# AGENDA

**Meeting of the**

# CITY COUNCIL
# OF THE CITY OF TROY

**OCTOBER 5, 2009**
**CONVENING AT 7:30 P.M.**

**Submitted By**
**The City Manager**

***NOTICE: Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3316 or via e-mail at clerk@troymi.gov at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.***

TO: The Honorable Mayor and City Council
Troy, Michigan

FROM: John Szerlag, City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

This booklet provides a summary of the many reports, communications and recommendations that accompany your Agenda. Also included are suggested or requested resolutions and/or ordinances for your consideration and possible amendment and adoption.

Supporting materials transmitted with this Agenda have been prepared by department directors and staff members. I am indebted to them for their efforts to provide insight and professional advice for your consideration.

As always, we are happy to provide such added information as your deliberations may require.

Respectfully submitted,

John Szerlag, City Manager

# CITY COUNCIL

## AGENDA

**October 5, 2009 – 7:30 PM**
**Council Chambers**
**City Hall - 500 West Big Beaver**
**Troy, Michigan 48084**
**(248) 524-3317**


**CALL TO ORDER: 1**

**INVOCATION & PLEDGE OF ALLEGIANCE: Brian Tabert – Kensington Community Church 1**

**ROLL CALL: 1**

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## CALL TO ORDER:

## INVOCATION & PLEDGE OF ALLEGIANCE: **Brian Tabert – Kensington Community Church**

## ROLL CALL:

(a) Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield
David Eisenbacher
Wade Fleming
Mayor Pro Tem Martin Howrylak
Mary Kerwin

## ABSENT:

(b) Absent Council Members

## CERTIFICATES OF RECOGNITION:

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**A-1 Presentation:**
**a)** Governor's Cup Pistol Team Award to Troy Police Department

## CARRYOVER ITEMS:

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**B-1 No Carryover Items**

## PUBLIC HEARINGS:

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**C-1 Zoning Ordinance Text Amendment (File Number: ZOTA 240) – Article 43 – BZA Provisions**

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **AMENDS** Article XLIII (Board of Zoning Appeals) of the City of Troy Zoning Ordinance, pertaining to the requirement of Planning Commission review for items that require site plan approval and a variance(s), prior to being considered by the Board of Zoning Appeals, to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 240), City Council Public Hearing Draft, as recommended by the Planning Commission.

Yes:
No:

## POSTPONED ITEMS:

**D-1 No Postponed Items**

## REGULAR BUSINESS:

***Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 10"E" of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.***

***NOTE: Any item selected by the public for comment from the Regular Business Agenda shall be moved forward before other items on the regular business portion of the agenda have been heard. Public comment on Regular Agenda Items will be permitted under Agenda Item 10 "E".***

**E-1 Appointments to Boards and Committees: (a) Mayoral Appointments: None Scheduled (b) City Council Appointments: None Scheduled**

**E-2 Nominations for Appointments to Boards and Committees: (a) Mayoral Nominations: (b) City Council Nominations: Advisory Committee for Senior Citizens; Ethnic Issues Advisory Board; Historic District Commission; Personnel Board; and Youth Council**

The following Boards and Committees have expiring terms and/or vacancies. Bold black lines indicate the number of appointments required:

The nomination of applicants to the following listed Board and Committee vacancies will be moved forward to the next Regular City Council Meeting for consideration of appointment.

**a) Mayoral Nominations – None Scheduled**

**b) City Council Nominations**

Suggested Resolution
Resolution #2009-10-

Moved by
Seconded by

RESOLVED, That Troy City Council hereby **FORWARDS** the following nominated person(s) to serve on the Boards and Committees as indicated to the next Regular City Council Meeting for action:

**Advisory Committee for Senior Citizens**
Appointed by Council (9-Regular) - 3-Year Terms

_____ Unexpired Term 04/30/2012

**Ethnic Issues Advisory Board**
Appointed by Council (9-Regular) - 2 & 3-Year Terms

**2-Year Term** Term Expires 09/30/2011

**2-Year Term** Term Expires 09/30/2011

**2-Year Term** Term Expires 09/30/2011

**Historic District Commission**
Appointed by Council (7-Regular) - 3-Year Terms; Student – 1-Year Term

_____ Term Expires 07/01/2010

**Personnel Board**
Appointed by Council (5-Regular) - 3-Year Terms

_____ Unexpired Term 04/30/2011

**Youth Council**
Appointed by Council (13 Regular) - Student 1-Year Term

_____ Term Expires 06/01/2010

_____ Term Expires 06/01/2010

Yes:
No:

**E-3 Interlocal Agreement for the Major Case Assistance Team (MCAT)**

Suggested Resolution
Resolution #2009-10-
Moved by

Seconded by

WHEREAS, The Major Case Assistance Team (MCAT) is a collaborative initiative aimed at resolving complex criminal cases through the provision of additional trained personnel and equipment to member agencies involved in major criminal investigations; and

WHEREAS, In order to participate in MCAT, approval of the Interlocal Agreement between the City of Troy and Oakland County is required;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the attached Interlocal Agreement for the Major Case Assistance Team between the City of Troy and Oakland County; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Chief of Police to sign the Interlocal Agreement on behalf of the City of Troy, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:
No:

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**E-4 Bid Waiver – Casualty and Property Insurance – Two (2) Year Renewal with the Michigan Municipal Risk Management Authority (MMRMA) for November 2009-10 and November 2010-11**

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

WHEREAS, On April 20, 2009, City Council authorized City Management to negotiate a new agreement for Casualty and Property Insurance with the Michigan Municipal Risk Management Authority (MMRMA) (Resolution #2009-04-139-F-5);

WHEREAS, The MMRMA has provided an exceptional offer of a two year agreement under the same terms and conditions as the previous agreement; and

WHEREAS, The agreement would include a $3,377.00 premium decrease in the first year (2009/2010), and a not to exceed 3% premium increase in the second year (20010/2011);

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **WAIVES** formal bidding procedures and hereby **APPROVES** the new agreement with the MMRMA to provide Casualty and Property Insurance for a premium of $316,499.00 in 2009/2010, and a not to exceed premium of $325,994.00 in 2010/2011; and

BE IT FINALLY RESOLVED, This contract also **INCLUDES** the maintenance of a positive loss fund balance of up to $150,000.00 expiring November 7, 2011.

Yes:
No:

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## E-5 Amendment of Consent Judgment – The Pavilions of Troy

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

WHEREAS, The City of Troy is a party to a Consent Judgment in Case Number 70-69246, Oakland County Circuit Court, governing 113 acres at the northwest corner of Big Beaver and Coolidge;

WHEREAS, There have been several amendments to the above referenced Consent Judgment, with the last amendment being the Fifth Order Amending the Consent Judgment, which was entered by the Court on November 28, 2006; and

WHEREAS, An amendment to the above referenced Consent Judgment is required in order to allow the development of PUD #9, a mixed use development named The Pavilions of Troy, which was approved by the Troy City Council on October 15, 2007 with the approval of The Pavilions of Troy Planned Unit Development Agreement and The Pavilions of Troy Conceptual Development Plan;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the proposed Sixth Order Amending Consent Judgment as to substance; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the City Attorney to execute this Sixth Order Amending Consent Judgment, or a substantively similar document, as soon as the document has been executed by the other parties to the Consent Judgment, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FINALLY RESOLVED, That upon the approval of all parties to the Consent Judgment, and the satisfaction of all terms and conditions of this or any other agreement between the parties, Troy City Council hereby **DIRECTS** the City Attorney to present the Sixth Order Amending Consent Judgment to the Court for entry and also to record the document with the Oakland County Register of Deeds.

Yes:
No:

## E-6 City of Troy v. UEOS Troy, LLC, et. al.

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **APPROVES** the Consent Judgment in the matter of *City of Troy* v. *UEOS Troy, LLC, et. al*. (Oakland County Circuit Court Case No. 09-098178-CC) and hereby **AUTHORIZES** the City Attorney to execute the Consent Judgment and have it

entered with the Court, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:
No:

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## E-7 Sole Source – East Jordan Iron Works – Complete Hydrant and Valve Repair Parts

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

WHEREAS, All fire hydrants in the City have been standardized and are manufactured by East Jordan Iron Works; and

WHEREAS, East Jordan Iron Works has agreed to provide East Jordan complete hydrants, as well as valve and hydrant repair parts directly to the City of Troy at discounts greater than those of distributors;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** a contract to provide East Jordan complete hydrants, and valve and hydrant repair parts from East Jordan Iron Works at list prices with discounts that range between 40% and 50%.

Yes:
No:

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## E-8 Bid Waiver – Sole Source Purchase – Top-Dress Materials

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

WHEREAS, Sand Sales Inc has been competitively priced and the sole supplier of top-dress materials for the City's golf courses over the last eighteen (18) years;

WHEREAS, In accordance with scientific research readily accepted throughout the industry to continue the use of the same top-dressing material for good sound agronomic principles; and

WHEREAS, The addition of Sanctuary Lake and the practice facility to the Golf division has necessitated the need for increased quantities of materials;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **WAIVES** formal bidding procedures and **AUTHORIZES** the purchase of top-dress materials from Sand Sales Inc. of Clarkston, Michigan for an annual cost not-to-exceed $20,000.00 per year; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **CONFIRMS** purchases totaling an estimated $3,200.00 over the approved administrative limit.

Yes:
No:

**E-9 Proposed Troy City Code Ordinance Amendments – Chapter 82, Property Maintenance Code; Chapter 48, Litter Ordinance; Chapter 79 – General Building Regulations, Appeal Procedures; Chapter 82-B – Dangerous Buildings Ordinance; Chapter 88 – Nuisance Ordinance; and Chapter 89 – Weed Control Ordinance**

**a) Update of Chapter 82 - Property Maintenance Code**

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to Chapter 82, Property Maintenance Code, of the Troy City Code, by deleting the existing text in its entirety and adopting new text in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of the meeting; and

BE IT FURTHER RESOLVED, That these revisions shall become **EFFECTIVE** on January 1, 2010.

Yes:
No:

**b) Amendment to Chapter 48 – Litter Ordinance**

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to Chapter 48, Litter, of the Troy City Code, by amending certain sections in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of the meeting; and

BE IT FURTHER RESOLVED, That these revisions shall become **EFFECTIVE** on January 1, 2010.

Yes:
No:

## c) Amendment to Chapter 79 – General Building Regulations, Appeal Procedures

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to Chapter 79, General Building Regulations, of the Troy City Code, by amending certain sections in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of the meeting; and

BE IT FURTHER RESOLVED, That these revisions shall become **EFFECTIVE** on January 1, 2010.

Yes:
No:

## d) Amendment to Chapter 82-B – Dangerous Buildings Ordinance

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to Chapter 82-B, Dangerous Buildings, of the Troy City Code, by deleting it in its entirety in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of the meeting; and

BE IT FURTHER RESOLVED, That these revisions shall become **EFFECTIVE** on January 1, 2010.

Yes:
No:

## e) Amendment to Chapter 88 – Nuisance Ordinance

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to Chapter 88, Nuisances, of the Troy City Code, by deleting certain sections in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of the meeting; and

BE IT FURTHER RESOLVED, That these revisions shall become **EFFECTIVE** on January 1, 2010.

Yes:
No:

### f) Amendment to Chapter 89 – Weed Control Ordinance

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **ADOPTS** an ordinance amendment to Chapter 89, Weed Control, of the Troy City Code, by deleting it in its entirety in accordance with the proposal prepared by City Management, a copy of which shall be **ATTACHED** to the original Minutes of the meeting; and

BE IT FURTHER RESOLVED, That these revisions shall become **EFFECTIVE** on January 1, 2010.

Yes:
No:

## PUBLIC COMMENT: Limited to Items Not on the Agenda

***Public comment limited to items not on the Agenda in accordance with the Rules of Procedure of the City Council, Article 16 - Members of the Public and Visitors.***

## CONSENT AGENDA:

***The Consent Agenda includes items of a routine nature and will be approved with one motion. That motion will approve the recommended action for each item on the Consent Agenda. Any Council Member may ask a question regarding an item as well as speak in opposition to the recommended action by removing an item from the Consent Agenda and have it considered as a separate item. Any item so removed from the Consent Agenda shall be considered after other items on the consent portion of the agenda have been heard. Public comment on Consent Agenda Items will be permitted under Agenda Item 12 "F".***

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### F-1a Approval of "F" Items NOT Removed for Discussion

Suggested Resolution
Resolution #2009-10-
Moved by
Seconded by

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item(s) _____, which **SHALL BE CONSIDERED** after Consent Agenda (F) items, as printed.

Yes:
No:

**F-1b Address of "F" Items Removed for Discussion by City Council and/or the Public**

**F-2 Approval of City Council Minutes**

Suggested Resolution
Resolution #2009-10-

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 6:00 PM Special/Joint City Council Meeting of September 28, 2009 as submitted; the Minutes of the 7:30 PM Regular City Council Meeting of September 28, 2009 as submitted; and the Minutes of the Special City Council Meeting of September 28, 2009 as submitted.

**F-3 Proposed City of Troy Proclamation: None Submitted**

**F-4 Standard Purchasing Resolutions:**

**a) Standard Purchasing Resolution 1: Award to Low Bidder – Asphalt Patching Material - Cold**

Suggested Resolution
Resolution #2009-10-

RESOLVED, That Troy City Council hereby **AWARDS** a seasonal contract for asphalt patching material – QPR/UPM to the low bidder, Saginaw Asphalt Paving Company of Saginaw, MI, at unit prices contained in the bid tabulation electronically received September 15, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with the contract expiring April 30, 2010; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of properly executed bid and proposal documents, including insurance certificates and all other specified requirements.

**b) Standard Purchasing Resolution 1: Award to Low Bidder – Library Parking Lot Improvement Project**

Suggested Resolution
Resolution #2009-10-

RESOLVED, That Troy City Council hereby **AWARDS** a contract to complete the Troy Public Library Parking Lot Improvement Project to the low total bidder, McCarthy Construction Company of Commerce Twp, MI, at unit prices contained in the bid tabulation opened

September 16, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of properly executed bid and contract documents, including bonds, insurance certificates and all other specified requirements.

**c) Standard Purchasing Resolution 1: Award to Low Bidder – Tee Shirts**

Suggested Resolution
Resolution #2009-10-

RESOLVED, That Troy City Council hereby **AWARDS** a contract for one-year requirements of Tee Shirts (various types) with an option to renew for one additional year to the low total bidder, Custom T's of Clawson, MI, at unit prices contained in the bid tabulation opened September 2, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting with a contract expiration of September 30, 2010.

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**F-5 Announcement of Public Hearing for November 9, 2009 – Community Development Block Grant (CDBG) 2010 Application**

Suggested Resolution
Resolution #2009-10-

RESOLVED, That Troy City Council hereby **SCHEDULES** a Public Hearing on November 9, 2009 at 7:30 PM or as soon thereafter as the agenda will permit for the purpose of hearing public comments on the adoption of the Community Development Block Grant 2010 application.

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**F-6 Approval of MDOT Contract 09-5601 between the City of Troy and Michigan Department of Transportation for the Utility Relocation Work for the Reconstruction of Rochester Road from Torpey to Barclay – Project No. 99.203.5**

Suggested Resolution
Resolution #2009-10-

RESOLVED, That Troy City Council hereby **APPROVES** MDOT Contract No. 09-5601 between the City of Troy and the Michigan Department of Transportation for the utility relocation work by AT&T and Consumers Energy for the reconstruction of Rochester Road from Torpey to Barclay at an estimated cost to the City of Troy of $122,001.00, and **AUTHORIZES** the Mayor and City Clerk to execute the documents, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

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**F-7 Macy's Fireworks Permit Application**

Suggested Resolution
Resolution #2009-10-

RESOLVED, That Troy City Council hereby **ISSUES** a fireworks permit to Zambelli Fireworks, Inc. of New Castle, PA, for the display of fireworks at Macy's at the Oakland Mall on November 6, 2009.

## MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

**G-1 Announcement of Public Hearings: None Submitted**

**G-2 Memorandums: None Submitted**

## COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

**H-1 No Council Referrals Advanced**

## COUNCIL COMMENTS:

**I-1 No Council Comments Advanced**

## REPORTS:

**J-1 Minutes – Boards and Committees:**

**a)** Advisory Committee for Senior Citizens/Final – June 4, 2009
**b)** Liquor Advisory Committee/Final – June 8, 2009
**c)** Library Advisory Board/Final – June 11, 2009
**d)** Employees' Retirement System Board of Trustees/Final – August 12, 2009
**e)** Historic District Commission/Final – August 18, 2009
**f)** Planning Commission Special/Study/Final – August 25, 2009
**g)** Joint Birmingham Planning Board/Planning Commission/Draft – August 26, 2009
**h)** Youth Council/Final – August 26, 2009
**i)** Election Commission/Final – August 27, 2009
**j)** Ethnic Issues Advisory Board/Draft – August 27, 2009
**k)** Planning Commission Special/Study/Final – September 1, 2009
**l)** Building Code Board of Appeals/Draft – September 2, 2009
**m)** Advisory Committee for Senior Citizens/Draft – September 3, 2009
**n)** Liquor Advisory Committee/Draft – September 14, 2009
**o)** Youth Council/Draft – September 23, 2009
**p)** Election Commission/Draft – September 25, 2009

**J-2 Department Reports:**

**a)** City Attorney's Office – 2009 Third Quarter Litigation Report

**J-3 Letters of Appreciation:**

**a)** Letter of Thanks to Andy Willetts and the Water Department from McClure's and Pickle Staff Regarding Assistance in Maintaining Water during Construction Project

**J-4 Proposed Proclamations/Resolutions from Other Organizations:**

**a)** City of Farmington Hills Resolution in Support of Area-Wide Public Transportation

**b)** Consideration of a Resolution from the Clawson Historical Museum Board Disapproving Executive Order No. 2009-36, Setting Forth Changes in the Organization of the Executive Branch of State Government

**c)** Consideration of a Resolution from the Blair Memorial Library Board Disapproving Executive Order No. 2009-36, Setting Forth Changes in the Organization of the Executive Branch of State Government

**J-5 Troy Youth Assistance Board Meeting Minutes/Final – August 20, 2009**

## STUDY ITEMS:

**K-1 Continuation of Discussion on the 6-Year Organizational Restructuring Plan**

## PUBLIC COMMENT: Address of "K" Items

***Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item 18 of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with members of the public during their comments. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair. City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.***

## CLOSED SESSION:

**L-1 No Closed Session Requested**

## ADJOURNMENT

Respectfully submitted,

John Szerlag, City Manager

## FUTURE CITY COUNCIL PUBLIC HEARINGS:

Monday, October 19, 2009

1. Establishment of an Industrial Development District( IDD), Issuance of an Industrial Facilities Exemption Certificate (IFEC), and Plant Rehabilitation Exemption (PR) – Bostick Rochester Road Development, LLC and AxleTech International, LLC – 1400 Rochester Road

Monday, November 9, 2009

1. Community Development Block Grant (CDBG) 2010 Application (pending)

## SCHEDULED CITY COUNCIL MEETINGS:

Monday, October 19, 2009 ..... Regular City Council
Monday, November 9, 2009 ..... Regular City Council
Monday, November 23, 2009 ..... Regular City Council
Monday, December 7, 2009 ..... Regular City Council
Monday, December 21, 2009 ..... Regular City Council

# CITY COUNCIL ACTION REPORT

DATE: September 28, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager/Economic Development Services
R. Brent Savidant, Acting Planning Director

SUBJECT: Public Hearing – Zoning Ordinance Text Amendment (File Number: ZOTA 240) – Article 43 – BZA Provisions

The Planning Commission held a public hearing for this item at the August 25, 2009 Special/Study meeting and recommends approval of ZOTA 240.

The Zoning Ordinance does not mandate that applications to the Board of Zoning Appeals (BZA) first seek Site Plan Approval from the Planning Commission, prior to being considered by the BZA. Applications are considered by the BZA before the Planning Commission has an opportunity to review and provide input into site layout and design. This process allows the BZA to grant variances before a site plan is reviewed inter-departmentally and by the Planning Commission. The attached draft Zoning Ordinance Text Amendment (ZOTA) is intended to eliminate this flawed process.

The proposed ZOTA requires that applications to the BZA that also require review and approval by the Planning Commission go first to the Planning Commission for comment. The Planning Commission can take action on the item but shall not grant Preliminary Site Plan Approval nor make a recommendation on the variance. The Planning Commission then transmits their findings to the BZA, which decides upon the application. The BZA then returns its decision to the Planning Commission for action on the site plan.

City Management recommends approval of ZOTA 240.

Approved as to form and legality: _____
Lori Grigg Bluhm, City Attorney

Attachments:
1. ZOTA 240 City Council Public Hearing Draft.
2. Minutes from August 25, 2009 Planning Commission Special/Study meeting.

Prepared by RBS/MFM

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT
ZOTA 240

The City of Troy ordains:

Section 1. Short Title
This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Article XL of Chapter 39

Article XL of Chapter 39 of the Code of the City of Troy is amended to add a provision requiring Planning Commission review of applications to the Board of Zoning Appeals, when applications require site plan approval, to read as follows:

> SECTION 43.86.00 PLANNING COMMISSION REVIEW OF SITE PLAN
>
> If an application to the Board of Zoning Appeals requires site plan approval by the Planning Commission pursuant to the provisions of Section 03.40.03, the applicant shall first apply for site plan approval as set forth in Article 03.41.00. The Planning Commission shall review the site plan including site layout and other design features, but shall not grant Preliminary Site Plan Approval nor make a recommendation on the variance. The Planning Commission shall then transmit the site plan and the minutes related to said site plan to the Board of Zoning Appeals. The Board of Zoning Appeals shall transmit its decision related to the application to the Planning Commission. The Planning Commission shall then take action on the site plan.

Section 3. Savings

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

Section 4. Severability Clause

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

Section 6. 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 at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2009.

_____
Louise E. Schilling, Mayor

_____

Tonni L. Bartholomew, MMC
City Clerk

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## ZONING ORDINANCE TEXT AMENDMENT

6. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 240) – Amendment to Article 43, Board of Zoning Appeals Provisions

Mr. Savidant reviewed the proposed Zoning Ordinance Text Amendment relating to the Board of Zoning Appeals (BZA) provisions. The draft text states that the Planning Commission shall not grant Preliminary Site Plan Approval nor make a recommendation on the variance.

Mr. Forsyth gave a brief explanation on the separate and distinct powers of the Planning Commission and Board of Zoning Appeals. He indicated the intent of the proposed language is to avoid the Planning Commission telling the Board of Zoning Appeals what to do. Mr. Forsyth discussed the role of the Planning Commission member as a representative on the Board of Zoning Appeals in relation to consideration by both entities of a particular item.

There was further discussion on individual opinions expressed by Planning Commission members and the transmittal of those opinions to the BZA through prepared meeting minutes.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

***Resolution # PC-2009-08-073***
Moved by: Ullmann
Seconded by: Edmunds

***RESOLVED***, That the Planning Commission hereby recommends to the City Council that Article 43, BOARD OF ZONING APPEALS, pertaining to the requirement of Planning Commission review for items that require site plan approval and a variance(s), prior to being considered by the Board of Zoning Appeals, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (8)
Absent: Vleck

**MOTION CARRIED**

# CITY COUNCIL ACTION REPORT

September 17, 2009

TO: John Szerlag, City Manager

FROM: Gary Mayer, Chief of Police

SUBJECT: Interlocal Agreement for the Major Case Assistance Team (MCAT)

Background:

The Major Case Assistance Team (MCAT) is a collaborative initiative aimed at resolving complex criminal cases through the provision of additional trained personnel and equipment to member agencies involved in major criminal investigations. Participating agencies are the Auburn Hills Police Department, the Birmingham Police Department, the Bloomfield Township Police Department, the Clawson Police Department, and the Troy Police Department, with provisions for additional agencies through a majority vote of the representatives of the participating agencies.

An Interlocal Agreement will provide investigators of the participating agencies with the powers and authority of police officers of the requesting agency while working in concert with the Chief of Police of a requesting agency.

A resolution by the City Council exercising approval of the Interlocal agreement between the City of Troy and Oakland County is required.

Financial Considerations:

There is no anticipated negative financial impact on the city. By combining resources to resolve complex criminal cases, it is anticipated that any overtime costs typically associated with those types of investigations will be minimized.

Legal Considerations:

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

Policy Considerations:

Enhance the livability and safety of the community.

# INTERLOCAL AGREEMENT
# FOR THE MAJOR CASE ASSISTANCE TEAM

**THIS INTERLOCAL AGREEMENT** entered into by and between the City of Clawson, the City of Troy, the City of Birmingham, the City of Auburn Hills and the Charter Township of Bloomfield, all located in the County of Oakland, State of Michigan, which collectively shall be referred to as the Major Case Assistance Team ("Team").

## RECITALS

Article VII, Section 28 of the Michigan Constitution of 1963 provides, in part, that two or more counties, townships, cities, villages, or districts, or any combination thereof, may, among other things, enter into contractual undertakings or agreements with one another for the joint administration of any of the functions or powers which each would have the power to perform separately; and,

The Urban Cooperation Act of 1967, MCLA §124.501 et seq.; MSA §5.4088 et seq. provides that a public agency (defined to mean a political subdivision of this state including, but not limited to, a county, city, village, township, or charter township) may exercise jointly with any other public agency of the state any power, privilege or authority which such agencies share in common and which each might exercise separately; and,

Each local governmental unit has decided that it is in the best interests of such local governmental unit to become a Member of the Team to exercise such additional powers, functions, duties, and responsibilities granted to the Team and imposed upon it by this Agreement; and,

The Members endeavor to realize and benefit from each Member's accumulated expertise and recognize substantial savings in time, effort, and expenses to each individual Member by being a Member of the Team; and,

In consideration of the foregoing, the parties agree to the Interlocal Agreement as set forth below.

## SECTION 1: Purpose of Agreement

A. This Agreement is made in recognition of the fact that local law enforcement capabilities are enhanced by having access to regionalized facilities, programs and the assistance of other departments. It is the purpose of this Agreement to provide the means whereby enhanced access to facilities, programs, training and assistance is provided through the Intergovernmental cooperation of the Participating Agencies.

B. It is the intent of this organization that each member shall bear its own costs and risk of liability associated with personnel, training, and equipment when providing assistance to another member. When entering into membership, it is impossible to predict the frequency or intensity of a particular member's mutual aid requirements. Therefore, some members may ultimately receive a greater measure of actual benefit than other members. The purpose of entering into such an Intergovernmental Agreement is to gain access to mutual aid when required. A consideration for the access is the known risk that the ultimate cost and benefit may not be evenly distributed among members.

## SECTION 2: Definitions

For purposes of this Agreement, the following terms shall be defined as set forth in this section, as follows:

A. *Participating Agency.* Any one or more agencies that have duly adopted a resolution authorizing the execution of this Agreement.

B. *Agreement*. This Intergovernmental Major Case Assistance Team Agreement.

C. *Police Assistance.* Assistance provided by any Participating Agency to any other Participating Agency, which shall include, but not be limited to, the assignment of sworn and/or civilian personnel and the use of equipment for such assistance as back-up on traffic stops, investigations, establishment of regionalized operations or administrative programs, and major crime task forces, all as more fully defined in the Operations Manual developed pursuant to this Agreement and incorporated herein by reference.

D. *Requesting Agency.* A participating agency that requests police assistance pursuant to this Agreement.

E. *Aiding Agency.* A participating agency that provides police assistance pursuant to this Agreement.

F. *Chief of Police.* The highest ranking law enforcement officer of a participating agency or his or her designee.

G. *City Manager, Township Supervisor.* The chief administrative officer or designee of that officer for each member municipality.

**SECTION 3: Rights of Participating Agency**

The rights of each participating agency shall be as set forth in this Section and shall be exercised by and through the actions of the Chief of Police, or his or her designee, of each respective participating agency.

A. Any participating agency may request police assistance from any one or more participating agency when, in the judgment of the Chief of Police of the requesting agency, such assistance is necessary. The request shall be made to the MCAT Coordinator.

B. Any participating agency may render aid to any one or more participating agencies to the extent available personnel and equipment are not required for the adequate protection of the aiding agency. In making that determination, the Chief of Police of the aiding agency may consider the reasonableness or urgency of the request and the amount of personnel, equipment and time commitment available to the requesting agency, and that determination shall be final.

C. The Chief of Police of the requesting agency shall, through the MCAT Coordinator, direct the actions of any sworn or civilian personnel of any aiding agency providing police assistance pursuant to this Agreement.

D. Nothing in this Agreement shall prevent any participating agency from cooperating with any other agency, regardless of whether it is a participating agency. Nor shall anything in this Agreement prevent

any participating agency from acting jointly or in cooperation with any other local, state or federal unit of government or agency thereof, to the fullest extent permitted by law.

## SECTION 4: Authority of Sworn Police Personnel

Any sworn police officers providing police assistance to a requesting agency under this Agreement shall have all of the powers of police officers of the requesting agency, including the power of arrest, and are subject to the direction of the MCAT Coordinator working in concert with the Chief of Police of a requesting agency.

## SECTION 5: Compensation Between Participating Agencies, Length of Engagement for Investigation

A. Except as hereinafter provided, the assistance provided by any aiding agency under this Agreement shall be rendered without charge to the requesting agency or any other participating agency.

B. The length of any particular activation of MCAT shall be as set forth in the Operations Manual. If any agency desires to retain the services of another agency's employee beyond the time limits set forth in the Operations Manual, they may do so only with the consent of the aiding agency. Under such circumstances, the agencies shall determine between themselves the amounts of compensation to be paid to the aiding agency.

## SECTION 6: Responsibilities and Liability of Participating Agencies

A. Each participating agency shall assume the responsibility for the actions of its sworn or civilian personnel acting pursuant to this Agreement both as to liability and as to the payment of benefits to such sworn or civilian personnel all to the same extent as such personnel are insured, indemnified and otherwise protected when acting within the participating agencies' respective corporate limits.

B. Each participating agency shall be responsible for the payment of all benefits to all of its sworn and civilian personnel acting pursuant to this Agreement, including, but not limited to the payment of wages, salaries, disability payments, pension benefits, workers' compensation claims, and claims for damage to or destruction of equipment and clothing, and claims for medical expenses.

C. The parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees. Nothing in this Agreement shall be construed as creating an obligation to indemnify or defend any other party or parties for any claim, damage or liability arising out of or stemming from an act or action of a party.

## SECTION 7: Board of Directors; Operations Manual

A. The Chief of Police of each participating agency, or his or her designee, shall constitute the Board of Directors of the Major Case Assistance Team.

B. The Board of Directors shall establish an Operations Manual for implementing this Agreement. The Operations Manual shall include, but not be limited to, procedures for requesting, rendering and receiving aid. The Operations Manual shall be reviewed, updated and evaluated by the Board of Directors at regular intervals.

## SECTION 8: General Provisions

A. This Agreement shall be in full force and effect and is legally binding upon each participating agency at such time as it is signed and certified by that participating agency.

B. This Agreement may be amended from time to time in writing and approved by resolution of the appropriate governing body of three quarters of the participating agencies. The effective date of any amendment shall be the date as of which the last of the necessary agencies has approved the amendment.

C. This Agreement shall remain in full force and effect and shall bind the participating agency executing the Agreement and said governing body of the participating agency adopting a resolution giving its approval to this Agreement. Certified copies of such resolution shall be filed with the other appropriate office of all other participating agencies within thirty (30) days of its passage.

D. Nothing in this Agreement shall be construed as creating an employer-employee relationship between any party (including any of its agents) and any other party (including any of its agents).

E. The parties shall not discriminate against their employees, agents, applicants for employment or other person or entities with respect to hire, tenure, terms, conditions and privileges of employment or any matter directly or indirectly related to employment in violation of any federal, state or local law.

F. This Agreement may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF,** this Agreement has been duly executed this _____ day of _____ 2009.

| CITY OF AUBURN HILLS | CITY OF CLAWSON |
|---|---|
| By:_____ | By:_____ |
| Its: _____ | Its:_____ |

_____

Auburn Hills Police

_____

Clawson Police

CITY OF BIRMINGHAM

By: _____
Its: _____

CITY OF TROY

By:_____
Its:_____

_____

Birmingham Police

_____

Troy Police

TOWNSHIP OF BLOOMFIELD

By: _____
Its: _____

_____

Bloomfield Township Police

_____

Major Case Assistance Team
Coordinator

_____

Major Case Assistance Team
Assistant Coordinator

City of Troy

# CITY COUNCIL ACTION REPORT

September 14, 2009

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration
James A. Nash, Financial Services Director
Stephen Cooperrider, Risk Manager

SUBJECT: Agenda Item --- Bid Waiver — Casualty and Property Insurance --- Two (2) Year Renewal with the Michigan Municipal Risk Management Authority (MMRMA) for November 2009-10 and November 2010-11

Background:

- The City is in receipt of a negotiated two year renewal offer letter from the MMRMA. *(attached)*
- On Monday, April 20, 2009 City Council gave City Management approval to negotiate a new agreement with the MMRMA. *(Council resolution #2009-04-139-F-5)*
- The City has been a member of the MMRMA since 1990.
- The current agreement with the MMRMA expires November 8, 2009.
- Attached is a history of insurance premiums paid for casualty and property insurance since 1988-1989.
- The MMRMA has previously submitted a successful competitive bid on four separate occasions since 1990.
- The MMRMA has provided outstanding service and pricing to the City for the past 19 years, including through a difficult hard insurance market following the World Trade Center tragedy.
- The MMRMA provides insurance coverage to 51 governmental entities in Oakland County, and 333 entities Statewide. *(The Top Ten Oakland County communities ranked by population that are MMRMA members is attached.)*
- A review of other municipalities' insurance programs was conducted recently by the Risk Management Department which showed the proposal by the MMRMA to be exceptional.

Financial Considerations:

- The cost for casualty and property insurance from the MMRMA for 2008-09 was $319,876.
- The MMRMA is proposing a two year agreement (November 2009 – November 2011) with the City at a first year cost of $316,499, a 1% decrease or $3377. With the second year not to exceed a 3% increase or $325,994, based on exposures.

- In addition, the MMRMA has returned a net asset check in each of the last three years totaling $181,905. The MMRMA has indicated there will be no check this year to its members but anticipates there will be a net asset check in 2010.
- MMRMA financial strength (program assets of $290,871,489 and a fund balance of $158,255,345), the broadest available coverage, a reinsurance program that includes carriers with the highest financial ratings that are admitted to do business in the State of Michigan.
- Other services provided by the MMRMA at no additional cost include: claims handling services, notary bonds, Oakland County Sheriff's bonds, loss control services, risk management counseling, educational seminars, etc.

Policy Considerations:

- City Management's fiscal responsibility to City Council and our residents is best served by continuing the relationship with the MMRMA.
- The MMRMA broad coverage document provides the City with a property and casualty insurance portfolio that enhances all of the City's goals and objectives, and continues to meet the City's changing needs.

Options:

- It is City Management's recommendation that City Council approve the two year renewal of the City's casualty and property insurance coverage with the MMRMA for a cost in fiscal year 2009-10 of $316,499, and a second year cost in fiscal year 20010-11 not to exceed $325,994, depending on exposures. This agreement would include the continued maintenance of a positive loss fund balance of up to $150,000.

MICHIGAN MUNICIPAL
RISK MANAGEMENT
AUTHORITY

September 2, 2009

Stephen Cooperrider
Risk Manager
City of Troy
500 West Big Beaver Road
Troy, MI 48084

Dear Stephen,

The City of Troy and Michigan Municipal Risk Management Authority have shared an excellent working relationship for the past 19 years. As you know, we are a member-run organization whose Board of Directors is elected from the membership that make decisions for the good of the entire membership, for example; the excess net asset distributions of recent years. The City of Troy has received $181,905 in distributions so far. Even though the Board of Directors suspended distributions for this year, distributions are expected to return next year. **Your longevity and continuous years of MMRMA Membership play a large part in your return, along with your claim experience and contributions.** You have to ask yourself: Would an insurance company's Board of Directors make the same decision? Or would it declare bonuses to the company's executives and agents?

MMRMA sets aside $750,000 in grant funding each year for its Risk Avoidance Program (RAP) to help members develop and implement projects with high potential for solving risk management problems. Not to my knowledge does any other insurance company or municipal pool in the state of Michigan set aside grant money for its members to help educate and prevent liability losses. The City of Troy has participated in funding for police TASERs, education and training, and police in-car cameras for a total amount of $30,650 in RAP grant funding. Along with our grant money our risk control services is provided to Members at no additional charge. We provide onsite inspections, surveys, review of policies and procedures, employee training, educational material and individual assistance for member's special risk exposures.

This year I am pleased that we can offer the City of Troy a renewal with a slight decrease in pricing ($316, 499), a savings of $3377. Also, I am happy to say we are able to offer the City of Troy an extended contract for a second year 2010, with an increase not to exceed 3%.

MMRMA is a Michigan company, we provide insurance and risk management services for Michigan governmental entities only. We work, live and spend our money in the State of Michigan. I consider the City of Troy a valued Member and will do everything in my power to earn and keep the excellent relationship we have with the City.

Please, if at any time you have questions or concerns, do not hesitate to call on me.

Sincerely,

Boyd M. Smith, CIC
MMRMA Risk Manager

BOARD OF DIRECTORS

JAMES KOHMESCHER, Chair, City of Wyoming | JAMES SCHARRET, Vice Chair, City of Southfield | MICHAEL BOSANAC, Secretary, Monroe County | RICHARD BURKE, City of Ishpeming | MICHAEL DORNAN, City of Wixom | DOUGLAS JOHNSON, Otsego County | FABIAN KNIZACKY, Mason County | TRISCIA PILCHOWSKI, Charter Township of Highland | KATHY REVELS, City of Mason | ROBERT SEETERLIN, Charter Township of Waterford

MICHAEL L. RHYNER, Executive Director

14001 Merriman Road • Livonia, MI 48154 • 734.513.0300 • 800.243.1234 • FAX 734.513.9219

ATTACHMENT #1

9/11/2009

## INSURANCE PREMIUM HISTORY

| POLICY YEAR | INSURER | PREMIUM CASUALTY AND PROPERTY | SELF-INSURED RETENTION | LIMITS | LOSS FUND CONTRIBUTION | NET ASSET DISTRIBUTION |
|---|---|---|---|---|---|---|
| 1988/89 | Corroon and Black | $866,048 | Varied by coverage | Varied by coverage | Not Applicable | |
| 1989/90 | Note: C&B put on notice that we were comparing a quote from the MML. | | | | | |
| | Corroon and Black | $729,286 | Varied by coverage | Varied by coverage | Not Applicable | |
| 1990/91 | Note: RFP from C&B, MML, and MMRMA. | | | | | |
| | MMRMA | $495,599 | $100,000 | $10 mil | $50,000 | |
| 1991/92 | Note: RFP from C&B, MML, and MMRMA. | | | | | |
| | MMRMA | $519,586 | $100,000 | $10 mil | $50,000 | |
| 1992/93 | NOTE: RFP from MML and MMRMA. (C&B declined to bid) | | | | | |
| | MMRMA | $467,300 | $150,000 | $10 mil | $50,000 | |
| 1993/94 | NOTE: RFP for 3 year contract from MML, MMRMA, Johnson & Higgins, and Sedgwick James | | | | | |
| | MMRMA | $296,804 | $250,000 | $10 mil | $55,615 | |
| 1994/95 | MMRMA | $314,767 | $250,000 | $10 mil | $60,921 | |
| 1995/96 | MMRMA | $329,818 | $250,000 | $10 mil | $89,132 | |
| 1996/97 | NOTE: RFP for 3 year contract from Lademan & Youd, MMRMA, MI Community Underwriters, Ralph Wilson Agency, and Gallagher Abow. (MML, Willis Corroon, and Sedgwick James declined to bid.) | | | | | |
| | MMRMA | $294,391 | $250,000 | $10 mil | $73,000 | |
| 1997/98 | MMRMA | $292,874 | $250,000 | $10 mil | $73,000 | |
| | NOTE: Limits automatically increased during year at no cost. | | | $15 mil | | |
| 1998/99 | MMRMA | $291,761 | $250,000 | $15 mil | $0 | |
| | NOTE: Negotiated new three year agreement with the MMRMA. | | | | | |
| 1999/00 | MMRMA | $262,585 | $250,000 | $15 mil | Not requested by MMRMA | |
| 2000/01 | MMRMA | $269,829 | $250,000 | $15 mil | Not requested by MMRMA | |
| 2001/02 | MMRMA | $277,297 | $250,000 | $15 mil | Not requested by MMRMA | |
| | NOTE: Negotiated a new two year agreement with MMRMA. | | | | | |
| 2002/03 | MMRMA | $282,096 | $500,000 | $15 mil | $118,640 | |
| 2003/04 | MMRMA | $282,096 | $500,000 | $15 mil | $30,800 | |
| | NOTE: Negotiatied a new one year agreement with the MMRMA. | | | | | |
| 2004/05 | MMRMA | $293,685 | $500,000 | $15 mil | $150,000 | |
| | NOTE: Negotiatied a new one year agreement with option to renew with the MMRMA. | | | | | |
| 2005/06 | MMRMA | $299,563 | $500,000 | $15 mil | $143,725 | |
| 2006/07 | MMRMA | $310,259 | $500,000 | $15 mil | Not requested by MMRMA | $24,320 |
| | NOTE: Negotiatied a new two year agreement with the MMRMA. | | | | | |
| 2007/08 | MMRMA | $310,567 | $500,000 | $15 mil | Not requested by MMRMA | $44,683 |
| 2008/09 | MMRMA | $319,876 | $500,000 | $15 mil | Not requested by MMRMA | $112,902 |

Listing of the Top Ten Oakland County communities ranked by population that are MMRMA members.

| COMMUNITY | DATE JOINED MMRMA |
|---|---|
| City of Southfield | September 1, 1985 |
| City of Farmington Hills | June 10, 1985 |
| City of Troy | November 8, 1990 |
| City of Pontiac | July 1, 1985 |
| Waterford Township | December 15, 1983 |
| City of Royal Oak | May 31, 1985 |
| City of Rochester Hills | July 27, 1985 |
| Bloomfield Township | August 20, 1997 |
| West Bloomfield Township | July 27, 1985 |
| City of Madison Heights | July 1, 1986 |

**TO:** Members of Troy City Council
**FROM:** Lori Grigg Bluhm , City Attorney
Christopher J. Forsyth, Assistant City Attorney
**DATE:** September 29, 2009
**SUBJECT:** Amendment of Consent Judgment- The Pavilions of Troy

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Simultaneous with City Council's October 15, 2007 approval of The Pavilions of Troy Planned Unit Development (PUD), there was also an authorization to amend the 1973 consent judgment that governs 113 acres at the northwest corner of Big Beaver and Coolidge Roads (Sheffield Development v. Troy Consent Judgment, Case Number 70-69246). This amendment was necessary, since it expressly provided that the approved PUD supercedes the consent judgment as to the PUD property only. All other property is still governed by the terms of the consent judgment, as amended. The simultaneous approval did not allow for all other parties to the consent judgment to approve the amendment. Based on this, the resolution "approved the document as to substance," and authorized our office to execute a "substantively similar document, as soon as the document has been executed by the other parties to the Consent Judgment." (Resolution 2007-10-296).

Hunter Richardson of Richardson Development Group and his attorneys, Rick Rattner and Mike Benoit of Williams Williams Rattner & Plunkett, P.C. have continued to negotiate with the other property owners that are subject to the consent judgment, and as a result of this negotiation, there are some minor revisions to this version. One revision is to include the updated information regarding property transfers. Another revision is to treat each parcel separately for parking or access purposes. This allows for a property owner to request a parking deviation through the City's normal channels, without going through the cumbersome process of amending the consent judgment. This modification is intended to facilitate implementation of concepts found in the Big Beaver Corridor Study. Time is of the essence in this matter, since one of the property owners intends to seek a parking deviation. In addition, this consent judgment needs to be amended in order to proceed with the PUD process, and the prospective purchaser of the PUD property, Grand Sakwa, is also interested in getting this matter finalized as quickly as possible.

Since it has been almost two years, this amendment is being brought back for your review and anticipated approval. Upon information and belief, all property owners subject to this consent judgment have given tentative approval. Although we generally obtain all signatures before presenting the proposed amendment to City Council, it may be difficult to obtain some of the signatures from people located out of state, and it may not be possible to obtain all signatures prior to the October 5, 2009 City Council meeting. Therefore, we are again proposing a resolution, similar to the resolution approved in 2007, which requests the City Council's approval of the Sixth Order Amending Consent Judgment, and authorizes us to execute the document on behalf of the City after all other signatures are affixed.

Please let us know if you have any questions regarding this matter.

WWRP Williams Williams Rattner & Plunkett, P.C. 380 North Old Woodward Avenue Suite 300 Birmingham, Michigan 48009 Tel: (248) 642-0333 Fax: (248) 642-0856
www.wwrplaw.com

**STATE OF MICHIGAN**
**OAKLAND COUNTY CIRCUIT COURT**

DIAMOND TROY JV LLC a Delaware limited liability company, GM EQUITIES LLC, a Michigan limited liability company, KMART CORPORATION, a Michigan corporation, and SHEFFIELD OWNER, LLC, a Delaware limited liability company,

Plaintiffs,

Case No. 70-69246
Hon. Steven N. Andrews

v

CITY OF TROY, a municipal corporation, its officers, employees and agents,

Defendants.
_____/

**SIXTH ORDER AMENDING CONSENT JUDGMENT**

At a session of said Court held in the Courthouse
in the City of Pontiac, Oakland County, Michigan

On _____

Before The Hon. _____

DIAMOND TROY JV LLC, GM EQUITIES LLC., KMART CORPORATION, SHEFFIELD OWNER, LLC and the CITY OF TROY consent to the entry of this Sixth Order Amending Consent Judgment ("Amendment").

A. On May 9, 1973, this Court entered a "Consent Judgment" affecting certain property (the "Property"), described as follows:

WWRP Williams Williams Rattner & Plunkett, P.C. 380 North Old Woodward Avenue Suite 300 Birmingham, Michigan 48009 Tel: (248) 642-0333 Fax: (248) 642-0856
www.wwrplaw.com

A part of the SE ¼ of Section 19, T2N, R11E, City of Troy, Oakland County, Michigan, being more particularly described as follows:
Commencing at the East quarter corner of Section 19; Thence S 89° 49' 05" W. 1379.48 ft.; Thence S. 00° 16' 35" W. 615.18 ft.; Thence S. 89° 49' 05" W. 708.54 ft.; Thence N. 00° 21 23" E. 142.59 ft.; Thence S. 89° 49' 05" W. 553.02 ft.; Thence S. 00° 21' 23" W. 2287.59 ft.; Thence N. 89° 30' 00" E. 1398.63 ft.; Thence N. 00° 01' 30" W. 1155.04 ft.; Thence N. 89° 30' 00" E. 1260.00 ft.; Thence N. 00° 01' 30" W. 370.28 ft.; Thence S. 89° 58' 30" W. 460.0 ft.; Thence N. 00° 01' 30" W. 500 ft.; Thence N. 89° 58' 30" E. 460.0 ft.; Thence N. 00° 01' 30" W. 720.0 ft. to the point of beginning.

B. The original parties to the Consent Judgment were Sheffield Development Company, a Michigan co-partnership ("Sheffield"), and the City of Troy, a municipal corporation, its officers, employees and agents (the "City").

