the other funds of the retirement system, except the expense fund.

Other Funds:

Section 10.7. The Board of Trustees may create such other funds as it deems necessary for proper operation of the retirement system.

Investment of Moneys:

Section 11.1. The Board of Trustees shall be the trustees of the funds of the retirement system and shall have full power, subject to section 11.2 of this ordinance, to invest and reinvest such funds in:

(a) Bonds or warrants of the United States, the state of Michigan or in the bonds of any other State of the United States.

(b) General obligation bonds of any county, township, municipal corporation, school district or any other legally constituted taxing or bond issuing authority within the State of Michigan.

(c) Obligations secured by first liens on real estate, or by pledge of specific income or revenue, and issued, insured, or guaranteed by any agency or instrumentality of the United States or the state of Michigan.

(d) Notes, bonds, or debentures which are direct obligations of corporations created or existing under the laws of the United States, or any state, district, or territory thereof. Provided, the said notes, bonds or debentures are rated, at the time of purchase, within the three highest classifications established by any 2 nationally recognized investment services as may, from time to time, be designated by the Board of Trustees.

(e) In stocks, preferred or common, of corporations created or existing under the laws of the United States, or any state, district or territory thereof: Provided, at time of purchase, the notes, bonds or

debentures of said corporation would qualify for the investment of funds of the retirement system under section 11.1 (d) of this ordinance.

(f) In savings accounts in a national bank located in the state or in a state bank located in and organized under the laws of the state: Provided, that no deposit shall be made unless the deposits of the depository bank are insured by the Federal Deposit Insurance Corporation, created under an act of Congress of the United States.

(g) In mutual funds or in pool funds.

Section 11.2. In no event shall more than 50 percent of the assets of the retirement system be invested in securities specified in section 11.1 (e) of this ordinance; nor more than 10 percent of the assets of the retirement system in the stocks of any single corporation. For purposes of this section assets shall be valued at cost price plus accrued discount or less amortized premium.

Restricted Use of Funds:

Section 11.3. All moneys and investments of the retirement system shall be held for the exclusive purpose of meeting the disbursements for pensions and other payments authorized by this ordinance and shall be used for no other purpose whatsoever. Available cash on deposit shall not exceed 10 percent of the total assets of the retirement system.

Assets Not Segregated:

Section 11.4. The members deposit fund, pension reserve fund, retirement reserve fund, income fund, and any other funds created by the Board of Trustees shall be interpreted to refer to the accounting records of the retirement system and not to the actual segregation of the assets of the system in the said funds.

Allowowance of Regular Interest:

Section 11.5. The Board of Trustees shall, at the end of each fiscal year, allow and credit regular interest to the members' individual accounts in the members deposit fund computed upon their individual balances at the beginning of such fiscal year; and to the mean balances for the year in the pension reserve fund and the retirement reserve fund. The amounts of

interest so credited shall be charged to the income fund. In the event the balance in the income fund is not sufficient to cover the amounts of interest charged to it, the amount of such insufficiency shall be transferred from the pension reserve fund to the income fund.

No Trustee Shall Gain from Investments of the System:

Section 11.6. Except as otherwise provided in this ordinance, no trustee and no employee of the City shall have any interest direct or indirect in the gains or profit arising from any investments made by the Board of Trustees. No person directly or indirectly, for himself or as an agent or partner of others, shall borrow any moneys or investments of the retirement system, or in any manner use the same except to make current and necessary payments as are authorized by the Board. No such person shall become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the Board. Nothing contained herein shall be construed to impair the rights of any member, retirant, or beneficiary of the retirement system to benefits provided by the system.

Method of Making Payments:

Section 11.7. All payments from moneys of the retirement system shall be made by the City Treasurer; Provided, that such payments shall be made only upon the written authority signed by 2 persons designated by the Board of Trustees. A duly attested copy of a resolution designating such persons and bearing upon its face specimen signatures of such persons shall be filed with the City Treasurer. No such written authority to make payments from the moneys of the system shall be executed unless the payment or payments shall have been previously authorized by a specific or continuing resolution adopted by the Board.

Correction of Errors:

Section 12.1. Should any change or error in the records of the City or the retirement system result in any person receiving from the system more or less than he would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error and as far as is practicable shall adjust the payment of the benefit in such manner that

the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

Subrogation:

Section 12.2 In the event a person becomes entitled to a pension or other benefit payable by the retirement system as the result of an accident or injury caused by the act of a third party, the City shall be subrogated to the rights of the said person against such third party to the extent of the benefits to which the City pays or becomes liable to pay.

Assignments Prohibited:

Section 12.3. The right of a person to a pension, to the return of accumulated contributions, the pension itself, any pension option, and any other right accrued or accruing to any member, retirant or beneficiary, under the provisions of this ordinance, and all moneys belonging to the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this ordinance: Provided, that if a member is covered by a agroup insurance or prepayment plan participated in by the City, and should he be permitted to, and elect to, continue such coverage as a retirant, he may authorize the Board of Trustees to have deducted from his pension the payments required of him to continue coverage under such group insurance or prepayment plan; provided further, that the City shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

Fraud Penalty:

Section 12.4. Whoever with intent to deceive shall make any statement or report required under this ordinance which is untrue, or shall falsify or permit to be falsified any record or records of the retirement system shall be fined not to exceed $500 or imprisoned for not to exceed 90 days, or both in the discretion of the Court, together with costs of prosecution.

Pension Suspended:

Section 12.5. Except as otherwise provided in this ordinance, in the event a retirant or beneficiary is employed or re-employed by the City, payment of his pension shall be suspended during the period of his employment or re-employment. Upon termination of such employment or re-employment, payment of his pension shall be resumed. During the period of his re-employment by the City, he shall not again become a member of the retirement system.

Validity:

Section 12.6. If any provision, section, sub-section, paragraph, sentence, clause, phrase, or word contained in this ordinance is for any reason held to be unconstitutional by any Court, such decision shall not affect the validity of the remaining provisions, sections, sub-sections, paragraphs, sentences, clauses, phrases, and words of this ordinance or the ordinance in its entirety.

Date and Publication:

Section 12.7. This Ordinance shall become effective ten (10) days from the date hereof or upon publication whichever shall later occur. This Ordinance is enacted by the Commission of the City of Troy, Oakland County, Michigan, at a regular meeting of said City Commission held at the Troy City Offices, 60 W. Wattles Road, Troy, Michigan, on the 23rd day of November, 1964.

MAYOR

City Clerk

1/19/65

A Meeting of the Pension Board was held at the Troy City Offices on Tuesday, January 19, 1965, at 8:30 a.m.

PRESENT: Kenneth Courtney
Wallace B. Hudson
Ben Jones
Fred Stanley
Paul A. York

ABSENT: None

## TRUSTEES OATH OF OFFICE

Mr. Lockhart, City Clerk, administered the Oath of Office to the members of the Pension Board.

## ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

ERS-1 Motion by York
Supported by Stanley

MOVED that Wallace Hudson be nominated as Chairman of the Pension Board.

Motion by Courtney
Supported by York

MOVED that nominations for Chairman of the Pension Board be closed.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

Wallace Hudson elected as chairman of the Pension Board by unanimous decision.

ERS-2 Motion by Stanley
Supported by York

MOVED that Kenneth Courtney be nominated as Vice-Chairman of the Pension Board.

Motion by Stanley
Supported by York

MOVED that nominations for Vice-Chairman of the Pension Board be closed.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

Kenneth Courtney elected as Vice-Chairman of the Pension Board by unanimous decision.

******

Mr. Hudson stated that we should establish a regular procedure of holding our meetings such as the City Commission.

ERS-3 Motion by Jones
Supported by York

MOVED, that all meetings be held according to Roberts Rules of Order.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

## SELECTION OF ACTUARY

Mr. Courtney gave a short resume on this matter.

ERS-4 Motion by York
Supported by Stanley

MOVED, that Gabriel, Roeder, Smith & Co. be selected as our Actuaries.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

## ADOPTION OF MORTALITY TABLE

ERS-5 Motion by Jones
Supported by Courtney

RESOLVED, that the adoption of a Mortality Table be tabled until we can obtain information from a representative of Gabriel, Roeder Smith, & Co.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

## INTEREST RATE

ERS-6 Motion by York
Supported by Stanley

RESOLVED, that the amount of interest credited to the members deposit fund on the 1st day of the fiscal year shall be 3% of the minimum balance during the fiscal year.

| | |
|---|---|
| yeas | Courtney, Hudson, Stanley, York |
| nays | Jones |
| absent | none |

## CITY ATTORNEY'S MEMBERSHIP

ERS-7 Motion by York
Supported by Stanley

MOVED to recommend to the City Commission that Mr. Burke, City Attorney, be given membership in the Retirement System with prior service of 4 years and 4 months.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

## PRIOR SERVICE CREDIT

ERS-8 Motion by Stanley
Supported by Hudson

MOVED to approve the prior service credited to employees as presented.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

A list of the employees and their prior service attached and made a part of these minutes.

## RECIPROCAL RETIREMENT ACT

ERS-9 Motion by Jones
Supported by Hudson

MOVED to recommend to the City Commission that they consider the Reciprocal Retirement Act.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

## BANK ACCOUNT

ERS-10 Motion by York
Supported by Stanley

RESOLVED, that the City of Troy Employees Retirement System check account be opened as a regular City account at the Troy National Bank.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

## INVESTMENT ADVISORS

ERS-11 Motion by Stanley
Supported by York

MOVED to authorize Mr. Courtney to invest money in Certificate of Deposit at the Troy National Bank.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

******

The next meeting of the Pension Board will be held on Tuesday, January 26, 1965, at 8:30 a.m.

******

ERS-12 Motion by Hudson
Supported by Jones

MOVED to adjourn at 9:37 a.m.

| | |
|---|---|
| yeas | All-5 |
| nays | none |
| absent | none |

WALLACE B. HUDSON, Chairman

| | PRIOR YEARS | SERVICE MONTHS |
|---|---|---|
| W. RENSHAW | 20 | 1 |
| C. TRUESDELL | 8 | 4 |
| W. SCHWANDT | 7 | 8 |
| E. SACKNER | 7 | 6 |
| R. MORTENSON | 6 | 4 |
| R. HOFFMAN | 5 | 10 |
| L. LOCKHART | 5 | 10 |
| R. SACKNER | 5 | 10 |
| D. LINDSEY | 5 | 9 |
| H. KRELL | 5 | 8 |
| R. MAJOR | 5 | 8 |
| C. LACKEY | 5 | 7 |
| F. POOLE | 5 | 7 |
| O. BROWN | 5 | 2 |
| M. EBELING | 5 | 2 |
| L. HALSEY | 5 | 2 |
| G. REED | 5 | 2 |
| J. ROSKOVENSKY | 5 | 2 |
| R. SPENCER | 5 | 2 |
| G. WELCOME | 5 | 2 |
| F. ROBINSON | 5 | 1 |
| J. WISNIEWSKI | 4 | 9 |
| C. GREEN | 4 | 8 |
| A. KOSS | 4 | 8 |
| F. TEASDALE | 4 | 8 |
| C. WOMACK | 4 | 8 |
| A. WHITE | 4 | 7 |
| C. CAMPBELL | 4 | 3 |
| A. FRANZEN | 4 | 3 |
| D. BUFKIN | 4 | 2 |
| E. HILDEBRANDT | 4 | 2 |
| D. SCHOFIELD | 4 | 2 |
| A. VENTITELLI | 4 | 2 |
| L. CAPALDI | 4 | 1 |
| R. ROBERTSON | 4 | 1 |
| C. McPHERSON | 3 | 9 |
| L. YOUNG | 3 | 9 |
| E. ZANNI | 3 | 9 |
| F. GREEN | 3 | 8 |
| M. HILL | 3 | 8 |
| A. GRESHAM | 3 | 7 |
| M. FRENG | 3 | 4 |
| J. McGOOGAN | 3 | 3 |
| L. FORD | 3 | 2 |
| R. BOOTH | 3 | 1 |
| R. CLARK | 3 | 1 |
| M. GLAYSHER | 3 | 1 |
| W. CARR | 2 | 11 |
| E. FRANZEN | 2 | 8 |
| R. KILMER | 2 | 7 |

| | PRIOR YEARS | SERVICE MONTHS |
|---|---|---|
| R. MITCHELL | 2 | 4 |
| S. THURSTON | 2 | 3 |
| F. YOUNK | 2 | 3 |
| R. VAN HESE | 1 | 11 |
| R. CAIRNS | 1 | 9 |
| K. COURTNEY | 1 | 9 |
| D. EVERLOVE | 1 | 6 |
| P. HYNES | 1 | 6 |
| M. LEE | 1 | 6 |
| T. MORRIS | 1 | 6 |
| G. SUNBERG | 1 | 6 |
| A. DEPEW | 1 | 4 |
| C. KONCZYK | 1 | 4 |
| S. BURKE | 4 | 4 |
| F. FISHER | 1 | 3 |
| R. GRAHAM | | 10 |
| E. LAMONT | | 10 |
| J. LORAM | | 10 |
| F. STANLEY | | 9 |
| J. EWERS | | 7 |
| J. HARRIS | | 5 |
| W. MASSIE | | 5 |
| E. McPHERSON | | 5 |
| P. YORK | | 4 |
| K. MORROW | | 1 |
| J. BOCK | | 1 |
| M. WATSON | | 1 |

(N) Retirement means a member's withdrawal from the employ of the city with a pension payable from the funds of the retirement system.

(O) Retirement system or system means the city employees retirement system created and established by this chapter.

(P) Service means personal service rendered to the city by an employee of the city.

(Rev. 02-11-91)

2. Board of Trustees. The Board of Trustees is vested with the power and authority to administer, manage and operate the retirement system, and to construe and make effective the provisions of this Chapter. The Board shall consist of eight trustees as follows:

(Rev. 03-01-04)

(A) The City Manager, by virtue of his position.

(B) The Assistant City Manager/Finance & Administration, by virtue of his position.

(Rev. 11-6-00)

(C) A member of Council selected by the Council.

(Rev. 02-28-94)

(D) A citizen, who is an elector of the City, and who is not a member, retirant or beneficiary of the retirement system, and who is not a member of the Council, to be appointed by the Council.

(Rev. 09-11-78)

(E) Three members of the retirement system to be elected by the members of the system in accordance with such rules and regulations as the Board shall from time to time adopt to govern such elections.

(F) A retiree member in the Defined Benefit plan, who shall be appointed by the City Council, and shall serve as a non-voting member.

(g) Of the five employee members, two must be in the Defined Benefit plan. A minimum of two of the five member trustees, as set forth in paragraphs A, B or E, must be a member of the Defined Benefit plan.

(Rev. 03-01-04)

3. Terms of Office. The regular term of office for the appointed citizen, the 3 member trustees, and the Council trustee, shall be 3 years.

(Rev. 02-28-94)

Vacancy of Board

3.4 If a member trustee leaves the employ of the City he shall be considered to have resigned from the Board and the vacancy shall be filled for the unexpired portion of the term.

(Rev. 02-11-91)

Board Quorum, Vote, Meetings, Proceedings

3.5 Four trustees shall constitute a quorum at any meeting of the Board of Trustees. Each trustee shall be entitled to one vote on each question before the Board and at least four concurring votes shall be required for a decision by the Board. The Board shall hold meetings regularly, at least one in each quarter year, and shall designate the time and place thereof. The Board shall adopt its own rules of procedure.

(Rev. 02-11-91)

Board Chairman, Retirement System Officers, Employees

3.6 (A) The Board of Trustees shall designate from its own number a Chairman and a Vice-Chairman.

(B) The City Treasurer shall be the Treasurer of the Retirement System.

(C) The Assistant City Manager/Finance & Administration shall be the Administrative Officer and serve as secretary of the Retirement System and he shall be the custodian of its money and investments.

(Rev. 11-6-00)

(D) The City Attorney shall be the Legal Advisor to the Board of Trustees.

(E) The Board of Trustees shall designate an actuary who shall be the Technical Advisor to the Board and who shall perform such other duties as are required of him under this Chapter.

(F) The Board of Trustees may employ such other services as are approved by the City Manager and authorized by the Council.

(Rev. 06-7-99)

NOW, THEREFORE, BE IT RESOLVED, That the City of Troy recognizes the far-reaching impact of diverting transportation revenues from the Public Act 51 distribution formula and calls upon the Michigan Legislature to support the increase in the diesel fuel tax only if the additional revenue is distributed equitably to MDOT, County Road Commissions, Cities and Villages based on the distribution formula in 1951 Public Act 51; and

BE IT FURTHER RESOLVED, That a certified copy of this resolution be transmitted to State Representative Robert Gosselin, State Representative John Pappageorge and State Senator Shirley Johnson, and the State and Federal Affairs Division of the Michigan Municipal League.

**Vote on Postponement**

Resolution #2002-03-178
Moved by Howrylak
Seconded by Pryor

RESOLVED, That the resolution supporting the "Inequitable Distribution of Proposed Diesel Fuel Tax Increase" be postponed until the proposed legislation is passed by the Michigan Legislature.

Yes: Pryor, Beltramini, Howrylak, Kaszubski, Lambert, Pallotta
No: Schilling

**MOTION CARRIED**

**F-9 Council Member Kaszubski's Request for the Formation of an Ethnic Community Issues Advisory Committee**

Resolution #2002-03-179
Moved by Pallotta
Seconded by Howrylak

RESOLVED, That at the request of Council Member Kaszubski, Mayor and City Council approves the formation of an Ethnic Community Issues Advisory Committee, to consist of nine members rotating two-or three-year terms; and

BE IT FURTHER RESOLVED, That the Community Affairs Department and the City Manager's Office will provide staff liaisons.

Yes: All-7

TROY ETHNIC ISSUES ADVISORY BOARD – FINAL March 18, 2003

Call to Order

The regular meeting was called to order at 7:05 p.m.

Roll Call

| | | |
|---|---|---|
| Present: | Anju Brodbine | Dhimant Chhaya |
| | Amin Hashmi | Tom Kaszubski |
| | Padma Kuppa | Oniell Shah |
| | Cindy Stewart | |
| Absent: | Brian Griffen | Victoria Lang |
| | Hailu Robele | |

Correspondence

Tom K: Need a person from Hindu Temple to take part in Prayer Breakfast on May 2 - Padma will contact pastor.
Cindy S: One of the Troy Police Training Officers wants to speak with board members re: a diversity training tape. All agreed to let CS pass along their names & phone numbers.

Committee Name / Mission / Goals

The Board agreed on Ethnic Issues Advisory Board

Mission / Goals - email Cindy ideas for mission/goals. Board will discuss at the April meeting.

New Business

**Ideas to get Board started:**

International Day - have council proclaim this in Troy. Maybe in conjunction with Prayer Breakfast and with the Schools. Breakfast is Friday, May 2. Council can proclaim International Day at the April 28the Council meeting. We need to finalize mission and goals at the April meeting.

Wass and Hill Schools at Wass Elementary on Thursday, May 15 from 6-8 pm. are doing a "Sights and Sounds of South Asia (India, Pakistan, Bangladesh)" program. Mayor/Council will get invitations. Padma will pass along Board's addresses.

Invite the co-chairs of the EthniCity Committee (JoAnn Preston & Dave Lambert) to come to the April meeting and discuss ways Board can assist this program. Eventually hope to have EthniCity as a stand-alone festival in the summer. Also ask Joann is Board can get copy of resource guide (organizations) that they have.

B. Except as provided in subsection C, all of the Historic Districts established as of July 21, 2003 shall be exempt from the requirements and provisions of Section 14 of this Chapter entitled "Establishment, Modification or Elimination of a Historic District". Such exempt Historic Districts shall not be within the purview of any Historic District Study Committee and shall remain under the sole jurisdiction of the Historic District Commission, except to the extent otherwise provided in Section 5 of this Chapter for the Historic Districts included in the Troy Museum and Historic Village.

C. A person or entity that owns a resource within an Historic District established as of July 21, 2003, may submit a request to the Commission to modify or eliminate such Historic District. In such cases, the Historic District may only be eliminated or modified in accordance with Section 14.

(Rev. 11/17/03)

4. HISTORIC DISTRICT COMMISSION

A. Creation of Commission: In order to execute the purposes of this section, there is hereby created a Commission to be called the Historic District Commission.

B. Membership of Commission: The Historic District Commission shall consist of seven (7) members whose residence is located in the City of Troy. The majority of the members will have a clearly demonstrated interest in or knowledge of historic preservation. The Commission shall include at least two (2) people chosen from a list submitted by a duly organized history group or groups, and, if available, one (1) architect duly registered in the State of Michigan. They shall be appointed by the City Council for terms of office of three (3) years. All members shall hold office until their successors are appointed. Members of the Commission may be reappointed after their terms expire. A vacancy occurring in the membership of the Commission for any cause shall be filled by a person appointed by the City Council for the unexpired term. The members of the Commission shall serve without compensation.

(Rev. 12/22/05)

5. DUTIES AND POWERS OF THE COMMISSION

The Commission shall have all powers and duties authorized by Public Act 169 of 1970, as amended, MCL 399.201, et seq. including but not limited to the following:

A. The Commission shall have authority to conduct an ongoing survey to identify historically and architecturally significant, properties, structures and areas that exemplify the cultural, social, economic, political, or architectural history of the nation, state or city. The Commission may use the Michigan Historical Site Survey form as a guide, and accept the work of interested volunteers. Such Site Surveys should be kept as a part of the permanent records of the Commission, at a place designated by the Commission.

B. It shall be the duty of this Commission to review all applications for permits required by City ordinance concerning construction, alteration, repair, moving or demolition of the exterior features of a historic resource. Plans for any work in the historic resources comprising the Troy Museum and Historic Village may be submitted based on a three-year plan based on Department of Interior Preservation briefs but without detailed specifications. For purposes of this Chapter, the historic resources of the Troy Museum

13. APPEALS

An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the state historic preservation review board of the Michigan Historical Commission. The appeal shall be filed within sixty (60) days after the decision is furnished to the applicant. A permit applicant aggrieved by the decision of the historic preservation review board may appeal the decision to the circuit court. Any citizen or duly organized historic preservation organization in the city, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission concerning a matter other than a permit application, may appeal the decision to the circuit court.

(Rev. 11/17/03)

14. ESTABLISHMENT, MODIFICATION OR ELIMINATION OF A HISTORIC DISTRICT

A. Establishment of Historic District Study Committee

Before establishing, modifying or eliminating any Historic District, City Council shall appoint a Historic District Study Committee. The Committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation, and shall consist of at least one (1) member of the Historic District Commission and shall contain representation from at least one other duly organized local historic preservation organization. The study committee shall be an ad hoc committee established to consider the establishment, modification or elimination of historic districts in specified areas as determined by City Council and then be dissolved.

B. Duties of the Historic District Study Committee

1. The Historic District Study Committee shall do all of the following:

a. Conduct a photographic inventory of resources within each proposed historic district, following procedures established or approved by the Michigan Department of History, Arts, and Libraries.

b. Conduct basic research of each proposed historic district and the historic resources located within that District;

c. Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of the historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60.

d. Prepare a preliminary Historic District Study Committee report that addresses at a minimum all of the following:

i. The charge of the Committee;
ii. The composition of the Committee membership;
iii. The historic district or districts studied;
iv. The boundaries for each proposed historic district in writing and on maps;

v. The history of each proposed historic district;

vi. The significance of each district as a whole, as well as a sufficient number of individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

e. Transmit copies of the preliminary report for review to City Council, the Planning Commission, the Historic District Commission, the Michigan Department of History, Arts and Libraries, the Michigan Historical Commission and the State Historic Preservation Review Board.

f. Make copies of the preliminary report available to the public.

2. The City Council may prescribe the time for preparation and transmittal of the preliminary report if the Council deems it in the public interest to do so.

3. Not less than sixty (60) calendar days after the transmittal of the preliminary report, the Study Committee shall hold a public hearing. Public notice of the time, date, and place of the hearing shall be given in the manner required by the Open Meetings Act, 1976 PA 267, MCL 15.261, et seq. Written notice shall be mailed by first class mail not less than fourteen (14) calendar days before the hearing to the owners of properties within the proposed historic district, as listed on the tax rolls of the City of Troy.

4. The Committee shall have no other powers, express or implied, beyond those listed in this section, except as may be otherwise expressly authorized by ordinance or resolution of City Council.

C. Actions to be Taken by the Historic District Study Committee and City Council

After the date of the public hearing, the Historic District Study Committee and City Council shall take the following actions:

1. The Committee shall prepare and submit a final report with its recommendation and the recommendation, if any, of the Planning Commission to the City Council. If the recommendation is to establish, modify or eliminate a historic district or districts, the final report shall include a draft of a proposed ordinance or ordinances.

2. After receiving a final report that recommends the establishment, modification or elimination of a historic district or districts, the City Council, at its discretion, may introduce and pass or reject an ordinance or ordinances establishing, modifying or eliminating one or more historic districts. If the City Council passes an ordinance or ordinances establishing, modifying or eliminating one or more historic districts, City Council shall file a copy of that ordinance or ordinances, including a legal description of the property or properties located within the historic district or districts, with the Register of Deeds. City Council shall not pass an ordinance establishing a contiguous historic district less than sixty days after a majority of the property owners within the proposed historic district, as listed on the City tax rolls, have approved the establishment of the historic district pursuant to a written petition.

3. At any time after expiration of the time limits set in or prescribed by City Council pursuant to this section for the Historic District Study Committee to act, the City Council may, in its discretion, proceed to introduce and pass or reject an ordinance as described in the immediately preceding paragraph 2.

D. Elimination of Districts

If considering elimination of a historic district, the Committee shall follow the procedures set forth for issuing a preliminary report, holding a public hearing and issuing a final report, but with the intent of showing one or more of the following:

1. The historic district has lost those physical characteristics that enabled establishment of the district.

2. The historic district was not significant in the way previously defined.

3. The historic district was established pursuant to defective procedures.

E. Availability

All writings prepared, owned, used, in possession of or retained by the Committee in the performance of any official function shall be made available to the public.

(Rev. 11/17/03)

15. ENFORCEMENT; VIOLATIONS

A. After issuance of a certificate of appropriateness or notice to proceed or if a violation of this article is suspected, the city's designated representative may from time to time inspect the exterior of properties covered by this article.

B. The enforcement of this ordinance shall be the responsibility of this Historic District Commission, in conjunction with the Director of Building and Zoning of the city. A person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this act is responsible for committing a Municipal Civil Infraction subject to the provisions of Chapter 100 of the Code for the City of Troy. Each day a violation continues is a separate Municipal Civil Infraction Violation. Sanctions for violation shall include a fine of not more than $500, costs, damages and injunctive orders as authorized by Chapter 100.

(Rev. 03/01/06)

C. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

(Rev. 11/17/03)

# HISTORICAL COMMISSION

1. Establishment. There is hereby established the Historical Commission for the City which shall consist of seven members appointed by the City Council to serve without compensation.

   (Rev. 10-12-81)

2. Terms of Members. Each member shall be appointed for a term of three (3) years ending on the last day of July of the third year after appointment, or upon the appointment of his successor, whichever is later. Members of the Commission can be removed at the pleasure of the City Council by a majority vote of the members elect. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the City Council.

3. Organization. The Commission shall elect a Chairman, Vice-Chairman, Secretary and such other officers as may be necessary for the proper conduct of its affairs from its membership annually at its first meeting after the last day of July. The Commission shall conform to all the rules and regulations promulgated by the City Council that will be applicable to all other Boards and Commissions.

4. Meetings. The Commission shall hold at least one (1) regular public meeting in each quarter on such date and at such time and place as may be established by resolution of the Commission. Special meetings may be called by the Secretary on the written request of the Chairman or any two (2) members of the Commission on at least two (2) days notice. The Commission shall keep a written or printed record of its proceedings which shall be a public record and property of the City and shall adopt its own rules of procedure. Four (4) members shall constitute a quorum for the transaction of business.

   (Rev. 4-23-90)

5. General Powers and Duties. The powers and duties of the Commission to be exercised and performed in conformity with the City Code and state statutes are as follows:

   (a) The Historical Commission shall be a policy making body and be responsible, with the approval of the City Manager, for the overall operation of the City owned buildings known as the Troy Museum & Historic Village. Such policies and responsibilities shall pertain to additional buildings moved to the Historic Village located at 60 W. Wattles Road.

   In general, it shall be the duty of the Historical Commission to establish policy with regard to the collection, arrangement, cataloguing and preservation of historical material including books, pamphlets, maps, charts, manuscripts, papers, records and archives, paintings, statuary and other objects and materials relating to the history of the City of Troy and the surrounding area; procurement and preservation of narratives of the early residents of such area, the collection of materials of every description relative to the history, longevity, literature, progress or decay of Indian tribes; collection, preparation, and display of objects indicative of the life, customs, dress and resources of the early residents of this area, and to make available from time to time source materials and historical studies relative to and illustrative of the history of the area. The Commission shall have power, with the approval of the City Manager, to collect from the public offices in the City of Troy reproductions of any records, files, documents, books and papers which, in the opinion of the Commission, are of historical value.

   (Rev. 4-23-90)

(b) The Commission shall have the power, with the consent of the City Council, to accept donations of money or historical materials (as described in Section (a) (above) for carrying out the historical purposes as provided in this Chapter. Such donations of money or historical materials vest in the City subject to Section 8.8 of the Charter of the City of Troy and in accordance with the deed, devise, bequest or grant of such property. Gifts of money shall be deposited in a special account to be established by the City Treasurer from which disbursements shall be made upon warrant of the Treasurer countersigned by the City Manager as provided in Section 8.9 of the Charter, in accordance with the terms of the instruments making such gifts.

(Rev. 4-22-74)

(c) The Commission shall cooperate with and assist the Michigan Historical Commission in carrying out its powers and duties as established by Act 271 of the Public Acts of 1913 and Act 10 of the Public Acts of 1955.

(Rev. 4-22-74)

(d) The Commission may recommend to the City Manager purchases of historical material including books, pamphlets, maps, charts, manuscripts, papers, copies of domestic and foreign records and archives, paintings, statuary, and other objects and material illustrative of and relating to the history of the City of Troy and the surrounding area; provided only, that all such purchases shall be accomplished in accordance with the Charter of the City of Troy and applicable Ordinances of the City of Troy.

(Rev. 4-22-74)

(e) The Commission may receive any money appropriated to it by the State and shall deposit same with the City Treasurer as provided in Section 8.8 of the City Charter. Such funds shall be disbursed as provided in Section 5(b) of this Chapter. At the beginning of each quarterly period during a fiscal year and more often if required by the City Council, the Manager shall submit to the City Council a current statement of actual income and expenses.

(Rev. 4-22-74)

6. Staff. The City Manager shall appoint a Museum Director and necessary staff. All employees constituting the Museum staff shall conform and be subject to all rules and regulations governing other employees of the City. All supplies and materials used in the operation of the Historical Museum shall be obtained by the Director through the Purchasing Department in compliance with administrative rules applying to all other City Departments, or in accordance with a legal contract executed by the City for the purpose of providing such supplies and materials.

(Rev. 4-23-90)

7. Annual Report. The Commission shall make and submit to the City Council an annual report of the general activities, operation and condition of the Commission for the preceding year. The Commission shall, from time to time, as the occasion requires, either in the annual report, or at any time deemed necessary by the Committee, advise the City in writing on all matters necessary and proper for and pertaining to the proper operation of the Commission and any of its activities or properties.

8. Budget Estimates. Not later than February 15 of each year, the Commission and Director shall furnish the City Manager with recommendations regarding proposed historical programs for the ensuing fiscal year which the Manager shall review and consider in preparation of the Budget to be submitted to the City Council.

(Rev. 4-23-90)

# CHAPTER 9 - TROY PUBLIC LIBRARY

1. Establishment. The Public Library shall be established as a separate department of the City to be administered under the direction of the City Manager. A library Advisory Board is hereby established which shall advise the City Council in matters of policy, and the City Manager in matters of administration, with regard to the establishment, development, and operation of the library. Said Board shall consist of five members appointed by the City Council. No member of the Board shall be employed by, or be an official of the City. The members of the Board shall serve for terms of three years. Members of the Board shall serve without compensation.

   (Rev. 10-29-86)

2. Organization of Board. The Library Advisory Board shall organize by electing annually at their first regular meeting in May, a president, vice president, secretary, and such other officers as may be necessary for the proper conduct of the duties of the Board. The Secretary shall notify the Council of the names of all such officers promptly after their appointment. Three members of the Board shall constitute a quorum for the transaction of business. The Board shall conform to all the rules and regulations promulgated by the City Council of the City of Troy that will be applicable to all other Boards and Commissions.

   (Rev. 10-29-86)

3. Powers and Duties. It shall be the duty of the Library Advisory Board to recommend by-laws, rules and regulations for the control and governing of the library system for consideration and action by the City Manager. The Board shall recommend a reasonable schedule of fines for the infringement of established rules and regulations, and a schedule of fees for the use of library services and facilities by non-residents of the City for consideration and action by the City Council. The Board, in the name of the City, may accept donations, contributions, and gifts, for either general or specific purposes, provided that all such donations, contributions, or gifts are to become the property of the City with full rights of disposal. All monetary donations, contributions, and gifts shall be deposited with the City Treasurer in compliance with Section 8.8 of the Chapter of the City of Troy. The Board may recommend the purchase of books, periodicals, magazines, library equipment and supplies as deemed necessary and proper. And, further, the Board may recommend contracts, rules, regulations, and conditions affecting relations between the Troy Public Library and other libraries in the area and in the State of Michigan for consideration and action by the City Council.

   (Rev. 10-29-86)

4. Staff. The City Manager shall appoint a librarian and necessary staff. All employees constituting the library staff shall conform and be subject to all rules and regulations governing other employees of the City.

   (Rev. 5-29-67)

5. Library Building. The City Council shall provide suitable quarters for housing the library and shall provide janitor service and maintenance under the direction of the City Manager. Whenever the construction of a library building or buildings is contemplated it shall be the duty of the City Manager to have detailed plans and specifications prepared for same. Such plans and specifications shall be reviewed by the Library Advisory Board and thereafter submitted to the City Council for approval or rejection with the written recommendation of the Board. The contract or contracts for such construction shall be let by the City Council as provided by Section 12.2 of the City Charter.

   (Rev. 10-29-86)

6. Records. The Library Advisory Board shall keep a complete record of its proceedings and the same shall be a public record. At the end of the fiscal year and at any other times when requested by the Manager or City Council, the Librarian shall prepare a report stating the number of books and periodicals on hand; the number added by purchase or gift during the year; the number recorded lost, missing or worn out; the number of books loaned out , and such other statistics, information and suggestions as he may deem to be of general interest.

   (Rev. 10-29-86)

7. Budget Estimates. Not later than February 15, of each year, the Library Advisory Board shall furnish the City Manager with recommendations regarding proposed library programs for the ensuing fiscal year which the Manager shall review and consider in preparing the library budget to be submitted to the City Council. The budget shall be reviewed by the Board prior to submission to the City Council.

   (Rev. 10-29-86)

8. Receipts and Disbursements. All funds received by the library shall be deposited with the City Treasurer, and the Treasurer may establish a petty cash fund for the handling of emergency disbursements and maintenance of fines and fees. All supplies and materials shall be obtained through the Purchasing Department in compliance with administrative rules applying to all other City departments, or in accordance with a legal contract executed by the City for the purpose of providing such supplies and materials.

   (Rev. 5-29-67)

9. Use of Facilities. The Public Library shall be maintained for the use and benefit of the inhabitants and freeholders of the City of Troy. All inhabitants and freeholders of the City shall have free use of said library, subject to the rules and regulations governing the operation of the library, and subject further to the right of the City Manager, upon recommendation of the Librarian, to exclude from the use of the library any and all persons who shall willfully violate said rules. Non-residents may be granted permission to use the library under such conditions and upon payment of such fees as may be prescribed by the City Council.

   (Rev. 8-28-78)

10. Contracts. The City Council is hereby empowered to contract with another library or libraries or a library system in order to provide library services to the City of Troy under such terms and conditions as the City Council shall prescribe.

    (Rev. 8-28-78)

11. Whoever willfully or negligently detains or fails to return to the Troy Public Library any book, magazine, pamphlet, map, manuscript, picture, microfilm, phonograph records, clipping, or other property belonging to such library, or pay the reasonable value thereof, within thirty (30) days from the date of notice addressed to such person at the last address furnished the public library, and which notice may be given at any time after the date on which such person, under the rules of the library, should have returned the loaned property, shall be deemed guilty of a violation of this ordinance and upon conviction thereof shall be fined not less than one dollar ($1.00) nor more than twenty-five dollars ($25.00) for each loan transaction, or upon failure to pay such fine may be sentenced to the County jail for not more than ten (10) days.

    (Rev. 10-29-86)

Liquor Commission
Established by Resolution

... legal opinion on the tra...

Feb 27, 1956

...ssioner Duncan that the opinion ...

Yeas: All-7
Nays: None

The Mayor read the recommendation of the Manager concerning the appointment of a C... Liquor Committee to review license applicants and complaints, as requested by the ... Police Chief.

Resolution #56-110
Moved by Commissioner Ford and supported by Commissioner Gray that the Mayor be authorized to appoint five people to a City Liquor Commission which is hereby established to review applications for SLM, SDD and Class C and Tavern Licenses, and any Complaints brought against present owners of such licenses in the City, and ... their findings back to the City Commission. reported

Yeas: Lance, Gray, Duncan, Yeokum, Lowe and Ford.
Nays: Costello

Mr. Duncan brought up the matter of the fees which are being charged by the City Attorney for attendance at the Commission meetings and stated that they are too hig... Mr. Hutson suggested that the City Check the amount of fees being charged by Attorn... in surrounding Communities, and that he would agree to accept the average for attendance at the Commission meetings. At present his fee is based on $20.00 per h... hour

Resolution #56-111
Moved by Commissioner Gray and supported by Commissioner Yeokum that the Mayor appo... a Committee of the Commission to get this information from other communities and report back to the City Commission.

Yeas: All-7
Nays: None

The Mayor announced that he appoints members of the original Committee appointed un... Resolution #55-22 of Commissioners Ford and Duncan and Manager Barnard, to make thi... study and report back to the Commission.

The Manager's letter recommending the confirmation of the appointment of J. Lawson Lockhart of 2650 Rochester Road as City Clerk at annual salary of $5000.00 and Mr. Scott C. Belyea of 221 Florence St. as DPW Supt. at annual salary of $5000.00 was read and discussed. Commissioners Duncan and Yeokum questioned the appointments and stated that better qualified men could be hired for the positions.

Resolutuon #56-112
Moved by Commissioner Lance and supported by Commissioner Gray that the recommendatio... of the Acting City Manager as contained in a letter dated February 27, 1956 recommend... the Confirmation of the appointment of J. Lawson Lockhart as City Clerk, at an salary... $5000.00 per year, with mileage allowance of 7 cents per mile in City Business, and Scott C. Belyea as Supt. of the Dept. of Public Works which is hereby created, at ann... salary of $5000.00. be approved pursuant to Section 3.9 of the City Charter, said De... of Public Works to include general supervisions of the City Water and Sewer operation... and the City Street Maintenance program, and the Manager authorized to arrange the effective dates with these employees.

Yeas: Costello, Ford, Gray, Lance and Lowe
Nays: Duncan and Yeokum
Motion carried.

October 14, 1993 (Thursday)

To: Frank Gerstenecker, City Manager

From: Captain Glenn Dunn

Subject: Liquor License and Entertainment Permit Criteria

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On May 12, 1993 the City Council met jointly with the Liquor Advisory Committee and extensively discussed the subject issues. Certain changes were made to the draft proposals as a result. Council indicated that it would adopt the changes into formal resolution form in order to nullify the old resolutions and provide modern guidance to the Committee and the Police Department. To my knowledge, new resolutions have not been adopted. Therefore, I request that the issues of new resolutions be placed before Council for its consideration.

For your convenience, I have attached copies of the licensing and entertainment permit criteria. These copies, I believe, reflect the changes directed by Council. The old resolutions are 76-680, 80-514, and 81-168.

This issue has taken on greater importance because the Michigan Liquor Control Commission is considering the elimination its requirements that licensees obtain its entertainment permits. I attended the Commission's public hearing on the matter yesterday and gave testimony urging the Commission not to eliminate its requirements. It is my belief that the Commission's requirements provide Troy with significant, pre-event oversight options which could not be entirely replaced by ordinance. I have the impression that the Commission will, indeed, eliminate its requirements in the immediate future. The Commission is taking the action as the result of its staff's recommendation, made in an effort to conserve staff time in response to budget cuts.

If I can be of assistance in this matter, please let me know.
***

cc: Chief Carey
file

# City of Troy
# Class C and B-Hotel Liquor License Criteria

Originally
Established by resolutions 76-680, 80-514 and 81-168 of
the Troy City Council
and Revised by the Liquor Advisory Committee
as Suggested by the City Council
May 12, 1993

The following are the criteria for the issuance of Class C and B-Hotel licenses.

(1) Food service facilities which are part of an office, service and commercial center complex, as provided in Chapter 39 of Troy's Codes for the Office-Service-Commercial district.

(2) Facilities that accommodate large groups of people (seating more than 1,000 in banquet style) in banquet rooms and serve as exhibition halls for convention purposes.

(3) Hotel or lodging facilities which also have restaurants, meeting rooms and banquet facilities capable of serving in excess of 200 people in "sit-down" banquet facilities.

(4) "Supper Club" type of operations in which high quality food service is the main source of income. The establishment also has the ability to: 1) provide open public dining, 2) serve small groups in separate meeting rooms, and 3) also provide sit-down banquet facilities for groups in excess of 200 people in a single, undivided room. The food menu offers no fewer than five different entrees which are prepared on the premises.

(5) Food service operations which have a gross seating capacity exceeding 200 in any arrangement (meeting rooms, open dining, etc.) with a menu offering no fewer than four different entrees that are prepared on the premises.

(6) Facilities which conform to the purpose and intent of these criteria, but which are deficient in meeting the criteria. Such facilities will be given consideration upon a showing of substantial compliance with the purpose and intent of the criteria. If the facility is to be allowed, the applicant must present evidence which tends to establish overriding benefits to the citizens of the Troy. Such determination shall be based upon due consideration of the following elements:

(a) Whether there is a need for the facility at the location proposed.

(b) Whether the facility tends to provide a service, product, or function not presently available to the general public residing in Troy.

(c) The uniqueness of the proposed facility when contrasted against existing facilities.

(d) The likelihood that the facility will provide a service capable of being utilized by the majority of people residing in Troy.

(e) The facility will have sufficient space in the dining area to accommodate seating, as determined by

applicable standards of the Fire Department, for 200 people. However, the design and floor plan of the proposed dining area may be shown to seat fewer people than the maximum density permitted by said Fire Department.

Licenses are to be issued only after the following conditions are met or subject to the applicant having met these conditions within a stated period of time. The conditions require that:

(1) Floor plans, seating arrangements, site plans, building elevations, future building alterations, and other pertinent physical features for the proposed buildings have been submitted to the Troy Liquor Advisory Committee.

(2) The applicant's experience, financial capability, experience as a Class C licensee, proposed food service menus and other facts or proposals pertinent to the operation of the facility have been submitted to the Troy Liquor Advisory Committee.

(3) Within six (6) months of the issuance of the licenses the applicant has received approval for any necessary zoning changes, site plan approval, building permits, and other approvals as may be required by the City of Troy.

(4) Construction is pursued within eight (8) months after the issuance of a license. At that time, the progress of the applicant in meeting all of the stated conditions will be reported to the City Council by the City Manager.

(5) No floor plan, building elevation, site plan, seating arrangement, kitchen layout, parking layout, fire plan, fact, or document submitted for approval to the Police, Fire, or Building Departments, the Troy Liquor Advisory Committee, or City Council may be changed in context after approval. Reasonable improvements in design and or service flow may be required by the City of Troy.