C. Kmart Corporation, a Michigan corporation ("Kmart"), purchased approximately 15 acres of the Property from Sheffield. This portion of the Property was formerly designated as Parcel D-1, identified by Parcel Number 88-20-19-430-002. Parcel D-1 was later reconfigured to include 1.42 acres of land Kmart acquired from Lutheran Church of the Master, which was not part of the original Consent Judgment.(See attached Exhibit "A")

D. This Court entered an Order Amending Judgment on November 22, 1977, and Stipulation to Modify Judgment and Order on September 25, 1980, in order to clarify the respective rights of the parties and reflect certain changes occurring since the date of the Consent Judgment.

E. A Third Order Amending Judgment was entered by this Court on November 4, 1992, which reflected further changes occurring since the date of the Consent Judgment, and substituted the Prudential Insurance Company of America, a New Jersey corporation ("Prudential"), Sheffield's successor in interest, as plaintiff in the place of Sheffield. The Third

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Order Amending Judgment also established Parcel D-2, which is an approximately 5.815 acre parcel of property. At the time of the entry of the Third Order, Parcel D-2 was owned by Prudential and subsequently conveyed to Kmart.

F. Prudential subsequently conveyed its land interests in the Property to WHC-SIX Real Estate Limited Partnership, a Delaware limited partnership ("WHC-SIX").

G. A Fourth Order Amending Judgment was entered by this Court on December 10, 1998, which reflected further changes occurring since the date of the Consent Judgment, and substituted WHC-SIX and Kmart, Prudential's successors in interest, as plaintiffs in that case.

H. WHC-SIX subsequently conveyed its land interests in the Property to Sheffield Office II L.L.C., a Delaware limited liability company ("Sheffield Office"). Kmart subsequently conveyed its interest in Parcel D-2 to GM Equities, LLC ("Equities").

I. On or about June 7, 2005, Kmart and Diamond Troy JV, LLC ("Diamond") entered into a certain agreement, as amended, which, in part, provided that Kmart would convey to Diamond Parcel D-1, which was Kmart's only remaining land interest in the Property. Pursuant to the foregoing agreement, once Kmart conveyed Parcel D-1 to Diamond, Diamond would then divide Parcel D-1 into Parcels D-1-A and D-1-B and reconvey Parcel D-1-B back to Kmart. Diamond conveyed Parcel D-1-B to Kmart in November, 2007.

J. A Fifth Order Amending the Consent Judgment was entered by this Court on November 28, 2006, which permitted Diamond to divide Parcel D-1 into Parcels D-1-A and D-1-B and which approved certain improvements shown on the Site Plan to be made by Kmart or its successors or affiliates on Parcel D-1-B.

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K. In December of 2007, Sheffield Office conveyed the portion of the Property identified on Exhibit "B" attached hereto as the "Sheffield Parcel" to Sheffield Owner, LLC, a Delaware limited liability company ("Sheffield Owner").

L. As a result of the modifications to the Consent Judgment and the other conveyances referenced in Paragraphs B. through J. above, as of the date hereof, the Property is configured as depicted on Exhibit "B" attached hereto and made a part hereof. The Parcels identified on Exhibit B are currently owned as follows:

(i) The portion of the Property identified as "Parcel D-1-A" is currently owned by Diamond.

(ii) The portion of the Property identified as "Parcel D-1-B" is currently owned by Kmart.

(iii) The portion of the Property identified as "Parcel D-2" is currently owned by Equities.

(iv) The portion of the Property identified as the "Sheffield Parcel" consists of three separate parcels of property, all currently owned by Sheffield Owner.

The Sheffield Parcel, Parcel D-1-A, Parcel D-1-B and Parcel D-2 as described in this Sixth Order Amending Consent Judgment, collectively, comprise all of Parcel B, Parcel C and Parcel D, as identified in this original Consent Judgment.

M. Parcel D-1-A is also described as Parcel I of a Planned Unit Development, named The Pavilions of Troy, which was requested by Diamond, and approved by the Troy City Council after a public hearing on October 15, 2007. This Planned Unit Development also includes 28.18 acres of property (identified in the PUD Agreement as Parcel II), which is not subject to this Consent Judgment, as Amended. This Planned Unit Development is a mixed use

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development, and is set forth in the approved PUD Agreement which is recorded with the Oakland County Register of Deeds. A copy of the fully executed PUD Agreement is attached hereto as Exhibit "C." As used in this Sixth Order Amending Consent Judgment, the term "PUD Agreement" shall mean the PUD Agreement attached hereto as Exhibit C, as may be amended from time to time; and the term "Consent Judgment" shall mean this Consent Judgment, as amended.

N. The parties desire to enter into this Amendment in order to allow Diamond to develop Parcel D-1-A in accordance with the PUD Agreement.

IT IS ORDERED AND ADJUDGED that the Consent Judgment is amended as follows:

1. Diamond is entitled to develop Parcel D-1-A in accordance with the approved PUD Agreement for The Pavilions of Troy, as may be amended from time to time, which is attached as Exhibit C. Amendments to or modification of the PUD Agreement shall not require further Court approval or otherwise require an amendment to the Consent Judgment.

2. In the event any term or provision of this Consent Judgment, as amended, is inconsistent with, or contrary or supplemental to the approved PUD Agreement for the Pavilions of Troy, the PUD Agreement shall control and such terms or provisions as they apply to Parcel D-1-A, are superseded, and shall be null and void.

3. Equities, Sheffield Office and Kmart shall no longer have any rights over Parcel D-1-A for parking, access or otherwise pursuant to the Consent Judgment. Diamond shall no longer have any rights over the Sheffield Parcel, Parcel D-2 and Parcel D-1-B for parking, access or otherwise pursuant to the Consent Judgment.

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To the extent that this Consent Judgment, as amended, required parking spaces on Parcel D-1-A to support the uses of the Sheffield Parcel, Parcel D-2 and/or Parcel D-1-B, those provisions are vacated.

4. The current amount of parking on each of the three parcels which comprise the Sheffield Parcel, Parcel D-2 and Parcel D-1-B is deemed sufficient to support the current uses within the current structures, nothing in this Order shall be construed to create an insufficiency in the amount of parking, and the owner(s) of any of the parcels which comprise the Sheffield Parcel, Parcel D-2 and/or Parcel D-1-B may, without further amending this Consent Judgment, seek to obtain from the City a parking deviation in the ordinary course.

5. Subject to the terms of this Consent Judgment, the Zoning Ordinance for the City of Troy ("Zoning Ordinance") in effect as of the date of the entry of this Amendment shall be the zoning ordinance applicable to the Property, notwithstanding any future amendment(s) to said Zoning Ordinance.

IT IS FURTHER ORDERED AND ADJUDGED that, other than as provided herein, the remaining provisions of the Consent Judgment, as amended, shall continue in full force and effect.

IT IS FURTHER ORDERED AND ADJUDGED that any and all covenants, restrictions, agreements, understandings, whether oral or written, whether recorded or unrecorded, by and among the parties hereto or their predecessor or successors, including, without limitation, the restrictions contained in the Warranty Deed recorded at Liber 6949, Page 528, Oakland County Records, that in any manner affect the development of the Property consistent with the terms and

conditions set forth in the PUD Agreement, are hereby deemed terminated and of no further force or effect.

IT IS FURTHER ORDERED AND ADJUDGED that a certified copy of this Sixth Order Amending Consent Judgment shall be recorded in the office of the Oakland County Register of Deeds and the Register of Deeds is hereby directed to accept the same for recording.

_____
Circuit Court Judge

THE UNDERSIGNED PARTIES HAVE HEREBY READ, UNDERSTAND, AGREE AND CONSENT TO THE FOREGOING SIXTH ORDER AMENDING CONSENT JUDGMENT AND ALL TERMS AND CONDITIONS STATED THEREIN. ALL SUCH PARTIES HEREBY REPRESENT THAT THEY HAVE OBTAINED ADVICE OF COUNSEL AND ARE CONSENTING TO THIS JUDGMENT FREELY AND VOLUNTARILY.

DIAMOND TROY JV, LLC, a Delaware limited liability company

By:_____

Its:_____

SHEFFIELD OWNER, LLC, a Delaware limited liability company

By:_____

Its:_____

KMART CORPORATION, a Michigan corporation

By:_____

Its:_____

GM EQUITIES, LLC, a Michigan limited liability company

By:_____

Its:_____

CITY OF TROY

By:_____
Louise E. Schilling, Mayor

By:_____
Tonni L. Bartholomew, Clerk



463694

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WE, THE UNDERSIGNED COUNSEL FOR THE PLAINTIFFS AND DEFENDANT RESPECTIVELY, HEREBY STIPULATE TO THE ENTRY OF THE ABOVE SIXTH ORDER AMENDING CONSENT JUDGMENT, NOTICE OF ENTRY WAIVED:

WILLIAMS, WILLIAMS,
RATTNER & PLUNKETT, P.C.

By:_____
Richard D. Rattner (P19249)
Michael W. Benoit (P57062)
Attorneys for Diamond Troy JV LLC
380 N. Old Woodward Avenue, Suite 300
Birmingham, Michigan 48009
(248) 642-0333

JOHN G. COUTILISH, P.C.

By:_____
John G. Coutilish (P40562)
Attorney for GM Equities, LLC
5700 Crooks Road, Suite 220
Troy, Michigan 48098
(248) 375-1000

MADDIN HAUSER WARTELL
ROTH & HELLER, P.C.

By:_____
George A. Contis (P38096)
Attorney for Sheffield Owner, LLC
28400 Northwestern Highway, Suite 300
Southfield, Michigan 48034
(248) 827-1886

CITY OF TROY

By:_____
Lori Grigg Bluhm (P46908)
Attorney for City of Troy
500 West Big Beaver Road
Troy, Michigan 48084
(248) 524-3320

KMART CORPORATION

By:_____
Alice Buckley (P29900)
Attorney for Kmart Corporation
3000 W 14 Mile Rd
PO Box 8073
Royal Oak, MI 48068
(248) 463-5201

**TO:** Members of Troy City Council
**FROM:** Lori Grigg Bluhm , City Attorney
Susan M. Lancaster, Assistant City Attorney
**DATE:** September 29, 2009
**SUBJECT:** City of Troy v. UEOS Troy, LLC, et. al.

---

As a result of the Rochester Road reconstruction project, it was necessary to file a condemnation case to obtain possession of a 15-foot road right-of-way and a 12 foot easement along the frontage of property owned by UEOS Troy, L.L.C. a/k/a Uncle Ed's Oil Shoppe. The appraised value of the property was paid to the property owners when the City obtained possession. In addition, the City has also paid the costs of the necessary relocation of the sign on the property.

Enclosed please find a proposed consent judgment that would finalize this condemnation case. This proposed judgment requires the City to pay an additional nominal amount, which is based on the unique configuration of the four bay doors on the building facing Rochester Road. Vehicular navigation from these bay doors will result in a loss of green space, and a need to move the flag pole on the property. The consent judgment also includes attorney fees, as provided in the state statute (the Uniform Condemnations Procedures Act).

City Administration recommends approval of the proposed attached consent judgment. Please let us know if you have any questions about this matter.

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan
Municipal Corporation,

Plaintiff,

v

Case No. 09-098178-CC
Hon. Rae Lee Chabot

UEOS TROY, LLC, a Michigan
Limited Liability Company; UNCLE ED'S
OIL SHOPPES, INC., a Michigan Corporation;
JOHN S. SIMONI; BARBARA A SIMONI;
JP MORGAN CHASE BANK, N.A., successor by
Merger to Bank One, Michigan and
f/k/a NBD Bank, N.A.; and COUNTY OF OAKLAND,

Defendants.
_____/

City of Troy – City Attorney's Office
Lori Grigg Bluhm (P46908)
Susan M. Lancaster (P33168)
Attorneys for Plaintiff
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320

Kay E. Kossen (P56627)
Kreis, Enderle, Hudgins & Borsos, P.C.
Attorney for UEOS TROY, LLC, UNCLE
ED'S OIL SHOPPES, INC., JOHN S.
SIMONI and BARBARA A. SIMONI
One Michigan Ave. West
Battle Creek, MI 49017
(269) 966-3000

JP MORGAN CHASE, successor
by merger to Bank One, Michigan
and f/k/a NBD Bank, N.A.
Henry Shymanski (P34643)
Legal Department MI1-8067
611 Woodward
Detroit, MI 48226
(313) 256-0552

COUNTY OF OAKLAND
William G. Pierson (P32119)
Assistant Corporation Counsel
1200 N. Telegraph Rd.
Dept. 419
Pontiac, MI 48341
(248) 858-0456

_____/

**CONSENT JUDGMENT**

At a session of Court held in the Courthouse
In the City of Pontiac, Oakland County, Michigan,
On: _____
PRESENT: HONORABLE RAE LEE CHABOT
OAKLAND COUNTY CIRCUIT COURT JUDGE

The parties have appeared through their counsel, and have consented to the entry of this Consent Judgment in full satisfaction of the case. The Court has also been fully advised as to the contents of the Consent Judgment, and orders as follows:

1. Title to property which is the subject of this cause of action, and which is fully described in the Complaint for Acquisition of Property and the Declaration of Taking filed with this Court on February 12, 2009, has vested in the Plaintiff by virtue of the filing of those pleadings and documents and the entry by this Court on March 11, 2009 of the Order for Payment of Estimated Just Compensation and Surrender of Possession.

2. As required in the Order for Payment of Estimated Just Compensation and Surrender of Possession entered by this Court on March 11, 2009, the Plaintiff previously paid the Defendants UEOS TROY, LLC and JP MORGAN CHASE BANK, N.A., jointly, the estimated just compensation in the amount of $38,100.00.

3. Pursuant to this Consent Judgment, Plaintiff shall pay to UEOS TROY, LLC and JP MORGAN CHASE BANK, N.A., jointly, an additional sum of $5,000.00 for the acquisition of the property described in the Complaint for Acquisition of Property and Declaration of Taking (exclusive of attorney fees) and except as otherwise expressly provided in this Judgment. Payment shall be made within 21 days of the entry of this Order.

4. In addition, Plaintiff shall pay attorney fees directly to Kreis, Enderle, Hudgins & Borsos, P.C. in the total sum of $1,650.00, pursuant to Section 16(3) of the Uniform Condemnation Procedures Act (MCL 213.66(3)). Plaintiff shall pay the attorney fees, as set out in this paragraph, in a check made payable to Kreis, Enderle, Hudgins & Borsos, P.C., which shall be sent within 21 days after entry of this Order.

5. Upon payment by Plaintiff of the sums recited herein, any and all claims that Plaintiff or Defendants have asserted or which could have been asserted against Defendants or Plaintiff arising out of the taking of the subject property or by reason of any other claims for damages which could or may have been asserted by reason of the commencement of the instant proceedings shall be forever barred.

6. Plaintiff City of Troy agrees to protect the interest of Oakland County, if any, in any right-of-way and/or utility easement.

7. This Consent Judgment resolves the last pending claims and closes the case.

_____
Circuit Judge

Approved as to substance and form;
Notice of entry waived:

_____
Susan M. Lancaster (P33168)
Assistant City Attorney
Attorney for Plaintiff

_____
Kay E. Kossen (P56627)
Attorney for Defendants UEOS TROY, LLC,
Uncle Ed's Oil Shoppes, Inc., John S. Simoni;
and Barbara A. Simoni

_____
Henry Shymanski (P34643)
Attorney for JP MORGAN CHASE BANK, N.A.

_____
William G. Pierson (P32119)
Assistant Corporation Counsel
Attorney for Oakland County

# CITY COUNCIL ACTION REPORT

September 9, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager/ Economic Development Services
Susan A. Leirstein, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: Sole Source – East Jordan Iron Works – Complete Hydrant and Valve Repair Parts

## Background

- On September 10, 2007, Troy City Council approved a contract with East Jordan Iron Works for East Jordan complete hydrants; as well as hydrant and valve repair parts at discounts off list prices (Council Resolution #2007-09-269-E7).
- Discounts tend to fluctuate with list price changes.
- The City of Troy standardized all fire hydrants in the City to those manufactured by East Jordan Iron Works many years ago.
- Standardization has alleviated many problems with employee training, inventory and maintenance issues.
- By purchasing directly from the manufacturer the City is receiving a greater discount than a distributor.
- East Jordan Iron Works has agreed to provide the needed hydrants and repair parts at list prices, with various discount structures currently established as follows:

| | | |
|---|---|---|
| Discount % | Hydrants: | 49% |
| | Valves: | 47% |
| | Cost for 5BR250 complete hydrant: | $1248.03 |

## Financial Considerations

- Funds are available in the Water Division Operating Budget

## Legal Considerations

- Formal bidding procedures are waived, as no benefit would be derived from soliciting formal bids.

## Recommendation

- Since the City has standardized on East Jordan Iron Works hydrants and valves, City management recommends an ongoing contract be established with East Jordan Iron Works to provide the needed hydrants and repair parts at list prices, with various discounts structures as listed above.

City of Troy

August 14, 2009

ATTN: Steve Terry
East Jordan Iron Works
13001 Northend
Oak Park, MI 48237
FAX: (248) 693-4542

Dear Steve:

The City of Troy entered into contract #20700277-OB with East Jordan Iron Works to provide one-year requirements of complete hydrants, valve and hydrant repair parts, which currently expires September 30, 2009. The City is interested to know what the current pricing structure will be to enter into a new contract for one year.

Please fax this letter back to Deanna Theobald at the DPW. The fax number is (248) 524-3520. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3501

X_____
**Stephen E. Terry**
Company Representative

**% Discount – Hydrants:** *49%*
**Valves:** *47%*

**Cost for complete hydrant – 5BR250 $** *1248.03*

Thank you,
Deanna Theobald
Department of Public Works, City of Troy

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** an agreement with Atlas Blue Sky, Inc. to transfer ownership of 2007 SDD and SDM licensed business located at 36949 Dequindre, Troy, MI 48084, Oakland County, from MJMN, Inc., and the Mayor and City Clerk are hereby **AUTHORIZED** to execute the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

---

**E-6 Temporary Waiver of Parking Restrictions – Congregation Shir Tikvah**

Resolution #2007-09-269-E-6

RESOLVED, That Troy City Council hereby **WAIVES** the no parking restrictions on the east side of Northfield Parkway from the parking lot entrance to Congregation Shir Tikvah to the entrance to Boulan Park, on Wednesday, September 12, 2007, 7:00 PM – 11:00 PM, Thursday, September 13, 2007, 9:00 AM – 5:00 PM, Friday, September 21, 2007, 7:00 PM – 11:00 PM, and Saturday, September 22, 2007, 9:00 AM – 9:00 PM.

---

**E-7 Sole Source – East Jordan Iron Works – Complete Hydrant and Valve Repair Parts**

Resolution #2007-09-269-E-7

WHEREAS, East Jordan Iron Works, the manufacturer, has agreed to provide East Jordan complete hydrants, as well as hydrant and valve repair parts directly to the City of Troy at discounts greater than those of distributors;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** a contract to provide East Jordan complete hydrants, and valve and hydrant repair parts with East Jordan Iron Works at discounts of 44.5% and 49% respectively.

---

**E-8 Acceptance of Regrading and Temporary Construction Permit, John R Road Improvements, Square Lake Road to South Boulevard, Project No. 02.204.5 Parcel #50 – Sidwell #88-20-02-228-028 – Glenda M. McDowell**

Resolution #2007-09-269-E-8

RESOLVED, That Troy City Council hereby **ACCEPTS** the Regrading and Temporary Construction Permit in the amount of $500.00 from Glenda M. McDowell, owner of property having Sidwell #88-20-02-228-028; and

BE IT FURTHER RESOLVED, That the City Clerk is hereby **DIRECTED** to record the Regrading and Temporary Construction Permit with the Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

# CITY COUNCIL ACTION REPORT

August 13, 2007

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services
Susan A. Leirstein, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: Sole Source – East Jordan Iron Works – Complete Hydrant and Valve Repair Parts

**Background**

- On September 11, 2006, Troy City Council approved a contract with East Jordan Iron Works for East Jordan complete hydrants; as well as hydrant and valve repair parts at a discount off list prices (Council Resolution #2006-09-356-E-10).
- The City of Troy standardized all fire hydrants in the city to those manufactured by East Jordan Iron Works many years ago.
- Standardization has alleviated many problems with employee training, inventory and maintenance issues.
- By purchasing directly from the manufacturer, the City is receiving a greater discount than a distributor.
- East Jordan Iron Works has agreed to provide the needed hydrants and repair parts at list prices, with various discount structures currently established as follows:

| | | |
|---|---|---|
| Discount % | Hydrants: | 44.5% |
| | Valves: | 49% |
| | Cost for 5BR250 complete hydrant: | $996.23 |

**Financial Considerations**

- Funds are available in the Water Division Operating Budget

**Legal Considerations**

- Formal bidding procedures are waived, as no benefit would be derived form soliciting formal bids.

**Policy Considerations**

- Minimize the cost and increase the efficiency and effectiveness of City Government. (Goal II)

**Options**

- Since the City has standardized on East Jordan hydrants and valves, City management recommends an ongoing contract be established with East Jordan Iron Works to provide the needed hydrants and repair parts at list prices, with various discounts structures as listed above.

500 West Big Beaver
Troy, Michigan 48084
Fax: (248) 524-0851
www.ci.troy.mi.us

Area code (248)

Assessing
524-3311

Bldg. Inspections
524-3344

Bldg. Maintenance
524-3368

City Clerk
524-3316

City Manager
524-3330

Community Affairs
524-1147

Engineering
524-3383

Finance
524-3411

Fire-Administration
524-3419

Human Resources
524-3339

Information Services
619-7279

Law
524-3320

Library
524-3545

Parks & Recreation
524-3484

Planning
524-3364

Police-Administration
524-3443

Public Works
524-3370

Purchasing
524-3338

Real Estate & Development
524-3498

Treasurer
524-3334

General Information
524-3300

August 7, 2007

East Jordan Iron Works
13001 Northend
Oak Park, MI 48237

The City of Troy entered into contract #20600387-OB with East Jordan Iron Works to provide one year requirements of complete hydrants, and valve and hydrant repair parts, which is due to expire October 1, 2007, at discounts of 46% and 49% off list prices respectively.

Please fax this letter back indicating if East Jordan Iron Works wishes to continue with the above contract and indicate the term and discount structure below. Our fax number is 248-524-3520.

Thank you,
Emily Frontera
Administrative Aide
Department of Public Works

X_____ East Jordan DOES wish to enter into the above contract.
Stephen E Terry
Company Representative

Term of contract 10/1/2007 to 10/01/2008
% Discount – Hydrants: 44.5%
Valves: 49%

Cost for complete hydrant – 6BR $ NOT AVAILABLE
5BR250 $ 996.23

X_____ East Jordan does not wish to enter into the above contract.
Stephen E Terry
Company Representative

Date Aug. 7, 2007

City of Troy

September 9, 2008

ATTN: Steve Terry
East Jordan Iron Works
13001 Northend
Oak Park, MI 48237
FAX: (248) 893-4542

Dear Steve:

The City of Troy entered into contract #20700277-OB with East Jordan Iron Works to provide one-year requirements of complete hydrants, valve and hydrant repair parts, which currently expires October 1, 2008. The City is interested to know what the current pricing structure will be to enter into a new contract for one year.

Please fax this letter back to Deanna Theobald at the DPW The fax number is (248) 524-3520. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3501

X_____
**Stephen E. Terry**
Company Representative

**% Discount – Hydrants:** 44.5 % from Hydrant List - $ 2166.95
**Valves:** 49 % from Valve List - (see below for LIST cost per VALVE size)

**Cost for complete hydrant – 5BR250 $** 1202.65

Thank you,
Deanna Theobald
Department of Public Works, City of Troy

*LIST PRICING*

| | | | |
|---|---|---|---|
| 12" MJ RW | VALVE | OPEN LEFT | $ 2119.21 |
| 10" MJ RW | VALVE | OPEN LEFT | $ 1718.30 |
| 8" MJ RW | VALVE | OPEN LEFT | $ 1101.89 |
| 6" MJ RW | VALVE | OPEN LEFT | $ 684.35 |
| 4" MJ RW | VALVE | OPEN LEFT | $ 543.53 |
| 3" MJ RW | VALVE | OPEN LEFT | $ 489.20 |

cell phone
(313) 215-5640
sterry@ejiw.com

# CITY COUNCIL ACTION REPORT

September 28, 2009

TO: John Szerlag , City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance and Administration
Susan A. Leirstein, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

SUBJECT: Bid Waiver – Sole Source Purchase – Top-Dress Materials

## Background

- In 2006 and again in 2008, extensive soil testing was conducted on the greens at both of the City's golf facilities. Results from the testing indicated an excessive amount of organic matter accumulation and poor percolation rates on the greens at Sylvan Glen. At Sanctuary Lake, the results were satisfactory but caution was given to continue a vigorous top-dressing schedule due to the inherent thatch accumulation produced by the new bentgrass cultivars.
- To improve conditions on the driving range and practice facility at Sanctuary Lake, an aggressive top dressing and seeding program was initiated.
- This has resulted in an increased use of top dressing material.
- Soil scientists and agronomists, as well as the USGA Green section agree that the same material should be used as long as it is available in a topdressing program. This prevents layering of unlike sand particles which can cause perched water tables, oxygen deprivation, restricted water percolation, as well as affect water holding capacities.
- Staff has contacted the Pine Trace Golf Course staff and Oakland County Golf Division and both employ the practice of using the same material as long as it is available.
- Sand Sales Inc has been supplying the top-dress materials needed for Sylvan Glen over the last eighteen (18) years and Sanctuary Lake since 2005. Quotes have been received each year and Sand Sales prices are competitive with other vendor pricing for top dressing material. However, there are no other known suppliers with identical material.
- The amount of material used in the past has not required approval by the City Council; however, with the increased use, it is now necessary to seek approval.
- As there are no other known suppliers of the material, staff is requesting a waiver of formal bids.

## Financial Considerations

- Funds are budgeted in Sylvan Glen Contractor-Grounds Maintenance Account #7857802050 and Sanctuary Lake Contractor-Grounds Maintenance Account #7657802050.

September 28, 2009

To: John Szerlag, City Manager
Re: Bid Waiver – Sole Source Purchase – Top-Dress Materials

## Legal Considerations

- Formal bidding procedures are waived, as no benefit would be derived from soliciting formal bids.

## Recommendation

- City management and the golf course division recommend awarding a contract to purchase top-dress materials from Sand Sales Inc for the two golf courses, driving range and practice facility for an annual cost not-to-exceed $20,000.00 per year.
- In addition, City management requests confirmation of purchases totaling an estimated $3,200.00 to maintain and improve bunkers and driving range tees.

Information provided by: Danny T. McDonald, Greens Superintendent

G:/Bid Award 08-09 New Format/Regular Business -Waiver - Sole Source TopDressMat'l-GC 09.09.doc

# CITY COUNCIL REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Update of Chapter 82 of the Troy City Code
Property Maintenance Code

Background:

- The current provisions of the Troy Property Maintenance Code adopts, by reference, the 1993 Edition of the BOCA Property Maintenance Code.
- This document is no longer in print and is not available to the public.
- In August of 2008 the 2006 editions of the Michigan Building Codes went into effect.
- We have prepared for adoption an updated Property Maintenance Code that is based upon the 2006 edition of the ICC Property Maintenance Code.
- We are also proposing changes to the base document to address and consolidate other provisions of the Troy Ordinances.
- Because the length of the document is not too large, we are proposing to include the entire text of the ordinance rather than adopting by reference and just printing the amendments to the base document. We believe that this will result in an Ordinance that is easier to read, more coordinated, and more user friendly.
- Some of the highlights of the proposed changes include:
  - Updating to the latest versions of the referenced code documents.
  - Better coordination with Troy Municipal Civil Infractions Ordinance.
  - Including Dangerous Building provisions allowing for the deletion of Chapter 82A.
  - Including Weed provisions allowing for the deletion of Chapter 89.
  - Requiring for weed maintenance for right of way adjacent to County and City right of way.
  - Including Litter provisions allowing for the deletion of portions of Chapter 48.
  - Include provisions for Junk Vehicles allowing deletion of portions of Chapter 88.
  - Including new language regarding providing containers for personal property for evictions (crafted after similar provisions of City of Detroit Ordinance Language).
  - Better language for requiring exterior painting and addressing graffiti.
- The proposed text is identical to the text that was presented to Council at your meeting of September 28, 2009 and includes revisions that were presented at the Council meetings of July 6, 2009 and September 14, 2009.

- If this new code is adopted, then accompanying changes to other ordinances should be adopted at the same time.
- We have included a copy of the existing text of Chapter 82 showing the text that will be deleted.
- We have included a copy of the text of the 1993 BOCA Property Maintenance Code that is currently referenced by the Troy Property Maintenance Code.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to adopt a Property Maintenance Code under the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I).

Options:

- City Council can adopt the new Property Maintenance Code
- City Council can retain the existing Property Maintenance Code.
- City Council can revise the provisions and adopt those provisions as the new Property Maintenance Code.

Approved as to Form and Legality: _____
Lori Grigg Bluhm, City Attorney

mss/ Chapter 82 revision memo 10-5-09

Existing Text of Chapter 82 that is proposed to be deleted

~~1. Adoption of Code by Reference. Pursuant to the provisions of Section 3 (K) of Act 279 of 1909, State of Michigan as amended, the B.O.C.A. National Property Maintenance Code/1993 and published by the Building Officials and Code Administrators International, Inc., is hereby adopted by reference by the City of Troy as in this Chapter modified for the purpose of establishing minimum standards governing the condition and maintenance of all structures and dwellings; establishing minimum standards governing supplied utilities and facilities and other physical things and conditions essential to insure that structures are safe, sanitary and fit for occupation and use; establishing minimum standards governing the condition of dwellings offered for rent; fixing certain responsibilities and duties of owners and occupants of structures, and the condemnation of dwellings unfit for human habitation and the demolition of such dwellings and structures; and fixing penalties for violation.~~

~~(Rev. 01-29-96)~~

~~2. Code on File. Complete printed copies of the B.O.C.A. National Property Maintenance Code/1993, herein adopted, are available for public use and inspection at the office of the City Clerk.~~

~~(Rev. 1-29-96)~~

~~3. Change in Code. The following Sections and Subsections the B.O.C.A. National Property Maintenance Code/1993 are hereby amended or deleted and additional sections or subsections are added as indicated. Subsequent section numbers used in this Chapter shall refer to like numbered sections of the B.O.C.A. National Property Maintenance Code/1993.~~

~~(Rev. 01-29-96)~~

~~4. Penalties for Violations: Except as otherwise provided by other sections of this Chapter, a violation of any section of Chapter 82 is a Municipal Civil Infraction subject to the provisions of Chapter 100 of the Code of the City of Troy. Each day that a violation continues is a separate Municipal Civil Infraction violation. Sanctions for each violation of Chapter 82 shall include a fine of not more than $500, costs, damages and injunctive orders as authorized by Chapter 100.~~

~~(03-01-06)~~

~~PM-100.1 Title: These regulations shall be known as the Property Maintenance Code of the City of Troy hereinafter referred to as the Property Maintenance Code or "this code".~~

~~(Rev. 07-13-92)~~

~~PM-105.1 General: It shall be the duty and responsibility of the Building Department, through its Building Official, his authorized representative and employees, hereinafter referred to as the code official, to enforce the provisions of this code as herein provided.~~
~~(Rev. 01-29-96)~~

~~PM-105.7 Thru PM-105.10 - Sections deleted.~~

~~(01-29-96)~~

~~PM-106.2 Section deleted.~~

~~(Rev. 01-29-96)~~

~~PM-107.4 Section deleted.~~

~~(01-29-96)~~

~~PM-110.1.1 Emergency: The Fire Chief or Building Official shall have the power to abate any public nuisance from any dangerous structure or building if the public safety shall require immediate action due to a distinct hazard to life or property, without preliminary notice as otherwise required by this section. Thereafter the cost of abating such public nuisance shall be charged against the owner or occupant of the premises and payment hereof shall be enforced as a special assessment as provided in section PM-110.4.~~

~~(Rev. 7-13-92)~~

~~PM-110.2 Order: The order shall specify a time in which the owner shall comply therewith and specify repairs, if any, and shall include notice of the rights and limitations as provided in Section PM-110.2.1. It shall be served on the owner of record or his agent where an agent is in charge of the building and upon the holder of any encumbrance of record in the manner provided for service of a summons by a court of record. If the owner or a holder of an encumbrance of record cannot be found, the order may be served by posting it on the main entrance of the building and by publishing it once each week for three (3) successive weeks in a newspaper authorized to provide service by publication.~~

~~(Rev. 01-29-96)~~

~~PM-110.2.1 Right of Appeal: The owner of a building or structure may appeal any such order to the City Council. The appeal shall be filed within ten (10) days of the date the order is served and a hearing shall be scheduled within fifteen (15) days of the date the appeal is filed.~~

~~(Rev. 01-29-96)~~

~~PM-110.2.2 Restraining Actions: Anyone aggrieved by a decision of the City Council shall within twenty (20) days after notification of such decision apply to a court of record for an order restraining the code official from razing and removing such structure or parts thereof. The court shall determine whether the order of the code official is reasonable, and if found reasonable, the court shall dissolve the restraining order, and if found not reasonable, the court shall continue the restraining order or modify it as the circumstances may require.~~

~~(Rev. 01-29-96)~~

~~PM-110.3 Failure to Comply: Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the code official shall cause the structure or part thereof to be razed and removed whether through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.~~

~~(Rev. 01-29-96)~~

~~PM-110.5 Unreasonable Repairs: Wherever the code official determines that the cost of such repairs would exceed one hundred (100) percent of the current value of such structure, such repairs shall be presumed unreasonable and it shall be presumed for the purpose of this section that such structure is a public nuisance which may be ordered razed without option~~

~~on the part of the owner to repair.~~

~~(Rev. 01-29-96)~~

~~PM-111 Section deleted.~~

~~(Rev. 07-13-92)~~

~~PM-202.0 Applied Meaning of Words and Terms: The following words and terms are amended to read:~~

~~(Dwellings)~~

~~Boarding House, Lodging House, Tourist Home: a building arranged or used for lodging with or without meals, for compensation, by more than two (2) and not more than twenty (20) individuals.~~

~~One Family Dwelling: a building designed exclusively for occupancy by one (1) family.~~

~~Two Family Dwelling: a building designed exclusively for occupancy by two (2) families, independent of each other such as a duplex dwelling unit.~~

~~Family: One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.~~

~~Rooming House: any residence building, or any part thereof, containing one or more rooming units, in which space is let by the owner or operator to more than two (2) persons, who are not members of the family.~~

~~(Rev. 01-29-96)~~

~~PM-301.2 Maintenance Responsibility: Owners of structures and land that remain vacant for a period of more than 60 days shall register with the City of Troy, Building Department the name, address and telephone number of a responsible person. This person shall be responsible for the maintenance of the structure and land in compliance with the provisions of this code. Failure to comply with a request for repair or maintenance of structures and land within a prescribed time shall be cause for the Building Official to arrange for the repair and maintenance thereof through a public agency or private contract. The cost of such repair or maintenance shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.~~

~~(Rev. 01-29-96)~~

~~PM-306.3.1 Garbage Storage Facilities: Every dwelling unit shall be supplied with an approved garbage disposal facility, which shall be any adequate mechanical garbage disposal unit (mechanical in-sink grinder). In existing dwelling units, an approved outside garbage container or containers, as required in Section PM-306.3.2 shall be sufficient to meet the needs of the occupants.~~

~~(Rev. 01-29-96)~~

~~PM-306.3.2 Containers: The operator of every establishment producing garbage, vegetable wastes, or other putrescible materials shall provide and at all times cause to be used, leakproof~~

~~approved containers, provided with close fitting covers for the storage of such materials until removed from the premises for disposal, or have garbage disposal unit, as required in Section PM-306.3.1.~~

~~(Rev. 01-29-96)~~

~~PM-602.2 Residential buildings: Every owner of any structure who rents, leases, or lets one or more dwelling units or guest rooms on terms, either express of implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period of September 1 to June 1 to maintain a room temperature of not less than 70 degrees F. (21 degrees C.), in all habitable spaces, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 65 degrees F. (18 degrees C.) during other hours. The temperature shall be measured at a point 3 feet (914mm) above the floor and 3 feet (914mm) from exterior walls.~~

~~Exception: When the exterior temperature falls below 0 degrees F. (-18 degrees C.) and the heating system is operating at its full capacity, a minimum room temperature of 65 degrees F. (18 degrees C.) shall be maintained at all times.~~

~~(Rev. 01-29-96)~~

~~PM-603.2 Cooking and Heating Equipment: All cooking and heating equipment, components, and accessories in every heating, cooking, and water heating device shall be maintained free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards. All installations and repairs shall be made in accordance with the provisions of the building code, or other laws or ordinances applicable thereto. Portable cooking equipment employing flame is prohibited in any area other than an area designated as a cooking room.~~

~~(Rev. 01-29-96)~~

~~PM-702.3 Number of exits: Every story used for human occupancy shall be provided not less than two independent exits. Every story used for human occupancy totally below grade greater than 2,000 square feet (186m²) shall be provided not less than two independent exits.~~

~~EXCEPTIONS: A single exit is acceptable when:~~

~~1. The Building is provided an automatic fire suppression system and an automatic fire alarm system with smoke detectors located in all corridors, lobbies and common area, or:~~

~~2. The building is provided an automatic fire alarm system and the exit is a smokeproof enclosure or pressurized stairway, or;~~

~~3. An existing fire escape or slidescape conforming to the building code is provided in addition to the single exit, or;~~

~~4. Buildings permitted to have one exit as described in the B.O.C.A. Building Code.~~

~~(Rev. 01-29-96)~~

~~PM-702.10 Information signs: A sign shall be provided at each floor landing in all interior stairways more than three stories above grade, designating the floor level above the floor of discharge. All elevator lobby call stations on all floor levels in buildings shall be marked with approved signs reading as follows: Use Stairways in Case of Fire - Do Not Use Elevators.~~

~~(Rev. 01-29-96)~~

~~PM-705.3 Fire standpipes: All buildings having floors used for human occupancy located more than 40 feet (12192mm) above the grade shall be provided with standpipes according to the building code, except that an automatic water supply, hose, and cabinets are not required. The standpipes shall have an approved fire department connection with hose connections at each floor level.~~

~~(Rev. 01-29-96)~~

~~PM-705.5.4 Smoke and heat detection: Each recirculating air or exhaust system which serves more than one floor in buildings which exceed 40 feet (12192mm) in height shall be equipped with approved smoke and heat detection devices in accordance with the mechanical code. The devices shall stop the fan(s) automatically and shall be of the manual reset type. Automatic fan shutdown is not required when the system is part of an approved smoke removal or control system.~~

~~(Rev. 07-13-92)~~

~~PM-705.8 Use Group R-1 Structures: All buildings of Use Group R-1 as defined by the B.O.C.A. National Building Code shall be equipped with an approved quick response automatic fire suppression system. This requirement applied to all Use Group R-1 buildings that received an occupancy certificate before July 1, 1987.~~

~~(Rev. 01-29-96)~~

~~PM-705.9 Alarm and Communications Systems: All buildings of Use Group R-1; as defined by the B.O.C.A. National Building Code which have floors for human occupancy located more than 40 feet above the lowest level of fire department access shall be equipped with an approved alarm and communications system consisting of a voice alarm system, a public address system, and a fire department communications system. This requirement applies to all Use Group R-1 buildings that received an occupancy certificate before July 1, 1987.~~

~~(Rev. 01-29-96)~~

~~PM-706.1 Required: All buildings having three or more separate floor levels served by elevators shall have at least one elevator equipped with emergency controls and all elevators shall be equipped with car recall activated by a smoke detector in each lobby in accordance with the building code.~~

~~(Rev. 07-13-92)~~

~~SECTION PM-708.1. COMPLIANCE DATE~~

~~PM-708.1 Effective Date: All structures described in Section PM-705.8 and PM-705.9 shall comply with their provisions by having the retrofitting under contract within one year and completed within two years of the date that this amendment takes effect.~~

~~(Rev. 01-29-96)~~

**CHAPTER 1**

## ADMINISTRATION

## SECTION PM-101.0 GENERAL

**PM-101.1 Title:** These regulations shall be known as the Property Maintenance Code of [NAME OF JURISDICTION] herinafter referred to as “this code”.

**PM-101.2 Scope:** This code is to protect the public health, safety and welfare in all existing structures, residential and nonresidential, and on all existing *premises* by establishing minimum requirements and standards for *premises,* structures, equipment, and facilities, for light, *ventilation,* space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; fixing the responsibility of *owners, operators and occupants;* regulating the *occupancy* of existing structures and *premises,* and providing for administration, enforcement and penalties.

**PM-101.3 Intent:** This code shall be construed to secure its expressed intent, which is to insure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises.* Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

**PM-101.4 Referenced standards:** The standards referenced in this code and listed in Chapter 8 shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced standards, the provisions of this code shall apply.

**PM-101.5 Existing remedies:** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

**PM-101.6 Workmanship:** All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner.

**PM-101.7 Application of other codes:** Any repairs, additions or alterations to a structure, or changes of *occupancy,* shall be done in accordance with the procedures and provisions of the building, plumbing and mechanical codes and NFiPA 70 listed in Chapter 8.

## SECTION PM-102.0 VALIDITY

**PM-102.1 Validity:** If any section, subsection, paragraph, sentence, clause or phrase of this code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this code which shall continue in full force and effect, and to this end the provisions of this code are hereby declared to be severable.

**PM-102.2 Saving clause:** This code shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

## SECTION PM-103.0 MAINTENANCE

**PM-103.1 Required:** All equipment, systems, devices and safeguards required by this code or a previous statute or code for the structure or *premises* when erected or altered shall be maintained in good working order. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures.

## SECTION PM-104.0 APPROVAL

**PM-104.1 Approved materials and equipment:** All materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

**PM-104.2 Modifications:** Where there are practical difficulties involved in carrying out structural or mechanical provisions of this code, the code official shall have the right to vary or modify such provisions upon application of the *owner* or the *owner's* representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

> **PM-104.2.1 Records:** The application for modification and the final decision of the code official shall be in writing and shall be officially recorded in the permanent records of the department.

**PM-104.3 Material and equipment reuse:** Materials, equipment and devices shall not be reused unless such elements have been reconditioned, tested and placed in good and proper working condition and approved.

**PM-104.4 Alternative materials and equipment:** The provisions of this code are not intended to prevent the installation of any material or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved when the code official finds that the proposed design is satisfactory and complies with the

intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fireresistance, durability and safety.

**PM-104.5 Research and investigations:** Sufficient technical data shall be submitted to substantiate the proposed installation of any material or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the proposed installation, the code official shall approve such alternative subject to the requirements of this code. The cost of all tests, reports and investigations required under these provisions shall be paid by the attendant.

## SECTION PM-105.0 DUTIES AND POWERS OF CODE OFFICIAL

**PM-105.1 General:** The code official shall enforce all of the provisions of this code.

**PM-105.2 Notices and orders:** The code official shall issue all necessary notices or orders to ensure compliance with the code.

**PM-105.3 Right of entry:** The code official is authorized to enter the structure or *premises* at reasonable times to inspect. Prior to entering into a space not otherwise open to the general public, the code official shall make a reasonable effort to locate the *owner* or other *person* having charge or control of the structure or *premises,* present proper identification and request entry. If requested entry is refused or not obtained, the code official shall pursue recourse as provided by law.

**PM-105.4 Access by owner or operator:** Every *occupant* of a structure or *premises* shall give the *owner* or *operator* thereof, or agent or employee, access to any part of such structure or its *premises* at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this code.

**PM-105.5 Identification:** The code official shall carry proper identification when inspecting structures or *premises* in the performance of duties under this code.

**PM-105.6 Coordination of enforcement:** Inspection of *premises,* the issuance of notices and orders and enforcement thereof shall be the responsibility of the code official so charged by the jurisdiction. Whenever inspections are necessary by any other department, the code official shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders.

**PM-105.7 Rule-making authority:** The code official shall have power as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this code to secure the

intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code or of violating accepted engineering practice involving public safety.

**PM-105.8 Organization:** The code official shall appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this code and as authorized by the appointing authority. The code official is authorized to designate an employee as deputy who shall exercise all the powers of the code official during the temporary absence or disability of the code official.

**PM-105.9 Restriction of employees:** An official or employee connected with the enforcement of this code, except one whose only connection is that of a member of the board of appeals established under the provisions of Section PM-111.0, shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of *construction documents* thereof, unless that *person* is the *owner* of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

**PM-105.10 Relief from personal responsibility:** The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of building inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

**PM-105.11 Official records:** An official record shall be kept of all business and activities of the department specified in the provisions of this code, and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such record.

## SECTION PM-106.0 VIOLATIONS

**PM-106.1 Unlawful acts:** It shall be unlawful for any *person*, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, occupy, *let* to another or occupy or permit another *person* to occupy any structure or equipment regulated by this code, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code, or to fail to obey a lawful order of the code official, or to remove or deface a placard or notice posted under the provisions of this code.

**PM-106.2 Penalty:** Any *person* who shall violate a provision of this code shall, upon conviction thereof, be subject to a fine of not less than [AMOUNT] nor more than [AMOUNT] or imprisonment for a term not to exceed [NUMBER] days, or both, at the discretion of the court. Each day that a violation continues after due notice has been serviced shall be deemed a separate offense.

**PM-106.3 Prosecution:** In case of any unlawful acts the code official shall institute an appropriate action or proceeding at law to exact the penalty provided in Section PM-106.2. Also, the code official shall ask the jurisdiction's legal representative to proceed at law or in equity against the *person* responsible for the violation for the purpose of ordering that *person:*

1. To restrain, correct or remove the violation or refrain from any further execution of work;
2. To restrain or correct the erection, installation, maintenance, repair or alteration of such structure;
3. To require the removal of work in violation; or
4. To prevent the *occupancy* of the structure that is not in compliance with the provisions of this code.

## SECTION PM-107.0 NOTICES AND ORDERS

**PM-107.1 Notice to owner or to person or persons responsible:** Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be give to the *owner* or the *person* or *persons* responsible therefore in the manner prescribed in Sections PM-107.2 and PM-107.3. Notices for condemnation procedures shall also comply with Section PM-108.3

**PM-107.2 Form:** Such notice prescribed in Section PM-107.1 shall:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the reason or reasons why the notice is being issued; and

4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.

**PM-107.3 Method of service:** Such notice shall be deemed to be properly served if a copy thereof is (a) delivered to the *owner* personally; or (b) sent by certified or registered mail addressed to the *owner* at the last known address with return receipt requested. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the *owner's* agent or upon the *person* responsible for the structure shall constitute service of notice upon the *owner.*

**PM-107.4 Penalties:** Penalties for noncompliance with orders and notices shall be as set forth in Section PM-106.2.

**PM-107.5 Transfer of ownership:** It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

## SECTION PM-108.01 UNSAFE STRUCTURES AND EQUIPMENT

**PM-108.1 General:** When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human *occupancy,* or is found unlawful, such structure shall be *condemned* pursuant to the provisions of this code.

**PM-108.1.1. Unsafe structure:** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

**PM-108.1.2 Unsafe equipment:** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

**PM-108.1.3 Structure unfit for human occupancy:** A structure is unfit for human *occupancy* whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation,* illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

**PM-108.1.4 Unlawful structure:** An unlawful structure is one found in whole or in part to be occupied by more *persons* than permitted under this code, or was erected, altered or occupied contrary to law.

**PM-108.2 Closing of vacant structures:** If the structure is vacant and unfit for human habitation and *occupancy,* and is not in danger of structural collapse, the code official is authorized to post a placard of *condemnation* on the *premises* and order the structure closed up so as not be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the code official shall cause the *premises* to be closed through any available public agency or by contract or arrangement by private *persons* and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**PM-108.3 Notice:** Whenever the code official has *condemned* a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the *person* or *persons* responsible for the structure or equipment in accordance with Section PM-107.3. The notice shall be in the form prescribed in Section PM-107.2.

**PM-108.4 Placarding:** Upon failure of the *owner* or *person* responsible to comply with the notice provisions within the time given, the code official shall post on the *premises* or on defective equipment, a placard bearing the word “Condemned” and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

**PM-108.5 Prohibited occupancy:** Any *person* who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any *person* responsible for the *premises* who shall *let* anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

**PM-108.6 Removal of placard:** The code official shall remove the *condemnation* placard whenever the defect or defects upon which the *condemnation* and placarding action were based have been eliminated. Any *person* who defaces or removes a *condemnation* placard without the approval of the code official shall be subject to the penalties provided by this code.

## SECTION PM-109.0 EMERGENCY MEASURES

**PM-109.1 Imminent danger:** When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official." It shall be unlawful for any *person* to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

**PM-109.2 Temporary safeguards:** Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

**PM-109.3 Closing streets:** When necessary for the public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

**PM-109.4 Emergency repairs:** For the purpose of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**PM-109.5 Costs of emergency repairs:** Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on approval of the code official. The legal counsel of the jurisdiction shall institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

**PM-109.6 Hearing:** Any *person* ordered to take emergency measures shall comply with such order forthwith. Any affected *person* shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

## SECTION PM-110.0 DEMOLITION

**PM-110.01 General:** The code official shall order the *owner* of any *premises* upon which is located any structure, which in the code official's judgement is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or *occupancy,* and such that it is unreasonable to repair the structure, to raze and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to raze and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure.

**PM-110.2 Order:** All notices and orders shall comply with Section PM-107.0.

**PM-110.3 Failure to comply:** If the *owner* of a *premises* fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private *persons,* and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**PM-110.4 Salvage materials:** When any structure has been ordered razed and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the *person* who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## SECTION PM-111.0 MEANS OF APPEAL

**PM-111.1 Application for appeal:** Any *person* affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

**PM-111.2 Membership of the board:** The board of appeals shall consist of five members appointed by the chief appointing authority as follows: one for five years, one for four years, one for three years, one for two years, and one for one year. Thereafter, each new member shall service for five years or until a successor has been appointed.

**PM-111.2.1 Qualifications:** The board of appeals, shall consist of five individuals, one from each of the following professions or disciplines:

1. *Registered design professional* that is a registered architect; or a builder or superintendent of building construction with at least ten-years experience, five of which shall have been in responsible charge of work.

2. *Registered design professional* with structural engineering or architectural experience.

3. *Registered design professional* with mechanical or *plumbing* engineering experience; or a mechanical or *plumbing* contractor with at least ten-years experience, five of which shall have been in responsible charge of work.

4. *Registered design professional* with electrical engineering experience; or an electrical contractor with at least ten-years experience, five of which shall have been in responsible charge of work.

5. *Registered design professional* with fire protection engineering experience; or a fire protection contractor with at least ten-years experience, five of which shall have been in responsible charge of work.

**PM-111.2.2 Alternate members:** The chief appointing authority shall appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the same qualifications required for board membership, and shall be appointed for five years or until a successor has been appointed.

**PM-111.2.3 Chairman:** The board shall annually select one of its members to serve as chairman.

**PM-111.2.4 Disqualification of member:** A member shall not hear an appeal in which that member has any personal, professional or financial interest.

**PM-111.2.5 Secretary:** The chief administrative officer shall designate a qualified clerk to service as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

**PM-111.2.6 Compensation of members:** Compensation of members shall be determined by law.

**PM-111.3 Notice of meeting:** The board shall meet upon notice from the chairman, within ten days of the filing of an appeal, or at stated periodic meetings.

**PM-111.4 Open hearing:** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official, and any *person* whose interests are affected shall be given an opportunity to be heard.

> **PM-111.4.1 Procedure:** The board shall adopt and make available to the public through the secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence but shall mandate that only relevant information be received.

**PM-111.5 Postponed hearing:** When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**PM-111.6 Board decision:** The board shall modify or reverse the decision of the code official by a concurring vote of three members.

> **PM-111.6.1 Resolution:** The decision of the board shall be by resolution. Certified copies shall be furnished to appellant and to the code official.
>
> **PM-111.6.2 Administration:** The code official shall take immediate action in accordance with the decision of the board.

**PM-111.7 Court review:** Any *person*, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

**CHAPTER 2**

## DEFINITIONS

### SECTION PM-201.0 GENERAL

**PM-201.1 Scope:** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

**PM-201.2 Interchangeability:** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

**PM-201.3 Terms defined in other codes:** Where terms are not defined in this code and are defined in the building, plumbing or mechanical codes listed in Chapter 8, such terms shall have the meanings ascribed to them as in those codes.

**PM-201.4 Terms not defined:** Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

**PM-201.5 Parts:** Whenever the words *"dwelling unit,"* "dwelling," *premises",* "building", *"rooming house," "rooming unit,"* story" or "structure" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

### SECTION PM-202.0 GENERAL DEFINITIONS

**Approved:** Approved by the code official.

***Basement*:** See Section PM-302.0.

***Bathroom*:** See Section PM-502.0.

**Building:** Any structure occupied or intended for supporting or sheltering any *occupancy.*

***Building code:*** The building code officially adopted by the legislative body of this jurisdiction, or other such codes officially designated by the legislative body of the jurisdiction for the regulation of construction, alteration, addition, repair, removal, demolition, location, *occupancy* and maintenance of buildings and structures.

**Code official:** The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

***Condemn:*** To adjudge unfit for *occupancy.*

***Construction documents:*** All the written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of the project necessary for obtaining a building permit. The construction drawings shall be drawn to an appropriate scale.

**Dwellings:** (See Section PM-201.5)

> ***Dormitory:*** A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associate rooms, for *persons* not members of the same *family* group.
> ***Dwelling unit:*** A single unit providing complete, independent living facilities for one or more *persons,* including permanent provisions for living, sleeping, eating, cooking and sanitation.
> ***Hotel:*** Any building containing six or more guestrooms, intended or designed to be occupied, for sleeping purposes by guests.
> ***One-family dwelling:*** A building containing one *dwelling unit* with not more than five lodgers or boarders.
> ***Rooming house:*** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a *one-family dwelling* or a *two-family dwelling.*
> ***Rooming unit:*** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.
> ***Two-family dwelling:*** A building containing two *dwelling units* with not more than five lodgers or boarders per *family.*

***Exterior property:*** See Section PM-302.0.

***Extermination:*** See Section PM-302.0.

***Family:*** An individual or married couple and the children thereof with not more than two other *persons* related directly to the individual or married couple by blood or marriage; or a group of not more than five unrelated *persons,* living together as a single housekeeping unit in a *dwelling unit.*

***Garbage:*** See Section PM-302.0.

***Habitable space:*** See Section PM-402.0.

***Infestation:*** See Section PM-302.0.

***Let for occupancy or let:*** See Section PM-302.0.

***Occupancy:*** The purpose for which a building or portion thereof is utilized or occupied.

***Occupant:*** See Section PM-302.0.

***Openable area:*** See Section PM-402.0.

***Operator:*** See Section PM-302.0.

***Owner:*** See Section PM-302.0.

***Person:*** See Section PM-302.0.

***Plumbing:*** See Section PM-502.0.

***Plumbing fixture:*** See Section PM-502.0.

***Premises:*** See Section PM-302.0.

***Public nuisance:*** See Section PM-302.0.

***Registered design professional:*** An architect or engineer, registered or licenses to practice professional architecture or engineering, as defined by the statutory requirements of the professional registration laws of the state in which the project is to be constructed.

***Rubbish:*** See Section PM-302.0.

***Structure:*** That which is built or constructed or a portion thereof.

***Toilet room:*** See Section PM-502.0.

***Ventilation:*** See Section PM-402.0.

***Workmanlike:*** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

***Yard:*** See Section PM-302.0.

**CHAPTER 3**

## GENERAL REQUIREMENTS

## SECTION PM-301.0 GENERAL

**PM-301.1 Scope:** The provisions of this chapter shall govern the minimum conditions and the responsibilities of *persons* for maintenance of structures, equipment and *exterior property.*

**PM-301.2 Responsibility:** The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided in Sections PM-306.0 and PM-307.0. A *person* shall not occupy as *owner-occupant* or permit another *person* to occupy *premises* which do not comply with the requirements of this chapter.

**PM-301.3 Vacant structures and land:** All vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

## SECTION PM-302.0 DEFINITIONS

**PM-301.1 General:** The following words and terms shall, for the purposes of this chapter and as stated elsewhere in this code, have the meanings show herein.

> ***Basement:*** That portion of a structure which is partly or completely below grade.
>
> ***Exterior property:*** The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises.*
>
> ***Extermination:*** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.
>
> ***Garbage:*** The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
>
> ***Infestation:*** The presence, within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.
>
> ***Let for occupancy or let:*** To permit possession or *occupancy* of a dwelling, *dwelling unit, rooming unit,* building or structure by a *person* who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement

or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

***Occupant:*** Any *person* living or sleeping in a building; or having possession of a space within a building.

***Operator:*** Any *person* who has charge, care or control of a structure or *premises* which is *let* or offered for *occupancy.*

***Owner:*** Any *person,* agent, *operator,* firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such *person,* and the executor or administrator of the estate of such *person* if ordered to take possession of real property by a court.

***Person:*** An individual, corporation, partnership or any other group acting as a unit.

***Premises:*** A lot, plot or parcel of land including any structures thereon.

***Public nuisance:*** Includes the following:

1. The physical condition or *occupancy* of any *premises* regarded as a public nuisance at common law; or
2. Any physical condition or *occupancy* of any *premises* or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, *basements,* excavations and unsafe fences or structures; or
3. Any *premises* that has unsanitary sewerage or *plumbing* facilities; or
4. Any *premises* designated as unsafe for human habitation; or
5. Any *premises* that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecure so as to endanger life, limb or property; or
6. Any *premises* from which the *plumbing,* heating or facilities required by this code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or
7. Any *premises* that is unsanitary, or that is littered with *rubbish* or *garbage,* or that has an uncontrolled growth of weeds; or
8. Any structure that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent so as not to provide shelter; in danger of collapse or failure; and dangerous to anyone on or near the *premises.*

***Rubbish:*** Combustible and noncombustible waste materials, except *garbage;* the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber,

leather, tree branches, *yard* trimmings, tin cans, metals mineral matter, glass, crockery and dust and other similar materials.

***Yard:*** An open space on the same lot with a structure.

## SECTION PM-303.0 EXTERIOR PROPERTY AREAS

**PM-303.1 Sanitation:** All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

**PM-303.2 Grading and drainage:** All *premises* shall be graded and maintained to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

**Exception:** Water retention areas and reservoirs approved by the code official.

**PM-303.3 Sidewalks and driveways:** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Stairs shall comply with the requirements of Section PM-304.10 and PM-702.9.

**PM-303.4 Weeds:** All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of 10 inches (254mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

**PM-303.5 Rat harborage:** All structures and *exterior property* shall be kept free from rat *infestation.* Where rats are found, they shall be promptly *exterminated* by approved processes which will not be injurious to human health. After *extermination*, proper precautions shall be taken to prevent *reinfestation.*

**PM-303.6 Exhaust vents:** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

**PM-303.7 Accessory structures:** All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

**PM-303.8 Motor vehicles:** Except as provided for in other regulations, not more than one currently unregistered or uninspected motor vehicle shall be parked, kept or stored on any *premises,* and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

## SECTION PM-304.0 EXTERIOR STRUCTURE

**PM-304.1 General:** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**PM-304.2 Street numbers:** Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way. All numbers shall be in Arabic numerals at least 3 inches (76 mm) and ½ inch (13 mm) stroke.

**PM-304.3 Structural members:** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**PM-304.4 Foundation walls:** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rats.

**PM-304.5 Exterior walls:** All exterior walls shall be free from holes, breaks, loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

**PM-304.6 Roofs and drainage:** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof water shall not be discharged in a manner that creates a *public nuisance*.

**PM-304.7 Decorative features:** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with property anchorage and in a safe condition.

**PM-304.8 Overhang extensions:** All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**PM-304.9 Chimneys and towers:** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and

against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**PM-304.10 Handrails and guards:** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**PM-304.11 Window and door frames:** Every window, door and frame shall be kept in sound condition, good repair and weather tight.

> **PM-304.11.1 Glazing:** All glazing materials shall be maintained free from cracks and holes.
>
> **PM-304.11.2 Openable windows:** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

**PM-304.12 Insect screens:** During the period from [DATE] to [DATE], every door, window and outside opening utilized or required for *ventilation* purposes serving any structure containing *habitable* rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

> **Exception:** Screen doors shall not be required for out-swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

**PM-304.13 Doors:** All exterior doors and hardware shall be maintained in good condition. Locks at all entrances to *dwelling units, rooming units* and guestrooms shall tightly secure the door.

**PM-304.14 Basement hatchways:** Every *basement* hatchway shall be maintained to prevent the entrance of rats, rain and surface drainage water.

**PM-304.15 Guards for basement windows:** Every *basement* window that is openable shall be supplied with ratproof shields, storm windows or other approved protection against the entry of rats.

## SECTION PM-305.0 INTERIOR STRUCTURE

**PM-305.1 General:** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every *occupant* shall keep that part of the structure which such *occupant* occupies or controls in a clean and sanitary condition. Every *owner* of a structure containing a *rooming*

*house,* a *hotel,* a *dormitory,* two or more *dwelling units* or two or more nonresidential *occupancies,* shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property.*

**PM-305.2 Structural members:** The supporting structural members of every structure shall be maintained structurally sound, and be capable of supporting the imposed loads.

**PM-305.3 Interior surfaces:** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

**PM-305.4 Lead-based paint:** Interior and exterior painted surfaces of dwellings and child and day care facilities, including fences and outbuildings, which contain in excess of 0.06 percent lead by weight shall be removed or covered in an approved manner. Any surface to be covered shall first be marked with warnings as to the lead content of such surface.

**PM-305.5 Stairs and railings:** All interior stairs and railings shall be maintained in sound condition and good repair.

**PM-305.5 Handrails and guards:** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

## SECTION PM-306.0 RUBBISH AND GARBAGE

**PM-306.1 Accumulation of rubbish or garbage:** All *exterior property* and *premises,* and the interior of every structure shall be free from any accumulation of *rubbish* or *garbage.*

**PM-306.2 Disposal of rubbish:** Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in approved containers.

> **PM-306.2.1 Rubbish storage facilities:** The *owner* of every occupied *premises* shall supply approved covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish.*

**PM-306.3 Disposal of garbage:** Every *occupant* of a structure shall dispose of *garbage* in a clean and sanitary manner by placing such *garbage* in an approved *garbage* disposal facility or approved *garbage* containers.

> **PM-306.3.1 Garbage facilities:** The *owner* of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each *dwelling unit,* an approved incinerator unit in the structure available to the *occupants* in each *dwelling unit,* or an approved leakproof, covered, outside *garbage* container.

**PM-306.3.2 Containers:** The *operator* of every establishment producing *garbage* shall provide, and at all times cause to be utilized, leakproof approved containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal.

## SECTION PM-307.0 EXTERMINATION

**PM-307.1 Infestation:** All structures shall be kept free from insect and rat *infestation.* All structures in which insects or rats are found shall be promptly *exterminated* by approved processes that will not be injurious to human health. After *extermination,* proper precautions shall be taken to prevent *reinfestation.*

**PM-307.2 Owner:** The *owner* of any structure shall be responsible for *extermination* within the structure prior to renting or leasing the structure.

**PM-307.3 Single occupancy:** The *occupant* of a structure containing a single *dwelling unit* or of a single nonresidential structure shall be responsible for *extermination* on the *premises*.

**PM-307.4 Multiple occupancy:** The *owner* of a structure containing two or more *dwelling units,* a multiple *occupancy,* a *rooming house* or a nonresidential structure shall be responsible for *extermination* in the public or shared areas of the structure and *exterior property.* If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupants* shall be responsible for *extermination.*

**PM-307.5 Occupant:** The *occupant* of any structure shall be responsible for the continued ratproof condition of the structure, and if the *occupant* fails to maintain the ratproof condition, the cost of *extermination* shall be the responsibility of the *occupant.*

## CHAPTER 4

## LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### SECTION PM-401.0 GENERAL

**PM-401.1 Scope:** The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for the *occupancy* of a structure.

**PM-401.2 Responsibility:** The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A *person* shall not occupy as *owner-occupant,* or permit another *person* to occupy any *premises* that do not comply with the requirements of this chapter.

**PM-401.3 Alternative devices:** In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *building code* listed in Chapter 8 shall be permitted.

### SECTION PM-402.0 DEFINITIONS

**PM-402.1 General:** The following words and terms shall, for the purposes of this chapter and as stated elsewhere in this code, have the meanings shown herein.

> ***Habitable space:*** Space in a structure for living, sleeping, eating or cooking. *Bathrooms,* toilet compartments, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.
>
> ***Openable area:*** That part of a window or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.
>
> ***Ventilation:*** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

### SECTION PM-403.0 LIGHT

**PM-403.1 Habitable spaces:** Every *habitable space* shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total window area, measured between stops, for every *habitable space* shall be 8 percent of the floor area of such room, except in kitchens where artificial light is provided in accordance with the provisions of the *building code* listed in Chapter 8. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**PM-403.2 Common halls and stairways:** Every common hall and stairway, other than in *one-* and *two-family dwellings,* shall be lighted at all times with at least a 60-watt standard incandescent light bulb or equivalent for each 200 square feet (19 $m^2$) of floor area, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). Every exterior stairway shall be illuminated with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

**PM-403.3 Other spaces:** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

## SECTION PM-404.0 VENTILATION

**PM-404.1 Habitable spaces:** Every *habitable space* shall have at least one openable window. The total *openable area* of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section PM-403.1.

**PM-404.2 Bathrooms and toilet rooms:** Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section PM-404.1, except that a window shall not be required in spaces equipped with a mechanical *ventilation* system that complies with the following:

1. Air exhausted by a mechanical *ventilation* system from a *bathroom* within a *dwelling unit* shall be exhausted to the exterior and shall not be recirculated to any space, including the space from which such air is withdrawn.
2. Air exhausted by a mechanical *ventilation* system from all other *bathrooms* or *toilet rooms* shall be exhausted to the exterior without recirculation to any space, or not more than 85 percent of the exhaust air shall be recirculated where the system is provided with effective absorption and filtering equipment.

**PM-404.3 Cooking facilities**: Unless approved through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or *dormitory* unit, and a cooking facility or appliance shall not be permitted to be present in a *rooming unit* or *dormitory* unit.

**Exception:** Where specifically approved in writing by the code official.

**PM-0404.4 Process ventilation:** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

**PM-404.5 Clothes dryer exhaust:** Clothes dryer venting systems shall be independent of all other systems and shall be vented in accordance with the manufacturer's instructions.

## SECTION PM-405.0 OCCUPANCY LIMITATIONS

**PM-405.1 Privacy:** *Dwelling units, hotel* units, *rooming units* and *dormitory* units shall be arranged to provide privacy and be separate from other adjoining spaces.

**PM-405.2 Access from sleeping rooms:** Sleeping rooms shall not constitute the only means of access to other sleeping rooms or *habitable spaces.*

**Exception:** *Dwelling units* that contain fewer than two bedrooms.

**PM-405.3 Area for sleeping purposes:** Every room occupied for sleeping purposes by one *occupant* shall contain at least 70 square feet (7 $m^2$) of floor area, and every room occupied for sleeping purposes by more than one *person* shall contain at least 50 square feet (5 $m^2$) of floor area for each *occupant* thereof.

**PM-405.4 Water closet accessibility:** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom.

**PM-405.5 Overcrowding:** *Dwelling units* shall not be occupied by more *occupants* than permitted by the minimum *occupancy* area requirements of Table PM-405.5.

**Table PM-405.5**
**MINIMUM OCCUPANCY AREA REQUIREMENTS**

Minimum occupancy area in square feet[b]

| Space | 1 – 2 occupants | 3-5 occupants | 6 or more |
|---|---|---|---|
| | | | |
| Living room[a] | No requirements | 120 | 150 |
| Dining room[a] | No requirements | 80 | 100 |
| Kitchen | 50 | 50 | 60 |
| Bedrooms | Shall comply with Section PM-405.3 | | |

**Note a.** See Section PM-405.6 for combined living room/dining room spaces.
**Note b.** 1 square foot = 0.093 $m^2$

**PM-405.6 Combined spaces:** Combined living room and dining room spaces shall comply with the requirements of Table PM-405.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

**PM-405.7 Prohibited occupancy:** Kitchens, nonhabitable spaces and interior public areas shall not be occupied for sleeping purposes.

**PM-405.8 Minimum ceiling heights:** *Habitable spaces,* other than kitchens, shall have a clear ceiling height of not less than 7 feet 4 inches (2235 mm). Hallways, corridors, laundry areas, *bathrooms, toilet rooms* and kitchens shall have a clear ceiling height of not less than 7 feet (2134 mm).

**Exceptions**

1. Beams or girders spaced not less that 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height, provided that the minimum clear height is not less than 6 feet 8 inches (2033 mm).
2. Dropped or furred ceilings over not more than one-half of the minimum floor area required by this code, provided that no part of such dropped or furred ceiling is less than 7 feet (2134 mm) in height.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.
4. *Basement* rooms in *one-* and *two-family dwellings* occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

**PM-405.9 Minimum room widths:** A *habitable* room, other than a kitchen, shall not be less than 7 feet (2133 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

**PM-405.10 Food preparation:** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## CHAPTER 5

## PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

### SECTION PM-501.0 GENERAL

**PM-501.1 Scope:** The provisions of this chapter shall govern the minimum *plumbing* facilities and *plumbing fixtures* to be provided.

**PM-501.2 Responsibility:** The *owner* of the structure shall provide and maintain such *plumbing* facilities and *plumbing fixtures* in compliance with these requirements. A *person* shall not occupy as *owner-occupant* or permit another *person* to occupy any structure or *premises* which does not comply with the requirements of this chapter.

### SECTION PM-502.0 DEFINITIONS

**PM-502.1 General:** The following words and terms shall, for the purposes of this chapter and as stated elsewhere in this code, have the meanings shown herein.

***Bathroom:*** A room containing *plumbing fixtures* including a bathtub or shower.

***Plumbing:*** The practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances within the scope of the plumbing code listed in Chapter 8.

***Plumbing fixture:*** A receptacle or device which is either permanently or temporarily connected to the water distribution system of the *premises,* and demands a supply of water therefrom; or discharges waste water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the *premises;* or which requires both a water supply connection and a discharge to the drainage system of the *premises.*

***Toilet room:*** A room containing a water closet or urinal but not a bathtub or shower.

### SECTION PM-503.0 REQUIRED FACILITIES

**PM-503.1 Dwelling units:** Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located.

**PM-503.2 Rooming houses:** At least one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units.*

**PM-503.3 Hotels:** Where private water closets, lavatories, and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten *occupants.*

**PM-503.4 Employee's facilities:** A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

> **PM-503.4.1 Drinking facilities:** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler, or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet room* or *bathrooms.*

## SECTION PM-504.0 TOILET ROOMS

**PM-504.1 Privacy:** *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior.

**PM-504.2 Location:** *Toilet rooms* and *bathrooms* serving *hotel* units, *rooming units* or *dormitory* units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

**PM-504.3 Location of employee toilet facilities:** Toilet facilities shall have access from within the employees' regular working area. The required toilet facilities shall be located not more than one story above or below the employee's regular working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or public customer facilities.

> **Exception:** Facilities that are required for employees in storage structures or kiosks, and which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

## SECTION PM-505.0 PLUMBING FIXTURES

**PM-505.1 General:** All *plumbing fixtures* shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such *plumbing fixtures* are designed. All *plumbing fixtures* shall be maintained in a safe, sanitary and functional condition.

**PM-505.2 Fixture clearances:** *Plumbing fixtures* shall have adequate clearances for usage and cleaning.

## SECTION PM-506.0 WATER SYSTEM

**PM-506.1 General:** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other *plumbing fixture* shall be property connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water.

**PM-506.2 Contamination:** The water supply shall be maintained free from contamination, and all water inlets for *plumbing fixtures* shall be located above the flood level rim of the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

**PM-506.3 Supply:** The water supply system shall be installed and maintained to provide a supply of water to *plumbing fixtures,* devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

**PM-506.4 Water heating facilities:** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less that 110 degrees F. (43 degrees C.). A gas-burning water heater shall not be located in any *bathroom, toilet room,* bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be property installed and maintained on water heaters.

## SECTION PM-507.0 SANITARY DRAINAGE SYSTEM

**PM-507.1 General:** All *plumbing fixtures* shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

**PM-507.2 Maintenance:** Every *plumbing* stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

## SECTION PM-508.0 STORM DRAINAGE

**PM-508.1 General:** Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall not be discharged in a manner that creates a *public nuisance.*

## CHAPTER 6

## MECHANICAL AND ELECTRICAL REQUIREMENTS

### SECTION PM-601.0 GENERAL

**PM-601.1 Scope:** The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

**PM-601.2 Responsibility:** The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A *person* shall not occupy as *owner-occupant* or permit another *person* to occupy any *premises* which does not comply with the requirements of this chapter.

### SECTION PM-602.0 HEATING FACILITIES

**PM-602.1 Facilities required:** Heating facilities shall be provided in structures as required by this section.

**PM-602.2 Residential buildings:** Every dwelling shall be provided with heating facilities capable of maintaining a room temperature of 65 degrees F. (18 degrees C.) in all *habitable* rooms, *bathrooms* and *toilet rooms* based on the outside design temperature required for the locality by the mechanical code listed in Chapter 8.

> **PM-602.2.1 Heat supply:** Every *owner* and *operator* of any building who rents, leases or *lets* one or more *dwelling unit, rooming unit, dormitory* or guestroom on terms, either express or implied, to furnish heat to the *occupants* thereof shall supply sufficient heat during the period from [DATE] to [DATE] to maintain the room temperatures specified in Section PM-602.2 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60 degrees F. (16 degrees C.) during other hours.
>
> **PM-602.2.2 Room temperature exception:** When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in Chapter 8, the *owner* or *operator* shall not be required to maintain the minimum room temperatures, provided that the heating system is operating at full capacity, with supply valves and dampers in a full open position.

**PM-602.3 Nonresidential structures:** Every enclosed occupied work space shall be supplied with sufficient heat during the period from [DATE] to [DATE] to maintain a temperature of not less than 65 degrees F. (18 degrees C.) during all working hours.

**Exceptions**

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which *persons* are primarily engaged in vigorous physical activities.

**PM-602.4 Room temperature measurement:** The required room temperatures shall be measured at a point 3 feet (914 mm) above the floor and 3 feet (914 mm) from the exterior walls.

## SECTION PM-603.0 MECHANICAL EQUIPMENT

**PM-603.1 Mechanical equipment:** All mechanical equipment, fireplaces and solid fuel-burning appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

**PM-603.2 Cooking and heating equipment:** All cooking and heating equipment, components and accessories in every heating, cooking and water-heating device shall be maintained free from leaks and obstructions.

**PM-603.3 Flue:** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

> **Exception:** Fuel-burning equipment and appliances which are labeled for unvented operation.

**PM-603.4 Clearances:** All required clearances to combustible materials shall be maintained.

**PM-603.5 Safety controls:** All safety controls for fuel-burning equipment shall be maintained in effective operation.

**PM-603.6 Combustion air:** A supply of air for complete combustion of the fuel and for *ventilation* of the space shall be provided for the fuel-burning equipment.

**PM-603.7 Energy conservation devices:** Devices purporting to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

## SECTION PM-604.0 ELECTRICAL FACILITIES

**PM-604.1 Facilities required:** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section PM-605.0.

**PM-604.2 Service:** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFiPA 70 listed in Chapter 8. Every dwelling shall be served by a main service that is not less than 60 amperes, three wires.

**PM-604.3 Electrical system hazards:** Where it is found that the electrical system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

## SECTION PM-605.0 ELECTRICAL EQUIPMENT

**PM-605.1 Installation:** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

**PM-605.2 Receptacles:** Every *habitable space* in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded type receptacle. Every *bathroom* shall contain at least one receptacle.

**PM-605.3 Lighting fixtures:** Every public hall, interior stairway, water closet compartment, *bathroom,* laundry room and furnace room shall contain at least one electric lighting fixture.

## SECTION PM-606.0 ELEVATORS, ESCALATORS AND DUMBWAITERS

**PM-606.1 General:** Elevators, dumbwaiters and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards.

**PM-606.2 Elevators:** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

> **Exception:** Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

## CHAPTER 7

## FIRE SAFETY REQUIREMENTS

### SECTION PM-701.0 GENERAL

**PM-701.1 Scope:** The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises,* including fire safety facilities and equipment to be provided.

**PM-701.2 Responsibility:** The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A *person* shall not occupy as *owner-occupant* or permit another *person* to occupy any *premises* that do not comply with the requirements of this chapter.

### SECTION PM-702.0 MEANS OF EGRESS

**PM-702.1 General:** A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to a public way.

**PM-702.2 Exit capacity:** The capacity of the exits serving a floor shall be sufficient for the occupant load thereof as determined by the *building code* listed in Chapter 8.

**PM-702.3 Number of exits:** In nonresidential buildings, every occupied story more than six stories above grade shall be provided with not less than two independent exits. In residential buildings, every story exceeding two stories above grade shall be provided with not less than two independent exits. In stories where more than one exit is required, all *occupants* shall have access to at least two exits. Every occupied story which is both totally below grade and greater than 2,000 square feet shall be provided with not less than two independent exits.

**Exception:** A single exit is acceptable under any one of the following conditions:

1. Where the building is equipped throughout with an automatic sprinkler system and an automatic fire detection system with smoke detectors located in all corridors, lobbies and common areas.
2. Where the building is equipped throughout with an automatic fire detection system and the exit is an approved smokeproof enclosure or pressurized stairway.
3. Where an existing fire escape conforming to the *building code* listed in Chapter 8 is provided in addition to the single exit.
4. Where permitted by the *building code* listed in Chapter 8.

**PM-702.4 Arrangement:** Exits from *dwelling units, rooming units,* guestrooms and *dormitory* units shall not lead through other such units, or through *toilet rooms* or *bathrooms.*

**PM-702.5 Exit signs:** All means of egress shall be indicated with approved "Exit" signs where required by the *building code* listed in Chapter 8. All "Exit" signs shall be maintained visible and all illuminated "Exit" signs shall be illuminated at all times that the building is occupied.

**PM-702.6 Corridor enclosure:** All corridors serving an occupant load greater than 30 and the openings therein shall provide an effective barrier to resist the movement of smoke. All transoms, louvers, doors and other openings shall be closed or shall be self-closing.

**Exceptions**

1. Corridors in *occupancies* in other than Use Group H which are equipped throughout with an automatic sprinkler system.
2. Patient room doors in corridors in *occupancies* in Use Group I-2 where smoke barriers are provided in accordance with the fire prevention code listed in Chapter 8, are not required to be self-closing.
3. Corridors in *occupancies* in Use Group E where each room that is occupied for instruction or assembly purposes has at least one-half of the required means of egress doors opening directly to the exterior of the building at ground level.
4. Corridors that are in compliance with the *building code* listed in Chapter 8.

**PM-702.7 Dead-end travel distance:** All corridors that serve more than one exit shall provide direct connection to such exits. The length of a dead-end corridor shall not exceed 35 feet (10668 mm) where the building is not equipped throughout with an automatic sprinkler system. The dead-end travel distance limitation shall be increased to 70 feet (21336 mm) where the building is equipped throughout with an automatic sprinkler system.

**PM-702.8 Aisles:** Arrangements of chairs or tables and chairs shall provide for ready access by aisle accessways and aisles to each egress door. The minimum clear width of each aisle in *occupancies* in Use Groups A, E and I-2 shall be maintained in accordance with the requirements of the *building code* listed in Chapter 8. In all other *occupancies,* aisles shall have a minimum required clear width of 44 inches (1118 mm) where serving an occupant load greater than 50, and 36 inches (914 mm) where serving an occupant load of 50 or less. The clear width of aisles shall not be obstructed by chairs, tables or other objects.

**PM-702.9 Stairways, handrails and guards:** Every exterior and interior flight of stairs having more than four risers, and every open portion of a stair, landing or balcony which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) nor more than 42 inches (1067 mm) high, measured vertically above the nosing of the tread or above the finished floor

of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing or balcony.

**PM-702.10 Information signs:** A sign shall be provided at each floor landing in all interior stairways more than three stories above grade, designating the floor level above the floor of discharge. All elevator lobby call stations on all floor levels shall be marked with approved signs in accordance with the requirements for new buildings in the *building code* listed in Chapter 8.

> **Exception:** The emergency sign shall not be required for elevators that are part of an accessible means of egress complying with the *building code* listed in Chapter 8.

**PM-702.11 Locked doors:** All means of egress doors shall be readily *openable* from the side from which egress is to be made without the need for keys, special knowledge or effort, except as provided for in Section PM-702.11.1.

> **PM-702.11.1 Locks permitted:** Locks or fasteners shall not be installed on egress doors except in accordance with the following conditions:
> 1. In mental, penal or other institutions where the security of inmates is necessary, in which case properly trained supervisory personnel shall be continuously on duty and approved provisions are made to remove *occupants* safely in case of fire or other emergency.
> 2. In problem security areas, special-purpose door alarms or locking devices shall be approved prior to installation. Manually operated edge or surface-molded flush bolts are prohibited.
> 3. Where the door hardware conforms to that permitted by the *building code* listed in Chapter 8.

**PM-702.12 Emergency escape:** Every sleeping room located in a *basement* in an *occupancy* in Use Group I-1 or R shall have at least one openable window or exterior door approved for emergency egress or rescue; or shall have access to not less than two approved independent exits.

> **Exception:** Buildings equipped throughout with an automatic fire suppression system.

## SECTION PM-703.0 ACCUMULATIONS AND STORAGE

**PM-703.1 Accumulations:** *Rubbish, garbage* or other materials shall not be stored or allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

**PM-703.2 Hazardous material:** Combustible, flammable, explosive or other hazardous materials, such as paints, volatile oils and cleaning fluids, or combustible *rubbish*, such as wastepaper, boxes and rags, shall not be accumulated or stored unless such storage

complies with the applicable requirements of the *building code* and the *fire prevention* code listed in Chapter 8.

## SECTION PM-704.0 FIRERESISTANCE RATINGS

**PM-704.1 General:** The fireresistance rating of floors, walls, ceilings, and other elements and components shall be maintained.

**PM-704.2 Maintenance:** All required fire doors and smoke barriers shall be maintained in good working order, including all hardware necessary for the proper operation thereof. Fire doors shall not be held open by door stops, wedges and other unapproved hold-open devices.

## SECTION PM-705.0 FIRE PROTECTION SYSTEMS

**PM-705.1 General:** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be properly maintained.

**PM-705.2 Fire suppression system:** Fire suppression systems shall be in proper operating condition at all times.

> **PM-705.2.1 Valves:** Control valves shall be in the fully open position.
>
> **PM-705.2.2 Sprinklers:** Sprinklers shall be clean and free of corrosion, paint and damage. Stock shall be at least 18 inches (457 mm) below sprinkler deflectors.
>
> **PM-705.2.3 Piping:** Piping shall be properly supported and shall not support any other loads.

**PM-705.3 Standpipe systems:** Standpipe systems shall be in proper operating condition at all times.

> **PM-705.3.1 Valves:** Water supply control valves shall be in the fully open position.
>
> **PM-705.3.2 Hose connections:** Hose connections shall be identified and have ready access thereto.
>
> **PM-705.3.3 Hose:** Where provided, the hose shall be properly packed, dry and free from deterioration.

**PM-705.4 Fire extinguishers:** All portable fire extinguishers shall be visible, provided with ready access thereto, and maintained in an efficient and safe operating condition. Extinguishers shall be of an approved type.

**PM-705.5 Smoke detectors:** A minimum of one approved single-station or multiple-station smoke detector shall be installed in each guestroom, suite or sleeping area in *occupancies* in Use Groups R-1 and I-1, and in *dwelling units* in the immediate vicinity of the bedrooms in *occupancies* in Use Groups R-2 and R-3. In all residential *occupancies,* smoke detectors shall be required on every story of the *dwelling unit*, including *basements*. In *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke detector installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

> **PM-705.5.1 Installation:** All detectors shall be installed in accordance with the *building code* listed in Chapter 8. When actuated, the smoke detectors shall provide an alarm suitable to warn the *occupants* within the individual room or *dwelling unit.*
>
> **PM-705.5.2 Power source:** The power source for smoke detectors shall be either an AC primary power source or a monitorized battery primary power source.
>
> **PM-705.5.3 Tampering:** Anyone tampering or interfering with the effectiveness of a smoke detector shall be in violation of this code.

**PM-705.6 Fire protective signaling systems:** Fire protective signaling systems shall be in proper operating condition at all times.

> **PM-705.6.1 Control panel:** The “power on” indicator shall be lit. Alarm or trouble indicators shall not be illuminated.
>
> **PM-705.6.2 Manual fire alarm boxes:** All manual fire alarm boxes shall be operational and unobstructed.
>
> **PM-705.6.3 Automatic fire detectors:** All automatic fire detectors shall be operational and free from any obstructions that prevent proper operation, including smoke entry.

**PM-705.7 Records:** A complete written record of all tests and inspections of fire protection systems shall be maintained on the *premises* by the *owner* or *occupant* in charge of said *premises.*

## SECTION PM-706.0 ELEVATOR RECALL

**PM-706.1 Required:** All elevators having a travel distance of 25 feet (7620 mm) or more above or below the primary level of elevator access for emergency fire-fighting or rescue personnel shall conform to the requirements of Rule 211.3 of ASME A17.1 listed in Chapter 8.

## SECTION PM-707.0 MECHANICAL EQUIPMENT CONTROL

**PM-707.1 Smoke and heat detection:** Approved smoke or heat detectors shall be installed in return air ducts or plenums in each recirculating air system with a capacity of more than 2,000 cfm and serving more than one floor in buildings that exceed six stories in height in accordance with the mechanical code listed in Chapter 8. Actuation of the detector shall stop the fan(s) automatically and shall be of the manual-reset type. Automatic fan shutdown is not required where the system is part of an approved smoke control system.

CITY OF TROY

AN ORDINANCE TO
AMEND CHAPTER 82 OF
THE CODE OF THE CITY
OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 82, Property Maintenance Code, of the Code of the City of Troy.

Section 2. Amendment

Chapter 82, Property Maintenance Code, shall be amended to read as follows:

## CHAPTER 1 ADMINISTRATION

### 101 GENERAL.

**101.1 Title.** These regulations shall be known as the *Property Maintenance Code* of the City of Troy, hereinafter referred to as "this code."

**101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

**101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure and promote public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

**101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is held to be unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this code.

### SECTION 102 APPLICABILITY

**102.1 General.** The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

**102.2 Maintenance.** Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

**102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the *Michigan Building Code, International Fuel Gas Code, Michigan Mechanical Code, Michigan Plumbing Code,* and the *Michigan Electrical Code*. Nothing in this code shall be construed to cancel, modify or set aside any zoning provisions of *Chapter 39, Zoning Ordinance, of the Troy Code of Ordinances*.

**102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe or unsanitary.

**102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and in accordance with the manufacturer's installation instructions.

**102.6 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and the perpetuation of such historical buildings is in the public interest.

**102.7 Referenced codes, ordinances, and standards.** The codes, ordinances, and standards referenced in this code shall be those that are listed in Chapter 8 of this Ordinance and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

**102.8 Requirements not covered by code.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare shall be determined by the code official if not specifically covered by this code. The details of any such determination shall be recorded and entered in the department files.

## SECTION 103 BUILDING DEPARTMENT

**103.1 General.** The Building Department is hereby designated as the City of Troy enforcement division of this code and shall be known as the Department and the Director of Building and Zoning shall be known as the code official.

**103.2 Deputies.** In accordance with the prescribed procedures of the City of Troy, the City Manager shall have the authority to appoint or remove the code official, other related technical officers, inspectors and other employees.

**103.4 Liability.** The code official and fire official, while acting for the City of Troy, shall not thereby be rendered liable personally, and are relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any code official or fire official because of an act performed by that official in the lawful discharge of duties and under the provisions of this code shall be defended by the City Attorney or his/her designee until the final termination of the proceedings. The code official or fire official shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code. Any official of the department, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties, excluding acts which constitute gross negligence and/or intentional acts on the part of individual.

**103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be set forth in *Chapter 60*, *Fees and Bonds Required, of the City of Troy Ordinances,* or by resolution of the Troy City Council.

## SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

**104.1 General.** The code official shall enforce the provisions of this code.

**104.2 Rule-making authority.** The code official shall have authority as necessary and in the interest of public health, safety and general welfare to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

**104.3 Inspections.** The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

**104.3.1 Multiple Family Dwellings.** Structures with three or more dwelling units

are subject to periodic inspections to insure compliance with this code as set forth in *Chapter 82A, Rental and Dwelling Inspections and Enforcement, of the City of Troy Code of Ordinances.*

**104.4 Right of entry.** Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

**104.5 Identification.** The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**104.6 Notices and orders.** The code official shall issue all necessary notices or orders to ensure compliance with this code.

**104.7 Department records.** The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained for as long as the building or structure to which such records relate remains in existence, unless otherwise provided under law.

**SECTION 105 APPROVAL**

**105.1 Modifications.** Existing buildings or structures will not be required to comply with all or some of the Property Maintenance code requirements when the code officer determines that unique circumstances make the strict enforcement of this code impractical, provided that such modification does not lessen health, life and fire safety requirements. The details of any such modifications shall be recorded and entered in the department files.

**105.2 Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, as long as any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

**105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not

conform to the requirements of this code, or when necessary to substantiate requests for alternative materials or methods, the code official shall have the authority to require tests in order to verify compliance. Any such required test shall be paid for by the person charged with demonstrating compliance, and shall not be charged to the City of Troy.

**105.3.1 Test methods.** Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures which shall be performed by an approved agency.

**105.3.2 Test reports.** Reports of tests shall be retained by the code official for the period required for retention of public records.

**105.4 Material and equipment reuse.** Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved. This section is not intended to limit the use of recycled materials.

## SECTION 106 VIOLATIONS AND PENALTIES

**106.1 Unlawful acts and prosecution of violations.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code. A violation of this ordinance shall be prosecuted as a municipal civil infraction, pursuant to *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

**106.2 Separate offense and violation penalties.** Any person who violates a provision of this code, or fails to comply with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after a notice of violation has been issued can be deemed a separate offense. Penalties shall be assessed as provided in Chapter *100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

**106.3 Abatement of violation** The issuance of a Municipal Ordinance Violation Notice or a Municipal Ordinance citation or the imposition of penalties pursuant to *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* shall not preclude the Troy City Attorney or his/her designee from instituting appropriate action to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or utilization of the building, structure or premises; or to take any other legal action or remedy as provided by law.

## SECTION 107 NOTICES AND CITATIONS

**107.1 Notice or Citation to person responsible.** Whenever the code official determines that there has been a violation of this code or has grounds to believe

that a violation has occurred, a Municipal Civil Infraction Notice or a Municipal Civil Infraction Citation may be given to the person responsible for the violation in the manner prescribed in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances.*

**107.2 Form and Method of Service.** A Municipal Civil Infraction Notice or Municipal Civil Infraction Citation shall be in a form as prescribed in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* and shall be served in a method prescribed in Chapter 100.

**107.3 Transfer of ownership.** It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of violation or an order from the court requiring compliance, to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another person until the code violations have been corrected or there is compliance with an applicable court order. In the alternative, an owner can furnish the grantee, transferee, mortgagee or lessee with a true copy of any notice of violation issued by the code official or his/ her designee or a copy of any order of the court requiring compliance. The owner shall then furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice of violation or order requiring compliance where such grantee, transferee, mortgagee or lessee fully accepts the responsibility, without condition, for making the corrections or repairs required by such notice of violation, or court order requiring compliance.

## SECTION 108 DANGEROUS BUILDINGS, UNSAFE STRUCTURES, UNSAFE EQUIPMENT AND DEMOLITION

**108.1 General.** The procedures set forth in this Section are established to secure the health and safety of the occupants of dwellings and structures and the general public. The code official shall enforce the provisions of this Section, and shall have jurisdiction to establish the inspection and violation procedures to implement enforcement. This Section does not preclude enforcement by any other governmental agency with jurisdiction over dangerous buildings, unsafe structures or unsafe equipment. This Section may be enforced by joint agreement between the City of Troy and any other governmental agency, if practical.

**108.1a Unlawful to maintain dangerous building, unsafe structure or unsafe equipment**. It is unlawful for any owner to keep or maintain any building, structure or equipment or part thereof in a dangerous or unsafe manner, as set forth in Section 108.1.1 or 108.1.2.

**108.1b Owners subject to ordinance**. All owners shall be subject to the provisions of this ordinance and shall be parties to all proceedings, actions, or prosecutions for dangerous buildings, unsafe structures and/or unsafe equipment.

**108.1.1 Dangerous or Unsafe Building or structure.** A dangerous or unsafe

building or structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure. It does not provide minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible. A dangerous building or unsafe structure is a building or structure which has one or more of the following defects or satisfies one or more of the following conditions:

a. A door, aisle, passageway, stairway or other means of exit is not in compliance with the approved *Troy Fire Code*.

b. A portion of the building or structure is damaged by fire, wind, flood, or other cause in such a manner that the structural strength or stability of the building is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the City of Troy Ordinances.

c. A portion of the building or structure has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required for new construction under the City of Troy Ordinances.

d. The building or structure or part of the building or structure is likely to partially or completely collapse, or become detached, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for support or for other reason.

e. The building, structure, or part of the building or structure is manifestly unsafe for the purpose for which it is intended to be used

f. The building or structure is vacant, dilapidated and open at any door or window leaving the interior of the building exposed to the elements or accessible to entrance by trespassers; or otherwise becomes an attractive nuisance to children who might play in the building or structure to their danger; or becomes a harbor for vagrants, criminals or immoral persons or enables persons to use the building or structure in the commission of a nuisance or an unlawful or immoral act.

g. A residence or the adjoining grounds of a building or structure which is used or intended to be used for dwelling purposes is unsanitary or unfit for human habitation, due to dilapidation, decay, damage, or faulty construction or arrangement or otherwise is in a condition that the code official determines is likely to cause sickness or disease or is likely to injure the health, continued safety or general welfare of people living in or near the residence.

h. An owner has been previously notified of existing code violation(s), according to the provisions of the Troy Code of Ordinances and after said

notice has left the structure unattended or unoccupied, whether boarded up or in an open condition, for a period exceeding thirty (30) days.

i. A building or structure is unfit for human occupancy such that the building or structure is unsafe, unlawful or because of the degree to which the structure is in disrepair or lacks maintenance, it is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

j. A building or structure found in whole or in part to be occupied by more persons than permitted under this code, or a building or structure that was erected, altered or occupied contrary to law.