(6) The failure of the applicant to meet any of the above conditions shall be reason for the City Council to deny approval at the time. Council reserves the right to withdraw approval and deny any license during review or annual review. Council also reserves the right to notify the Michigan Liquor Control Commission of its disapproval for resolutions established under Class C & B Hotel liquor license criteria for the City of Troy by written form to the Michigan Liquor Control Commission.

# City of Troy

## Entertainment Permit Criteria

The following criteria are established for the reviewing of applications for entertainment permits:

(a) One permit for each 12,000 of population or major fraction thereof as determined by the last federal decennial census shall be established as a quota.

(b) There shall be at least a minimum distance of 3,000 feet between Class C licensed establishments holding entertainment permits.

(c) There shall be at least a minimum distance of 3,000 feet between Class B-Hotel licensed establishments holding entertainment permits.

No entertainment permit shall be issued to an establishment located within 500 feet of: 1) a church, 2) a public or private elementary or secondary school, 3) a public park adjacent to a residential area, or 4) a district restricted to residential use by Troy's comprehensive land use.

At the time of the consideration of an applicant's permit request, the City's administration shall provide to the Liquor Advisory Committee and to the City Council a map of the area in question. The map shall be drawn to scale, shall show the existing land use district of each

property within 500 feet of the perimeter of the subject lot, and shall also indicate the use of each property concerned.

The required distances between properties or establishments shall be measured along the centerline of the street or streets of the properties. The measurements shall be taken between two fixed points on the centerline. The points are to be determined by projecting straight lines, at right angles to the centerline, from the nearest extremity of the building in which the permit exists or is contemplated and the nearest point of the 1) license property, 2) church, 3) public or private elementary or secondary school, 4) public park adjacent to a residential area, or 5) a district restricted by Troy's comprehensive zoning ordinance.

Council must find no indication that the proposed use will injure or adversely affect the adjacent area or property values therein and that the proposed use will be consistent with the character of the district land use authorized therein in the Troy Master Land Use Plan and Zoning District Map.

In making this determination Council must find no indication that the proposed use will cause significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, or significantly change the character of the neighborhood or reduce the value of nearby property, nor will impose any significant cost burden upon the City

of Troy, or create any significant obstacle to the implementation of the zoning plan or the Master Plan of the City of Troy.

(d) Applicants shall file a sworn affidavit concerning the type, kind, character and quality of entertainment proposed and to be presented. Such applicants shall contract with the City of Troy to assure compliance with any and all regulations or codes. Upon sale or transfer of the license and permits, the licensee or holder of the permit shall notify the prospective transferee of such contract. He shall also post the contract's stipulations and restrictions with the license and permits issued by the Liquor Control Commission.

A sale and/or transfer of such business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses for which an entertainment permit is required.

(i) Applicant for such permit shall have been in the business of the sale of alcoholic beverages in the same location in the City of Troy for three years preceding the date of his application. However, the City Council may waive the three year requirement.

(ii) Such applicant shall not have any citation and conviction for violations of any fire, building, health or liquor statutes, ordinance or regulations within that previous three-year period.

(iii) Fifty percent or more of the total gross receipts for an accounting year of the establishment must come from the sale, at retail, of food, goods and services. The licensee shall prove the fact annually before the renewal of the licnese. He shall do so by submitting a verified affidavit to the City Council.

(iv) The facility on which the proposed permit is to be located shall be reinspected and certified by the appropriate agencies for compliance with existing fire, building and health codes. In order to assure continued compliance such inspections shall be made at least annually.

(v) The Traffic Engineer as well as the Departments of Building, Planning, and Fire shall certify that the location has ample parking and will not contribute to, or create, any traffic problem.

(vi) Each applicant shall submit elevation plans made under appropriate professional seals regarding the size and seating capacity of the business, the size of the dressing rooms, and locations of the stage. Each entertainment event or act shall be conducted on a stage or upon an open floor area, such as a dance floor. At the time the entertainment is conducted, that open floor or stage shall be separate from the areas occupied by customers or patrons. If the drawings and diagrams required in this subparagraph

are already on file with the City and the premises remains unchanged, the City Council may waive such requirement.

Applications for such permits shall be referred to the heads of the Building Fire, and Police Departments. Each department head shall (within a period of 30 days from the date of application) review records, make an inspection of the premises proposed to be used for the entertainment permit, and shall make a written recommendation to the City Manager concerning compliance with the law. If the heads of the Building, Fire, and Police Departments shall have previously complied with this provision for other purposes such as approvals for an amusement and/or dance permit, the City Council may waive the requirements of this paragraph and the Council may request a sworn affidavit by the applicant stating that no changes have been made to the business establishment since the issuance of the previous permit and/or permits (i.e. amusement, dance or other).

At its next regular meeting following receipt by the City Manager of all required reports, the Council shall consider such applications and the reports by departmental officials. In approving such applications, the Council may require that the issuance of the permit be conditional upon compliance by the applicant with conditions which the Council deems reasonably necessary to protect the public health, safety, and welfare. The determination with regard to such conditions shall be based upon the applications, the reports of the officials and all

facts presented during consideration of the matter. The Council shall approve or disapprove such applications within 45 days following its consideration thereof. The City Clerk shall inform the applicant in writing of the actions of the Council and shall include any conditions required by the Council.

Except for Class B-Hotel licensed operations, no such establishment shall be operated or conducted, whether directly or indirectly, with any place used for living or sleeping quarters.

The applicant shall be the owner of the establishment so licensed for entertainment and shall be solely and completely responsible for the administration and business of the establishment, for the acts of his employees, and for the scope and conduct of such business.

No place of business shall qualify for such permit if it is conducted by a manager or agent pursuant to an agreement required by the Michigan Liquor Control Commission unless said manager or agent possesses the same qualifications as herein required of the licensee.

Each applicant must be eligible for, and shall ultimately secure, an amusement license pursuant to the provisions of Chapter 68 of the Code of the City of Troy Ordinances before evaluation of his application in accordance with these guidelines and prior to a favorable recommendation by the Troy City Council to the Michigan Liquor Control Commission.

(All ordinances with reference and application to the sale of alcoholic beverages shall be amended to contain a reference to the existence of these guidelines, and that copies of such guidelines may be secured from the City Clerk's Office.)

The criteria for issuance of Class "C" Liquor Licenses and Entertainment Permits have been established by City Council resolution numbers 76-680, 80-514 and 81-168.

# CRITERIA GOVERNING THE ISSUANCE OF LIQUOR LICENSES

The following are the priorities for Class "C" and Class "B" (Hotel) Liquor License

(1) Food service facilities to be part of office, service and commercial center complexes, as provided in Chapter 39 of Troy's Codes for the Office-Service-Commercial District.

(2) Facilities that will accommodate large groups of people (seating more than 1,000 in banquet style) in banquet rooms and serve as exhibition halls for convention purposes.

(3) Hotel or Lodging facilities which also have restaurants, meeting rooms and banquet facilities capable of serving in excess of 200 people in "sit-down" banquet facilities.

(4) A "Supper Club" type of operation in which high quality food service is the main source of income with the ability to provide open public dining and to serve small groups in separate meeting rooms and to also provide sit-down banquet facilities for groups in excess of 200 people in a single, undivided room, the food menu to offer no less than five different entrees which are prepared on the premises.

(5) Food service operations which have gross seating capacities exceeding 200 in any arrangement (meeting rooms, open dining, etc.) with a menu offering no less than four different entrees to be prepared on the premises.

(6) Facilities which conform to the purpose and intent of this resolution but which are deficient in meeting the criteria herein established in determining the priorities enumerated above. Such facilities will be given consideration upon a showing of substantial compliance with the priorities established herein where evidence presented by such applicant tends to establish the overriding benefit to the citizens of the City in allowing the facility. Such determination shall be based upon due consideration of the following elements:

(a) Whether there is a need for the facility at the location proposed.

(b) Whether the facility tends to provide a service, product, or function not presently available to the general public residing in the community.

(c) The uniqueness of the proposed facility when contrasted against existing facilities.

(d) The likelihood that the facility will provide a service capable of being utilized by the average person residing in the City, taking the City as a whole.

(e) The facility will have sufficient space in the dining area to accommodate seating for 200 persons as determined by applicable standards of the Fire Department; however, the design and floor plan of the proposed dining area may be shown to seat fewer persons than the maximum density permitted by said Fire Department.

All licenses to be issued only after the following conditions are met and/or subject to the applicant meeting certain conditions within a stated period of time:

(1) That floor plans, seating arrangements, site plans, building elevations, future building alterations, and other pertinent physical features for proposed buildings be submitted to the Troy Liquor Committee.

(2) That the applicant's experience, financial capability, history of experience as a Class "C" licensee, proposed food service menus and other facts or proposals pertinent to the operation of the proposed facility be submitted to the Troy Liquor Committee.

(3) That the issuance of licenses be contingent upon the application for and receipt of site plan approval, building permits, zoning changes and other necessary approvals by Troy within six (6) months after the issuance.

(4) That construction be pursued within eight (8) months after the issuance of a license, at which time the progress of the applicant in meeting all of the above stated conditions will be reported by the City Manager to the City Council.

(5) That no floor plan, building elevation, site plan, seating arrangement, kitchen layout or other pertinent facts, drawings or documents submitted to the Troy Liquor Committee and the City Council at the time of their approvals may be changed, unless it is a reasonable improvement in design or service function of the facility, at such time the applicant seeks approval at any of the other administrative divisions of the City, nor upon final construction of buildings or alterations of them.

(6) That the failure of any applicant to meet any of the above conditions shall be reason for the City Council to deny the annual renewal of any of the licenses issued and, that a review of any license which has not been activated by the licensee will be conducted by the City Council, and, if satisfactory performance pursuant to the above conditions is not found, then the City Council reserves the right to withdraw its approval and deny the license at the time of review, or at the time of annual renewal.

ENTERTAINMENT PERMITS

That the following criteria be established for review of applications for entertainment permits:

(a) One permit for each 15,000 of population or major fraction thereof as determined by the last federal decennial census shall be established as a quota.

(b) There shall be at least a minimum distance of 3,000 feet between Class "C" licensed establishments holding entertainment permits.

(c) There shall be at least a minimum distance of 3,000 feet between "B-Hotel" licensed establishments holding entertainment permits.

No entertainment permits shall be issued for establishments located within 500 feet of a church, a public or private elementary or secondary school or a district restricted to residential use by the comprehensive zoning ordinance of the City or a public park adjacent to residential areas.

In considering such applications for permits, an area map drawn to scale indicating the existing zoning district classifications of all land within 500 feet of the perimeter of the subject lot and any such uses, as above delineated, located within such distance shall be provided by the City's administration at the meeting considering the granting of such petition.

Such distances between establishments shall be measured along the centerline of the street or streets of the address between two fixed points on the centerline determined by projecting straight lines, at right angles to the centerline, from the part of the facility contemplated and from the part of the location holding such permit.

Council must affirmatively find that the proposed use will not injure or adversely affect the adjacent area or property values therein and that the proposed use will be consistent with the character of the district land use authorized therein in the Troy Master Land Use Plan and Zoning District Map.

In making this determination Council must find that the proposed use will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the City of Troy and will not create any significant obstacle to implementation of the zoning plan or the Master Plan of the City of Troy.

(d) Applicants shall file a sworn affidavit concerning the type, kind, character and quality of entertainment proposed and to be presented. Such applicants shall contract with the City of Troy to assure compliance with any and all regulations or codes. Upon sale or transfer of the license and permits, shall notify the prospective transferee of such contract. He shall also post such limitations with the license and permits issued by the Liquor Control Commission.

A sale and/or transfer of such business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses for which an entertainment permit is required.

(i) Applicant for such permit shall have been in the business of the sale of alcoholic beverages in the same location in the City of Troy for three years preceding the date of his application. However, the City Council may waive the three year requirement on a new applicant if the new applicant is purchasing or assuming an interest in a business that holds an entertainment permit if said entertainment permit is used for the same purpose and at the same location.

(ii) Such applicant shall not have any citation and conviction for violations of any fire, building, health or liquor statutes, ordinance or regulations within that previous three-year period.

(iii) Fifty percent or more of the total gross receipts for an accounting year of the establishment must come from the sale, at retail, of food, goods and services. This fact shall be proved by verified affidavit of the licensee, annually before renewal of the license.

(iv) The facility on which the proposed permit is to be located shall be reinspected and certified by the appropriate agencies for compliance existing fire, building and health codes. Such inspections shall be periodically made to assure continued compliance but in no event less than annually.

(v) The Department of Building, Planning, Fire and the Traffic Engineer shall certify the location has ample parking and will not contribute to or create any traffic problem.

(vi) Applicants shall submit elevation plans under appropriate professional seals regarding the size and seating capacity of the business and dressing rooms and locations of the stage. All entertainment shall be conducted on a stage or upon an open floor area, such as a dance floor which shall be separate from the areas occupied by customers or patrons at all times when the entertainment is conducted. If the information requirement in this subparagraph is already on file with the City, the City Council may waive such requirement.

Applications for such permits shall be referred to the Heads of the Building Department, Fire and Police, each of which within a period of 30 days from the date of application shall review records and make an inspection of the premises proposed to be used for the entertainment permit and shall make a written recommendation to the City Manager concerning compliance with the law. If the Heads of the Building Department, Fire and Police shall have previously complied with this provision for other purposes such as approvals for an amusement and/or dance permit, the City Council may waive the requirements of this sub-paragraph and the Council may request a sworn affidavit by applicant stating th changes have been made to the business establishment since issuance of the previous permit and/or permits (i.e. amusement, dance or other).

The Council shall consider such applications together with the reports by Departmental Officials with regard to the herein above-required reports at its next regular meeting following receipt by the City Manager of all said required reports. In approving such applications the Council may require that the issuance of the license be conditional upon compliance by the applicant with conditions which the Council deems reasonably necessary to protect the public health, safety and welfare. The termination with regard to such conditions shall be based upon the applications, the reports of the officers and all facts presented during consideration of the matter. The Council shall approve or disapprove such applications within not more than 45 days following its consideration thereof. The City Clerk shall inform the applicant in writing of the actions of the Council including all conditions required by the Council.

Except for 'B' Hotel licensed operations, no such establishment shall be operated or conducted wither directly or indirectly with any place used for living or sleeping quarters.

The applicant shall be the owner of the establishment so licensed for entertainment and shall be solely and completely responsible for the administration and business of the establishment for the acts of his employees and the scope and conduct of such business.

No place of business shall qualify for such permit if it is conducted by a manager or agent pursuant to an agreement required by the Michigan Liquor Control Commission unless said manager or agent possesses the same qualifications as herein required of the licensee

All applicants shall be eligible for and ultimately secure an amusement license pursuant to the provisions of Chapter 68 of the Code of the City of Troy Ordinances before evaluation of his application in accordance with these guidelines and prior to a favorable recommendation by the Troy City Council to the Michigan Liquor Control Commission.

(All ordinances with reference and application to the sale of alcoholic beverages shall be amended to contain a reference to the existence of these guidelines, and that copies of such guidelines may be secured from the City Clerk's Office.)

A Special meeting of the Troy City Council held Wednesday, May 12, 1993, at City Hall, 500 W. Big Beaver. The meeting was called to order by Mayor Jeanne M. Stine at 7:30 p.m.

PRESENT: Jeanne M. Stine, Mayor

Council Members
Henry W. Allemon
Robert M. Gosselin
Randall J. Husk
Anthony N. Pallotta
Matt Pryor
John R. Stevens

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JOINT MEETING WITH LIQUOR ADVISORY COMMITTEE

LIQUOR LICENSE AND ENTERTAINMENT PERMIT CRITERIA

Captain Glenn Dunn reviewed the Committee's report on the criteria for the issuance of Class C and B Hotel licenses, and the entertainment permit criteria. The Committee and the Council discussed the criteria and the recommended changes. The Council amended the language of the criteria proposal for future consideration and adoption.

Revision of Class C and B-Hotel License and Entertainment Permit Criteria: (a) Resolution to Revise Criteria as Submitted by the Liquor Advisory Committee; (b) Resolution to Establish a Joint Meeting Date with the Liquor Advisory Committee C-5

(a) Resolution to Revise Criteria as Submitted by the Liquor Advisory Committee

No action was taken on this item.

(b) Resolution to Establish Joint Meeting Date with Liquor Advisory Committee

Resolution #93-11
Moved by Pallotta
Supported by Allemon

RESOLVED, that a Joint Meeting of the City Council and Liquor Advisory Committee of the City of Troy is hereby established for May 12, 1993, at 7:30 p.m., in the Lower Level Conference Room at City Hall, 500 W. Big Beaver, to discuss possible revision of the Class C and B-Hotel Liquor License Criteria, as established by Resolutions #76-6890, #80-514 and #81-168 of the Troy City Council.

Yeas: All-6
Absent: Schilling

Tuesday, December 15, 1992

To: Frank Gerstenecker, City Manager

From: Captain Glenn Dunn

Subject: Revision of Class C and B-Hotel Liquor License and Entertainment Permit Criteria

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City Council directed that the Liquor Advisory Committee review the subject criteria and make recommendations for their revision. That project was completed by the committee on December 14, 1992. A copy of the existing and revised criteria is attached. The two are arranged so as to facilitate comparison.

For the most part, the revisions were more in form than in substance. The committee felt that the original criteria were not as clear as they might have been and has attempted to remove some of the confusion that it discovered.

The committee was not entirely sure of the intent of the licensing criteria as originally adopted. You will note that the committee has stated in its revision that the criteria are now listed in decending priority order. It felt that doing so clarified the intent of the document and provided more specific guidance to those charged with administering the document. However, the committee did not alter the arrangement of the priorities, but felt that City Council was in a better position to order priorities.

The most substantive change in the Entertainment Permit portion of the document is the increasing of the number of permits allowed by changing the ratio from 1 permit for each 15,000 in population to 1 permit for each 12,000 in population. There are presently five permits in use and there is one in escrow.
***

cc: Chief Carey
file

EXISTING EXISTING EXISTING EXISTING EXISTING

# City of Troy
## Class C and B-Hotel Liquor License Criteria

Established by resolutions 76-680, 80-514 and 81-168 of the Troy City Council

The following are the priorities for Class C and Class B-Hotel Liquor Licenses:

(1) Food service facilities to be part of office, service and commercial center complexes, as provided in Chapter 39 of Troy's Codes for the Office-Service-Commercial district.

(2) Facilities that will accommodate large groups of people (seating more than 1,000 in banquet style) in banquet rooms and serve as exhibition halls for convention purposes.

(3) Hotel or Lodging facilities which also have restaurants, meeting rooms and banquet facilities capable of serving in excess of 200 people in "sit-down" banquet facilities.

(4) A "Supper Club" type of operation in which high quality food service is the main source of income with the ability to provide open public dining and to serve small groups in separate meeting rooms and to also provide sit-down banquet facilities for groups in excess of 200 people in a single, undivided room, the food menu to offer no less than five different entrees which are prepared on the premises.

# City of Troy
## Class C and B-Hotel Liquor License Criteria

Originally
Established by resolutions 76-680, 80-514 and 81-168 of the Troy City Council
and Revised as Suggested by the Liquor Advisory Committee
December 1992

The following are the criteria for the issuance of Class C and B-Hotel licenses. They are listed in descending priority order.

(1) Food service facilities which are part of an office, service and commercial center complex, as provided in Chapter 39 of Troy's Codes for the Office-Service-Commercial district.

(2) Facilities that accommodate large groups of people (seating more than 1,000 in banquet style) in banquet rooms and serve as exhibition halls for convention purposes.

(3) Hotel or lodging facilities which also have restaurants, meeting rooms and banquet facilities capable of serving in excess of 200 people in "sit-down" banquet facilities.

(4) "Supper Club" type of operations in which high quality food service is the main source of income. The establishment also has the ability to: 1) provide open public dining, 2) serve small groups in separate meeting rooms, and 3) also provide sit-down banquet facilities for groups in excess of 200 people in a single, undivided room. The food menu offers no fewer than five different entrees which are prepared on the premises.

(5) Food service operations which have gross seating capacities exceeding 200 in any arrangement (meeting rooms, open dining, etc.) with a menu offering no less than four different entrees to be prepared on the premises.

(6) Facilities which conform to the purpose and intent of this resolution but which are deficient in meeting the criteria herein established in determining the priorities enumerated above. Such facilities will be given considerations upon a showing of substantial compliance with the priorities established herein where evidence presented by such applicant tends to establish the overriding benefit to the citizens of the City in allowing the facility. Such determination shall be based upon due consideration of the following elements:

(a) Whether there is a need for the facility at the location proposed.

(b) Whether the facility tends to provide a service, product, or function not presently available to the general public residing in the community.

(c) The uniqueness of the proposed facility when contrasted against existing facilities.

(d) The likelihood that the facility will provide a service capable of being utilized by the average person residing in the City, taking the City as a whole.



(5) Food service operations which have a gross seating capacity exceeding 200 in any arrangement (meeting rooms, open dining, etc.) with a menu offering no fewer than four different entrees that are prepared on the premises.

(6) Facilities which conform to the purpose and intent of these criteria, but which are deficient in meeting the criteria. Such facilities will be given consideration upon a showing of substantial compliance with the purpose and intent of the criteria. If the facility is to be allowed, the applicant must present evidence which tends to establish overriding benefits to the citizens of the Troy. Such determination shall be based upon due consideration of the following elements:

(a) Whether there is a need for the facility at the location proposed.

(b) Whether the facility tends to provide a service, product, or function not presently available to the general public residing in the Troy.

(c) The uniqueness of the proposed facility when contrasted against existing facilities.

(d) The likelihood that the facility will provide a service capable of being utilized by the majority of persons residing in Troy.

(e) The facility will have sufficient space in the dining area to accommodate seating for 200 persons as determined by applicable standards of the Fire Department; however, the design and floor plan of the proposed dining area may be shown to seat fewer persons than the maximum density permitted by said Fire Department.

All licenses to be issued only after the following conditions are met and/or subject to the applicant meeting certain conditions within a stated period of time.

(1) That floor plans, seating arrangements, site plans, building elevations, future building alterations, and other pertinent physical features for proposed buildings be submitted to the Troy Liquor Committee.

(2) That the applicant's experience, financial capability, history of experience as a Class C licensee, proposed food service menus and other facts or proposals pertinent to the operation of the proposed facility be submitted to the Troy Liquor Committee.

(3) That the issuance of licenses be contingent upon the application for and receipt of site plan approval, building permits, zoning changes and other necessary approvals by Troy within six (6) months after the issuance.



(e) The facility will have sufficient space in the dining area to accommodate seating, as determined by applicable standards of the Fire Department, for 200 persons. However, the design and floor plan of the proposed dining area may be shown to seat fewer persons than the maximum density permitted by said Fire Department.

Licenses are to be issued only after the following conditions are met or subject to the applicant having met these conditions within a stated period of time. The conditions require that:

(1) Floor plans, seating arrangements, site plans, building elevations, future building alterations, and other pertinent physical features for the proposed buildings have been submitted to the Troy Liquor Advisory Committee.

(2) The applicant's experience, financial capability, experience as a Class C licensee, proposed food service menus and other facts or proposals pertinent to the operation of the facility have been submitted to the Troy Liquor Advisory Committee.

(3) Within six (6) months of the issuance of the licenses the applicant has received approval for any necessary zoning changes, site plan approval, building permits, and other approvals as may be required by the City of Troy.

(4) That construction be pursued within eight (8) months after the issuance of a license, at which time the progress of the applicant in meeting all of the above stated conditions will be reported by the City Manager to the City Council.

(5) That no floor plan, building elevation, site plan, seating arrangement, kitchen layout or other pertinent facts, drawings or documents submitted to the Troy Liquor Committee and the City Council at the time of their approvals may be changed, unless it is a reasonable improvement in design or service function of the facility, at such time the applicant seeks approval at any of the other administrative divisions of the City, nor upon final construction of buildings or alterations of them.

(6) That the failure of any applicant to meet any of the above conditions shall be reason for the City Council to deny the annual renewal of any of the licenses issued and, that a review of any license which has not been activated by the licensee will be conducted by the City Council, and, if satisfactory performance pursuant to the above conditions is not found, then the City Council reserves the right to withdraw its approval and deny the license at the time of review, or at the time of annual renewal.



(4) Construction is pursued within eight (8) months after the issuance of a license. At that time, the progress of the applicant in meeting all of the stated conditions will be reported to the City Council by the City Manager.

(5) No floor plan, building elevation, site plan, seating arrangement, kitchen layout, parking layout, fire plan, fact, or document submitted for approval to the Police, Fire, or Building Departments, the Troy Liquor Advisory Committee, or City Council may be changed in context after approval. Reasonable improvements in design and or service flow may be required by the City of Troy.

(6) The failure of the applicant to meet any of the above conditions shall be reason for the City Council to deny approval at the time. Council reserves the right to withdraw approval and deny any license during review or annual review. Council also reserves the right to notify the Michigan Liquor Control Commission of its disapproval for resolutions established under Class C & B Hotel liquor license criteria for the City of Troy by written form to the Michigan Liquor Control Commission.

# City of Troy

## Entertainment Permit Criteria

The following criteria are established for the reviewing of applications for entertainment permits:

(a) One permit for each 15,000 of population or major fraction thereof as determined by the last federal decennial census shall be established as a quota.

(b) There shall be at least a minimum distance of 3,000 feet between Class C licensed establishments holding entertainment permits.

(c) There shall be at least a minimum distance of 3,000 feet between Class B-Hotel licensed establishments holding entertainment permits.

No entertainment permits shall be issued for establishments located within 500 feet of a church, a public or private elementary or secondary school or a district restricted to residential use by the comprehensive zoning ordinance of the City or a public park adjacent to residential areas.



# City of Troy

## Entertainment Permit Criteria

The following criteria are established for the reviewing of applications for entertainment permits:

(a) One permit for each 12,000 of population or major fraction thereof as determined by the last federal decennial census shall be established as a quota.

(b) There shall be at least a minimum distance of 3,000 feet between Class C licensed establishments holding entertainment permits.

(c) There shall be at least a minimum distance of 3,000 feet between Class B-Hotel licensed establishments holding entertainment permits.

No entertainment permit shall be issued to an establishment located within 500 feet of: 1) a church, 2) a public or private elementary or secondary school, 3) a public park adjacent to a residential area, or 4) a district restricted to residential use by Troy's comprehensive zoning ordinance.

EXISTING
CLASS C AND B-HOTEL LICENSE and
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In considering such applications for permits, an area map drawn to scale indicating the existing zoning district classifications of all land within 500 feet of the perimeter of the subject lot and any such uses, as above delineated, located within such distance shall be provided by the City's administration at the meeting considering the granting of such petition.

Such distances between establishments shall be measured along the centerline of the street or streets of the address between two fixed points on the centerline determined by projecting straight lines, at right angles to the centerline, from the part of the facility contemplated and from the part of the location holding such permit. Council must affirmatively find that the proposed use will not injure or adversely affect the adjacent area or property values therein and that the proposed use will be consistent with the character of the district land use authorized therein in the Troy Master Land Use Plan and Zoning District Map.

REVISED
CLASS C AND B-HOTEL LIQUOR LICENSE and
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At the time of the consideration of an applicant's permit request, the City's administration shall provide to the Liquor Advisory Committee and to the City Council a map of the area in question. The map shall be drawn to scale, shall show the existing zoning district of each property within 500 feet of the perimeter of the subject lot, and shall also indicate the use of each property concerned.

The required distances between properties or establishments shall be measured along the centerline of the street or streets of the properties. The measurements shall be taken between two fixed points on the centerline. The points are to be determined by projecting straight lines, at right angles to the centerline, from the nearest extremity of the building in which the permit exists or is contemplated and the nearest point of the 1) license property, 2) church, 3) public or private elementary or secondary school, 4) public park adjacent to a residential area, or 5) a district restricted by Troy's comprehensive zoning ordinance.

Council must affirmatively find that the proposed use will not injure or adversely affect the adjacent area or property values therein and that the proposed use will be consistent with the character of the district land use authorized therein in the Troy Master Land Use Plan and Zoning District Map.

In making this determination Council must find that the proposed use will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the City of Troy and will not create any significant obstacle to implementation of the zoning plan or the Master Plan of the City of Troy.

(d) Applicants shall file a sworn affidavit concerning the type, kind, character and quality of entertainment proposed and to be presented. Such applicants shall contract with the City of Troy to assure compliance with any and all regulations or codes. Upon sale or transfer of the license and permits, he shall notify the prospective transferee of such contract. He shall also post such limitations with the license and permits issued by the Liquor Control Commission.

A sale and/or transfer of such business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses for which an entertainment permit is required.



In making this determination Council must find that the proposed use will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the City of Troy, and will not create any significant obstacle to the implementation of the zoning plan or the Master Plan of the City of Troy.

(d) Applicants shall file a sworn affidavit concerning the type, kind, character and quality of entertainment proposed and to be presented. Such applicants shall contract with the City of Troy to assure compliance with any and all regulations or codes. Upon sale or transfer of the license and permits, the licensee or holder of the permit shall notify the prospective transferee of such contract. He shall also post the contract's stipulations and restrictions with the license and permits issued by the Liquor Control Commission.

A sale and/or transfer of such business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses for which an entertainment permit is required.

(i) Applicant for such permit shall have been in the business of the sale of alcoholic beverages in the same location in the City of Troy for three years preceding the date of his application. However, the City Council may waive the three year requirement on a new applicant if the new applicant is purchasing or assuming an interest in a business that holds an entertainment permit if said entertainment permit is used for the same purpose and at the same location.

(ii) Such applicant shall not have any citation and conviction for violations of any fire, building, health or liquor statutes, ordinance or regulations within that previous three-year period.

(iii) Fifty percent or more of the total gross receipts for an accounting year of the establishment must come from the sale, at retail, of food, goods and services. This fact shall be proved by verified affidavit of the licensee, annually before renewal of the license.

(iv) The facility on which the proposed permit is to be located shall be reinspected and certified by the appropriate agencies for compliance with existing fire, building and health codes. Such inspections shall be periodically made to assure continued compliance but in no event less than annually.



(i) Applicant for such permit shall have been in the business of the sale of alcoholic beverages in the same location in the City of Troy for three years preceding the date of his application. However, the City Council may waive the three year requirement on a new applicant if the new applicant is purchasing or assuming an interest in a business that holds an entertainment permit if said entertainment permit is used for the same purpose and at the same location.

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(iii) Fifty percent or more of the total gross receipts for an accounting year of the establishment must come from the sale, at retail, of food, goods and services. The licensee shall prove the fact annually before the renewal of the licnese. He shall do so by submitting a verified affidavit to the City Council.

(iv) The facility on which the proposed permit is to be located shall be reinspected and certified by the appropriate agencies for compliance with existing fire, building and health codes. In order to assure continued compliance such inspections shall be made at least annually.

(v) The Departments of Building, Planning, Fire and the Traffic Engineer shall certify the location has ample parking and will not contribute to or create any traffic problem.

(vi) Applicants shall submit elevation plans under appropriate professional seals regarding the size and seating capacity of the business and dressing rooms and locations of the stage. All entertainment shall be conducted on a stage or upon an open floor area, such as a dance floor which shall be separate from the areas occupied by customers or patrons at all times when the entertainment is conducted. If the information requirement in this subparagraph is already on file with the City, the City Council may waive such requirement.



(v) The Traffic Engineer as well as the Departments of Building, Planning, and Fire shall certify that the location has ample parking and will not contribute to, or create, any traffic problem.

(vi) Each applicant shall submit elevation plans made under appropriate professional seals regarding the size and seating capacity of the business, the size of the dressing rooms, and locations of the stage. Each entertainment event or act shall be conducted on a stage or upon an open floor area, such as a dance floor. At the time the entertainment is conducted, that open floor or stage shall be separate from the areas occupied by customers or patrons. If the drawings and diagrams required in this subparagraph are already on file with the City and the premises remains unchanged, the City Council may waive such requirement.

Applications for such permits shall be referred to the heads of the Building Department, Fire and Police, each of which within a period of 30 days from the date of application shall review records and make an inspection of the premises proposed to be used for the entertainment permit and shall make a written recommendation to the City Manager concerning compliance with the law. If the heads of the Building Department, Fire and Police shall have previously complied with this provision for other purposes such as approvals for an amusement and/or dance permit, the City Council may waive the requirements of this sub-paragraph and the Council may request a sworn affidavit by applicant stating that no changes have been made to the business establishment since issuance of the previous permit and/or permits (i.e. amusement, dance or other).

The Council shall consider such applications together with the reports by Departmental officials with regard to the herein above-required reports at its next regular meeting following receipt by the City Manager of all said required reports. In approving such applications the Council may require that the issuance of the license be conditional upon compliance by the applicant with conditions which the Council deems reasonably necessary to protect the public health, safety and welfare. The termination with regard to such conditions shall be based upon the applications, the reports of the officers and all facts presented during consideration of the matter. The Council shall approve or disapprove such applications within not more than 45 days following its consideration thereof. The City Clerk shall inform



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At its next regular meeting following receipt by the City Manager of all required reports, the Council shall consider such applications and the reports by departmental officials. In approving such applications, the Council may require that the issuance of the permit be conditional upon compliance by the applicant with conditions which the Council deems reasonably necessary to protect the public health, safety, and welfare. The determination with regard to such conditions shall be based upon the applications, the reports of the officials and all facts presented during consideration of the matter. The Council shall approve or disapprove such applications within 45 days following its consideration thereof. The City Clerk shall inform the applicant in

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# City of Troy
## Class C and B-Hotel Liquor License Criteria

Established by resolutions 76-680, 80-514 and 81-168 of the Troy City Council

The following are the priorities for Class C and Class B-Hotel Liquor Licenses:

(1) Food service facilities to be part of office, service and commercial center complexes, as provided in Chapter 39 of Troy's Codes for the Office-Service-Commercial district.

(2) Facilities that will accommodate large groups of people (seating more than 1,000 in banquet style) in banquet rooms and serve as exhibition halls for convention purposes.

(3) Hotel or Lodging facilities which also have restaurants, meeting rooms and banquet facilities capable of serving in excess of 200 people in "sit-down" banquet facilities.

(4) A "Supper Club" type of operation in which high quality food service is the main source of income with the ability to provide open public dining and to serve small groups in separate meeting rooms and to also provide sit-down banquet facilities for groups in excess of 200 people in a single, undivided room, the food menu to offer no less than five different entrees which are prepared on the premises.

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(5) Food service operations which have gross seating capacities exceeding 200 in any arrangement (meeting rooms, open dining, etc.) with a menu offering no less than four different entrees to be prepared on the premises.

(6) Facilities which conform to the purpose and intent of this resolution but which are deficient in meeting the criteria herein established in determining the priorities enumerated above. Such facilities will be given considerations upon a showing of substantial compliance with the priorities established herein where evidence presented by such applicant tends to establish the overriding benefit to the citizens of the City in allowing the facility. Such determination shall be based upon due consideration of the following elements:

(a) Whether there is a need for the facility at the location proposed.

(b) Whether the facility tends to provide a service, product, or function not presently available to the general public residing in the community.

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(3) That the issuance of licenses be contingent upon the application for and receipt of site plan approval, building permits, zoning changes and other necessary approvals by Troy within six (6) months after the issuance.



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(3) Within six (6) months of the issuance of the licenses the applicant has received approval for any necessary zoning changes, site plan approval, building permits, and other approvals as may be required by the City of Troy.

(4) That construction be pursued within eight (8) months after the issuance of a license, at which time the progress of the applicant in meeting all of the above stated conditions will be reported by the City Manager to the City Council.

(5) That no floor plan, building elevation, site plan, seating arrangement, kitchen layout or other pertinent facts, drawings or documents submitted to the Troy Liquor Committee and the City Council at the time of their approvals may be changed, unless it is a reasonable improvement in design or service function of the facility, at such time the applicant seeks approval at any of the other administrative divisions of the City, nor upon final construction of buildings or alterations of them.

(6) That the failure of any applicant to meet any of the above conditions shall be reason for the City Council to deny the annual renewal of any of the licenses issued and, that a review of any license which has not been activated by the licensee will be conducted by the City Council, and, if satisfactory performance pursuant to the above conditions is not found, then the City Council reserves the right to withdraw its approval and deny the license at the time of review, or at the time of annual renewal.



(4) Construction is pursued within eight (8) months after the issuance of a license. At that time, the progress of the applicant in meeting all of the stated conditions will be reported to the City Council by the City Manager.

(5) No floor plan, building elevation, site plan, seating arrangement, kitchen layout, parking layout, fire plan, fact, or document submitted for approval to the Police, Fire, or Building Departments, the Troy Liquor Advisory Committee, or City Council may be changed in context after approval. Reasonable improvements in design and or service flow may be required by the City of Troy.

(6) The failure of the applicant to meet any of the above conditions shall be reason for the City Council to deny approval at the time. Council reserves the right to withdraw approval and deny any license during review or annual review. Council also reserves the right to notify the Michigan Liquor Control Commission of its disapproval for resolutions established under Class C & B Hotel liquor license criteria for the City of Troy by written form to the Michigan Liquor Control Commission.

# City of Troy

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(b) There shall be at least a minimum distance of 3,000 feet between Class C licensed establishments holding entertainment permits.

(c) There shall be at least a minimum distance of 3,000 feet between Class B-Hotel licensed establishments holding entertainment permits.

No entertainment permits shall be issued for establishments located within 500 feet of a church, a public or private elementary or secondary school or a district restricted to residential use by the comprehensive zoning ordinance of the City or a public park adjacent to residential areas.



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EXISTING
CLASS C AND B-HOTEL LICENSE and
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In considering such applications for permits, an area map drawn to scale indicating the existing zoning district classifications of all land within 500 feet of the perimeter of the subject lot and any such uses, as above delineated, located within such distance shall be provided by the City's administration at the meeting considering the granting of such petition.

Such distances between establishments shall be measured along the centerline of the street or streets of the address between two fixed points on the centerline determined by projecting straight lines, at right angles to the centerline, from the part of the facility contemplated and from the part of the location holding such permit. Council must affirmatively find that the proposed use will not injure or adversely affect the adjacent area or property values therein and that the proposed use will be consistent with the character of the district land use authorized therein in the Troy Master Land Use Plan and Zoning District Map.

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CLASS C AND B-HOTEL LIQUOR LICENSE and
ENTERTAINMENT PERMIT CRITERIA



At the time of the consideration of an applicant's permit request, the City's administration shall provide to the Liquor Advisory Committee and to the City Council a map of the area in question. The map shall be drawn to scale, shall show the existing zoning district of each property within 500 feet of the perimeter of the subject lot, and shall also indicate the use of each property concerned.

The required distances between properties or establishments shall be measured along the centerline of the street or streets of the properties. The measurements shall be taken between two fixed points on the centerline. The points are to be determined by projecting straight lines, at right angles to the centerline, from the nearest extremity of the building in which the permit exists or is contemplated and the nearest point of the 1) license property, 2) church, 3) public or private elementary or secondary school, 4) public park adjacent to a residential area, or 5) a district restricted by Troy's comprehensive zoning ordinance.

Council must affirmatively find that the proposed use will not injure or adversely affect the adjacent area or property values therein and that the proposed use will be consistent with the character of the district land use authorized therein in the Troy Master Land Use Plan and Zoning District Map.

In making this determination Council must find that the proposed use will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the City of Troy and will not create any significant obstacle to implementation of the zoning plan or the Master Plan of the City of Troy.

(d) Applicants shall file a sworn affidavit concerning the type, kind, character and quality of entertainment proposed and to be presented. Such applicants shall contract with the City of Troy to assure compliance with any and all regulations or codes. Upon sale or transfer of the license and permits, he shall notify the prospective transferee of such contract. He shall also post such limitations with the license and permits issued by the Liquor Control Commission.

A sale and/or transfer of such business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses for which an entertainment permit is required.



In making this determination Council must find that the proposed use will cause no significant hazard, annoyance or inconvenience to the owners or occupants of nearby property, will not significantly change the character of the neighborhood or reduce the value of nearby property, will not impose any significant cost burden upon the City of Troy, and will not create any significant obstacle to the implementation of the zoning plan or the Master Plan of the City of Troy.

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(i) Applicant for such permit shall have been in the business of the sale of alcoholic beverages in the same location in the City of Troy for three years preceding the date of his application. However, the City Council may waive the three year requirement on a new applicant if the new applicant is purchasing or assuming an interest in a business that holds an entertainment permit if said entertainment permit is used for the same purpose and at the same location.

(ii) Such applicant shall not have any citation and conviction for violations of any fire, building, health or liquor statutes, ordinance or regulations within that previous three-year period.

(iii) Fifty percent or more of the total gross receipts for an accounting year of the establishment must come from the sale, at retail, of food, goods and services. This fact shall be proved by verified affidavit of the licensee, annually before renewal of the license.

(iv) The facility on which the proposed permit is to be located shall be reinspected and certified by the appropriate agencies for compliance with existing fire, building and health codes. Such inspections shall be periodically made to assure continued compliance but in no event less than annually.



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(iv) The facility on which the proposed permit is to be located shall be reinspected and certified by the appropriate agencies for compliance with existing fire, building and health codes. In order to assure continued compliance such inspections shall be made at least annually.

the applicant in writing of the actions of the Council including all conditions required by the Council.

Except for Class B-Hotel licensed operations, no such establishment shall be operated or conducted whether directly or indirectly with any place used for living or sleeping quarters.

The applicant shall be the owner of the establishment so licensed for entertainment and shall be solely and completely responsible for the administration and business of the establishment for the acts of his employees and the scope and conduct of such business.

No place of business shall qualify for such permit if it is conducted by a manager or agent pursuant to an agreement required by the Michigan Liquor Control Commission unless said manager or agent possesses the same qualifications as herein required of the licensee.

All applicants shall be eligible for and ultimately secure an amusement license pursuant to the provisions of Chapter 68 of the Code of the City of Troy Ordinances before evaluation of his application in accordance with these guidelines and prior to a favorable recommendation by the Troy City Council to the Michigan Liquor Control Commission.



writing of the actions of the Council and shall include any conditions required by the Council.

Except for Class B-Hotel licensed operations, no such establishment shall be operated or conducted, whether directly or indirectly, with any place used for living or sleeping quarters.

The applicant shall be the owner of the establishment so licensed for entertainment and shall be solely and completely responsible for the administration and business of the establishment, for the acts of his employees, and for the scope and conduct of such business.

No place of business shall qualify for such permit if it is conducted by a manager or agent pursuant to an agreement required by the Michigan Liquor Control Commission unless said manager or agent possesses the same qualifications as herein required of the licensee.

Each applicant must be eligible for, and shall ultimately secure, an amusement license pursuant to the provisions of Chapter 68 of the Code of the City of Troy Ordinances before evaluation of his application in accordance with these guidelines and prior to a favorable recommendation by the Troy City Council to the Michigan Liquor Control Commission.

EXISTING
CLASS C AND B-HOTEL LICENSE and
ENTERTAINMENT PERMIT CRITERIA



(All ordinances with reference and application to the sale of alcoholic beverages shall be amended to contain a reference to the existence of these guidelines, and that copies of such guidelines may be secured from the City Clerk's Office.)

REVISED
CLASS C AND B-HOTEL LIQUOR LICENSE and
ENTERTAINMENT PERMIT CRITERIA



(All ordinances with reference and application to the sale of alcoholic beverages shall be amended to contain a reference to the existence of these guidelines, and that copies of such guidelines may be secured from the City Clerk's Office.)

# THE LOCAL DEVELOPMENT FINANCING ACT
# Act 281 of 1986

AN ACT to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000.

*The People of the State of Michigan enact:*

## 125.2151 Legislative findings; short title.

Sec. 1. (1) The legislature finds all of the following:

(a) That there exists in this state conditions of unemployment, underemployment, and joblessness detrimental to the state economy and the economic growth of the state economy.

(b) That government programs are desirable and necessary to eliminate the causes of unemployment, underemployment, and joblessness therefore benefiting the economic growth of the state.

(c) That it is appropriate to finance these government programs by means available to the state and local units of government, including tax increment financing.