**108.1.1.1 Notice of dangerous and unsafe building, structure or condition.** When the whole or part of any building or structure is found to be a dangerous or unsafe building or structure, the code official shall issue a notice declaring that the building or structure is a dangerous or unsafe building or structure. The notice shall itemize the current code violation(s) and dangerous condition(s) and specify a time to complete all necessary repairs or demolish of the building or structure.

**108.1.1.2 Service of Notice**. The notice shall be served on the owner of record or the registered agent in the following manner:

1. Delivered personally; and
2. Sent by certified or first-class mail addressed to the owner's or resident agent's last known address.

   If the owner cannot be found, the notice may alternatively be served by posting it prominently and securely on the property and publishing it once a week for three (3) consecutive weeks in a newspaper authorized to provide service by publication. Service of notice under this provision shall supersede *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

**108.1.1.3 Contents of Notice**. The notice shall state that the owner or his/her authorized representative has the right to appeal the determination of the code official that the building or structure is dangerous or unsafe to the Troy City Council. The notice shall further state that any appeal under this Section shall be filed in writing to the code official within ten (10) days of service of the notice.

**108.1.1.4 Waiver of Hearing**. If a written appeal of the dangerous or unsafe building or structure determination is not received by the code official within ten (10) days of the date of service of the notice, then a hearing will not be necessary. The matter shall be referred to the City Council for resolution.

**108.1.1.5 Hearing**. If the code official receives a written appeal of the dangerous

or unsafe building or structure determination within the allocated ten (10) day period, then a hearing will be scheduled before the City Council as soon as administratively possible. At the hearing, the City Council shall take the testimony from the code official and/or his/her authorized representatives and employees; testimony from the owner of the property and any other interested party to determine whether the building or structure constitutes a dangerous or unsafe building or structure, as defined by this section.

**108.1.1.6 City Council action**. If the City Council determines that the building or structure is a dangerous or unsafe building or structure, and that the building or structure should be demolished or made habitable, Council shall order either demolition within twenty-one (21) days or require that all necessary repairs be completed within sixty (60) days after the hearing and/or resolution, unless the City Council determines that the conditions justify a longer time period to complete the necessary repairs.

**108.1.1.7 Failure to demolish or repair**. If the ordered demolition or repairs are not completed within the allocated time period, as set forth in the resolution, City Council can then authorize any and all necessary action to enforce their order. This includes, but is not limited to, causing the building or structure or any part of the building or structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real property upon which the building or structure is located and shall be a lien upon such real property. Such lien shall be enforced against the real property as a special assessment.

**108.1.1.8 Recovery of City's cost**. The owner or party in interest according to the last local tax assessment records, shall be notified of the cost of the necessary repairs or demolition by first class mail at the address shown on the local tax assessment records. If the owner or party in interest fails to pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount due, the Assessor shall add the same to the next tax roll of the City of Troy, and the same shall be collected in the same manner and in all respects as provided by law for the collection of taxes by the City of Troy. The City Council shall also have the option of initiating a lawsuit to recover the City's full cost of necessary repairs or demolition. If the City receives a favorable judgment, then the City shall have all rights and remedies under law to collect the amount of the judgment from the property owner(s) and/or parties in interest.

**108.1.1.9 Salvage materials.** When any building or structure has been ordered demolished and removed, the City of Troy shall have the right, but not the obligation, to sell the salvage and valuable materials at the highest price obtainable either through the City or through a contractor hired by the City. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted to the property owner with a report of such sale or transaction, including the items of expense and the amounts deducted. If there is no surplus, the report shall so state.

**108.1.1.10 Appeal to Circuit Court**. An owner aggrieved by any dangerous building final decision or order of the City Council may appeal the decision or order to the Circuit Court within twenty (20) days from the date of the decision.

**108.1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

**108.2 Closing of vacant buildings and structures.** If a building or structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real property upon which the structure is located and shall be a lien upon such real property and may be collected by any other legal resource.

**108.3 Posting Notice.** Whenever the code official has declared a building, structure or equipment dangerous or unsafe under the provisions of this section, notice shall be posted in a conspicuous place in or about the building or structure affected by such notice or placed on the unsafe equipment.

**108.4 Placarding.** The code official shall post on the premises or on defective equipment a placard bearing the words “Dangerous Building” or “Unsafe Building” or “Dangerous Structure” or “Unsafe Structure” or “Dangerous Equipment” or “Unsafe Equipment” and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

**108.4.1 Placard removal.** The code official shall remove the placard whenever the defect or defects upon which the determination of dangerous or unsafe building, structure or equipment and placarding action were based have been eliminated. Any person who defaces or removes a placard without the approval of the code official shall be subject to the penalties provided by this code.

**108.5 Prohibited occupancy.** Any occupied building or structure determined to be dangerous or unsafe and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by this code.

## SECTION 109 EMERGENCY MEASURES

**109.1 Imminent danger.** When, in the opinion of the code official or fire official, there is imminent danger of failure or collapse of a building or structure which

endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any building or structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official or fire official or designee are hereby authorized and empowered to order and require the occupants to vacate the premises immediately. At each entrance to such a building or structure, the code official or his/her designee shall post a notice declaring the building or structure unsafe and prohibiting occupancy. It shall be unlawful for any person to enter such building or structure except for the purpose of securing the building or structure, making the required repairs, removing the hazardous condition or of demolishing the building or structure.

**109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever the code official determines that there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done to render such structure temporarily safe, whether or not the legal procedure herein described has been instituted. This necessary work could be to board up openings of the building or structure, or could be any other action that the code official deems necessary to address such emergency.

**109.2a Abating a nuisance**. The code official or fire official shall have the power to abate any public nuisance from any dangerous building or structure if immediate action is required to avoid a distinct hazard to life or property. Since this action is for public safety, the action can be taken without preliminary notice as is otherwise required in the City of Troy Code of Ordinances.

**109.3 Closing streets.** When necessary for public safety, the code official shall temporarily close buildings and structures. The code official can also close or order the closure of sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

**109.4 Emergency repairs.** For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall initially be assumed by the City of Troy. The other costs of abating a public nuisance shall be charged against the owner(s) or occupant(s) of the premise. The owner(s) or occupant(s) shall be sent an invoice for the cost of abatement by the City of Troy Building Department. If payment is not made within thirty (30) days, the amount shall be collected in the same manner as set forth in Section 108.1.1.8.

**109.6 Hearing.** Owners or occupants must comply with orders for emergency measures. However, the owner or occupant can request relief from the order by filing a written petition with the Building Code Board of Appeals within twenty (20) days of the decision of the code official and in compliance with Section 111, as

set forth below.

**SECTION 110** Reserved

## SECTION 111 APPEAL TO BUILDING CODE BOARD OF APPEALS

**111.1 Application for appeal.** Except for individuals filing an appeal under Section 108.1.1.5 – Hearing (Dangerous or Unsafe Buildings, Structures or Conditions)**,** any person directly affected by a decision of the code official or a notice of violation issued under this code shall have the right to appeal to the Building Code Board of Appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision or notice of violation was served. An application for appeal shall be based on a claim that the true intent of this code been incorrectly interpreted; the provisions of this code do not fully apply; or the requirements of this code have been adequately satisfied.

**111.2 Membership of Building Code Board of Appeals.** The authority, membership, procedures, and compensation of the Building Code Board of Appeals is set out in Section 116 of *Chapter 79, General Building Regulations, of the City of Troy Code of Ordinances*.

**111.3 Commission or Court Review.** Any interested person, whether or not a previous party of an appeal under this section, shall have the right to appeal the decision of the Building Code Board of Appeals. Appeals can be filed with the Michigan Construction Code Commission pursuant to MCL 125.1516, or with an appropriate court. Appeals shall be filed in the manner and time required by law.

**111.4 Stays of enforcement.** For all but emergency cases, appeals of notices and orders of the code official shall stay the enforcement of the notice and order until the appeal is heard and a final decision rendered by the Building Code Board of Appeals, the Michigan Construction Code Commission or an appropriate court of law.

# CHAPTER 2 DEFINITIONS

## SECTION 201 GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings as set forth in this chapter.

**201.2 Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural includes the singular.

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the *Michigan Building Code, Troy Fire Code, Troy Zoning Ordinance, Michigan Plumbing Code, Michigan Mechanical Code* or the *Michigan Electrical Code*, such terms shall have the meanings ascribed to them as stated in those codes.

**201.4 Terms not defined.** Where terms are not defined through the methods

authorized by this section, such terms shall have ordinarily accepted meanings taken in light of the context.

**201.5 Parts.** Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

**SECTION 202 GENERAL DEFINITIONS**

**APPROVED.** Approved by the code official.

**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a bathtub or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

**CITY COUNCIL**. The Troy City Council.

**CODE OFFICIAL.** The code official charged with the administration and enforcement of this code is the City of Troy Director of Building and Zoning or his/her designee.

**COMMON PROPERTY.** Property commonly owned by a number of individuals in a condominium development (including site condominium), subdivision or other form of development with common areas, such as cul-de-sacs, traffic medians, boulevard, islands, parks, playgrounds, detention and retention areas, open space or other common areas.

**DEADBOLT.** A locking mechanism consisting of a bolt that when moved into the locked position cannot be retracted by end pressure on the bolt.

**DWELLING UNIT.** A residential structure, or portion thereof, permanently sited on a continuous frost-free masonry foundation, containing all required plumbing, heating and electrical systems attached to the available public utilities, designed for the occupancy of one (1) family with cooking facilities.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on, or above a said lot or lots.

**EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**EXTERMINATION.** The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water source; by poison, spraying, fumigating, trapping or by any other approved pest elimination methods.

**FIRE OFFICIAL**. The fire official charged with the administration and

enforcement of this code is the City of Troy Fire Chief or his/her designee.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

**GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**HABITABLE SPACE.** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain a toilet, lavatory and bathtub or shower within such a unit.

**IMMINENT DANGER.** A condition which could cause serious or life-threatening injury or death at any time.

**INFESTATION.** The presence, within or contiguous to, a structure or premises of rats, vermin or other pests.

**INOPERABLE MOTOR VEHICLE.** A vehicle which cannot be driven upon the public streets. Inoperable vehicles include, but are not limited to those that are unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**LABELED.** Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

**LET FOR OCCUPANCY OR LET.** To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR.** Any owner, occupant, tenant, lessee, landlord, agent or person

who has charge, care, control or responsibility over a structure, premises or any private property which is let or offered for occupancy.

**OWNER.** Any person, partnership, association, agent, operator, firm or corporation and/or their legal successors and assigns having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control or responsibility over the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PERSON.** An individual, corporation, partnership or any other group acting as a unit.

**PREMISE.** A lot, plot or parcel of land, easement or public way, including any structures thereon, also including such portions of any street dedicated for public use that would be attached to the owner's property upon vacation of the public rights to the street that are not otherwise paved or improved. Premise includes easements or rights-of-way owned by the City or the Road Commission of Oakland County.

**PRESERVATION OR RESTORATION AREA.** All or a portion of a premise managed to preserve or restore native Michigan grasses, native trees, shrubs, wildflowers, and aquatic plants, including but not limited to: indian grass (Sorghastrum nutans), prairie cordgrass (Spartina pectinata), prairie dropseed (Sporobolus heterolepis), rice cut grass (Leersia oryzoides), panic grass ( Panicum implicatum), switch grass (Panicum virgatum), riverbank wild-rye (Elymus riparius), purple love grass or tumble grass (Eragrostis spectabilis), fowl manna grass (Glyceria striata), bottlebrush grass (Hystrix patula), big bluestem (Andropogon gerardii), long-awned wood grass (Brachyelytrum erectum) and blue-joint grass (Calamagrostis canadensis); an oldfield succession of native and non-native plants; or a combination of these.

**PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**ROOMING HOUSE.** A building arranged or occupied for residential lodging for compensation with or without meals and not occupied as a one- or two-family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage. The term includes burnt wood, burnt coal, burnt coke and other combustible materials;-paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust,

residue and other similar materials.

**SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are part of a dwelling unit are not sleeping units.

**STORY.** That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is not a floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than fifty (50) percent by cubic content, is below the height level of the adjoining ground.

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**TURF GRASS**. Grass commonly used in regularly-cut lawns or play areas, including but not limited to: bluegrass, fescue, and ryegrass blends.

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WEEDS.** Noxious weeds as defined under Michigan law (MCL 247.62) including, but not limited to:

> Canada thistle (Circium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrots (Daucus carota), bindweed (Convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (ambrosia elatior 1.); and poison ivy (rhustoxicodendron), and poison sumac (toxicodondron vernix).
>
> Any other varieties, species or plant growth designated by the City as poisonous, injurious and/or regarded as a common nuisance in the opinion of the City of Troy Public Works Director or his/her designee.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**YARD.** An open space on the same lot with a structure.

## CHAPTER 3 GENERAL REQUIREMENTS

### SECTION 301 GENERAL

**301.1 Scope.** The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

**301.2 Responsibility.** The owner of a premise shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided in this code. A person shall not occupy as owner-occupant or permit another person to occupy a premise that is not in a sanitary and safe condition and which does not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premise which they occupy and control.

**301.3 Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

### SECTION 302 EXTERIOR PROPERTY AREAS

**302.1 Sanitation.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that is occupied or controlled by that occupant in a clean and sanitary condition.

**302.2 Grading and drainage.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon, including but not limited to garden pools and swimming pools.

> **Exception:** Approved retention areas and reservoirs.

**302.3 Sidewalks and driveways.** The occupant or property owner is responsible to keep all sidewalks, walkways, stairs, driveways, parking spaces and similar areas in reasonable repair, and maintained free from hazardous conditions.

**302.4 Turf Grass, Weeds and Plant Growth.**

**302.4.1 Weeds and Grass**. The presence of turf grass and/or weeds exceeding ten (10) inches in height on any premises in the City is hereby declared to be a nuisance. The owner, occupant or any person having control or management of any premises is required to cut turf grass and weeds on the premises to a height that is ten (10) inches or less.

**Exceptions:**

1) Preservation or Restoration Areas are allowed to exceed ten (10) inches in height if those areas do not contain any turf grass and/or weeds.

2) Areas declared to be wetland or preservation areas by the Michigan Department of Natural Resources or the Michigan Department of Environmental Quality are allowed to exceed ten (10) inches in height.

3) Cultivated flowers and gardens or fields devoted to growing any small grain crop such as wheat, corn, oats, barley or rye.

**302.4.2 Duty of Owner to abate**. It shall be the duty of the owner, occupant or any person having control or management of any premises within the City upon which weeds are found growing or standing, to cut and destroy or cause to be cut and destroyed all such weeds in such a manner as to prevent such weeds from perpetuating themselves or going to seed.

**302.4.3 Failure to abate**. Upon failure of the owner, occupant or any person having control or management of any premises to cut turf grass and/or weeds and to take action to prevent such weeds from perpetuating themselves; the owner, occupant or any person having control or management of the premises shall be subject to prosecution as set forth in *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*. Additionally the City may enter onto said premises as many times as necessary between May 1st to November 1st to cut turf grass and/or weeds, treat weeds or otherwise abate the nuisance.

**302.4.4 Published Notice**. It shall be the duty of the Public Works Director or his/her designee to give general notice to every owner, occupant, or person having control or management of any premises of the cutting and weed prevention requirements of this section. Such duty shall be satisfied if publication is made of the cutting and weed prevention requirements in the newspaper of record in the City during the month of March notifying the owners, occupants or persons having control or management of any premises that failure to cut turf grass or weeds or failure to prevent the perpetuation of weeds as required under this section during the period of May 1 to November 1 of each year, may result in the issuance of a Municipal Civil Infraction Notice or Citation under *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances* and/or the entry on the premises by the City to cut said turf grass and/or weeds or to prevent the perpetuation of weeds. The general notice shall also inform owners, occupants and persons having control or management of any premises that if the City is required to enter onto the premises to cut turf grass and/or weeds or to take an action to prevent the perpetuation of weeds, the property owner designated on the City assessment or tax rolls shall be assessed the cost, payable to the City, for each required abatement. The City may enter onto said premises as many times as necessary between May 1st to November 1st to cut turf grass and/or weeds or treat weeds and charge the cost to the property owner

for each such cutting or treatment. The City has the discretion to send via first class mail a ten (10) day notice to the last property owner of record and/or to attach a notice to the premises stating that the City intends to cut said turf grass and/or weeds or treat weeds, and if the turf grass and/or weeds are not cut or the weeds are not treated within ten (10) days from the date of the notice, the City may proceed to cut the turf grasses and/or weeds or treat the weeds. Failure to send such a warning notice does not in any way prevent the City from entering on the premises to cut turf grass and/or weeds or to treat weeds, as long as a general notice has been published, as set out herein.

**302.4.5 Recovery of Cost by City**. The Department of Public Works Director or his/her designee is hereby authorized and directed to keep accurate accounts of all reasonable expenses incurred by the City to abate a nuisance. The Public Works Director and/or his designee, is hereby authorized to include in its cost of recovery the following: wages, overtime wages, fringe benefits, cost of equipment, supplies, materials, and a ten (10) percent administration charge to cover the expense of administering the abatement work that is performed. The Public Works Director or his/her designee shall prepare an invoice of total charges for each premise and forward those invoices to the City Treasurer. Within ten (10) days after receipt of an invoice, the City Treasurer shall forward to the owner on the last local assessment or tax roll an invoice of the total charges assessed against each premises. Thirty (30) days from the date each statement was mailed, payment shall be made. If the invoice is not paid within thirty (30) days, the total amount charged shall become an assessment against the land and a lien against the property.

**302.4.6 Common Property**. If property is held as common property, such as, but not limited to: common areas of a condominium development (including a site condominium), subdivision, cul-de-sac, traffic medians, boulevards, islands, parks, playgrounds, detention and retention areas, open space or any other common area or other form of development for which the City is unable to determine the occupant or person having control or management over a common area with assessment or tax records, the City may enter onto the common property to abate any nuisance of a type set out in this Chapter. The costs incurred by the City for the nuisance abatement shall be pro-rated among each individual property owner in the condominium development, subdivision or other individual owner in a development with common property. The City Treasurer shall send a statement to each owner for their specific pro-rated portion. If the invoice is not timely paid, the total amount charged shall become an assessment against that particular property for that pro-rated share.

**302.5 Rodent harborage.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent re-infestation.

**Exception:** The presence of squirrels or chipmunks on the exterior of a

structure shall not constitute a rodent infestation.

**302.6 Exhaust vents.** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

**302.7 Accessory structures.** All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

**302.8 Motor vehicles.** No person shall permit the accumulation of one or more inoperable vehicles outside of a completely enclosed building for a period of more than fourteen (14) days. Inoperable vehicles are those that are not in operating condition and eligible for use in accordance with the requirements of the Michigan Vehicle Code, being MCL 257.1 through 257.925. These minimum conditions include, but are not limited to: an engine that runs, four wheels and four pneumatic tires capable of holding air, working battery, and current license plates. This prohibition applies to owners, tenants, managers of private property, last registered owners of motor vehicles or transferees on a bill of sale covering a vehicle.

> **Exception:** Any person enumerated in this section who, under special conditions of hardship, or for valid reasons such as the preservation of a historic or classic vehicle, may request an extension of the fourteen (14) day limitation above described by filing a timely request with Director of Building and Zoning. The Director of Building and Zoning may, after review of all of the circumstances, grant a reasonable extension of time for compliance.

**302.9 Defacement of property.** No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. Owners of property bear the responsibility to remove or obliterate markings, carvings or graffiti from their property.

## SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

**303.1 Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

**303.2 Enclosures.** Private swimming pools, hot tubs and spas capable of holding water more than 24 inches in depth shall be completely surrounded by a fence or barrier at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self latching gates shall be maintained such that the gate will positively close and latch when released

from an open position of 6 inches from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

> **Exception:** Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

## SECTION 304 EXTERIOR STRUCTURE

**304.1 General.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**304.2 Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

**304.3 Premise identification.** Buildings shall have approved address numbers as required by *Chapter 2 of the City of Troy Code of Ordinances*.

**304.4 Structural members.** All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

**304.5 Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**304.6 Exterior walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

**304.7 Roofs and drainage.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

**304.8 Decorative features.** All cornices, belt courses, corbels, terra cotta trim,

wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

**304.9 Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**304.10 Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

**304.11 Chimneys and towers.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

**304.12 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**304.13 Window, skylight and door frames.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

**304.13.1 Glazing.** All glazing materials shall be maintained free from cracks and holes.

**304.13.2 Openable windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

**304.14 Insect screens.** During the period from April 1 to November 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every screen door used for insect control shall have a self-closing device in good working condition.

> **Exception:** Screens shall not be required where other approved means are employed, such as air curtains or insect repellent fans.

**304.15 Doors.** All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

**304.16 Basement hatchways.** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

**304.17 Guards for basement windows.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

**304.18 Building security.** Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

**304.18.1 Doors.** Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than 1 inch. Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

**304.18.2 Windows.** Operable windows located in whole or in part within 6 feet above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

**304.18.3 Basement hatchways.** Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

## SECTION 305 INTERIOR STRUCTURE

**305.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**305.2 Structural members.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**305.3 Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

**305.4 Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

**305.5 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**305.6 Interior doors.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

## SECTION 306 HANDRAILS AND GUARDRAILS

**306.1 General.** Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches above the floor or grade below shall have guards. Handrails shall not be less than 30 inches high or more than 42 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

> **Exception:** Guards shall not be required where exempted by the adopted building code.

## SECTION 307 RUBBISH AND GARBAGE

**307.1 Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage.

> **Exception:** Fallen trees and branches from trees on the premise in a preservation or restoration area.

**307.2 Disposal of rubbish.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

**307.2.1 Rubbish storage facilities.** The owner of every occupied premise shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**307.2.2 Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

**307.3 Disposal of garbage.** Every occupant of a building shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

**307.3.1 Garbage facilities.** The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; or an approved, leak-proof, covered, outside garbage container.

**307.3.2 Containers.** The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak-proof containers with close-fitting covers for the storage of garbage until it is removed from the premise for disposal.

**307.4 Rubbish removal after eviction notice for landlord/tenant or foreclosure.** If a tenant or occupant has personal property on the premises at the time of an eviction or involuntary removal the owner or operator shall place a large movable container or receptacle on the private property which holds at least 6 cubic yards and can be mechanically emptied for disposal purposes of the tenant or occupant's personal property, such as but not limited to: household furniture, appliances, clothing, rugs, window treatments, books and paper products and personal goods. At no time shall any part of the container be placed on any public area adjacent to the private property.

**307.4.1 Type of container.** Upon eviction or involuntary removal, the tenant's or occupant's personal property shall be legally removed from the property or placed and disposed of only in the large movable container as referenced above. The container shall be of the type which will allow access from its side as opposed to access solely through the top of the container.

**307.4.2 Removal of container.** The movable container and its contents shall be removed from the real property within forty-eight (48) hours of placement.

**307.4.3 Blight violation.** In the event that a moveable container is not used for disposal of the tenant's or occupant's personal property and that property is improperly placed elsewhere on the property, or the container is not properly removed, then the owner, operator or other person in violation of this Section is subject to immediate issuance of a Municipal Civil Infraction Notice or a Municipal Civil Infraction Citation pursuant to *Chapter 100, Municipal Civil Infractions, of the City of Troy Code of Ordinances*.

**307.4.4 Cost Recovery.** In addition to any other penalties set out in the Troy Code of Ordinances, if the City of Troy incurs any costs to remove solid waste from property resulting from an eviction or foreclosure proceeding, the owner and the operator shall be billed by invoice sent by first class mail for the cost of the removal, including but not limited to: the cost of labor for removal of the solid waste and the cost of the use or rental of the container. If the owner or operator fails to pay the same within thirty (30) days after the invoice is mailed, the City shall add the amount to the next tax roll of the City of Troy, and it shall be collected in the same manner as provided by law for the collection of taxes by the City of Troy. The City Council shall also have the option of initiating a lawsuit to recover the City's full cost of necessary expenses. If the City receives a favorable judgment, then the judgment may be assessed against all of the assets of the owner of the property, both real and personal, not just the real property where the removal of solid waste occurred.

**SECTION 308 EXTERMINATION**

**308.1 Infestation.** All structures shall be kept free from rodent or pest infestation. All structures in which rodents or pests are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

**308.2 Responsibility.** The owner, occupant, or any person having control of any structure or premises shall be responsible for extermination.

> **Exception:** Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

## CHAPTER 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### SECTION 401 GENERAL

**401.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

**401.2 Responsibility.** The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

**401.3 Alternative devices.** In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *Michigan Building Code* shall be permitted.

### SECTION 402 LIGHT

**402.1 Habitable spaces.** Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

> **Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The exterior glazing area shall be based on the total floor area being served.

**402.2 Common halls and stairways.** Every common hall and stairway in residential occupancies, other than in one and two family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet. In other than residential occupancies, means of egress, including exterior means of egress stairways,

shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 foot-candle at floors, landings and treads.

**402.3 Other spaces.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

## SECTION 403 VENTILATION

**403.1 Habitable spaces.** Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

> **Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

**403.2 Bathrooms and toilet rooms.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be re-circulated.

**403.3 Cooking facilities.** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

> **Exceptions:**
>
> 1. Where specifically approved in writing by the code official.
>
> 2. Devices such as coffee pots, hot plates, toaster ovens and microwave ovens shall not be considered cooking appliances.

**403.4 Process ventilation.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be re-circulated to any space.

**403.5 Clothes dryer exhaust.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer’s instructions.

## SECTION 404 OCCUPANCY LIMITATIONS

**404.1 Privacy.** Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other

adjoining spaces.

**404.2 Minimum room widths.** A habitable room, other than a kitchen, shall not be less than 7 feet in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.

**404.3 Minimum ceiling heights.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet.

> **Exceptions:**
>
> 1. In one and two family dwellings, beams or girders spaced not less than 4 feet on center and projecting not more than 6 inches below the required ceiling height.
>
> 2. Basement rooms in one and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches with not less than 6 feet 4 inches of clear height under beams, girders, ducts and similar obstructions.
>
> 3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet or more shall be included.

**404.4 Bedroom and living room requirements.** Every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

**404.4.1 Room area.** Every living room shall contain at least 120 square feet and every bedroom shall contain at least 70 square feet.

**404.4.2 Access from bedrooms.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

> **Exception:** Units that contain fewer than two bedrooms.

**404.4.3 Water closet accessibility.** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

**404.4.4 Prohibited occupancy.** Kitchens and non-habitable spaces shall not be used for sleeping purposes.

**404.4.5 Other requirements.** Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room

area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

**404.5 Overcrowding.** The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

**404.6 Efficiency unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet. A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet. These required areas shall be exclusive of the areas required by Items 2 and 3.

2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.

3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

4. The maximum number of occupants shall be three.

**404.7 Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## CHAPTER 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

### SECTION 501 GENERAL

**501.1 Scope.** The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

**501.2 Responsibility.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this chapter.

### SECTION 502 REQUIRED FACILITIES

**502.1 Dwelling units.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room

as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

**502.2 Rooming houses.** At least one water closet, lavatory and bathtub or shower shall be supplied for every four rooming units.

**502.3 Hotels.** Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

**502.4 Employees' facilities.** A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

**502.4.1 Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or clean cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

## SECTION 503 TOILET ROOMS

**503.1 Privacy.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. In multiple dwellings, a door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms.

**503.2 Location.** Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

**503.3 Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet. Employee facilities shall either be separate facilities or combined employee and public facilities.

> **Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet from the employees' regular working area to the facilities.

**503.4 Floor surface.** In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

## SECTION 504 PLUMBING SYSTEMS AND FIXTURES

**504.1 General.** All plumbing fixtures shall be properly installed and maintained in

working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

**504.2 Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

**504.3 Plumbing system hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

## SECTION 505 WATER SYSTEM

**505.1 General.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *Michigan Plumbing Code*.

**505.2 Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

**505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

**505.4 Water heating facilities.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

## SECTION 506 SANITARY DRAINAGE SYSTEM

**506.1 General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

**506.2 Maintenance.** Every plumbing stack, vent, waste and sewer line shall

function properly and be kept free from obstructions, leaks and defects.

## SECTION 507 STORM DRAINAGE

**507.1 General.** Drainage of roofs and paved areas, yards and courts, sub soil collection systems, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

# CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

## SECTION 601 GENERAL

**601.1 Scope.** The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

**601.2 Responsibility.** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

## SECTION 602 HEATING FACILITIES

**602.1 Facilities required.** Heating facilities shall be provided in structures as required by this section.

**602.2 Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the *Michigan Plumbing Code*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

**602.3 Heat supply.** Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to June 1 to maintain a temperature of not less than 68°F in all habitable rooms, bathrooms, and toilet rooms.

> **Exception:**
>
> When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *Michigan Plumbing Code*.

**602.4 Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to June 1 to maintain a temperature of not less than 65°F during the period the spaces are occupied.

**Exceptions:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

**602.5 Room temperature measurement.** The required room temperatures shall be measured 3 feet above the floor near the center of the room and 2 feet inward from the center of each exterior wall.

## SECTION 603 MECHANICAL EQUIPMENT

**603.1 Mechanical appliances.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

**603.2 Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

**Exception:** Fuel-burning equipment and appliances which are labeled for unvented operation.

**603.3 Clearances.** All required clearances to combustible materials shall be maintained.

**603.4 Safety controls.** All safety controls for fuel-burning equipment shall be maintained in effective operation.

**603.5 Combustion air.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

**603.6 Energy conservation devices.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping there from, shall not be installed unless labeled for such purpose and the installation is specifically approved.

**603.7 Portable cooking equipment** Unless otherwise approved, portable cooking equipment shall not be used on the interior of a structure in any area other than an area designated as a cooking room.

## SECTION 604 ELECTRICAL FACILITIES

**604.1 Facilities required.** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

**604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the

*Michigan Electrical Code*. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

**604.3 Electrical system hazards.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

## SECTION 605 ELECTRICAL EQUIPMENT

**605.1 Installation.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

**605.2 Receptacles.** Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

**605.3 Luminaires.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire.

## SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS

**606.1 General.** Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

**606.2 Elevators.** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

> **Exception:** Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

## SECTION 607 DUCT SYSTEMS

**607.1 General.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

# CHAPTER 7 FIRE SAFETY REQUIREMENTS

## SECTION 701 GENERAL

**701.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

**701.2 Responsibility.** The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

## SECTION 702 MEANS OF EGRESS

**702.1 General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the *Fire Prevention Code of the City of Troy, Chapter 93 of the Troy Code of Ordinances*, hereafter referred to as the *Troy Fire Code.*

**702.2 Aisles.** The required width of aisles in accordance with the *Troy Fire Code* shall be unobstructed.

**702.3 Locked doors.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *Michigan Building Code*.

**702.4 Emergency escape openings.** Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following: required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

## SECTION 703 FIRE-RESISTANCE RATINGS

**703.1 Fire-resistance-rated assemblies.** The required fire resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

**703.2 Opening protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smoke stop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

## SECTION 704 FIRE PROTECTION SYSTEMS

**704.1 General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be

maintained in an operable condition at all times in accordance with the *Troy Fire Code*.

**704.2 Smoke alarms.** Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

2. In each room used for sleeping purposes.

3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level. Single or multiple-station smoke alarms shall be installed in other groups in accordance with the *Troy Fire Code*.

**704.3 Power source.** In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

**Exception:** Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

**704.4 Interconnection.** Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Such interconnection shall be permitted to be through wired or approved wireless methods. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

**Exceptions:**

1. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.

2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or

ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

## CHAPTER 8 REFERENCED STANDARDS

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

| **ASME** | American Society of Mechanical Engineers<br>Three Park Avenue<br>New York, NY 10016-5990 | |
|---|---|---|
| Standard reference number | Title | Referenced in code section number |
| A17.1—2000 | Safety Code for Elevators and Escalators with A17.1a 2002 Addenda | 606.1 |

| **ASTM** | ASTM International<br>100 Barr Harbor Drive West<br>Conshohocken, PA 19428-2959 | |
|---|---|---|
| Standard reference number | Title | Referenced in code section number |
| F1346—91 (2003) | Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs | 303.2 |

| **DELEG** | Michigan Department of Energy Labor and Economic Growth<br>Bureau of Construction Codes<br>2501 Woodlake Circle<br>Okemos, MI 48864 | |
|---|---|---|
| Standard reference number | Title | Referenced in code section number |
| MEC—06 | Michigan Electrical Code | 102.3, 201.3, 604.2 |
| MBC—06 | Michigan Building Code | 102.3, 201.3, 401.3, 702.3 |
| IMC—06 | Michigan Mechanical Code | 102.3, 201.3 |
| IPC—06 | Michigan Plumbing Code | 102.3, 201.3, 505.1, 602.2, 602.3 |

| **City of Troy** | City of Troy<br>500 W. Big Beaver<br>Troy, MI 48084 | |
|---|---|---|
| Standard reference number | Title | Referenced in code section number |
| Charter | Charter of the City of Troy | 104.3 |
| Chapter 2 | Address Numbering and Street Naming | 304.3 |
| Chapter 39 | Troy Zoning Ordinance | 102.3, 201.3 |
| Chapter 60 | Fees and Bonds Required | 103.5 |
| Chapter 79 | General Building Regulations | 111.2 |
| Chapter 82A | Rental and Dwelling Inspection and Enforcement | 104.3.1 |
| Chapter 88 | Nuisances | 302.8 |
| Chapter 93 | Troy Fire Prevention Code | 108.1, 201.3, 702.1, 702.2, 704.1 704.2 |
| Chapter 100 | Municipal Civil Infractions | 106.1, 106.2, 106.3, 107.1, 107.2, 108.1.1.2, 302.4.3, 302.4.4, 307.4.3 |

| **ICC** | International Code Council<br>5203 Leesburg Pike, Suite 600<br>Falls Church, VA 22041 | |
|---|---|---|
| Standard reference number | Title | Referenced in code section number |
| IFGC-06 | International Fuel Gas Code | 102.3 |

Section 3. Savings

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

Section 4. Severability Clause

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

Section 5. Effective Date

This Ordinance shall become effective on January 1, 2010.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____ 2009.

_____
Louise E. Schilling, Mayor

_____
Tonni L. Bartholomew, City Clerk

# CITY COUNCIL ACTION REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Amendments to Chapter 48 of the Troy City Code
Litter Ordinance

Background:

- With the adoption of the new Property Maintenance Code certain provisions of the existing Litter Ordinance will no longer be necessary.
- Section 6.107 will be covered by Section 302.1 of the Property Maintenance Code.
- Other current text of the Litter Ordinance will still be necessary to address issues of litter placed upon public property or streets.
- We have attached the current text of the Litter Ordinance showing the language that is proposed to be deleted.
- This action should only be taken after the adoption of the new Property Maintenance Code.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to amend the Litter Ordinance under the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I).

Options:

- Once the new Property Maintenance Code is adopted the existing text of portions of the Litter Ordinance can be deleted.
- Council can retain the existing text of the Litter Ordinance.

- Council can adopt revised text of the Litter Ordinance.

Approved as to Form and Legality: _____
Lori Grigg Bluhm, City Attorney

mss/ Chapter 48 revision memo 10-5-09

The text of Chapter 48, Litter, Shall be amended as follows:

6.107 ~~Owner to Maintain Premises Free of Litter~~ Enforcement.
The Public Works Director is hereby charged with the enforcement of this Chapter. ~~The owner or person in control of any private premises shall at all times maintain the premises free of litter; Provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.~~

~~6.108 Enforcement - Notice to Abate~~.

~~The City Superintendent of Public Works is hereby charged with the enforcement of this Chapter. No person being the owner or person in charge of or occupant of any private premises shall accumulate or permit the accumulation of any litter on the private premises owned, controlled or occupied by him in a manner prohibited by the provisions of this Chapter. When any litter shall be accumulated or permitted to accumulate on any private premises in a manner prohibited by this Chapter, the enforcing officer shall notify the owner, person in control or occupant of such private premises to remove the litter and clear said private premises within a time limited in the notice, such time not to be less than two (2) days nor more than ten (10) days from the time said notice is served. Such notice shall be served as provided in section 1.11 of this Code.~~

~~If the owner, person in charge or occupant of any premises notified to abate a nuisance consisting of the accumulation of litter on any private premises shall fail to abate the same within the time limited in said notice therefor, the enforcing officer is hereby authorized to enter upon such private premises and abate said nuisance by removing said litter and clearing said private premises. The cost of abating such nuisance plus an additional fifteen (15%) percent for overhead and other expenses shall constitute a lien against the private premises and shall be charged to the occupant thereof or to the owner of unoccupied premises, as the case may be. If not paid within sixty (60) days after the bill for such charges is rendered, such charges may be collected as a single lot assessment against said premises in the manner provided by the City Charter or in any other manner authorized for the collection of debts owed the City.~~

CITY OF TROY

AN ORDINANCE TO
AMEND CHAPTER 48 OF
THE CODE OF THE CITY
OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 48, Litter, of the Code of the City of Troy.

Section 2. Amendment

Chapter 48, Litter, shall be amended as follows:

Section 6.107 shall be amended to read as follows:

6.107 Enforcement

The Public Works Director is hereby charged with the enforcement of this Chapter.

Section 6.108 Enforcement – Notice to Abate, shall be deleted in its entirety.

Section 3. Savings

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

Section 4. Severability Clause

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

Section 5. Effective Date

This Ordinance shall become effective on January 1, 2010.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____ 2009.

_____

Louise E. Schilling, Mayor

_____

Tonni L. Bartholomew, City Clerk

# CITY COUNCIL ACTION REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Amendments to Chapter 79 of the Troy City Code
General Building Regulations, Appeal Procedures

Background:

- As part of the discussions of the new Property Maintenance Code changes were suggested to the process of the Building Code Board of Appeals.
- The current make-up of the Board of Appeals includes the Director of Building and Zoning, the Fire Chief, the Director of Public Works, a representative from the Oakland County Health Department, and a member of the general public that is a Registered Engineer.
- The membership by certain staff members presents potential conflicts of interest since they could be hearing appeals of their decisions or decisions of other employees that are under their direct supervision and control.
- We are proposing that the membership be changed eliminating the Director of Building and Zoning, The Fire Chief and the Director of Public Works and replacing them with the City Manager and two additional members of the public.
- We are also correcting the names of the reference codes that the Board has jurisdiction on.
- We have added specific language regarding distribution of minutes of the Building Code Board of Appeals.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to amend the membership of the Building Code Board of Appeals under the Public Act 230 of 1972, the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I).

Options:

- City Council can adopt the provisions for the new membership of the Building Code Board of Appeals.
- Council can retain the existing membership of the Building Code Board of Appeals.
- Council can adopt revised membership of the Building Code Board of Appeals.

Approved as to Form and Legality: _____

Lori Grigg Bluhm, City Attorney

mss/ Chapter 79 revision memo 10-5-09

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 79 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 79, Sections 116, of the Code of the City of Troy.

Section 2. Amendment

Section 116.1 shall be amended as follows:

Application for Appeal. The owner of a building or structure or any other person may appeal from a decision of the building official refusing to grant a modification of the provisions of the building regulation enacted by the City Council, including but not limited to, the ~~Basic National~~Michigan Building Code, the Michigan Rehabilitation Code for Existing ~~Structure Code~~Buildings, the Troy Fire Prevention Code, Michigan Electrical Code, Michigan Plumbing Code, Michigan Mechanical ~~Heating~~ Code, Troy Property Maintenance Code, Troy Fence Ordinance, Troy Sign Ordinance, but not including the Troy Zoning Ordinance, covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the Board of Appeals. Application for appeal may be made when it is claimed that: the true intent of the building regulations, as listed above, adopted to regulate the construction or occupancies of buildings, or the rules legally adopted there under have been incorrectly interpreted, the provisions of the building regulations do not fully apply, or an equally good or better form of construction can be used.

Section 116.2 shall be amended as follows:

Membership of the Board. The Board of Appeals shall consist of the following: 1. The ~~Building Official~~City Manager. 2. ~~The Director of Public Works. 3. The Fire Chief. 4.~~ A Representative of the Oakland County Health Department. ~~5.~~3. Three residents of the City of Troy who shall have a background, training or experience in construction or similar trades, at least one of which shall be a Professional structural or civil engineer of architectural engineering experience~~,~~. The residents ~~who~~ shall be appointed by the City Council for a period of five (5) years.

Section 116.4 shall be added and read as follows:

Records of the Board. Minutes of each meeting shall be kept in accordance with the Open Meetings Act, Public Act 267 of 1975 (MCL 15.261 et. seq.), and provided to City Council upon approval.

Section 3. Repeal

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

Section 4. Savings

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

Section 5. Severability Clause

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

Section 6. 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 at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

_____
Louise E. Schilling, Mayor

_____
Tonni L. Bartholomew, MMC
City Clerk

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 79 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 79, Sections 116, of the Code of the City of Troy.

Section 2. Amendment

Section 116.1 shall be amended to read as follows:

Application for Appeal. The owner of a building or structure or any other person may appeal from a decision of the building official refusing to grant a modification of the provisions of the building regulation enacted by the City Council, including but not limited to, the Michigan Building Code, the Michigan Rehabilitation Code for Existing Buildings, the Troy Fire Prevention Code, Michigan Electrical Code, Michigan Plumbing Code, Michigan Mechanical Code, Troy Property Maintenance Code, Troy Fence Ordinance, Troy Sign Ordinance, but not including the Troy Zoning Ordinance, covering the manner of construction or materials to be used in the erection, alteration or repair of a building or structure to the Board of Appeals. Application for appeal may be made when it is claimed that: the true intent of the building regulations, as listed above, adopted to regulate the construction or occupancies of buildings, or the rules legally adopted there under have been incorrectly interpreted, the provisions of the building regulations do not fully apply, or an equally good or better form of construction can be used.

Section 116.2 shall be amended as follows:

Membership of the Board. The Board of Appeals shall consist of the following: 1. The City Manager. 2. A Representative of the Oakland County Health Department. 3. Three residents of the City of Troy who shall have a background, training or experience in construction or similar trades, at least one of which shall be a Professional structural or civil engineer of architectural engineering experience. The residents shall be appointed by the City Council for a period of five (5) years.

Section 116.4 shall be added and read as follows:

Records of the Board. Minutes of each meeting shall be kept in accordance with the Open Meetings Act, Public Act 267 of 1975 (MCL 15.261 et. seq.), and provided to City Council upon approval.

Section 3. Repeal

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

Section 4. Savings

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

Section 5. Severability Clause

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

Section 6. Effective Date

This Ordinance shall become effective January 1, 2010.

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

_____
Louise E. Schilling, Mayor

_____
Tonni L. Bartholomew, MMC
City Clerk

# CITY COUNCIL ACTION REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Amendments to Chapter 82-B of the Troy City Code
Dangerous Buildings Ordinance

Background:

- With the adoption of the new Property Maintenance Code the current provisions of the Dangerous Buildings Ordinance will no longer be necessary.
- Dangerous Buildings will be covered by Section 108 of the Property Maintenance Code.
- We have attached the current text of the Dangerous Buildings Ordinance showing the language that is proposed to be deleted.
- This action should only be taken after the adoption of the new Property Maintenance Code.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to delete the Dangerous Buildings Ordinance under the Housing Laws of the State of Michigan, the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I).

Options:

- Once the new Property Maintenance Code is adopted the existing text of the Dangerous Buildings Ordinance can be deleted.
- Council can retain the existing text of the Dangerous Buildings Ordinance.
- Council can adopt revised text of the Dangerous Buildings Ordinance.

Approved as to Form and Legality: _____

Lori Grigg Bluhm, City Attorney

mss/ Chapter 82B revision memo 10-5-09

The text of Chapter 82-B, Dangerous Buildings shall be amended by deleting the Chapter in its entirety.

~~DANGEROUS BUILDINGS~~

~~1. Purpose and Reference to State Act~~

~~The procedures set forth in this Chapter are established in the public interest, to secure the health and safety of the occupants of dwellings, structures, and the general public.~~

~~This Chapter is enacted pursuant to the Housing Law of Michigan, found at Michigan Compiled Laws §125.401 et. seq., and is to be construed in conjunction therewith and interpreted to comply with the language of said law and any subsequent amendments.~~

~~2. Designation of Enforcement Body~~

~~The Director of Building and Zoning, his authorized representatives and employees, shall enforce the provisions of this Chapter, and shall have jurisdiction to establish the inspection and violation procedures to implement said enforcement.~~

~~3. Joint Implementation~~

~~This Chapter may be enforced by any other governmental agency by joint agreement where joint enforcement is practicable.~~

~~4. Dangerous Building, Prohibition.~~

~~It is unlawful for any owner or agent thereof to keep or maintain any structure or part thereof which is a dangerous building as defined in Section 5 (3).~~

~~5. Definitions.~~

~~(1) "City Council" shall mean the legislative body to hear appeals at the local level.~~

~~(2) "Owner" means any person, firm, partnership, association or corporation and/or their legal successors. All proceedings, actions, or prosecutions hereunder in which the owner of any building, structure, or part thereof, shall be subject to the provisions of this ordinance.~~

~~(3) "Dangerous Building" means a building or structure which has one or more of the following defects or is in one or more of the following conditions:~~

~~(a) A door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the City of Troy.~~

~~(b) A portion of the building is damaged by fire, wind, flood, or other cause in such a manner that the structural strength or stability of the building is appreciably less than it was before such catastrophe and does not meet the minimum requirements of the City of Troy ordinances.~~

~~(c) A portion of the building or structure has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required for new construction under the City of Troy ordinances.~~

~~(4-17-00)~~

~~(d) The building or structure or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for support or for other~~

~~reason, is likely to partially or completely collapse, or become detached, or some portion of the foundation or underpinning of the building or structure is likely to fall or give way.~~

~~(e) The building, structure, or part of the building or structure is manifestly unsafe for the purpose for which it is intended to be used.~~

~~(f) The building or structure is vacant, dilapidated and open at any door or window leaving the interior of the building exposed to the elements or accessible to entrance by trespassers or otherwise becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants, criminals or immoral persons or enables persons to resort to the building or structure for committing a nuisance or an unlawful or immoral act.~~

~~(g) A residence or the adjoining grounds of a building or structure which is used or intended to be used for dwelling purposes is unsanitary or unfit for human habitation, due to dilapidation, decay, damage, or faulty construction or arrangement or otherwise is in a condition that the Director of Building and Zoning or his authorized representatives or employees determines is likely to cause sickness or disease or is likely to injure the health, continued safety or general welfare of people living in the residence.~~

~~(h) An owner has been previously notified of existing code violation(s), according to the provisions of this Chapter and after said notice has left the structure unattended or unoccupied, whether boarded up or in an open condition, for a period exceeding thirty (30) days, then the structure shall be declared a dangerous building.~~

~~3. Notice of Dangerous and Unsafe Condition, Issuance, Recipient, Contents, Filing, Form, Service; City Council~~

~~(1) When the whole or any part of any building or structure is found to be in a dangerous building the Director of Building and Zoning or his authorized representatives or employees shall issue a notice declaring that the building or structure is a dangerous building. The notice shall itemize the current code violation(s) and dangerous condition(s) and specify a time to complete all necessary repairs or demolish the building or structure.~~

~~(2) The notice shall be served on the owner of record or the registered agent and upon the holder of any encumbrance of record in the manner provided for service of a summons by a court of record. If the owner or holder of an encumbrance of record cannot be found, the notice may be served by posting it on the main entrance of the building and publishing it once a week for three (3) successive weeks in a newspaper authorized to provide service by publication.~~

~~(3) The notice shall specify the right of the owner to appeal to City Council the dangerous building determination of the Director of Building and Zoning or his authorized representatives or employees. The notice shall also set forth the administrative appeal procedure, including the requirement that any appeal under this section shall be filed in writing to the Director of Building and Zoning or his authorized representatives or employees within ten days of service of the notice.~~

~~(4-17-00)~~

~~4. Waiver of Hearing; Testimony; Determination to Close Proceedings or Order Building Demolished or Made Safe, Compliance, Hearing, Cost of Compliance As Lien Collection.~~

~~(1) If a written appeal of the dangerous building determination is not received within ten days of the date of service of the notice, as described in section 3, then a public hearing~~

~~will not be necessary, and the matter shall be referred to the City Council for resolution.~~

~~(2) If a written appeal of the dangerous building determination is received within the allocated ten day period, then a public hearing will be scheduled before City Council as soon as administratively possible. At the public hearing, the City Council shall take the testimony from the Director of Building and Zoning and/or his authorized representatives and employees, testimony from the owner of the property and any other interested party to determine whether the building or structure constitutes a dangerous building pursuant to this Chapter.~~

~~(3) If it is determined by the City Council that the building or structure is a dangerous building and therefore should be demolished or made habitable, Council shall order the demolition or necessary repairs be completed. The repairs shall be ordered to be completed by a specified time, which shall not exceed 21 days after the hearing and/or the resolution.~~

~~(4) If the ordered demolition or repairs are not completed within the allocated time period, as set forth in section (3), City Council can then authorize any and all necessary action to enforce their order. This includes, but is not limited to, causing the structure or any part of the structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.~~

~~(5) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the the cost of the necessiated repairs or demolition by first class mail at the address shown on the records. If the owner fails to pay the same within thirty (30) days after mailing by the Assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City of Troy, and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the City of Troy. The City Council shall also have the option of initiating a lawsuit to recover the City's full cost of necessitated demolition and/or repair. If the City receives a favorable judgment, then said judgment may be assessed against all of the assets of the owner of the property, not just the real estate that is the subject of the dangerous building determination.~~

~~5. Appeal to Circuit Court.~~

~~An owner aggrieved by any final decision or order of the City Council, made pursuant to this Chapter, may appeal the decision or order to the Circuit Court by filing a petition for an order of superintending control within twenty (20) days from the date of the decision.~~

~~(4-17-00)~~

~~6. Emergency:~~

~~The Fire Chief or Director of Building and Zoning or his authorized representatives or employees shall have the power to abate any public nuisance from any dangerous structure or building if the public safety shall require immediate action due to a distinct hazard to life or property, without preliminary notice as otherwise required by this section. Thereafter the cost of abating such public nuisance shall be charged against the owner or occupant of the premises and payment hereof shall be enforced as a special assessment.~~

~~(4-17-00)~~

CITY OF TROY

AN ORDINANCE TO
AMEND CHAPTER 82-B
OF THE CODE OF THE
CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 82-B, Dangerous Buildings, of the Code of the City of Troy.

Section 2. Amendment

Chapter 82-B, Dangerous Buildings, shall be amended by deleting the Chapter in its entirety:

Section 3. Savings

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

Section 4. Severability Clause

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

Section 5. Effective Date

This Ordinance shall become effective on January 1, 2010.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____ 2009.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, City Clerk

# CITY COUNCIL ACTION REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Amendments to Chapter 88 of the Troy City Code
Nuisance Ordinance

Background:

- With the adoption of the new Property Maintenance Code certain provisions of the existing Nuisance Ordinance will no longer be necessary.
  - Section 9.2, and 9.3, of the Nuisance Ordinance on Dangerous Buildings will now be covered by Section 108 of the Property Maintenance Code.
  - Section 9.4, of the Nuisance Ordinance on Emergency Abatement will now be covered by Section 109 of the Property Maintenance Code.
  - Section 9.14 of the Nuisance Ordinance is already covered by the provisions of the Sign Ordinance.
  - Section 9.17 on Privies and Cesspools is already covered by Section 19.03 of the Sanitary Sewer Service Ordinance.
  - Section 9.18 on Drainage of Premises will be covered by Section 302.2 of the Property Maintenance Code.
  - Section 9.20 on Junk Cars will be covered by Section 302.8 of the Property Maintenance Code.
- We have attached the current text of the Nuisance Ordinance showing the language that is proposed to be deleted.
- This action should only be taken after the adoption of the new Property Maintenance Code.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to amend the Nuisance Ordinance under the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I)

Options:

- Once the new Property Maintenance Code is adopted the existing text of portions of the Nuisance Ordinance can be deleted.
- Council can retain the existing text of the Nuisance Ordinance.
- Council can adopt revised text of the Nuisance Ordinance.

Approved as to Form and Legality: _____

Lori Grigg Bluhm, City Attorney

mss/ Chapter 88 revision memo 10-5-09

The following text is proposed to be deleted from Chapter 88 – Nuisances, of the Troy City Code.

~~9.2 Dangerous Structures. No person shall maintain any structure which is unsafe or which is a menace to the health, morals or safety of the public.~~

~~9.3 Disregarding Notice or Orders.~~

~~(a) The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish said building given by any person authorized by this Code to give such notice or order shall be guilty of a violation of this Code.~~

~~(b) The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given, as provided for in this Code, shall be guilty of a violation of this Code.~~
~~(Rev. 03-26-79)~~

~~9.4. Dangerous Structures - Emergency Abatement. The Fire Chief or Building Official shall have the power to abate any dangerous structure or building if the public safety shall require immediate action due to a distinct hazard to life or property, without preliminary notice as otherwise required by this Chapter. Thereafter the cost of abating such public nuisance shall be charged against the owner or occupant of the premises and payment thereof shall be enforced through special assessment as provided in the Charter.~~
~~(Rev. 04-12-82)~~

~~9.14 Billposting. No person shall himself or by another post, attach, place, print, paint or stamp any placard, circular, show bill or advertisement of any description whatever, except such as what may be expressly authorized by law, on any street, or sidewalk, or upon any election booth or other public place or object, with the exception of legally permitted billboards, in the City, or upon any fence, building or property belonging to the City, or upon any telegraph pole, telephone pole, electric light pole, or tower, or bridge or curb stone in any public street or alley in the City; provided, however, that a service, religious or charitable organization may make application to the Board of Appeals for the erection of a sign upon City property, and the Board of Appeals may in their discretion grant such application and designate the size, type and place at which said sign is to be erected, and shall be removed upon written notice at the discretion of the City Council; provided further that the Engineering Department shall first make a recommendation on the location, type and size of signs.~~
~~(Rev. 03-26-79)~~

~~PRIVIES AND CESSPOOLS~~

~~9.17 Privies, Vaults, Regulations.~~

~~(1) No person shall construct or cause to be constructed a privy, outhouse, cesspool or privy vault within the City if there be a public sewer within one hundred and fifty feet of the property line. Nothing herein contained shall prevent the construction of privies on property with the nearest lot line more than one hundred and fifty (150) feet from a public sewer.~~

~~(2) Privies shall at all times be kept by the owner or occupant of the premises upon which it is located in a condition not offensive to the public or to any person.~~

~~(3) Any privy or cesspool that emits any foul or offensive odor is hereby declared a nuisance and the health officer and/or building inspector shall abate the same, and no owner or occupant of any premises shall permit any privy to become a nuisance, emitting any foul or offensive odor, or shall permit any open or exposed privy vault or cesspool to exist on any premises owned or occupied by him.~~

~~9.18. Drainage of Premises. If any lands, excavations, cellar, vault, sewer, drain, place or premises within the City shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce offensive exhalations, the health officer and/or building inspector may require the same to be drained, filled, up, cleansed or purified by the owner or occupant, or person in charge of such lot, premises or place.~~

~~9.20. Junk Cars. Unless otherwise permitted, no person or corporation whether he be the owner, tenant or manager of private property, or whether he be the last registered owner of the vehicle or transferee on a bill of sale covering the vehicle, shall permit the accumulation on private property of one or more vehicles which do not meet the following conditions:~~

~~(a) Any motor vehicle must be in operating condition and eligible for use in accordance with the requirements of the Michigan Vehicle Code being MCL 257.1 through 257.925; provided that any such vehicle will be permitted not to comply with these requirements for any period not to exceed fourteen (14) days.~~

~~(b) These minimum conditions, except for any fourteen (14) day period will include, but are not limited to, an engine that runs, four wheels and four pneumatic tires capable of holding air working battery., current license plates, and~~

~~c) Any person enumerated in this section who, under special conditions of hardship, or for valid reasons such as the preservation of a historic or classic vehicle, may request and extension of the fourteen (14) day limitation above described by filing a timely request with the Office of the Police Chief or Director of Building and Zoning who may, after review of all of the circumstances, grant a reasonable extension of time for compliance.~~
~~(Rev. 07-12-99)~~

CITY OF TROY

AN ORDINANCE TO
AMEND CHAPTER 88 OF
THE CODE OF THE CITY
OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 88, Nuisances, of the Code of the City of Troy.

Section 2. Amendment

Chapter 88, Nuisances, shall be amended by deleting the following sections in their entirety:

Section 9.2 Dangerous Structures

Section 9.3 Disregarding Notice or Orders (including subparagraphs a and b)

Section 9.4 Dangerous Structures – Emergency Abatement

Section 9.14 Billposting

Section 9.17 Privies, Vaults, Regulations (including subparagraphs 1, 2, and 3)

Section 9.18 Drainage of Premises

Section 9.20 Junk Cars (including subparagraph a, b, and c)

Section 3. Savings

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

Section 4. Severability Clause

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

full force and effect.

Section 5. Effective Date

This Ordinance shall become effective on January 1, 2010.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____ 2009.

_____
Louise E. Schilling, Mayor

_____
Tonni L. Bartholomew, City Clerk

# CITY COUNCIL ACTION REPORT

DATE: September 30, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/ Economic Development Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Deletion of Chapter 89 of the Troy City Code
Weed Control Ordinance

Background:

- With the adoption of the new Property Maintenance Code the existing provisions of the Weed Control Ordinance will no longer be necessary.
- Weed control will now be regulated by Section 302.4 of the Property Maintenance Code.
- We have attached the current text of the Weed Control Ordinance showing the language that is proposed to be deleted.
- This action should only be taken after the adoption of the new Property Maintenance Code.

Financial Considerations:

- There are no financial considerations.

Legal Considerations:

- City Council has the authority to amend the Weed Control Ordinance under the City Charter and the Home Rule Cities Act.

Policy Considerations:

- Troy enhances the health and safety of the community (Outcome I).

Options:

- Once the new Property Maintenance Code is adopted the existing text of the Weed Control Ordinance can be deleted.
- Council can retain the existing text of the Weed Control Ordinance.
- Council can adopt revised text of the Weed Control Ordinance.

Approved as to Form and Legality: _____

Lori Grigg Bluhm, City Attorney

mss/ Chapter 89 revision memo 10-5-09

The text of Chapter 89, Weed Control, shall be amended by deleting the chapter in its entirety.

~~CHAPTER 89 WEED CONTROL~~

~~9.21 Commissioner of Noxious Weeds. Pursuant to the provisions of Act 359, Public Acts of 1941 (Michigan Compiled Laws of 1948, Sections 247.61 - 247.72), there is hereby created the office of "Commissioner of Noxious Weeds". Said Commissioner of Noxious Weeds shall be appointed by the City Manager in accordance with the provisions of the aforesaid Act 359 of the Public Acts of 1941, and shall possess all rights and be subject to all duties as prescribed in said Act.~~

~~9.22 Definition of Noxious Weeds. For the purpose of this Chapter, "Noxious Weeds" shall include~~
~~Canada thistle (circium arvense), dodders (any species of Cuscuta), mustards (charlock, black mustard and Indian mustard, species of Brassica or Sinapis), wild carrot (Daucus Carota), bindweed (convolvulus arvensis), perennial sowthistle (Sonchus arvensis), hoary alyssum (Berteroa incana), ragweed (ambrosia elatior 1.) and poison ivy (rhus toxicondendron), poison sumac (toxicondendron vernix) or other plant which, in the opinion of the City Council, is regarded as a common nuisance.~~

~~9.23 Destruction of Noxious Weeds. It shall be the duty of all owners of land on which noxious weeds are found growing within one hundred (100) feet of any occupied building, or within 100 feet of a platted subdivision, or within the boundaries of any subdivision in which buildings have been erected on thirty percent (30%) of the lots included in that subdivision, or within 100 feet of any major road, to destroy the same before they reach a seed-bearing state and to prevent such weeds from perpetuating themselves or to prevent such weeds from becoming a detriment to the public health.~~

~~In case owner, agent or occupant fails or refuses to comply with the provisions of this Ordinance, the Commissioner of Noxious Weeds will enter upon the land and destroy the weeds as many times as necessary during the growing season, not to exceed four cuttings.~~
~~(Rev. 5-12-80)~~

~~9.24 Exemptions. Nothing herein shall apply to fields devoted to the growing of small grain crops such as corn, wheat, oats or rye.~~
~~(Rev. 4-21-69)~~

CITY OF TROY

AN ORDINANCE TO
AMEND CHAPTER 89 OF
THE CODE OF THE CITY
OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 89, Weed Control, of the Code of the City of Troy.

Section 2. Amendment

Chapter 89, Weed Control, shall be amended by deleting the Chapter in its entirety:

Section 3. Savings

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

Section 4. Severability Clause

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

Section 5. Effective Date

This Ordinance shall become effective on January 1, 2010.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a Regular Meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____ 2009.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, City Clerk

A Regular Meeting of the Troy City Council was held Monday, September 28, 2009, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:31 PM.

Pastor Jerry Hines of Woodside Bible Church gave the Invocation. The Pledge of Allegiance to the Flag was given.

## ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
David Eisenbacher
Wade Fleming
Mayor Pro Tem Martin Howrylak
Mary Kerwin

## ABSENT:

Council Member Cristina Broomfield - Due to Being Absent from County

There was a consensus of City Council Members present to reduce Public Comment from five minutes to three minutes.

## CERTIFICATES OF RECOGNITION:

**A-1 No Presentations**

## CARRYOVER ITEMS:

**B-1 No Carryover Items**

## PUBLIC HEARINGS:

**C-1 No Public Hearings**

## POSTPONED ITEMS:

**D-1 No Postponed Items**

## REGULAR BUSINESS:

**E-4 Purchase of Fire Apparatus**

Resolution #2009-09-287
Moved by Beltramini
Seconded by Kerwin

WHEREAS, Halt Fire Apparatus of Wixom, MI, is the sole local area distributor of Pierce pumpers;

WHEREAS, Staff and station officers evaluated a number of specifications and determined the PUC (Pumper Under Cab) manufactured by Pierce provided significant advantages over other designs; and

WHEREAS, The Fire Department has completed a sales analysis between other cities and found the pricing quoted for the City of Troy by Pierce through Halt Fire to be fair and equitable;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **WAIVES** formal bidding procedures and hereby **AUTHORIZES** the City of Troy to enter into a contract with Halt Fire Apparatus of Wixom, MI, to purchase two (2) Pierce PUC pumpers for an estimated total cost of $490,268.00 each, utilizing the upfront payment discount option, with Halt Fire Apparatus to supply a 100% performance bond to guarantee satisfactory delivery; and

BE IT FURTHER RESOLVED, That Troy City Council hereby **AUTHORIZES** the Fire department to accept or reject bids on the open market or trade-in offers for two (2) out-of-service fire apparatus.

Yes: Schilling, Beltramini, Eisenbacher, Fleming, Howrylak, Kerwin
No: None
Absent: Broomfield

**MOTION CARRIED**

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**E-3 Six-Year Organizational Restructuring Plan for the City of Troy; Fiscal Year 2009/10 through 2014/15 – Presentation by John Szerlag, City Manager with Assistance from John M. Lamerato, Assistant City Manager/Finance and Administration, Robert Daddow, Deputy County Executive and Matt Farrell, President of Core Partners**

The Meeting **RECESSED** at 9:18 PM.

The Meeting **RECONVENED** at 9:24 PM.

## PUBLIC COMMENT RECEIVED FROM:

| | |
|---|---|
| Sen. John Pappageorge | 13th Senate District |
| Rep. Marty Knollenberg | 41st House District |
| Mike Kerr | Supports millage increase and Police |
| Barbara Picken Klein | Supports millage increase, Library and Police |
| Jerry Coval | Supports Library and Community Center |
| David Easterbrook | Supports millage increase, Police and quality of life services |
| Carmen Johnson | Opposes tax increase |
| Mary Ann Bernardi | Supports millage increase at regular election |
| Doug Tietz | Supports Police, Fire and roads |
| John Lavender | Supports Museum and quality of life services |
| Jack Witt | Opposes millage increase |

| | |
|---|---|
| Edmund Spillers | Supports millage increase and quality of life services; Opposes closing buildings |
| Mary Zurlinden | Supports millage increase, Library, Nature Center and quality of life services |
| Harry Philo | Supports millage increase and Library |
| Jeanne Stine | Supports millage increase and quality of life services |
| Sandy Macknis | Supports Troy Daze and Community Affairs |
| Alison Miller | Supports quality of life services, Troy Daze, Community Affairs, Police and Fire |
| Cathy Fucinari | Supports millage increase and quality of life services |
| Susan Kowalski | Supports millage increase and quality of life services |
| Roger Kowalski | Supports services |
| Rhonda Hendrickson | Supports Library |
| Danny Jones | Supports Library, Police and Fire |
| Paul Beck | Opposes Transit Center |
| Rosemary Kornacki | Offering volunteer services |
| Gordon Schepke | Opposes DDA and Transit Center |
| Robert Arkin | Supports services, millage increase and Library |
| Justin Covey | Supports services |
| Bruce Bloomingdale | Supports millage |
| Michael Maziasz | Supports millage increase; Opposes Sanctuary Lake Golf Course, Aquatics Center and Police special vehicles |
| Greg Hall | Supports millage increase and Police |
| Cynthia Wilsher | Supports millage increase |
| Michael Shea | Supports quality of life services |
| Larry Bunting | Supports millage increase and quality of life services |
| Gerard Staeger | Opposes Special Election |
| Tom Burke | Opposes Special Election |
| Zach Kilgore | Supports Library and created Facebook group for Library |
| Sandra Burgess | Supports millage increase |
| Franco Mancini | Opposes millage increase; Supports staff reductions |
| Michael Niemiec | Opposes golf course; Supports Police and Library |
| Tom Krent | Supports millage increase and Police |
| Kelly Jones | Supports millage increase and Special Election |
| Jessica Yamin | Supports quality of life services, Police, Fire and millage increase; Opposes Police reductions |
| Sharon MacDonell | Supports millage increase |
| Jim Musial | Supports Library, Community Center and Police; Opposes Transit Center; Police and Fire reductions |

**E-1 Appointments to Boards and Committees: (a) Mayoral Appointments: Downtown Development Authority; Economic Development Corporation; and Local Development Finance Authority (b) City Council Appointments: Animal Control Appeal Board; Cable Advisory Committee; Ethnic Issues Advisory Board; and Parks & Recreation Board**

**a) Mayoral Appointments**

Resolution #2009-09-288
Moved by Schilling
Seconded by Kerwin

RESOLVED, That the Mayor of the City of Troy hereby **APPOINTS** the following persons to serve on the Boards and Committees as indicated:

**Downtown Development Authority**
Appointed by Mayor (13-Regular) - 4-Year Terms

Michele Hodges **– in district** Term Expires 09/30/2012

Daniel MacLeish **– in district** Term Expires 09/30/2012

Harvey Weiss **– in district** Term Expires 09/30/2012

**Economic Development Corporation (EDC)**
Appointed by Mayor (9-Regular) - 6-Year Terms

Mark F. Miller **– Acting Asst. City Mgr/Economic Dev. Services** Unexpired Term 04/30/2011

**Local Development Finance Authority (LDFA)**
Appointed by Mayor (5-Regular-Staggered) - 4-Year Terms

John Szerlag – **City Manager; Troy Resident** Unexpired Term 06/30/2011

Yes: Beltramini, Eisenbacher, Fleming, Kerwin, Schilling
No: Howrylak
Absent: Broomfield

**MOTION CARRIED**

**b) City Council Appointments**

Resolution #2009-09-289
Moved by Howrylak
Seconded by Kerwin

RESOLVED, That Troy City Council hereby **APPOINTS** the following persons to serve on the Boards and Committees as indicated:

**Animal Control Appeal Board**
Appointed by Council (5-Regular) - 3-Year Terms

| | |
|---|---|
| Al Petrulis | Term Expires 09/30/2012 |
| Vincent James Viola | Term Expires 09/30/2012 |

**Cable Advisory Committee**
Appointed by Council (7-Regular) - 3-Year Terms

| | |
|---|---|
| Padma Kuppa | Term Expires 09/30/2012 |

**Ethnic Issues Advisory Board**
Appointed by Council (9-Regular) – 2 & 3-Year Terms

| | |
|---|---|
| Karen Yelder - 2-Year Term | Term Expires 09/30/2011 |

**Parks & Recreation Board**
Appointed by Council – (7-Regular)Troy School District Rep. 1-Year Term; and Student 1-Year Term

| | |
|---|---|
| Orestis (Rusty) Kaltsounis | Term Expires 09/30/2012 |
| Stuart Redpath | Term Expires 09/30/2012 |

Yes: Eisenbacher, Fleming, Howrylak, Kerwin, Schilling, Beltramini
No: None
Absent: Broomfield

**MOTION CARRIED**

**E-2 Nominations for Appointments to Boards and Committees: (a) Mayoral Nominations: None Scheduled (b) City Council Nominations: None Scheduled**

**a) Mayoral Nominations – None Scheduled**

**b) City Council Nominations – None Scheduled**

## PUBLIC COMMENT: Limited to Items Not on the Agenda

## CONSENT AGENDA:

**F-1a Approval of "F" Items NOT Removed for Discussion**

Resolution #2009-09-290
Moved by Beltramini
Seconded by Fleming

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as printed.

Yes: Fleming, Howrylak, Kerwin, Schilling, Beltramini, Eisenbacher
No: None
Absent: Broomfield

**MOTION CARRIED**

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**F-1b Address of "F" Items Removed for Discussion by City Council and/or the Public**

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**F-2 Approval of City Council Minutes**

Resolution #2009-09-290-F-2

RESOLVED, That Troy City Council hereby **APPROVES** the Minutes of the 7:30 PM Regular City Council Meeting of September 14, 2009 as submitted.

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**F-3 Proposed City of Troy Proclamation: None Submitted**

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**F-4 Standard Purchasing Resolutions:**

**a) Standard Purchasing Resolution 1: Award to Low Bidder – Outdoor Light Maintenance and Repair**

Resolution #2009-09-290-F-4a

RESOLVED, That Troy City Council hereby **AWARDS** a contract to provide two-year requirements of street light, parking lot, and athletic field light maintenance with an option to renew for one additional year to the low total bidder, Northern Sign Company, Inc. of Pontiac, MI, at unit prices and discounts contained in the bid tabulation opened August 19, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with expenditures not to exceed budgetary limitations, expiring September 30, 2011; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

**b) Standard Purchasing Resolution 1: Award to Low Bidder – Street Light Installation/Replacement**

Resolution #2009-09-290-F-4b

RESOLVED, That Troy City Council hereby **AWARDS** a contract to provide two-year requirements of street, parking lot, and athletic field light installation and replacement with an option to renew for one additional year to the low total bidder, Corby Energy Services, Inc. of Belleville, MI, at unit prices and discounts contained in the bid tabulation opened August 26, 2009, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with expenditures not exceeding amounts budgeted, expiring September 30, 2011; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon submission of properly executed bid and contract documents, including insurance certificates and all other specified requirements.

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**F-5 Recognition as a Nonprofit Organization Status from Ahren J. Savickas, President/Executive Director of *To Replant All Trees Association* (T.R.A.T.A.)**

Resolution #2009-09-290-F-5

RESOLVED, That Troy City Council hereby **APPROVES** the request from *To Replant All Trees Association* (T.R.A.T.A.), asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license as recommended by City Management.

**Vote on Resolution to Excuse Council Member Broomfield**

Resolution #2009-09-291
Moved by Schilling
Seconded by Fleming

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of Council Member Broomfield at the Regular City Council Meeting of Monday, September 28, 2009 due to being absent from the county.

Yes: Howrylak, Kerwin, Schilling, Beltramini, Eisenbacher, Fleming
No: None
Absent: Broomfield

**MOTION CARRIED**

## MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

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**G-1 Announcement of Public Hearings:**

**a)** Zoning Ordinance Text Amendment (File Number: ZOTA 240) – Article 43 – BZA Provisions – October 5, 2009

**b)** Establishment of an Industrial Development District (IDD), Issuance of an Industrial Facilities Exemption Certificate (IFEC), and Plant Rehabilitation Exemption (PR) – Bostick Rochester Road Development, LLC and AxleTech International, LLC – 1400 Rochester Road – October 19, 2009

Noted and Filed

**G-2 Memorandums:**

**a)** Proposed Language for Chapter 82 and Chapter 79 of the Troy City Code – Property Maintenance Code and Building Code

Noted and Filed

## COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

**H-1 No Council Referrals Advanced**

## COUNCIL COMMENTS:

**I-1 Council Comments Received from:**

Council Member Kerwin thanked the residents who participated during tonight's meeting for their input and courtesy.

Council Member Fleming concurred with Council Member Kerwin's comments.

Council Member Fleming corrected a rumor mentioned during public comment regarding the Police Department and its organizational restructuring.

Council Member Fleming invited all members of the public to attend a prayer group event convening at Veteran's Plaza and participate in a short walk along Big Beaver on Saturday, October 3rd from 10:00 AM until 12:00 PM.

Mayor Schilling commended the attendees of the meeting tonight, and all of the volunteers involved with the Troy Daze event and its success.

Via electronic communication, Council Member Broomfield requested clarification about the next steps in moving forward with the organizational restructuring process.

City Manager John Szerlag replied that this item will reappear on the October 5th, 2009 City Council agenda with discussion taking place after Regular Business items.

## REPORTS:

**J-1 Minutes – Boards and Committees:**

**a)** Board of Zoning Appeals/Final – August 18, 2009

**b)** Board of Zoning Appeals/Draft – September 15, 2009

Noted and Filed

**J-2 Department Reports:** None Submitted

**J-3 Letters of Appreciation:**

**a)** Letter of Thanks to Mayor Schilling from Stanley Sidick Regarding Police Department Traffic Control

Noted and Filed

**J-4 Proposed Proclamations/Resolutions from Other Organizations: None Submitted**

**J-5 Communication from Parks and Recreation Director Carol Anderson Regarding Donation of Taxidermy Mounts to the Lloyd A. Stage Nature Center**

Noted and Filed

**J-6 Communication from Community Foundation for Southeast Michigan Regarding Contribution for Troy Museum and Historic Village**

Noted and Filed

## STUDY ITEMS:

**K-1 No Study Items Submitted**

## PUBLIC COMMENT: Address of "K" Items

## CLOSED SESSION:

**L-1 No Closed Session Requested**

The meeting **ADJOURNED** at 11:37 PM.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

A Special Meeting of the Troy City Council was held Monday, September 28, 2009, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 11:47 PM.

## ROLL CALL:

Mayor Louise E. Schilling
Robin Beltramini
David Eisenbacher
Wade Fleming
Mayor Pro Tem Martin Howrylak
Mary Kerwin

## ABSENT:

Council Member Cristina Broomfield - Due to Being Absent from County

---

**Vote on Resolution to Excuse Council Member Broomfield**

Resolution #2009-09-292
Moved by Eisenbacher
Seconded by Schilling

RESOLVED, That Troy City Council hereby **EXCUSES** the absence of Council Member Broomfield at the Special City Council meeting of September 28, 2009 due to being absent from the county.

Yes: Schilling, Beltramini, Eisenbacher, Fleming, Howrylak, Kerwin
No: None
Absent: Broomfield

**MOTION CARRIED**

## DISCUSSION ITEM:

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**1. Six-Year Organizational Restructuring Plan for the City of Troy; Fiscal Year 2009/10 through 2014/15**

City Council discussion took place regarding Item 1. *Six-Year Organizational Restructuring Plan for the City of Troy; Fiscal Year 2009/10 through 2014/15* and Public Comment received during the Regular Meeting.

## PUBLIC COMMENT RECEIVED FROM:

| | |
|---|---|
| John Witt | Close golf course |
| Jerry Shae | Sterling Heights resident |
| Mary Ann Bernardi | |
| Justin Covey | Supports if needed to protect investment |

The meeting **ADJOURNED** on Tuesday, September 29, 2009 at 12:43 AM.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

A Special/Joint Meeting of the Troy City Council and Troy Planning Commission was held Monday, September 28, 2009, at the Troy Police Department's Emergency Operations Center (EOC), 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 6:00 PM.

## ROLL CALL:

**Troy City Council**
Mayor Louise E. Schilling
Robin Beltramini
David Eisenbacher
Wade Fleming
Mayor Pro Tem Martin Howrylak - Arrived at 6:13 PM
Mary Kerwin

**Troy Planning Commission**
Donald Edmunds
Michael Hutson
Mark Maxwell
Philip Sanzica
Robert Schultz, Chair - Absent
Thomas Strat
John Tagle
Lon Ullmann
Mark Vleck - Arrived at 6:19 PM

## ABSENT:

Council Member Cristina Broomfield - Due to Being Absent from County

## DISCUSSION ITEM:

### 1. The Pavilions of Troy Planned Unit Development (PUD 9)

Opening comments were given by John Szerlag, City Manager, who indicated that the City has been approached by Grand Sakwa, who has executed a purchase agreement on the former K-Mart headquarters site. Since there were questions about amending the PUD Concept Development Plan and Development Agreement, Mr. Szerlag felt it best to have a public discussion in that regard through a joint meeting with the City Council and Planning Commission.

Mark Miller, Acting Assistant City Manager/Economic Development Services, reviewed the PUD process outlining the steps to be followed to amend the Concept Development Plan and Development Agreement as follows:

| | | |
|---|---|---|
| **Step 1** | Tuesday, October 06, 2009 | Planning Commission Study Session |
| **Step 2** | Tuesday, October 13, 2009 | Planning Commission Public Hearing |
| **Step 3** | Monday, October 19, 2009 | City Council Public Hearing |

Following Mr. Miller's comments, Brent Savidant, Acting Planning Director, and Richard Carlisle, City Planning Consultant, reviewed the general proposal by Grand Sakwa and all the specific discussion points where direction was being sought from the City Council and Planning Commission.

Mr. Gary Sakwa of Grand Sakwa introduced his project team and outlined his intent and the need for requested changes. Grand Sakwa team members presented market data and project concepts that were being considered.

Following the presentations, Mayor Schilling requested comments and questions from City Council and Planning Commission members.

## PUBLIC COMMENT

Mary Ann Bernardi

The meeting **ADJOURNED** at 7:16 PM.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

# CITY COUNCIL ACTION REPORT

September 22, 2009

TO: John Szerlag, City Manager

FROM: Mark F. Miller, Acting Assistant City Manager/Economic Development Services
Susan A. Leirstein, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: Standard Purchasing Resolution 1: Award To Low Bidder –
Asphalt Patching Material - Cold

## Background

- On September 15, 2009, bid proposals were received electronically to furnish seasonal requirements of Asphalt Patching Material - Cold.
- 42 vendors were notified of the bid opportunity via the MITN system with three (3) bid responses received, as well as one statement of no bid.

## Financial Consideration

- Funds are available through the Public Works operating budgets for Streets and Water Divisions.

## Legal Considerations

- ITB-COT 09-41, to furnish seasonal requirements of Asphalt Patching Material was competitively bid as required by City Charter and Code.
- The award is contingent upon contractor's submission of proper insurance certificates, and all other specified requirements.

## Policy Considerations

- QPR/UPM material is used in the general patching and maintenance of major and local roads and drains.

## Recommendation

- City management recommends awarding a contract for seasonal requirements of asphalt patching material - QPR/UPM – Delivered to the low bidder, Saginaw Asphalt Paving Company of Saginaw, MI, at unit prices as contained in the bid tabulation opened September 15, 2009.

S:/Miller's Review/Agenda 10.05.09 SR1 – AsphaltPatchMatl Cold Letter.doc

Opening Date -- 09/15/09
Date Prepared -- 09/22/09 sl

CITY OF TROY
BID TABULATION
ASPHALT PATCHING MATERIAL - Cold



| ITEM # | EST QTY (TONS) | DESCRIPTION | | | | |
|---|---|---|---|---|---|---|
| | | VENDOR NAME: | **Saginaw Asphalt Paving Company** | Barrett Paving Materials, Inc. | Ajax Materials Corporation | |
| 1.) | 400 | QPR/UPM or Approved Alternate | **$ 83.16** | $ 95.00 | $ 97.60 | |
| | | **BRAND:** | QPR / UPM As Specified | QPR/ UPM As Specified | UPM | |
| | | **ESTIMATED TOTAL COST** | **$ 33,264.00** | $ 38,000.00 | $ 39,040.00 | |
| | | **INSURANCE:** Can Meet | XX | XX | | |
| | | Cannot Meet | | | (Scanned incorrectly) | |
| | | **PRICE GUARANTEE:** | One Season, 4/30/2010 | 4/30/2010 | 4/30/2010 | |
| | | **TERMS/DISCOUNT:** | None | 1% | Net 30 Days | |
| | | **DELIVERY:** | 2 Days ARO | 1 Days ARO | 24-48hrs ARO | |
| | | **MINIMUM ORDER:** | 50 Tons | 45 Tons | 50 Tons | |
| | | **EXCEPTIONS:** | BLANK | BLANK | BLANK | |

NO BID:
Spray-Patch Road Repair, Inc.

PROPOSAL - Seasonal Requirements of Asphalt Patching Material - Cold

**BOLDFACE TYPE DENOTES LOW BIDDER**

ATTEST:
Deanna Theobald
Diane Fisher
Julie Hamilton
Linda Bockstanz

Susan Leirstein CPPB
Purchasing Director

G:\ Asphalt Paving Materials-Cold ITB-COT 09-41 (Re-bid)

# CITY COUNCIL ACTION REPORT

September 24, 2009

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration
Mark F. Miller, Acting Assistant City Manager / Economic Development Services
Susan A. Leirstein, Purchasing Director
Cathleen Russ, Library Director
Steven J. Vandette, City Engineer
Timothy L. Richnak, Public Works Director

SUBJECT: Standard Purchasing Resolution 1: Award To Low Bidder – Library Parking Lot Improvement Project

## Background

- On September 16, 2009, bids were received to complete the Library Parking Lot Improvement Project #09.103.5.
- 259 Vendors were notified of the bid opportunity via the MITN system with five (5) bid responses received.
- McCarthy Construction of Commerce Twp was the low total bidder.
- The improvements being proposed will allow patrons to drop-off their library materials from the convenience of their vehicles.

## Financial Considerations

- Funds are available in the 2009/10 Library Capital Funds Account # 401.790.7975.900.

## Legal Considerations

- ITB-COT 09-38 to complete the Library Parking Lot Improvement Project was competitively bid as required by City Charter and Code.
- The award is contingent upon the recommended bidder's submission of proper contracts and bid documents, including bonds, insurance certificates and all other specified requirements.

## Recommendation

- City management and supporting divisions recommend awarding a contract to complete the Library Parking Lot Improvement Project to the low total bidder, McCarthy Construction of Commerce Twp, MI, for an estimated total cost of $25,226.80, at unit prices contained in the bid tabulation opened September 16, 2009, with a project completion date of November 15, 2009.

Opening Date -- 9-16-09
Date Prepared -- 9-16-09 jh

CITY OF TROY
BID TABULATION
LIBRARY PARKING LOT IMPROVEMENT PROJECT



| VENDOR NAME: | ** McCarthy Construction Company | International Construction | Nagle Paving Company |
|---|---|---|---|
| Ck # | 9230402158 | 100391842 | 614734269 |
| Ck Amt | $2,000.00 | $2,000.00 | $2,000.00 |

**PROPOSAL: TO COMPLETE THE TROY PUBLIC LIBRARY PARKING LOT IMPROVEMENT PROJECT IN ACCORDANCE W/SPECIFICATIONS/DRAWINGS**

LIBRARY PARKING LOT IMPROVEMENT PROJECT#09.103.5

| ITEM | DESCRIPTION | EST QTY | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION |
|---|---|---|---|---|---|---|---|---|
| 1 | Remove Pavement | 400 SY | 3.00 | $ 1,200.00 | 18.75 | $ 7,500.00 | 12.50 | $ 5,000.00 |
| 2 | Tree, Rem, 12 inch to 24 inch | 1 EA | 850.00 | $ 850.00 | 300.00 | $ 300.00 | 1500.00 | $ 1,500.00 |
| 3 | Curb & Gutter, Conc, Det F2 | 365 LFT | 20.00 | $ 7,300.00 | 20.00 | $ 7,300.00 | 22.00 | $ 8,030.00 |
| 4 | 6' Wide Concrete Sidewalk,4"Thick | 198 SF | 8.00 | $ 1,584.00 | 4.50 | $ 891.00 | 14.00 | $ 2,772.00 |
| 5 | Embankment, CIP | 70 CY | 30.00 | $ 2,100.00 | 22.50 | $ 1,575.00 | 42.50 | $ 2,975.00 |
| 6 | Subgrade Undercutting, Type II | 50 CY | 22.00 | $ 1,100.00 | 26.50 | $ 1,325.00 | 30.00 | $ 1,500.00 |
| 7 | 6" Edge Drain | 44 LFT | 15.00 | $ 660.00 | 25.70 | $ 1,130.80 | 50.00 | $ 2,200.00 |
| 8 | 2' Catch Basin | 1 EA | 1500.00 | $ 1,500.00 | 1150.00 | $ 1,150.00 | 1500.00 | $ 1,500.00 |
| 9 | Regrade Ditch | 40 LFT | 25.00 | $ 1,000.00 | 25.00 | $ 1,000.00 | 20.00 | $ 800.00 |
| 10 | Crack & Joint Sealing | 1,000 LFT | 4.25 | $ 4,250.00 | 0.70 | $ 700.00 | 0.75 | $ 750.00 |
| 11 | Double Seal Coat | 3,313 SY | 0.60 | $ 1,987.80 | 1.15 | $ 3,809.95 | 0.70 | $ 2,319.10 |
| 12 | Striping (Yellow) | 252 LFT | 1.25 | $ 315.00 | 0.65 | $ 163.80 | 1.00 | $ 252.00 |
| 13 | Pavement Marking, Cold Plastic, Arrow | 9 EA | 120.00 | $ 1,080.00 | 35.00 | $ 315.00 | 150.00 | $ 1,350.00 |
| 14 | Catch Basin Inlet Filter(Silt Sac) | 3 EA | 100.00 | $ 300.00 | 25.00 | $ 75.00 | 150.00 | $ 450.00 |
| 15 | Repair Sprinklers, Included | Included | | Included | | Included | | Included |
| 16 | Restoration | Included | | Included | | Included | | Included |
| | **Estimated Grand Total** | | ** | $ 25,226.80 | | $ 27,235.55 | | $ 31,398.10 |

| | | | | |
|---|---|---|---|---|
| **CONTACT INFORMATION:** | **Hrs of Oper** | 8:30 AM to 5 PM | 7 AM to 4 PM | 7 AM to 7 PM |
| | **24 Hr Phone#** | 248-669-0700 | 810-523-0625 | 248-765-3109 |
| **PROGRESS PAYMENTS:** | | 60 Days | Net 30 days after completion | Net 30 Days |
| **SITE INSPECTION:** | **Visited Site** | | XX | XX |
| | **Date Visited** | | 9/9/2009 | 9/14/2009 |
| | **Did Not Visit** | XX | | |
| **COMPLETION DATE:** | **Can Meet** Y or N | **November 15, 2009** | | |
| **INSURANCE:** | **Can Meet** | Yes | Yes | Yes |
| | **Cannot Meet** | XX | XX | XX |
| **PAYMENT TERMS:** | | **As Required in Specifications** | | |
| **WARRANTY:** | | Blank | Blank | 1 year |
| **EXCEPTIONS:** | | N/A | Blank | Blank |
| **ACKNOWLEDGEMENT:** | Y or N | Yes | Yes | Yes |
| **BIDDER QUESTIONNAIRE** | Y or N | Yes | Yes | Yes |
| **TWO FORMS COMPLETED:** | Y or N | Yes | Yes | Yes |

**ATTEST:**

Diane Fisher
Antonio Cicchetti
Marina Basta Farouk
Linda Bockstanz

** DENOTES LOW TOTAL BIDDER

Susan Leirstein CPPB
Purchasing Director

G: ITB-COT 09-38 Library Parking Lot Improvement Project

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| VENDOR NAME: | | | Matzak, Inc. | | Midwest Pavement Contracting, Inc. | | | |
| | | Ck # | 1250864386 | | 614728947 | | | |
| | | Ck Amt | **$2,000.00** | | **$2,000.00** | | | |
| **PROPOSAL: TO COMPLETE THE TROY PUBLIC LIBRARY PARKING LOT IMPROVEMENT PROJECT IN ACCORDANCE W/SPECIFICATIONS/DRAWINGS** | | | | | | | | |
| **LIBRARY PARKING LOT IMPROVEMENT PROJECT#09.103.5** | | | | | | | | |
| ITEM | DESCRIPTION | EST QTY | UNIT PRICE | EXTENSION | UNIT PRICE | EXTENSION | | |
| 1 | Remove Pavement | 400 SY | 37.75 | $ 15,100.00 | 37.50 | $ 15,000.00 | | |
| 2 | Tree, Rem, 12 inch to 24 inch | 1 EA | 460.00 | $ 460.00 | 2500.00 | $ 2,500.00 | | |
| 3 | Curb & Gutter, Conc, Det F2 | 365 LFT | 23.00 | $ 8,395.00 | 35.00 | $ 12,775.00 | | |
| 4 | 6' Wide Concrete Sidewalk, 4" Thick | 198 SF | 4.60 | $ 910.80 | 10.00 | $ 1,980.00 | | |
| 5 | Embankment, CIP | 70 CY | 15.00 | $ 1,050.00 | 25.00 | $ 1,750.00 | | |
| 6 | Subgrade Undercutting, Type II | 50 CY | 38.00 | $ 1,900.00 | 30.00 | $ 1,500.00 | | |
| 7 | 6" Edge Drain | 44 LFT | 12.00 | $ 528.00 | 50.00 | $ 2,200.00 | | |
| 8 | 2' Catch Basin | 1 EA | 2800.00 | $ 2,800.00 | 2200.00 | $ 2,200.00 | | |
| 9 | Regrade Ditch | 40 LFT | 6.00 | $ 240.00 | 50.00 | $ 2,000.00 | | |
| 10 | Crack & Joint Sealing | 1,000 LFT | 0.55 | $ 550.00 | 1.50 | $ 1,500.00 | | |
| 11 | Double Seal Coat | 3,313 SY | 0.60 | $ 1,987.80 | 0.90 | $ 2,981.70 | | |
| 12 | Striping (Yellow) | 252 LFT | 0.75 | $ 189.00 | 1.50 | $ 378.00 | | |
| 13 | Pavement Marking, Cold Plastic, Arro | 9 EA | 350.00 | $ 3,150.00 | 150.00 | $ 1,350.00 | | |
| 14 | Catch Basin Inlet Filter(Silt Sac) | 3 EA | 100.00 | $ 300.00 | 400.00 | $ 1,200.00 | | |
| 15 | Repair Sprinklers, Included | Included | | Included | | Included | | |
| 16 | Restoration | Included | | Included | | Included | | |
| | **Estimated Grand Total** | | | $ 37,560.60 | | $ 49,314.70 | | |
| **CONTACT INFORMATION:** | | **Hrs of Oper** | | 8 AM to 5 PM | | 7 AM to 5 PM M-F | | |
| | | **24 Hr Phone #** | | 810-488-9396 | | 248-318-6724 | | |
| **PROGRESS PAYMENTS:** | | | | Blank | | 30 Days After Completion | | |
| **SITE INSPECTION:** | **Visited Site** | | | | | XX | | |
| | **Date Visited** | | | | | 9/10/2009 | | |
| | **Did Not Visit** | | | XX | | | | |
| **COMPLETION DATE:** | **Can Meet** | Y or N | | **November 15, 2009** | | | | |
| **INSURANCE:** | **Can Meet** | | | Yes | | Yes | | |
| | **Cannot Meet** | | | XX | | XX | | |
| **PAYMENT TERMS:** | | | | **As Required in Specifications** | | | | |
| **WARRANTY:** | | | | Blank | | 1yr - Seal coating excluded if done after 10/15/09 | | |
| **EXCEPTIONS:** | | | | Blank | | Blank | | |
| **ACKNOWLEDGEMENT:** | | Y or N | | Yes | | Yes | | |
| **BIDDER QUESTIONNAIRE** | | Y or N | | Yes | | Yes | | |
| **TWO FORMS COMPLETED:** | | Y or N | | Yes | | Yes | | |

# CITY COUNCIL ACTION REPORT

September 9, 2009

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration
Susan A. Leirstein, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

SUBJECT: Standard Purchasing Resolution 1: Award to Low Bidder – Tee Shirts

**Background**

- On September 2, 2009, bids were opened to furnish one-year requirements of 50/50 and 100% Cotton Tee Shirts with an option to renew for one additional year. Tee shirts are used in several Parks and Recreation programs as team, participation, uniform or award shirts.
- 182 vendors were notified via the MITN system with seven qualified bids received, as well as two (2) statements of no bid. Four bid responses were not considered for award as they failed to meet the bid surety requirements.
- Custom T's of Clawson, Michigan is the low total bidder.
- The contract shall commence on October 1, 2009 and expire September 30, 2010.

**Financial Considerations**

- Funding for the purchase of tee shirts is available in the Parks and Recreation and Aquatic Center operating accounts.
- The cost of the shirts is built-in to the registration fee paid for by program participants.

**Legal Considerations**

- ITB-COT 09-36, one-year requirements of Tee Shirts with an option to renew was competitively bid as required by City Charter and Code.
- All bidders were given the opportunity to respond with their level of interest in supplying tee shirts to the City of Troy.

**Recommendation**

- City management and the Parks and Recreation department recommend awarding the tee shirt contract to the low total bidder, Custom T's of Clawson for an estimated total cost of $35,142.25, at unit prices contained in the bid tabulation with a one-year renewable option from October 1, 2010 to September 30, 2011.