(d) That tax increment financing is a government financing program which contributes to economic growth and development by dedicating a portion of the tax base resulting from the economic growth and development to certain public facilities and structures or improvements of the type designed and dedicated to public use and thereby facilitate certain projects which create economic growth and development.

(e) That it is necessary for the legislature to exercise the sovereign power to legislate tax increment financing as authorized in this act and in the exercise of this sovereign power to mandate the transfer of tax increment revenues by city, village, township, school district, and county treasurers to authorities created under this act in order to effectuate the legislated government programs to eliminate the conditions of unemployment, underemployment, and joblessness and to promote state economic growth.

(f) That the creation of jobs and the promotion of economic growth in the state are essential governmental functions and constitute essential public purposes.

(g) That the creation of jobs and the promotion of economic growth stabilize and strengthen the tax bases upon which local units of government rely and that government programs to eliminate causes of unemployment, underemployment, and joblessness benefit local units of government and are for the use of those local units of government.

(h) That the provisions of this act are enacted to provide a means for local units of government to eliminate the conditions of unemployment, underemployment, and joblessness and to promote economic growth in the communities served by these local units of government.

(2) This act shall be known and may be cited as “the local development financing act”.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

**Constitutionality:** The capture of tax increment revenue by a local development finance authority and the use of the revenues by the authority for purposes authorized by the Local Development Financing Act are not unconstitutional diversions of tax revenues from the taxing entity or unconstitutional lending's of credit by the state or a municipality. Advisory Opinion on 1986 PA 281, 430 Mich. 93, 422 N.W.2d 186 (1988).

## 125.2152 Definitions.

Sec. 2. As used in this act:

(a) “Advance” means a transfer of funds made by a municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority. Evidence of the intent to repay an advance may include, but is not limited to, an executed agreement to repay, provisions contained in a tax increment financing plan approved prior to the advance, or a resolution of the authority or the municipality.

(b) “Assessed value” means 1 of the following:

(*i*) For valuations made before January 1, 1995, the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.



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(*ii*) For valuations made after December 31, 1994, the taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Authority" means a local development finance authority created pursuant to this act.

(d) "Authority district" means an area or areas within which an authority exercises its powers.

(e) "Board" means the governing body of an authority.

(f) "Business development area" means an area designated as a certified industrial park under this act prior to the effective date of the amendatory act that added this subdivision, or an area designated in the tax increment financing plan that meets all of the following requirements:

(*i*) The area is zoned to allow its use for eligible property.

(*ii*) The area has a site plan or plat approved by the city, village, or township in which the area is located.

(g) "Business incubator" means real and personal property that meets all of the following requirements:

(*i*) Is located in a certified technology park.

(*ii*) Is subject to an agreement under section 12a.

(*iii*) Is developed for the primary purpose of attracting 1 or more owners or tenants who will engage in activities that would each separately qualify the property as eligible property under subdivision (p)(*iii*).

(h) "Captured assessed value" means the amount in any 1 year by which the current assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the real and personal property included in the tax increment financing plan, including the current assessed value of property for which specific local taxes are paid in lieu of property taxes as determined pursuant to subdivision (cc), exceeds the initial assessed value. The state tax commission shall prescribe the method for calculating captured assessed value.

(i) "Certified business park" means a business development area that has been designated by the Michigan economic development corporation as meeting criteria established by the Michigan economic development corporation. The criteria shall establish standards for business development areas including, but not limited to, use, types of building materials, landscaping, setbacks, parking, storage areas, and management.

(j) "Certified technology park" means that portion of the authority district designated by a written agreement entered into pursuant to section 12a between the authority, the municipality, and the Michigan economic development corporation.

(k) "Chief executive officer" means the mayor or city manager of a city, the president of a village, or, for other local units of government or school districts, the person charged by law with the supervision of the functions of the local unit of government or school district.

(*l*) "Development plan" means that information and those requirements for a development set forth in section 15.

(m) "Development program" means the implementation of a development plan.

(n) "Eligible advance" means an advance made before August 19, 1993.

(o) "Eligible obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority before August 19, 1993 and its subsequent refunding by a qualified refunding obligation. Eligible obligation includes an authority's written agreement entered into before August 19, 1993 to pay an obligation issued after August 18, 1993 and before December 31, 1996 by another entity on behalf of the authority.

(p) "Eligible property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures, or any part or accessory thereof whether completed or in the process of construction comprising an integrated whole, located within an authority district, of which the primary purpose and use is or will be 1 of the following:

(*i*) The manufacture of goods or materials or the processing of goods or materials by physical or chemical change.

(*ii*) Agricultural processing.

(*iii*) A high technology activity.

(*iv*) The production of energy by the processing of goods or materials by physical or chemical change by a small power production facility as defined by the federal energy regulatory commission pursuant to the public utility regulatory policies act of 1978, Public Law 95-617, 92 Stat. 3117, which facility is fueled primarily by biomass or wood waste. This act does not affect a person's rights or liabilities under law with respect to groundwater contamination described in this subparagraph. This subparagraph applies only if all of the following requirements are met:

(A) Tax increment revenues captured from the eligible property will be used to finance, or will be pledged for debt service on tax increment bonds used to finance, a public facility in or near the authority district designed to reduce, eliminate, or prevent the spread of identified soil and groundwater contamination, pursuant to law.



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(B) The board of the authority exercising powers within the authority district where the eligible property is located adopted an initial tax increment financing plan between January 1, 1991 and May 1, 1991.

(C) The municipality that created the authority establishes a special assessment district whereby not less than 50% of the operating expenses of the public facility described in this subparagraph will be paid for by special assessments. Not less than 50% of the amount specially assessed against all parcels in the special assessment district shall be assessed against parcels owned by parties potentially responsible for the identified groundwater contamination pursuant to law.

(*v*) A business incubator.

(q) "Fiscal year" means the fiscal year of the authority.

(r) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(s) "High technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

(t) "Initial assessed value" means the assessed value of the eligible property identified in the tax increment financing plan or, for a certified technology park, the assessed value of any real and personal property included in the tax increment financing plan, at the time the resolution establishing the tax increment financing plan is approved as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted or, for property that becomes eligible property in other than a certified technology park after the date the plan is approved, at the time the property becomes eligible property. Property exempt from taxation at the time of the determination of the initial assessed value shall be included as zero. Property for which a specific local tax is paid in lieu of property tax shall not be considered exempt from taxation. The initial assessed value of property for which a specific local tax was paid in lieu of property tax shall be determined as provided in subdivision (cc).

(u) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, those duties may be exercised by the Michigan strategic fund.

(v) "Michigan strategic fund" means the Michigan strategic fund as described in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(w) "Municipality" means a city, village, or urban township.

(x) "Obligation" means a written promise to pay, whether evidenced by a contract, agreement, lease, sublease, bond, or note, or a requirement to pay imposed by law. An obligation does not include a payment required solely because of default upon an obligation, employee salaries, or consideration paid for the use of municipal offices. An obligation does not include those bonds that have been economically defeased by refunding bonds issued under this act. Obligation includes, but is not limited to, the following:

(*i*) A requirement to pay proceeds derived from ad valorem property taxes or taxes levied in lieu of ad valorem property taxes.

(*ii*) A management contract or a contract for professional services.

(*iii*) A payment required on a contract, agreement, bond, or note if the requirement to make or assume the payment arose before August 19, 1993.

(*iv*) A requirement to pay or reimburse a person for the cost of insurance for, or to maintain, property subject to a lease, land contract, purchase agreement, or other agreement.

(*v*) A letter of credit, paying agent, transfer agent, bond registrar, or trustee fee associated with a contract, agreement, bond, or note.

(y) "On behalf of an authority", in relation to an eligible advance made by a municipality or an eligible obligation or other protected obligation issued or incurred by a municipality, means in anticipation that an authority would transfer tax increment revenues or reimburse the municipality from tax increment revenues in an amount sufficient to fully make payment required by the eligible advance made by a municipality, or eligible obligation or other protected obligation issued or incurred by the municipality, if the anticipation of the transfer or receipt of tax increment revenues from the authority is pursuant to or evidenced by 1 or more of the following:

(*i*) A reimbursement agreement between the municipality and an authority it established.

(*ii*) A requirement imposed by law that the authority transfer tax increment revenues to the municipality.

(*iii*) A resolution of the authority agreeing to make payments to the incorporating unit.



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(*iv*) Provisions in a tax increment financing plan describing the project for which the obligation was incurred.

(z) "Other protected obligation" means:

(*i*) A qualified refunding obligation issued to refund an obligation described in subparagraph (*ii*) or (*iii*), an obligation that is not a qualified refunding obligation that is issued to refund an eligible obligation, or a qualified refunding obligation issued to refund an obligation described in this subparagraph.

(*ii*) An obligation issued or incurred by an authority or by a municipality on behalf of an authority after August 19, 1993, but before December 31, 1994, to finance a project described in a tax increment finance plan approved by the municipality in accordance with this act before August 19, 1993, for which a contract for final design is entered into by the municipality or authority before March 1, 1994.

(*iii*) An obligation incurred by an authority or municipality after August 19, 1993, to reimburse a party to a development agreement entered into by a municipality or authority before August 19, 1993, for a project described in a tax increment financing plan approved in accordance with this act before August 19, 1993, and undertaken and installed by that party in accordance with the development agreement.

(*iv*) An ongoing management or professional services contract with the governing body of a county that was entered into before March 1, 1994 and that was preceded by a series of limited term management or professional services contracts with the governing body of the county, the last of which was entered into before August 19, 1993.

(aa) "Public facility" means 1 or more of the following:

(*i*) A street, road, bridge, storm water or sanitary sewer, sewage treatment facility, facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, retention basin, pretreatment facility, waterway, waterline, water storage facility, rail line, electric, gas, telephone or other communications, or any other type of utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this subparagraph shall be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge shall be continuously open to public access. A public facility shall be located on public property or in a public, utility, or transportation easement or right-of-way.

(*ii*) The acquisition and disposal of land that is proposed or intended to be used in the development of eligible property or an interest in that land, demolition of structures, site preparation, and relocation costs.

(*iii*) All administrative and real and personal property acquisition and disposal costs related to a public facility described in subparagraphs (*i*) and (*iv*), including, but not limited to, architect' s, engineer's, legal, and accounting fees as permitted by the district's development plan.

(*iv*) An improvement to a facility used by the public or a public facility as those terms are defined in section 1 of 1966 PA 1, MCL 125.1351, which improvement is made to comply with the barrier free design requirements of the state construction code promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(*v*) All of the following costs approved by the Michigan economic development corporation:

(A) Operational costs and the costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that are or may become eligible for depreciation under the internal revenue code of 1986 for a business incubator located in a certified technology park.

(B) Costs related to the acquisition, improvement, preparation, demolition, disposal, construction, reconstruction, remediation, rehabilitation, restoration, preservation, maintenance, repair, furnishing, and equipping of land and other assets that, if privately owned, would be eligible for depreciation under the internal revenue code of 1986 for laboratory facilities, research and development facilities, conference facilities, teleconference facilities, testing, training facilities, and quality control facilities that are or that support eligible property under subdivision (p)(*iii*), that are owned by a public entity, and that are located within a certified technology park.

(*vi*) Operating and planning costs included in a plan pursuant to section 12(1)(f), including costs of marketing property within the district and attracting development of eligible property within the district.

(bb) "Qualified refunding obligation" means an obligation issued or incurred by an authority or by a municipality on behalf of an authority to refund an obligation if the refunding obligation meets both of the following:

(*i*) The net present value of the principal and interest to be paid on the refunding obligation, including the cost of issuance, will be less than the net present value of the principal and interest to be paid on the



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obligation being refunded, as calculated using a method approved by the department of treasury.

(*ii*) The net present value of the sum of the tax increment revenues described in subdivision (ee)(*ii*) and the distributions under section 11a to repay the refunding obligation will not be greater than the net present value of the sum of the tax increment revenues described in subdivision (ee)(*ii*) and the distributions under section 11a to repay the obligation being refunded, as calculated using a method approved by the department of treasury.

(cc) "Specific local taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572, the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668, the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, 1953 PA 189, MCL 211.181 to 211.182, and the technology park development act, 1984 PA 385, MCL 207.701 to 207.718. The initial assessed value or current assessed value of property subject to a specific local tax is the quotient of the specific local tax paid divided by the ad valorem millage rate. However, after 1993, the state tax commission shall prescribe the method for calculating the initial assessed value and current assessed value of property for which a specific local tax was paid in lieu of a property tax.

(dd) "State fiscal year" means the annual period commencing October 1 of each year.

(ee) "Tax increment revenues" means the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of eligible property within the district or, for purposes of a certified technology park, real or personal property that is located within the certified technology park and included within the tax increment financing plan, subject to the following requirements:

(*i*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions, other than the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts, upon the captured assessed value of real and personal property in the development area for any purpose authorized by this act.

(*ii*) Tax increment revenues include ad valorem property taxes and specific local taxes attributable to the application of the levy of the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local or intermediate school districts upon the captured assessed value of real and personal property in the development area in an amount equal to the amount necessary, without regard to subparagraph (*i*), for the following purposes:

(A) To repay eligible advances, eligible obligations, and other protected obligations.

(B) To fund or to repay an advance or obligation issued by or on behalf of an authority to fund the cost of public facilities related to or for the benefit of eligible property located within a certified technology park to the extent the public facilities have been included in an agreement under section 12a(3), not to exceed 50%, as determined by the state treasurer, of the amounts levied by the state pursuant to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, and local and intermediate school districts for a period not to exceed 15 years, as determined by the state treasurer, if the state treasurer determines that the capture under this subparagraph is necessary to reduce unemployment, promote economic growth, and increase capital investment in the municipality.

(*iii*) Tax increment revenues do not include any of the following:

(A) Ad valorem property taxes or specific local taxes that are excluded from and not made part of the tax increment financing plan.

(B) Ad valorem property taxes and specific local taxes attributable to ad valorem property taxes excluded by the tax increment financing plan of the authority from the determination of the amount of tax increment revenues to be transmitted to the authority.

(C) Ad valorem property taxes exempted from capture under section 4(3) or specific local taxes attributable to such ad valorem property taxes.

(D) Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific local taxes attributable to such ad valorem property taxes.

(E) The amount of ad valorem property taxes or specific taxes captured by a downtown development authority under 1975 PA 197, MCL 125.1651 to 125.1681, tax increment financing authority under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or brownfield redevelopment authority under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, if those taxes were captured by these other authorities on the date that the initial assessed value of a parcel of property was established under this act.

(*iv*) The amount of tax increment revenues authorized to be included under subparagraph (*ii*), and required to be transmitted to the authority under section 13(1), from ad valorem property taxes and specific local taxes attributable to the application of the levy of the state education tax act, 1993 PA 331, MCL 211.901 to



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211.906, or a local school district or an intermediate school district upon the captured assessed value of real and personal property in a development area shall be determined separately for the levy by the state, each school district, and each intermediate school district as the product of sub-subparagraphs (A) and (B):

(A) The percentage that the total ad valorem taxes and specific local taxes available for distribution by law to the state, local school district, or intermediate school district, respectively, bears to the aggregate amount of ad valorem millage taxes and specific taxes available for distribution by law to the state, each local school district, and each intermediate school district.

(B) The maximum amount of ad valorem property taxes and specific local taxes considered tax increment revenues under subparagraph (*ii*).

(ff) "Urban township" means a township that meets 1 or more of the following:

(*i*) Meets all of the following requirements:

(A) Has a population of 20,000 or more, or has a population of 10,000 or more but is located in a county with a population of 400,000 or more.

(B) Adopted a master zoning plan before February 1, 1987.

(C) Provides sewer, water, and other public services to all or a part of the township.

(*ii*) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Is located in a county with a population of 250,000 or more but less than 400,000, and that county is located in a metropolitan statistical area.

(C) Has within its boundaries a parcel of property under common ownership that is 800 acres or larger and is capable of being served by a railroad, and located within 3 miles of a limited access highway.

(D) Establishes an authority before December 31, 1998.

(*iii*) Meets all of the following requirements:

(A) Has a population of less than 20,000.

(B) Has a state equalized value for all real and personal property located in the township of more than $200,000,000.00.

(C) Adopted a master zoning plan before February 1, 1987.

(D) Is a charter township under the charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(E) Has within its boundaries a combination of parcels under common ownership that is 800 acres or larger, is immediately adjacent to a limited access highway, is capable of being served by a railroad, and is immediately adjacent to an existing sewer line.

(F) Establishes an authority before March 1, 1999.

(*iv*) Meets all of the following requirements:

(A) Has a population of 13,000 or more.

(B) Is located in a county with a population of 150,000 or more.

(C) Adopted a master zoning plan before February 1, 1987.

(*v*) Meets all of the following requirements:

(A) Is located in a county with a population of 1,000,000 or more.

(B) Has a written agreement with an adjoining township to develop 1 or more public facilities on contiguous property located in both townships.

(C) Has a master plan in effect.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991;—Am. 1992, Act 287, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 1994, Act 282, Imd. Eff. July 11, 1994;—Am. 1994, Act 331, Imd. Eff. Oct. 14, 1994;—Am. 1996, Act 270, Imd. Eff. June 12, 1996;—Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998;—Am. 1998, Act 92, Imd. Eff. May 14, 1998;—Am. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2003, Act 20, Imd. Eff. June 20, 2003;—Am. 2004, Act 17, Imd. Eff. Mar. 4, 2004.

### 125.2153 Authority; establishment; powers.

Sec. 3. (1) Except as otherwise provided by subsection (2), a municipality may establish not more than 1 authority under the provisions of this act. An authority established under this subsection shall exercise its powers in all authority districts.

(2) In addition to an authority established under subsection (1), a municipality may join with 1 or more other municipality located within the same county to establish an authority under this act. An authority created under this subsection may only exercise its powers in a certified technology park designated in an agreement made under section 12a. A municipality shall not establish more than 1 authority under this subsection.

(3) The authority shall be a public body corporate which may sue and be sued in any court of this state. The authority possesses all the powers necessary to carry out the purpose of its incorporation. The



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enumeration of a power in this act shall not be construed as a limitation upon the general powers of the authority. The powers granted in this act to an authority may be exercised notwithstanding that bonds are not issued by the authority.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 2000, Act 248, Imd. Eff. June 29, 2000.

### 125.2154 Resolution of intent; notice of public hearing; hearing; resolution exempting taxes from capture; resolution establishing authority and designating boundaries; filing and publication; alteration or amendment of boundaries; validity of proceedings; establishment of authority by 2 or more municipalities.

Sec. 4. (1) The governing body of a municipality may declare by resolution adopted by a majority of its members elected and serving its intention to create and provide for the operation of an authority.

(2) In the resolution of intent, the governing body proposing to create the authority shall set a date for holding a public hearing on the adoption of a proposed resolution creating the authority and designating the boundaries of the authority district or districts. Notice of the public hearing shall be published twice in a newspaper of general circulation in the municipality, not less than 20 nor more than 40 days before the date of the hearing. Not less than 20 days before the hearing, the governing body proposing to create the authority shall also mail notice of the hearing to the property taxpayers of record in a proposed authority district and, for a public hearing to be held after February 15, 1994, to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the authority is established and a tax increment financing plan is approved. Failure of a property taxpayer to receive the notice shall not invalidate these proceedings. The notice shall state the date, time, and place of the hearing, and shall describe the boundaries of the proposed authority district or districts. At that hearing, a resident, taxpayer, or property owner from a taxing jurisdiction in which the proposed district is located or an official from a taxing jurisdiction with millage that would be subject to capture has the right to be heard in regard to the establishment of the authority and the boundaries of that proposed authority district. The governing body of the municipality in which a proposed district is to be located shall not incorporate land into an authority district not included in the description contained in the notice of public hearing, but it may eliminate lands described in the notice of public hearing from an authority district in the final determination of the boundaries.

(3) Not more than 60 days after a public hearing held after February 15, 1994, the governing body of a taxing jurisdiction with millage that would otherwise be subject to capture may exempt its taxes from capture by adopting a resolution to that effect and filing a copy with the clerk of the municipality proposing to create the authority. However, a resolution by a governing body of a taxing jurisdiction to exempt its taxes from capture is not effective for the capture of taxes that are used for a certified technology park. The resolution takes effect when filed with that clerk and remains effective until a copy of a resolution rescinding that resolution is filed with that clerk.

(4) Not less than 60 days after the public hearing, if the governing body creating the authority intends to proceed with the establishment of the authority, it shall adopt, by majority vote of its members elected and serving, a resolution establishing the authority and designating the boundaries of the authority district or districts within which the authority shall exercise its powers. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval of resolutions by the chief executive officer of the municipality and the adoption of a resolution over his or her veto. This resolution shall be filed with the secretary of state promptly after its adoption and shall be published at least once in a newspaper of general circulation in the municipality.

(5) The governing body may alter or amend the boundaries of an authority district to include or exclude lands from that authority district or create new authority districts pursuant to the same requirements prescribed for adopting the resolution creating the authority.

(6) The validity of the proceedings establishing an authority shall be conclusive unless contested in a court of competent jurisdiction within 60 days after the last of the following takes place:

(a) Publication of the resolution creating the authority as adopted.

(b) Filing of the resolution creating the authority with the secretary of state.

(7) Except as otherwise provided by this subsection, if 2 or more municipalities desire to establish an authority under section 3(2), each municipality in which the authority district will be located shall comply with the procedures prescribed by this act. The notice required by subsection (2) may be published jointly by the municipalities establishing the authority. The resolutions establishing the authority shall include, or shall



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approve an agreement including, provisions governing the number of members on the board, the method of appointment, the members to be represented by governmental units or agencies, the terms of initial and subsequent appointments to the board, the manner in which a member of the board may be removed for cause before the expiration of his or her term, the manner in which the authority may be dissolved, and the disposition of assets upon dissolution. An authority described in this subsection shall not be considered established unless all of the following conditions are satisfied:

(a) A resolution is approved and filed with the secretary of state by each municipality in which the authority district will be located.

(b) The same boundaries have been approved for the authority district by the governing body of each municipality in which the authority district will be located.

(c) The governing body of the county in which a majority of the authority district will be located has approved by resolution the creation of the authority.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2005, Act 15, Imd. Eff. May 4, 2005.

**125.2155 Board; appointment, qualification, and terms of members; vancancy; reimbursement for expenses; chairperson; oath of office; rules; procedure; meetings; removal of member; publicizing expense items; financial records open to public.**

Sec. 5. (1) The authority shall be under the supervision and control of a board of 7 members appointed by the chief executive officer of the city, village, or urban township creating the authority subject to the approval of the governing body creating the authority. The board shall include 1 member appointed by the county board of commissioners of the county in which the authority is located. The board shall include 1 member representing a community or junior college in whose district the authority is located appointed by the chief executive officer of that community or junior college. The board shall also include 2 members appointed by the chief executive officer of each local governmental unit, other than the city, village, or urban township creating the authority, which levied 20% or more of the ad valorem property taxes levied against all property located in an authority district in the year before the year in which the authority district is established. However, those additional members shall only vote on matters relating to authority districts located within their respective local unit of government. Of the members first appointed, an equal number, as near as possible, shall have terms designated by the governing body creating the authority of 1 year, 2 years, 3 years, and 4 years. However, a member shall hold office until the member's successor is appointed. After the first appointment, each member shall serve for a term of 4 years. An appointment to fill a vacancy shall be made in the same manner as the original appointment. An appointment to fill an unexpired term shall be for the unexpired portion of the term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

(2) The chairperson of the board shall be elected by the board.

(3) Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office.

(4) The board shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the governing body. Special meetings may be held when called in the manner provided in the rules of the board. Meetings of the board shall be open to the public, in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(5) Subject to notice and an opportunity to be heard, a member of the board may be removed before the expiration of his or her term for cause by the governing body. Removal of a member is subject to review by the circuit court.

(6) All expense items of the authority shall be publicized annually and the financial records shall be open to the public pursuant to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

**125.2156 Director, employment; compensation; term; oath of office; bond; chief executive officer; duties; acting director; appointment or employment, compensation, and duties of treasurer; appointment or employment, compensation, and duties of secretary; legal counsel; employment of other personnel; municipal retirement and insurance programs.**

Sec. 6. (1) The board may employ and fix the compensation of a director, subject to the approval of the governing body creating the authority. The director shall serve at the pleasure of the board. A member of the board is not eligible to hold the position of director. Before entering upon the duties of the office, the director shall take and subscribe to the constitutional oath of office and shall furnish bond by posting a bond in the



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penal sum determined in the resolution establishing the authority. The bond shall be payable to the authority for the use and benefit of the authority, approved by the board, and filed with the clerk of the municipality. The premium on the bond shall be considered an operating expense of the authority, payable from funds available to the authority for expenses of operation. The director shall be the chief executive officer of the authority. Subject to the approval of the board, the director shall supervise and be responsible for the preparation of plans and the performance of the functions of the authority in the manner authorized by this act. The director shall attend the meetings of the board and shall render to the board and to the governing body a regular report covering the activities and financial condition of the authority. If the director is absent or disabled, the board may designate a qualified person as acting director to perform the duties of the office. Before entering upon the duties of the office, the acting director shall take and subscribe to the constitutional oath of office and furnish bond as required of the director. The director shall furnish the board with information or reports governing the operation of the authority as the board requires.

(2) The board may appoint or employ and fix the compensation of a treasurer who shall keep the financial records of the authority and who, together with the director, if a director is appointed, shall approve all vouchers for the expenditure of funds of the authority. The treasurer shall perform other duties as may be delegated by the board and shall furnish bond in an amount as prescribed by the board.

(3) The board may appoint or employ and fix the compensation of a secretary who shall maintain custody of the official seal and of records, books, documents, or other papers not required to be maintained by the treasurer. The secretary shall attend meetings of the board and keep a record of its proceedings and shall perform other duties as may be delegated by the board.

(4) The board may retain legal counsel to advise the board in the proper performance of its duties. The legal counsel may represent the authority in actions brought by or against the authority.

(5) The board may employ other personnel considered necessary by the board.

(6) The employees of an authority may be eligible to participate in municipal retirement and insurance programs of the municipality as if they were civil service employees on the same basis as civil service employees.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2157 Powers of board generally.

Sec. 7. The board may:

(a) Study and analyze unemployment, underemployment, and joblessness and the impact of growth upon the authority district or districts.

(b) Plan and propose the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of a public facility.

(c) Develop long-range plans, in cooperation with the agency which is chiefly responsible for planning in the municipality, to promote the growth of the authority district or districts, and take the steps that are necessary to implement the plans to the fullest extent possible to create jobs, and promote economic growth.

(d) Implement any plan of development necessary to achieve the purposes of this act in accordance with the powers of the authority as granted by this act.

(e) Make and enter into contracts necessary or incidental to the exercise of the board's powers and the performance of its duties.

(f) Acquire by purchase or otherwise on terms and conditions and in a manner the authority considers proper, own or lease as lessor or lessee, convey, demolish, relocate, rehabilitate, or otherwise dispose of real or personal property, or rights or interests in that property, which the authority determines is reasonably necessary to achieve the purposes of this act, and to grant or acquire licenses, easements, and options with respect to the property.

(g) Improve land, prepare sites for buildings, including the demolition of existing structures, and construct, reconstruct, rehabilitate, restore and preserve, equip, improve, maintain, repair, or operate a building, and any necessary or desirable appurtenances to a building, as provided in section 12(2) for the use, in whole or in part, of a public or private person or corporation, or a combination thereof.

(h) Fix, charge, and collect fees, rents, and charges for the use of a building or property or a part of a building or property under the board's control, or a facility in the building or on the property, and pledge the fees, rents, and charges for the payment of revenue bonds issued by the authority.

(i) Lease a building or property or part of a building or property under the board's control.

(j) Accept grants and donations of property, labor, or other things of value from a public or private source.

(k) Acquire and construct public facilities.

(*l*) Incur costs in connection with the performance of the board's authorized functions including, but not limited to, administrative costs, and architects, engineers, legal, and accounting fees.



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(m) Plan, propose, and implement an improvement to a public facility on eligible property to comply with the barrier free design requirements of the state construction code promulgated under the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being sections 125.1501 to 125.1531 of the Michigan Compiled Laws.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994.

**Administrative rules:** R 408.30401 et seq. of the Michigan Administrative Code.

### 125.2158 Authority as instrumentality of political subdivision.

Sec. 8. The authority shall be considered an instrumentality of a political subdivision for purposes of Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2159 Taking, transfer, and use of private property.

Sec. 9. A municipality may take private property under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the authority, and may transfer the property to the authority for use as authorized in the development plan, on terms and conditions it considers appropriate. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2160 Financing activities of authority.

Sec. 10. The activities of the authority shall be financed from 1 or more of the following sources:

(a) Contributions to the authority for the performance of its functions.

(b) Revenues from any property, building, or facility owned, leased, licensed, or operated by the authority or under its control, subject to the limitations imposed upon the authority by trusts or other agreements.

(c) Tax increment revenues received pursuant to a tax increment financing plan established under sections 12 to 14.

(d) Proceeds of tax increment bonds issued pursuant to section 14.

(e) Proceeds of revenue bonds issued pursuant to section 11.

(f) Money obtained from any other legal source approved by the governing body of the municipality or otherwise authorized by law for use by the authority or the municipality to finance a development program.

(g) Money obtained pursuant to section 11a.

(h) Loans from the Michigan strategic fund or the Michigan economic development corporation.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000.

### 125.2161 Revenue bonds.

Sec. 11. (1) The authority may borrow money and issue its negotiable revenue bonds pursuant to the revenue bond act of 1933, Act No. 94 of the Public Acts of 1933, being sections 141.101 to 141.139 of the Michigan Compiled Laws. Except as provided in subsection (2), revenue bonds issued by the authority shall not be considered a debt of the municipality or of the state.

(2) The municipality by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's revenue bonds or, if authorized by the voters of the municipality, may pledge its full faith and credit to support the authority's revenue bonds.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2161a Insufficient tax increment revenues for repayment of advance or payment of obligation; appropriation; filing claim; information required in claim; distributions; determination of amounts; limitations; distribution subject to lien; indebtedness, liability, or obligation; certification of distribution amount; basis for calculation of distributions and claims reports; use of 12-month debt payment period.

Sec. 11a. (1) If the amount of tax increment revenues lost as a result of the reduction of taxes levied by local school districts for school operating purposes required by the millage limitations under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, reduced by the amount of tax increment revenues received from the capture of taxes levied under or attributable to the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, will cause the tax increment revenues received in a fiscal year by an authority under section 13 to be insufficient to repay an eligible advance or to pay an eligible obligation, the legislature shall appropriate and distribute to the authority the amount described in subsection (5).



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(2) Not less than 30 days before the first day of a fiscal year, an authority eligible to retain tax increment revenues from taxes levied by a local or intermediate school district or this state or to receive a distribution under this section for that fiscal year shall file a claim with the department of treasury. The claim shall include the following information:

(a) The property tax millage rates levied in 1993 by local school districts within the jurisdictional area of the authority for school operating purposes.

(b) The property tax millage rates expected to be levied by local school districts within the jurisdictional area of the authority for school operating purposes for that fiscal year.

(c) The tax increment revenues estimated to be received by the authority for that fiscal year based upon actual property tax levies of all taxing jurisdictions within the jurisdictional area of the authority plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(d) The tax increment revenues the authority estimates it would have received for that fiscal year if property taxes were levied by local school districts within the jurisdictional area of the authority for school operating purposes at the millage rates described in subdivision (a) and if no property taxes were levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(e) A list and documentation of eligible obligations and eligible advances and the payments due on each of those eligible obligations or eligible advances in that fiscal year, and the total amount of all the payments due on those eligible obligations and eligible advances in that fiscal year.

(f) The amount of money, other than tax increment revenues, estimated to be received in that fiscal year by the authority that is primarily pledged to, and to be used for, the payment of an eligible obligation or the repayment of an eligible advance. That amount shall not include excess tax increment revenues of the authority that are permitted by law to be retained by the authority for purposes that further the development program. However, that amount shall include money to be obtained from sources authorized by law, which law is enacted on or after December 1, 1993, for use by the municipality or authority to finance a development project.

(g) The amount of a distribution received pursuant to this act for a fiscal year in excess of or less than the distribution that would have been required if calculated upon actual tax increment revenues received for that fiscal year.

(h) A list and documentation of other protected obligations and the payments due on each of those other protected obligations in that fiscal year, and the total amount of all the payments due on those other protected obligations in that fiscal year.

(3) For the fiscal year that commences after September 30, 1993 and before October 1, 1994, an authority may make a claim with all information required by subsection (2) at any time after March 15, 1994.

(4) After review and verification of claims submitted pursuant to this section, amounts appropriated by the state in compliance with this act shall be distributed as 2 equal payments on March 1 and September 1 after receipt of a claim. An authority shall allocate a distribution it receives for an eligible obligation issued on behalf of a municipality to the municipality.

(5) Subject to subsections (6) and (7), the aggregate amount to be appropriated and distributed pursuant to this section to an authority shall be the sum of the amounts determined pursuant to subdivisions (a) and (b) minus the amount determined pursuant to subdivision (c), as follows:

(a) The amount by which the tax increment revenues the authority would have received for the fiscal year, if property taxes were levied by local school districts on property, including property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated, for school operating purposes at the millage rates described in subsection (2)(a) and if no property taxes were levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, exceed the sum of tax increment revenues the authority actually received for the fiscal year plus any tax increment revenues the authority would have received for the fiscal year from property that is exempt from taxation pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, based on the property's taxable value at the time the zone is designated.

(b) A shortfall required to be reported pursuant to subsection (2)(g) that had not previously increased a distribution.

(c) An excess amount required to be reported pursuant to subsection (2)(g) that had not previously decreased a distribution.

(6) The amount distributed under subsection (5) shall not exceed the difference between the amount described in subsection (2)(e) and the sum of the amounts described in subsection (2)(c) and (f).



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(7) If, based upon the tax increment financing plan in effect on August 19, 1993, the payment due on eligible obligations or eligible advances anticipates the use of excess prior year tax increment revenues permitted by law to be retained by the authority, and if the sum of the amounts described in subsection (2)(c) and (f) plus the amount to be distributed under subsections (5) and (6) is less than the amount described in subsection (2)(e), the amount to be distributed under subsections (5) and (6) shall be increased by the amount of the shortfall. However, the amount authorized to be distributed pursuant to this section shall not exceed that portion of the cumulative difference, for each preceding fiscal year, between the amount that could have been distributed pursuant to subsection (5) and the amount actually distributed pursuant to subsections (5) and (6) and this subsection.

(8) A distribution under this section replacing tax increment revenues pledged by an authority or a municipality is subject to the lien of the pledge, whether or not there has been physical delivery of the distribution.

(9) Obligations for which distributions are made pursuant to this section are not a debt or liability of this state; do not create or constitute an indebtedness, liability, or obligation of this state; and are not and do not constitute a pledge of the faith and credit of this state.

(10) Not later than July 1 of each year, the authority shall certify to the local tax collecting treasurer the amount of the distribution required under subsection (5), calculated without regard to the receipt of tax increment revenues attributable to local or intermediate school district operating taxes or attributable to taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(11) Calculations of distributions under this section and claims reports required to be made under subsection (2) shall be made on the basis of each development area of the authority.

(12) The state tax commission may provide that the reimbursement calculations under this section and the calculation of allowable capture of school taxes shall be made for each calendar year's tax increment revenues using a 12-month debt payment period used by the authority and approved by the state tax commission.

**History:** Add. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 1994, Act 282, Imd. Eff. July 11, 1994;—Am. 1996, Act 270, Imd. Eff. June 12, 1996;—Am. 1996, Act 452, Imd. Eff. Dec. 19, 1996;—Am. 1998, Act 1, Imd. Eff. Jan. 30, 1998.

### 125.2162 Tax increment financing plan generally.

Sec. 12. (1) If the board determines that it is necessary for the achievement of the purposes of this act, the board shall prepare and submit a tax increment financing plan to the governing body. The plan shall be in compliance with section 13 and shall include a development plan as provided in section 15. The plan shall also contain the following:

(a) A statement of the reasons that the plan will result in the development of captured assessed value that could not otherwise be expected. The reasons may include, but are not limited to, activities of the municipality, authority, or others undertaken before formulation or adoption of the plan in reasonable anticipation that the objectives of the plan would be achieved by some means.

(b) An estimate of the captured assessed value for each year of the plan. The plan may provide for the use of part or all of the captured assessed value or, subject to subsection (3), of the tax increment revenues attributable to the levy of any taxing jurisdiction, but the portion intended to be used shall be clearly stated in the plan. The board or the municipality creating the authority may exclude from captured assessed value a percentage of captured assessed value as specified in the plan or growth in property value resulting solely from inflation. If excluded, the plan shall set forth the method for excluding growth in property value resulting solely from inflation.

(c) The estimated tax increment revenues for each year of the plan.

(d) A detailed explanation of the tax increment procedure.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The amount of operating and planning expenditures of the authority and municipality, the amount of advances extended by or indebtedness incurred by the municipality, and the amount of advances by others to be repaid from tax increment revenues.

(g) The costs of the plan anticipated to be paid from tax increment revenues as received.

(h) The duration of the development plan and the tax increment plan.

(i) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is or is anticipated to be located.

(j) A legal description of the eligible property to which the tax increment financing plan applies or shall apply upon qualification as eligible property.

(k) An estimate of the number of jobs to be created as a result of implementation of the tax increment financing plan.



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(*l*) The proposed boundaries of a certified technology park to be created under an agreement proposed to be entered into pursuant to section 12a, an identification of the real property within the certified technology park to be included in the tax increment financing plan for purposes of determining tax increment revenues, and whether personal property located in the certified technology park is exempt from determining tax increment revenues.

(2) Except as provided in subsection (7), a tax increment financing plan shall provide for the use of tax increment revenues for public facilities for eligible property whose captured assessed value produces the tax increment revenues or, to the extent the eligible property is located within a business development area, for other eligible property located in the business development area. Public facilities for eligible property include the development or improvement of access to and around, or within the eligible property, of road facilities reasonably required by traffic flow to be generated by the eligible property, and the development or improvement of public facilities that are necessary to service the eligible property, whether or not located on that eligible property. If the eligible property identified in the tax increment financing plan is property to which section 2(p)(*iv*) applies, the tax increment financing plan shall not provide for the use of tax increment revenues for public facilities other than those described in the development plan as of April 1, 1991. Whether or not provided in the tax increment financing plan, if the eligible property identified in the tax increment financing plan is property to which section 2(p)(*iv*) applies, then to the extent that captured tax increment revenues are utilized for the costs of cleanup of identified soil and groundwater contamination, the captured tax increment revenues shall be first credited against the shares of responsibility for the total costs of cleanup of uncollectible parties who are responsible for the identified soil and groundwater contamination pursuant to law, and then shall be credited on a pro rata basis against the shares of responsibility for the total costs of cleanup of other parties who are responsible for the identified soil and groundwater contamination pursuant to law.

(3) The percentage of taxes levied for school operating purposes that is captured and used by the tax increment financing plan and the tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall not be greater than the percentage capture and use of taxes levied by a municipality or county for operating purposes under the tax increment financing plan and tax increment financing plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, and the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672. For purposes of the previous sentence, taxes levied by a county for operating purposes include only millage allocated for county or charter county purposes under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a.

(4) Except as otherwise provided by this subsection, approval of the tax increment financing plan shall be in accordance with the notice, hearing, disclosure, and approval provisions of sections 16 and 17. If the development plan is part of the tax increment financing plan, only 1 hearing and approval procedure is required for the 2 plans together. For a plan submitted by an authority established by 2 or more municipalities under sections 3(2) and 4(7), the notice required by section 16 may be published jointly by the municipalities in which the authority district is located. The plan shall not be considered approved unless each governing body in which the authority district is located makes the determinations required by section 17 and approves the same plan, including the same modifications, if any, made to the plan by any other governing body.

(5) Before the public hearing on the tax increment financing plan, the governing body shall provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to express their views and recommendations regarding the tax increment financing plan. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed tax increment financing plan. The taxing jurisdictions may present their recommendations at the public hearing on the tax increment financing plan. The authority may enter into agreements with the taxing jurisdictions and the governing body of the municipality in which the authority district is located to share a portion of the captured assessed value of the district or to distribute tax increment revenues among taxing jurisdictions. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues, as specified in this act, shall be binding on all taxing units levying ad valorem property taxes or specific local taxes against property located in the authority district.

(6) Property qualified as a public facility under section 2(aa)(*ii*) that is acquired by an authority may be sold, conveyed, or otherwise disposed to any person, public or private, for fair market value or reasonable monetary consideration established by the authority with the concurrence of the Michigan economic development corporation and the municipality in which the eligible property is located based on a fair market value appraisal from a fee appraiser only if the property is sold for fair market value. Unless the property acquired by an authority was located within a certified business park or a certified technology park at the time



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of disposition, an authority shall remit all monetary proceeds received from the sale or disposition of property that qualified as a public facility under section 2(aa)(*ii*) and was purchased with tax increment revenues to the taxing jurisdictions. Proceeds distributed to taxing jurisdictions shall be remitted in proportion to the amount of tax increment revenues attributable to each taxing jurisdiction in the year the property was acquired. If the property was acquired in part with funds other than tax increment revenues, only that portion of the monetary proceeds received upon disposition that represent the proportion of the cost of acquisition paid with tax increment revenues is required to be remitted to taxing jurisdictions. If the property is located within a certified business park or certified technology park at the time of disposition, the monetary proceeds received from the sale or disposition of that property may be retained by the authority for any purpose necessary to further the development program for the certified business park or certified technology park in accordance with the tax increment financing plan.

(7) The tax increment financing plan may provide for the use of tax increment revenues from a certified technology park for public facilities for any eligible property located in the certified technology park.

(8) If title to property qualified as a public facility under section 2(aa)(*ii*) and acquired by an authority with tax increment revenues is sold, conveyed, or otherwise disposed of pursuant to subsection (6) for less than fair market value, the authority shall enter into an agreement relating to the use of the property with the person to whom the property is sold, conveyed, or disposed of, which agreement shall include a penalty provision addressing repayment to the authority if any interest in the property is sold, conveyed, or otherwise disposed of by the person within 12 years after the person received title to the property from the authority. This subsection shall not require enforcement of a penalty provision for a conveyance incident to a merger, acquisition, reorganization, sale-lease back transaction, employee stock ownership plan, or other change in corporate or business form or structure.

(9) The penalty provision described in subsection (8) shall not be less than an amount equal to the difference between the fair market value of the property when originally sold, conveyed, or otherwise disposed of and the actual consideration paid by the person to whom the property was originally sold, conveyed, or otherwise disposed of.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 2000, Act 248, Imd. Eff. June 29, 2000.

### 125.2162a Designation as certified technology park; application to Michigan economic development corporation; agreement.

Sec. 12a. (1) A municipality that has created an authority may apply to the Michigan economic development corporation for designation of all or a portion of the authority district as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The form of the application shall be in a form specified by the Michigan economic development corporation and shall include information the Michigan economic development corporation determines necessary to make the determinations required under this section.

(2) After receipt of an application, the Michigan economic development corporation may designate, pursuant to an agreement entered into under subsection (3), a certified technology park that is determined by the Michigan economic development corporation to satisfy 1 or more of the following criteria based on the application:

(a) A demonstration of significant support from an institution of higher education or a private research-based institute located within the proximity of the proposed certified technology park, as evidenced by, but not limited to, the following types of support:

(*i*) Grants of preferences for access to and commercialization of intellectual property.

(*ii*) Access to laboratory and other facilities owned by or under control of the institution of higher education or private research-based institute.

(*iii*) Donations of services.

(*iv*) Access to telecommunication facilities and other infrastructure.

(*v*) Financial commitments.

(*vi*) Access to faculty, staff, and students.

(*vii*) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(b) A demonstration of a significant commitment on behalf of the institution of higher education or private research-based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(c) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which



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the proposed certified technology park will be located.