Opening Date -- 9/2/09
Date Prepared -- 9/10/09 sl

CITY OF TROY
BID TABULATION
TEE SHIRTS

| EST QTY | DESCRIPTION | Custom T's | Impressive Promotional Products, LLC | E.A. Graphics | Easy Green Shop |
|---|---|---|---|---|---|
| | VENDOR NAME: | **Custom T's** | Impressive Promotional Products, LLC | E.A. Graphics | Easy Green Shop |
| | | | | Receipt # D572562 | |
| | CHECK # | 0427713 | 5300361325 | Check on File | 9202203251 |
| | CHECK AMOUNT | **$500.00** | **$500.00** | **$500.00** | **$500.00** |
| EST QTY | DESCRIPTION | PRICE/ EACH | PRICE/ EACH | PRICE/ EACH | PRICE/ EACH |
| **ITEM #1-- 50/50 Short Sleeve Shirts** | | | | | |
| | **(50% Cotton & 50% Polyester w/One Color Imprint on Front)** | | | | |
| 3,600 | Youth - Small, Med,Large | $ 2.39 | $ 2.47 | $ 2.72 | $ 3.85 |
| 2,800 | Adult - Small,Med,Large,Xlarge | $ 2.39 | $ 2.49 | $ 2.74 | $ 3.95 |
| 50 | Adult - XXLarge, XXXLarge | $ 3.49 | $ 3.75 | $ 3.84 | $ 5.65 |
| 3000 | **COST PER DIGIT:** Single | $ 0.35 | $ 0.35 | $ 0.35 | $ 1.45 |
| 730 | Double | $ 0.70 | $ 0.60 | $ 0.70 | $ 1.95 |
| | QUOTING ON STYLE: | G8000 | 8000 / 8000B | 8000 & 8000B | G8000 |
| | MANUFACTURED BY: | Gildan | | | |
| | NUMBER OF COLORS AVAILABLE: | 28 | 29 Available | 30 & 28 | 30 |
| | **ESTIMATED TOTAL (ITEM#1):** | $ 17,031.50 | $ 17,539.50 | $ 19,217.00 | $ 30,976.00 |
| **ITEM #2 -- 100% Cotton - Short and Long Sleeve** | | | | | |
| | **One (1) Color Imprint on Front** | | | | |
| 150 | Youth - Small,Med,Large - LONG Sleeve | $ 4.29 | $ 4.55 | $ 5.75 | $ 6.55 |
| 100 | Adult - Med,Large,Xlarge-LONG Sleeve | $ 4.29 | $ 4.55 | $ 5.75 | $ 7.00 |
| 1100 | Adult - Med,Large,Xlarge-SHORT Sleeve | $ 2.49 | $ 2.55 | $ 2.81 | $ 4.15 |
| 125 | Adult - XX Large-SHORT Sleeve | $ 3.89 | $ 3.75 | $ 3.91 | $ 5.65 |
| | QUOTING ON STYLE: | G2400, G2000 | S/S - 2000 L/S 2400/2400B | 2400B, G2400, 2000 | G2000 |
| | MANUFACTURED BY: | Gildan | | | |
| | NUMBER OF COLORS AVAILABLE: | 62 Short 24 Long | L/S - 14 S/S - 39 | 14, 30, 67 | 64 |
| | **ESTIMATED TOTAL (ITEM#2):** | $ 4,297.75 | $ 4,411.25 | $ 5,017.25 | $ 6,953.75 |
| **ITEM #3 -- 100% Cotton - Short Sleeve Shirts (No Imprinting)** | | | | | |
| 175 | Adult - Small, Med,Large,Xlarge | $ 1.79 | $ 2.25 | $ 2.15 | $ 3.30 |
| 25 | Adult - XXLarge | $ 2.99 | $ 3.50 | $ 3.25 | $ 4.75 |
| | QUOTING ON STYLE: | G2000 | 2000 | 2000 | G2000 |
| | MANUFACTURED BY: | Gildan | | | |
| | NUMBER OF COLORS AVAILABLE: | 62 | 39 | 67 | 64 |
| | **ESTIMATED TOTAL (ITEM#3):** | $ 388.00 | $ 481.25 | $ 457.50 | $ 696.25 |
| **ITEM #4 -- 50% Cotton/50% Polyester Blend** | | | | | |
| | **Short Sleeve Shirts w/Two Colors Front & 1 Color Back** | | | | |
| 1200 | Youth -Small, Medium, Large | $ 2.89 | $ 2.80 | $ 2.97 | $ 4.65 |
| 1000 | Adult - Medium, Large, X-Large | $ 2.89 | $ 2.85 | $ 3.03 | $ 4.75 |
| | QUOTING ON STYLE: | G8000 | 8000 / 8000B | 8000B / 8000 | G8000 |
| | MANUFACTURED BY: | Gildan | | | |
| | NUMBER OF COLORS AVAILABLE: | 28 | 29 | 28 & 30 | 30 |
| | **ESTIMATED TOTAL (ITEM#4):** | $ 6,358.00 | $ 6,210.00 | $ 6,594.00 | $ 10,330.00 |

Opening Date -- 9/2/09
Date Prepared -- 9/10/09

CITY OF TROY
BID TABULATION
TEE SHIRTS

| EST QTY | DESCRIPTION | Custom T's | Impressive Promotional Products, LLC | E.A. Graphics | Easy Green Shop |
|---|---|---|---|---|---|
| | VENDOR NAME: | Custom T's | Impressive Promotional Products, LLC | E.A. Graphics | Easy Green Shop |
| | | PRICE/ EACH | PRICE/ EACH | PRICE/ EACH | PRICE/ EACH |
| **ITEM #5 -- 100% Cotton - Two Color Imprint - Front & 1 Color Back** | | | | | |
| | **Short Sleeve Shirts** | | | | |
| 2000 | Adult-Small, Medium, Large, X-Large | $ 2.89 | $ 2.95 | $ 3.19 | $ 4.95 |
| 300 | Adult - XX-Large | $ 4.29 | $ 4.00 | $ 4.35 | $ 6.40 |
| | QUOTING ON STYLE: | G2000 | 2000 | 2000 | G2000 |
| | MANUFACTURED BY: | Gildan | | | |
| | NUMBER OF COLORS AVAILABLE: | 62 | 39 | 67 | 64 |
| | **ESTIMATED TOTAL (ITEM#5):** | $ 7,067.00 | $ 7,100.00 | $ 7,685.00 | $ 11,820.00 |
| | **ESTIMATED GRAND TOTAL ALL ITEMS** | $ 35,142.25 | $ 35,742.00 | $ 38,970.75 | $ 60,776.00 |
| | SAMPLES INCLUDED Y or N | No | No | No | No |
| | CONTACT INFORMATION: Hrs of Op | 8 AM to 7 PM | 8 AM to 5 PM M-F | 8 AM to 5 PM | 9 AM to 5 PM |
| | Phone # | 248-703-5548 | 248-390-8028 | 586-850-6449 | 313-570-2477 |
| | PAYMENT TERMS | Net 30 | Net 30 | Net 10 | Net 30 |
| | GUARANTEED DELIVERY | **BIDDERS WILL BE NOTIFIED 2 WEEKS IN ADVANCE** | | | |
| | WARRANTY | **MANUFACTURER'S** | | | |
| | EXCEPTIONS | Bid may be broken up by Item only if item #1 is awarded to Custom T's at a minimum | None | Blank | Blank |
| | ACKNOWLEDGEMENT: Y or N | Yes | Yes | Yes | Yes |
| | ADDENDUM #1 Y or N | No | No | No | No |

NO BIDS:
Slick Shirts Screen Printing
Libra Industries

Yellow Highlight Denotes Low Total Bidder

DISQUALIFIED:
General Motivation Co., Inc. (Personal check submitted as bid surety, instead of cashier's check, certified check or money order)
Brittan Banners Inc. (Personal check submitted as bid surety, instead of cashier's check, certified check or money order)
Advertising Accents, Inc. (Did not submit bid surety check with bid, as specified)
ForSports (Did not submit bid surety check with bid, as specified)

ATTEST:
Diane Fisher
Barbara Rupas
Linda Bockstanz

Susan Leirstein CPPB
Purchasing Director

| EST QTY | DESCRIPTION | Full Contact Sports | Design Incentives, Inc | Design Incentives, Inc Alternate |
|---|---|---|---|---|
| | VENDOR NAME: | Full Contact Sports | Design Incentives, Inc | Design Incentives, Inc |
| | | | | Alternate |
| | CHECK # | 9479201382 | 0450125 | 0450125 |
| | CHECK AMOUNT | **$500.00** | **$500.00** | **$500.00** |
| | | PRICE/ EACH | PRICE/ EACH | PRICE/ EACH |
| **ITEM #1-- 50/50 Short Sleeve Shirts** | | | (Min of 36 pieces) | (Min of 250 pieces) |
| | **(50% Cotton & 50% Polyester w/One Color Imprint on Front)** | | | |
| 3,600 | Youth - Small, Med,Large | $ 4.53 | $ 6.87 | $ 4.48 |
| 2,800 | Adult - Small,Med,Large,Xlarge | $ 4.38 | $ 6.96 | $ 4.56 |
| 50 | Adult - XXLarge, XXXLarge | $ 6.10 | $ 8.85 | $ 6.32 |
| 3000 | **COST PER DIGIT:** Single | $ 1.00 | $ 1.95 | $ 1.35 |
| 730 | Double | $ 1.50 | $ 2.50 | $ 1.35 |
| | Alternate | Style: Jerzees 29/29B | | |
| | QUOTING ON STYLE: | 8000 / 8000B | G8000 / 8000B | G8000 & 8000B |
| | MANUFACTURED BY: | Gildan | | |
| | NUMBER OF COLORS AVAILABLE: | 24 | A - 26, 3X - 11, Y - 29 | A - 26, 3X - 11, Y -29 |
| | Alternate | Same price different Style | | |
| | **ESTIMATED TOTAL (ITEM#1):** | $ 32,972.00 | $ 52,337.50 | $ 34,247.50 |
| **ITEM #2 -- 100% Cotton - Short and Long Sleeve** | | | Order Qty 24-71 | Order Qty 72 + |
| | **One (1) Color Imprint on Front** | | | |
| 150 | Youth - Small,Med,Large - LONG Sleeve | $ 5.87 | $ 9.38 | $ 7.48 |
| 100 | Adult - Med,Large,Xlarge-LONG Sleeve | $ 5.96 | $ 10.74 | $ 8.23 |
| 1100 | Adult - Med,Large,Xlarge-SHORT Sleeve | $ 4.22 | $ 7.79 | $ 5.78 |
| 125 | Adult - XX Large-SHORT Sleeve | $ 5.78 | $ 9.34 | $ 6.97 |
| | QUOTING ON STYLE: | 2400B / 2000B<br>2400 / 2000 | 2000 - Short<br>G2400 - Lg, 2400B -Y | |
| | MANUFACTURED BY: | Gildan | | |
| | NUMBER OF COLORS AVAILABLE: | 12 & 28 | Y-14, A-44, 50/50- 25 | |
| | | | Adult Long - 33 | |
| | **ESTIMATED TOTAL (ITEM#2):** | $ 6,841.00 | $ 12,217.50 | $ 9,174.25 |
| **ITEM #3 -- 100% Cotton - Short Sleeve Shirts (No Imprinting)** | | | Order Qty 200 | |
| 175 | Adult - Small, Med,Large,Xlarge | $ 2.75 | $ 3.27 | |
| 25 | Adult - XXLarge | $ 4.75 | $ 4.80 | |
| | QUOTING ON STYLE: | 2000 | 2000 | |
| | MANUFACTURED BY: | Gildan | Gildan | |
| | NUMBER OF COLORS AVAILABLE: | 24 | 44 | |
| | | | 50/50 - 25 colors | |
| | **ESTIMATED TOTAL (ITEM#3):** | $ 600.00 | $ 692.25 | |
| **ITEM #4 -- 50% Cotton/50% Polyester Blend** | | | Order Qty 144 | |
| | **Short Sleeve Shirts w/Two Colors Front & 1 Color Back** | | | |
| 1200 | Youth -Small, Medium, Large | $ 5.61 | $ 6.05 | |
| 1000 | Adult - Medium, Large, X-Large | $ 5.36 | $ 6.13 | |
| | QUOTING ON STYLE: | 8000B / 8000 | G8000 / 8000B | |
| | MANUFACTURED BY: | Gildan | Gildan | |
| | NUMBER OF COLORS AVAILABLE: | 24 | 37 & 29 | |
| | **ESTIMATED TOTAL (ITEM#4):** | $ 12,092.00 | $ 13,390.00 | |

Opening Date -- 9/2/09
Date Prepared -- 9/10/09

CITY OF TROY
BID TABULATION
TEE SHIRTS

| EST QTY | DESCRIPTION | Full Contact Sports | Design Incentives, Inc | Design Incentives, Inc Alternate | |
|---|---|---|---|---|---|
| | VENDOR NAME: | | | | |
| | | PRICE/ EACH | PRICE/ EACH | PRICE/ EACH | |
| **ITEM #5 -- 100% Cotton - Two Color Imprint - Front & 1 Color Back** | | | Order Qty 72 | | |
| | **Short Sleeve Shirts** | | | | |
| 2000 | Adult-Small, Medium, Large, X-Large | $ 5.58 | $ 8.16 | | |
| 300 | Adult - XX-Large | $ 7.14 | $ 9.66 | | |
| | QUOTING ON STYLE: | 2000 | 2000 | | |
| | MANUFACTURED BY: | Gildan | Gildan | | |
| | NUMBER OF COLORS AVAILABLE: | 24 | 44 | | |
| | | | 50/50 - 25 Colors | | |
| | **ESTIMATED TOTAL (ITEM#5):** | $ 13,302.00 | $ 19,218.00 | | |
| | **ESTIMATED GRAND TOTAL ALL ITEMS:** | $ 65,807.00 | $ 97,855.25 | N/A | |
| | SAMPLES INCLUDED Y or N | Yes | No | | |
| | CONTACT INFORMATION: Hrs of Op | 8 AM to 6 PM | M-F 8 AM to 5 PM | | |
| | Phone # | 586-292-6735 | 1-800-528-8028 | | |
| | PAYMENT TERMS | Net 30 | Net 30 | | |
| | GUARANTEED DELIVERY | **BIDDERS WILL BE NOTIFIED 2 WEEKS IN ADVANCE** | | | |
| | WARRANTY | **MANUFACTURER'S** | | | |
| | EXCEPTIONS | Attached To Bid | Attached To Bid | | |
| | ACKNOWLEDGEMENT: Y or N | Yes | Yes | Yes | |
| | ADDENDUM #1 Y or N | No | No | No | |

PROPOSAL: One-Year Requirements of 50/50 Tee Shirts and 100% Cotton Shirts with an Option To Renew for One Additional Year

# CITY COUNCIL ACTION REPORT

September 25, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Assistant City Manager/Economic Development Services
Timothy L. Richnak, Public Works Director

SUBJECT: Announcement of Public Hearing for November 9, 2009 –
Community Development Block Grant (CDBG) 2010 Application

Background:

- The City of Troy is required by Oakland County Division of Community & Home Improvement to advertise and conduct a Public Hearing on the Program Year 2010 CDBG application.

Financial Considerations:

- There are no financial considerations associated with this item.

Legal Considerations:

- There are no legal considerations associated with this item.

Policy Considerations:

- There are no policy considerations associated with this item.

Options:

- It is recommended that Council authorize a public hearing for November 9, 2009 at 7:30 PM or as soon thereafter as the agenda will permit for the adoption of the Community Development Block Grant (CDBG) 2010 application.

City of Troy

# CITY COUNCIL ACTION REPORT

September 21, 2009

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Asst. City Manager/Finance & Administration
Mark Miller, Acting Asst. City Manager/Economic Development Services
Steven J. Vandette, City Engineer

SUBJECT: Agenda Item – Approval of MDOT Construction Contract
MDOT Contract No. 09-5601
Rochester, Road Torpey to Barclay – Utility Relocations
Project No. 99.203.5

## Recommendation

Staff recommends that City Council approve the attached construction Contract No. 09-5601 with the Michigan Department of Transportation (MDOT) for the purpose of fixing the rights and obligations of each agency for the utility relocation work for the reconstruction of Rochester Road from Torpey to Barclay. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreements.

## Background:

By Resolutions 2009-03-117 and 2009-06-172, City Council approved AT&T and Consumers Energy relocation costs in connection with the Rochester Road, Torpey to Barclay reconstruction project. AT&T and Consumers Energy had to relocate their facilities to accommodate the future widening project on Rochester Road. A portion of these facilities were located within private easements acquired and owned by the respective utility.

When a private utility is required to relocate from a private easement to public right-of-way or public easement, the public agency is responsible to pay for the relocation costs within those areas.

AT&T and Consumers Energy have both been working diligently to relocate their facilities over the past few months. AT&T has all of their conduit in the ground and will be pulling new cable shortly. Consumers Energy has all of their new pipe in the ground and is transferring individual services to this new main.

## Financial Considerations:

Private utility relocation costs are eligible for reimbursement with federal funds if the utility being relocated has a property interest in its present location.

MDOT Contract No. 09-5601 provides for a federal participation ratio equal to 81.85% of the actual construction costs up to $672,183. The federal funds, based on the actual contractors work, are a maximum of $550,182. The city's share is estimated at $122,001.

Consumers Energy estimated construction cost is $237,224. AT&T estimated construction cost is $434,959.

Funds for the city's share are included in the 2009/10 Major Road fund, account number: 401.447.479.7989.992035. The budgeted amount includes funds for construction, inspection and contingencies.

Legal Considerations:

Contract No. 09-5601, as submitted, is based on estimated costs, as is standard with all MDOT agreements, since these agreements are prepared when funding for the project is obligated and before actual costs are known. The city's actual cost is based on the actual cost incurred by the contractor's work within the parameters of the agreement.

Policy Considerations:

Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues. (Goal II)

Prepared by: Bill Huotari, Deputy City Engineer
G:\Contracts\Contracts - 2009\09-9 Rochester, Torpey to Barclay & Wattles, E & W of Rochester\99.203.5 - Rochester, Torpey to Barclay\To CC re MDOT Agreement_Utilities_r1 doc

JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

KIRK T. STEUDLE
DIRECTOR

September 11, 2009

Ms. Tonni Bartholomew
Clerk
City of Troy
500 W. Big Beaver Road,
Troy, MI 48084-5285

Dear Ms. Bartholomew:

RE: MDOT Contract No.: 09-5601
Control Section: STU 63459
Job Number: 104678Z

Enclosed is the original and one copy of the above described contract between your organization and the Michigan Department of Transportation (MDOT). Please take time to read and understand this contract. If this contract meets with your approval, please complete the following checklist:

___ **PLEASE DO NOT DATE THE CONTRACTS.** MDOT will date the contracts when they are executed. A contract is not executed unless it has been signed by both parties.

___ **Secure the necessary signatures on all contracts.**

___ **Include a certified resolution**. The resolution should specifically name the officials who are authorized to sign the contracts.

___ **Return all copies of the contracts to my attention of the Department's Design Division, Local Agency Programs, 2nd floor for MDOT execution.**

**In order to ensure that the work and payment for this project is not delayed, the agreement needs to be returned within 35 days from the date of this letter.**

A copy of the executed contract will be forwarded to you. If you have any questions, please feel free to contact me at (517) 335-2264.

Sincerely,
Jackie Burch
Jackie Burch
Contract Processing Specialist
Design Divisioin – Local Agency Programs

Enclosure

RECEIVED
SEP 16 2009
ENGINEERING

STP
FORCE ACCOUNT

CAB

| | |
|---|---|
| Control Section | STU 63459 |
| Job Number | 104678Z |
| Project | STP 0963(227) |
| Federal Item No. | HH 6030 |
| CFDA No. | 20.205 (Highway Research Planning & Construction) |
| Contract No. | 09-5601 |

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF TROY, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Troy, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated September 10, 2009, attached hereto and made a part hereof:

Utility relocation work for the reconstruction of Rochester Road from Torpey Drive northerly to Barclay Court; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including any other costs incurred by the DEPARTMENT as a result of this contract, except construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The REQUESTING PARTY shall perform or cause to be performed all the PROJECT work. A separate work authorization will be issued to the REQUESTING PARTY by the DEPARTMENT for the commencement of the PROJECT work. The method of performing the work will be indicated on the work authorization.

4. The PROJECT COST shall be met in part by contributions by the Federal Government. Federal Surface Transportation Funds shall be applied to the eligible items of the PROJECT COST at the established Federal participation ratio equal to 81.85 percent. The balance of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds shall be the sole responsibility of the REQUESTING PARTY.

The REQUESTING PARTY shall maintain accurate records and accounts relative to the cost of the PROJECT. Said accounts shall be made available for review and audit by the DEPARTMENT and shall be retained on file for a period of not less than three years from the date of the final payment.

All billings submitted to the DEPARTMENT, for reimbursement for items of work performed under the terms of this contract, shall be prepared in accordance with the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than $1,000.00 shall be submitted unless it is a final or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____" or "Final Billing".

The REQUESTING PARTY, upon completion of the PROJECT and payment of all items of PROJECT COST related thereto, shall make a final accounting to the DEPARTMENT.

Final settlement of costs shall be made upon completion of all PROJECT work and final audit by the DEPARTMENT. The REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of cost previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Fund in settlement of said claim.

5. No working capital deposit will be required for this PROJECT.

6. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

7. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA 13A.20101(1)(l); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

8. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation

pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

9. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

10. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

11. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such

highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

12. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

13. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

14. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF TROY

By_____
Title:

By_____
Title:

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By_____
Department Director MDOT

9/11/09

September 10, 2009

EXHIBIT I

| | |
|---|---|
| CONTROL SECTION | STU 63459 |
| JOB NUMBER | 104678Z |
| PROJECT | STP 0963(227) |

ESTIMATED COST

| | |
|---|---|
| FORCE ACCOUNT WORK (REQUESTING PARTY) | $672,183 |

COST PARTICIPATION

| | |
|---|---|
| GRAND TOTAL ESTIMATED COST | $672,183 |
| Less Federal Funds | $550,182 |
| BALANCE (REQUESTING PARTY'S SHARE) | $122,001 |

NO DEPOSIT

# PART II

## STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

## SECTION I

## COMPLIANCE WITH REGULATIONS AND DIRECTIVES

A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.

B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.

1. Engineering

   a. FAPG (6012.1): Preliminary Engineering

   b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts

   c. FAPG (23 CFR 635A): Contract Procedures

   d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

2. Construction

   a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims

   b. FAPG (23 CFR 140B): Construction Engineering Costs

   c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies

   d. FAPG (23 CFR 635A): Contract Procedures

   e. FAPG (23 CFR 635B): Force Account Construction

   f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

   g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)

h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways

i. FAPG (49 CFR 18.22):Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments–Allowable Costs

3. Modification Or Construction Of Railroad Facilities

a. FAPG (23 CFR 140I): Reimbursement for Railroad Work

b. FAPG (23 CFR 646B): Railroad Highway Projects

C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of $100,000.00 stipulate the following with respect to their specific jurisdictions:

1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.

2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.

3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.

D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.

E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

## SECTION II

## PROJECT ADMINISTRATION AND SUPERVISION

A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.

B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.

C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.

D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.

E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than $25,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.

H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.

I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.

K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.

L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.

M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.

N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.

O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.

P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.

Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

## SECTION III

## ACCOUNTING AND BILLING

A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

   The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

   The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

   If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

   In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

   Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and

arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502.

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

a. Agencies expending a total of $500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

The Reporting Package
The Data Collection Form
The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than $300,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Transportation
Bureau of Highways Technical Services
425 W. Ottawa, P.O. Box 30050
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than $1,000.00 shall be submitted unless it is a final or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number _____", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.

5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.

6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than $1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.

2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.

3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).

5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

## SECTION IV

## MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

   Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

   a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

   b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

      With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

   c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

   d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.

C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.

D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

## SECTION V

## SPECIAL PROGRAM AND PROJECT CONDITIONS

A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.

B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.

C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.

D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.

2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.

3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.

6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.

7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.

9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

# APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or

   (b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make
(Excerpts from US DOT Regulation 49 CFR 26.13)

A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

> The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

> The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

# CITY COUNCIL ACTION REPORT

September 22, 2009

TO: John Szerlag, City Manager

FROM: William S. Nelson, Fire Chief
David J. Roberts, Assistant Fire Chief

SUBJECT: Macy's Fireworks Permit Application

Background:

Macy's at Oakland Mall along with Zambelli Fireworks, Inc., of New Castle, Pennsylvania, have submitted a permit application for a public fireworks display to celebrate the beginning of their holiday shopping season. Macy's and Zambelli are requesting the Troy City Council grant a permit for an approximate fifteen-minute public fireworks display to occur on Friday, November 6, 2009, at 7:00 PM in their west parking lot. Macy's west parking lot will accommodate the necessary distances required for the display.

Financial Considerations:

The Fire Department will arrange to have Fire Station #4 on standby at the event along with the necessary number of Fire Prevention Division staff member(s) to help ensure fire safety. Fire Department costs will be off-set by the $125.00 Fireworks permit fee as required by ordinance.

Legal Considerations:

Michigan's Fireworks Law requires that any person or group that would like to conduct a fireworks display must apply to the local unit of government for a permit. The law defines local unit of government as the council or commission of a city or village, or the township board of a township. City Council has previously granted permission for a fireworks display for previous years' events at Oakland Mall, as well as for the annual Troy Daze festival at Boulan Park.

Policy Considerations:

The permitting process and subsequent fire department standby are consistent with City Council's goal of enhancing the safety of the community.

Options:

Staff recommends that City Council issue a fireworks permit to Zambelli Fireworks, Inc., for a public fireworks display. Enclosed for Council's review are the permit application and permit to be signed and issued; certificate of insurance; and a request letter to Council from Urban Retail Properties, LLC.

Prepared by David Roberts, Assistant Fire Chief
G:\Data\09-803\My Documents\Word\Macy's Fireworks Agenda Item.docx

# Application for Fireworks Display Permit

Michigan Department of Labor & Economic Growth
Bureau of Fire Services
P.O. Box 30700
Lansing, MI 48909
517-241-8847

| | |
|---|---|
| Authority: 1968 PA 358<br>Compliance: Voluntary<br>Penalty: Permit will not be issued | The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency. |

☒ Public Display ☐ Agricultural Pest Control

DATE OF APPLICATION: 9/22/09

| | | |
|---|---|---|
| NAME OF APPLICANT: Zambelli Fireworks Mfg. Co. | ADDRESS: PO Box 1463 New Castle Pa 16103 | AGE (18 or over): |
| IF A CORPORATION, NAME OF PRESENT: W. Douglas Taylor | ADDRESS: same | |
| IF A NON-RESIDENT APPLICANT, NAME OF MICHIGAN ATTORNEY OR RESIDENT AGENT: | ADDRESS: | TELEPHONE NUMBER: |
| NAME OF PYROTECHNIC OPERATOR: Dave Evans | ADDRESS: 950 Wampum Ave. Ellwood City PA | AGE (18 or over): 61 |
| NO. YEARS EXPERIENCE: 14+ years / NO. DISPLAYS: 200+ | WHERE: Throughout the United States | |
| NAME OF ASSISTANT: to be determined | ADDRESS: | AGE: |
| NAME OF OTHER ASSISTANT: | ADDRESS: | AGE: |

EXACT LOCATION OF PROPOSED DISPLAY: parking lot of Oakland Mall - Troy, MI (See map attached)

| | |
|---|---|
| DATE OF PROPOSED DISPLAY: 11/6/09 | TIME OF PROPOSED DISPLAY: 7 pm |

| NUMBER OF FIREWORKS | KIND OF FIREWORKS TO BE DISPLAYED |
|---|---|
| 1200 | 3" Aerial Display Shells |
| 402 | 4" Aerial Display Shells |
| 15 | Barrage Cakes |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

MANNER AND PLACE OF STORAGE PRIOR TO DISPLAY (Subject to Approval of Local Fire Authorities)

delivered day of display

| | |
|---|---|
| AMOUNT OF BOND OR INSURANCE (To be set by local government): $10 Million | NAME OF BONDING CORPORATION OR INSURANCE COMPANY: Britton-Gallagher & Associates, Inc. |

ADDRESS OF BONDING CORPORATION OR INSURANCE COMPANY: 6240 SOM Center Road, Cleveland, OH 44139

SIGNATURE OF APPLICANT: W. Douglas Taylor

## Instructions for Application for Fireworks Display Permit

Applications shall be made to the city or village council or commission of the township board. A permit shall be issued only as a result of legal action by the council, commission or board. A permit shall be valid only for use within the limits of the issuing political jurisdiction.

1. The applicant may be a person representing an organization, group, firm or corporation, or self. If the applicant is also the operator, enter the same name in Operator's section.
2. A non-resident applicant shall appoint a Michigan attorney or resident agent in writing to be the applicant's legal representative upon whom all process in any action or proceeding may be served.
3. The pyrotechnic operator is the person in charge of the display. The council, commission or board shall rule on the competency and qualifications of the operator before granting a permit and may require an affidavit from the applicant as to the operator's experience, former pyrotechnic accidents, criminal record, sobriety, etc.
4. Indicate the total amount of fireworks proposed for the display, such as 10 aerial bombs, 30 aerial rocket bursts, etc.
5. Indicate the manner and place of storage within the political jurisdiction of fireworks that are ready for display, just prior to the display in the area of exhibition. The council, commission or board shall obtain approval from the local fire authorities of the manner and place of storage before any permit is issued.
6. The issuing political jurisdiction shall set the amount of and proof of bond or insurance for the protection of the public to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the person, firm or corporation, or any agent or employee of the applicant. The applicant shall assure the bond or insurance required is provided.

# Permit for Fireworks Display

Michigan Department of Labor & Economic Growth
Bureau of Fire Services
P.O. Box 30700
Lansing, MI 48909
517-241-8847

| | | |
|---|---|---|
| Authority: 1968 PA 358<br>Compliance: Required<br>Penalty: Misdemeanor | The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency. |

*This permit is not transferable. Possession of this permit authorizes the herein named person to possess, transport and display fireworks in the amounts, for the purpose of and at the place listed below only.*

☒ Public Display ☐ Agricultural Pest Control

ISSUED TO: Zambelli Fireworks Mfg. Co.
AGE (18 or over):

ADDRESS: PO Box 1463 New Castle PA 16103

NAME OF ORGANIZATION, GROUP, FIRM OR CORPORATION: Macy's

ADDRESS: 111 North State Street, Chicago IL 60602

NUMBER AND TYPES OF FIREWORKS:

1200 3" Aerial Shells
402 4" Aerial Shells
15 Barrage Cakes

EXACT LOCATION OF DISPLAY: Parking lot of Oakland Mall - Troy, MI

CITY, VILLAGE, TOWNSHIP: Troy, MI
DATE: 11/6/09
TIME: 7 pm

BOND OR INSURANCE FILED: ☒ Yes ☐ No
AMOUNT: $10 Million

Issued by action of the ☐ council ☐ commission ☐ board of

☐ city ☐ village ☐ township of _____ on the _____ day of

_____ 20 _____

_____
(Signature and Title of Council/Commission/Board Representative)

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/22/2009

PRODUCER Phone: 440-248-4711 Fax: 440-248-5406
Britton-Gallagher and Associates, Inc.
6240 SOM Center Rd.
Cleveland OH 44139

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
Zambelli Fireworks Mfg. Co., Inc.
PO Box 1463
New Castle PA 16103-1463

| INSURERS AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A: Lexington Insurance Co | |
| INSURER B: Granite State Insurance Co. | 23809 |
| INSURER C: Arch Specialty Ins Co | |
| INSURER D: | |
| INSURER E: | |

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | ADD'L INSRD | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS | |
|---|---|---|---|---|---|---|---|
| A | X | GENERAL LIABILITY | 1619391-01 | 2/1/2009 | 2/1/2010 | EACH OCCURRENCE | $1,000,000 |
| | | X COMMERCIAL GENERAL LIABILITY | | | | DAMAGE TO RENTED PREMISES (Ea occurence) | $50,000 |
| | | CLAIMS MADE X OCCUR | | | | MED EXP (Any one person) | $ |
| | | | | | | PERSONAL & ADV INJURY | $1,000,000 |
| | | | | | | GENERAL AGGREGATE | $2,000,000 |
| | | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | PRODUCTS - COMP/OP AGG | $2,000,000 |
| | | POLICY X PRO-JECT LOC | | | | | |
| B | X | AUTOMOBILE LIABILITY | CA93488081 | 2/1/2009 | 2/1/2010 | COMBINED SINGLE LIMIT (Ea accident) | $1,000,000 |
| | | X ANY AUTO | | | | | |
| | | ALL OWNED AUTOS | | | | BODILY INJURY (Per person) | $ |
| | | SCHEDULED AUTOS | | | | | |
| | | X HIRED AUTOS | | | | BODILY INJURY (Per accident) | $ |
| | | X NON-OWNED AUTOS | | | | | |
| | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | GARAGE LIABILITY | | | | AUTO ONLY - EA ACCIDENT | $ |
| | | ANY AUTO | | | | OTHER THAN AUTO ONLY: EA ACC | $ |
| | | | | | | AGG | $ |
| C | X | EXCESS/UMBRELLA LIABILITY | UFP0024525 | 2/1/2009 | 2/1/2010 | EACH OCCURRENCE | $9,000,000 |
| | | X OCCUR CLAIMS MADE | | | | AGGREGATE | $9,000,000 |
| | | | | | | | $ |
| | | DEDUCTIBLE | | | | | $ |
| | | RETENTION $ | | | | | $ |
| | | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | WC STATUTORY LIMITS / OTHER | |
| | | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? | | | | E.L. EACH ACCIDENT | $ |
| | | If yes, describe under SPECIAL PROVISIONS below | | | | E.L. DISEASE - EA EMPLOYEE | $ |
| | | | | | | E.L. DISEASE - POLICY LIMIT | $ |
| | | OTHER | | | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Display Date: November 6, 2009 Rain Date: n/a
Location: parking lot of Oakland Mall, Troy, MI
Macy's Oakland Mall; City of Troy, MI are named as additional insureds in regards to the above display

## CERTIFICATE HOLDER

Macy's
111 North State Street
Chicago IL 60602

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE


© ACORD CORPORATION 1988

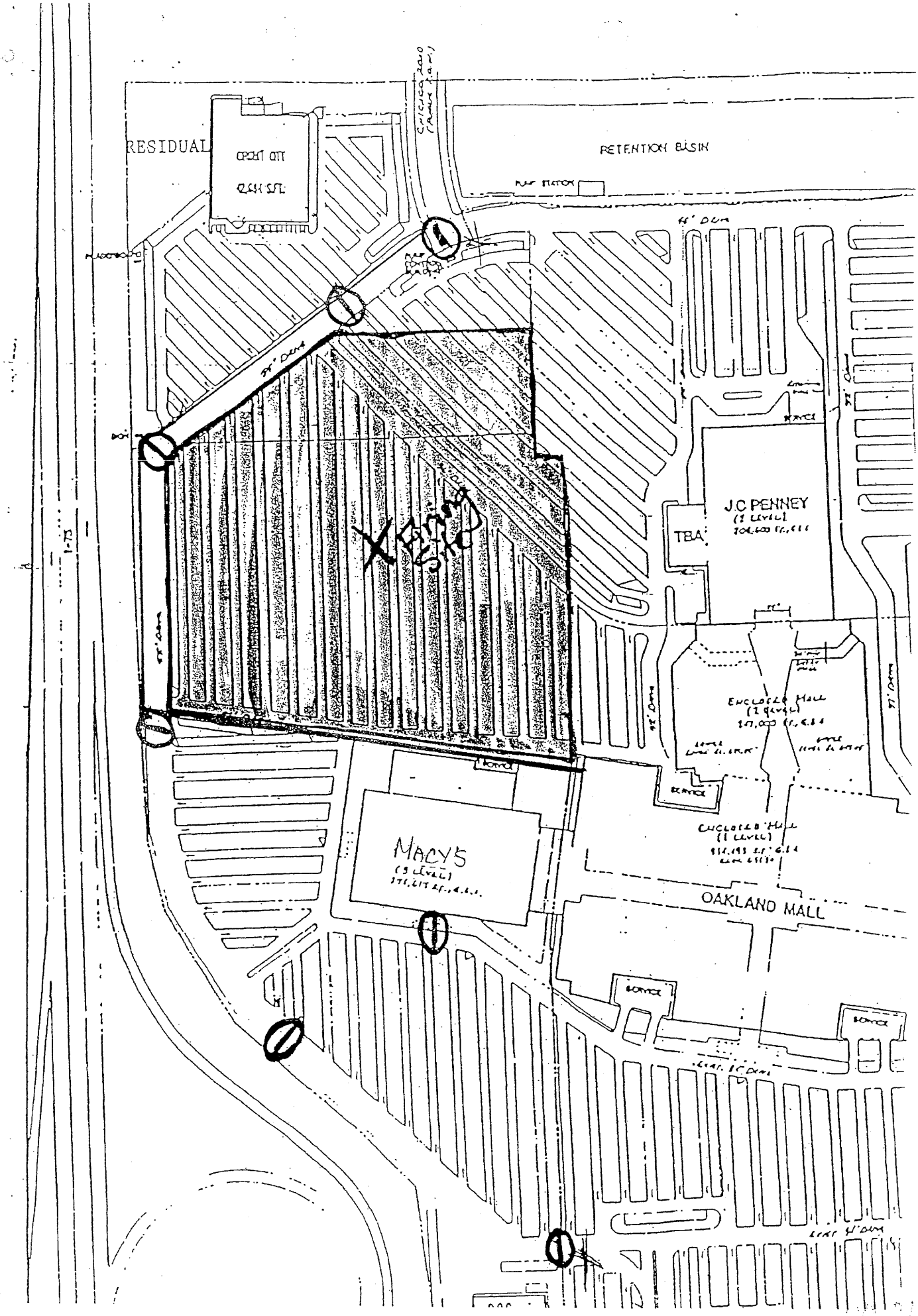
# IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.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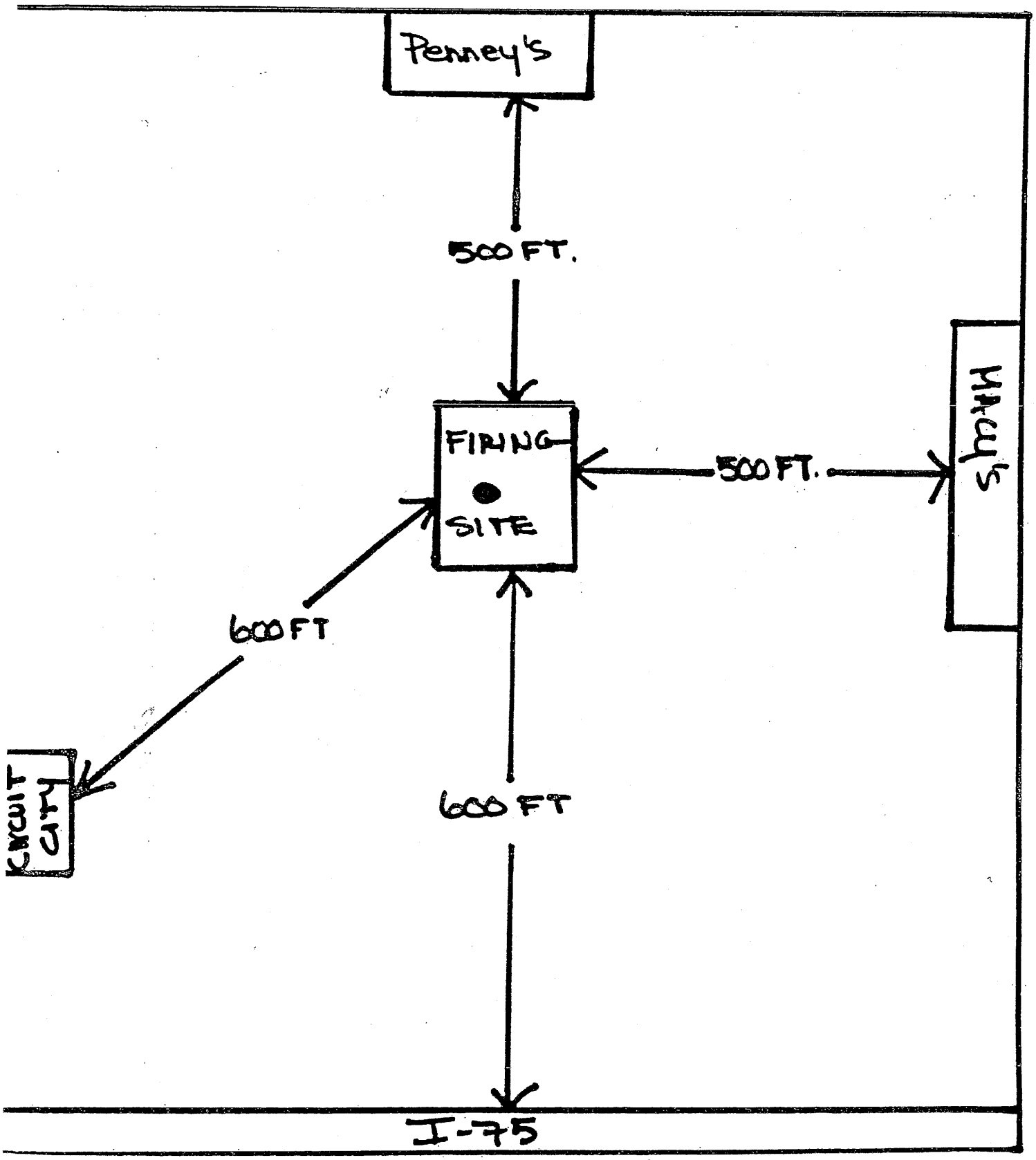
J.C PENNEY
TBA
MACY'S
OAKLAND MALL
I-75




* AREA WILL BE BARRICADED/NO ONE ALLOWED INSIDE SHOOTING AREA OTHER THAN ZAMBELL EMPLOYEES.

URBAN

RETAIL PROPERTIES, LLC®

September 11, 2009

City Council
Of The City Of Troy
500 W. Big Beaver
Troy, MI 48084

Ladies and Gentlemen of City Council,

This letter serves as a formal request for approval of the Macy's Fireworks event on Friday, November 6, 2009 at 7pm in the Oakland Mall parking lot. In allowing Oakland Mall to host the Macy's Fireworks, both the City of Troy and the shopping center benefit from the positive publicity created by an event of this degree.

We hope you share our enthusiasm and stand in approval.

Respectfully,

Urban Retail Properties Co. of Michigan

Timothy W. Olson
President, Management Division

**URBAN RETAIL PROPERTIES, LLC**
1169 Clarendon Drive | Marietta, Georgia 30068 | (440) 310-2233 | www.urbanretail.com

Advisory Committee for Senior Citizens

A regular meeting of the Advisory Committee for Senior Citizens was held on Thursday, June 4, 2009 at the Troy Community Center. Chair David Ogg called the meeting to order at 1:00 P.M.

**Present:** James Berar, Member
Betty Coven, Member
David Ogg, Member
Bud Black, Member
JoAnn Thompson, Member
Jo Rhoads, Member
Pauling Noce, Member
Merrill Dixon, Member
Carla Vaughan, Staff

**Excused:** Frank Shier

**Visitors:** None

**Approval of Minutes**

Resolution # SC-2009-06-001
Moved by Rhoads
Seconded by Coven

RESOLVED, That the Minutes of May 7, 2009 be approved as submitted.

Yes: 8
No: 0

MOTION CARRIED

**Visitor Comments**

None.

**OLD BUSINESS**

**Bocce and Shuffleboard Courts:** Carla reported that some of the slag on the bocce courts has been removed. The senior leagues have been cancelled due to low enrollment.

**NEW BUSINESS**

**Suggestion Box:** There was one suggestion for a beginning Pilates class with Ilene. Carla reported that she is checking into it.

**REPORTS**

**Park Board:** JoAnn Thompson reported on highlights from the Park Board meeting including cuts in mowing, watering and flowers.

**Senior Program:** Carla reported that 69 seniors are registered for the Kids and Seniors garage sale on Saturday. A program was held this morning for seniors who do not currently exercise but want to get started again. The Mackinac Island trip is filling up – nine openings remain. The Anyone Can Paint classes are going well – Carla showed the Committee a sample painting.

**Medi-Go:** Jo Rhoads reported that they have a new van.

**OLHSA:** No report.

**Oakland County Senior Advisory Board:** Jo Rhoads reported that they had a speaker from the Oakland County Commission.

**Comments**

The meeting was adjourned at 2:08 p.m.

Respectfully submitted,

David Ogg, Chair Carla Vaughan, Secretary

**LIQUOR ADVISORY COMMITTEE MINUTES – FINAL JUNE 8, 2009**

A regular meeting of the Liquor Advisory Committee was held on Monday, June 8, 2009 in the Council Board Room of Troy City Hall, 500 West Big Beaver Road. Committee member Patrick Hall called the meeting to order at 7:05 p.m.

ROLL CALL:

| | |
|---|---|
| PRESENT: | W. Stan Godlewski<br>Patrick C. Hall<br>Andrew Kaltsounis<br>David S. Ogg<br>Timothy P. Payne<br>Bohdan L. Ukrainec |
| ABSENT: | Max K. Ehlert, Chairman |
| ALSO PRESENT: | Officer James Feld<br>Susan Lancaster, Assistant City Attorney<br>Pat Gladysz |

**Resolution to Excuse Committee Member Ehlert**

Resolution #LC2009-06-007
Moved by Ukrainec
Seconded by Kaltsounis

RESOLVED, that the absence of Committee member Ehlert at the Liquor Advisory Committee meeting of June 8, 2009 BE EXCUSED.

Yes: 6
No: 0
Absent: Ehlert

---

**Resolution to Approve Minutes of April 13, 2009 Meeting**

Resolution #LC2009-06-008
Moved by Payne
Seconded by Kaltsounis

RESOLVED, that the Minutes of the April 13, 2009 meeting of the Liquor Advisory Committee be approved.

Yes: 6
No: 0
Absent: Ehlert

---

**Agenda Items**

1. **DDC Hotels, Inc.** (A Missouri Corporation) requests to transfer ownership of 2008 B-Hotel and SDM Licensed Business, located at 575 West Big Beaver, Troy, Michigan 48084, Oakland County, from Drury Hotels Company, LLC (A Nevada Limited Liability Company); and requests a new Official Permit (Food) (Step 2). {MLCC Request #491095}

Present to answer questions from the Committee were attorney John Carlin and hotel general manager Tracy Thomas.

The Drury family has owned 140 hotels in the United States for many years. For estate planning purposes, the hotels will be split between two sons in the family. With regard to the Troy location, DDC Hotels, Inc. will become the owner and licensee and Drury Inns, Inc. will remain as hotel management. The current staff will not change.

Officer Feld stated that the Police Department has no concerns in this matter.

Resolution #LC2009-06-009
Moved by Ukrainec
Seconded by Payne

RESOLVED, that DDC Hotels, Inc. (A Missouri Corporation) be allowed to transfer ownership of 2008 B-Hotel and SDM Licensed Business, located at 575 West Big Beaver, Troy, Michigan 48084, Oakland County, from Drury Hotels Company, LLC (A Nevada Limited Liability Company); and receive new Official Permit (Food).

Yes: 6
No: 0
Absent: Ehlert

---

2. **Han Mi Mart, Inc.** 5060 Rochester, Troy, Michigan 48085, Oakland County requests to transfer ownership of escrowed 2008 SDD and SDM licensed business from B&K Investment Group. {MLCC Request #474731}

Present to answer questions from the Committee were Hyun Jung Kim and Young Jin Kwon, owners of the business.
The owners stated that they have been in business for 2-1/2 years. Their clientele is 80%-90% Korean, with the balance mainly consisting of Chinese and Japanese and they plan to sell Asian liquors.

Officer Feld stated that the Police Department has no concerns in this matter.

Resolution #LC2009-06-010
Moved by Ogg
Seconded by Hall

RESOLVED, that Han Mi Mart, Inc. 5060 Rochester, Troy, MI 48085, Oakland County be allowed to transfer ownership of escrowed 2008 SDD and SDM licensed business from B&K Investment Group.

Yes: 6
No: 0
Absent: Ehlert

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**Tabled Items**

***M & M Troy, Inc.***

There was a brief discussion regarding M & M Troy, Inc. Officer Feld stated that the owner has submitted drawings to the Police and Fire Departments. The Fire Department is currently reviewing the plans to determine if they meet with approval. The Building Department has approved the final inspections.

Assistant City Attorney Lancaster reviewed Chapter 101 of the City Ordinance with the Committee:

4. ***City Council Approval; Gas Stations and/or Businesses with Fuel Pumps.***

   a. ***Both of the following shall be established for any applicant seeking City Council approval for a liquor license for a gas station and/or a business with fuel pumps:***

      1) ***The site of payment and selection of alcoholic liquor shall be at least 50 feet from that point where motor fuel is dispensed; and***

      2) ***The applicant must establish that one or both of the following conditions exist and will continue to exist:***

***(i) The applicant or licensee is located in a neighborhood shopping center composed of one or more commercial establishments organized or operated as a unit which is related in location, size, and type of shop to the trade area that the unit serves, which provides not less than 50,000 square feet of gross leasable retail space, and which provides five private off-street parking spaces for each 1,000 square feet of gross leasable retail space; and/or***

***(ii) At all times, the applicant or licensee maintains a minimum inventory on the premises of not less than $250,000.00 (at cost) of those goods and merchandise customarily marketed by approved types of businesses, excluding alcoholic liquor and motor vehicle fuel.***

***A) Services, prizes, offers, contests, coupons, and other items which require purchase before a cash value attaches shall not be considered inventory.***

***B) The applicant or licensee shall allow inspection of the inventory at the licensed premises during regular business hours by the Director of Building and Zoning or his/her designee, the Treasurer or Finance Director or his/her designee, or the Troy Police Department.***

***C) Upon a verbal or written request of the City, the applicant or licensee shall produce documents and/or records of the cost of inventory on the premises on a specific date. If the applicant or licensee fails to produce such documents or records, or if the documentation presented does not contain enough information to determine if the inventory is based on cost, within 3 days of the request, then there shall be a rebuttable presumption that the inventory on that specific date was below the $250,000 minimum requirement of this Chapter, which can be raised in any legal proceeding.***

***b. Failure to satisfy the requirements of sub-section 1) and sub-section 2), as set forth above, will result in a denial recommendation from the Troy City Council. In the event that a gas station or business with gas pumps is granted a liquor license by the State of Michigan, the failure to continuously satisfy the requirements of sub-section 1) and sub-section 2), as set forth above, will result in a recommendation for revocation or other adverse action against the liquor license.***

Officer Feld indicated that this item will most likely appear on next month's Agenda.

**Informational Items**

Officer Feld briefly updated the Committee regarding the Informational Items:

***Southwest Dining, Inc.***

This Class C license has been placed in a "hold status".

***Cameron Mitchell Restaurants, LLC***

Plans for outdoor service area have been put on hold.

***Clawson-Troy Elks Lodge No. 2169***

Building has been sold.

***Granite City Restaurant Operations, Inc.***

Plans to build this restaurant have been cancelled for economic reasons.

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The meeting adjourned at 7:50 p.m.

_____
Patrick C. Hall, Committee Member

_____
Patricia A. Gladysz, Secretary II

LIBRARY ADVISORY BOARD - FINAL June 11, 2009

A Regular Meeting of the Troy Library Advisory Board was held on Thursday, June 11, 2009, in the Small Conference Room of the Troy Public Library. Secretary Audre Zembrzuski called the meeting to order at 7:00 P.M.

**ROLL CALL** PRESENT: Kul Gauri
Nancy Wheeler
Audre Zembrzuski

Cathleen Russ, Library Director

Guests: Barry Hyland, Library System Specialist, Troy Public Library; Dale Zygnowicz

The Pledge of Allegiance to the Flag was given.

**Resolution #LB-2009-6-01**
Moved by Wheeler
Seconded by Gauri

**RESOLVED, that Belinda Duggan and Lynne Gregory be excused.**

**Yes: 3—Gauri, Wheeler, Zembrzuski**
**No: 0**

**MOTION CARRIED**

**Resolution #LB-2009-6-02**
Moved by Gauri
Seconded by Wheeler

**RESOLVED, That the minutes of the Library Advisory Board meeting, held on Thursday, May 9, 2009, be approved.**

**Yes: 3—Gauri, Wheeler, Zembrzuski**
**No: 0**

**MOTION CARRIED**

**Resolution #LB-2009-6-03**
Moved by Wheeler
Seconded by Zembrzuski

**RESOLVED, That the agenda for the Thursday, June 11, 2009, meeting, be approved.**

**Yes: 3—Gauri, Wheeler, Zembrzuski**
**No: 0**

**MOTION CARRIED**

**PUBLIC COMMENT—**None

**BOARD MEMBER COMMENTS—**N. Wheeler requested clarification of the library's hours, as regarding a recent editorial in the Troy Somerset Gazette that referred to changes. There have been no changes to the library's opening and closing times. The Library is open 7 days/week; 65 hours per week. The Library has been closed for holidays such as Good Friday and the day after Thanksgiving, which it had not been in the past. The trustees suggested that C.Russ send information about library hours to the Troy Somerset Gazette and ask for it to be published. K. Gauri requested information about the upcoming MLA conference, and inquired as to MLA membership renewals. C.Russ will follow up with C. Easter in the business office. K. Gauri wanted to know if it is possible to include library information on the city's water bill. There was a question as to the possibility of a trustee dinner at the MLA conference, as had occurred in years past. The city's budget (which includes the library) is available online and in paper at the Adult Services reference desk. A. Zembrzuski would like C. Russ to investigate an ice cream machine in the vending café.

**STUDENT REPRESENTATIVE'S COMMENTS—**None.

**POSTPONED ITEMS**
There were no Postponed Items.

**OLD BUSINESS**
A. Café Grand Opening Report—it went very well. The café is being used.

**NEW BUSINESS**
A. Polaris implementation update and timeline—Barry Hyland reported to the LAB members about the recent site visit, and went over the timeline with them. The summer is going to be very busy but it will be worth it. The system is an improvement over our current system and the public is going to find it easy to use.

B. Youth Services Department Vacancy—C. Russ has no new information to report.

**MOTION CARRIED**

**REPORTS & COMMUNICATIONS**
**Director's Report—**was received and filed. C. Russ added that the library's new website is due to go live on Monday, June 22. Phillip Kwik, head of Technology, will be happy to give a demo following this meeting. Librarian John Robertson is receiving the Walter H. Kaiser Award at the MLA conference in November.

**Friends of the Troy Public Library—The LAB members reviewed the Friends' report.**

**Gifts**
No gifts were received this month.

**Informational Items.**
Website address for Troy Public Library calendar:
http://sl.libcoop.net/troy/lib/eventcalendar.asp

**Contacts and Correspondence**.
The Library Advisory Board members reviewed the Visitor Comments.

**Adjournment**
The Library Board meeting adjourned at 8:30 P.M. The next meeting of the Library Advisory Board is Thursday, September 11, 2009, at 7 pm.

Audre Zembrzuski
Acting Chair

Cathleen Russ
Recording Secretary

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, August 12, 2009, at Troy City Hall, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting was called to order at 12:16 p.m.

**Trustees Present**: Mark Calice
David Eisenbacher
John M. Lamerato
William R. Need (Ex-Officio)
Steve Pallotta
A. John Szerlag

**Trustees Absent:** Thomas J. Gordon, II
Thomas Rosewarne

## Minutes

**Resolution # ER – 2009-8-29**
Moved by Pallotta
Seconded by Lamerato

RESOLVED, That the Minutes of the June 24, 2009 meeting be approved.

Yeas: All – 5
Absent: Gordon II, Rosewarne

## Other Business – December 31, 2008 Actuarial Valuation

Randy Dziubek of Gabriel, Roeder, Smith, reviewed with the board the various effects of alternate amortization periods.

## Other Business – June 30, 2009 Investment Performance

John Grant and Rebecca Sorensen of UBS reviewed the June 30, 2009 investment performance and corporate bond holdings.

## Retirement Requests

**Resolution # ER – 2009-8-30**
Moved by Szerlag
Seconded by Lamerato

RESOLVED, That the duty disability retirement request of David Kocenda be received and the board directed Mr. Kocenda to be evaluated by city doctors.

Yeas: All – 5
Absent: Gordon II, Rosewarne

## Investments

**Resolution # ER – 2009-8-31**
Moved by Szerlag
Seconded by Eisenbacher

RESOLVED, That the board buy and sell the following investments:

***Buy:*** 4,000 shares of Somanetics;
5,000 shares of Vanguard Precious Metals Fund;
4,000 shares of Spectra Energy;
5,000 shares of McDonalds;
5,000 shares of Oneok;
5,000 shares of Cliff Natural Resources;
100 shares of Berkshire Hathaway B;
10,000 shares of Weatherford International

***Sell:*** Eli Lilly
Waters Corporation

Yeas: All – 5
Absent: Gordon II, Rosewarne

## Public Comment

No public Comment.

The next meeting is September 9, 2009 at 12 p.m. at Troy City Hall, Conference Room C, 500 W. Big Beaver Road, Troy, MI 48084.

The meeting adjourned at 2:34 p.m.

_____
Mark Calice, Chairman

_____
John M. Lamerato, Secretary

JML/bt\Retirement Board\2008\8.12.09 – Minutes_Final

**TROY HISTORIC DISTRICT COMMISSION MINUTES – FINAL August 18, 2009**

A regular meeting of the Troy Historic District Commission was held Tuesday, August 18, 2009 at the Troy Museum. Barbara Chambers called the meeting to order at 7:10 p.m.

| | | |
|---|---|---|
| **ROLL CALL** | PRESENT | Barbara Chambers<br>Anne Partlan<br>Kent Voigt<br>Paul Lin<br>Muriel Rounds<br>Nishita Parmar, Student Rep.<br>Loraine Campbell, Museum Manager |
| | ABSENT | Sabah Jihad |

**Resolution #HDC-2009-08-001**
**Moved by Voigt**
**Seconded by Rounds**

**RESOLVED, That the minutes of the June 11, 2009 meeting be approved.**
Yes: 5— Chambers, Partlan, Voigt, Lin, and Rounds
No: 0

**MOTION CARRIED**

**NEW BUSINESS**

A. **Approval of the Final Report to delist the Historic Resource at 5875 Livernois**
The committee reviewed the Final Report and made recommendations to amend the language in the Statement of Significance. The revised language does not affect the recommendation to delist.

**Resolution #HDC-2009-06-002**
**Moved by Partlan**
**Seconded by Lin**

**RESOLVED, That the Historic District Commission approves the recommendation to de-list the historic resource at 5875 Livernois as amended.**

Yes: 5— Chambers, Partlan, Voigt, Lin and Rounds
No: 0

**MOTION CARRIED**

**B. Museum Site Plan**

**Resolution #HDC-2009-06-003**
**Moved by Partlan**
**Seconded by Lin**

**RESOLVED, That the Historic District Commission approves the Preliminary Site as submitted for the historic resource at the Troy Museum and Historic Village.**

Yes: 5— Chambers, Partlan, Voigt, Lin and Rounds
No: 0

**MOTION CARRIED**

The regular Troy Historic District Commission meeting was adjourned at 9:00 p.m. The next regular meeting will be held Tues, September 15, 2009 at 7:00 p.m. at the Troy Museum.

Barbara Chambers
Acting Chairperson

Loraine Campbell
Recording Secretary

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Schultz at 7:30 p.m. on August 25, 2009 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:
Donald Edmunds
Michael W. Hutson
Mark Maxwell
Philip Sanzica
Robert M. Schultz
Thomas Strat
John J. Tagle
Lon M. Ullmann

Absent:
Mark J. Vleck

Also Present:
R. Brent Savidant, Acting Planning Director
Mark F. Miller, Acting Assistant City Manager/Economic Development Services
Christopher Forsyth, Assistant City Attorney
Zak Branigan, Carlisle/Wortman Associates, Inc. (CWA)
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

***Resolution # PC-2009-08-070***
Moved by: Edmunds
Seconded by: Maxwell

***RESOLVED***, To approve the Agenda as prepared.

Yes: All present (8)
Absent: Vleck

**MOTION CARRIED**

3. MINUTES

***Resolution # PC-2009-08-071***
Moved by: Tagle
Seconded by: Edmunds

***RESOLVED***, To approve the minutes of the July 28, 2009 Regular meeting and August 4, 2009 Special/Study meeting as prepared.

Yes: All present (8)
Absent: Vleck

**MOTION CARRIED**

4. PUBLIC COMMENT – For Items Not on the Agenda

There was no one present who wished to speak.

## SITE PLAN APPROVAL

5. PRELIMINARY SITE PLAN APPLICATION (File Number SP 953) – Armada Oil & Gas Company, Southwest Corner of Maple and John R (1980 E. Maple), Section 35, B-3 (General Business) District

Mr. Savidant summarized the report prepared by Carlisle/Wortman Associates, Inc. (CWA). CWA and City Management recommends approval of the site plan as designed, with the conditions that the outstanding items delineated in the CWA report are addressed and the sidewalk along the northern edge of the parking is extended to the sidewalk on John R.

Discussion followed on the:
- Existing non-conforming use.
- Proposed landscaping.
- Building exterior (no elevation plans submitted).
- Curb cuts and accessibility to Maple Road.
- Planning Consultant review comments as relates to Zoning Enabling Act and compliance to all ordinances.

The petitioner, Ali Hessi of 1980 E. Maple Road, Troy, was present. Mr. Hessi addressed proposed site improvements, accessibility to site, and traffic circulation.

Mr. Strat suggested additional landscaping on the perimeter to create a buffer.

Mr. Branigan addressed the intensity of the site from the standpoint of traffic circulation.

Chair Schultz suggested postponing the item until such time that the petitioner provides building elevations and revised site plans that incorporate the sidewalk recommended by staff and address the handicapped accessibility issue.

***Resolution # PC-2009-08-072***
Moved by: Sanzica
Seconded by: Strat

***RESOLVED***, To postpone the item until such time that the petitioner has provided additional information to the Planning Department.

Yes: All present (8)
Absent: Vleck

**MOTION CARRIED**

## ZONING ORDINANCE TEXT AMENDMENT

6. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 240) – Amendment to Article 43, Board of Zoning Appeals Provisions

Mr. Savidant reviewed the proposed Zoning Ordinance Text Amendment relating to the Board of Zoning Appeals (BZA) provisions. The draft text states that the Planning Commission shall not grant Preliminary Site Plan Approval nor make a recommendation on the variance.

Mr. Forsyth gave a brief explanation on the separate and distinct powers of the Planning Commission and Board of Zoning Appeals. He indicated the intent of the proposed language is to avoid the Planning Commission telling the Board of Zoning Appeals what to do. Mr. Forsyth discussed the role of the Planning Commission member as a representative on the Board of Zoning Appeals in relation to consideration by both entities of a particular item.

There was further discussion on individual opinions expressed by Planning Commission members and the transmittal of those opinions to the BZA through prepared meeting minutes.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

***Resolution # PC-2009-08-073***
Moved by: Ullmann
Seconded by: Edmunds

***RESOLVED***, That the Planning Commission hereby recommends to the City Council that Article 43, BOARD OF ZONING APPEALS, pertaining to the requirement of Planning Commission review for items that require site plan approval and a variance(s), prior to being considered by the Board of Zoning Appeals, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (8)
Absent: Vleck

**MOTION CARRIED**

## STUDY ITEMS

7. POTENTIAL SITE CONDOMINIUM PROJECT – Former Hidden Parc Site Condominium, West Side of John R, South of Long Lake, Section 14

Mr. Savidant gave a brief history of the site condominium project and noted preliminary approval has expired. He said Chris Cousino of DEI Properties requested an opportunity to discuss potential development of the site and would like feedback from the Planning Commission on two proposed alternative layouts. Mr. Savidant reported the Engineering Department reviewed the two alternatives and recommends the layout without the connection to Luisa Drive.

Chris Cousino of DEI Properties, 12955 - 23 Mile Road, Shelby Township, was present. Mr. Cousino proposes to improve access into and circulation throughout the development by reducing the two lengthy cul-de-sacs and adding an additional street connection on John R. He said both proposed alternative layouts would yield 32 units, and both alternatives would have two street connections with John R and a stub street terminating at the northern property line. One alternative layoff has an additional street connection with Luisa Drive to the south.

Discussion followed. Members encouraged the petitioner to provide open space and make improvements to storm water management including creating amenities out of detention basins, should topography permit.

8. ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 239) – Amendment to Article 28, Used Car Sales in M-1

Mr. Savidant gave a quick review of the proposed Zoning Ordinance Text Amendment relating to used car sales in the M-1 zoning district. He introduced five discussion points and sought direction from the members in the effort to craft draft language. Mr. Savidant acknowledged receipt of a communication from David Kosuth and Scott Baker of The Dako Group, which was distributed to members prior to the beginning of tonight's meeting. Mr. Savidant stated there is interest by three parties to sell previously owned cars in the M-1 zoning district, and noted each party has a different and unique approach.

Discussion followed on:

- Accessory or principal use.
- Types of vehicles.
- Storage and display.
- Minimum area of sales operation.
- Minimum size, minimalist, or no office/building on site.

Chair Schultz opened the floor for public comment.

Scott Baker of The Dako Group, 2966 Industrial Row, Troy, was present. Mr. Dako gave a brief history of the classic car business headquartered in Troy. The Dako Group would like an outdoor display of six to eight vehicles. Mr. Baker indicated vehicles displayed or stored outside would be in excellent condition and displayed in an appropriate and classy manner with no banner flags or promotional items. It was noted that the display of vehicles would be on an exterior street.

Elvis Martin of 2033 Austin Street, Troy, was present. Mr. Martin has been in the public auto auction business for six years. Mr. Martin proposes to run a public auto auction out of a facility located on Austin (an interior street). The 12,000 square-foot facility has plenty of parking and setback. Mr. Martin said there would be no exterior display of vehicles. He would like to sell motorcycles and ATV's in addition to cars and light trucks.

Chair Schultz closed the floor for public comment.

The following was agreed upon:

- Operation can be accessory use.
- Sale of cars and light trucks only (definition of light truck tbd).
- Special Use Approval required for all sales.
- No reduction to 50-foot setback.
- Avoid concentration of operations.
- Permanent structure required.
- Provide amenities, public space, streetscape, landscaping.
- Further discussion on requirements and restrictions.

9. BIG BEAVER ROAD DEVELOPMENT GUIDELINES AND DESIGN STANDARDS – Discussion with Representatives of Carlisle/Wortman Associates, Inc.

Mr. Branigan reviewed a series of draft illustrations detailing public street design standards for the Big Beaver Road Development Guidelines and Design Standards.

A short discussion followed.

10. CHARTER TOWNSHIP OF SHELBY – DRAFT 2009 MASTER PLAN UPDATE – Review and Comment

Mr. Savidant reported the Charter Township of Shelby Draft 2009 Master Plan Update is not inconsistent with the City of Troy Master Plan.

***Resolution # PC-2009-08-074***
Moved by: Edmunds
Seconded by: Strat

***RESOLVED***, The Charter Township of Shelby Planning Commission prepared the Charter Township of Shelby Draft 2009 Master Plan Update; and,

***WHEREAS***, The Charter Township of Shelby Draft 2009 Master Plan Update will have no impact on the City of Troy; and,

***WHEREAS***, The Charter Township of Shelby Planning Commission provided a copy of the Charter Township of Shelby Draft 2009 Master Plan Update to the City of Troy Planning Commission for their review and comment, as required by Section 41 of Public Act 33 of 2008, as amended, known as the Michigan Planning Enabling Act; and,

***NOW, THEREFORE, BE IT RESOLVED***, That the City of Troy Planning Commission determined that the Charter Township of Shelby Draft 2009 Master Plan Update is not inconsistent with the Master Plan of the City of Troy; and,

***BE IT FURTHER RESOLVED***, That the City of Troy Planning Commission hereby supports the proposed Charter Township of Shelby Draft 2009 Master Plan Update.

Yes: All present (8)
Absent: Vleck

**MOTION CARRIED**

## OTHER BUSINESS

11. PUBLIC COMMENT – Items on Current Agenda

There was no one present who wished to speak.

12. PLANNING COMMISSION COMMENT

There was a brief discussion on the requirement for architecturally sealed site plans.

Mr. Edmunds addressed two training workshops he attended through Michigan Citizen Planner; Adaptive Reuse and Growth Through Green Development.

Mr. Tagle will attend the LEED seminar sponsored by U.S. Green Building Council (USGBC) in September.

Messrs. Branigan and Savidant addressed the transition in the preparation of Agenda items.

Mr. Miller addressed:

- CWA attendance at Planning Commission meetings.
- Michigan Association of Planning (MAP) Annual Conference and registration.
- September schedule of meetings.

Chair Schultz announced that Councilwoman Robin Beltramini will be a guest speaker at the September 1, 2009 Special/Study meeting. Ms. Beltramini, President of the Michigan Municipal League, will give a presentation on Form Based Codes.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 10:07 p.m.

Respectfully submitted,

Robert M. Schultz, Chair

Kathy L. Czarnecki, Recording Secretary

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**SPECIAL JOINT MEETING OF THE CITY OF BIRMINGHAM PLANNING BOARD AND CITY OF TROY PLANNING COMMISSION ACTION ITEMS OF WEDNESDAY, AUGUST 26, 2009**

| Item | Page |
|---|---|
| No motions were made at this meeting. | |

DRAFT

**SPECIAL JOINT MEETING OF THE CITY OF BIRMINGHAM PLANNING BOARD AND CITY OF TROY PLANNING COMMISSION**
**WEDNESDAY, AUGUST 26, 2009**
Conference Room, Department of Public Services Building
851 S. Eton, Birmingham, Michigan

Minutes of the special joint meeting of the Birmingham Planning Board and Troy Planning Commission held August 26, 2009. Chairman Robin Boyle convened the meeting at 6 p.m.

*Birmingham Planning Board*

**Present:** Chairman Robin Boyle; Board Members Carroll DeWeese, Mark Nickita, Janelle Whipple-Boyce, Bryan Williams

**Absent:** Board Members Sam Haberman, Gillian Lazar

**Birmingham Administration:** Matthew Baka, Planning Intern
Sheila Bashiri, City Planner
Jana Ecker, Planning Director
Jill Robinson, City Planner
Carole Salutes, Recording Secretary

*Troy Planning Commission*

**Present:** Chairman Robert Schultz; Commission Members Donald Edmunds, Michael Hutson, Thomas Strat, John Tagle, Lon Ullmann,

**Absent:** Commission Members Mark Maxwell, Philip Sanzica, Mark Vleck

**Troy Administration:** Zak Branigan, Planning Consultant, Carlisle/Wortman Assoc., Inc.
Christopher Forsyth, Asst. City Attorney
Mark Miller, Asst. City Manager/Economic Development Services
Brent Savidant, Acting Planning Director
Steve Vandette, City Engineer

**08-125-09**

**CHAIRPERSON'S COMMENTS AND INTRODUCTION OF GUESTS**

Chairman Boyle welcomed the audience along with everyone around the table.

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**08-126-09**

**REVIEW AND APPROVAL OF THE MINUTES OF THE JOINT MEETING OF JULY 14, 2009**

**Motion by Mr. Williams**
**Seconded by Mr. DeWeese to approve the Minutes of July 14 as presented.**

**Motion carried.**

**08-127-09**

**REVIEW AND APPROVAL OF THE AGENDA** (no changes)

**08-128-09**

**MEETING OPEN TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA** (no one spoke)

**08-129-09**

**PRE-APPLICATION DISCUSSION**
**100 Doyle Drive**
**Construction of multi-modal transit center to serve Birmingham and Troy**

The Cities of Troy and Birmingham have entered into an Interlocal Agreement to develop a Multi-Modal Transit Center to be located where the two communities meet, in the area of Maple and Coolidge Roads. The Transit Center is to be located on property that has been established as a Brownfield and made available for development pursuant to the provisions of a consent judgment with developer Grand Sakwa. This agreement requires the site to be developed as a transit center by 2010, or the property will return to private ownership.

Design of the Transit Center will encourage increased rail travel, expanded multi-modal transit coordination and integration with other modes of transportation. A pedestrian tunnel will connect the Transit Center in Troy to a loading platform in Birmingham.

Ms. Ecker offered background information. The two city staffs have been working with Wendel Duchscherer, Architects and Engineers, to come up with a proposed design for the tunnel and building. They have now made the transition to the consulting team of Hubbell Roth and Clark ("HRC") and Carlisle/Wortman. The team has taken into consideration the comments that were made at the last special joint meeting.

She turned the meeting over to HRC representatives Wally Alix, Partner; Larry Ancypa, Architect for Building Design, Canopy, and Platform; Mike MacDonald, Project Manager;

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and Jim Surhigh, Sr. Project Engineer. HRC went through a PowerPoint presentation which highlighted key elements of the project.

Mr. Surhigh outlined modifications that have been made to the site plan:

- Modifications on the Troy side
  - Improving bus usage
    - Added bus slip on north side of Doyle Drive
    - Added additional bus shelters
  - Improving pedestrian access
    - Increased sidewalk width to 10 ft. along access drive
    - Increased width of pedestrian tunnel to 15 ft.
    - Moved building location further away from access drive
    - Provided emergency egress walkway
  - Improving vehicular access
    - Defined entrance drive more
  - Increasing landscaping opportunities
    - Minimized underground storm water storage

- Modifications on the Birmingham side
  - Improving pedestrian access
    - Provided 10 ft. wide walk through the site to the north
    - Added stairway from street level to tunnel ramp level
    - Reconfigured stairway to train platform for more direct access
  - Increasing landscaping opportunities
    - Eliminated perpendicular retaining wall
    - Shifted parking spots north to allow for landscaping opportunities

- Sample retaining wall elevation

- Birmingham access plan
  - Provided 27 regular parking spaces and 3 handicap spaces perpendicular to the roadway
  - Passenger drop-off is proposed near the ramp leading up to the platform

Mr. Ancypa talked about changes to the building and platform:

- Building improvements and modifications
  - Building size was reduced to 2,400 sq. ft.
  - Storage room size was reduced
  - Mechanical and electrical room was reconfigured
  - Roof was raised slightly to accommodate HVAC

- Platform and canopy improvements
  - Alternatives were developed to compliment the building
  - Canopy shelter areas were improved

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- Leadership in energy and environmental design ("LEED") silver certification
    - Green sedum roof
    - Storm water management and re-use
    - Geothermal HVAC
    - LED lighting fixtures
    - Use of regional building materials within 500 miles
    - Use of recycled materials

Ms. Sally Elmiger with Carlysle/Wortman Associates, Inc. introduced Mr. Tony Sterick who is also on their design team. Ms. Elmiger highlighted their general goals:

- Site amenities and landscaping
    - Encourage a safe environment
    - Support multi-modal transportation
    - Attractive, comfortable environment
    - Screen negative, provide positive views
    - Future use as destination to view public art/performance art
    - The landscaping on both sides does not have to be the same and should reflect each community's image

In response to a comment, Mr. MacDonald explained they could look further at the diagonal walkway on the bend. Mr. Surhigh said it allows pedestrians to see cars coming from both directions.

Chairman Boyle noted that transit centers he has seen have done away with striped crosswalks because the whole road is seen as walkable. In this case the bend will slow cars down.

It was noted that part of the reason for placement of the crosswalks is to accommodate busses. Think further about where the busses are going to be and where the drop-off will be. Mr. MacDonald said they have explored other options for re-orienting Doyle Drive to allow a different bus schematic, but it was collectively agreed this solves the majority of needs. Mr. Surhigh explained they thought it would be more efficient for bus operations to be right off Doyle Drive. People could wait in the Transit Center for busses to arrive.

Ms. Ecker added they are also struggling with the needs of SMART and Detroit Regional Mass Transit. If this is going to be a hub connector they have expressed the requirement for a minimum of four bus slots. So, several different options were explored.

It was brought out that there may be some opportunities going north on Doyle Drive to set off busses in the greenbelt areas. More exploration of that may be needed. Part of the problem is having two crosswalks intermingled with four bus slots, along with taxis and drop-off cars coming through. One solution may be to eliminate the western-most crosswalk. There is a need to consider the shortest distance to where people will walk.

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A question came up about whether all of the parking is really needed; and if not, the busses could use some of that area.

Mr. Nickita observed that at the train and bus stop in Royal Oak, there is a street that is designated pretty much for busses to use for short-term layovers.

Other reservations about the plan were expressed:

- Elevators have been excluded
- Convoluted way of getting from point A to point B
- No one that is handicapped will go up and down the ramps
- The station belongs on the tracks, not on the Troy side.
- Parking should be given more consideration
- Most of the handicap parking spaces should be on the Birmingham side closest to the platform
- There are no pedestrian paths along Doyle Drive
- Pedestrian paths need to be added down the middle of the parking area
- Accommodation for bikes is required along Doyle Drive and through the tunnel

Ms. Ecker pointed out that cost is the issue for putting in elevators. Neither city manager is prepared to do that at this time. They are willing to consider elevators as a future phase. It was observed that it needs to be shown on the site plan how expansion can occur to incorporate an elevator. Mr. Ancypa detailed some of the reasons why the cost of putting in elevators is so high. He further noted that was not part of the scope of work they are supposed to be doing. Mr. Ancypa went on to explain they have looked at using radiant heat in the sidewalks to reduce the ice on the ramps so chemicals would not have to be put down.

In response to whether such a large building is needed at this time, Mr. Ancypa replied they have decreased the size from 3,100 sq. ft. to 2,400 sq. ft. but still tried to keep the building's character and take into account the comments that were offered at the last special joint meeting.

Chairman Boyle said that going forward a projection will be needed that reflects the activities that will occur in the building. Further discussion concluded there needs to be hard re-examination of what it would cost to install accessible elevators.

Ms. Ecker talked about whether traffic cutting through Crosswinds to get to and from the Transit Center would become an issue. She has heard that one of the things the residents there love is being near the rail line next to the AMTRAK station, and knowing further improvements will be coming in the future. Also, the merchants would love to see more traffic through there. Further, there are multiple streets in Crosswinds that would disburse the traffic somewhat.

Members of the group expressed a desire to see examples of the poured concrete panels that are proposed for the retaining wall. It was concluded that it would be difficult to make a recommendation on the platform canopies without seeing a rendering (curved

DRAFT

roof 90 degrees to the track; or curved roof parallel with the track). The team might consider using the bus shelter concept to tie the two elements together in similar architecture.

**08-130-09**

**FUNDING UPDATE**

Ms. Ecker advised they worked with M-DOT who has submitted a request for the high speed inter-city passenger rail fund from the economic stimulus program. They have also been investigating an LED grant of up to $250,000 for LED lighting on the site, building and tunnel. A meeting is scheduled with all of the politicians in Lansing on September 3.

**08-131-09**

**MEETING OPEN TO THE PUBLIC FOR ITEMS ON THE AGENDA**

Ms. Alice Thimm from Birmingham thought it is important that a waiting area have heat and a telephone.

**08-132-09**

**ADJOURNMENT**

No further business being evident, meeting adjourned at 7:42 p.m.

Respectfully submitted,

Jana Ecker
Planning Director
City of Birmingham

Brent Savidant
Acting Planning Director
City of Troy

DRAFT

A meeting of the **Troy Youth Council (TYC)** was held on August 26, 2009 at 7:00 PM at Troy Community Center, 3179 Livernois. Willa Adamo and Disha Bora called the meeting to order at 7:05 p.m.

MEMBERS PRESENT: Willa Adamo (Co chair)
Disha Bora (Co chair)
Ananya Mukundan
Sumana Palle
Vikram Prasad
Shaina Sekhri
Rachita Singh
Emily Wang
David Wylie

MEMBERS ABSENT: Supriya Jalukar, Sevita Rama
VISITORS: Sandy Macknis, Jeff Stewart – Troy Daze Committee
STAFF PRESENT: Scott Mercer, Recreation Supervisor

**1. Roll Call**

**2. Approval of Minutes**

Resolution # TY-2009-8-8

Moved by Wylie
Seconded by Sekhri

RESOLVED, That the minutes of May 27, 2009 be approved with changes.
Yes: All – 9
No: 0
Absent: 2 – Jalukar, Rama

**3. Attendance Report:**

Report reviewed by council members, no comments.

**4. Guests**

Troy Daze Committee members discussed history of Troy Daze event and reported on 2008 cancellation due to rain. Requested volunteers to help out with the 2009 event and discussed areas of event that were cut due to budget concerns.

**5. Teens Taking Action**

Teens Taking Action group requested that the two groups hold a joint meeting to plan for possible joint efforts in the future. TYC thought it was a good idea but had concern with after school meeting time due to coming from different schools.

**6. Troy Daze**

Report under guests.

## 7. Motion to Excuse Absent Members Who Have Provided Advance Notification

**No Motion**
Resolution # TY-2009-8-9

| | |
|---|---|
| Moved by | Sekhri |
| Seconded by | Wylie |

***RESOLVED*** that Jalukar is excused.

| | |
|---|---|
| Yes: | 9 |
| No: | 0 |
| Absent: | 2 - Jalukar, Rama |

**8. Public Comments** – None

**9. Youth Council Comments** – None

**10. Adjournment** – 7:50 p.m.

_____
Disha Bora, Co-chair

_____
Scott Mercer, Recreation Supervisor

Reminder Next Meeting: September 23 at 7:00 P.M.

**ELECTION COMMISSION MINUTES - Final August 27, 2009**

A meeting of the Troy Election Commission was held August 27, 2009, at City Hall, 500 W. Big Beaver Road. City Clerk Bartholomew called the Meeting to order at 8:04 AM.

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**ROLL CALL:**

PRESENT: David Anderson, City Clerk Tonni Bartholomew
ABSENT: Timothy Dewan

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**Minutes: Regular Meeting of April 2, 2009**

Resolution #EC-2009-08-006
Moved by Anderson
Seconded by Bartholomew

RESOLVED, That the Minutes of April 2, 2009, are **APPROVED** as placed on the table.

Yes: Anderson, Bartholomew
No: None
Absent: Dewan

MOTION CARRIED

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**Approval of Consolidation of Precincts**

Resolution #EC-2009-08-007
Moved by Anderson
Seconded by Bartholomew

RESOLVED, That the Election Commission of the City of Troy hereby **AUTHORIZES** that applicable precincts servicing qualified electors in the City of Troy be **CONSOLIDATED** for the November 3, 2009 General Election in accordance with MCL 168.659.

Yes: Anderson, Bartholomew
No: None
Absent: Dewan

MOTION CARRIED

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**Approval of Ballot Language – Tuesday, November 3, 2009 General Election**

Resolution #EC-2009-08-008
Moved by Anderson
Seconded by Bartholomew

RESOLVED, That the ballot language for the Tuesday, November 3, 2009 General Election, as attached pursuant to receipt of approval or as modified by the Attorney General's Office and approval by the Governor, is hereby **APPROVED**.

Yes: Anderson, Bartholomew
No: None
Absent: Dewan

MOTION CARRIED

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**Adjournment:**

The meeting was adjourned at 8:05 AM.

Tonni L. Bartholomew, MMC
City Clerk

# PROPOSED BALLOT LANGUAGE

**BALLOT QUESTION 1 (as authorized by Resolution 2009-07-217):**

***A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 3.7 – TO PROVIDE THAT THE MAYOR PRO TEM SHALL BE ELECTED BY THE COUNCIL MEMBERS ANNUALLY, RATHER THAN NOVEMBER IN EVERY ODD-NUMBERED YEAR.***

Shall Section 3.7 be amended to provide that the Mayor Pro Tem be elected by the Council from among its members, annually in November, rather than in November in every odd-numbered year?
YES ___ NO ___

**BALLOT QUESTION 2 (as authorized by Resolution 2009-07-218):**

***A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 3.10 – TO AMEND THE RESIDENCY REQUIREMENT FOR THE TROY CITY MANAGER, WHICH IS NOT ENFORCEABLE UNDER STATE LAW, AND REPLACE WITH STATUATORILY ALLOWABLE RESIDENCY REQUIREMENTS.***

Shall Section 3.10 be amended to delete the requirement that the Troy City Manager reside in the City (which is not enforceable under current State Law) and to substitute in its place a requirement that the City Manager shall reside within 20 miles of the City unless by law the City Manager is permitted to reside in a location even more distant from the City?
YES ___ NO ___

**BALLOT QUESTION 3 (as authorized by Resolution 2009-08-255):**

***A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 6.2(g) – VACANCIES IN ELECTIVE OFFICE TO ALLOW FOR CONTINUED SERVICE FOR SITTING COUNCIL MEMBERS SEEKING ANOTHER ELECTED CITY OFFICE UNTIL THE SEATING OF THE NEW COUNCIL.***

Shall Section 6.2(g) be amended by deleting the requirement for a City Council member seeking to be a candidate for any other City elective office resign from the Council prior to the filing deadline for the municipal election and submitting in its place a requirement that a City Council member shall file with the City Clerk, prior to July 1st an irrevocable letter of resignation to allow for the future vacancy created to be placed on the next Regular Election Ballot?
YES ___ NO ___

**BALLOT QUESTION 4 (as authorized by Resolution 2009-08-242):**

***A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 6.2 – TO ADD NEW PROVISIONS 6.2.1 (a), (b) AND (c) TO ALLOW ELECTED OFFICIALS TO RESIGN FROM CITY OFFICE BY AN IRREVOCABLE LETTER OF RESIGNATION AND ESTABLISH TIME FRAMES FOR PLACEMENT OF THE RESULTING VACANCY ON THE NEXT AVAILABLE ELECTION.***

Shall Section 6.2 be amended to add new provisions under 6.2.1 (a), (b) and (c), which allow elected officials to resign by irrevocable letter of resignation effective no later than the date the successor takes office, which will commence the first Monday after the election or as stated in the irrevocable letter of resignation?

***NOTE: PASSAGE OF BALLOT QUESTIONS 3, 5 AND 6 IS NECESSARY FOR THE PASSAGE OF THIS BALLOT QUESTION. DEFEAT OF ANY ONE OR MORE OF BALLOT QUESTIONS 3, 5, OR 6 WILL RESULT IN DEFEAT OF THIS BALLOT QUESTION.***

YES ___ NO ___

**BALLOT QUESTION 5 (as authorized by Resolution 2009-08-243):**

***A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 6.7 – TO RESTRUCTURE THE APPOINTMENT PROCESS OF A VACANCY IN ELECTED OFFICE WITH CITY COUNCIL APPOINTING A REPLACEMENT MEMBER UNTIL A SUCCESSOR IS ELECTED. THE SUCCESSOR WILL BE ELECTED AT THE NEXT REGULAR OR AUGUST PRIMARY ELECTION.***

Shall Section 6.7 be amended to direct City Council to fill vacancies in elective office, pursuant to Section 6.2, until a successor is elected at the next Regular or August Primary Election?
YES ___ NO ___

**BALLOT QUESTION 6 (as authorized by Resolution 2009-08-254):**

***A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 7.9 – NOMINATIONS - TO PERMIT THE ELECTION OF CANDIATES FOR CITY OFFICES AT ANY AVAILABLE ELECTION.***

Shall Section 7.9 be amended to remove the references to specific elections to provide for the nomination of any candidate for City elected office to be placed on Regular, August Primary or Special Election Ballots?
YES ___ NO ___

**TROY ETHNIC ISSUES ADVISORY BOARD**
**Minutes for Thursday, August 27, 2009**

I. Call to Order 7:07 pm

II. Roll Call

Present
Kelly Jones
Karen Yelder
Michelle Haight
Cathy Francois
Sharon MacDonell
Mayada Fakhouri
John Witt
Cindy Stewart, City Liaison
Lily Huang, Student Rep
Dan Guo, Student Rep

Absent
Reuben Ellis
Veena Rao

III. **Approval of Minutes**
Motion to approve June 2, 2009 minutes by Cathy Francois, seconded by John Witt.

IV. **Correspondence/Articles**
August 28, 2009 Troy Times – Article about the City charging non-profits at the Community Center

The African Children's Choir will be performing at the Big Beaver United Methodist Church on September 2 at 7 pm.

V. **Old Business**

a. The judging for the Troy Daze EthniCity Poster Contest is Monday, September 14 at 7 pm at the Troy Community Center. The student representatives are invited to help judge, if their calendars allow. Michelle needs help picking up poster entries on September 11 at the schools: Mayada – Schroeder; Kelly – Hill and Wass; Sharon – Leonard and Costello; John – Bemis; Michelle – Barnard and Wattles. Michelle will collect after judging and bring the posters to Boulan Park on Thursday to put them up in the tent on Thursday at 6:30 pm. Karen Yelder offered to take over the Poster Contest on 2010 and will shadow Michelle to facilitate the transition.

b. School District Updates
   - Kelly will contact the Diversity Coordinator Roslyn Cox to attend the October 6th meeting.
   - Elementary Schools: Michelle and Padma Kuppa (of the Troy Interfaith Group), Mayada and Nadeen Brown presented their orientation program to the approximately 80 new district teachers. They told them about the EIAB, the Troy Interfaith Group; serving the needs of the Arab-American community and the African American community. They stressed all of the resources available for teachers related to multi-culturalism and diversity.
   - They also handed out the Cultural Connection Newsletter with an article on the "10 (Self-Critical) things I will do to be a better multi-cultural educator." They also spoke to the teachers about "Oceans of Pearl" written by a Troy resident named Dr. Neelam describing his struggles given his religion (Sikh) and his professional life. The EIAB discussed having a screening when it's on DVD for the Community. Dr. Aubrey Melton the principal from the International Academy East would also like something at her building.

c. Cultural brochures: Still waiting on content from members. Drafts of the Japanese and Arab brochures will be sent so the group can see how much room is left for content. Remember to include cultural statistics, historical traditions, customs and holidays. Lily will be getting content for China and Cathy and David will get information on Russia.

d. African American Support Group: Held a picnic at Fire Fighters on August 23. The next meeting is Monday, September 21 at 7:30 pm at the TSD Service Center. The speaker is Rachelle Williams, "Determined Excellence."

VI. **New Business**

a. New student representative, David Guo, was welcomed to the Board. He is a senior at the International Academy in Bloomfield Hills. He previously attended Costello Elementary and Larson Middle Schools in Troy. He is involved in the Save Our Species Charity (focused on endangered animals). He also plays piano and paints. He is interested in one day starting a business.

b. Cathy Russ, the Troy Public Library Director, was introduced to the Board. She came to the meeting to address the topic of "Book Groups;" the EIAB had discussed at the June meeting the possibility of starting up a multicultural book group. Cathy noted she grew up in Troy and is thrilled to be the library director.

   Cathy said the library hosts four book groups: Booked for Lunch (a group that has been meeting for 32 years), an Evening Book Discussion Group called Life Readers, a Mystery Book Group and the Dan Ewald Group facilitated by Dan Ewald. The Library is starting a new nonfiction book group that is meeting every other month. All are discussion groups and they stick to discussing the book in a respectful and courteous way. There is also a group called "Talk

Time" dedicated to those for whom English is a second language. The group meets the first Saturday of every month to help people with their conversational English skills. Their October book discussion is "Escape: The Story of the Great Houdini." The group ranges in age from late 20s to 60s and the average size is 12-15 in a group.

The Library only has one meeting room. Need to decide dates, times and who would lead the discussion. Also need to decide on the focus. The Friends of the Troy Public Library sells used books at the book store; their revenue pays for book groups. Cathy would have to "sell" the idea to the Friends. Community Affairs would help promote the group. Book Groups are popular and are becoming more popular due to the economy and people looking for free past times. It's a great way for people to converse with others, make friends and read.

Michelle wondered if it would be best to do a book club or more of a "community read." Cathy pointed out that the Library participates in "One Book, One Community." This season the focus is on the works of Jane Austen. If the EIAB wanted to do a Community Read, the TPL could help facilitate the venue and provide books.

Kelly proposed finding a compelling book for the community, sponsored by the EIAB; she noted she is not sure if the Board could undertake a monthly group. Cathy said it is the job of the TPL to show its usefulness to the Community and would help. It does this by working with the Coalition, sending librarians into schools and doing tours.

Michelle noted that it seems feasible to work on the idea of a community read and tie in with other local non-profits. Cathy can lend her experience to help the EIAB do a book group. Many books come with a "leader book discussion guide." The best groups are the ones where the leader doesn't have to talk a lot. The library can help with questions and also with lists of books to read.

Kelly asked if the EIAB decided on a book, how could the Library help? Cathy said the Library would be at the EIAB's service. Cathy said there would be a need to pick a date/alternate dates). She doesn't recommend weekends or Fridays. She said the EIAB may want to consider fiction because it is easier to discuss based on characters and the story offering a lot of avenues for discussion. Kelly wondered about the idea of a contest to solicit feedback and people could suggest a book for a community read. Cathy said this would be easier if you have a way to promote, such as the Troy Today, and a way to give people choices. She cautioned not to bite off more than the group can chew – start small and reasonable and then grow the program. The larger the group is, the more chaotic it becomes.

c. Sat Basu and Utpal Dutta from Path Bhban Language School. The school called Kelly regarding the need for help with their appeal related to the Community Center charging non-profits to use the facility. Sat Basu has been in Troy since 1975 teaching Bungali, the 6th largest language in India. In 1983, they began running the Path Bhban Language School from the Community

Center, teaching language and culture to anyone interested in learning it for 26 years. Other branches were started in Ann Arbor and Novi. They are trying to find places to teach the language, free. All teachers and helps are volunteers. Kelly attended a class and said it is well run, organized and professional. It's a gift they provide to the community. The majority of students are children from Bingali families, some families and some others who want to learn about the language and understand the culture.

The Community Center said they would give them one Friday free for 3 hours. 40 weeks at $20 an hour (3 hours) totals $2,400 a year. 12 weeks free. Michelle asked if it would be possible to find another place to meet within Troy? Classes are made up of approximately 25 people, 90 percent Troy residents, with an average age of 6-15 years. The City Administration is trying to talk to local businesses who might have room at their buildings for free space. Sat Basu has called local churches and facilities and was told they could use space, but not consistently.

Kelly wants to express her disappointment in Council not wanting to support diversity. John said there needs to be a consistent policy for non-profits; can't let one group have priority over another. Michelle is disappointed, noting that this group is the only one asking for this special favor; it is educational. Sharon asked if it would be an option to have participants pay a nominal fee? Sat Basu said it could, but noted this should be a free service because they see it as basic education. If the Library charged, how many people would go to the Library? The group does rent rooms at the Community Center for parties and other meetings throughout the year, but it has never paid for teaching.

Lily asked if they have tried to get a business or corporation to sponsor the school. They had checked with Walsh College and also offered volunteer hours to the community in exchange for use of the facility. They have also tried to receive grants, but to no avail. It was suggested that they approach the United Way and the Troy Foundation for Educational Excellence. To learn more about this the Board is invited to the Community Center, Room 402, between 6:30 and 9:30 pm; the best time is 8:30 pm for the story time. More information is also available at www.bichitra.org.