(d) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(*i*) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(*ii*) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(*iii*) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(e) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(*i*) A commitment to new business formation.

(*ii*) The clustering of businesses, technology, and research.

(*iii*) The opportunity for and costs of development of properties under common ownership or control.

(*iv*) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(*v*) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(f) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain eligible property as defined by section 2(p)(*iii*) and (*v*).

(3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified technology park. Upon designation of the certified technology park pursuant to the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include, but is not limited to, the following provisions:

(a) A description of the area to be included within the certified technology park.

(b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(c) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.

(d) The terms of any commitment required from an institution of higher education or private research-based institute for support of the operations and activities at eligible properties within the certified technology park.

(e) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(f) The public facilities to be developed for the certified technology park.

(g) The costs approved for public facilities under section 2(aa).

(4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified technology park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified technology park at below market rate.

(5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

(6) Except as otherwise provided in this subsection, an agreement designating a certified technology park may not be made after December 31, 2002, but any agreement made on or before December 31, 2002 may be amended after that date. However, the Michigan economic development corporation may enter into an agreement with a municipality after December 31, 2002 and on or before December 31, 2005 if that municipality has adopted a resolution of interest to create a certified technology park before December 31, 2002.

(7) The Michigan economic development corporation shall market the certified technology parks and the certified business parks. The Michigan economic development corporation and an authority may contract with each other or any third party for these marketing services.

(8) Except as otherwise provided in subsection (9), the Michigan economic development corporation shall



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not designate more than 10 certified technology parks. For purposes of this subsection only, 2 certified technology parks located in a county that contains a city with a population of more than 750,000, shall be counted as 1 certified technology park. Not more than 7 of the certified technology parks designated under this section may not include a firm commitment from at least 1 business engaged in a high technology activity creating a significant number of jobs.

(9) The Michigan economic development corporation may designate an additional 5 certified technology parks after November 1, 2002. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after November 1, 2002.

(10) The Michigan economic development corporation shall give priority to applications that include new business activity.

(11) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

(12) Not including certified technology parks designated under subsection (8), but for certified technology parks designated under subsection (9) only, this state shall do all of the following:

(a) Reimburse intermediate school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after the effective date of the amendatory act that added this subdivision.

(b) Reimburse local school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after the effective date of the amendatory act that added this subdivision.

(c) Reimburse the school aid fund from funds other than those appropriated in section 11 of the state school aid act of 1979, 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement calculations under subdivisions (a) and (b) and for all revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after the effective date of the amendatory act that added this subdivision. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation under subsection (9) after the effective date of the amendatory act that added this subdivision.

**History:** Add. 2000, Act 248, Imd. Eff. June 29, 2000;—Am. 2002, Act 575, Imd. Eff. Oct. 3, 2002;—Am. 2004, Act 365, Imd. Eff. Oct. 7, 2004.

### 125.2163 Tax increment revenues transmitted to authority; expenditure of tax increment revenues; retention or reversion of excess revenue; prohibition; abolition of tax increment financing plan; annual financial report.

Sec. 13. (1) The city, village, township, school district, and county treasurers shall transmit to the authority tax increment revenues.

(2) The authority shall expend the tax increment revenues received for the development program only in accordance with the tax increment financing plan. Tax increment revenues in excess of the estimated tax increment revenues or of the actual costs of the plan to be paid by the tax increment revenues may be retained by the authority only for purposes, that by resolution of the board, are determined to further the development program in accordance with the tax increment financing plan. The excess tax increment revenues not so used shall revert proportionately to the respective taxing jurisdictions. These revenues shall not be used to circumvent existing property tax laws or a local charter that provides a maximum authorized rate for the levy of property taxes. The governing body may abolish the tax increment financing plan if it finds that the purposes for which the plan was established are accomplished. However, the tax increment financing plan may not be abolished until the principal of and interest on bonds issued pursuant to section 14 have been paid or funds sufficient to make that payment have been segregated and placed in an irrevocable trust for the benefit of the holders of the bonds.

(3) The authority shall submit annually to the governing body and the state tax commission a financial report on the status of the tax increment financing plan. The report shall include the following:



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(a) The amount and source of tax increment revenues received.
(b) The amount in any bond reserve account.
(c) The amount and purpose of expenditures of tax increment revenues.
(d) The amount of principal and interest on any outstanding bonded indebtedness of the authority.
(e) The initial assessed value of the eligible property.
(f) The captured assessed value of the eligible property retained by the authority.
(g) The number of jobs created as a result of the implementation of the tax increment financing plan.
(h) Any additional information the governing body or the state tax commission considers necessary.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994.

### 125.2164 Tax increment bonds; qualified refunding obligation.

Sec. 14. (1) By resolution of its board and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its tax increment bonds to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The authority may pledge for debt service requirements the tax increment revenues to be received from an eligible property. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds or, if authorized by the voters of the municipality, pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 10.

(3) Bonds and notes issued by the authority and the interest on and income from those bonds and notes are exempt from taxation by the state or a political subdivision of this state.

(4) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 11a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994;—Am. 1996, Act 270, Imd. Eff. June 12, 1996;—Am. 2002, Act 235, Imd. Eff. Apr. 29, 2002.

### 125.2165 Development plan generally.

Sec. 15. (1) If a board decides to finance a project under this act, it shall prepare a development plan.

(2) To the extent necessary to accomplish the proposed development program the development plan shall contain:

(a) A description of the property to which the plan applies in relation to the boundaries of the authority district and a legal description of the property.

(b) The designation of boundaries of the property to which the plan applies in relation to highways, streets, or otherwise.

(c) The location and extent of existing streets and other public facilities in the vicinity of the property to which the plan applies; the location, character, and extent of the categories of public and private land uses then existing and proposed for the property to which the plan applies, including residential, recreational, commercial, industrial, educational, and other uses.

(d) A description of public facilities to be acquired for the property to which the plan applies, a description of any repairs and alterations necessary to make those improvements, and an estimate of the time required for completion of the improvements.

(e) The location, extent, character, and estimated cost of the public facilities for the property to which the plan applies, and an estimate of the time required for completion.

(f) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(g) A description of any portions of the property to which the plan applies, which the authority desires to sell, donate, exchange, or lease to or from the municipality and the proposed terms.



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(h) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(i) An estimate of the cost of the public facility or facilities, a statement of the proposed method of financing the public facility or facilities, and the ability of the authority to arrange the financing.

(j) Designation of the person or persons, natural or corporate, to whom all or a portion of the public facility or facilities is to be leased, sold, or conveyed and for whose benefit the project is being undertaken, if that information is available to the authority.

(k) The procedures for bidding for the leasing, purchasing, or conveying of all or a portion of the public facility or facilities upon its completion, if there is no express or implied agreement between the authority and persons, natural or corporate, that all or a portion of the development will be leased, sold, or conveyed to those persons.

(*l*) Estimates of the number of persons residing on the property to which the plan applies and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the authority, a development plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the development.

(n) Provision for the costs of relocating persons displaced by the development, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the federal uniform relocation assistance and real property acquisition policies act of 1970, 42 U.S.C. 4601 to 4655.

(o) A plan for compliance with Act No. 227 of the Public Acts of 1972, being sections 213.321 to 213.332 of the Michigan Compiled Laws.

(p) Other material which the authority or governing body considers pertinent.

(3) It shall not be necessary for the board to prepare a development plan pursuant to this section if a development plan that adequately provides for accomplishing the proposed development program has already been prepared and where the development plan has been approved by the board and governing body pursuant to sections 16 and 17.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2166 Adoption of resolution approving development plan or tax increment financing plan; public hearing; notice; record.

Sec. 16. (1) Before adoption of a resolution approving or amending a development plan or approving or amending a tax increment financing plan, the governing body shall hold a public hearing on the development plan. Notice of the time and place of the hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall not be less than 20 days before the date set for the hearing. Beginning June 1, 2005, the notice of hearing within the time frame described in this subsection shall be mailed by certified mail to the governing body of each taxing jurisdiction levying taxes that would be subject to capture if the development plan or the tax increment financing plan is approved or amended.

(2) Notice of the time and place of hearing on a development plan shall contain the following:

(a) A description of the property to which the plan applies in relation to highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the development plan, including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at a place designated in the notice, and that all aspects of the development plan will be open for discussion at the public hearing.

(c) Other information that the governing body considers appropriate.

(3) At the time set for hearing, the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the matter. The hearing shall provide the fullest opportunity for expression of opinion, for argument on the merits, and for introduction of documentary evidence pertinent to the development plan. The governing body shall make and preserve a record of the public hearing, including all data presented at that time.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—2005, Act 15, Imd. Eff. May 4, 2005.



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### 125.2167 Development plan or tax increment financing plan as constituting public purpose; approval or rejection; considerations; amendments; procedure, notice, findings, and amendment as conclusive; contest.

Sec. 17. (1) After a public hearing on the development plan or the tax increment financing plan, or both, with notice of the hearing given pursuant to section 16, the governing body shall determine whether the development plan or tax increment financing plan, or both, constitutes a public purpose. If the governing body determines that the development plan or tax increment financing plan, or both, constitutes a public purpose, the governing body may then approve or reject the plan, or approve it with modification, by resolution, based on the following considerations:

(a) Whether the development plan meets the requirements set forth in section 15(2) and the tax increment financing plan meets the requirements set forth in section 12(1), (2), and (3).

(b) Whether the proposed method of financing the public facility or facilities is feasible and the authority has the ability to arrange the financing.

(c) Whether the development is reasonable and necessary to carry out the purposes of this act.

(d) Whether the amount of captured assessed value estimated to result from adoption of the plan is reasonable.

(e) Whether the land to be acquired under the development plan is reasonably necessary to carry out the purposes of the plan and the purposes of this act.

(f) Whether the development plan is in reasonable accord with the approved master plan of the municipality, if an approved master plan exists.

(g) Whether public services, such as fire and police protection and utilities, are or will be adequate to service the property.

(h) Whether changes in zoning, streets, street levels, intersections, and utilities are reasonably necessary for the project and for the municipality.

(2) Except as provided in this subsection, amendments to an approved development plan or tax increment plan must be submitted by the authority to the governing body for approval or rejection following the same notice and public hearing provisions that are necessary for approval or rejection of the original plan. Notice and hearing shall not be necessary for revisions in the estimates of captured assessed value and tax increment revenues.

(3) The procedure, adequacy of notice, and findings with respect to purpose and captured assessed value shall be conclusive unless contested in a court of competent jurisdiction within 60 days after adoption of the resolution adopting the plan. An amendment, adopted by resolution, to a conclusive plan shall likewise be conclusive unless contested within 60 days after adoption of the resolution adopting the amendment. If a resolution adopting an amendment to the plan is contested, the resolution adopting the plan is not open to contest.

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1993, Act 333, Eff. Mar. 15, 1994.

### 125.2168 Relocation of person; notice to vacate.

Sec. 18. A person to be relocated under this act shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2169 Budget; cost of handling and auditing funds; audit.

Sec. 19. (1) The director of the authority shall prepare and submit for the approval of the board a budget for the operation of the authority for the ensuing fiscal year. The budget shall be prepared in the manner and contain the information required of municipal departments. Before the budget may be adopted by the board, it shall be approved by the governing body. Funds of the municipality shall not be included in the budget of the authority except those funds authorized in this act or by the governing body.

(2) The governing body may assess a reasonable pro rata share of the funds for the cost of handling and auditing the funds against the funds of the authority, other than those committed for designated purposes, which cost shall be paid annually by the board pursuant to an appropriate item in its budget.

(3) The auditor general or a certified public accountant appointed by the auditor general shall annually audit the authority whose authority district includes eligible property to which section 2(*l*)(*iv*) applies. The audit shall be limited to matters pertaining to that district. Upon completion of the audit, the auditor general shall submit a report on the audit to the committees of the senate and the house of representatives primarily responsible for taxation and environmental protection issues. The department of natural resource shall biannually report to these committees and to the auditor general the status of the remediation of the soil and



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groundwater contamination described in section 2(*l*)(*iv*).

**History:** 1986, Act 281, Eff. Feb. 1, 1987;—Am. 1991, Act 101, Imd. Eff. Aug. 21, 1991;—Am. 1993, Act 333, Eff. Mar. 15, 1994.

### 125.2170 Dissolution of authority; resolution; disposition of property and assets.

Sec. 20. An authority that completes the purposes for which it was organized shall be dissolved by resolution of the governing body. The property and assets of the authority remaining after the satisfaction of the obligations of the authority shall belong to the municipality or to an agency or instrumentality designated by resolution of the municipality.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2171 Proceedings to enforce act.

Sec. 21. The state tax commission may institute proceedings to compel enforcement of this act.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2172 Effective date.

Sec. 22. This act shall take effect on February 1, 1987.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

### 125.2173 Conditional effective date.

Sec. 23. This act shall not take effect unless House Bill No. 5729 of the 83rd Legislature is enacted into law.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.

**Compiler's note:** House Bill No. 5729, referred to in §§ 125.2173, was filed with the Secretary of State December 22, 1986, and became P.A. 1986, No. 280, Imd. Eff. Dec. 22, 1986.

### 125.2174 Constitutionality of act.

Sec. 24. Pursuant to section 8 of article III of the state constitution of 1963, it is the intent of the legislature, by concurrent resolution, to request the opinion of the supreme court as to the constitutionality of this 1986 act if the governor has not already requested an opinion.

**History:** 1986, Act 281, Eff. Feb. 1, 1987.



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March 16, 2003

TO: Honorable Mayor and City Council

FROM: John Szerlag, City Manager
Doug Smith, Real Estate and Development Director

SUBJECT: Appointments to the Local Development Finance Authority

Central to City of Troy participating in the Automation Alley SmartZone is the establishment of a joint Local Development Finance Authority (LDFA) under Public Act 281 of 1986. This LDFA will be coterminous with the certified technology park, which is a requirement by the Michigan Economic Development Corporation (MEDC) for Oakland County to receive the Automation Alley SmartZone designation.

The SmartZone legislation (PA281 of 1986) requires an agreement between the two municipalities in establishing the joint LDFA. The statute permits some freedom in selecting the number of members and the terms. The agreement between the two communities, modeled on the other joint LDFA's already established in the state, is the following:

> *The Mayor of the City shall appoint five members of the authority board subject to the approval of the Troy City Council. Initial terms of the members shall be staggered, so that two (2) of the members shall be appointed to terms ending June 30, 2004; two (2) shall be appointed to terms ending June 30, 2005, and one (1) member shall be appointed to a term ending June 30, 2006. The appointees shall not be elected officials of the City Council.*

Consistent with the appointments that Southfield is making, it is recommended that three administrative staff, City Manager, John Szerlag, Assistant City Manager/Finance. John Lamerato, and Real Estate and Development Director, Doug Smith be appointed to the LDFA along with Alan Kiriluk, Chair of the Downtown Development Authority and Keith Pretty, President of Walsh College. Mr. Kiriluk's appointment provides for coordination with the Downtown Development Authority, which, like the LDFA area, is along the Big Beaver corridor and will allow the two bodies to work closely together. Mr. Pretty's appointment as President of Walsh College is being recommended since Walsh College will be the local institution involved with the delivery of services in the business incubator.

DS/pg

# FORMATION

# OF THE

# JOINT LOCAL DEVELOPMENT FINANCE AUTHORITY

STATE LAW
Act 281 of the Public Acts of 1986

Council Resolutions: May 5, 2003

Resolution #2003-05-231-1
Resolution #2003-05-231-2
Resolution #2003-05-231-3

**CITY OF TROY**
**OAKLAND COUNTY, MICHIGAN**

**RESOLUTION**

**Establishment for the Automation Alley SmartZone**

**1) Resolution to Approve Participation in the Automation Alley SmartZone Through the Creation of a Certified Technology Park (CTP)**

At a Regular meeting of the Troy City Council held on Monday, May 5, 2003, the following Resolution was passed:

Resolution #2003-05-231-1
Moved by Pryor
Seconded by Beltramini

WHEREAS, The Michigan Legislative passed and the Governor signed Public Act 248 of 2000 to promote, the development of high technology businesses throughout the State of Michigan; and

WHEREAS, The MEDC has been authorized by Public Act 281 of 1986, as amended, being MCL 125.2151 et seq., to designate a certain number of certified technology parks ("Certified Technology Parks") within the State of Michigan, by December 31, 2002; and

WHEREAS, The MEDC for strategic marketing purposes, has chosen to designate the aforementioned Certified Technology Parks as "SmartZones"; and

WHEREAS, On July 26, 2000, the MEDC issued a proposal for SmartZone designation; and

WHEREAS, On October 16, 2000, the MEDC received a proposal (the "Proposal") requesting designation as a Certified Technology Park if certain areas located within the City's jurisdiction, and within another district within the Authority's boundaries, to be known as the "Automation Alley Certified Technology Park"; and

WHEREAS, The Automation Alley SmartZone Agreement (hereinafter called "Agreement") was entered on the 16th day of December, 2002, by and among the Michigan Economic Development Corporation, a public body corporate, with office at 201 N. Washington Square, Lansing, Michigan 48913 (hereinafter called "MEDC"), the City of Southfield, a municipal corporation with offices

at 26000 Evergreen Road, Southfield, Michigan 48076, (hereinafter collectively called the "City"), and the City's Local Development Finance Authority with offices at 26000 Evergreen Road, Southfield, Michigan 48076 (hereinafter called the "Authority");

WHEREAS, The MEDC, the City, and the Authority have through the Agreement established a joint local development finance authority (which would include, the Automation Alley Certified Technology Park), as a shared effort between the City and one or more municipalities (as hereinafter defined) within the County of Oakland; and

WHEREAS, The MEDC, the City and the Authority have invited the City of Troy to identify a certified technology park to be included in this agreement.

NOW, THEREFORE, BE IT RESOLVED, The City of Troy **ENTER** into an Agreement to designate the Authority District (as herein after defined) both as a Certified Technology Park and as a SmartZone and to **ESTABLISH** terms and conditions of this designation and to **ENTER** an Agreement with the MEDC, the City and the Authority.

Yes: Eisenbacher, Lambert, Stine, Pryor, Beltramini, Broomfield
No: Howrylak

I, Barbara A. Holmes, duly appointed Deputy Clerk of the City of Troy, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Troy City Council at a Regular Meeting duly called and held on Monday, the Fifth day of May, 2003.

_____

Barbara A. Holmes
Deputy City Clerk

**CITY OF TROY**
**OAKLAND COUNTY, MICHIGAN**

**RESOLUTION**

**Establishment for the Automation Alley SmartZone**

**2) Resolution to Establish a SmartZone, Certified Technology Park and Associated Multi-Jurisdictional Local Development Finance Authority (L.D.F.A.)**

At a Regular meeting of the Troy City Council held on Monday, May 5, 2003, the following Resolution was passed:

Resolution #2003-05-231-2
Moved by Pryor
Seconded by Beltramini

WHEREAS, Public Act 281 of 1986 is an act to prevent urban deterioration and encourage economic development including, but not limited to, high-technology industries and activity and to encourage neighborhood revitalization and historic preservation and to provide a mechanism for developing and implementing plans within a development; and

WHEREAS, Section 3 (2) of Act 281 [MCL 125.2153] provides that a municipality may join with one or more other municipalities located within the same county to establish a joint authority under the Act; and

WHEREAS, Section 4 (7) of Act 281 [MCL 125.2154] provides that the city councils of two or more municipalities may declare by resolution their intention to create and provide for the operation of a joint authority, and establish the time and place of a public hearing or hearings at which a resident, taxpayer or property owner of one of the municipality's has a right to be heard in regard to the establishment of the joint authority and the boundaries of the proposed authority district, and

WHEREAS, Troy City Council did adopt a resolution of intent at a public hearing on March 3, 2003; and

WHEREAS, The City of Troy and Michigan Economic Development Corporation will enter into an agreement that establishes the boundaries of a certified technology park within the City,

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy determines that it is in the best interests of the public to increase property tax valuation, and to promote growth in the area of the City of Troy defined as a certified technology park, particularly growth related to industries engaged in a high-technology, including, but not limited to, advanced manufacturing, advanced computing, research and development, life sciences and biotechnology, and

BE IT FURTHER RESOLVED, That the City Council of the City of Troy does hereby declare its intention to **CREATE AND PROVIDE FOR THE OPERATION** of a Joint Local Development Finance Authority with the City of Southfield pursuant to Public Act 281 of 1986, **PENDING THE APPROVAL** by its City Council of a Resolution of Intent, and

BE IT FURTHER RESOLVED, That the City of Troy's boundaries of the Joint Local Development Finance Authority District are coterminous with the boundaries of the Troy Certified Technology Park, further described as:

PART OF THE NORTH ½ SECTION 26, T. 2N., R. 11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEING DESCRIBED AS: COMMENCING AT THE NORTHEAST CORNER OF SECTION 26, THENCE S 89º 42' 00" W. 720.60 FEET ALONG THE NORTH LINE OF SECTION 26; THENCE S. 00º 29' 22" E. 102.00 FEET TO THE POINT OF BEGINNING, SAID POINT BEING ON THE SOUTH LINE OF BIG BEAVER ROAD (204.00 FEET WIDE); THENCE CONTINUING S. 00º 29' 22" E. 837.99 FEET (RECORDED AS S. 00º 11'31" W.); THENCE S. 89º 42' 00" W. 600.00 FEET; THENCE S. 00º 29' 22" E. 1,231.93 FEET (RECORDED AS S. 00º 11' 31" W.); THENCE N. 89º 21' 30" W. 275.00 FEET (RECORDED AS DUE WEST) TO THE CENTERLINE OF THE STURGIS DRAIN EASEMENT; THENCE N. 55º 11' 44" W. 785.73 FEET (RECORDED AS N. 53º 50' 14" W.) ALONG THE CENTERLINE OF STURGIS DRAIN EASEMENT; THENCE N. 64º 27' 00" W. 141.02 FEET (RECORDED AS N. 65º 05' 30" W.) ALONG THE CENTERLINE OF THE STURGIS DRAIN EASEMENT; THENCE N. 66º 04' 33" W. 497.19 FEET; THENCE N. 47º 34' 57" W. 200.22 FEET; THENCE N. 74º 32' 17" W. 210.77 FEET; THENCE N. 71º 34' 14" W. 397.45 FEET; THENCE N. 00º 35' 17" W. 1025.71 FEET; THENCE N. 89º 34' 43" E. 50.76 FEET; THENCE S. 00º 35' 17" E. 698 FEET; THENCE N. 89º 34' 43" E. 325 FEET; THENCE S. 01º 06' 40" E. 18.72 FEET; THENCE N 89º 31' 16" E. 510.00 FEET; THENCE N. 00º 36' 00" W. 716.12 (RECORDED AS N. 00º 56' 45" E.) TO THE SOUTH LINE OF BIG BEAVER ROAD; THENCE N. 89º 35' 11" E. 14.37 FEET (RECORDED AS S. 88º 53' 15" E.) ALONG

THE SOUTH LINE OF BIG BEAVER ROAD TO THE NORTH AND SOUTH ¼ LINE OF SECTION 26; THENCE S. 00º 36' 00' E. 410 FEET (RECORDED AS S. 00º 04' 55" E.) ALONG THE NORTH AND SOUTH ¼ LINE OF SECTION 26; THENCE N. 89º 42' 00" E. 358.00 FEET; THENCE N. 00º 36' 00" W. 410.00 FEET (RECORDED AS N. 00º 04' 55" W.) TO THE SOUTH LINE OF BIG BEAVER ROAD; THENCE N. 89º 42' 00" E. 1564.00 FEET ALONG THE SOUTHERLY LINE OF BIG BEAVER ROAD (204 FEET WIDE) TO THE POINT OF BEGINNING. CONTAINING 73.61 ACRES MORE OR LESS.

Yes: Eisenbacher, Lambert, Stine, Pryor, Beltramini, Broomfield
No: Howrylak

I, Barbara A. Holmes, duly appointed Deputy Clerk of the City of Troy, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Troy City Council at a Regular Meeting duly called and held on Monday, the Fifth day of May, 2003.

_____

Barbara A. Holmes
Deputy City Clerk

**CITY OF TROY**
**OAKLAND COUNTY, MICHIGAN**

**RESOLUTION**

**Establishment for the Automation Alley SmartZone**

**3) Approval of the Agreement Between the City of Southfield and the City of Troy Creating a Joint Local Development Finance Authority**

At a Regular meeting of the Troy City Council held on Monday, May 5, 2003, the following Resolution was passed:

Resolution #2003-05-231-3
Moved by Pryor
Seconded by Beltramini

RESOLVED, That Troy City Council **APPROVE** the Agreement between the City of Southfield and the City of Troy, County of Oakland, Michigan creating a Joint Local Development Finance Authority pursuant to PA 281 of 1986; and
BE IT RESOLVED, That Troy City Council's APPROVAL of the Agreement between the City of Southfield and the City of Troy, County of Oakland, Michigan creating a Joint Local Development Finance Authority pursuant to PA 281 of 1986 is **CONTINGENT** upon the following: 1) Establishment of a 15-year Sunset as Section 13 of the Agreement; 2) All Joint Local Development Finance Authority meetings must be televised; 3) Section 6 must be modified to clarify that the Authority does not have the authority to modify the Budget absent approval from the appropriate municipal sub-committee(s); 4) The clerical error, where there are two section 2s in the agreement shall be corrected. ; 5) All Joint Local Development Finance Authority meetings must be held in government buildings; 6) Two City of Troy City Council Members shall be designated as alternate members to the Joint Local Development Finance Authority to eliminate the ability for the Troy Board members to participate through electronic means; ; and

BE IT RESOLVED, That three of the five City of Troy members of the Joint Local Development Finance Authority must be City of Troy residents; and

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are hereby authorized to **EXECUTE** the Agreement, a copy of which

shall be **ATTACHED** to and made part of the original Minutes of this meeting.

Yes: Eisenbacher, Lambert, Stine, Pryor, Beltramini, Broomfield
No: Howrylak

I, Barbara A. Holmes, duly appointed Deputy Clerk of the City of Troy, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Troy City Council at a Regular Meeting duly called and held on Monday, the Fifth day of May, 2003.

_____

Barbara A. Holmes, CMC
Deputy City Clerk

# FORMATION

# of the

# MUNICIPAL BUILDING

# AUTHORITY

State Law

Act 31 of the Public Acts of 1948

(First Extra Session)

Council Resolution - September 23, 1963

ORDINANCE NO. 1

AN ORDINANCE PROVIDING FOR THE ACQUISITION, CONSTRUCTION AND MAINTENANCE BY THE MUNICIPAL BUILDING AUTHORITY OF TROY OF A BUILDING FOR THE USE OF THE CITY OF TROY AS A CITY HALL; PROVIDING FOR THE ISSUANCE OF REVENUE BONDS TO DEFRAY A PART OF THE COST THEREOF, AND PROVIDING FOR OTHER MATTERS RELATIVE TO SAID BUILDING AND THE SAID BONDS.

WHEREAS, the Authority has been duly incorporated by the City of Troy, a municipal corporation of the State of Michigan pursuant to the provisions of Act 31, Public Acts of Michigan 1948 (First Extra Session), as amended, for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and/or maintaining a building or buildings and the necessary site or sites therefor for lease to and the use of the City of Troy;

AND WHEREAS, the Authority, pursuant to the authority granted to it by Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended, and its Articles of Incorporation, proposes to acquire the necessary site and construct a certain building thereon for use by the City of Troy as a city hall, said building to be constructed on the following described parcel of land:

A parcel of land in the S.W. 1/4 of the S.E. 1/4 of Section 21, T. 2N, R. 11 E., City of Troy, Oakland County, Michigan, beginning at a point 781.00 feet S. 88° 47′ 50″ E. and 340.00 feet N.

1° 21′ 40″ E. from the S. 1/4 corner of said Section 21, thence extending N. 1° 21′ 40″ e. 220.00 feet; thence N. 88° 47′ 50″ W. 320.00 feet; thence S. 1° 21′ 40″ W. 220.00 feet; thence 88° 47′ 50″ W. 320.00 feet to the point of being and containing 1.616 acres of land.

AND WHEREAS, plans, specifications and estimates of cost of the said building and site have been prepared under the direction of the Authority by Frank Straub & Associates, architects of Birmingham, Michigan and the total estimated cost of said building and site is Seven Hundred Eleven Thousand Six Hundred Thirty-Four ($711,634.00) Dollars;

AND WHEREAS, the Authority proposes, in accordance with the authorization contained in Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended, to provide at this time for the issuance of Revenue Bonds in the aggregate principal sum of Six Hundred Thirty Thousand ($630,000.00) Dollars to finance part of the cost of the construction and acquisition of said building and site, as specified in the contract hereinafter set forth in full, the balance of the cost of said building and site to be defrayed from a single initial rental payment to be made by the City;

AND WHEREAS, said Authority and the City of Troy have entered into a contract for the leasing of said building and site, which said is herein set forth in full and made a part of this Ordinance, as follows:

# L E A S E

MADE AND EXECUTED this _____ day of _____, 1965, by and between the Municipal Building Authority of Troy, a public corporation organized and existing under the authority of Act 31, Public Acts of Michigan, 1948, First Extra Session, as amended, hereinafter referred to as the AUTHORITY, and the City of Troy, a Michigan Municipal Corporation, organized and existing under the Constitution and laws of the state of Michigan hereinafter referred to as the CITY:

WITNESSETH:

WHEREAS the AUTHORITY has been incorporated under and in pursuance of the provisions of Act 31, Public Acts of Michigan, 1948, First Extra Session, as amended, for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and/or maintaining a building or buildings, or additions to buildings, and the necessary site or sites therefor for the use of the CITY; and

WHEREAS, the CITY desires to acquire the use of a municipal building as a city hall (herein sometimes called "building") and the AUTHORITY is willing to acquire and construct said building and lease the same to the CITY: and

WHEREAS, if this agreement were not executed between these parties, the CITY would be compelled to lease and rent other space from other parties in the foreseeable future to provide the necessary facilities provided by said building; and

WHEREAS, the AUTHORITY will acquire as a site for the said building a parcel of land situated and being in the City of Troy, County of Oakland State of Michigan to-wit:

A parcel of land in the S.W. 1/4 of the S.E. 1/4 of Section 21, T. 2N, R. 11 E., City of Troy, Oakland County, Michigan, beginning at a point 781.00 feet S. 88° 47′ 50″ E. and 340.00 feet N. 1° 21′ 40″ E. from the S. 1/4 corner of said Section 21, thence extending N. 1° 21′ 40″ e. 220.00 feet; thence N. 88° 47′ 50″ W. 320.00 feet; thence S. 1° 21′ 40″ W. 220.00 feet; thence 88° 47′ 50″ W. 320.00 feet to the point of being and containing 1.616 acres of land.

and upon which site the AUTHORITY will construct the said building in accordance with the plans and specifications to be prepared by Frank Straub & Associates, architects of Birmingham, Michigan; and

WHEREAS, the total cost of the construction of the said building is estimated by the said architects to be the sum of Seven Hundred Eleven Thousand Six Hundred Thirty-four ($711,634.00) Dollars, which will include the necessary site, architects' fees, legal and financing fees, capitalized interest and other contingencies; and

WHEREAS, a part of the cost of said building, to-wit the sum of Six Hundred Thirty Thousand ($630,000.00) Dollars, is to be provided by authorizing the issuance of revenue bonds by the AUTHORITY, pursuant to the provisions of Act 94 of the Public Acts of Michigan, 1933, as amended, the balance of the cost thereof to be provided from the proceeds of an initial rental payment to be made by the City, as hereinafter provided; and

WHEREAS, as a prerequisite to the authorization and issuance of such bonds, it is necessary for the parties hereto to enter into a final lease contract whereby the AUTHORITY will lease to the CITY and the CITY will hire from the AUTHORITY the said building and site for a period extending beyond the last maturity date of the said bonds, but not to exceed a period of forty (40) years.

IT IS THEREFORE AGREED BY AND BETWEEN THE PARTIES HERETO, for and in consideration of the agreements and covenants of each other and moneys to be paid one to the other, as follows:

1. The AUTHORITY will, on or before April 1, 1965, enter into final construction contracts for the construction or the building on the site described in the preamble hereto, with the successful bidder or bidders, following the preparation of detailed plans and working drawings and advertising for bids; said building to be constructed and competed for the use of the CITY on or before January 1, 1966, in accordance with the plans and specifications therefor to be prepared by the aforesaid architects.

2. In consideration of the rentals and other terms and conditions herein specified, the AUTHORITY does hereby let and lease to the CITY, the building to be acquired and constructed and the site on which it is to be located; TO HAVE AND TO HOLD for a term commencing on or before the first day of January, 1966, and ending on a day forty (40) years from the date hereof, or such lesser period as may be authorized by the provisions of this contract.

3. The annual rental to be paid by the CITY shall be Forty-Two Thousand ($42,000.00) Dollars, payable on the first of September, 1966 and on the first day of September each year thereafter (which annual rental

payments shall be made until all of the revenue bonds to be issued by the authority to defray a part of the cost of the building and site have been paid in full, both as to principal and interest, or until the AUTHORITY has sufficient funds therefor on hand in the Bond and Interest Redemption Fund. In addition, the CITY will pay to the AUTHORITY a single initial rental payment of $81,634.00 on or before September 1, 1965. Such amount shall be used directly to finance construction of the building and acquisition of the site therefor, and shall be deposited, as soon as received, in the CONSTRUCTION FUND to be established in the bond authorizing ordinance to be adopted by the AUTHORITY.

The fixed annual rentals herein required are in an amount sufficient to meet, as they mature, the principal and interest payments on the revenue bonds of the AUTHORITY in the total authorized principal sum of Six HundredThirty Thousand ($630,000.00) Dollars, and to provide for a debt service reserve therefor, in the amount of not to exceed Forty-Two Thousand ($42,000.00) Dollars. The CITY shall receive a credit for each fixed annual rental payment due equal to the sum then held by the AUTHORITY in the Bond and Interest Redemption Fund on the due date of each of said fixed annual rental payments over and above the debt service reserve requirements and the amount of the fixed annual rental paid by the CITY shall be reduced by the amount so held, but no such credit and reduction shall be given until the debt service reserve is established in its full required amount.

In the event an increase in the fixed annual rentals herein provided becomes necessary in order to provide adequate funds for the

AUTHORITY to meet its debt service requirements on the bonds issued and outstanding and the necessary reserve requirements, the CITY agrees to pay the increased annual rental.

The CITY, in its sole discretion, in any annual period, may pay in advance any proportion of its fixed annual rental in excess of the annual requirement, in which event the AUTHORITY shell credit the CITY with advance payment of the succeeding annual requirements to the extent of such excess payments.

4. The CITY, at its own expense during the term of the within lease, shall operate, maintain and keep in repair the building and site, and the expense in connection therewith shall be borne and paid by the CITY, in addition to all other rentals herein required. Operation and maintenance shall be deemed, to include, but not to the exclusion of any other items not herein specified, light, water, heat and other utility services, cleaning, janitorial and caretaker services, and all the administrative cost of the AUTHORITY. Insurance premiums on fire and extended coverage on the said building and all liability insurance in connection therewith, or as hereinafter specified, shall be deemed to be an operation and maintenance expense to be paid by the CITY.

5. The CITY will include in its budget for the fiscal year commencing July 1, 1966, and shall include in its budget each fiscal year thereafter, an amount sufficient to pay the total obligations under this contract, including the fixed annual rentals and the operation and maintenance costs of the building and site as herein specified for the next ensuing fiscal year. The fixed annual rentals and obligations for operation and maintenance costs specified in this contract shall be deemed to be an operating expense of the CITY. On or before the third Monday of April

of each and every fiscal year hereafter, the CITY shall prepare a statement of the moneys to be included in the next ensuing fiscal budget for the fixed annual rentals and operation and maintenance costs of the building and the site therefor hereinbefore mentioned. The AUTHORITY shall have the right and privilege to communicate directly with the City Commission of the CITY regarding any disputed items in said budget, except that the said budget shall be reasonably adequate to cover the obligations or the CITY herein contained in this lease. In no event shall the amounts to be included by the CITY in its annual budget for the maintenance, operating and rental expenses in connection with this lease be less than the amount required to reasonably maintain said building, and to pay promptly and fully all obligations maturing under this lease, as well as the debt service in connection with any revenue bonds issued, or to be issued, by the AUTHORITY in connection with the construction and leasing of the building herein described, and in no event shall the CITY's obligation in any such annual budget be less than the amount required by law.

6. The CITY may install in the building such equipment, fixtures or furniture as it may desire, but shall not make any permanent alterations to the building without the written consent of the AUTHORITY.

7. The CITY covenants and agrees that it will not permit the use of the leased premises in any manner that will substantially increase the rate of insurance thereon, or for any purpose which will result in a violation of Local, State or Federal laws, rules, or regulations, now or hereafter in force and applicable thereto, and shall keep the AUTHORITY harmless and indemnified at all times against any loss, cost, damage or expense by reason of any accident, loss, casualty, or damage resulting to any person or property through any use, misuse, or non-use of said premises or by reason of any act or thing done or not done on

in or about said leased premises or in relation thereto. The CITY further covenants and agrees that it will promptly and at its own expense, make and pay for any and all changes and alterations in or about the leased premised, which, during the terms of this lease, may be required to be made any time by reason of Local, State or Federal laws; and to save the AUTHORITY harmless and free from all cost or damage in respect thereto.

8. To carry out the acquisition and construction of the building and the acquisition of the necessary site and the financing thereof, in accordance with the provisions of Act 31, Public Acts of Michigan, 1948, First Extra Session, as amended, the following actions shall be taken by the AUTHORITY:

(a) The AUTHORITY will, immediately upon the execution of this Lease, enact the necessary ordinance to authorize the issuance of revenue bonds in the aggregate principal sum of Six HundredThirty Thousand ($630,000.00) Dollars, pursuant to the authorization contained in Act 31, Public Acts of Michigan, 1948 (First Extra Session, as amended), being the amount estimated to be sufficient, together with the proceeds of the initial rental payment to be received to pay the cost of the construction of said building, together with necessary site, architect fees, legal and financing expenses and contingencies.

The AUTHORITY will offer for sale, and take such other necessary legal procedure as my be necessary to sell said bonds as soon as final construction bids have been received, said bids to be held for final acceptance pending sale of said bonds.

(b) The AUTHORITY will immediately upon the sale of the bonds herein provided for, but prior to the delivery thereof, enter into and execute a contract for the construction of said building with the successful bidder or bidders, said construction to be in accordance with the plans and specifications therefor prepared by the aforesaid architects and approved by the AUTHORITY and the CITY, and no changes in said plans and specifications shall be made by the AUTHORITY without the consent of the CITY, said contract to specify a completion date of not later than January 1, 1966. In addition, the AUTHORITY will immediately upon the sale of the bonds herein provided for, but prior to the delivery thereof, take such other additional steps as are necessary either to vest title in fee simple in the AUTHORITY or to secure for the AUTHORITY binding rights to acquire such title in fee simple. The AUTHORITY shall not execute any construction contract until the same has been approved by the City Commission of the CITY.

(c) The AUTHORITY will require and secure from the contractor undertaking the construction of the said building necessary and proper bonds to guarantee the performance of said contract in such amount and in such form as may be approved by the City Attorney of the CITY and such labor and material bonds as are required by law.

(d) The AUTHORITY will, immediately upon receipt of the proceeds of the sale of the revenue bonds, comply with all requirements provided for in the ordinance relative to the disposition and use of such proceeds.

(e) In the event for any reason there are not sufficient funds to complete the construction of the building and the acquisition or tile site to be acquired and additional funds become necessary therefor, it is agreed by the parties hereto, that either of the following methods of providing said additional funds shall be used:

(1) The CITY may pay the necessary funds as additional advance rentals, and obtain credit or repayment therefor out of future rentals due under the terms of this contract after all outstanding revenue bonds of the AUTHORITY are paid.

(2) Increase the amount of the fixed annual rental to be paid by the CITY in an amount fully sufficient to amortize any additional revenue bonds issued by the AUTHORITY.

(f) The AUTHORITY shall provide insurance during construction of the building to the full extent of the insurable value of the property; said insurance to be payable to the AUTHORITY and/or the CITY as their interest may appear.

9. The AUTHORITY shall deliver possession of the space leased by this contract to the CITY not later than January, 1, 1966. In the event the construction of the building, for reasons unforeseen, is not completed by that date, the obligation of the CITY for the payment of the fixed annual rentals shall in any event remain in full force and effect, in order to provide for the payment of interest and principal on the revenue bonds issued by the AUTHORITY.

10. The CITY shall provide fire and extended coverage insurance on said building in an amount at least equal to the principal amount of any revenue bonds of the AUTHORITY issued for the purpose of defraying the cost of the building which may be outstanding: Provided. However, that in case the face value of said revenue bonds shall be greater than the insurable interest in said building, the CITY shall insure the building to its full insurable value, which insurance shall be payable to the AUTHORITY. In case of loss, the AUTHORITY shall apply the proceeds of bond revenues to the repair and restoration of the building to its former condition, or in such a manor as shall make said building usable or tenantable to the satisfaction of the CITY. There shall be no abatement of the fixed annual rentals required to be made by the CITY in the event of a causality that results in the building being not tenantable. If, in the judgment of the AUTHORITY, the funds received from such insurance policies, or otherwise, shall be insufficient to make the building usable or tenantable, then, in that case, the AUTHORITY shall hold and/or invest the funds paid to it by reason of such loss for the benefit of the holders of outstanding revenue bonds of the AUTHORITY, and when upon receipt of sufficient rentals from the CITY, which together with the proceeds of the insurance, will be sufficient to pay the principal and interest upon all outstanding revenue bonds of the AUTHORITY, said moneys shall be deposited by the AUTHORITY in trust for the benefit of the bondholders and used to pay the principal and interest on said bonds as they mature or as said bonds become callable. Such funds so held may be invested in bonds, notes, bills and certificates of the United State of America.

11. The CITY shall provide liability insurance in an adequate

amount protecting the AUTHORITY and the CITY against loss on account of damage or injury to persons or property, imposed by reason of the ownership of the building or site, or resulting from any act of omission or commission on the part of the AUTHORITY, or the CITY, their agents, officers and employees, in connection with the operation, maintenance or repair of said building and site, or the furnishing of any service to the CITY. The AUTHORITY shall require a sufficient fidelity bond from any person handling the funds of the AUTHORITY.

12. The leasehold rights, duties and obligations of the CITY, as specified in this contract, shall not be assigned nor sublet in whole or in part during the terms of this contract, or while any of the revenue bonds of the AUTHORITY issued for the purpose of defraying the cost of the said building are outstanding and unpaid.

13. The AUTHORITY, its agents, servants, or employees, shall have the right at all times of entering upon the leased premises for the purpose of inspecting said property and determining whether all of the terms, agreements, covenants and conditions herein contained are being complied with.

14. The CITY covenants and agrees that it will continue to pay to the AUTHORITY, in accordance with the terms of this contract, the fixed annual rentals herein specified and the operation and maintenance costs of the building herein established without abatement for any cause or reason whatsoever, until the principal and interest of all revenue bonds issued by the AUTHORITY to finance the cost of construction of the building are paid in full.

15. At such times as the principal and interest or all outstanding revenue bonds issued by the AUTHORITY to defray the cost of

the building and acquisition of the site are paid in full, the AUTHIORITY shall convey by good and sufficient deed to the CITY the land described above, together with the building thereon, unless the parties hereto shall mutually agree otherwise.

16. The CITY covenants and agrees that if, before all revenue bonds issued by the AUTHORITY to defray the Cost of the building have been retired, default shall at any time be made by the CITY in payments of the fixed annual rentals or operation and maintenance costs as herein required, the AUTHORITY shall have the right to use all the remedies provided by law to correct said default, including those specifically set forth in Act 94, Public Acts of Michigan, 1933, as amended.

In addition to the other remedies provided by law, the parties hereto recognize the rights and remedies which exist in bond-holders, by virtue of the provisions of Act 94, Public Acts of Michigan, 1933, as amended, and Ordinance to be enacted by the AUTHORITY providing for the issuance of revenue bonds under the provisions of said Act, as provided for and authorized by the provisions of Act 31, Public Acts of Michigan, 1948, First Extra Session, as amended.

17. The AUTHORITY and the CITY each recognize that the holders from time to time of the revenue bonds of the AUTHORITY issued pursuant to law to defray the cost of the building and site to be acquired will have contractual rights in this Lease, and it is, therefore covenant-ed and agreed by each of them that so long as any of said revenue bonds shall remain outstanding and unpaid, the provisions of this Lease shall not be subject to any alteration or revision which would in any manner unfavorably affect either the security of the bonds or the prompt payment

of principal or interest thereon. The AUTHORITY and the CITY further covenant and agree that they will each comply with their respective duties and obligations under the terms of this Leases promptly at the times and in the manner herein set forth, and will not suffer to be done any act which would in any way impair the said bonds, the security therefor, or the prompt payment of principal and interest thereon.

18. Any notice necessary or proper to be given to any of the parties hereto may be served in the following manner:

(a) If to the AUTHORITY, by delivering the same to any member of the Commission thereof, or to any duly appointed officer.

(b) If to the CITY, by delivering the same to the City Clerk or his deputy.

19. This contract shall remain in full force and effect for a period of forty (40) years from the date hereof, or until such lesser time as the revenue bonds issued by the AUTHORITY to defray a part or the cost of the building and site to be acquired are paid in full. At such times within the forty (40) year term as all of said revenue bonds and the interest thereon are paid, this contract may be altered or changed by consent of the parties hereto, or the same may be terminated by consent and title to the building and the Site conveyed to the CITY in manner contemplated by Act 31, Public Acts of Michigan, 1948, First Extra Session, as amended.

20. The AUTHORITY covenants that the CITY, upon compliance with the terms of this Lease, shall and may peacefully, quietly have and hold and enjoy the leased premises for the terms herein provided.

21. This contract shall insure to the benefit of and be binding upon the respective parties hereto, their successors and assignees.

22. If for any reason the revenue bonds hereinbefore mentioned cannot be lawfully sold, or if for any reason a sufficient interest in and to the above described real property cannot be lawfully acquired by the AUTHORITY, or in the further event the parties hereto shall not agree upon the specifications of the building to be built on the above described land and as a result of said disagreement none of the revenue bonds are issued by the AUTHORITY, this agreement shall be of no force and effect: Provided. However, that in no event shall this agreement become null and void if the said revenue bonds mentioned above are sold and issued by the AUTHORITY.

IN WITNESS WHEREOF, the Municipal Building Authority of Troy, by its Commission, and the City of Troy, Michigan, by its Commission, have each caused its name to be signed to this instrument, and its seal to be affixed hereto by its duly authorized officers, the day and year first above written.

This contract has been executed in duplicate.

Witnesses to Signatures
of Authority Officers

_____

_____

_____

_____

MUNICIPAL BUILDING AUTHORITY
OF TROY

By_____
Chairman of its Commission

By_____
Secretary of its Commission

CITY OF TROY

By_____
Mayor

And_____
City Clerk

# BUILDING AUTHORITIES
## Act 31 of 1948 (1st Ex. Sess.)

AN ACT to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate, and maintain buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any county, city, village, or township, or for the use of any combination of 2 or more counties, cities, villages, or townships, or for the use of any school district and any city, village, or township wholly or partially within the district's boundaries, or for the use of any school district and any combination of 2 or more cities, villages, or townships wholly or partially within the district's boundaries, or for the use of any intermediate school district and any constituent school district or any city, village, or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases, and subleases pertaining to authority property and the use of authority property; to authorize incorporating units to impose taxes without limitation as to rate or amount and to pledge their full faith and credit for the payment of contract of lease obligations in anticipation of which bonds are issued by an authority; to provide for the issuance of bonds by such authorities; to validate action taken and bonds issued; to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property; and to prescribe penalties and provide remedies.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955;—Am. 1964, Act 41, Imd. Eff. May 6, 1964;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1969, Act 46, Imd. Eff. July 17, 1969;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1995, Act 147, Imd. Eff. July 11, 1995;—Am. 1998, Act 190, Eff. Mar. 23, 1999.

*The People of the State of Michigan enact:*

### 123.951 Local building authorities; incorporation; purposes.

Sec. 1. A county, city, village, or township may incorporate, as provided in this act, 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefore, together with appurtenant properties and facilities necessary or convenient for the effective use of the facilities, for use for any legitimate public purpose of the county, city, village, or township. For purposes of this act, the development of a qualified facility pursuant to the federal facility development act, Act No. 275 of the Public Acts of 1992, being sections 3.931 to 3.940 of the Michigan Compiled Laws, or the federal data facility act, is considered a legitimate public purpose of a county or city if that county or city makes a determination that such a facility would result in economic development in that county or city.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.951;—Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954;—Am. 1955, Act 25, Imd. Eff. Apr. 7, 1955;—Am. 1964, Act 41, Imd. Eff. May 6, 1964;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1992, Act 278, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 121, Imd. Eff. July 20, 1993.

### 123.952 Joint buildings and parking lots; authorities; incorporation; purposes.

Sec. 2. Any combination of 2 or more counties, cities, townships, or villages may incorporate 1 or more joint authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for use for any legitimate public purpose of the incorporating units.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.952;—Am. 1964, Act 41, Imd. Eff. May 6, 1964;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1969, Act 46, Imd. Eff. July 17, 1969;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

### 123.952a Joint buildings and parking lots of school districts and municipalities; authorities; incorporation; acquisition; operation; maintenance; use.

Sec. 2a. A school district and a city, village, or township wholly or partially within the district's boundaries, or a school district and any combination of 2 or more cities, villages, and townships wholly or partially within the district's boundaries, may incorporate 1 or more authorities for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together


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with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of the local units.

**History:** Add. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1969, Act 46, Imd. Eff. July 17, 1969;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

### 123.952b Public buildings used for disabled, retarded, or mentally disturbed children; constituent school districts with intermediate school districts; purpose; contract.

Sec. 2b. An intermediate school district and a constituent school district or districts wholly or partially within the intermediate school district's boundaries may incorporate an authority for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating, and maintaining a building or buildings as a facility for disabled, retarded, or mentally disturbed children, and the necessary site or sites therefor, for the use of the intermediate school district and a constituent school district or districts pursuant to a contract between such intermediate school district and constituent school district or districts.

**History:** Add. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1998, Act 25, Imd. Eff. Mar. 12, 1998.

### 123.953 Incorporating unit; definition.

Sec. 3. The term “incorporating unit” as used in this act shall be deemed to mean a county, city, village, township, intermediate school district or other school district incorporating an authority or joining in such incorporation.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.953;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968.

### 123.954 Incorporation of authority; procedure.

Sec. 4. The incorporation of such an authority shall be accomplished by the adoption of articles of incorporation by the legislative body of each incorporating unit. For such adoption, the affirmative vote of the majority of the members elect of each such legislative body shall be required. The articles of incorporation shall be executed, for and on behalf of each incorporating unit by the following officers, to-wit: For the county, by the chairman of the board of commissioners and county clerk; for the city, by its mayor and city clerk; for the village, by its president and clerk; for the township, by its supervisor and clerk; and for the school district or intermediate school district, by the president and secretary of the board of education. The clerk or secretary of each incorporating unit shall also affix to the articles of incorporation following the signatures thereto, a certificate in form substantially as follows:

“The foregoing articles of incorporation were adopted by the ..... of the ..... of ..... County, Michigan, at a meeting duly held on the ..... day of ....., 19 .....

Dated: ....., 19 .....

.....
(Clerk/Secretary)”

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.954;—Am. 1954, Act 113, Imd. Eff. Apr. 15, 1954;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

### 123.955 County and municipal building authority; articles of incorporation; contents; eligibility of governing body member for membership or appointment.

Sec. 5. (1) The articles of incorporation shall set forth all of the following:

(a) The name of the authority.

(b) The name or names of the unit or units incorporating the authority.

(c) The purpose for which the authority is incorporated.

(d) The number, terms, and manner of selection of the officers of the authority including its governing body, which shall be known as the “commission”.

(e) The powers and duties of the authority and of its officers.

(f) The date upon which the authority shall become effective.

(g) The officer required to publish the articles of incorporation and the name of the newspaper in which the articles of incorporation shall be published.

(h) The county with whose clerk the articles of incorporation shall be filed, which shall be a county that is an incorporating unit or in which an incorporating unit is located.

(i) Any other matters considered expedient.

(2) A member of the governing body of an incorporating unit of an authority is not eligible for membership or appointment to the authority.


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**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.955;—Am. 1955, Act 143, Eff. Oct. 14, 1955;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

### 123.955a Joint building authority; commissioners; election and terms of members; chairperson; secretary; bylaws and rules of procedure; elected official as member; conducting business at public meeting; notice of meeting.

Sec. 5a. (1) A joint building authority under section 2 incorporated by a county and a city, township, or village shall be directed and governed by a commission of 3 members, 1 to be elected by the county board of commissioners of the county, 1 to be elected by the legislative body of the city, township, or village, and 1 to be elected by the joint action of the county board of commissioners of the county and the legislative body of the city, township, or village. If the legislative bodies are unable to agree upon a choice for the third member within 60 days after the election of the first member, then the third member shall be appointed by the governor.

(2) A joint building authority under section 2 not described by subsection (1) shall be directed and governed by a commission consisting of 1 member elected by the legislative body of each incorporating unit and such other members as may be provided by the articles of incorporation.

(3) The commissioners of a joint building authority under section 2 shall serve for 4-year terms.

(4) The commission shall designate 1 member as chairperson and 1 as secretary, and shall adopt bylaws and rules of procedure. A member of the commission of a joint building authority shall not be an elected official of the county, city, township, or village.

(5) The business that the commission of any building authority performs shall be conducted at a public meeting of the board of commissioners held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.955a;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1977, Act 181, Imd. Eff. Nov. 17, 1977;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

### 123.955b Board of commissioners; compensation, per diem, mileage.

Sec. 5b. Members of the commission may be paid such compensation, and such per diem and mileage for attending meetings, as may be provided by the commission with the approval of the incorporating unit or units.

**History:** Add. 1968, Act 96, Imd. Eff. June 6, 1968.

### 123.956 Articles of incorporation; publication; statement; filing; effective date; presumption.

Sec. 6. (1) The officer designated in the articles of incorporation shall cause a copy of the articles of incorporation or a summary of the articles to be published once in a newspaper designated in the articles of incorporation and circulating within the incorporating units accompanied by a statement that the right exists to question the incorporation in court as provided in this section. The officer shall file with the county clerk of the county designated under section 5(1)(h) and the secretary of state a certified copy of the articles of incorporation with a certificate of the date and newspaper of publication. The officer shall file with the recording officer of the authority, when selected, the original articles of incorporation with a certificate of the date and newspaper of publication.

(2) The authority shall become effective at the time provided in the articles of incorporation.

(3) The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.956;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

### 123.957 Building authority; body corporate; powers.

Sec. 7. Such authority shall be a body corporate with power to sue and be sued in any court of this state. It shall possess all the powers necessary to carry out the purpose of its incorporation and those incident thereto. The enumeration of any powers in this act shall not be construed as a limitation upon such general powers.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.957.

### 123.958 Contracts to acquire property; leases and subleases; acquisitions constituting public purpose; stadiums.


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Sec. 8. The authority and its incorporating unit or units may only enter into a contract or contracts under which the authority will acquire property contemplated by the terms of this act and lease the same to the incorporating unit or units for a period not to exceed 50 years or, if the authority issues refunding bonds pursuant to section 11k, the authority may enter into a contract or contracts under which the authority will own or continue to own the property acquired, in part or in whole, from the sale of the bonds to be refunded and will lease the same to the incorporating unit or units for a period not to exceed 50 years from the date of issuance of the refunding bonds. Any incorporating unit or units to which the property is leased, may sublease the property or any part of the property to any 1 or more persons, firms, or corporations or may contract for the use of the property or any part of the property by any 1 or more persons, firms, or corporations, where the sublease or contract benefits and serves a legitimate public purpose of the incorporating unit or units. Any sublease or contract may extend for a period not to exceed 50 years and is not a franchise or grant within the meaning of any statutory or charter provision. The acquisition of any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities by any authority and the contracting for the lease of that property by any incorporating unit or units, constitutes a benefit to and a legitimate public purpose of the authority and the incorporating unit or units. Where any stadium with appurtenant properties and facilities is acquired by an authority and leased to any incorporating unit or units, for the purpose of providing facilities for sports, recreational, and other activities and events, with or without admission charges, and furnishing facilities for use or enjoyment by the public and to induce sports and entertainment organizations, whether amateur or professional, to utilize the facilities for games, contests, and other performances and attractions, the subleasing of the property to, or the contracting for the use of the property by, any sports, entertainment, or similar organization or by any owner of a franchise in any professional sports or athletic league or association, in consideration of the agreement of the organization or owner and, if necessary, the league or association to hold, conduct, or produce games, contests, and other performances and attractions in the stadium, with or without admission charges, constitutes a benefit to a legitimate public purpose of the incorporating unit or units.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.958;—Am. 1967, Act 200, Imd. Eff. June 30, 1967;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980.

### 123.958a Agreement in contract of lease to pay cash rental, costs, and expenses; general obligations; tax levy; other funds; setoff or abatement of cash rentals.

Sec. 8a. (1) The incorporating unit or units contracting under this act shall in the contract of lease agree to pay to the authority, as cash rental for the property, periodic amounts or their designated shares of periodic amounts that are sufficient to enable the authority to pay the principal of and the interest on the authorized bonds when due either at maturity of the bonds, or, in the case of term bonds, by the required prior redemption or maturity of the bonds. The incorporating unit or units may also agree to pay the costs and expenses of operation and maintenance of the property and the operating expenses of the authority including expenses incidental to the issuance and payment of the bonds. The obligations set forth in this subsection shall, unless specifically stated to the contrary in the contract of lease, be general obligations of the incorporating unit or units.

(2) If bonds are issued by the authority in anticipation of a full faith and credit contractual general obligation of the incorporating unit or units to pay the cash rental, as provided in this section, then the incorporating unit or units shall levy each year ad valorem taxes that are necessary for the payment of the cash rental in anticipation of which bonds are issued. These taxes may be levied without limitation as to rate or amount and shall be in addition to any other taxes that the incorporating unit or units may otherwise be authorized to levy, but not in an amount or at a rate exceeding that necessary to pay the contractual obligation. If the incorporating unit or units, at the time prescribed by law for the making of a tax levy, have other funds on hand that have been set aside and earmarked for payment of its obligations for which a tax levy would otherwise have to be made, then the tax levy shall be reduced by the amount of the other funds.

(3) The incorporating unit or units may raise and provide other funds from any lawful source, including but not limited to money received from the state or other governmental entity for use to pay rental to the authority, from the sublease or contract for the use of the property by any person, firm, or corporation, or from revenues earned by the incorporating unit from operation of the property. The contract of lease may provide the obligation of the incorporating unit for the payment of the cash rental shall not be subject to setoff by the incorporating unit nor shall there be an abatement of the cash rentals for any cause including, but not limited to, casualty that results in the property being untenantable.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1978, Act 365, Imd. Eff. July 22, 1978;—Am. 1992, Act 278, Imd. Eff.


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Dec. 18, 1992.

### 123.958b Contract of lease; full faith and credit general obligation; resolution submitting contract to vote of electors; effective date; notice of intention; referendum petition; election.

Sec. 8b. (1) The governing body of an incorporating unit may, by a majority vote of its members, authorize the execution of a full faith and credit general obligation contract of lease with an authority.

(2) The governing body may adopt a resolution submitting the contract to a vote of the electors. If the governing body adopts the resolution submitting the contract to a vote of the electors, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The contract shall be submitted at the next general or primary election to be held not less than 70 days after the date of the resolution or at a special election to be held not less than 70 days after the date of the resolution as determined by the clerk of the incorporating unit subject to the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws. The clerk shall also determine the ballot language of the question.

(3) If the governing body does not adopt a resolution submitting the contract to a vote of the electors, the contract shall become effective 60 days after a notice of intention of entering into the contract has been published in a newspaper of general circulation in the incorporating unit or units unless a sufficient petition for referendum requesting an election on the contract is filed with the clerk of the incorporating unit within 45 days after the notice is published. A referendum petition shall be signed by not less than 10% or 15,000 of the registered electors of the incorporating unit, whichever is less. If a sufficient petition is filed, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The clerk of the incorporating unit shall determine the date of the election and the ballot language as provided under subsection (2). The notice of intention of entering into contract shall be directed to the electors and taxpayers of the incorporating unit, shall be published in a newspaper which is determined by the governing body thereof to be the newspaper reaching the largest number of persons to whom the notice is directed, and shall state the maximum amount of bonds authorized to be issued, the purpose thereof, source of payment and right of referendum thereon, and such other information as the governing body of the incorporating unit may consider necessary to adequately inform the taxpayers and electors of the incorporating unit of the nature of the contractual obligation. Signatures on the petition shall be verified by the circulator under oath as the actual signatures of the persons whose names are signed thereto and the clerk or other recording officer of the incorporating unit shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule cities act, Act No. 279 of the Public Acts of 1909, being section 117.25 of the Michigan Compiled Laws. The number of registered electors in any incorporating unit shall be determined by its registration records, or, if it does not take registrations, by the appropriate city and township registration records. A notice of intention and publication is not required if the contract of lease states that it is not a full faith and credit obligation of the incorporating unit or units.

(4) An election under this section shall not be included in any statutory or charter limitation on the number of special elections to be called within a particular period of time.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1995, Act 147, Imd. Eff. July 11, 1995.

### 123.958c Violation of §§ 168.1 to 168.992 applicable to petitions; penalties.

Sec. 8c. A petition under section 8b, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 190, Eff. Mar. 23, 1999.

### 123.959 Building authority; acquisition of property, condemnation.

Sec. 9. For the purpose of accomplishing the objects of its incorporation the authority may acquire property by purchase, construction, lease, gift, devise or condemnation, and for the purpose of condemnation, it may proceed under the provisions of Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Compiled Laws of 1948, or any other appropriate statute.

The legislative body of any incorporating unit, by a majority vote of the members thereof, may transfer any real property except cemetery property owned by the incorporating unit to an authority established pursuant to this act.


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**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.959;—Am. 1962, Act 14, Imd. Eff. Mar. 14, 1962;—Am. 1968, Act 96, Imd. Eff. June 6, 1968.

### 123.960 Amendment of articles of incorporation.

Sec. 10. Amendments may be made to articles of incorporation if adopted by the legislative body of each incorporating unit: Provided, That no such amendment shall impair the obligation of any bond or other contract. Any city or village which is the county seat of a county incorporating an authority under the provisions of this act, may become an incorporating unit of the authority by amendment to the articles of incorporation adopted by the legislative body of such city or village and by the legislative body of the county. Any such city or village shall thereafter be deemed to be an incorporating unit. Each amendment shall be adopted, executed and published, and certified printed copies filed, in the same manner as above specified for the original articles of incorporation, in so far as applicable.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.960.

### 123.961 Building authority bonds or building authority refunding bonds; purpose; prerequisites to issuance.

Sec. 11. For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property, furnishing and equipping the same, or refunding outstanding bonds as provided in section 11k, the authority, after execution and delivery of a full faith and credit general obligation contract of lease, as provided in this act, and pursuant to ordinance or resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge the receipts from the payments for payment of bonds and interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and until the contract of lease is fully effective. The bonds shall be called building authority bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority refunding bonds.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.961;—Am. 1965, Act 5, Imd. Eff. Mar. 30, 1965;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980.

### 123.961a Building authority revenue bonds or building authority revenue refunding bonds; purpose; prerequisites of issuance.

Sec. 11a. For the purpose of defraying all or part of the cost of acquiring, improving, and enlarging any building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites for the property, together with appurtenant properties and facilities necessary or convenient for the effective use of the property; furnishing and equipping the same; or refunding outstanding bonds as provided in section 11k, the authority, after execution of a contract of lease which is not a full faith and credit general obligation, as provided in this act, and pursuant to ordinance or resolution duly adopted by a majority vote of the elected members of the commission, may issue its negotiable bonds in anticipation of the contract obligations of the incorporating unit or units to make cash rental payments to the authority and may pledge the receipts from those payments for payment of the bonds and the interest on the bonds. Bonds shall not be issued unless the property has been leased by the authority to its incorporating unit or units for a period extending beyond the last maturity of the bonds and no maturity shall in any event be more than 40 years from the date of the bonds. The bonds shall be called building authority revenue bonds, or, in the case of bonds issued to refund outstanding bonds, the bonds shall be called building authority revenue refunding bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980.

### 123.961b Ordinance or resolution authorizing issuance of bonds; adoption; contents.

Sec. 11b. The ordinance or resolution authorizing issuance of bonds shall become effective upon its adoption unless otherwise specified in the ordinance or resolution and shall be recorded in the minutes of the commission as soon as practicable after its passage. The provisions of this section shall constitute the sole requirements with respect to the adoption of any such ordinance or resolution. The ordinance or resolution authorizing the bonds shall set forth a brief description of the contract of lease, the contemplated project, the estimated cost of the contemplated project, the estimated period of usefulness of the contemplated project, and the amount and maximum rate of interest and time of payment of the bonds.


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**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980.

### 123.961c Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

**Compiler's note:** The repealed section pertained to payment, redemption, execution, and tax exemption of serial and term bonds.

### 123.961d Bonds; statutory lien.

Sec. 11d. There shall be created in the authorizing ordinance or resolution a lien by this act made a statutory lien upon the cash rental payments required to be paid by the contract of lease which are pledged to the payment of the principal of and interest on the bonds to and in favor of the holders of the bonds and the interest coupons pertaining thereto. The amounts so pledged shall be and remain subject to the statutory lien until the payment in full of the principal of and interest on the bonds. The holder or holders of bonds representing in the aggregate not less than 20% of the entire issue then outstanding may by suit, action, or other proceedings protect and enforce such statutory lien and enforce and compel the performance of all duties of the officials of the authority, including, but not limited to, compelling the incorporating unit or units by proceedings in a court of competent jurisdiction or other appropriate forum to make the cash rental payments required to be made by the contract of lease, and requiring the incorporating unit or units to certify, levy, and collect appropriate taxes as herein authorized and as may be required by the contract of lease to be so certified, levied, and collected by the incorporating unit or units for the payment of the cash rental required to be paid by the contract of lease.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

### 123.961e Bonds; use and disposition of proceeds.

Sec. 11e. All moneys received from the sale of bonds shall be used solely for the purpose for which the bonds were authorized including any engineering, architectural, legal, and other expenses incident thereto and to the issuance of the bonds and including also the payment of the interest on the bonds during a period not to exceed the first 3 years following the date of the bonds and an amount required for the project for operation and maintenance, if appropriate, prior to the receipt of the first revenues from the operation of the project by the incorporating unit or units. Any unexpended balance of the proceeds of sale of the bonds remaining after completion of the project for which issued may be used for the improvements or enlargement of the project for which issued or for other projects of the authority leased to the incorporating unit or units if such use is approved by the department of treasury and the incorporating unit or units. Any remaining balance shall be paid into the bond and interest redemption fund of the authority for the bonds in which event the incorporating unit or units may be provided a credit against the cash rental payments next due under contract of lease to the extent of the moneys so deposited in the manner provided in the ordinance or resolution authorizing the bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1983, Act 29, Imd. Eff. May 6, 1983.

### 123.961f Additional bonds.

Sec. 11f. The commission in the ordinance or resolution authorizing the bonds may provide for issuance of 1 or more series of additional bonds to complete the project for which the bonds are issued or to make improvements or additions thereto under the terms and conditions as shall be prescribed in the ordinance or resolution authorizing the bonds, one of which shall be a requirement of a sufficient increase in the cash rentals required to be paid under the contract of lease to permit payment of the principal and interest on the additional bonds. The additional bonds when sold and delivered shall have equal standing with those issued in the first instance. The provisions of this act providing for annual installments and the amount thereof and the due date of the first installment for serial bonds shall not be controlling as to additional series of bonds. The bonds issued in the original instance, any additional bonds of equal standing then outstanding, and the proposed additional bonds shall be treated as a single issue for purposes of complying with the requirements of this act for the due date of the first installment and for annual installments with respect to serial bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

### 123.961g Bond and interest redemption fund.

Sec. 11g. The ordinance or resolution authorizing the bonds shall establish a bond and interest redemption fund into which shall be paid all cash rentals required to be paid by the incorporating unit or units under the contract of lease which are pledged for the payment of bonds issued under this act and such other sums as shall be required by the ordinance or resolution to be paid therein and shall establish such other funds and accounts and provide for deposits thereto as the governing body shall prescribe in the ordinance or resolution authorizing the bonds. All moneys in the funds and accounts established by the ordinance or resolution authorizing the bonds, including the proceeds of sale of the bonds, shall be deposited with 1 or more banks


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designated by the commission. Moneys in the bond and interest redemption fund shall be kept in a separate depository account kept with 1 or more of the banks or trust companies where the principal of and interest on the bonds are payable. Moneys in the several funds and accounts may be invested in United States government obligations or obligations the principal of and interest on which are guaranteed by the United States government or in interest bearing time deposits as shall be determined by the commission in the ordinance or resolution authorizing the bonds.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

### 123.961h Redemption of bonds prior to maturity.

Sec. 11h. The commission may make provision in the ordinance or resolution authorizing the bonds for the redemption thereof prior to maturity.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

### 123.961i Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

**Compiler's note:** The repealed section pertained to issuance of bonds by municipal finance commission or successor agency.

### 123.961j Bonds subject to revised municipal finance act; tax exemption.

Sec. 11j. (1) All bonds authorized under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The principal and interest on bonds issued under this act are exempt from taxation by this state and by any other taxing authority within this state.

**History:** Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973;—Am. 1978, Act 365, Imd. Eff. July 22, 1978;—Am. 1980, Act 74, Imd. Eff. Apr. 3, 1980;—Am. 1983, Act 29, Imd. Eff. May 6, 1983;—Am. 2002, Act 306, Imd. Eff. May 13, 2002.

### 123.961k Repealed. 2002, Act 306, Imd. Eff. May 13, 2002.

**Compiler's note:** The repealed section pertained to bonds issued to refund outstanding bonds.

### 123.962 Tax exemption for property.

Sec. 12. All property owned by any authority shall be exempt from taxation by the state or any taxing unit therein.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.962.

### 123.963 Bonds; retirement; conveyance of title to property.

Sec. 13. When all bonds issued pursuant to the provisions of this act shall have been retired, then the authority shall convey the title to the property acquired hereunder to the incorporating unit or units in accordance with the provisions therefor contained in the articles of incorporation, or contract of lease, or, if there be no such provisions, then in accordance with the directions of the governing body of the incorporating unit or any agreement adopted by the respective governing bodies of the incorporating units.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.963;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973.

### 123.964 Construction of act.

Sec. 14. The powers herein granted shall be in addition to those granted by any statute or charter.

**History:** 1948, 1st Ex. Sess., Act 31, Imd. Eff. May 10, 1948;—CL 1948, 123.964.

### 123.965 Validation of prior authorities, actions, and bonds.

Sec. 15. All authorities heretofore incorporated, all actions heretofore taken, and all bonds heretofore issued under this act, as originally adopted or subsequently amended, and which incorporation actions and bonds do not violate the provisions of this act as amended by the 1968 or any subsequent amendatory act, are validated. No authority incorporated under this act, as originally adopted or subsequently amended, nor any incorporating unit or units thereof, shall contest the validity of any such bonds or any lease or contract which provides the security therefor after they have been sold and delivered and the authority has received the consideration therefor.

**History:** Add. 1955, Act 25, Imd. Eff. Apr. 7, 1955;—Am. 1968, Act 96, Imd. Eff. June 6, 1968;—Am. 1970, Act 47, Imd. Eff. July 2, 1970;—Am. 1973, Act 110, Imd. Eff. Aug. 19, 1973.


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# CHAPTER 27 PARKS AND RECREATION BOARD

27.10 Creation. The Parks and Recreation Board shall consist of ten members, who shall have the qualifications of electors. All members shall serve without compensation. A student representative may be appointed for a one (1) year term by City Council. The student representative shall serve as an ex-officio, non-voting member of the Board. The Parks and Recreation Director shall serve as an ex-officio, non-voting member of the Board and shall be responsible to the City Manager.

27.20 Membership and Terms. The Troy City Council shall appoint the following members to the Parks and Recreation Board:

(1) Seven at-large representatives, who shall serve for three (3) year overlapping terms.
(2) One representative from the Troy School Board of Education, who shall be nominated by the Board of Education and who shall serve for a one (1) year term.
(3) One representative from the Troy Daze Committee, who shall be nominated by the Troy Daze Committee, and who shall serve for a one (1) year term.
(4) One representative from the Advisory Committee for Senior Citizens, who shall be nominated by the Advisory Committee, and who shall serve for a one (1) year term.

27.30 Removal and Vacancies. Board members may, after a public hearing, be removed by the City Council for neglect of duty or malfeasance in office. Vacancies occurring on the Board shall be filled in the same manner as the original appointment.

27.40 Organization. The Board shall elect its chairman from among its members. The Board may also elect members for any other offices that the Board deems necessary. The term of the chairman shall be one year, and the chairman shall be eligible for re-election. The Board shall hold at least one regular meeting every two months. It shall adopt rules for the transaction of business and shall keep a record of its actions, which record shall be public record.

27.50 Powers and Duties. The Board shall have the following powers and duties :

(1) To recommend to the City Manager a budget providing for a parks and recreation program.
(2) To recommend to the City Council policies for operating a parks and recreation program.
(3) To recommend to the City Council a long-term capital improvements program for parks and recreational facilities, including the acquisition of park sites.
(4) To promote activities that will benefit the City parks and recreation program, including the encouragement of organized team athletic programs.

27.60 Duties of Director. The Parks and Recreation Director shall have the following responsibilities to the Board:

(1) To attend the meetings of the Parks and Recreation Board, to take part in discussions of the Board and to keep the Board informed of parks and recreation activities.
(2) To inform the City Manager of the recommendations of the Board so that these recommendations can be acted upon by the City Council and/or the City Manager.

(Rev. 06/17/02)

# CHAPTER 11 PERSONNEL BOARD

1. GENERAL PROVISIONS.

1.1 It is hereby declared personnel policy of the City that:

a) Employment in the City government shall be based on merit and qualifications, free of personal and political considerations without regard to religion, race, color, national origin, age, sex, marital status, height, weight, arrest record or disability.

b) City government shall promote efficiency and economy of operations.

c) Positions having similar duties and responsibilities shall be classified and compensated on a similar basis.

d) Appointments, promotions and other actions requiring the application of the merit principle shall be based on systematic tests and evaluations.

e) The rights and interests of employees covered by this Chapter shall be fairly administered in a manner consistent with the best interests of the public and the City.

f) Any individual whose employment is subject to the provisions of this Chapter may be disciplined or discharged for misconduct or unsatisfactory work performance.

g) The Employment of any individual subject to this chapter, is conditional upon the necessity for the performance of work within the employee's classification and the availability of funds.

1.2 The Personnel Board shall consist of five (5) members appointed by the Council. The members of the Board shall be persons in sympathy with the application of merit principles to public employment. No member of the Board shall be employed by or be an official of the City; nor shall be a member of any local, state or national committee of a political party or an official or member of a committee in any partisan political club or organization, nor shall hold or be a candidate for any governmental elective office. The members of the Board shall serve for a term of three years. Vacancies occurring during a term shall be filled for the balance of the term. Members of the Board shall serve without compensation, but funds will be provided for reasonable and necessary expenses. The Board shall elect its own chairman. The Council may remove any member of the Board with five affirmative votes upon stating in writing the reasons for removal and allowing the member an opportunity to be heard. Three members shall constitute a quorum at any meeting of the Personnel Board.

1.3 In addition to the duties set forth elsewhere in this chapter, the Board shall:

a) Advise the City Manager on matters of personnel policy and problems of personnel administration, including the personnel rules, job classification plan and pay plan as they apply to Classified employees.

b) Represent the public interest in the improvement of personnel administration for Classified employees in the City service.

2. SCOPE OF CIVIL SERVICE SYSTEM

2.1 All offices and positions of the City are divided into the classified service and the exempt service.

2.2 The Classified service shall include the following classifications:

| | |
|---|---|
| Accountant | Legal Assistant |
| Administrative Aide | Librarian I |
| Appraiser | Library Aide |
| Assistant naturalist | Museum Aide |
| Building Maint. Specialist | Naturalist |
| Civilian Communications Supv. | Plan Analyst |
| Engineering Technician | Planning Technician |
| Field Supervisor | Right-of-Way Appraiser |
| GIS Data Analyst | Right-of-Way Representative |
| Inspector | Right-of-Way Technician |
| Inspector Supervisor | Secretary II |
| Landscape Analyst | Traffic Signal Technician |

2.3 The exempt service shall include the following:

a) Elected officials, members of boards and commissions

b) Volunteer personnel and personnel appointed to serve without pay.

c) Consultants and counsel rendering temporary professional service.

d) Such positions involving seasonal or part-time employment, as may be specifically placed in the exempt service by the personnel rules.

e) Positions in the City service that are represented by an exclusive bargaining representative pursuant to the Public Employment Relations Act, MCLA 423.201 et seq.

f) Positions of City Manager and City Attorney which serve at the pleasure of City Council pursuant to City Charter.

g) All other employees in the City service that are not placed in the Classified service by this Chapter and are not represented by an exclusive bargaining representative pursuant to the Public Employment Relations Act, MCLA 423.201 et seq.

3. ADMINISTRATION.

3.1 The City Manager shall be responsible for the execution of the personnel program and all advice and rulings of the Board in pursuance of this chapter.

3.2 The City Clerk shall serve as secretary to the Board.

3.3 The City Manager, with approval of City Council if required by City Charter, may contract with any qualified person or agency for the performance of such technical services as may be desired in establishment and operation of the personnel programs.

4. RULES.

4.1 The City Manager or designee shall draft such rules as may be necessary to carry out the provisions of this chapter. These rules shall be submitted to the Board for review and approval. Personnel rules approved or initiated by the Board shall be submitted for adoption by resolution of the Council. The rules as adopted shall have the force and effect of law. All rules and amendments thereto shall be made in accordance with the above procedure.

5. CLASSIFICATION.

5.1. The City Manager or designee shall make an analysis of the duties and responsibilities of all positions in the classified service and he shall recommend to the Board a job classification plan. Each position in the Classified service shall be assigned to a job class on the basis of the kind and level of its duties and responsibilities, to the end that all positions in the same class shall be sufficiently alike to permit use of a single description title, the same qualification requirements, the same test of competence and same pay scale. A job class may contain one or more positions. The classification plan, as reviewed and approved or initiated by the Board, shall be submitted for adoption by resolution of the City Council.

5.2. The classification plan may be revised from time to time as required.

6. COMPENSATION

6.1 The City Manager or designee shall prepare a Classified pay plan based upon accepted principles of pay administration. The rate or range for each class shall be such as to reflect fairly the differences in duties and responsibilities and shall be related to compensation for comparable positions in other places of employment.

6.2 The City Manager shall submit the pay plan and rules for its administration to the Board for approval. The Board may recommend that the City Council adopt the plan and the rules, with or without amendment.

6.3 The pay plan may be amended from time to time as required, through adjustment of rates, by reassignment of job classes to different pay ranges, or by the addition or deletion of job classes by the City Manager.

7. APPOINTMENT AND PROMOTIONS.

7.1 Original appointments to vacancies in the Classified service shall be based on merit as determined by competitive examinations which may include prior training and experience.

7.2 Competitive examinations shall be in such form as will fairly test the job-related requirements for the position being sought. Examinations may include written, oral, performance tests or any combination of these.

7.3 Pending the approval of an eligible list based upon competitive examination, vacancies may be filled by the City Manager by means of a temporary appointment. Temporary appointment will only be as long as is necessary to establish an approved eligible list.

7.4 Priority of Eligible lists for purposes of filling a vacancy shall be: re-employment eligible lists, promotional eligible lists and original appointment eligible lists.

7.5 Re-employment lists shall contain the names of regular full-time employees laid off in good standing for lack of funds or work and the position from which they have been laid off. An employee on a re-employment eligible list shall only be able to fill a vacancy in a classification formerly held by the employee or a similar classification at a lower level that the employee is qualified to perform.

7.6 Probationary employees laid off for lack of work or lack of funds and probationary employees who resign and whose resignations are withdrawn within one year, upon application and with the approval of the Department Head and the City Manager, shall have their names restored to the eligible list from which appointment was originally made.

7.7 Candidates who qualify for original appointment or promotion eligible lists shall be placed on the appropriate eligible list for the classification in the rank order of the composite scores they obtained on the competitive examination, including prior training and experience.

7.8 When an appointment is to be made to a vacancy, the City Manager shall appoint from the three persons ranked highest on the appropriate list (or lists, when applicable), who have indicated willingness, to accept appointment. When more than one vacancy is to be filled the number of names submitted shall not exceed the number of vacancies plus two.

7.9 An advancement in rank, grade, or to a salary range beyond the limits defined in the rules for the administration of the pay plan for the incumbent's current position shall constitute a promotion.

7.10 In preparation of a promotional eligible list, consideration shall be given to the qualifications of a candidate, including training and experience, and the individual's record of performance.

7.11 Vacancies in positions above the entrance level shall be filled by promotion rather than original appointment except when in the judgment of the City Manager it is not in the best interests of the City to do so.

7.12 Policies and procedures for administering eligible lists shall be provided in the personnel rules covering the duration, cancellation, replacement and consolidation of such lists, and the removal or suspension of the names of eligibles therefrom.

8. RECORDS.

8.1 The City Clerk shall maintain adequate records of the proceedings of the Board.

8.2 The Personnel Department shall maintain the examination record of every candidate for one (1) year, and shall maintain the employment record of every employee for a period of five (5) years after separation of employment with the City.

9. INVESTIGATIONS, HEARINGS.

9.1 During the course of any investigation or hearing the Board or the City Manager may direct any employee of the City to attend and give witness. Any employee refusing to do so may be subject to disciplinary action.

9.2 The Board shall have power to subpoena and require the attendance of witnesses and the production thereby of records, books and papers pertinent to the investigations and hearings.

10. GENERAL PROHIBITIONS.

10.1 Employees in the Classified service shall be selected on merit and qualifications without regard to political considerations, shall not be required to contribute to any political purpose and shall not engage in improper political activity. The rules shall define the scope of improper political activity.

10.2 There shall be no discrimination against any qualified person seeking employment or employed in the classified service because of any considerations of political or religious affiliation or belief, race, color, national origin, age, sex, marital status, height, weight, arrest record or disability.

11. TERMINATION APPEAL.

11.1 Any member of the Classified service, who is being considered for discharge shall be provided prior written notice of the reasons for the possible disciplinary action and an opportunity to respond to or discuss the contemplated action with the decision-maker prior to a final decision being made. If the employee is discharged, the employee shall be entitled to appeal the discharge to the Personnel Board as set forth below.

11.2 A discharged employee is entitled to appeal the discharge to the Personnel Board by filing a written notice of appeal no later than ten (10) calendar days after receiving notice of discharge. Said notice shall be filed with the City Clerk who is Secretary of the Board. Upon receipt of a notice of appeal, the Secretary of the Personnel Board shall schedule a hearing before the Personnel Board within thirty (30) calendar days. At the hearing, the discharged employee shall be entitled to present evidence and testimony on his or her behalf and to question the witnesses called in support of the discharge. The employee and the City may retain a representative for the hearing. A record of the hearing may be kept at the request of the employee or the City.

11.3 The Personnel Board shall then review the evidence presented at the hearing and, within thirty (30) days after the close of the hearing, render a written determination. The authority of the Personnel Board shall be limited to determining whether the discharge was arbitrary or capricious. The determination of the Personnel Board shall be final and binding on both the employee on both the employee and the City and shall constitute the sole and exclusive remedy for the employee.

11.4 At any hearing held subject to this appeal procedure, no member of the Personnel Board shall serve if he or she has been involved in the process leading to the discharge of the employee. In addition, the employee shall be entitled to challenge any member of the Personnel Board for bias or prejudice by providing the Personnel Board written notice of such claim prior to or at the hearing scheduled as set forth above.

## Section 3.19 - Planning and Zoning:

The Council shall maintain a City Planning Commission in accordance with and having all the powers and duties granted by the provisions of statute relating to such commissions.

The Council shall maintain a zoning ordinance in accordance with the provisions of statute relating to such ordinances. Insofar as may be, such ordinance shall provide that zoning be coordinated with the work of the City Planning Commission.

## Section 3.20 - Independent Board and Commissions:

The Council may not create any board or commission, other than those provided for in this charter, to administer any activity, department or agency of the city government except (a) a municipal hospital (b) recreation or (c) any activity that by statute is required to be so administered. The Council may, however, establish (a) quasi-judicial appeal boards and (b) boards or commissions to serve solely in an advisory capacity.

02.00.00 ARTICLE II PLANNING COMMISSION, CHANGES AND AMENDMENTS TO THE ZONING ORDINANCE, AND APPROVALS

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. The City Planning Commission 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 elect. 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-E-14). 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 (3) for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty 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.

02.10.02 POWERS AND DUTIES:
The City Planning Commissions shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties including:

(1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.

(2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof.

(3) The recommendation of approval to City Council of all preliminary plats subdividing land, site condominium plans, planned unit developments, some special use approval applications and any amendments or alterations thereof.

(4) The recommendation to City Council on ordinance text amendments, street and alley vacations or extensions, and historic district designations.

(5) Acting as the approval authority on site plans and most special use approval applications.

02.10.03 VOTING REQUIREMENTS:

The concurring vote of five (5) members of the Planning Commission is necessary to decide in favor of the applicant on site plan review and special use requests unless the Planning Commission does not have final jurisdiction on the matter. The concurring vote of six (6) members of the Planning Commission is necessary for approval of master plan or future land use plan amendments. All other issues before the Planning Commission, including, but not limited to, rezoning proposals, site condominium plans, planned unit developments, ordinance text amendments, subdivision plats, street and alley vacations or extensions, and historic district designations are recommendations to City Council and the concurrence of a majority of the Planning Commission members is necessary to recommend an action to the City Council.

02.10.04 FINANCES:
The City Planning Commission may be allowed such funds for expenses as deemed advisable by the City Council and all debts and expenses incurred by the City Planning Commission shall be limited by such amount.

(09-27-04)

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 of the Public Acts of 1921 as amended.

02.30.00 VESTED RIGHT:
Nothing in this Chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, District, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

02.40.00 COMMISSION APPROVAL:
In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this Chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure. The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Chapter. Any approval given by the Commission, under which premises are not used or work is not started within twelve (12) months or when use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

02.50.00 ENFORCEMENT, PENALTIES AND OTHER REMEDIES

02.50.01 VIOLATIONS:
Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred ($100.00) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to

Go to: Section 4

# CITY AND VILLAGE ZONING ACT
## Act 207 of 1921

AN ACT to provide for the establishment in cities and villages of districts or zones within which the use of land and structures and the height, area, size, and location of buildings may be regulated by ordinance, and for which districts regulations shall be established for the light and ventilation of those buildings, and for which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property that does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for amendments, supplements, or changes in zoning ordinances, zones, or districts; to provide for conflict with the state housing code or other acts, ordinances, or regulations; to provide sanctions for the violation of this act; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; and to provide for special assessments.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—Am. 1947, Act 272, Eff. Oct. 11, 1947;—Am. 1976, Act 396, Eff. Mar. 31, 1977;—Am. 1994, Act 25, Eff. May 1, 1994;—Am. 1996, Act 571, Eff. Mar. 31, 1997.

*The People of the State of Michigan enact:*

### 125.581 Regulating and restricting use of land and structures; purpose; division of city or village into districts; plan for land development regulations and districts; ordinance subject to electric transmission line certification act.

Sec. 1. (1) The legislative body of a city or village may regulate and restrict the use of land and structures; to meet the needs of the state's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare, and for those purposes may divide a city or village into districts of the number, shape, and area considered best suited to carry out this section. For each of those districts regulations may be imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and other land uses or activities that shall be permitted or excluded or subjected to special regulations.

(2) The land development regulations and districts authorized by this act shall be made in accordance with a plan designed to promote and accomplish the objectives of this act.

(3) An ordinance adopted pursuant to this act is subject to the electric transmission line certification act.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2633;—CL 1948, 125.581;—Am. 1978, Act 638, Eff. Mar. 1, 1979;—Am. 1995, Act 36, Imd. Eff. May 17, 1995.

### 125.581a Airport layout plan or airport approach plan; incorporation; zoning ordinance; adoption.

Sec. 1a. (1) If, after an airport layout plan or airport approach plan is filed with the zoning commission or, if there is no body exercising the powers of a zoning commission, with the legislative body of a city or village, a plan required under section 1 is adopted or revised, the city or village shall incorporate the airport layout plan or airport approach plan into the plan required under section 1.

(2) A zoning ordinance adopted after the effective date of the amendatory act that added this section shall be adopted after reasonable consideration of both of the following:

(a) The environs of any airport within a district.

(b) Comments received at or before a public hearing under section 4 from the airport manager of any airport.

(3) If a zoning ordinance was adopted before the effective date of the amendatory act that added this section, the zoning ordinance is not required to be consistent with any airport zoning regulations, airport layout plan, or airport approach plan. However, any zoning ordinance amendment adopted or variance granted after the effective date of the amendatory act that added this section shall not increase any inconsistency that may exist between the zoning ordinance or structures or uses and any airport zoning regulations, airport layout plan, or airport approach plan. This subsection does not limit the right under section 4 to file a protest petition concerning a zoning ordinance amendment.

(4) If a zoning ordinance is adopted after the effective date of the amendatory act that added this section, the zoning ordinance shall be consistent with any airport zoning regulations, airport layout plan, and airport


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approach plan. This subsection does not limit the right under section 4 to file a protect petition concerning a zoning ordinance.

**History:** Add. 2000, Act 383, Imd. Eff. Jan. 2, 2001.

**Compiler's note:** In subsection (4), the phrase "protect petition" evidently should read "protest petition."

### 125.582 Regulation of buildings and open spaces.

Sec. 2. To further carry out the objectives of this act, the legislative body of a city or village may regulate and limit the height and bulk of buildings erected, and regulate and determine the area of yards, courts, and other open spaces, and for those purposes divide a city or village into districts of the number, shape, and area considered best suited to carry out the purposes of this section. The regulations shall be uniform for each class of buildings throughout each district, but the regulations in 1 district may differ from those in other districts.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2634;—CL 1948, 125.582;—Am. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.583 Regulations limiting and restricting maximum number of families housed in dwellings; regulations and districts applicable to land areas and activities involved in special program.

Sec. 3. (1) To further carry out the objectives of this act, the legislative body of a city or village may limit and restrict the maximum number of families which may be housed in dwellings erected or altered, and for those purposes divide the city or village into districts of the number, shape, and area considered best suited to carry out the purposes of this section. The regulations shall be uniform throughout a specified district, but may differ from the regulations adopted for other districts.

(2) The legislative body of a city or village may use this act to adopt land development regulations and districts which apply only to land areas and activities which are involved in a special program to achieve specific land management objectives and avert or solve specific land use problems, including the establishment of land development regulations and districts in areas subject to damage from flooding or beach erosion, and for that purpose may divide the city or village into districts of the number, shape, and area best suited to accomplish those objectives.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2635;—CL 1948, 125.583;—Am. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.583a Nonconforming uses and structures.

Sec. 3a. (1) The lawful use of land or a structure exactly as the land or structure existed at the time of the enactment of the ordinance affecting that land or structure, may be continued, except as otherwise provided in this act, although that use or structure does not conform with the ordinance.

(2) The legislative body may provide by ordinance for the resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures upon terms and conditions provided in the ordinance. In establishing terms for the resumption, restoration, reconstruction, extension, or substitution of nonconforming uses or structures, different classes of nonconforming use may be established in the ordinance with different regulations applicable to each class.

(3) In addition to the power granted in this section, a city or village may acquire by purchase, condemnation, or otherwise private property or an interest in private property for the removal of nonconforming uses and structures, except that the property shall not be used for public housing. The legislative body may provide that the cost and expense of acquiring private property be paid from general funds, or the cost and expense or a portion thereof be assessed to a special district. The elimination of nonconforming uses and structures in a zoned district as provided in this act is declared to be for a public purpose and for a public use. The legislative body may institute and prosecute proceedings for the condemnation of nonconforming uses and structures under the power of eminent domain in accordance with the provisions of a city or village charter relative to condemnation or in accordance with Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, or any other applicable statute.

**History:** Add. 1947, Act 272, Eff. Oct. 11, 1947;—CL 1948, 125.583a;—Am. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.583b "State licensed residential facility" defined; state licensed residential facility considered residential use and permitted use; provisions inapplicable to adult foster care facilities; review by council; notice to residents; denial of license; exceptions.

Sec. 3b. (1) As used in this section, "state licensed residential facility" means a structure constructed for residential purposes that is licensed by the state pursuant to the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being sections 400.701 to 400.737 of the Michigan Compiled Laws, or Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan


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Compiled Laws, that provides resident services or care for 6 or fewer persons under 24-hour supervision for persons in need of that supervision or care.

(2) In order to implement the policy of this state that persons in need of community residential care shall not be excluded by zoning from the benefits of normal residential surroundings, a state licensed residential facility providing supervision or care, or both, to 6 or less persons shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

(3) This section does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

(4) At least 45 days before licensing a residential facility, the state licensing agency shall notify the council of the city or village or the designated agency of the city or village where the proposed facility is to be located to review the number of existing or proposed similar state licensed residential facilities whose property lines are within a 1,500-foot radius of the property lines of the proposed facility. The council of a city or village or an agency of the city or village to which the authority is delegated, when a proposed facility is to be located within the city or village, shall give appropriate notification of the proposal to license the facility to those residents whose property lines are within a 1,500-foot radius of the property lines of the proposed facility. A state licensing agency shall not license a proposed residential facility if another state licensed residential facility exists within the 1,500-foot radius of the proposed location, unless permitted by local zoning ordinances or if the issuance of the license would substantially contribute to an excessive concentration of state licensed residential facilities within the city or village. In a city with a population of 1,000,000 or more a state licensing agency shall not license a proposed residential facility if another state licensed residential facility exists within a 3,000-foot radius of the proposed location unless permitted by local zoning ordinances. This subsection shall not apply to state licensed residential facilities caring for 4 or fewer minors.

(5) This section does not apply to a state licensed residential facility licensed before March 31, 1977, or to a residential facility that was in the process of being developed and licensed before March 31, 1977 if approval was granted by the appropriate local governing body before that date.

**History:** Add. 1976, Act 396, Eff. Mar. 31, 1977;—Am. 1977, Act 28, Imd. Eff. June 15, 1977;—Am. 1993, Act 210, Imd. Eff. Oct. 21, 1993.

**Constitutionality:** Section 3b of the City and Village Zoning Act and § 33 of the Adult Foster Care Facility Licensing Act do not violate the Title-Object Clause of the Michigan Constitution. City of Livonia v. Department of Social Services, 423 Mich. 466, 335 N.W.2d 473 (1985).

### 125.583c Residence used to give instruction in craft or fine art; regulations not prohibited.

Sec. 3c. (1) A zoning ordinance adopted under this act shall 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.

(2) This section does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of a residence described in subsection (1).

**History:** Add. 1994, Act 376, Eff. Mar. 30, 1995.

### 125.584 Ordinances; public hearing; notice; affidavit; appointment and report of commission; transmission of summary and report; determination of boundaries or imposition of regulations; amendment and adoption of ordinances or maps; supplements; protest petition; vote; exclusion of publicly owned land; publication and contents of notice of adoption.

Sec. 4. (1) The legislative body of a city or village may provide by ordinance for the manner in which regulations and boundaries of districts or zones shall be determined and enforced or amended, supplemented, or changed. At least 1 public hearing shall be held by the commission appointed to recommend zoning regulations or, if a commission does not exist, by the legislative body before a regulation becomes effective. Not less than 15 days' notice of the time and place of the public hearing shall first be published in an official paper or a paper of general circulation in the city or village. Not less than 15 days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and each railroad company owning or operating any public utility or railroad within the districts or zones affected, and the airport manager of each airport, that registers its name and mailing address with the city or village clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained. A hearing shall be granted to an interested person at the time and place specified on the notice.


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(2) The legislative body of a city or village, unless otherwise provided by charter, may appoint a commission to recommend in the first instance the boundaries of districts and appropriate regulations to be enforced in the districts. If a city or village has a planning commission, that commission shall be appointed to perform the duties set forth in this section. The commission shall make a tentative report and hold at least 1 public hearing before submitting its final report to the legislative body. A summary of the comments submitted at the public hearing shall be transmitted with the report of the commission to the legislative body. The legislative body may hold additional public hearings if it considers it necessary or as may be required by charter.

(3) In a city or village having a commission appointed to recommend zoning requirements, the legislative body shall not in the first instance determine the boundaries of districts or impose regulations until after the final report of the commission. In such a city or village, the legislative body shall not amend the ordinance or maps after they are adopted in the first instance until the proposed amendment has been submitted to the commission and it has held at least 1 hearing and made report thereon. In either case, the legislative body may adopt the ordinance and maps, with or without amendments, after receipt of the commission's report, or refer the ordinance and maps again to the commission for a further report.

(4) After the ordinance and maps have in the first instance been approved by the legislative body of a city or village, amendments or supplements thereto may be made as provided in this section, except that if an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of the property in question at least 15 days before the hearing.

(5) Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a 2/3 vote of the legislative body, unless a larger vote, but not to exceed 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body before final legislative action on the amendment and shall be signed by 1 of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(6) For purposes of subsection (5), publicly owned land shall be excluded in calculating the 20% land area requirement.

(7) Following adoption of a zoning ordinance and subsequent amendments by the legislative body of a city or village, 1 notice of adoption shall be published in a newspaper of general circulation in the city or village within 15 days after adoption. Promptly following adoption of a zoning ordinance or subsequent amendment by the legislative body of the city or village, a copy of the notice of adoption shall also be mailed to the airport manager of an airport entitled to notice under subsection (1).

(8) The notice of adoption under subsection (7) shall include the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: “A zoning ordinance regulating the development and use of land has been adopted by the city (village) council of the city (village) of _____”.

(b) In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance.

(d) The place and time where a copy of the ordinance may be purchased or inspected. The filing and publication requirements in this section relating to city and village zoning ordinances supersede charter provisions relating to the filing and publication of city and village ordinances.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2636;—Am. 1941, Act 287, Eff. Jan. 10, 1942;—Am. 1941, Act 306, Eff. Jan. 10, 1942;—CL 1948, 125.584;—Am. 1976, Act 145, Eff. Mar. 31, 1977;—Am. 1978, Act 638, Eff. Mar. 1, 1979;—Am. 2000, Act 383, Imd. Eff. Jan. 2, 2001.

### 125.584a Special land uses.

Sec. 4a. (1) A city or village may provide in a zoning ordinance for special land uses which shall be permitted in a zoning district only after review and approval by the commission appointed to formulate and subsequently administer the zoning ordinance, an official charged with administering the ordinance, or the legislative body. The ordinance shall specify the following:

(a) The special land uses and activities eligible for approval consideration and the body or official charged with reviewing special land uses and granting approval.

(b) The requirements and standards upon which decisions on requests for special land use approval shall be based.


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(c) The procedures and supporting materials required for application, review, and approval.

(2) Upon receipt of an application for a special land use which requires a decision on discretionary grounds, 1 notice that a request for special land use approval has been received shall be published in a newspaper of general circulation in the city or village and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet, except that the notice shall be given not less than 5 and not more than 15 days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 4 dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

(a) Describe the nature of the special land use request.

(b) Indicate the property which is the subject of the special land use request.

(c) State when and where the special land use request will be considered.

(d) Indicate when and where written comments will be received concerning the request.

(e) Indicate that a public hearing on the special land use request may be requested by a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special use.

(3) At the initiative of the body or official responsible for approving special land uses, or upon the request of the applicant for special land use authorization, or a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required for a notice of a request for special land use approval as provided in subsection (2) shall be held before a decision on the special land use request which is based on discretionary grounds. If the applicant or the body or official responsible for approving special land uses requests a public hearing, only notification of the public hearing need be made. A decision on a special land use request which is based on discretionary grounds shall not be made unless notification of the request for special land use approval, or notification of a public hearing on a special land use request is given as required by this section.

(4) The body or official designated in the zoning ordinance to review and approve special land uses may deny, approve, or approve with conditions, requests for special land use approval. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.

**History:** Add. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.584b Planned unit development.

Sec. 4b. (1) As used in this section, "planned unit development" includes cluster zoning, planned development, community unit plan, planned residential development, and other terminology denoting zoning requirements designed to accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

(2) A city or village may establish in a zoning ordinance planned unit development requirements which permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities; encourage useful open space; and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the state. The review and approval of planned unit developments shall be by the commission appointed to formulate and subsequently administer the zoning ordinance, an official charged with administration of the ordinance, or the legislative body.

(3) Within a land development project designated as a planned unit development, regulations relating to the use of land, including, but not limited to, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas and how they are to be preserved, and land use density shall be determined in accord with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use if equitable procedures recognizing due process principles and avoiding arbitrary decisions are followed in making regulatory decisions. Unless explicitly prohibited by the planned unit development regulations, if requested by the landowner, a city or village may approve a planned unit development with open space that is not contiguous


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with the rest of the planned unit development.

(4) The planned unit development regulations established by a city or village shall specify:

(a) The body or official which will review and approve planned unit development requests.

(b) The conditions which create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applications will be judged and approval granted.

(c) The procedures required for application, review, and approval.

(5) Following receipt of a request to approve a planned unit development, the body or official charged in the ordinance with the review and approval of planned unit developments shall hold at least 1 public hearing on the request. A zoning ordinance may provide for preapplication conferences before submission of a planned unit development request, and the submission of preliminary site plans before the public hearing. Notification of the public hearing shall be given in the same manner as required by section 4a(3) for public hearings on special land uses. Within a reasonable time following the public hearings, the body or official responsible for approving planned unit developments shall meet for final consideration of the request, and shall deny, approve, or approve with conditions, the request. It shall prepare a report stating its conclusions on the request for a planned unit development, the basis for its decision, the decision, and any conditions relating to an affirmative decision. If the ordinance requires that the legislative body amend the ordinance to act on the planned unit development request, and if the hearing was not held by the legislative body, the report, a summary of comments received at the public hearing, minutes of all proceedings, and all documents related to the planned unit development request, shall be transmitted to the legislative body for consideration in making a final decision. If an amendment of a zoning ordinance is required by the planned unit development regulations of a city or village zoning ordinance, the ordinance amendment procedures of this act shall be followed, except that the hearing required by this subsection shall be regarded as fulfilling the public hearing requirement of section 4.

(6) If the planned unit development regulations of a city or village zoning ordinance do not require amendment of the ordinance to authorize a planned unit development, the body or official charged in the zoning ordinance with review and approval of planned unit developments may give final approval, approval with conditions, or denial to a request.

(7) Final approvals may be granted on each phase of a multiphased planned unit development if each phase contains the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area.

(8) In establishing planned unit development regulations, a city or village may incorporate by reference other applicable ordinances or statutes which regulate land development. The planned unit development regulations contained in a zoning ordinance shall encourage complementary relationships between zoning regulations and other regulations affecting the development of land.

**History:** Add. 1978, Act 638, Eff. Mar. 1, 1979;—Am. 2003, Act 227, Imd. Eff. Dec. 18, 2003.

### 125.584c Discretionary decisions; requirements, standards, and conditions.

Sec. 4c. (1) If a city or village zoning ordinance authorizes the consideration and approval of special land uses or planned unit developments pursuant to sections 4a or 4b, or otherwise provides for discretionary decisions, the requirements and standards upon which the decisions are made shall be specified in the ordinance. The standards shall be consistent with, and promote the intent and purpose of the zoning ordinance, and insure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use. The standards shall insure that the land use or activity is consistent with the public health, safety, and welfare of the city or village. A request for approval of a land use or activity which is in compliance with the standards stated in the zoning ordinance and the conditions imposed thereunder, other applicable ordinances, and state and federal statutes shall be approved.

(2) Reasonable conditions may be required in conjunction with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:

(a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.


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(b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(c) Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.

(3) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The approving authority shall maintain a record of changes granted in conditions.

**History:** Add. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.584d Site plan.

Sec. 4d. (1) As used in this section, "site plan" includes the documents and drawings specified in the zoning ordinance necessary to insure that a proposed land use or activity is in compliance with the local ordinance and state and federal statutes.

(2) A city or village may require the submission and approval of a site plan before authorization of a land use or activity regulated by a zoning ordinance. The zoning ordinance shall specify the body, board, or official charged with reviewing site plans and granting approval.

(3) If a zoning ordinance requires site plan approval, the site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan, unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner and the administrative official or body which initially approved the site plan.

(4) The procedures and requirements for the submission and approval of site plans shall be specified in the zoning ordinance. Site plan submission, review, and approval shall be required for special land uses and planned unit developments. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon standards and requirements contained in the zoning ordinance.

(5) A site plan shall be approved if it contains the information required by the zoning ordinance and is in compliance with the zoning ordinance and the conditions imposed thereunder, other applicable ordinances, and state and federal statutes.

**History:** Add. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.584e Improvements; deposit of performance guarantee.

Sec. 4e. (1) As used in this section, "improvements" means those features and actions associated with a project which are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a city or village, and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements does not include the entire project which is the subject of zoning approval.

(2) To insure compliance with a zoning ordinance and any conditions imposed under the ordinance, a city or village may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the city or village covering the estimated cost of improvements associated with a project for which zoning approval is sought, be deposited with the clerk of the city or village to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The city or village may not require the deposit of the performance guarantee before the date on which the city or village is prepared to issue the permit. The city or village shall establish procedures under which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses.

(3) This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited pursuant to Act No. 288 of the Public Acts of 1967, as amended, being sections 560.101 to 560.293 of the Michigan Compiled Laws.

**History:** Add. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.584f Qualified city or village zoning ordinances; option of landowner to develop land zoned for residential development; requirements; limitations; "qualified city" or "qualified village" defined; zoning ordinance provisions cited as "open space preservation."

Sec. 4f. (1) Subject to subsection (4) and the right of referendum if provided by charter, beginning 1 year after the effective date of the amendatory act that added this section, each qualified city or qualified village shall provide in its zoning ordinance that land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land specified in the


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zoning ordinance, but not more than 80%, that, as determined by the city or village, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area, if all of the following apply:

(a) The land is zoned at a density equivalent to 2 or fewer dwelling units per acre, or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.

(b) A percentage of the land area specified in the zoning ordinance, but not less than 20%, will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, as prescribed by the zoning ordinance.

(c) The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the option provided by this subsection would also depend upon such an extension.

(d) The option provided pursuant to this subsection has not previously been exercised with respect to that land.

(2) After a landowner exercises the option provided pursuant to subsection (1), the land may be rezoned accordingly.

(3) The development of land under subsection (1) is subject to other applicable ordinances, laws, and rules, including rules relating to suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.

(4) Subsection (1) does not apply to a qualified city or qualified village if both of the following requirements are met:

(a) Since October 1, 2001, the city or village has had in effect a zoning ordinance provision providing for both of the following:

(*i*) Land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units on a portion of the land that, as determined by the city or village, could otherwise be developed, under existing ordinances, laws, and rules, on the entire land area.

(*ii*) If the landowner exercises the option provided by subparagraph (*i*), the portion of the land not developed will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

(b) On or before the enactment date of the amendatory act that added this section, a landowner exercised the option provided under the zoning ordinance provision referred to in subdivision (a) with at least 20% of the land area remaining perpetually in an undeveloped state.

(5) As used in this section, “qualified city” or “qualified village” means a city or village, respectively, that meets all of the following requirements:

(a) Has adopted a zoning ordinance.

(b) Has a population of 1,800 or more.

(c) Has land that is not developed and that is zoned for residential development at a density described in subsection (1)(a).

(6) The zoning ordinance provisions required by subsection (1) shall be known and may be cited as the “open space preservation” provisions of the zoning ordinance.

**History:** Add. 2001, Act 179, Imd. Eff. Dec. 15, 2001.

### 125.584g Conditions to rezoning land; offer by landowner; approval by city or village; time period; extension; lack of offer by landowner.

Sec. 4g. (1) An owner of land may voluntarily offer in writing, and the city or village may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the city or village may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The city or village shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2).

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the city or village.

(5) A city or village shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the city or village, or any other laws of this state.

**History:** Add. 2004, Act 579, Imd. Eff. Jan. 4, 2005.


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**125.585 Board of appeals; rules governing procedure; appointment and terms of members; powers and duties of board; appeals; variances; remuneration; finality of decision; judicial review.**

Sec. 5. (1) The legislative body of a city or village may act as a board of appeals upon questions arising under a zoning ordinance. The legislative body may establish rules to govern its procedure as a board of appeals. In the alternative, the legislative body may appoint a board of appeals consisting of not less than 5 members, each to be appointed for a term of 3 years. Appointments of the first members shall be for terms of 1, 2, and 3 years, respectively, so as nearly as possible to provide for the subsequent appointment of an equal number of members each year. After the initial appointments, each member shall hold office for the full 3-year term.

(2) Under procedures specified in the zoning ordinance, the legislative body of a city or village may appoint not more than 2 alternate members for the same term as regular members of the board of appeals. The alternate members may be called on a rotating basis as specified in the zoning ordinance to sit as regular members of the board of appeals in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member called shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the board of appeals.

(3) The board of appeals shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the enforcement of an ordinance adopted under this act. The board of appeals shall also hear and decide matters referred to the board or upon which the board is required to pass under an ordinance adopted under this act. For special land use and planned unit development decisions, an appeal may be taken to the board of appeals only if provided for in the zoning ordinance.

(4) In a city or village having a population of less than 1,000,000, the concurring vote of a majority of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under an ordinance, or to effect a variation in an ordinance except that a concurring vote of 2/3 of the members of the board is necessary to grant a variance from uses of land permitted in an ordinance. In a city having a population of 1,000,000 or more, the concurring vote of 2/3 of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the board is required to pass under an ordinance, or to grant a variance in an ordinance.

(5) An appeal may be taken by a person aggrieved, or by an officer, department, board, or bureau of the city or village. In addition, a variance in an ordinance may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and this act. A board of rules or board of building appeals of a city or village may be enlarged to consist of not less than 5 members, and these may be appointed as the board of appeals as provided in this section.

(6) An appeal under this section shall be taken, within a time prescribed by the board of appeals by general rule, by filing, with the officer or body from whom the appeal is taken and with the board of appeals, a notice of appeal specifying the grounds for the appeal. The officer or body from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(7) An appeal under this section stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the board of appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the board of appeals or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.

(8) The board of appeals shall fix a reasonable time for the hearing of the appeal and give notice of the appeal to the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single and 2-family dwellings within 300 feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If a tenant's name is not known, the term “occupant” may be used. Upon the hearing, a party may appear in person or by agent or by attorney.

(9) The board of appeals shall decide the appeal within a reasonable time. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed


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from and shall make an order, requirement, decision, or determination as in the board's opinion ought to be made in the premises, and to that end shall have all the powers of the officer or body from whom the appeal is taken. If there are practical difficulties or unnecessary hardship in carrying out the strict letter of the ordinance, the board of appeals may in passing upon appeals grant a variance in any of its rules or provisions relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done.

(10) The board of appeals may impose conditions upon an affirmative decision, as provided in section 4c(2). The legislative body of a city or village may authorize the remuneration of the members of the board for attendance at each meeting.

(11) The decision of the board of appeals is final. However, a person having an interest affected by the zoning ordinance may appeal to the circuit court. Upon appeal, the circuit court shall review the record and decision of the board of appeals to ensure that the decision meets all of the following requirements:

(a) Complies with the constitution and laws of this state.

(b) Is based upon proper procedure.

(c) Is supported by competent, material, and substantial evidence on the record.

(d) Represents the reasonable exercise of discretion granted by law to the board of appeals.

(12) If the court finds the record of the board of appeals inadequate to make the review required by this section, or that additional material evidence exists that with good reason was not presented to the board of appeals, the court shall order further proceedings before the board of appeals on conditions that the court considers proper. The board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm the original decision. The supplementary record and decision shall be filed with the court.

(13) As a result of the review required by this section, the court may affirm, reverse, or modify the decision of the board of appeals.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2637;—Am. 1941, Act 306, Eff. Jan. 10, 1942;—Am. 1947, Act 272, Eff. Oct. 11, 1947;—CL 1948, 125.585;—Am. 1952, Act 97, Eff. Sept. 18, 1952;—Am. 1968, Act 202, Eff. Nov. 15, 1968;—Am. 1973, Act 204, Imd. Eff. Jan. 11, 1974;—Am. 1978, Act 638, Eff. Mar. 1, 1979;—Am. 1979, Act 180, Eff. Mar. 18, 1980;—Am. 1986, Act 191, Imd. Eff. July 8, 1986;—Am. 2000, Act 20, Imd. Eff. Mar. 8, 2000.

### 125.585a Board of appeals; conducting business at public meeting; notice of meeting; availability of certain writings to public.

Sec. 5a. (1) The business which the board of appeals or the legislative body acting as a board of appeals may perform shall be conducted at a public meeting of the board of appeals or legislative body acting as a board of appeals held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by the board of appeals or the legislative body acting as a board of appeals or a commission appointed pursuant to section 5 in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**History:** Add. 1977, Act 186, Imd. Eff. Nov. 17, 1977.

### 125.586 Conflicting laws; governing law.

Sec. 6. Wherever the provision of any ordinance or regulations, adopted by the legislative body of any city or village under the provisions of this act, impose requirements for lower heights of buildings, or a less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are imposed or required by existing provisions of law or ordinance, the provisions of such local ordinance or regulation adopted under the provisions of this act shall govern. Where, however, the provisions of the state housing code or other ordinances or regulations of any city or village impose requirements for lower heights of buildings or less percentage of lot that may be occupied, or require wider or larger courts or deeper yards than are required by any ordinance or regulation which may be adopted by the legislative body of any city or village under the provisions of this act, the provisions of said state housing code or other ordinance or regulations shall govern.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2638;—CL 1948, 125.586.

### 125.587 Violation as nuisance per se; abatement; liability; administration and enforcement of ordinance; penalties.


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Sec. 7. A building erected, altered, razed, or converted, or a use carried on in violation of a local ordinance or regulation adopted pursuant to this act is a nuisance per se. The court shall order the nuisance abated, and the owner or agent in charge of the building or land, or both the owner and the agent, are liable for maintaining a nuisance per se. The legislative body in the ordinance adopted pursuant to this act shall designate the proper officials whose duty it is to administer and enforce the ordinance and do 1 of the following for each violation of the ordinance:

(a) Impose a penalty for the violation.

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation.

(c) Designate the violation as a blight violation and impose a civil fine or other sanction authorized by law if the city establishes an administrative hearings bureau pursuant to statute to adjudicate and impose sanctions for blight violations.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2639;—CL 1948, 125.587;—Am. 1978, Act 638, Eff. Mar. 1, 1979;—Am. 1994, Act 25, Eff. May 1, 1994;—Am. 2003, Act 320, Imd. Eff. Jan. 12, 2004.

### 125.589 Declaration of necessity.

Sec. 9. The provisions of this act are hereby declared to be immediately necessary for the preservation of the public peace, health and safety and are hereby given immediate effect.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2641;—CL 1948, 125.589.

### 125.590 Review by circuit courts; appeals to supreme court; procedure.

Sec. 10. Any party aggrieved by any order, determination or decision of any officer, agency, board, commission, board of appeals, or the legislative body of any city or village, made pursuant to the provisions of section 3a of this act may obtain a review thereof both on the facts and the law, in the circuit court for the county wherein the property involved or some part thereof, is situated: Provided, That application is made to the court within 30 days after delivery of a copy of such order, determination or decision, by certiorari or by any other method permissible under the rules and practices of the circuit courts of this state. On such review the courts shall have jurisdiction to make such further orders in respect thereto as justice may require. An appeal may be had from the decision of any circuit court or condemnation court to the supreme court in the same manner as provided by the laws of this state with respect to appeals from circuit courts; and in the event of such appeal, the issue of non-conformity may be reviewed as an issue of law in the supreme court.

**History:** Add. 1947, Act 272, Eff. Oct. 11, 1947;—CL 1948, 125.590.

### 125.591 Action for review; proper and necessary party; notice; failure to enter appearance.

Sec. 11. Any person required to be given notice under section 5(8), shall be a proper and necessary party to any action for review instituted under section 10 and shall be given notice personally or by registered or certified mail of proceedings under section 10 in the same manner as provided in section 5(8). If any person receiving notice under this section fails within 20 days of receiving that notice to enter an appearance in the court in which the proceedings were instituted, further notice to that person of subsequent proceedings is not required and the court may proceed to determine the issues.

**History:** Add. 1967, Act 225, Eff. Nov. 2, 1967;—Am. 1986, Act 191, Imd. Eff. July 8, 1986.

### 125.592 Effect of zoning ordinance or decision in presence of demonstrated need.

Sec. 12. A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a city or village in the presence of a demonstrated need for that land use within either the city or village or the surrounding area within the state, unless a location within the city or village does not exist where the use may be appropriately located or use is unlawful.

**History:** Add. 1978, Act 638, Eff. Mar. 1, 1979.

### 125.593 Adoption of development rights ordinance; establishment, financing, and administration of purchase of development rights program; limitation; use; scope; separate ordinance; agreements between counties, cities, villages, and townships.

Sec. 13. (1) The legislative body of a city or village may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program as provided under this section and sections 14 and 15. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 14 and 15 do not expand the condemnation authority of a city or village as otherwise provided for in this act. A PDR program shall not acquire development rights by condemnation. This section and sections 14 and 15 do not limit any authority that may otherwise be provided by law for a city or village to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar


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purposes.

(2) A city or village shall not establish, finance, or administer a PDR program unless the legislative body of the city or village adopts a development rights ordinance. If the city or village has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance pursuant to the procedures governing adoption of a zoning ordinance set forth in this act. Whether or not the city or village has a zoning ordinance, the development rights ordinance may be adopted as a separate ordinance pursuant to the procedures governing ordinance adoption in general.

(3) The legislative body of a city or village may promote and enter into agreements between counties, cities, villages, and townships for the purchase of development rights, including cross-jurisdictional purchase, subject to applicable development rights ordinances of cities and villages and similar ordinances of counties and townships.

**History:** Add. 1996, Act 571, Eff. Mar. 31, 1997.

### 125.594 Development rights ordinance providing for PDR program; specifications; consistency with plan; conveyance.

Sec. 14. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the city or village purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

(a) The public benefits that the city or village may seek through the purchase of development rights.

(b) The procedure by which the city or village or a landowner may by application initiate a purchase of development rights.

(c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).

(d) The standards and procedure to be followed by the legislative body of the city or village for approving, modifying, or rejecting an application to purchase development rights including the determination of all of the following:

(*i*) Whether to purchase development rights.

(*ii*) Which development rights to purchase.

(*iii*) The intensity of development permitted after the purchase on the land from which the development rights are purchased.

(*iv*) The price at which development rights will be purchased and the method of payment.

(*v*) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.

(e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the city or village.

(2) If the city or village has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 1 upon which the zoning ordinance is based.

(3) Development rights acquired under a PDR program may be conveyed only as provided pursuant to subsection (1)(e).

**History:** Add. 1996, Act 571, Eff. Mar. 31, 1997.

### 125.595 Financing for PDR program; sources; borrowing money and issuing bonds or notes; pledge; lien; exemption from taxation; investment; disposition; special assessments.

Sec. 15. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the city or village.

(b) Proceeds from the sale of development rights by the city or village subject to section 14(3).

(c) Grants.

(d) Donations.

(e) Bonds or notes issued under subsections (2) to (5).

(f) General fund revenue.

(g) Special assessments under subsection (6).

(h) Other sources approved by the city or village and permitted by law.

(2) The city or village may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the city or village. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes; or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.


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(3) The legislative body of the city or village may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the legislative body of the city or village is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the city or village, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the legislative body of the city or village to finance a PDR program by special assessments. In addition to meeting the requirements of section 14, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the legislative body a petition containing all of the following:

(*i*) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(*ii*) A description of the proposed special assessment district.

(*iii*) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(*iv*) The amount and duration of the proposed special assessments.

(b) The requirement that the legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

**History:** Add. 1996, Act 571, Eff. Mar. 31, 1997;—Am. 2002, Act 284, Imd. Eff. May 9, 2002.

### 125.600 Definitions; short title.

Sec. 20. (1) As used in this act:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, feed crops, and field crops; dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(b) "Airport" means an airport licensed by the Michigan department of transportation, bureau of aeronautics under section 86 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.86.

(c) "Airport approach plan" means a plan, or an amendment to a plan, adopted under section 12 of the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.442, and filed with the commission appointed to recommend zoning regulations for the city or village under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport layout plan" means a plan, or an amendment to a plan, that shows current or proposed layout of an airport, that is approved by the Michigan aeronautics commission, and that is filed with the commission appointed to recommend zoning regulations for the city or village under section 151 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.151.

(e) "Airport manager" means that term as defined in section 10 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10.

(f) "Airport zoning regulations" means airport zoning regulations under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(g) "Conservation easement" means that term as defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(h) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.


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(i) “Development rights ordinance” means an ordinance, which may comprise part of a zoning ordinance, adopted under section 13.

(j) “Greenway” means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(k) “Intensity of development” means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(*l*) “Other eligible land” means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway.

(m) “PDR program” means a program under section 14 for the purchase of development rights by a city or village.

(n) “Undeveloped state” means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

(2) This act shall be known and may be cited as the “city and village zoning act”.

**History:** Add. 1996, Act 571, Eff. Mar. 31, 1997;—Am. 2000, Act 383, Imd. Eff. Jan. 2, 2001;—Am. 2001, Act 179, Imd. Eff. Dec. 15, 2001.


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# MUNICIPAL PLANNING
## Act 285 of 1931

AN ACT to provide for city, village and municipal planning; the creation, organization, powers and duties of planning commissions; the regulation and subdivision of land; and to provide penalties for violation of the provisions of this act.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—Am. 1952, Act 25, Eff. Sept. 18, 1952.

*The People of the State of Michigan enact:*

### 125.31 Definitions.

Sec. 1. As used in this act:

(a) "Council" or "legislative body" means the legislative body of the municipality.

(b) "County board of commissioners" means 1 of the following, as applicable:

(*i*) The county executive in a county organized under 1966 PA 293, MCL 45.501 to 45.521.

(*ii*) In all other counties, 1 of the following:

(A) The elected county board of commissioners.

(B) A subcommittee of the county board of commissioners if the county board of commissioners delegates its powers and duties under this act to such a subcommittee.

(C) The regional planning commission for the region in which the county is located if the county board of commissioners delegates its powers and duties under this act to the regional planning commission.

(c) "Master plan", "municipal plan", or "plan" means a master plan as described in section 6(3) or (4), as applicable.

(d) "Mayor" means the chief executive of the municipality, whether the official designation of his or her office is mayor, city manager, or otherwise.

(e) "Municipality" or "municipal" means or relates to cities, villages, townships, and other incorporated political subdivisions.

(f) "Municipal planning commission" or "planning commission" means a planning commission as provided for under section 2.

(g) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(h) "Streets" means streets, avenues, boulevards, highways, roads, lanes, alleys, viaducts, and other ways.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.31;—Am. 1952, Act 25, Eff. Sept. 18, 1952;—Am. 1997, Act 18, Imd. Eff. June 11, 1997;—Am. 2001, Act 265, Imd. Eff. Jan. 9, 2002.

### 125.32 Planning commission; creation; designation; extension of powers and duties; applicability of §§ 125.33, 125.34, and 125.35; planning commission under charter not affected; boards serving as planning commission in certain cities or villages.

Sec. 2. (1) Any municipality is authorized and empowered to make, adopt, amend, extend, add to, or carry out a municipal plan as provided in this act and create by ordinance a planning commission with the powers and duties provided in this act. The planning commission of a city shall be designated city planning or city plan commission; of a village, village planning or village plan commission and of any other municipality, such designation as its council may specify. The legislative body of any city or village now or hereafter having a plan commission created by charter may by ordinance extend the powers and duties of the commission in accordance with the terms of this act. Sections 3, 4, and 5 shall not apply to such cities or villages or to cities or villages having a board which is serving as the planning commission pursuant to subsection (2). This act shall not affect the powers and duties or organization of such planning commission under a charter except as they may be added to or enlarged by the terms of this act.

(2) A city or village that has a population of less than 5,000, and that has not established a planning commission by charter, may by ordinance have 1 of the following boards serve as its planning commission:

(a) The board of directors of the economic development corporation of the city or village created under the economic development corporations act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws.

(b) The board of a downtown development authority created under Act No. 197 of the Public Acts of 1975, being sections 125.1651 to 125.1680 of the Michigan Compiled Laws, if the border of the downtown development authority is the same as the border of the city or village.


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(c) A board created under the tax increment finance authority act, Act No. 450 of the Public Acts of 1980, being sections 125.1801 to 125.1829 of the Michigan Compiled Laws, if the border of the tax increment finance authority is the same as the border of the city or village.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—Am. 1943, Act 163, Eff. July 30, 1943;—CL 1948, 125.32;—Am. 1987, Act 65, Imd. Eff. June 25, 1987.

### 125.33 Planning commission; appointment, qualifications, and terms of members; compensation; holding other office; removal; vacancy.

Sec. 3. (1) Except as provided in subsections (2), (3), and (4), the planning commission shall consist of 9 members who shall represent insofar as is possible different professions or occupations, and who shall be appointed by the mayor, if the mayor is an elective officer, otherwise by the officer as the legislative body may in the ordinance creating the commission designate as the appointing officer. However, an appointment shall always be subject to the approval by a majority vote of the members elect of the legislative body of the municipality. All members of the planning commission may be compensated at a rate to be determined by the appointing or legislative body and shall hold no other municipal office, except that 1 of the members may be a member of the zoning board of adjustment or appeals or a member of a joint fire administrative board. The term of each member shall be 3 years, except that 3 members of the first planning commission to be so appointed shall serve for the term of 1 year, 3 for a term of 2 years, and 3 for a term of 3 years. A member shall hold office until his or her successor is appointed. A member may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office.

(2) If considered desirable by the legislative body, the planning commission may consist of the mayor, 1 administrative official of the municipality selected by the mayor, and 1 member of the legislative body to be selected by the legislative body as members ex officio, and 6 other persons who shall be appointed by the mayor as provided in this section. An appointed member of the planning commission may be compensated at a rate to be determined by the appointing or legislative body. An appointed member shall not hold another municipal office except that 1 appointed member may be a member of the zoning board of adjustment or appeals or a member of a joint fire administrative board. The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor. The term of each appointed member, if 6 members are appointed, shall be 3 years or until his or her successor takes office, except that the respective terms of 2 of the members first appointed shall be for 1 year and 2 for 2 years. After a public hearing, a member other than the member selected by the legislative body may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The legislative body may for like cause remove the member selected by the legislative body. All ex officio members appointed under this subsection shall have full voting rights.

(3) If considered desirable by the legislative body, the planning commission may consist of 9 members, 1 of whom shall be a member of the legislative body to be selected by resolution of the legislative body to serve as a member ex officio, and 8 of whom shall be appointed by the mayor as provided in this section. An appointment by the mayor shall be subject to approval of the legislative body by majority vote. All appointed members of the commission may be compensated at a rate to be determined by the appointing or legislative body. An appointed member shall not hold another municipal office, except that 1 appointed member may be a member of the zoning board of adjustment or appeals. The term of the ex officio member shall be determined by the legislative body and shall be stated in the resolution selecting the ex officio member, but the term shall not exceed the member's term of office as a member of the legislative body. The term of each appointed member shall be 3 years or until his or her successor takes office, except that the respective terms of 2 of the members first appointed shall be for 1 year and 3 for 2 years. After a public hearing, a member other than the member selected by the legislative body may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The legislative body may for like cause remove the member selected by the legislative body. All ex officio members appointed under this subsection shall have full voting rights.

(4) If considered desirable by the legislative body of a municipality that has a population of less than 5,000, the planning commission shall consist of 5, 7, or 9 members, 1 of whom shall be a member of the legislative body to be selected by resolution of the legislative body to serve as a member ex officio, and the remainder of whom shall be appointed by the mayor as provided in this section. An appointment by the mayor shall be subject to approval of the legislative body by majority vote. All appointed members of the commission may be compensated at a rate to be determined by the appointing or legislative body. An appointed member shall not hold another municipal office, except that 1 appointed member may be a member of the zoning board of adjustment or appeals. The term of the ex officio member shall be determined by the legislative body and shall be stated in the resolution selecting the ex officio member, but the term shall not exceed the member's term of office as a member of the legislative body. Except as provided in subsection (5),


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the term of each appointed member shall be 3 years or until his or her successor takes office except that the respective terms of 2 of the members first appointed shall be for 1 year and 3 for 2 years. After a public hearing, a member other than the member selected by the legislative body may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The legislative body may for like cause remove the member selected by the legislative body. All ex officio members appointed under this subsection shall have full voting rights.

(5) For a planning commission described in subsection (4) that consists of 5 members, the respective terms of 1 of the members first appointed shall be for 1 year and 2 for 2 years. For a planning commission described in subsection (4) that consists of 7 members, the respective terms of 2 of the members first appointed shall be for 1 year and 2 for 2 years.

(6) A vacancy on the planning commission occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of a member selected or appointed by the mayor, by the legislative body in the case of the member appointed by the legislative body, and by the appointing officer designated by the legislative body in municipalities in which the mayor is not an elective officer.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.33;—Am. 1969, Act 45, Imd. Eff. July 17, 1969;—Am. 1982, Act 364, Eff. Mar. 30, 1983;—Am. 1986, Act 5, Imd. Eff. Feb. 21, 1986;—Am. 1997, Act 18, Imd. Eff. June 11, 1997.

### 125.34 Municipal planning commission; chairman, meetings, rules, records.

Sec. 4. The commission shall elect its chairman from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be 1 year, with eligibility for reelection. The commission shall hold at least 1 regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.34.

### 125.35 Municipal planning commission; employees, contracts for services, expenditures.

Sec. 5. The commission may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the municipality. The commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by council, which shall provide the funds, equipment, and accommodations necessary for the commission's work.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.35.

### 125.36 Municipal planning commission; adoption of master plan; contents; amendment; recommendations; land use issues.

Sec. 6. (1) The planning commission shall make and approve a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the commission's judgment, bear relation to the planning of the municipality. The planning commission may meet with other governmental planning commissions to deliberate.

(2) A municipal plan shall comply with subsection (3) or (4) if the process of adopting the plan began under this act before the effective date of the 2001 amendatory act that added this subsection or if the plan is a revised plan and the process of revision began under this act before the effective date of the 2001 amendatory act that added this subsection. Otherwise, a municipal plan shall comply with subsection (4). If a plan is amended, but not revised, before 1 year after the effective date of the 2001 amendatory act that added this subsection, the amendment shall comply with relevant provisions of subsection (3) or (4). Otherwise, the amendment shall comply with relevant provisions of subsection (4).

(3) The municipal plan, with the accompanying maps, plats, charts, and descriptive matter shall show the planning commission's recommendations for the development of the territory, including, but not limited to, all of the following:

(a) The general location, character, and extent of streets, viaducts, subways, bridges, waterways, floodplains, water fronts, boulevards, parkways, playgrounds, and open spaces.

(b) The general location of public buildings and other public property.

(c) The general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes.

(d) The removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the ways, grounds, open spaces, buildings, property, utilities, or terminals described in subdivision (a), (b), or (c).


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(e) The general location, character, layout, and extent of community centers and neighborhood units.

(f) The general character, extent, and layout of the replanning and redevelopment of blighted areas.

(g) A zoning plan for the control of the height, area, bulk, location, and use of buildings and premises.

(4) The municipal plan shall address land use issues and may project 20 years or more into the future. The plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission's recommendations for the physical development of the municipality. The plan shall also include those of the following subjects which reasonably can be considered as pertinent to the future development of the municipality:

(a) A land use plan and program, in part consisting of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes.

(b) The general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and water front developments; flood prevention works, drainage, sanitary sewers and water supply systems, works for preventing pollution, and works for maintaining water levels; and public utilities and structures.

(c) Recommendations as to the general character, extent, and layout for the redevelopment or rehabilitation of blighted areas; and the removal, relocation, widening, narrowing, vacating, abandonment, or changes or use or extension of ways, grounds, open spaces, buildings, utilities, or other facilities.

(d) A zoning plan for the control of the height, area, bulk, location, and use of buildings and premises.

(e) Recommendations for implementing any of its proposals.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—Am. 1943, Act 163, Eff. July 30, 1943;—CL 1948, 125.36;—Am. 1962, Act 138, Eff. Mar. 28, 1963;—Am. 2001, Act 265, Imd. Eff. Jan. 9, 2002.

### 125.37 Municipal planning commission; surveys for basis, purpose.

Sec. 7. In the preparation of such plan the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.37.

### 125.37a Adoption of municipal plan; notice requirements; submission of information electronically.

Sec. 7a. (1) A municipal plan shall be adopted under the procedures set forth in this section and sections 7b and 8.

(2) Before preparing a plan, a municipal planning commission shall mail by first-class mail a notice, explaining that the planning commission intends to prepare a plan and requesting the recipient's cooperation and comment, to all of the following:

(a) The planning commission, or if there is no planning commission, the legislative body, of each township, city, or village located within or contiguous to the municipality.

(b) The regional planning commission for the region in which the municipality is located, if there is no county planning commission for the county where the municipality is located. If there is a county planning commission for the county where the municipality is located, the municipal planning commission may consult with the regional planning commission but is not required to do so.

(c) The county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which the municipality is located.

(d) Each public utility company and railroad company owning or operating a public utility or railroad within the municipality, and any government entity, that registers its name and mailing address for this purpose with the municipal planning commission.

(3) The notice to an entity under subsection (2) may request permission for the municipality to submit electronically any information required to be submitted to that entity under section 7b or 8. If the entity to which the notice is sent grants this permission, information submitted to or by that entity under section 7b or 8 may be submitted electronically. Otherwise, such information shall be submitted in writing by first-class mail



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or personal delivery.

**History:** Add. 2001, Act 265, Imd. Eff. Jan. 9, 2002.

### 125.37b Submission of proposed plan to municipal legislative body; approval; notice to certain entities; review and comment; advisory statements.

Sec. 7b. (1) A municipal plan may be adopted as a whole or by successive parts corresponding with major geographical areas of the municipality or with functional subject matter areas of the plan.

(2) After preparing a proposed plan, the municipal planning commission shall submit the proposed plan to the legislative body of the municipality for review and comment. The process of adopting a plan shall not proceed further unless the legislative body of the municipality approves the distribution of the proposed plan.

(3) If the legislative body of the municipality approves the distribution of the proposed plan, it shall notify the secretary of the municipal planning commission and the secretary shall submit a copy of the proposed plan, for review and comment, to all of the following:

(a) The planning commission, or if there is no planning commission, the legislative body, of each city, village, or township located within or contiguous to the municipality.

(b) The regional planning commission, if any, for the region in which the municipality is located, if there is no county planning commission for the county in which the municipality is located. If there is a county planning commission for the county in which the municipality is located, the secretary of the municipal planning commission may submit a copy of the proposed plan to the regional planning commission but is not required to do so.

(c) The county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which the municipality is located. The secretary of the municipal planning commission shall concurrently submit to the county planning commission or, if there is no county planning commission, the county board of commissioners, a statement, signed by the secretary, that the requirements of subdivisions (a) and (b) have been met. The statement shall include the name and address of each planning commission or legislative body to which a copy of the proposed plan was submitted under subdivision (a) or (b) and the date of submittal.

(d) Each public utility company and railroad company owning or operating a public utility or railroad within the municipality, and any government entity, that registers its name and address for this purpose with the secretary of the municipal planning commission. An entity that, pursuant to this subdivision, receives a copy of a proposed plan, or of a plan as provided in section 8(5), shall reimburse the municipality for any copying and postage costs thereby incurred by the municipality.

(4) An entity described in subsection (3)(a), (b), or (d) may submit comments on the proposed plan to the municipal planning commission within 65 days after the proposed plan was submitted to that entity under subsection (3). A planning commission or legislative body described in subsection (3)(a) or (b) shall concurrently submit a copy of the comments to the county planning commission, or if there is no county planning commission, the county board of commissioners, for the county in which the municipality proposing the plan is located.

(5) Not less than 75 days or more than 95 days after the date the proposed plan was submitted to the county planning commission or the county board of commissioners under subsection (3), the county planning commission or the county board of commissioners, respectively, shall submit to the municipal planning commission its comments on the proposed plan. The comments shall include, but need not be limited to, both of the following, as applicable:

(a) A statement whether the county planning commission or county board of commissioners, after considering any comments received under subsection (4), considers the proposed plan to be inconsistent with the plan of any city, village, township, or region described in subsection (3)(a) or (b).

(b) If the county has a county plan, a statement whether the county planning commission considers the proposed plan to be inconsistent with the county plan.

(6) The statements provided for in subsection (5)(a) and (b) are advisory only.

**History:** Add. 2001, Act 265, Imd. Eff. Jan. 9, 2002.

### 125.38 Municipal planning commission; public hearing; notice; resolution; submission of plan to legislative body; rejection or approval; final adoption.

Sec. 8. (1) Before approving a proposed municipal plan, the municipal planning commission shall hold not less than 1 public hearing on the proposed plan. The hearing shall be held after the expiration of the deadline for comment under section 7b(5). The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by 1 publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality. The planning commission shall also


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submit notice to each entity described in section 7a(2).

(2) The approval of the plan shall be by resolution of the planning commission carried by the affirmative votes of not less than 2/3 of the members of the planning commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the planning commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter and signed by the chairperson or the secretary of the planning commission. Following approval of the proposed plan by the municipal planning commission, the secretary of the planning commission shall submit a copy of the proposed plan to the legislative body of the municipality.

(3) Approval of the plan by the planning commission under subsection (2) is the final step for adoption of the plan, unless the legislative body by resolution has asserted the right to approve or reject the plan. In that case, after approval of the plan by the planning commission, the legislative body shall approve or reject the plan.

(4) If the legislative body rejects the proposed plan, the legislative body shall submit to the planning commission a statement of its objections to the proposed plan. The planning commission shall consider the legislative body's objections and revise the proposed plan so as to address those objections. The procedures provided in subsections (1) to (3) and this subsection shall be repeated until a proposed plan is approved by the legislative body.

(5) Upon final adoption of the plan, copies of the adopted plan shall be submitted in the same manner as provided for submitting copies of the proposed plan under section 7b(3).

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—Am. 1941, Act 297, Eff. Jan. 10, 1942;—CL 1948, 125.38;—Am. 1999, Act 14, Imd. Eff. Apr. 27, 1999;—Am. 2001, Act 265, Imd. Eff. Jan. 9, 2002.

### 125.38a Plan amendment or adoption of new plan.

Sec. 8a. (1) An extension, addition, revision, or other amendment to a municipal plan shall be adopted under the same procedure as a plan or a successive part of a plan under sections 7a, 7b, and 8. However, for an amendment other than a revision of the plan, both of the following apply:

(a) The 65-day period otherwise provided for in section 7b(4) shall be 40 days.

(b) The 75- to 95-day period otherwise provided for in section 7b(5) shall be 55 to 75 days.

(2) At least every 5 years after adoption of the plan, the planning commission shall review the plan and determine whether to commence the procedure to amend the plan or adopt a new plan.

(3) Until 1 year after the effective date of the 2001 amendments that added this subsection, a municipality may adopt a plan or an extension, addition, revision, or other amendment to a plan under the procedures provided for by this act immediately before the effective date of the 2001 amendments that added this subsection.

**History:** Add. 2001, Act 265, Imd. Eff. Jan. 9, 2002.

### 125.38b Authority of planning department; compliance.

Sec. 8b. This act does not alter the authority of a planning department established by charter to submit a proposed plan, or a proposed extension, addition, revision, or other amendment to a plan, to a planning commission, whether directly or indirectly as provided by charter. This section notwithstanding, a planning commission must comply with the requirements of this act.

**History:** Add. 2001, Act 265, Imd. Eff. Jan. 9, 2002.

### 125.39 Municipal planning commission; public works; powers of council; failure to act; program.

Sec. 9. Whenever the commission shall have adopted the master plan of the municipality or of 1 or more major sections or districts thereof no street, square, park, or other public way, ground, or open space, or public building or structure, shall be constructed or authorized in the municipality or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the commission: Provided, That in case of disapproval the commission shall communicate its reasons to council, which shall have the power to overrule such disapproval by a recorded vote of not less than 2/3 of its entire membership: Provided, however, That if the public way, ground, space, building, structure, or utility be one the authorization or financing of which does not under the law or charter provisions governing same, fall within the province of the municipal council, then the submission to the planning commission shall be by the board, commission, or body having such jurisdiction, and the planning commission's disapproval may be overruled by said board, commission, or body by a vote of not less than 2/3 of its membership. The failure of the commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval. For the purpose of furthering the desirable future development of the municipality under


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the master plan the city planning commission, after the commission shall have adopted a master plan, shall prepare coordinated and comprehensive programs of public structures and improvements. The commission shall annually prepare such a program for the ensuing 6 years, which program shall show those public structures and improvements, in the general order of their priority, which in the commission's judgment will be needed or desirable and can be undertaken within the 6-year period. The above comprehensive coordinated programs shall be based upon the requirements of the community for all types of public improvements, and, to that end, each agency or department of such municipality concerned with such improvements shall upon request furnish the commission with lists, plans and estimates of time and cost of public structures and improvements within the purview of such department.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—Am. 1943, Act 163, Eff. July 30, 1943;—CL 1948, 125.39.

### 125.40 Municipal planning commission; rescission of action by legislative body; procedure.

Sec. 10. Whenever the council or legislative body of any municipality shall have ordered the opening, widening or extension of any street, avenue or boulevard, or whenever the council or other legislative body shall have ordered that proceedings be instituted for the acquisition or enlargement of any park, playground, playfield or other public open space, such resolution shall not be rescinded until after the matter has been referred back to the city planning commission for a report and until after a public hearing shall have been held. The council shall have power to overrule the recommendation of the city planning commission by a vote of not less than 2/3 of its entire membership.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.40.

### 125.41 Municipal planning commission; publicity and education, gifts, cooperation from public officials.

Sec. 11. The commission shall have the power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the commission, when duly authorized by the commission, may attend city planning conferences or meetings of city planning institutes, or hearings upon pending city planning legislation, and the commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and with citizens with relation to the protecting or carrying out the plan. The commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the commission, within a reasonable time, such available information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments, and marks thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this act.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.41.

### 125.42 Municipal planning commission; succession to zoning commission.

Sec. 12. The commission shall have all powers heretofore granted by law to the zoning commission of the municipality, and, from and after the creation of a planning commission in such municipality, all powers and records of the zoning commission shall be transferred to the planning commission: Provided, however, That in the event that the existing zoning commission shall be nearing the completion of its zoning plan, council may, by resolution, postpone the said transfer of the zoning commission's powers until the completion of such zoning plan; but such postponement shall not exceed a period of 1 year.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.42.

### 125.43 Municipal planning commission; necessity of approval of plats; street system.

Sec. 13. Whenever planning commission shall have adopted that sort of a master plan relating to the major street system of the territory within its subdivision jurisdiction or part thereof, and shall have filed a certified copy of such plan in the office of the county register of deeds of the county in which such territory or part is located, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such planning commission and such approval entered in writing on the plat by the chairman or secretary of the commission.


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**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.43.

### 125.44 Municipal planning commission; regulations governing subdivision of land; bond to secure improvement; publication of regulations.

Sec. 14. Before exercising the powers referred to in section 13, the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots.

Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for a tentative approval of the plat previous to such installation; but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the commission may accept a bond with surety to secure to the municipality the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission. The municipality is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies.

All such regulations shall be published as provided by law for the publication of ordinances, and before adoption, a public hearing shall be held thereon. A copy thereof shall be certified by the commission to the recorders of the counties in which the municipality and territory are located.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.44.

### 125.45 Municipal planning commission; approval or disapproval of plats, procedure, effect.

Sec. 15. The planning commission shall approve, modify or disapprove a plat within 60 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand: Provided, however, That the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent; and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered mail of the time and place of such hearing not less than 5 days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the county auditor's office and their addresses appear in the directory of the municipality or on the tax records of the municipality or county. Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat. The planning commission may, from time to time, recommend to council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions. The commission shall have the power to agree with the applicant upon use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then effective zoning ordinance of the municipality. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the municipality.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.45.


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# MUNICIPAL PLANNING (EXCERPT)
## Act 285 of 1931

### 125.31 Definitions.

Sec. 1. As used in this act:

(a) "Council" or "legislative body" means the legislative body of the municipality.

(b) "County board of commissioners" means 1 of the following, as applicable:

(*i*) The county executive in a county organized under 1966 PA 293, MCL 45.501 to 45.521.

(*ii*) In all other counties, 1 of the following:

(A) The elected county board of commissioners.

(B) A subcommittee of the county board of commissioners if the county board of commissioners delegates its powers and duties under this act to such a subcommittee.

(C) The regional planning commission for the region in which the county is located if the county board of commissioners delegates its powers and duties under this act to the regional planning commission.

(c) "Master plan", "municipal plan", or "plan" means a master plan as described in section 6(3) or (4), as applicable.

(d) "Mayor" means the chief executive of the municipality, whether the official designation of his or her office is mayor, city manager, or otherwise.

(e) "Municipality" or "municipal" means or relates to cities, villages, townships, and other incorporated political subdivisions.

(f) "Municipal planning commission" or "planning commission" means a planning commission as provided for under section 2.

(g) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(h) "Streets" means streets, avenues, boulevards, highways, roads, lanes, alleys, viaducts, and other ways.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.31;—Am. 1952, Act 25, Eff. Sept. 18, 1952;—Am. 1997, Act 18, Imd. Eff. June 11, 1997;—Am. 2001, Act 265, Imd. Eff. Jan. 9, 2002.


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**MUNICIPAL PLANNING (EXCERPT)**
**Act 285 of 1931**

## 125.33 Planning commission; appointment, qualifications, and terms of members; compensation; holding other office; removal; vacancy.

Sec. 3. (1) Except as provided in subsections (2), (3), and (4), the planning commission shall consist of 9 members who shall represent insofar as is possible different professions or occupations, and who shall be appointed by the mayor, if the mayor is an elective officer, otherwise by the officer as the legislative body may in the ordinance creating the commission designate as the appointing officer. However, an appointment shall always be subject to the approval by a majority vote of the members elect of the legislative body of the municipality. All members of the planning commission may be compensated at a rate to be determined by the appointing or legislative body and shall hold no other municipal office, except that 1 of the members may be a member of the zoning board of adjustment or appeals or a member of a joint fire administrative board. The term of each member shall be 3 years, except that 3 members of the first planning commission to be so appointed shall serve for the term of 1 year, 3 for a term of 2 years, and 3 for a term of 3 years. A member shall hold office until his or her successor is appointed. A member may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office.

(2) If considered desirable by the legislative body, the planning commission may consist of the mayor, 1 administrative official of the municipality selected by the mayor, and 1 member of the legislative body to be selected by the legislative body as members ex officio, and 6 other persons who shall be appointed by the mayor as provided in this section. An appointed member of the planning commission may be compensated at a rate to be determined by the appointing or legislative body. An appointed member shall not hold another municipal office except that 1 appointed member may be a member of the zoning board of adjustment or appeals or a member of a joint fire administrative board. The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor. The term of each appointed member, if 6 members are appointed, shall be 3 years or until his or her successor takes office, except that the respective terms of 2 of the members first appointed shall be for 1 year and 2 for 2 years. After a public hearing, a member other than the member selected by the legislative body may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The legislative body may for like cause remove the member selected by the legislative body. All ex officio members appointed under this subsection shall have full voting rights.

(3) If considered desirable by the legislative body, the planning commission may consist of 9 members, 1 of whom shall be a member of the legislative body to be selected by resolution of the legislative body to serve as a member ex officio, and 8 of whom shall be appointed by the mayor as provided in this section. An appointment by the mayor shall be subject to approval of the legislative body by majority vote. All appointed members of the commission may be compensated at a rate to be determined by the appointing or legislative body. An appointed member shall not hold another municipal office, except that 1 appointed member may be a member of the zoning board of adjustment or appeals. The term of the ex officio member shall be determined by the legislative body and shall be stated in the resolution selecting the ex officio member, but the term shall not exceed the member's term of office as a member of the legislative body. The term of each appointed member shall be 3 years or until his or her successor takes office, except that the respective terms of 2 of the members first appointed shall be for 1 year and 3 for 2 years. After a public hearing, a member other than the member selected by the legislative body may be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. The legislative body may for like cause remove the member selected by the legislative body. All ex officio members appointed under this subsection shall have full voting rights.

(4) If considered desirable by the legislative body of a municipality that has a population of less than 5,000, the planning commission shall consist of 5, 7, or 9 members, 1 of whom shall be a member of the legislative body to be selected by resolution of the legislative body to serve as a member ex officio, and the remainder of whom shall be appointed by the mayor as provided in this section. An appointment by the mayor shall be subject to approval of the legislative body by majority vote. All appointed members of the commission may be compensated at a rate to be determined by the appointing or legislative body. An appointed member shall not hold another municipal office, except that 1 appointed member may be a member of the zoning board of adjustment or appeals. The term of the ex officio member shall be determined by the legislative body and shall be stated in the resolution selecting the ex officio member, but the term shall not exceed the member's term of office as a member of the legislative body. Except as provided in subsection (5), the term of each appointed member shall be 3 years or until his or her successor takes office except that the respective terms of 2 of the members first appointed shall be for 1 year and 3 for 2 years. After a public hearing, a member other than the member selected by the legislative body may be removed by the mayor for



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inefficiency, neglect of duty, or malfeasance in office. The legislative body may for like cause remove the member selected by the legislative body. All ex officio members appointed under this subsection shall have full voting rights.

(5) For a planning commission described in subsection (4) that consists of 5 members, the respective terms of 1 of the members first appointed shall be for 1 year and 2 for 2 years. For a planning commission described in subsection (4) that consists of 7 members, the respective terms of 2 of the members first appointed shall be for 1 year and 2 for 2 years.

(6) A vacancy on the planning commission occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of a member selected or appointed by the mayor, by the legislative body in the case of the member appointed by the legislative body, and by the appointing officer designated by the legislative body in municipalities in which the mayor is not an elective officer.

**History:** 1931, Act 285, Eff. Sept. 18, 1931;—CL 1948, 125.33;—Am. 1969, Act 45, Imd. Eff. July 17, 1969;—Am. 1982, Act 364, Eff. Mar. 30, 1983;—Am. 1986, Act 5, Imd. Eff. Feb. 21, 1986;—Am. 1997, Act 18, Imd. Eff. June 11, 1997.



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**CITY AND VILLAGE ZONING ACT (EXCERPT)**
**Act 207 of 1921**

## 125.584 Ordinances; public hearing; notice; affidavit; appointment and report of commission; transmission of summary and report; determination of boundaries or imposition of regulations; amendment and adoption of ordinances or maps; supplements; protest petition; vote; exclusion of publicly owned land; publication and contents of notice of adoption.

Sec. 4. (1) The legislative body of a city or village may provide by ordinance for the manner in which regulations and boundaries of districts or zones shall be determined and enforced or amended, supplemented, or changed. At least 1 public hearing shall be held by the commission appointed to recommend zoning regulations or, if a commission does not exist, by the legislative body before a regulation becomes effective. Not less than 15 days' notice of the time and place of the public hearing shall first be published in an official paper or a paper of general circulation in the city or village. Not less than 15 days' notice of the time and place of the public hearing shall first be given by mail to each public utility company and each railroad company owning or operating any public utility or railroad within the districts or zones affected, and the airport manager of each airport, that registers its name and mailing address with the city or village clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained. A hearing shall be granted to an interested person at the time and place specified on the notice.

(2) The legislative body of a city or village, unless otherwise provided by charter, may appoint a commission to recommend in the first instance the boundaries of districts and appropriate regulations to be enforced in the districts. If a city or village has a planning commission, that commission shall be appointed to perform the duties set forth in this section. The commission shall make a tentative report and hold at least 1 public hearing before submitting its final report to the legislative body. A summary of the comments submitted at the public hearing shall be transmitted with the report of the commission to the legislative body. The legislative body may hold additional public hearings if it considers it necessary or as may be required by charter.

(3) In a city or village having a commission appointed to recommend zoning requirements, the legislative body shall not in the first instance determine the boundaries of districts or impose regulations until after the final report of the commission. In such a city or village, the legislative body shall not amend the ordinance or maps after they are adopted in the first instance until the proposed amendment has been submitted to the commission and it has held at least 1 hearing and made report thereon. In either case, the legislative body may adopt the ordinance and maps, with or without amendments, after receipt of the commission's report, or refer the ordinance and maps again to the commission for a further report.

(4) After the ordinance and maps have in the first instance been approved by the legislative body of a city or village, amendments or supplements thereto may be made as provided in this section, except that if an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given to the owners of the property in question at least 15 days before the hearing.

(5) Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a 2/3 vote of the legislative body, unless a larger vote, but not to exceed 3/4 vote, is required by ordinance or charter. The protest petition shall be presented to the legislative body before final legislative action on the amendment and shall be signed by 1 of the following:

(a) The owners of at least 20% of the area of land included in the proposed change.

(b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change.

(6) For purposes of subsection (5), publicly owned land shall be excluded in calculating the 20% land area requirement.

(7) Following adoption of a zoning ordinance and subsequent amendments by the legislative body of a city or village, 1 notice of adoption shall be published in a newspaper of general circulation in the city or village within 15 days after adoption. Promptly following adoption of a zoning ordinance or subsequent amendment by the legislative body of the city or village, a copy of the notice of adoption shall also be mailed to the airport manager of an airport entitled to notice under subsection (1).

(8) The notice of adoption under subsection (7) shall include the following information:

(a) In the case of a newly adopted zoning ordinance, the following statement: “A zoning ordinance regulating the development and use of land has been adopted by the city (village) council of the city (village) of _____”.


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(b) In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

(c) The effective date of the ordinance.

(d) The place and time where a copy of the ordinance may be purchased or inspected. The filing and publication requirements in this section relating to city and village zoning ordinances supersede charter provisions relating to the filing and publication of city and village ordinances.

**History:** 1921, Act 207, Imd. Eff. May 17, 1921;—CL 1929, 2636;—Am. 1941, Act 287, Eff. Jan. 10, 1942;—Am. 1941, Act 306, Eff. Jan. 10, 1942;—CL 1948, 125.584;—Am. 1976, Act 145, Eff. Mar. 31, 1977;—Am. 1978, Act 638, Eff. Mar. 1, 1979;—Am. 2000, Act 383, Imd. Eff. Jan. 2, 2001.


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## REGULAR BUSINESS:

**F-1 Appointments to Boards and Committees: a) Mayoral Appointments: No Appointments b) City Council Appointments: Personnel Board**

**(b) City Council Appointments**

Resolution #2005-06-302
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That the following persons are hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

**Personnel Board**
Appointed by Council (5) - 3 years

Deborah L. Baughman Term Expires 04/30/08

Yes: All-6
No: None
Absent: Lambert

**F-2 City of Troy Retiree Health Care Benefits Plan and Trust**

Resolution #2005-06-303
Moved by Beltramini
Seconded by Stine

Resolved, That the City of Troy City Council **ADOPT** the Retiree Health Care Plan and Trust as amended and a copy of the Plan and Trust shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6
No: None
Absent: Lambert

**F-3 Bid Waiver - Contract Extension - Banking Services**

Resolution #2005-06-304
Moved by Stine
Seconded by Broomfield

WHEREAS, On July 19, 1999, City Council approved a three (3) year contract to provide Banking Services with an option to renew the contract for an additional three (3) year period to Fifth Third Bank (formerly Old Kent Bank), the most qualified and lowest bidder as a result of a request for proposal process (Resolution #99-349-E-2c), and on May 6, 2002, exercised the

A RESOLUTION TO ESTABLISH THE CITY OF TROY RETIREE HEALTH CARE BENEFIT PLAN AND TRUST.

# CITY OF TROY
# RETIREE HEALTH CARE BENEFITS PLAN AND TRUST

## GENERAL PROVISIONS

### *1:100*. Purpose.

The Plan and Trust is created, under the authority of the Public Employee Health Care Fund Investment Act, Public Act 149 of 1999 (MCL 38.1211 et seq.), and shall constitute a governmental trust pursuant to Section 115 of the Internal Revenue Code of 1986, as amended. The Plan and Trust is established to allow for the City of Troy's funding of required retiree health care benefits, an essential governmental function and is created for the exclusive purpose of providing health care and dental insurance benefits or such other benefits approved by the City of Troy ("City") (which may include hospitalization, medical, and dental insurance) or approved by Collective Bargaining Agreements or personal services contracts for the welfare of certain Retirees of the City of Troy who are eligible to receive a retirement benefit from the City of Troy Employees Retirement System and/or the City of Troy Defined Contribution Plan and the eligible Spouses and eligible Dependents of such Retirees through a group health and insurance benefits plan. Benefits shall be provided through policies issued by duly licensed commercial insurance companies, through a fund of self-insurance, or through any other lawful means of providing group health and dental insurance in accordance with City decisions and in accordance with any and all Collective Bargaining Agreements between the City and applicable Collective Bargaining Associations and personnel policies or personal services contracts for any non-union employees, for the benefit of City Retirees and beneficiaries who are eligible to participate in accordance with the Plan for such benefits under the rules and regulations established by the Trustees.

The City intends the benefits to be provided by the establishment and maintenance of a Plan and Trust in conformance with all applicable federal statutes and regulations, state and local law.

The City reserves the right to enter into insurance agreements, and to modify, alter or amend such agreements from time to time, with commercial insurance carriers, health maintenance organizations, preferred provider organizations or any other qualified entity currently existing or created for the purpose of providing benefits under the Plan.

***1:101.*** **Short Title.**

This resolution may be known and cited as the City of Troy Retiree Health Care Benefits Plan and Trust ("Plan").

***1:102.*** **Interpretation and law; Construction.**

The Plan and Trust is established in accordance with the Public Employee Health Care Fund Investment Act, Public Act 149 of 1999 (MCL 38.1211 et seq.), shall be administered consistent with applicable federal and Michigan law, and shall constitute a Section 115 governmental trust. The Plan and Trust is intended to qualify as an accident and health plan and a group health plan under applicable provisions of the Internal Revenue Code, (Sections 105, 106, and 162), the regulations promulgated under each, and applicable federal and Michigan law. If any provisions of the Plan shall be, for any reason, invalid or unenforceable, the remaining provisions nevertheless shall be carried into effect.

Neither the establishment of the Plan nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan and Trust or other person any legal or equitable right against the City, its elected or appointed officials or employees, the Trustees or any individual Trustee, except as may otherwise be provided in this Plan.

Neither the City nor the Trustees shall be responsible for the validity of any Insurance Agreement issued in connection with the Plan or for the failure on the part of the Insurer to make payments provided by such Insurance Agreement, or for the action of any person which may delay payment or render an Insurance Agreement null and void or unenforceable in whole or in part.

***1:103.*** **Collective Bargaining Agreements.**

The benefit provisions of this Plan are subject to relevant provisions of applicable Collective Bargaining Agreements between the City and the various Collective Bargaining Associations of the City. The provisions of a Collective Bargaining Agreement relative to retiree health care benefits are controlling in the event of a conflict between the terms of the Collective Bargaining Agreement and the Plan.

Nothing contained in this Chapter shall be deemed to modify or limit in any way the rights that the parties to the Collective Bargaining Agreement may have, any supplements or memoranda thereto, or any arbitrator's award to enforce the terms of the Plan, inclusive of the collection of any amounts due to the Plan and the right of the parties to sue for same.

***1:104.*** **Personnel Policies.**

The benefit provisions of this Plan are subject to relevant provisions of any City personnel policies for Non-Union Employees and/or personal service contracts between the City and an individual employee. The provisions of any personnel policies for Non-Union Employees and/or personal service contracts relative to retiree health care benefits are controlling in the event of a conflict between the terms of the Personnel Policies or applicable personal service contract and the Plan.

***1:105.*** **Definitions.**

For the purposes of this Plan and Trust, the following words shall have the meanings respectively ascribed to them by this section:

(1) *Base Plan* means the benefits in effect at the time of an Employee's retirement, as provided by the policy or the comprehensive program in place at the time of the Employee's retirement (exclusive of HMO, PPO and other alternative plans) or by a substantially equivalent policy or program at the election of the City. Pursuant to the terms of an applicable Collective Bargaining Agreement, upon the retiree or spouse's attainment of Medicare eligibility, the Base Plan shall be a secondary, complimentary plan to Medicare which shall be the primary plan.

(2) *City* means the City of Troy, Michigan.

(3) *Code* means the Internal Revenue Code of 1986, as amended. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provision of any legislation which amends or replaces such section or subsection.

(4) *Collective Bargaining Agreements* means any written agreement, supplemental agreement, memorandum of understanding, final arbitrator's decision, judicial decision or decision of any public board or agency, by and between applicable Collective Bargaining Associations and the City, and any amendments, continuations, or renewals, which require the City or any other entity to make payments into group health and life insurance programs for employees of the City of Troy.

(5) *Collective Bargaining Associations* means those associations which have negotiated to participate in this Plan.

(6) *Contributions* means the payment required to be made to the Trust by the City under the terms of the Plan and Trust for the purpose of providing group health insurance for Retirees and beneficiaries covered by the Plan.

(7) *Dependent* generally means a Participant's or Retiree's unmarried child until the end of the year in which he or she reaches age 19 and a Participant's or Retiree's unmarried child who is totally and permanently disabled by either a physical or mental condition prior to age 19. (The Base Plan definition of Dependent above applies unless the Participant or Retiree selects an alternate insurance policy offered by the City, in which case the definition is controlled by the insurance policy covering the Participant or Retiree, which may or may not vary from the definition listed above.)

(8) *Effective Date* means July 1, 2005.

(9) *Employee* means a person employed by the City who meets one of the following requirements:
   (a) A non-union person employed by the City;
   (b) A person employed by the City who is a member of a Collective Bargaining Association which has negotiated to participate in this Plan.

(10) *Family Continuation Dependent* generally means an unmarried child of a Participant or Retiree who (i) is age 19 through the end of the calendar year in which he or she reaches age 25, (ii) is dependent on the Participant or Retiree or surviving Spouse for more than half of his or her support, (iii) is a member of the household of the Participant or Retiree or surviving Spouse, unless they temporarily reside elsewhere, as in the case of college students, (iv) is related to the Participant or Retiree by blood, marriage or legal adoption, and (v) is a full-time student with a minimum of 12 credit hours per semester or had gross income of less than four times personal exemption amount identified in the Internal Revenue Service gross income test. (The Base Plan definition of Family Continuation Dependent above applies unless the Participant or Retiree selects an alternate insurance policy offered by the City, in which case the definition is controlled by the insurance policy covering the Participant or Retiree, which may or may not vary from the definition listed above.)

(11) *Health Care Benefits* means group health care benefits as currently provided and any other future health care related benefits as may be determined to be part of the Plan pursuant to City decisions and/or Collective Bargaining Agreements.

(12) *Insurance Agreement* means the health insurance plan(s) and any amendment(s) thereto, including any substitute insurance agreement with a commercial insurance carrier, health maintenance organization, preferred provider organization, or any other qualified entity currently existing or created for the purpose of providing benefits under the Plan. The term "Insurance Agreement" shall include the plural where applicable.

(13) *Insurance Carrier* means a commercial health insurance carrier, health maintenance organization, preferred provider organization or other qualified entity designated by the City to provide benefits under the Plan.

(14) *Major Life Event Changes* means birth of a child, legal adoption, legal separation, divorce, legal guardianship, death, or marriage of a dependent child.

(15) *Participant* means an Employee who: (a) is a member of the City of Troy Employees Retirement System and whose participation has not terminated under other applicable provisions of the Plan; (b) is a member of the City of Troy Defined Contribution Plan and whose participation has not terminated under other applicable provisions of the Plan; or (c) is an employee granted health coverage under a separation agreement, settlement or court order. No person shall be considered a Participant of the Plan who is compensated for services to the City on a fee or independent contractual basis. In all cases of doubt, the Board of Trustees shall decide who is a Participant within the meaning of the provisions of this Plan and Trust provided such decision is consistent with any established City policy.

(16) *Plan* means the City of Troy Retiree Health Care Benefits Plan and Trust as described in this document and any subsequent amendments, and any Insurance Agreement(s), Collective Bargaining Agreements, personnel policies, or other applicable insurance policy documents incorporated by reference into the Plan. A description of the health benefits provided to Retirees, Spouses and Dependents under this plan is maintained by the Plan Administrator.

(17) *Plan Administrator* means the person, persons, firm, corporation or insurance company or companies, appointed by the Board of Trustees to administer the Plan. The Plan Administrator shall be the Assistant City Manager/Finance & Administration unless another individual is appointed by the Board of Trustees. The Plan Administrator shall be responsible for the day-to-day operations of the Plan who shall carry out the directives of the Board of Trustees.

(18) *Plan Year* means the period commencing on July 1 and ending on June 30 of each year.

(19) *Qualified Beneficiary* means any person satisfying the benefit eligibility requirements of the Plan and shall be in accordance with the resolutions and decisions of the Trustees.

(20) *Retiree* means an individual who meets the following requirements or who satisfies the requirements of a collective bargaining agreement, personnel policy or personal services contract

(a) <u>For members of Benefit group AFSCME Local #574</u> - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and

(i) had attained age 50 and had accrued a minimum of twenty-seven years of service with the City of Troy; or

(ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

(b) For members of Benefit group Michigan Association of Police Clerical and Non-sworn Police Personnel - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and

(i) had attained age 50 and had accrued a minimum of twenty-seven years of service with the City of Troy; or

(ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

(c) For members of Benefit group Police Officers Association - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and

(i) had accrued a minimum of twenty-five years of service with the City of Troy; or

(ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

(d) For members of Benefit group Fire Staff Officers Association - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon retirement and

(i) had accrued a minimum of twenty-five years of service with the City of Troy; or

(ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

(e) For members of Benefit group Command Officers Association - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and

(i) had accrued a minimum of twenty-five years of service with the City of Troy; or

(ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

(f) For members of Benefit group Non-union employees - an individual receiving a retirement benefit allowance from the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who retired from employment with the City of Troy who upon termination of employment and

(i) had attained age 50 and had accrued a minimum of twenty-seven years of service with the City of Troy; or

(ii) had attained age 55 and had accrued a minimum of ten years of service with the City of Troy.

(21) *Retirement Plan* means the City of Troy Employees Retirement System and the City of Troy Defined Contribution Plan.

(22) *Sponsored Dependent* generally means an individual not eligible as a Family Continuation Dependent who (i) is over 19 years, (ii) is related to the Participant or Retiree by blood, marriage, or legal adoption, (iii) is a member of the Participant's or Retiree's household, and (iv) is dependent on the Participant or Retiree for more than half of his or her support. (The Base Plan definition of Sponsored Dependent above applies unless the Participant or Retiree selects an alternate insurance policy, in which case the definition is controlled by the insurance policy covering the Participant or Retiree, which may or may not vary from the definition listed above.)

(23) *Spouse* means a Participant's or Retiree's spouse by legal marriage who is Participant's spouse on the date the Participant retires from employment with the City of Troy.

(24) *Trust* means the Declaration of Trust of the City of Troy Retiree Health Care Benefits Plan as provided for in this Plan.

(25) *Trustee(s) or Board* means the Board of Trustees of the Trust or a member of the Board of Trustees of the Trust as provided for in this Plan.

***1:106***. **Notice**.

Notice given to all interested parties shall, unless otherwise specified in this Resolution, be sufficient if in writing and delivered or sent by prepaid first class mail. Except as otherwise noted, the distribution or delivery of any statements or documents required under the Plan and Trust shall be sufficient if delivered in person or prepaid first class mail.

***1:107.*** **Reporting and Disclosure**.

The Board and the Plan Trustees, or their respective designees, shall complete and provide to Participants, Retirees, Spouses and/or Dependents and to the appropriate government agencies any reports as may be required by the Code, applicable federal, state or local law.

***1:108.*** **Amendments.**

The provisions of the Plan and Trust may be amended at anytime by resolution(s) adopted by the City of Troy in accordance with applicable law.

HEALTH CARE BENEFIT PLAN

## *1:200* Benefit Groups

(1) Composition of.

The following benefit groups are designated for the purpose of determining benefit eligibility conditions, benefit amounts, and member contribution rates.

(a) Benefit group AFSCME Local #574 - All employees who are members of AFSCME Local #574.
(b) Benefit group Michigan Association of Police Clerical and Non-sworn Police Personnel - All employees who are members of the local chapter of Michigan Association of Police Clerical and Non-sworn Police Personnel.
(c) Benefit group Police Officers Association - All employees who are members of the Troy Police Officers Association.
(d) Benefit group Fire Staff Officers Association - All employees who are members of the Troy Fire Staff Officers Association.
(e) Benefit group Command Officers Association - All employees who are members of the Troy Command Officers Association.
(f) Benefit group Non-union employees - All employees who are not a part of a collective bargaining unit as described above who are eligible for benefits under this Plan.

In case of doubt, the Board of Trustees shall determine the benefit group(s) that apply to a particular member.

(2) Benefit eligibility conditions shall be those applicable to the member's benefit group at the time of that member's termination of membership.

## *1:201.* Eligibility

In order to be eligible for post-retirement health care benefits during any Plan Year, an individual must:

(1) Be a Retiree of the City of Troy that had been a Participant of this Plan; and
(a) have been an Employee on the date preceding the effective date of the Retiree's retirement and commencement of benefits from the City of Troy; or

(b) met the requirements of the member's benefit group as described in Section 1:105(20); or

(2) be a Retiree, who was a Participant of the Plan, receiving duty and/or non-duty disability benefits from the Retirement Plan; or

(3) be a Retiree who was in receipt of benefits at the Effective Date of this Plan; or

(4) be a Spouse of an individual who meets the eligibility requirements in subsection (1) above, provided that, in the case of a surviving Spouse, the Retiree had either

(a) a contractual agreement with the City of Troy to provide health benefits at retirement which included the right to name a beneficiary, or

(b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement and nominated his or her surviving Spouse as beneficiary of the option benefit; or

(c) was a member of the Defined Contribution Plan.

The cost of Spousal coverage shall be in accordance with Section 1:208 unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City: or

(5) be a Dependent of an individual who meets the eligibility requirements in subsection (1) above; and in the event of the Retiree's death, the Retiree had either

(a) a contractual agreement with the City to provide health benefits at retirement which included the right to name a beneficiary, or

(b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement, and there is a surviving spouse or surviving Dependent as named beneficiary; or

(c) was a member of the Defined Contribution Plan.

The cost of Dependent coverage shall be in accordance with Section 1:208 unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City; or

(6) be a Sponsored Dependent of an individual who meets the eligibility requirements in subsection (1) above; and in the event of the Retiree's death, the Retiree had either

(a) a contractual agreement with the City to provide health benefits at retirement which included the right to name a beneficiary and there is a surviving named beneficiary, or

(b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement and there is a surviving named beneficiary; or

(c) was a member of the Defined Contribution Plan.

The cost of Sponsored Dependent coverage shall be borne by the Retiree or the Sponsored Dependent unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City; or

(7) be a Family Continuation Dependent of an individual who meets the eligibility requirements of subsection (1) above; and in the event of Retiree's death, the Retiree had either

(a) a contractual agreement with the City to provide health benefits at retirement which included the right to name a beneficiary and there is a surviving named beneficiary, or

(b) was a member of the Defined Benefit Plan and elected an optional joint and survivor beneficiary form of retirement and there is a surviving named beneficiary; or

(c) was a member of the Defined Contribution Plan.

The cost of Family Continuation Dependent coverage shall be borne by the Retiree or the Family Continuation Dependent unless otherwise provided by an applicable Collective Bargaining Agreement or resolution of the City; or

(8) be the surviving Spouse or Dependent of a former Participant, who on the date preceding the individual's date of death, was an Employee; provided, the surviving Spouse or Dependent is eligible for duty death and/or non-duty death benefits payable from the Retirement Plan; or

(9) be an individual granted health coverage under a settlement agreement between the City and the individual; or

(10) be an individual granted health coverage under a court order entered pursuant to applicable law, provided

(a) that the individual produces satisfactory documentation at the time of application for benefits and satisfies plan eligibility requirements, and

(b) that the City reserves the right to challenge the validity of the court order and that if such a challenge proves successful that the cost of any benefits provided be reimbursable to the Trust; or

***1:202.*** **Commencement of Benefit.**

Subject to all applicable provisions of the Plan and/or Insurance Agreement, a Participant shall commence eligibility for benefits from the Plan on the first day he or she satisfies the eligibility requirements of Section 1:201, provided the Participant has enrolled for coverage on such date.

***1:203.*** **Enrollment.**

(1) The City shall give each Participant timely written notice of his or her eligibility and his or her right to enroll for coverage under the Plan. A Participant or Retiree may enroll for coverage on a form or forms provided by and filed with the City. In connection with his or her enrollment for coverage, the Participant or Retiree shall furnish all pertinent information requested by the City, Plan Administrator and/or the Insurance Carrier, and the Plan Administrator or the Insurance Carrier may rely upon all such forms and information furnished. The Participant, Retiree, Spouse, and eligible Dependent may be held responsible for costs for the false or incorrect information reported.

(2) The Retiree should enroll for coverage at the time of retirement or within the time periods as specified by the provisions of the applicable Collective Bargaining Agreement or policy.

(3) Spouse and Dependents shall be eligible for coverage as provided in the Plan and/or Insurance agreement and in Section 1:201 above. Spouse and Dependents shall be enrolled for coverage under the Plan by the Participant or Retiree at the time the Participant or Retiree enrolls for coverage under the Plan or as provided for in subsection 4.

(4) Participants or Retirees must report Major Life Event Changes to the City within thirty (30) days of the event in order to add or delete persons from their benefit plans (health insurance). Major Life Event Changes may impact eligibility for benefits. Notification beyond thirty (30) days of the event may delay any additions of persons to benefits until the group's next reopening date. If failure to report the event within thirty (30) days results in additional benefit costs by the Plan and Trust due to non-termination of benefits, the Participant or Retiree may be held responsible for such costs.

(5) In the event a Participant, Retiree, Spouse or Eligible Dependent elects not to receive benefits as provided in the Plan, such individual may enroll for coverage at any time provided they satisfy the eligibility requirements for coverage as provided in the Plan pursuant to provisions of any applicable Collective Bargaining Agreement or personnel policy.

***1:204*. Termination of Benefits.**

Except as provided in Section 1:205, participation in the Plan shall terminate in accordance with the Plan and/or Insurance Agreement or applicable Collective Bargaining Agreement, on the earliest of:

(1) termination of the Plan;

(2) non-payment of any required Participant or Retiree contributions;

(3) death of the individual receiving benefits under the Plan;

(4) a Participant's or Retiree's election in writing to cease coverage under the Plan;

(5) in the case of a Spouse or Dependent, the date the Spouse or Dependent ceases to be a Spouse or Dependent as defined in this Plan; or

(6) in the case of a Spouse, Dependent, Family Continuation Dependent or Sponsored Dependent, death of the Retiree if the Retiree elected a straight life equivalent form of retirement benefit at the time of retirement or if the Retiree failed to nominate the required beneficiary necessary to ensure coverage of the Spouse, Dependent, Family Continuation Dependent or Sponsored Dependent; or

(7) in the case of a Retiree, if that individual had a contractual agreement with the City to provide health benefits at retirement which did not include the right to name a beneficiary, or if the contractual agreement did include the right to name a beneficiary, and the Retiree failed to nominate the required beneficiary to ensure coverage of the Spouse, Dependent, Family Continuation Dependent or Sponsored Dependent; or

***1:205.*** **COBRA Continuation Coverage.**

Notwithstanding the provisions of Section 1:203, continuing coverage shall be provided under the Plan to eligible Participants, Retirees, their Spouses and Dependents in accordance with Internal Revenue Code provisions (currently Section 4980B, and Title XXII of the Public Health Services Act ("COBRA continuation coverage"), as amended).

***1:206.*** **Health Care Benefits, General.**

Beginning on the Effective Date, the City shall provide Health Care Benefits to each eligible Retiree and, if elected, to his or her eligible Spouse and, eligible Dependents, unless modified by an applicable Collective Bargaining Agreement or resolution of City. The benefits provided under the Plan are those set forth in the Plan and/or Insurance Agreement(s), Collective Bargaining Agreements, personnel policies, personal services contracts and/or resolutions of the Board of Trustees. The Insurance Agreement(s), Collective Bargaining Agreements, personnel policies, and personal services contracts are incorporated herein by this reference. A complete description of benefits provided under the Plan and the Insurance Agreement(s), inclusive of those set forth in the Collective Bargaining Agreements, personnel policies, and personal services contracts, shall be maintained by the City or the Plan Administrator.

In accordance with the Plan and/or Insurance Agreement with the Insurance Carrier, Retirees and their Spouses and Dependents will be entitled to the benefits in effect at the time of the Retiree's retirement ("Base Plan"). These benefits may be provided under the same policy or program in place at the Retiree's retirement or under a substantially equivalent policy or program at the discretion of the City. All Retirees, Spouses, and/or Dependents in receipt of Health Care Benefits at the time of enactment of this Plan and Trust shall continue to be eligible for the same benefits as received prior to the enactment of this Plan and shall continue to receive those benefits until they are terminated pursuant to the health care provisions in effect at the time of the Retiree's retirement.

***1:207.*** **Health Care Benefits, Cost.**

Collective Bargaining Agreements, personnel policies, or personal services contracts may modify this section. In the event of a conflict between this section and a collective bargaining agreement, personnel policy or a personal services contract, the collective bargaining agreement, personnel policy or personal services contract will control.

(1) Benefit group AFSCME Local #574 - For Retirees retiring on or after January 1, 2001, the City shall pay four (4%) percent of the monthly cost of health care for the retiree and the spouse for each year of credited retirement service (maximum of 100%), or $400 per month, whichever is greater. For Retirees retiring prior to January 1, 2000, the City shall

pay three (3%) percent of the monthly cost of health care for the retiree, current spouse or dependent child for each year of credited service (maximum of 100%, or $400.00 per month whichever is greater. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

In the event that dental insurance is provided to future retirees of other non-Act 312 eligible employee groups, it will also be provided to future retirees of AFSCME Local #574.

(2) Benefit group Michigan Association of Police Clerical and Non-sworn Police Personnel - For Retirees retiring on or after July 1, 2001, the City shall pay four (4%) percent of the monthly cost of health care for the retiree and the spouse for each year of credited retirement service (maximum of 100%), or $400 per month, whichever is greater, provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. .

Prior to July 1, 2001, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or $400 per month, whichever is greater.

(3) Benefit group Police Officers Association - For Retirees retiring on or after February 20, 1996, the City shall pay four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%).

For Retirees retiring prior to February 20, 1996, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or $400.00 per month, whichever is greater. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

Effective July 1, 2001, the City will provide fully paid medical insurance for two-person coverage in the event of a duty death.

(4) Benefit group Fire Staff Officers Association - For Retirees retiring on or after July 1, 2001 the City shall pay four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%), provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

Prior to July 1, 2001, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or $400 per month, whichever is greater.

In the case of a duty disability retiree, the computation shall not be less than the amount it would be if the retiree had 10 years of credited service.

(5) Benefit group Command Officers Association - For Retirees retiring on or after July 15, 2000 the City shall pay four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%), provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

Prior to July 15, 2000, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or $400 per month, whichever is greater.

For Retirees retiring on or after July 15, 2000 the City shall provide dental/orthodontic coverage consistent with that received by active employees for retiree and spouse at a rate of four (4%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each complete year of credited retirement service (maximum of 100%), provided that the retiree shall apply for Medicare or its equivalent when eligible, and the City shall then provide supplemental insurance benefits. A retiree may pay, at his or her own option and expense, the difference between a two-person and family rate.

For retirees receiving a non-duty disability retirement on or after May 7, 2001, the City shall pay four (4%) percent of the monthly cost of health care for the retiree and the spouse for each year of credited retirement service (maximum of 100%), or $400 per month, whichever is greater.

(6) Non-union employee – On or after January 17, 2000, the City shall pay four (4%) of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%) or $400 per month, whichever is greater.

Prior to January 17, 2000, the City shall pay three (3%) percent of the monthly cost of health care for two-person coverage for the retiree, current spouse or dependent child for each year of credited retirement service (maximum of 100%), or $400 per month, whichever is greater.

### *1:208.* Alternative Policies or Programs.

The City, in its discretion, may offer alternative policies or benefit structures to Participants, Retirees, Spouses and/or Dependents in addition to the Base Plan. In the event that the City chooses to offer alternative policies or benefit structures, Participants or Retirees and their Spouses and/or Dependents may transfer from one policy or benefit structure to another policy or benefit structure during open enrollment periods. However, any additional cost above the Base Plan shall be borne by the Participant or Retiree or the Participant's or Retiree's Spouse and/or Dependents.

### *1:209.* Duplicate Coverage Disallowed.

Duplicate coverage will not be provided in the event that there are two or more Participants and/or Retirees who (a) are each independently eligible for health care benefits from the City or the Plan and (b) are each also eligible for health care benefits from the City or the Plan as a Spouse or Dependent of a Participant or a Retiree. Said parties shall be eligible to participate in only one policy or program so that one party participates in the one policy or program as the principal insured and the other party(ies) participates in the same policy or program as a Spouse or Dependent of the Participant or Retiree. The Dependent shall suffer no detriment as a result of the disallowance of duplicate coverage.

### *1:210.* Medicare Eligibility

Upon attaining the age of Medicare eligibility, pursuant to the terms of the applicable Collective Bargaining Agreements and personnel policies, those eligible Retirees and/or Spouses shall enroll in both Medicare A and B, and are obligated to pay for Medicare Part B. Once a Retiree is in receipt of Medicare A and B coverage, this Plan will provide supplemental coverage as provided pursuant to the coverage in effect at the time of retirement.

### *1:211.* Coordination of Benefits

The City intends that the Plan shall provide each Retiree with payment for health care expenses incurred by the Retiree and, if eligible, his or her Spouse and his or her Dependents, as provided in the Plan and/or Insurance Agreement. The City does not intend that payment under this Plan shall exceed the amount of the expenses incurred. For this reason, the Plan coordinates benefits with other insurance policies according to industry standards and applicable laws.

(1) Reimbursement.

If an expense is paid under the Plan by the Plan Administrator on behalf of a Retiree, his or her Spouse or Dependents, and such expense subsequently is paid from any other source, in whole or in part, the Retiree, his or her Spouse or Dependents, shall remit to the Plan an amount equal to the duplicated benefits. In addition, the Plan Administrator may reimburse any other Plan, person or entity that has paid an expense on behalf of a Retiree, his or her Spouse or Dependents which expense was payable under this Plan. In such event, the Plan, Plan Administrator and/or the Insurance Carrier shall be relieved of all further responsibility with respect to that expense.

(2) Subrogation.

In the event any payment is made by the Trust under the Plan, the Plan and the Trust shall be subrogated and shall succeed to the rights of any Retiree, his or her Spouse and Dependents against any other plan, person or entity for recovery of health care expenses for which such other plan, person or entity legally is liable. All amounts so recovered, by settlement, judgment or otherwise, shall be paid to the Trust. Retirees, their Spouses and Dependents shall furnish such information, execute and deliver such assignments, documents or other instruments, and take whatever steps are necessary to secure the rights of the Plan. Retirees, their Spouses and Dependents shall take no action to prejudice the rights and interests of the Plan hereunder.

(3) Effect of Exclusions.

The provisions of this Section shall not be construed to create any independent right to payment of any benefit under this Plan. Any exclusion or limitation contained in the Plan and/or Insurance Agreement shall supersede any provision of this Section regarding coordination of benefits.

***1:212.*** **Plan Administration, City Duties.**

(1) The City shall be responsible for complying with the Code's reporting and disclosure requirements and for the purpose of fulfilling such other Plan administrative functions as are not specifically assigned to the Plan Administrator and/or Insurance Carrier. The City may employ a Plan Administrator and/or Insurance Carrier who will be responsible for the interpretation, administration and the payment of health care claims under the Plan.

(2) The City also shall be responsible for the performance of its duties as employer and Plan sponsor under applicable Internal Revenue Code Sections. The City may delegate all or any part of its Plan administration responsibilities. Any such delegation shall be done in writing.

(3) The City may employ one or more persons to render advice with regard to any responsibility such fiduciary has under the Plan. Any fiduciary, agent, representative or other person performing services to or for the Plan shall be entitled to reasonable compensation for services rendered, unless such person is employed by the City and already receives full pay from the City, and to reimbursement or expenses properly and actually incurred.

(4) The City shall furnish the Plan Administrator and/or Insurance Carrier, while this Plan is in effect, any information as may be required, at intervals and in the form prescribed by the Plan Administrator and/or Insurance Carrier, for the enrollment of Retirees, Spouses and/or Dependents for coverage under the Plan and for the processing of terminations or other changes in coverage of Retirees, Spouses and/or Dependents and also shall furnish to the Plan Administrator and/or Insurance Carrier such other information required for the administration of the Plan.

***1:213.*** **Plan Administration, Insurance Carrier Duties.**

Each Insurance Carrier shall have the responsibility for interpreting and administering their respective Insurance Agreement and for processing and paying benefit claims thereunder, and shall provide the City with such information as the City may deem necessary to permit the timely filing of all reports required by law. The Insurance Carrier also shall provide a description of the benefits provided under their respective Insurance Agreement directly to the Retirees, Spouses and/or Dependents or to the City for distribution to Retirees, Spouses and/or Dependents.

***1:214.*** **Plan Administration, Plan Administrator Duties.**

The Plan Administrator as set forth in Section 1:105(17) shall have the responsibility for interpreting and administering the Plan and for processing and paying benefit claims thereunder, and shall provide the Trustees with such information necessary to permit the timely filing of all reports required by applicable laws or regulations governing the Trust.

***1:215.*** **Health Care Benefits, Claims Procedures.**

A claim for benefits under the Plan must be submitted in writing to the Plan Administrator and/or Insurance Carrier in accordance with procedures established by the Plan Administrator or the Plan and/or Insurance Carrier as communicated in writing to Retirees, Spouses and/or Dependents. The Plan Administrator and/or Insurance Carrier shall provide written notice within 30 days to any Participant or Qualified Beneficiary whose claims for benefits under this Plan have been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the party. The Plan Administrator and/or respective Insurance Carrier has responsibility for the resolution of disputes involving payment of benefits under the portion of the Plan assigned to the Plan Administrator or Insurance Agreement with the Insurance Carrier. The Plan Administrator and/or Insurance Carrier shall afford a reasonable opportunity to any Participant or Qualified Beneficiary whose claim for benefits has been denied for a full and fair review of the decision denying the claim.

***1.216.*** **Funding**.

For the purpose of creating and maintaining the Plan and Trust for the payment of benefits payable as provided in this Plan and Trust, the City shall appropriate an amount sufficient to maintain the Trust subject to the provisions of this Plan.

DECLARATION OF TRUST

***1:300*. Irrevocable Trust, Established.**

The Section 115 governmental trust established in this Plan shall be irrevocable and shall conform to all applicable sections of the Internal Revenue Code, the applicable Collective Bargaining Agreements, the statement of purpose in this Plan, and all statutes, ordinances, rules, regulations, arbitrators' awards and judicial decisions interpreting the foregoing provisions.

The Trust shall consist of City of Troy Contributions, any Contributions which may be paid by Retirees and other Qualified Beneficiaries due pursuant to the provisions of an applicable Collective Bargaining Agreement or to the election of additional coverage beyond that provided by the City, all investments made or held under Trust, and all income therefrom, both received and accrued, and any other property, which may be received or held by reason of this Trust. Funds paid by Retirees and other Qualified Beneficiaries as a result of premium sharing required pursuant to applicable City policy, shall be paid directly to the City and/or the applicable Insurance Carrier and shall not be paid into the Trust.

***1:301*. Use of Trust Assets.**

(1) No part of the net earnings of the Trust may inure to the benefit of any Participant, Retiree or other beneficiary other than by benefit payments or for services provided to the Trustees in their administration of the Trust. The Trust assets shall not be used for or diverted to purposes other than to provide the benefits contemplated under the Plan for the exclusive benefit of Retirees and their eligible Spouses and eligible Dependents, except any administrative expenses for which the Trust is liable. A portion of net earnings may be used for payment for reasonable and necessary professional services, costs and expenses related to assisting the Trustees in the operation of the Trust.

(2) All income, profits, recoveries, contributions, forfeitures and any and all monies, securities and properties of any kind at anytime received or held by the Trustees hereunder, shall become part of the Trust when received, and shall be held for the use and purposes hereof.

***1:302*. Funding.**

(1) For the purpose of creating and maintaining a fund for the payment of health care benefits payable as provided in this Plan, the City shall be required to pay to the Trust an amount consistent with the actuarial valuations and calculations made by the Actuary for the Trust to result in a prefunded plan. The City reserves the right to fund these health care benefits on a "pay-as-you-go" basis. Such contributions shall also be made in accordance with any regulations of the Board of Trustees as are not inconsistent with the

authority stated in this Plan and any Collective Bargaining Agreements between the Collective Bargaining Associations and the City and this Plan.

(2) Qualified Beneficiaries shall contribute those amounts required for additional coverage as optioned by such Qualified Beneficiaries and otherwise as determined by the Trustees.

(3) Subject to the tax provisions of applicable ordinances, resolutions and state law, the Trustees may, to the extent matters are not set forth in the Trust, in their discretion decide the manner and means of payments, the procedures to be followed in making the payments, and the forms required to accompany the payments to the Trust. Upon determination by the Trustees of these matters, the Trustees shall provide written notice to the City and require payments by the City to be made pursuant to the rules and regulations of the Trust.

(4) Time is of the essence in making and processing all payments to the Trust. The parties recognize that the regular and timely payments of Contributions are essential to the operation of the Trust and the providing of benefits under various insurance programs.

***1:303*. Board of Trustees.**

(1) The Board of Trustees shall consist of eight (8) trustees which shall be the same elected and appointed individuals that serve on the City of Troy Employees Retirement System Board of Trustees, as follows:

The City Manager, by virtue of his/her position.

The Assistant City Manager/Finance & Administration, by virtue of his/her position.

A member of the Troy City Council, as appointed by the Council.

(d) A citizen, who is an elector of the City, and who is not a member, retirant, or beneficiary of the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan who shall be appointed by the City Council.

(e) Three members of the City of Troy Employees Retirement System or the City of Troy Defined Contribution Plan in accordance with such rules and regulations of the Board that governs such elections.

(f) A retiree of the City of Troy Employees Retirement System (Defined Benefit Plan), who shall be appointed by the City Council and who shall serve as a non-voting member.

(g) A minimum of two of the five employee member Trustees, as set forth in paragraphs (a), (b), or (e) must be a member of the City of Troy Employees Retirement System (Defined Benefit Plan).

(2) The general administration, management and responsibility for the proper operation of the Trust and for making effective and construing the provisions of the Trust shall be vested in the Board of Trustees established by this Section, consistent with applicable state and federal laws and regulations. A Trustee or other fiduciary under the Trust shall discharge his or her duties with respect to the Trust solely in the interest of the Participants and Qualified Beneficiaries for the exclusive purpose of providing benefits to Participants and Qualified Beneficiaries and paying reasonable expenses of administering the Trust. A Trustee shall discharge his or her duties with the care, skill, and caution under the circumstances then prevailing which a prudent person, acting in a like capacity and familiar with those matters, would use in the conduct of an activity of like character and purpose.

(3) The election of the trustees as provided in subsection (1) of this section shall be held under such rules and regulations, as the Board of Trustees shall adopt.

***1:304*. Trustees' Terms of Office.**

(1) The regular terms of office of the Trustees shall be as follows:

(a) the three (3) employee trustees shall each have a three (3) year term of office.

(b) the citizen trustee shall have a three (3) year term of office.

(c) the Council trustee shall have a four (4) year term of office.

The term of the appointed and elected Trustees shall be identical to and coincide respectively with the term each Trustee serves as trustees of the City of Troy Employees Retirement System Board of Trustees. Upon expiration of his or her term, each Trustee shall continue to serve until a successor has been appointed.

(2) Each Trustee shall serve until the expiration of his or her term of office or until his or her death, incapacity, resignation or removal.

(3) In the event a Trustee fails to attend four (4) consecutive meetings of the Board of Trustees, unless in each case the absence is excused for cause by the Chairperson or Vice-Chairperson, or in the event a member Trustee leaves the employ of the City, he/she shall be considered to have resigned from the Board. The Board shall, by resolution, declare his/her office of Trustee vacated as of the date of such resolution. In the event a Trustee vacancy occurs, then the Board of Trustees, by majority vote, may appoint an

individual that meets the necessary qualifications or may call for a special election to fulfill the remainder of the unexpired term.

(4) A vacancy or vacancies in the office of the Trustees shall not impair the powers of the remaining Trustees to administer the affairs of the Trust, provided there are sufficient Trustees to constitute a quorum.

***1:305*. Officers and Administration.**

(1) At its meeting in February of each year, the Trustees shall select a chairperson and a vice-chairperson from the group of the then existing Trustees and the chairperson and vice-chairperson shall serve a term of one year or until a new chairperson and vice-chairperson is elected. The City Treasurer shall be the Treasurer of the Trust. The Assistant City Manager/Finance & Administration shall serve as Secretary of the Plan and Trust and shall be the custodian of its money and investments.

(2) Consistent with applicable state and federal laws and regulations, the Trustees shall have the power to promulgate rules and regulations for the day-to-day management of the Trust, the investment of monies held by the Trust, to determine all questions regarding the interpretation of the Trust, and such other Trust related subjects as shall be deemed necessary and proper by the Trustees. If any rule or regulation of the Trust or part thereof is found to be in conflict with any law, statute, judicial decision, arbitration decision or any other competent body or tribunal, such rule or regulation or part thereof shall be deemed voided and, all other rules and regulations of the Trust shall remain in full force and effect.

(3) Whenever the signature of a Trustee is required on any document, signature of the chairperson or acting chairperson and secretary or acting secretary shall be required.

(4) In the event of any suit brought against the Trustees arising out of the acts within the scope and powers and duties of the Trustees, or in the event of any lawsuit brought by the Trustees as authorized by the Plan and Trust, the cost of defense or prosecution of such lawsuit shall be charged to the Trust, and shall be paid directly from the Trust, provided such costs are not incurred by reason of bad faith, gross negligence, or breach of a fiduciary obligation to the Trust or to the beneficiaries thereof.

(5) The Board of Trustees may employ such clerical personnel or administrative personnel to perform whatever administrative activities are required in the proper performance of the Trust. In addition thereto, the Trustees may, if they desire, contract with an administrator to perform such clerical and administrative duties as they may, in their sole discretion, determine is reasonably and prudently necessary to carry out the Trust's activities and purposes. Under no circumstances shall said administrator have control or authority with respect to the management of the Trust or its assets. The said administrator shall not be

clothed with any type of authority or power which will constitute the administrator as a fiduciary. Said administrator will not have the power or authority to act as an investment counselor or manager and will not be authorized to furnish investment advice.

(6) The Board of Trustees may utilize City staff for such functions as personnel administration, accounting, banking and purchasing and will comply with all established City control procedures and policies related to these services. The Board will annually reimburse the City for actual costs of these services as determined by a method jointly agreed upon by the Board of Trustees and the City.

(7) Employees, upon the request of the Board of Trustees, may also be assigned to the Trust for the proper operation of the Trust. Said employees shall be subject to the supervision of the Board of Trustees. The Board of Trustees shall have the authority to establish job descriptions and promulgate rules and regulations appropriate for the Trust in addition to those adopted by the City. The Board will annually reimburse the City for the actual costs of these employees as determined by a method jointly agreed upon by the Board and the City.

(8) The Board of Trustees may employ (an) investment manager(s) to manage the assets of the Trust. Such investment manager(s) must be registered under the Investment Advisor's Act of 1940, as amended, (15 USCS 80b-1) and must meet any applicable state and federal requirements to act as an investment manager. The Trustees may, if they deem proper in their discretion, or if the circumstances require it, appoint such investment manager, managers, banks or insurance companies as fiduciaries and enter into an agreement with such institutions, naming it a fiduciary and conveying to such fiduciary all or a portion of the assets of the Trust, so that said fiduciary may handle, manage and hold those assets conveyed to it. All assets conveyed to said fiduciary shall be subject to the provision of the agreement or agreements between the Trustees and the fiduciary.

(9) The Board of Trustees may employ legal counsel with whom they may seek advice, consult with, require attendance at meetings and to otherwise represent the Trustees in matters relating to the Trust.

(10) The Board of Trustees may authorize the purchase of insurance for the Trust and for the Trustees to cover liability or losses occurring for any reason, including but not limited to, an act or omission (errors or omissions) of a fiduciary, including the Trustees; provided however, that such insurance policy permits recourse by the insured against the fiduciary, including the Trustee or Trustees involved, in case of breach of fiduciary obligation by the fiduciary.

(11) The Board of Trustees shall appoint an Actuary who shall advise the Trustees on the actuarial operation of the Plan and Trust. The Trustees shall, from time to time, adopt such mortality and other tables of experience and a rate or rates of regular interest as are necessary in the operation of the Trust on an actuarial basis.

***1:306*. Board Meetings.**

(1) The Trustees shall meet at least once quarterly. The Trustees shall determine the time for the regular meetings of the Trustees and the place or places where such meetings shall be held. The secretary of the Trustees or his or her designee shall be responsible for giving notice of the time and place of such meetings to the other Trustees.

(2) Notice and conduct of all meetings of the Trustees, both regular and special, shall be given in accordance with applicable law including the Michigan Open Meetings Act (MCL 15.261 et seq.).

(3) The Board of Trustees shall adopt its own rules of procedure and shall keep a record of its proceedings. Four (4) Trustees shall constitute a quorum at any meeting of the Board of Trustees Each Trustee shall be entitled to one vote on each question before the Board of Trustees and at least four (4) concurring votes shall be necessary for a decision of the Board of Trustees.

***1:307*. Compensation.**

All Trustees shall serve without compensation as members of the Board of Trustees, except that employee Trustees shall suffer no loss in compensation on account of their services as Trustees.

***1:308*. Trustees' Powers and Responsibilities.**

The Trustees shall hold all the powers that are necessary to carry out the purposes of the Trust and are generally available to Trustees under the laws of the State of Michigan, except as limited by the Trust and by federal law and regulations. It is intended that the Plan and Trust shall be tax exempt and shall qualify under the Internal Revenue Code and any amendments of the Code applicable to plans of this type. The Trustees shall have the continuing duty to propose to the City amendments to this Plan to the extent it becomes necessary to qualify said Plan under the Internal Revenue Code and to continue the tax exempt status of the Trust. The Trustees shall take no action nor make any determination inconsistent with any qualification or ruling of the Internal Revenue Service, an arbitrator or the courts with respect to the Trust. In the case of amendments to the Internal Revenue Code or changes of regulations by the Internal Revenue Service or the Labor Department, the Trustees are empowered to take all necessary action(s)

authorized by the Plan and Trust, federal and state law and regulations, to continue the qualification of the Trust as a qualified Trust. In carrying out the purposes of the Trust, the Trustees shall have the following powers and duties:

(1) The Trustees shall, in order to effectuate the purposes of the Trust, be bound by the terms of the Plan and any applicable Collective Bargaining Agreements between the City and the Collective Bargaining Associations, or applicable personnel policies.

(2) The Trustees shall establish a uniform system for the timely transmission of required reports and contributions from the City on behalf of the Participants and/or Qualified Beneficiaries.

(3) The Trustees, in accordance with the requirements of law, may direct an impartial firm of independent certified public accountants to act as agent of the Trustees to examine the payroll records and reports as may be necessary to determine the monies due on behalf of a Participant and/or Qualified Beneficiary covered by this Trust and to make a written report to the Trustees.

(4) The Trustees shall maintain, or cause to be maintained, proper books of accounts and records of and for the administration of the Trust, including the minutes of all meetings, make them available for inspection at the permanent office of the Trust during reasonable business hours by the City, or any Participant or Qualified Beneficiary covered by the Plan and Trust.

(5) The financial records of the Trust shall be subject to the annual audit of the City. The Trustees shall fully comply with all applicable statutory and municipal budgetary and accounting procedures and provide access to and/or documentation of all assets and liabilities of the Trust and a resume of the operations of the Trust for the preceding year together with such other data as may be required by law and/or as part of the City's annual financial report.

(6) The Trustees shall be authorized, pursuant to Public Act 149 of 1999 (MCL 38.1211 et seq.), as amended, to invest the assets of the Trust in accordance with the provisions of Public Act 314 of 1965 (MCL 38.1132 et seq.), as amended.

***1:309*. Trust Liabilities.**

(1) The City shall not be liable for payment to the Trust of any amount other than those required of it by the Trust. Neither the City, nor any Participant or Qualified Beneficiary or Trustee shall be liable for any debts, liabilities or obligations of the Trust except as provided for in this Chapter. Neither the City nor any Participant and/or Qualified Beneficiary shall have any right to the return of any money properly paid into the Trust, except as otherwise specifically provided in this Plan and Trust, or to money improperly

paid which has already been invested or distributed. Any contribution improperly paid into the Trust by the City or on behalf of a Participant or Qualified Beneficiary shall be returned by the Trustees upon the request of the City, the Participant or the Qualified Beneficiary or upon discovery by the Trustees that such monies have been improperly paid into the Trust, unless those monies have already been invested or distributed.

(2) No part of the Trust or any benefits payable by the Trustees shall be subject to alienation, sale, transfer, assignment, pledge or encumbrance charge by any person. No Participant or Qualified Beneficiary shall be entitled to receive any part of the Contributions made by the City or payments required to be made by the Trust, in lieu of such benefits provided under the Plan as determined by the Trustees in accordance with the Trust.

***1:310*. Termination of the Trust.**

(1) Subject to the limitations of this Plan and Trust, the parties hereby contemplate that new employment benefit decisions may be made by the City and/or new Collective Bargaining Agreements may be entered into which continue or modify the provisions of the Trust. The Trust shall continue during such period of time as may be necessary to carry out the provisions of any Plan or Collective Bargaining Agreement requiring payment to the Trust and the fact that such Collective Bargaining Agreements or employment benefit decisions are not extended, shall not by itself terminate the Trust, which shall continue for a period of time sufficient to wind up the affairs of the Trust.

(2) Provided there are no longer any Qualified Beneficiaries eligible for benefits from the Trust, the Trust may be terminated at any time by the Trustees so long as the termination is not inconsistent with any then existing City decisions. It shall not be necessary for the City to execute such an agreement for the Trust to terminate.

(3) If the Trust shall terminate, the Trustees shall forthwith notify any Insurance Carrier or Carriers then providing insurance to Retirees and Qualified Beneficiaries in the Trust.

(4) In the event of the termination of the Trust, the remaining funds available after providing for all the outstanding obligations, shall be used in a manner as will, in the opinion of the Trustees, best effectuate the purposes of the Trust, including, but not limited to, the purchase of insurance benefits.

# CHAPTER 35 - TRAFFIC COMMITTEE

## 35.01 Creation and Membership

35.01.01 The Traffic Committee shall consist of seven (7) members who shall have the qualifications of electors. The Traffic Committee shall be appointed by City Council. A student representative may be appointed by City Council as an ex-officio member of the Committee, without voting privilege. The term for a student representative shall be one year.

35.01.02 The Police Chief, Fire Chief and Traffic Engineer or their designated representative shall be ex-officio members of the Committee without voting privilege.

35.01.03 The Committee members shall serve for a period of three (3) years, except that any member can be removed by the City Council acting as a body by two-third's (2/3) vote of the City Council.

35.01.04 Committee members shall serve without pay or extra compensation.

## 35.02 Meetings

35.02.01 The Traffic Committee shall adopt rules of procedure.

35.02.02 All meetings of the Traffic Committee shall be held at the call of the Chairman and at times when the majority of the Committee has approved the call of a meeting.

35.02.03 All hearings conducted by the Committee shall be open to the public.

35.02.04 The Traffic Engineer or his representative shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and official action.

35.02.05 Four (4) members of the Committee shall constitute a quorum for the conduct of its business.

35.02.06 The Committee shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to matters before it.

35.03 Duties of Traffic Committee

35.03.01 The Traffic Committee shall be vested with advisory powers with respect to proposed traffic regulations and traffic safety issues. It shall be the duty of the Traffic Committee to advise the City Manager and City Council on amendments to this Chapter.

35.03.02 It shall also be the responsibility of the Traffic Committee to hold public hearings to determine whether a requested sidewalk variance, requesting relief from the requirements of Chapter 34, should be granted or denied.

35.04 Variances

35.04.01 Any person or entity that is required to comply with the sidewalk requirements, as set forth in Chapter 34, may request that the Traffic Committee grant a variance of the required sidewalk installation.

35.04.02 The sidewalk variance request shall be made by filing with the Director of Public Works the application that is provided by the Public Works Department. The application shall specify the reasons why the variance is necessary.

35.04.03 Once a completed application for a sidewalk waiver is filed with the Director of Public Works, the property owner shall be temporarily relieved of the obligation to install the subject sidewalk until the Traffic Committee has either granted or denied the requested sidewalk variance. However, where the Director of Public Works certifies to the Traffic Committee that a stay would cause imminent peril of life or property, the stay should not be granted unless otherwise ordered by the Committee or by order of the Circuit Court or other court with proper jurisdiction.

35.05 Notice of Hearing

The Traffic Engineer shall submit the completed application, in addition to all documents relating to the sidewalk variance request, to the Traffic Committee. The Traffic Engineer shall also set the requested sidewalk variance request for a public hearing before the Traffic Committee. This public hearing shall be scheduled as soon as possible. The Traffic Engineer shall also give notice of the public hearing to discuss the requested sidewalk variance request to persons who are assessed for real property within 300 feet of the subject premises, and to the occupants of single and two family dwellings within 300 feet of the subject premises. 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 known, the term occupant may be used.

35.06 Adjournment of Hearing

The Traffic Committee may adjourn the public hearing to obtain additional information, to provide notice to property owners or occupants, or to enable the applicant to have a full Traffic Committee decide the matter. If the public hearing is adjourned, notice of the new hearing does not need to be given to those persons previously notified.

35.07 Conduct of Hearing

Any applicant for a sidewalk waiver may appear at the hearing in person or by a representative. Both the applicant and also the Director of Public Works or his/her designee are permitted to call witnesses and introduce evidence at the hearing.

35.08 Decision of the Committee

The Traffic Committee shall either grant, deny, or partially grant a requested sidewalk waiver. A copy of the Traffic Committee's decision shall be transmitted to both the applicant and to the Director of the Department of Public Works. The decision of the Committee is binding upon the applicant and also the Director of the Department of Public Works. Any item or condition required by the Traffic Committee in granting the requested sidewalk variance shall be incorporated into the sidewalk and driveway approach permit.

35.09 Review by Circuit Court

A person affected by the decision of the Committee may appeal to Circuit Court, as provided by law.

# CHAPTER 27 PARKS AND RECREATION BOARD

27.10 Creation. The Parks and Recreation Board shall consist of ten members, who shall have the qualifications of electors. All members shall serve without compensation. A student representative may be appointed for a one (1) year term by City Council. The student representative shall serve as an ex-officio, non-voting member of the Board. The Parks and Recreation Director shall serve as an ex-officio, non-voting member of the Board and shall be responsible to the City Manager.

27.20 Membership and Terms. The Troy City Council shall appoint the following members to the Parks and Recreation Board:

(1) Seven at-large representatives, who shall serve for three (3) year overlapping terms.
(2) One representative from the Troy School Board of Education, who shall be nominated by the Board of Education and who shall serve for a one (1) year term.
(3) One representative from the Troy Daze Committee, who shall be nominated by the Troy Daze Committee, and who shall serve for a one (1) year term.
(4) One representative from the Advisory Committee for Senior Citizens, who shall be nominated by the Advisory Committee, and who shall serve for a one (1) year term.

27.30 Removal and Vacancies. Board members may, after a public hearing, be removed by the City Council for neglect of duty or malfeasance in office. Vacancies occurring on the Board shall be filled in the same manner as the original appointment.

27.40 Organization. The Board shall elect its chairman from among its members. The Board may also elect members for any other offices that the Board deems necessary. The term of the chairman shall be one year, and the chairman shall be eligible for re-election. The Board shall hold at least one regular meeting every two months. It shall adopt rules for the transaction of business and shall keep a record of its actions, which record shall be public record.

27.50 Powers and Duties. The Board shall have the following powers and duties :

(1) To recommend to the City Manager a budget providing for a parks and recreation program.
(2) To recommend to the City Council policies for operating a parks and recreation program.
(3) To recommend to the City Council a long-term capital improvements program for parks and recreational facilities, including the acquisition of park sites.
(4) To promote activities that will benefit the City parks and recreation program, including the encouragement of organized team athletic programs.

Acceptance of Troy Daze, Inc. as a Committee of the City of Troy c-3

Jim Cyrulewski, Chairman of Troy Daze, asked for approval and answered questions from Council.

Resolution #88-413
Moved by Husk
Supported by Pallotta

WHEREAS, Troy Daze, Inc. has requested the City Council to consider the Troy Daze Committee as an official City Committee; and

WHEREAS, Troy Daze, Inc. makes this request because of the difficulties with insurance coverage; and

WHEREAS, should Troy Daze, Inc. become an official City Committee, administrative, financial and purchasing functions would become the responsibility of the City as required by law and charter;

NOW, THEREFORE, BE IT RESOLVED, that it is the determination of this City Council that Troy Daze, Inc. shall become an official Committee of the City of Troy and the City Manager and staff are hereby directed to coordinate such events as deemed to be in the best interest of the City of Troy and its citizens; and

BE IT FURTHER RESOLVED, that this Committee shall be comprised of 7 members to be appointed by the City Council for three year overlapping terms with 3 to expire in 1989, 2 in 1990 and 2 in 1991;

BE IT FINALLY RESOLVED, that the City Council will immediately accept resumes' from Troy citizens wishing to be considered for appointment at the next regular meeting of this Governing Body.

Amendment to Resolution #88-413

Moved by Taucher
Supported by Pallotta

RESOLVED, That the resolution be amended by adding after the third paragraph:

WHEREAS, should Troy Daze operate below the break even point over a two or three year period or City Council determines that there is insufficient continued interest in the project, Council reserves the right to dissolve the committee;

Yeas; Doyle, Pallotta, Stine, Taucher
Nays: Husk, Johnson, Schilling
Amendment PASSED

Vote on Amended Resolution #88-413

WHEREAS, Troy Daze, Inc. has requested the City Council to consider the Troy Daze Committee as an official City Committee; and

WHEREAS, Troy Daze, Inc. makes this request because of the difficulties with insurance coverage; and

WHEREAS, should Troy Daze, Inc. become an official City Committee, administrative, financial and purchasing functions would become the responsibility of the City as required by law and charter;

WHEREAS, should Troy Daze operate below the break even point over a two or three year period or City Council determines that there is insufficient continued interest in the project, Council reserves the right to dissolve the committee;

NOW, THEREFORE, BE IT RESOLVED, that it is the determination of this City Council th - at Troy Daze, Inc. shall become an official Committee of the City of Troy and the City Manager and staff are hereby directed to coordinate such events as deemed to be in the best interest of the City of Troy and its citizens; and

BE IT FURTHER RESOLVED, that this Committee shall be comprised of 7 members to be appointed by the City Council for three year overlapping terms with 3 to expire in 1989, 2 in 1990 and 2 in 1991;

BE IT FINALLY RESOLVED, that the City Council will immediately accept resumes' from Troy citizens wishing to be considered for appointment at the next regular meeting of this Governing Body.

Yeas: All-7

Request for Approval for Walk-A-Thon - National Sudden Infant Death Syndrome Foundation - May 21 C-12

Resolution #88-415
Moved by Taucher
Supported by Stine

RESOLVED, that the request from the National Sudden Infant Death Syndrome Foundation to conduct a Walk-A-Thon on May 21, 1988 in the City of Troy, is hereby approved and a copy of said request and reports from Messrs. Halsey, Moore, Spurr and Beaubien, shall be attached to the original minutes of this meeting.

Yeas: All-7

TABLED ITEMS

Resolution Requesting Revision to Public Act 191 Liquor Licenses - Sales to Persons Under Age 21Penalties B-1

Resolution #88-416
Moved by Taucher
Supported by Pallotta

RESOLVED, That this item be TABLED to the Regular meeting of April 25, 1988.

Yeas: All-7

Bid Award - Grass Seed B-2

Resolution #88-417
Moved by Stine
Supported by Pallotta

RESOLVED, that the contracts for Grass Seed are hereby awarded as follows:

UTICA DISTRIBUTORS, INC. Total

| | Variety | Cost |
|---|---|---|
| 850 lbs. | Fiesta Perennial Rye | $680.00 |
| *100 lbs.* | Pencross Creeping Bentgxass | 700.00 |
| | Total | $1,380.00 |

TURF CHEMICALS, INC.

Proposed Zoning Ordinance Text Amendment - Alternate Plan Commission Member on Board of Zoning Appeals A-3

Resolution #88-498
Moved by Pallotta
Supported by Stine

BE IT ORDAINED, that Section 43.01.00 of the Zoning Ordinance be amended in accordance with the text as presented on this date, to provide for the annual appointment of an Alternate Plan Commission representative to the Board of Zoning Appeals and a copy of said text shall be attached to the original minutes of this meeting.

Yeas: All-6
Absent: Doyle

VISITORS, DELEGATIONS AND CITIZENS

ITEMS TAKEN OUT OF ORDER

Resolution #88-499
Moved by Taucher
Supported by Pallotta

RESOLVED, That Items C-3b and C-14 be taken out of order and considered at this time

Yeas: All-6
Absent: Doyle

Request to Increase Troy Daze Committee Membership C-14

Resolution #88-500
Moved by Husk
Supported by Pallotta

RESOLVED, that the request from Jim Cyrulewski to increase the membership of the Troy Daze Committee from seven (7) members to nine (9) members, plus two ex-officio members to be appointed by city administration, is hereby approved and three terms of the initial appointees will expire on April 30th of each year of the years 1989, 1990 and 1991.

Yeas: All-6
Absent: Doyle

NOMINATIONS TO BOARDS AND COMMITTEES C-3

Jim Cyrulewski and Sue Bishop were nominated on April 25. Councilman Husk nominated Cecile Dilley, Kyle Dilley, Martin Vittands, Richard Tharp, Robert Berk and Shirley Darge and Cynthia Kmett.

Resolution #88-501
Moved by Pallotta
Supported by Stine

RESOLVED, That the Rules of Procedure are hereby waived and the following people are hereby appointed to serve on the Troy Daze Committee for three year terms as follows:

| | |
|---|---|
| Jim Cyrulewski | April 30, 1989 |
| Sue Bishop | April 30, 1989 |
| Cecile Dilley | April 30, 1989 |
| Kyle Dilley | April 30, 1990 |
| Martin Vittands | April 30, 1990 |
| Richard Tharp | April 30, 1990 |
| Robert Berk | April 30, 1991 |
| Shirley Darge | April 30, 1991 |
| Cynthia Kmett | April 30, 1991 |

Yeas: All-6
Absent: Doyle

Resolution to Change Term of office for Troy Daze Committee Members C-15

Resolution #89-520
Moved by Pallotta
Supported by Stine

RESOLVED, that the expiration date of the term of office of Troy Daze Committee members be changed from April 30 to Nov. 30.

Yeas: All-7

Resolution to Set Public Hearing - Proposed Zoning ordinance Text Amendment - M-1 District Provisions C-16
Resolution #89-521
Moved by Pallotta
Supported by Stine

RESOLVED, that a Public Hearing is hereby established for June 19, 1989 to consider the proposed Zoning ordinance Text Amendment - M-1 District Provisions.

Yeas: All-7

REPORTS AND COMMUNICATIONS

Boards and Committees - Meetings- D-1

Building Code Board of Appeals May 3,1989
Economic Development Corporation May 3,1989
Planning Commission May 9,1989
Parks and Recreation Board May 11,1989
Library Advisory Board May 11,1989

Noted and Filed

Department Reports D-2
Financial Report, April 30, 1989
Treasurer's Report, April, 19a9

Noted and Filed

Letter from Linda Brick Regarding Attendance at City Council Meeting of May 8, 1989 D-3

Noted and Filed

Report Regarding Special Assessment Projects D-4

Noted and Filed

Michigan Municipal League Legislative Bulletin Dated May 12, 1989 D-5

Noted and Filed

Request for Recycling Center from Birmingham School in Troy Second Grade Students D-6

Noted and Filed

**F-7 Formation of a Troy Youth Council**

Resolution #2002-03-177
Moved by Pallotta
Seconded by Howrylak

RESOLVED, That the City of Troy will support the formation of a Troy Youth Council and direct staff to assist the students in this endeavor.

Yes: All-7

**F-8 Inequitable Distribution of Proposed Diesel Fuel Tax Increase**

Resolution #2002-03-
Moved by Pallotta
Seconded by Schilling

WHEREAS, Local commercial truck routes are critical for economic development and attracting new businesses; and

WHEREAS, Commercial truck traffic has a negative impact on local streets and bridges; and

WHEREAS, The local commercial network is the backbone of Michigan's economy; and

WHEREAS, 1951 Public Act 51 establishes a funding distribution formula for the State, County Road Commissions, Cities and Villages to maintain their local transportation system; and

WHEREAS, The Governor has proposed to increase the diesel fuel tax from the current 15 cents per gallon to 19 cents per gallon, eliminate the diesel tax credit, simplify the tax collection; and

WHEREAS, The diesel tax and simplification legislation will generate an additional $44 million to the Michigan Transportation Fund; and

WHEREAS, The Governor proposes to bypass the Public Act 51 formula and divert $33.8 million of the diesel fuels tax increase to the Michigan Department of Transportation; and

WHEREAS, Under the Governor's plan, Michigan's Cities and Villages shall only receive $670,000.00 for statewide distribution; and

WHEREAS, If the revenues from the diesel tax increase were distributed, equitably, via the Public Act 51 distribution formula, the Michigan Department of Transportation would receive approximately $15.4 million and Michigan's Cities and Villages would receive approximately $8.6 million for road and bridge repair; and

WHEREAS, The City of Troy would receive $8,721.97 under the Governor's proposal and $112,380.64 if the revenues from the proposed increase in the diesel fuel tax were distributed via the Public Act 51 formula.