VII. Member Comment: Michelle shared more information about the free concert of the African Children's Choir on September 2 at the Big Beaver United Methodist Church. The choir is comprised of children 8-11 years old from Uganda. A free will offering will be taken at the concert to benefit the choir's "Music for Life Program." The program supports school establishments in Uganda and other African countries.

Kelly said she received an e-mail regarding "Dance of Diversity" in Farmington Hills. They are sponsoring a Friday evening cultural program at their Library to expose residents to different cultures. Kelly wants the EIAB to think about offering a program like this for the community for discussion at the October meeting. Food and music really bring people together. She would also like the group to consider

offering an annual award for a person or group who provides volunteerism on a multi-cultural level. For example, she would recommend Sat Basu for their volunteerism at the Flag Day Ceremony.

VII. **Adjournment**

Motion by Michelle, seconded by Mayada to adjourn at 9:29 pm.

**Next Meeting Tuesday, October 6, 2009 at 7 pm**

_____

Kelly Jones, EIAB Vice Chair

_____

Cindy Stewart, EIAB Recording Secretary

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Schultz at 7:30 p.m. on September 1, 2009 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:
Donald Edmunds
Michael W. Hutson
Mark Maxwell
Philip Sanzica
Robert M. Schultz
Thomas Strat
John J. Tagle
Lon M. Ullmann
Mark J. Vleck

Also Present:
R. Brent Savidant, Acting Planning Director
Christopher Forsyth, Assistant City Attorney
Richard K. Carlisle, Carlisle/Wortman Associates, Inc. (CWA)
Robin Beltramini, President, Michigan Municipal League
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

***Resolution # PC-2009-09-075***
Moved by: Edmunds
Seconded by: Maxwell

***RESOLVED***, To approve the revised Agenda.

Yes: All present (9)

**MOTION CARRIED**

3. PUBLIC COMMENT – For Items Not on the Agenda

There was no one present who wished to speak.

4. BOARD OF ZONING APPEALS (BZA) REPORT

Mr. Ullmann reported on the August 18, 2009 Board of Zoning Appeals (BZA) meeting.

5. DOWNTOWN DEVELOPMENT AUTHORITY (DDA) REPORT

Mr. Savidant reported the DDA meeting in August was canceled.

6. PLANNING AND ZONING REPORT

Mr. Savidant reported on the following items:
- Troy Museum and Historic Village Expansion (File Number SP 679-C) – Approved by City Council, August 17, 2009.
- Update on The Pavilions (File Number PUD 9), former K Mart Headquarters.

There was brief discussion on construction status of the following restaurants:
- McDonald's, northwest corner of Big Beaver and Rochester Roads *(Grand Opening 9/4/09)*.
- Sonic, northeast corner of John R and 14 Mile.
- Pei Wei, southwest corner of Big Beaver and Rochester Roads.

## STUDY ITEMS

7. PRESENTATION ON FORM BASED CODES – Robin Beltramini, Michigan Municipal League President

Chair Schultz introduced guest speaker Robin Beltramini.

Ms. Beltramini gave a presentation on form based codes.

A brief question and answer period followed.

8. COMPREHENSIVE ZONING ORDINANCE REWRITE (ZOTA 236) – Review of Draft Site Plan Review and Special Use Approval Articles

Mr. Carlisle briefly reviewed draft Article 6, Site Plan Review.

The following items were addressed. Mr. Carlisle noted revisions for the next draft.
- Designation of Zoning Administrator.
- Procedure to waive required information.
- "Minor changes" reviewed administratively. (Section 6.02., C, 1)
- "Sketch Plan" – definition, additional detail. (6.02, D)
- Notify Planning Commission of plans approved administratively.
- "Substantially revised" Final Site Plan. (Section 6.03, B, 3)
- Add wording "or other governing bodies". (Section 6.05, A, G)
- Use wording "storm water management" throughout document.

- Require "color and material samples" with Preliminary Building Elevations. (Section 6.05, A, 13 and 18 f)
- Require Photometrics. (Section 6.05, A, 16)
- Sealed drawings – Review State Law. (Section 6.05, A, 17)

Mr. Carlisle briefly reviewed draft Article 7, Special Use Approval.

The following items were addressed. Mr. Carlisle noted revisions for the next draft.

- "Compatability with adjacent uses" – Wording to reflect character and nature of business; delete wording on operation and maintenance of business. (Section 7.03, A)
- "Cease or abandonment" in relation to maintenance of landscaping and revised landscape plans. (Section 7.05)
- "Revocation" – Set up procedural standards. (Section 7.06)
- Reword paragraph. (Section 7.04, A)

Mr. Savidant addressed the existing landscape plan provisions and design standards of which he indicated needs a complete overall.

9. JOINT MEETING – TROY PLANNING COMMISSION AND TROY CITY COUNCIL – Schedule Joint Meeting to Discuss Potential Amendment of CDP for The Pavilions of Troy PUD, Northwest Corner of Coolidge and Big Beaver, Section 19

Mr. Savidant announced Grand Sakwa Properties is acquiring the former K Mart Headquarters property and are seeking feedback and comments from the City Council and Planning Commission. City Council agreed to a joint meeting on September 28, 2009, at which time Grand Sakwa will present a proposed redevelopment concept plan.

Members encouraged Grand Sakwa to submit plans and a comparative plan analysis to the City Council and Planning Commission in a timely manner that would allow the opportunity to review the submission in advance of the joint meeting.

***Resolution # PC-2009-09-076***
Moved by: Edmunds
Seconded by: Strat

***RESOLVED***, That the Planning Commission hereby schedules a joint meeting between the Troy City Council and the Troy Planning Commission for Monday, September 28, 2009 from 6:00 p.m. to 7:15 p.m. in the Emergency Operations Center of the Police Department, 500 W. Big Beaver, Troy, Michigan 48084.

Yes: All present (9)

**MOTION CARRIED**

Chair Schultz said he would not be able to attend the joint meeting due to a scheduling conflict. He announced Mr. Hutson would chair the meeting.

## OTHER BUSINESS

10. PUBLIC COMMENT – Items on Current Agenda

There was no one present who wished to speak.

11. PLANNING COMMISSION COMMENT

There was a brief discussion on recent administrative staff changes.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 9:25 p.m.

Respectfully submitted,

Robert M. Schultz, Chair

Kathy L. Czarnecki, Recording Secretary

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The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M. on Wednesday, September 2, 2009 in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Keith Lenderman
Tim Richnak
Mark Stimac
Frank Zuazo

ALSO PRESENT: Paul Evans, Housing & Zoning Inspector Supervisor
Pamela Pasternak, Recording Secretary

**ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 5, 2009**

Motion by Richnak
Supported by Zuazo

MOVED, to approve the minutes of the meeting of August 5, 2009 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

**ITEM #2 – VARIANCE REQUESTED. PRLANTA JEWELERS, 888 W. BIG BEAVER,** for relief of Chapter 85 to install a 43.5 square foot electronic changeable message tenant wall sign.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to install a 43.5 square foot tenant wall sign. Section 85.02.05 (c) (3) of the Sign Ordinance limits the size of tenant wall signs in the Office Zoning districts to not more than 20 square feet in area. In January 2008, this Board approved a variance to allow the petitioner to erect a 40 square foot tenant wall sign. Without implementation, that variance has since expired.

Mr. Norman Gumusmas of Prlanta Jewelers was present and stated that they had received a variance for a 40 square foot sign and ordered the sign. The sign is slightly larger than what they had ordered because of the frame around it. They had met with both Mr. Evans and Mr. Stimac and were told that the sign needed to have a UL approval rating. Prlanta Jewelers worked with another sign company, Bright Star Sign, and were able to get this sign UL listed. The petitioner would like a variance for a slightly larger, changeable message sign, which would be 43.5 square feet rather than the 40 square foot sign originally requested.

**ITEM #2 – con't.**

Mr. Dziurman said that basically the petitioner thought the sign would be 40 square feet and when it came they found out that it was slightly larger and that it was not UL approved.

Mr. Gumusmas said that was correct and it took them quite some time to obtain the UL listing.

Mr. Dziurman asked if the original sign granted a variance in 2008 was a changeable message sign and Mr. Evans said that it was not.

Mr. Stimac stated that in the original request Mr. Kessler has suggested that the petitioner could change the wording on the sign in order to make it smaller. That condition was not included in the successful motion.

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

There is one written objection on file. There are no written approvals on file.

Mr. Stimac stated that the petitioner could install a 20 square foot changeable sign without a variance. The original application was not for a changeable message sign.

A discussion began regarding the application turned in by Metro Detroit Signs in January 2008. Mr. Gumusmas stated that the application was for a changeable message sign and Building Department Staff stated that the application indicated that it was for a LED illuminated channel letter fixed sign.

Mr. Gumusmas stated that after the 40 square foot sign was approved they had spoken to Paul Evans and he stated that there were no restrictions as to what was on the sign.

Mr. Stimac asked if the petitioner was aware of the limitations on a changeable message sign.

Mr. Gumusmas said that he was not aware of these limitations.

Mr. Stimac explained that the Ordinance states that each message must be on the sign for one minute before changing. Mr. Stimac asked if the petitioner felt that a changeable message sign would have more impact to people traveling in this area.

Mr. Gumusmas said that people are very visual and the visual aspect is very crucial to this type of business.

Mr. Stimac stated that if a watch is displayed there is no room on the sign for the name of the business.

**ITEM #2 – con't.**

Mr. Gumusmas stated that they would advertise a sale or item and include the Prlanta logo.

Mr. Stimac asked if the petitioner believes the changeable message sign would have a greater impact, why it needs to be double the allowable square footage of the sign.

Mr. Gumusmas stated that the original request was approved for a 40 square foot sign and the fact that they are limited to a 20 square feet sign because they are not in a retail location, should not count against them. The Melting Pot and Morton's Steak House have much larger signs than the one they are asking for.

Mr. Richnak stated that based on the information the Board received regarding the original request, the discussions indicated that it was not a changeable message sign. Other considerations would have been taken at that time. The information presented to the Board was not accurate. Mr. Richnak indicated that he would not have voted in favor of a changeable message sign and has issues with this type of a sign. The Board has to take into account how a variance would affect the community.

Mr. Lenderman stated that he was at that meeting and remembered there was quite a discussion about reducing the size of the sign. One of the main concerns brought forward at the time was the fact that they need to have their name presented there. The logo is less than 20 square feet and the reason the variance was granted was to be able to get their name on the space. Mr. Lenderman also stated that they could put up a 20 square foot sign without a variance.

Mr. Dziurman stated that he does not know who made a mistake at the time the original request was filed, but does not believe the sign was approved as a changeable message sign.

Mr. Stimac stated that the talk during the meeting was on whether or not to restrict the language on the sign. The final motion included a statement that there was no restriction on the message on the sign.

Mr. Gumusmas stated that sign has been made and is UL listed, and the only reason they did not install the sign within the one-year time frame was because it took them some time to get the sign properly listed. During that time they had met with Building Department staff who informed them that they wanted the power sources changed. The petitioner stated that he feels everyone knew what type of sign they were requesting.

Mr. Stimac asked the petitioner about the invoice submitted indicating that this will be a full color sign with a digital display.

Mr. Gumusmas stated that it is a full screen sign with a full spectrum of color and is also video capable.

**ITEM #2 – con't.**

Mr. Stimac stated that video capable is not allowed by Ordinance. Mr. Stimac also asked the petitioner if he was aware of any other changeable message signs located in Troy.

Mr. Gumusmas stated that the CVS Pharmacy and Taco Bell on 14 Mile Road both had changeable message signs. Mr. Stimac informed the petitioner that those signs are not in Troy.

Mr. Gumusmas stated that the sign has been bought and paid for.

Mr. Dziurman asked if restrictions could be placed that would limit the use of the sign. Mr. Stimac stated that the Board could not place restrictions that were less than what the Ordinance allows.

Mr. Dziurman asked if they could put up a 20 square foot changeable sign.

Mr. Stimac said that they could, but each message would have to be displayed for at least one minute.

Mr. Lenderman stated that a variance requires a hardship and the original hardship was that they needed people to be able to see the name of their company.

Mr. Dziurman said that they were granted a variance for a 40 square foot sign and there is a misunderstanding on what type of sign it would be. Mr. Dziurman also pointed out that the sign was ordered in October with delivery expected sometime in December.

Mr. Gumusmas stated that the delay was due to the fact that it was not UL approved and also there were health concerns among family members.

Mr. Zuazo asked how many different messages would be on this sign.

Mr. Gumusmas stated that it could be unlimited.

Mr. Zuazo asked if this Board could limit it to one display per day.

Mr. Richnak stated that because of a lack of knowledge on his part regarding changeable message signs, he is not comfortable with voting on this item. Mr. Richnak would like to go back out to the site and take a look at this location. Mr. Richnak also stated that at the time of the original request this was a fixed letter sign.

Motion by Richnak
Supported to Stimac

**ITEM #2 – con't.**

MOVED, to postpone the request of Prlanta Jewelers, 888 W. Big Beaver, for relief of Chapter 85 to install a 43.5 square foot electronic changeable message tenant wall sign until the meeting of October 7, 2009.

- In the next thirty (30) days petitioner is to give Building Department staff a copy of the manufacturer's instructions regarding the brightness of the sign.
- Petitioner to provide this Board with three or four typical screen shots of what they intend to put on the sign.
- The petitioner should demonstrate the implications between a 40 square foot sign and a 20 square foot sign.

Mr. Masis Kayayan, the owner of Prlanta Jewelers was present and stated that they would like to put information on the sign such as the logo, fine jewelry, special orders, repairs, etc.

Mr. Richnak stated that changeable message signs have a certain impact on an area.

Mr. Dziurman stated that the petitioner is located in the downtown area of Troy and this Board does not want to detract from the area.

Mr. Gumusmas stated that they are very happy to be in this area and are very involved in community events and he believes the sign will be accommodating to this area. The petitioner also stated that he had spoken to the owner of this building as well as to the surrounding businesses and they all approve of this request.

Vote on the motion to postpone.

Yeas: All – 5

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF OCTOBER 7, 2009 CARRIED

**ITEM #3 – VARIANCE REQUESTED. PHILLIPS SIGN & LIGHTING, INC., 1850 W. MAPLE,** for relief of Chapter 85 to erect two (2) additional wall signs with a total combined area of 87 square feet.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to erect two (2) additional wall signs with a total combined area of 87 square feet. Chapter 85.01.05 (c) (5) allows three (3) wall signs for each dealership, one of which to not exceed 100 square feet; the other two (2) not exceeding 20 square feet each for an auto dealership in M-1 (Light Industrial Zoning. A variance was granted by this Board in February 2009 to allow the current six (6) wall signs with a combined area of 172 square feet.

**ITEM #3 – con't.**

Mr. Ed Phillips of Phillips Sign & Lighting, Inc. was present. Mr. Phillips stated that the hardship is the lack of signage and the configuration of the building. One of the signs is already on the building and they are asking for an additional 40 square feet to allow a Used Car sign. The building they are using for the used car sales is on Maplelawn and it is not obvious. People come to the area where new cars are sold and have to be redirected to the other location along the side of the building.

Mr. Dziurman asked if they have ever had a Used Car Sign.

Mr. Jack Fowler, one of the owners of Somerset Pontiac was present. Mr. Fowler stated that they are taking the existing Somerset GMC Truck sign and are moving it to the front. They removed GMC from the used car building and would like to put up a sign to match the Somerset sign.

Mr. Phillips stated that Pontiac will be going away.

Mr. Richnak asked if they wanted this variance because they are removing the other signs.

Mr. Lenderman asked if they would end up with more or less signage.

Mr. Fowler stated that it would be less than the original building.

Mr. Evans stated that the six (6) signs previously approved by this Board are based on the fact that those signs would be the only wall signs. Any additional wall signs were supposed to be removed. The two (2) signs for the Used Car location will result in an additional 87 square feet. The Pontiac signs are each 17.5 x 2 or 35 square feet and should have been removed.

Mr. Jack Bechtel of Somerset was present and stated that the Pontiac signs should come down by the beginning of next year. They should run out of Pontiacs by the end of November and those logos will come down. They have modernized the dealership and removed the GMC and GMC truck showroom signs. Somerset is operating a used car lot and will be certified through General Motors. When driving down Maplelawn people will be able to identify the site by the sign.

Mr. Stimac stated that he can see the need to identify the used car sales room. Mr. Stimac also asked about the existing Somerset sign and whether or not it would remain.

Mr. Bechtel stated that most people think this is two dealerships. They are trying to get with what is going on the neighborhood. The two Pontiac logos will come down. Right now they are trying to do all they can to stay as a business in Troy.

Mr. Richnak asked about the ground sign at the corner of W. Maple and Maplelawn.

**ITEM #3 – con't.**

Mr. Fowler explained that it just says "Motor Mall' and was paid for by all the dealers in this area.

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

There is one (1) written approval on file. There are no written objections on file.

Mr. Stimac asked if other signs would be allowed if this was a free standing building.

Mr. Evans stated that they could have one wall sign for each building not to exceed 10% of the face of the building, not to exceed 100 square feet.

Mr. Bechtel stated that there is a sales area in the front and a service department connecting the two buildings.

Mr. Stimac stated that it is quite common for dealerships to divide new car sales and used car sales in a separate building. If these were free standing building the 87 square foot sign would not be greater than 10% of the size of the building.

Mr. Lenderman asked about the free standing sign on Maplelawn.

Mr. Bechtel said that they are planning to change the face of the sign to say "Certified Used Cars".

Mr. Zuazo asked what would make this dealer a Certified Used Car dealer. Mr. Bechtel stated that they have to apply to General Motors, and once certified each used car would come with a warranty.

Mr. Zuazo asked if the square footage would be the same and Mr. Fowler stated that it would.

Motion by Stimac
Supported by Richnak

MOVED, to grant Phillips Sign & Lighting, Inc., 1850 W. Maple, for relief of Chapter 85 to erect two (2) additional wall signs with a total combined area of 87 square feet.

- No other signs can replace the Pontiac logo signs after they are removed.
- Any additional signage needs to be approved by this Board.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

**ITEM #4 – VARIANCE REQUESTED. JERRY KLINE, IMAGINE STUDIOS, LLC, 100 W. BIG BEAVER,** for relief of Chapter 85 to erect two (2) wall signs that will result in a total combined area of 367 square feet.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 85 to install a 200 square foot sign and a 167 square foot sign on an existing building. Chapter 85.02.05 (c) (3) allows one wall sign not to exceed 200 square feet in area for each building.

Mr. Jerry Kline of Imagine Studios, LLC was present. Mr. Kline explained that Molina has changed their name to Molina Health Care. A new tenant, Micro Focus, is coming into this location and also would like their name added to the signage on the building. The signs would be 200' away from each other. Micro Focus will employ 150 people and will be a valuable asset to the City. There are no sign boxes around either proposed sign.

Mr. Dziurman asked if the square footage would remain the same once the existing sign was changed.

Mr. Kline said that was correct. Mr. Stimac pointed out that the existing sign is 117 square feet and the replacement sign will be 200 square feet.

Mr. Kline said that the difference will be the name change.

Mr. Tom Duke, one of the owners of this building was present. Mr. Duke stated that approximately two months ago he was approached by a broker stating that he had a client that was looking to lease 30,000 square feet. Micro Focus would take over the fifth floor of this building; however, one of the stipulations was that they be able to put up signage. Numerous variances have been granted to other locations in the City. Mr. Duke met with the City Manager and the City Manager supported this request. Micro Focus has signed a lease and is ready to move. At the time Molina signed their lease, they were granted exclusive rights to signage on this building.

Mr. Steve Butz of Micro Focus was present and stated that this is a completely new market for them. They want to grow here and are hoping to be able to lease additional space. The hardship is the fact that they do not have the signage needed.

Mr. Dziurman asked what type of business Micro Focus was and Mr. Butz stated that it is a software company.

Mr. Duke stated that they started in England and has fifty locations worldwide.

Mr. Dziurman stated that he could understand the reason the need to put up a sign, but feels that any other requests for additional signage could be a problem.

Mr. Stimac asked if Micro Focus was a tenant in the building at 100 W. Big Beaver.
Mr. Duke stated that Micro Focus will actually be a tenant in 50 W. Big Beaver.

**ITEM #4 – con't.**

Mr. Stimac asked if it would be confusing to have a tenant sign on one building and the tenant in the other building.

Mr. Duke stated that the buildings are connected and clients can go inside and look up the business on a touch screen, which will give them the suite number. Mr. Duke also stated that Micro Focus is not concerned about the discrepancy at all.

Mr. Lenderman asked if there were other signs at 50 W. Big Beaver and Mr. Stimac stated that there was.

Mr. Richnak stated that the original Molina sign is 117 square feet and the proposed sign will be 200 square feet. Mr. Richnak asked if the letters would be the same size on the proposed sign.

Mr. Kline explained that the letters will be smaller but the people on the sign will be larger. Molina has a very stringent marketing policy and the message on the sign is dictated by Corporate. The overall size will keep it under the permitted 200 square feet. Mr. Kline also stated that the figures are in a blue-green color and would not be ostentatious.

Mr. Duke stated that they are getting a fair amount of traffic from larger clients and it is not uncommon for larger tenants to ask for signage. This is a great way to fill up the buildings along Big Beaver.

Mr. Kline said that there could be an expansion of employees in the City of Troy.

Mr. Dziurman clarified that Micro Focus would not be located in the building that would have their signage and asked what would happen if they were to ask to have the sign moved.

Mr. Duke said that it will be a mirror image of what they are doing right now. There is only one other sign at 50 W. Big Beaver, "Rexair" would have to allow another sign on that site.

Mr. Stimac asked why the sign couldn't be erected at 50 W. Big Beaver.

Mr. Duke stated that he had made a request to Rexair to allow another sign on the building, and Rexair was not cooperative.

Mr. Stimac asked if their lease stated they were the only tenant to have signage.

Mr. Duke said that at the time Rexair signed their lease they were given the exclusive right to signage. Molina was more reasonable when Mr. Duke approached them. The request from Rexair was much more expensive to comply with.

**ITEM #4 – con't.**

Mr. Stimac said that basically it is a financial decision to place the signage on this building and he was concerned about setting a precedent in allowing signage to be located on a building where the tenant was not located.

Mr. Duke stated that the two buildings are joined at the hip.

Mr. Stimac stated that based on the Ordinance these are two different buildings.

Mr. Duke said that although they are two separate buildings there is no confusion regarding the location of the tenants.

Mr. Richnak said that 50 W. Big Beaver has a major tenant and asked when the exclusive right for signage expires.

Mr. Duke stated that their lease expires in four years

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

There are no written approvals or objections on file.

Mr. Duke stated that variances have been granted in the past citing 2800 Livernois as an example.

Mr. Stimac said that at the time those variances were granted the tenant was not at another location.

Mr. Duke said that they wanted the sign on the building they were occupying, but when talking to Rexair he was thrown a curve ball.

Mr. Kline stated that Micro Focus is eager to get their presence on the building.

Mr. Lenderman said that they may be coming back in the future in order to move this sign.

Mr. Richnak stated that he is concerned about billboard issues and in order to vote for approval there would have to a caveat that when the Rexair lease expires exclusive sign rights would be removed from the lease and Micro Focus would have to move their sign to the correct location. Mr. Richnak also expressed concern about setting a precedent.

Mr. Kline said that they would also like the sign on the correct building.

**ITEM #4 – con't.**

Motion by Richnak
Supported by Lenderman

MOVED, to grant Jerry Kline, Imagine Studios, LLC, 100 W. Big Beaver, relief of Chapter 85 to erect two (2) wall signs that will result in a total combined area of 367 square feet where Chapter 85.02.05 (c) (3) allows one wall sign not to exceed 200 square feet in area for each building.

- When the Rexair lease expires exclusive sign rights would be removed from the lease and Micro Focus would have to move their sign to the correct location.

Mr. Butz stated that they would seek a variance if necessary, but would not add any additional signage. If the Rexair sign was removed, they would move their sign to the correct location.

Yeas: Dziurman, Lenderman, Richnak, Zuazo
Nays: Stimac

MOTION TO APPROVE REQUEST CARRIED.

The Building Code Board of Appeals meeting adjourned at 9:50 A.M.

Ted Dziurman, Chairman

Pam Pasternak

Pam Pasternak, Recording Secretary

Advisory Committee for Senior Citizens

A regular meeting of the Advisory Committee for Senior Citizens was held on Thursday, Sept. 3, 2009 at the Troy Community Center. Chair David Ogg called the meeting to order at 1:05 P.M.

**Present:** James Berar, Member
Betty Coven, Member
David Ogg, Member
Bud Black, Member
Frank Shier, Member
JoAnn Thompson, Member
Jo Rhoads, Member
Pauling Noce, Member
Carla Vaughan, Staff

**Excused:** None

**Visitors:** Lori Bluhm, Paula Fleming, Diana Dulock, Margaret Julian, Jo-Anne Stein, Albena Lyben

**Approval of Minutes**

Resolution # SC-2009-09-001
Moved by Noce
Seconded by Coven

RESOLVED, That the Minutes of June 4, 2009 be approved as submitted.

Yes: 8
No: 0

MOTION CARRIED

**Visitor Comments**

Paula Fleming discussed school district news and upcoming events.

**OLD BUSINESS**

**Open House:** David Ogg stated that he hoped to have a minimum of two people at the table at all times. Carla has updated the Advisory Committee brochure and made copies.

**NEW BUSINESS**

**Future of the Committee:** A discussion was held about how often the committee should meet. City Attorney Lori Bluhm reported on the meeting schedule of other city committees, some of which meet as needed, or twice a year or quarterly based on the amount of business

they have. A motion to meet quarterly was denied. Some committee members felt that they needed to meet every month so they would be available if a senior had a problem.

Resolution # SC-2009-09-002
Moved by Berar
Seconded by Thompson

RESOLVED, That the committee continue to meet monthly except July, August, and December.

Yes: 5
No: 3

MOTION CARRIED

**Suggestion Box:** The Advisory Committee received an email from a senior regarding accessibility of a soccer field. She cannot walk long distances. Carla responded that the park attendant will give her a ride out to the field if she makes a request in advance. A copy of the email was distributed to the committee. There was a suggestion for more local gambling trips which has Carla passed on to Elaine. There have not been any for the past few months because when the July/Aug/Sept trips were planned we were under the impression that the City would no longer have a bus. Gambling shuttles are offered cheaper in the newspaper than we could have done hiring a motorcoach. We will offer them if we can offer them at a competitive rate.

**REPORTS**

**Park Board:** No report.

**Senior Program:** Carla reported that 25 senior program groups and 22 volunteer agencies are signed up to participate in the open house on Sept. 10. A program participation fee has been initiated for drop-in groups that were formally free. New programs this fall include advanced bridge lessons, 50+ Women on Weights, and Zoom-Balates.

**Medi-Go:** Jo Rhoads reported that they have a new van and have had to deal with one difficult rider recently.

**OLHSA:** Jo Rhoads reported that they had a speaker about OLHSA's home repair program.

**Oakland County Senior Advisory Board:** No report.

**Member Comments**

The meeting was adjourned at 2:50 p.m.

Respectfully submitted,

David Ogg, Chair Carla Vaughan, Secretary

**LIQUOR ADVISORY COMMITTEE MINUTES – DRAFT SEPTEMBER 14, 2009**

A regular meeting of the Liquor Advisory Committee was held on Monday, September 14, 2009 in the Lower Level Conference Room of Troy City Hall, 500 West Big Beaver Road. Committee member Patrick Hall called the meeting to order at 7:03 p.m.

ROLL CALL:

| | |
|---|---|
| PRESENT: | W. Stan Godlewski<br>Patrick C. Hall<br>Andrew Kaltsounis<br>David S. Ogg<br>Timothy P. Payne<br>Bohdan L. Ukrainec |
| ABSENT: | Max K. Ehlert, Chairman |
| ALSO PRESENT: | Officer James Feld<br>Susan Lancaster, Assistant City Attorney<br>Pat Gladysz |

**Resolution to Excuse Committee Member Ehlert**

Resolution #LC2009-09-011
Moved by Kaltsounis
Seconded by Payne

RESOLVED, that the absence of Committee member Ehlert at the Liquor Advisory Committee meeting of September 14, 2009 BE EXCUSED.

Yes: 6
No: 0
Absent: Ehlert

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**Resolution to Approve Minutes of June 8, 2009 Meeting**

Resolution #LC2009-09-012
Moved by Ukrainec
Seconded by Ogg

RESOLVED, that the Minutes of the June 8, 2009 meeting of the Liquor Advisory Committee be approved.

Yes: 6
No: 0
Absent: Ehlert

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**Agenda Items**

1. **M&M Troy, Inc**. requests new SDM license to be located at 1634 John R, Troy, MI 48083, Oakland County. {MLCC Req #438202} *Attorney for M&M Troy, Inc. was contacted and faxed copy of Lt. Riesterer of the City of Troy Fire Department's letter dated 1/15/09 requesting a registered design professional's documentation as to if the stock merchandise is feasible. Also noted that four plumbing inspection violations were noted and needed to be corrected.*

Present to answer questions from the Committee was business owner Majid Kesto.

Officer Feld informed the Committee that a professional design was submitted by the applicant, but it was not approved by the Fire Department or the Building Department.

Assistant City Attorney Lancaster informed the Committee that the applicant has not submitted documentation to show a $250,000 stock inventory. The Ordinance states that the $250,000 inventory must be in place prior to a SDM license being awarded. Ms. Lancaster also stated it was her understanding that the applicant wanted the Committee to vote on the issue at this meeting.

When asked by Committee Member Hall if it was his desire to have the Committee vote on this item tonight, the applicant responded yes.

Resolution #LC2009-09-013
Moved by Hall
Seconded by Ogg

RESOLVED, that the request of M&M Troy, Inc. for a new SDM license to be located at 1634 John R, Troy, MI 48083, Oakland County be denied.

Yes: 6
No: 0
Absent: Ehlert

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2. **Walgreen Co. (an Illinois Corporation)** 2932 East Long Lake Road, Troy, MI 48085 requests a new SDM License with drive-up window (without alcohol sales) {MLCC Req. #521903}.

Present to answer questions from the Committee was store manager Michael Johnson.

Mr. Johnson stated that there was a plumbing issue and a backflow preventer was installed. The plumbing inspector approved the site. Also, there was a problem noted by the Fire Department and an air pressure test was performed. The Fire Department inspector gave her approval.

Mr. Johnson clarified the issue of the drive-up window stating that only pharmacy items would be purchased through the window. Beer and wine sales would be made only in the store.

Resolution #LC2009-09-014
Moved by Hall
Seconded by Ukrainec

RESOLVED, that Walgreen Co. (an Illinois Corporation) 2932 East Long Lake Road, Troy, MI 48085 be granted a new SDM License without alcohol sales at the drive-up window.

Yes: 6
No: 0
Absent: Ehlert

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3. **Walgreen Co. (an Illinois Corporation)** 1965 East Big Beaver Road, Troy, MI 48083 requests a new SDM License with drive-up window (without alcoholic beverage sales) {MLCC Req. #521882}.

Present to answer questions from the Committee was store manager Stacy Priebe.

Ms. Priebe stated that this location also had a plumbing issue and a backflow preventer was installed. The plumbing inspector is scheduled to re-inspect this week.

It was again clarified that the drive-up window is for the sale of pharmacy items only. Beer and wine sales would be made only in the store.

Resolution #LC2009-09-015
Moved by Hall
Seconded by Godlewski

RESOLVED, that RESOLVED, that Walgreen Co. (an Illinois Corporation) 1965 East Big Beaver Road, Troy, MI 48083 be granted a new SDM License without alcohol sales at the drive-up window, contingent upon final approval from the Building Department.

Yes: 6
No: 0
Absent: Ehlert

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**Informational Items**

Officer Feld briefly updated the Committee regarding the informational items:

***Square Lake – Livernois Business Inc.***

An SDM application for a gas station at Square Lake & Livernois.

***Numan Troy, Inc.***

An SDM application for a gas station at Rochester & East Square Lake Roads.

***Kher Enterprises, Inc.***

Inspections being performed.

***Mermiles Inc.***

Transfer of ownership.

***Good Food Company East, Inc.***

License placed in escrow.

***The Melting Pot***

Corporate satisfied financial requirements and license status did not change.

***Target Corporation***

Previously applied for and received SDM license, but never activated it. Application was closed by MLCC. Process must begin again.

***Marriott International, Inc.***

Change of ownership.

***The Saint Andrew's Society of Detroit***

Former Mountain Jack's location; will be similar to VFW type of club.

***Azteca***

Class C license will be purchased from business in Rochester.

***Agrusa Market***

Business has closed and SDM license has been placed in escrow.

***Student Representatives***

Two applications have been received and the request for appointment has been sent to City Council.

***Big Beaver Tavern & San Marino Club***

These businesses are now holding poker tournaments. State Law indicates they can hold tournaments and sell liquor, but they cannot benefit from tournament. Charitable organizations such as churches can hold these tournaments four times each year.

The meeting adjourned at 7:55 p.m.

_____
Patrick C. Hall, Committee Member

_____
Patricia A. Gladysz, Secretary II

A meeting of the **Troy Youth Council (TYC)** was held on September 23, 2009 at 7:00 PM at Troy Community Center, 3179 Livernois. Emily Wang and David Wylie called the meeting to order at 7:05 p.m.

MEMBERS PRESENT: Disha Bora
Supriya Jalukar
Ananya Mukundan
Sumana Palle
Vikram Prasad
Sevita Rama
Shaina Sekhri
Rachita Singh
Emily Wang (Co chair)
David Wylie (Co chair)

MEMBERS ABSENT: Willa Adamo
VISITORS: Interviewees for Youth Council
STAFF PRESENT: Scott Mercer, Recreation Supervisor

**1. Roll Call**

**2. Approval of Minutes**

Resolution # TY-2009-9-10

Moved by Wang
Seconded by Rama

RESOLVED, That the minutes of August 26, 2009 be approved with changes.
Yes: All – 10
No: 0
Absent: 1 – Adamo

**3. Attendance Report:**

Report reviewed by council members, no comments.

**4. Interviews**

Troy Youth Council conducted 2 interviews for 2 open spots on the Youth Council. Kelly Niemiec and Rajiu Vutukuru interviewed for the open positions.

Resolution # TY-2009-9-11

Moved by Bora
Seconded by Sekhri

RESOLVED, That the Troy Youth Council recommends Niemiec and Vutukuru to fill the open positions on the Youth Council for the 2009-2010 year.
Yes: All – 10
No: 0
Absent: 1 – Adamo

**5. Teens Taking Action**

No Report

**6. Troy Daze**

Council members reported that the festival went well.

**7. Motion to Excuse Absent Members Who Have Provided Advance Notification**

Resolution # TY-2009-9-12

| | |
|---|---|
| Moved by | Bora |
| Seconded by | Sekhri |

***RESOLVED*** that Adamo is excused.

| | |
|---|---|
| Yes: | 10 |
| No: | 0 |
| Absent: | 1 - Adamo |

**8. Public Comments** – None

**9. Youth Council Comments** – Youth Council discussed the City Manager's memo to City Council and decided to send an email from Youth Council expressing concern over the closing of the Community Center and Library. Supriya Jalukar to write the email.

**10. Adjournment** – 8:05 p.m.

_____

David Wylie, Co-chair

_____

Scott Mercer, Recreation Supervisor

Reminder Next Meeting: October 28 at 7:00 P.M.

**ELECTION COMMISSION MINUTES – Draft September 25, 2009**

A meeting of the Troy Election Commission was held September 25, 2009, at City Hall, 500 W. Big Beaver Road. City Clerk Bartholomew called the Meeting to order at 8:11 AM.

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**ROLL CALL:**

PRESENT: David Anderson, Timothy Dewan, City Clerk Tonni Bartholomew
ABSENT:

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**Minutes: Regular Meeting of August 27, 2009**

Resolution #EC-2009-09-009
Moved by Dewan
Seconded by Anderson

RESOLVED, That the Minutes of August 27, 2009, are **APPROVED** as placed on the table.

Yes: Anderson, Dewan, Bartholomew
No: None

MOTION CARRIED

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**Approval of Election Inspector Assignments – Tuesday, November 3, 2009 Election**

Resolution #EC-2009-09-010
Moved by Anderson
Seconded by Dewan

RESOLVED, That Election Inspectors be **APPOINTED** for the Tuesday, November 3, 2009 General Election, as presented by the City Clerk.

Yes: Anderson, Dewan, Bartholomew
No: None

MOTION CARRIED

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**Confirmation of Ballot Language – Tuesday, November 3, 2009 General Election**

Resolution #EC-2009-09-011
Moved by Dewan
Seconded by Anderson

RESOLVED, That the ballot language for the Tuesday, November 3, 2009 General Election, as revised by the Attorney General's Office, is hereby **CONFIRMED**.

Yes: Anderson, Dewan, Bartholomew
No: None

MOTION CARRIED

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**Adjournment:**

The meeting was adjourned at 8:18 AM.

Tonni L. Bartholomew, MMC
City Clerk

**TO:** Members of the Troy City Council

**FROM:** Lori Grigg Bluhm, City Attorney
Robert F. Davisson, Assistant City Attorney
Christopher J. Forsyth, Assistant City Attorney
Susan M. Lancaster, Assistant City Attorney
Allan T. Motzny, Assistant City Attorney

**DATE:** October 1, 2009
**SUBJECT:** 2009 Third Quarter Litigation Report

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The following is the quarterly report of pending litigation and other matters of interest. **Developments during the THIRD quarter of 2009 are in bold.**

## A. ANATOMY OF THE CASE

Once a lawsuit has been filed against the City or City employees, the City Attorney's office prepares a memo regarding the allegations in the complaint. At that time, our office requests authority from Council to represent the City and/or the employees. Our office then engages in the discovery process, which generally lasts for several months, and involves interrogatories, requests for documents, and depositions. After discovery, almost all cases are required to go through case evaluation (also called mediation). In this process, three attorneys evaluate the potential damages, and render an award. This award can be accepted by both parties, and will conclude the case. However, if either party rejects a case evaluation award, there are potential sanctions if the trial result is not as favorable as the mediation award. In many cases, a motion for summary disposition will be filed at the conclusion of discovery. In all motions for summary disposition, the Plaintiff's version of the facts are accepted as true, and if the Plaintiff still has failed to set forth a viable claim against the City, then dismissal will be granted. It generally takes at least a year before a case will be presented to a jury. It also takes approximately two years before a case will be finalized in the Michigan Court of Appeals and/or the Michigan Supreme Court.

## B. ZONING CASES

These are cases where the property owner has sued for a use other than that for which the land is currently zoned and/or the City is suing a property owner to require compliance with the existing zoning provisions.

1. *Troy v. Papadelis and Papadelis v. Troy* - This is a case filed by the City against Telly's Nursery, seeking to enjoin the business from using the northern parcel for commercial purposes. After a lengthy appellate history, an order was entered in the Oakland County Circuit Court, requiring compliance on or before April 29, 2002. The Papadelis family failed to comply with the court's order, and therefore a Contempt Motion was filed. Oakland County Circuit Court Judge Colleen

O'Brien determined that the defendants were in contempt of court, and required them to pay $1,000 to the City of Troy. However, the court also determined that the defendants were in compliance with the City of Troy zoning ordinances as of the date of the court decision. The Troy City Council authorized an appeal of this decision to the Michigan Court of Appeals. It was filed on September 27, 2002. The neighbors filed an application for leave to appeal, which was denied by the Michigan Court of Appeals on 2/10/03. After receiving criminal citations from the City for expansion of the business, Papadelis filed a federal lawsuit against the City of Troy, alleging civil rights violations and seeking an injunction against the prosecution and/or further expansion. The neighboring property owners filed a Motion to Intervene, which was granted by Federal US District Court Judge Arthur Tarnow**.** Troy filed a counterclaim in the Federal Court case but it was dismissed by Judge Tarnow, who refused to exercise jurisdiction over the counter-complaint, since it would require him to interpret the opinion of the Oakland County Circuit Court Judge. Troy has subsequently filed two separate motions to dismiss the Papadelis complaint. One of the motions asserted the same jurisdictional claim that was raised against the counter-complaint. The Court granted Troy's motion based on jurisdictional issues and dismissed the case without prejudice. The court did not rule on the other motion, but instead, directed the Papadelises to re-file their case in state court. The Papadelis family then re-filed its lawsuit in Oakland County Circuit Court. Troy filed an answer and a counterclaim. Troy also immediately filed a motion for summary disposition seeking dismissal of the complaint and a judgment in favor of Troy. The counterclaim seeks an order requiring the Papadelis family to remove two greenhouses and other structures that have been built upon the property without approvals that are required under the zoning ordinance. The Court scheduled an early intervention conference (settlement conference) for October 18, 2005. The Court has set the hearing date for the Motion for Summary Disposition for January 4, 2006. Subsequent to the filing of Troy's Motion for Summary Disposition, Plaintiffs' filed a Cross Motion for Summary Disposition, and the hearing was rescheduled for January 18, 2006. On February 17, 2006, the Court entered its written Opinion and Order, dismissing the Papadelis claim for money damages and their claim for injunctive relief. However, the Court also granted Summary Disposition in favor of the Plaintiffs on their claim for declaratory relief, and held that "retail" activity was not occurring on the northern parcel, and that the "agricultural" activities on the northern parcel were protected under the Right to Farm Act. Additionally the Court ruled the Plaintiffs' were exempt from City permitting requirements under the agricultural building permit exemption of the State Construction Code Act. The Court also dismissed the City's counterclaim. Troy has filed an appeal with the Michigan Court of Appeals. Plaintiffs' have filed a cross appeal challenging the dismissal of their claims for money damages and injunctive relief. All the required briefs have been filed with the Court of Appeals, which will either schedule an oral argument or will inform the parties that the case will be decided without oral argument. Since this case was assigned to the expedited track for summary disposition appeals, a final decision on appeal is expected before the end of September of this year. On June 16, 2006, the

Building Department discovered that the Papadelis family was erecting a new, large pole barn structure on the property at 3301 John R. Road. This structure was likely in violation of local and/or state law. The Building Department followed the procedure for issuing a Stop Work Order. In addition, our office filed an emergency motion with the Court of Appeals, seeking to enjoin construction of the building pending final outcome of the appeal. On June 21, 2006, the Court of Appeals granted the motion for immediate consideration, but denied the motion to enjoin construction of the building. The denial of the motion has no bearing on the final outcome of this appeal, and if Troy ultimately prevails on appeal, the new building will have to be removed. Despite the issuance of the Stop Work Order, the construction continued on the new building. The Papadelis Family then filed a Motion to hold the City Attorney and the Director of Building and Zoning in contempt of court. In this Motion, the Papadelis family argued that the Circuit Court ruling (Judge Colleen O'Brien) allows the construction of the new building without a permit and without having to comply with the zoning ordinance provisions regulating the size and location of buildings. Judge O'Brien denied this Motion on June 28, 2006, and ruled that her earlier ruling (the ruling on appeal) was limited to the buildings on the property at the time of the ruling, and did not extend to allow for new construction on the site. On September 19, 2006, the Court of Appeals affirmed the decisions of the Circuit Court. Thus, the Court affirmed the declaratory judgment in favor of the plaintiffs, but it also affirmed the dismissal of plaintiff's civil rights claims against the City, Mark Stimac, and Marlene Struckman. Troy has filed an Application for Leave to Appeal with the Michigan Supreme Court. The Michigan Municipal League is also filing an amicus brief in support of the City's Application for Leave to Appeal. The Papadelis family filed a Cross Application for Leave to Appeal. If the Supreme Court denies both the Application for Leave to Appeal and the Cross Application for Leave to Appeal, the Court of Appeals decision becomes the final decision in this case. The Supreme Court may grant both the Application and Cross Application for Leave to Appeal, or it may grant one and deny the other, or it may grant either Application in part and limit the issues that it will review. The Michigan Municipal League (MML) has prepared an Amicus Brief in support of the municipal position, and the Papadelis family has opposed the MML's Motion for Leave To File the Amicus Brief. The parties are now waiting for the Michigan Supreme Court to take action. On June 29, 2007, in lieu of granting leave to appeal, the Michigan Supreme Court ruled in favor of the City, and reversed the decisions of the Oakland County Circuit Court and the Court of Appeals. The case will now be remanded back to the Oakland County Circuit Court for an order requiring the Papadelis family to comply with Troy's zoning ordinances. The Michigan Supreme Court declared that the greenhouses and pole barn are not "incidental to the use for agricultural purposes of the land on which they are located." Plaintiff's cross appeal against the City was denied. Troy filed a motion in Circuit Court to enforce the Supreme Court's ruling, which requires all of the buildings constructed on the Papadelis property to be in compliance with Troy's zoning ordinance. In the alternative, the structures need to be removed. The Court scheduled an evidentiary hearing on our Motion for October 17, 2007.

A hearing/bench trial began on October 17th and continued on October 23rd. The City presented evidence in support of its request for an Order requiring the Papadelis family to remove two large greenhouses, eight smaller greenhouse type structures (cold frames) and a pole barn from the subject property. The Papadelis Family has started to present evidence in support of their defense and opposition to the City's requested relief. They contend the zoning ordinance is not applicable to the buildings. The Court has set the next hearing/ bench trial continuation date for January 30, 2008. The hearing/bench trial continued on January 30, 2008 and closing arguments were scheduled for March 5, 2008. After closing arguments were made, Judge O'Brien indicated she would prepare a written opinion. On May 22, 2008, Judge O'Brien issued an Opinion and Order dismissing the City's counterclaim. On June 4, 2008, the City filed a Motion for Reconsideration, which was denied on June 10, 2008. On June 23, 2008, the City filed a Claim of Appeal with the Michigan Court of Appeals. The City's Brief on Appeal is due November 25, 2008. The City's brief was timely filed. The Plaintiffs filed their appellate brief and the City filed a Reply Brief. On February 11, 2009, the Michigan Farm Bureau filed a Motion to File an Amicus Curiae Brief in support of Plaintiffs claims. The City filed a response to that motion requesting that it be denied. On March 4, 2009, the Court of Appeals entered its Order granting the request of the Michigan Farm Bureau, but allowing the City to file a Reply to the Amicus Curiae Brief. On March 23, 2009, the Michigan Farm Bureau filed its Amicus Curiae Brief. On April 3, 2009, Troy filed a Reply to the Amicus Curiae Brief of the Michigan Farm Bureau. We are waiting for the Court to schedule the case for oral argument. **Oral argument has been set for November 9, 2009.**

**2.** *Behr America v. City of Troy, et. al.*- This case is a plat revision action filed by Behr America against the City of Troy, the Road Commission for Oakland County, the Oakland County Drain Commission, the Michigan Department of Transportation, the Michigan Department of Environmental Quality, The Michigan Department of Natural Resources, the Treasurer of State of Michigan, the Detroit Edison Company and owners within 300 feet of the Behr America property located at 2700 Daley Drive. Behr America is requesting a revision of Supervisor's Plat No. 11, in order to remove the plat's roadway designation of a portion of Daley Street, which has already been vacated by resolution of the Troy City Council. The City of Troy has filed an Answer to the Complaint, and the parties are now conducting discovery. Witness and Exhibit Lists have been filed by the parties in the discovery phase. The State of Michigan has required clarification of the easement that was granted to the City of Troy reserving a vehicular turn around. A public hearing will be scheduled as soon as possible on a new proposed vacation. The parties continue to negotiate an acceptable Consent Judgment, which could be entered immediately after Council action on the proposed vacation. Case evaluation was waived by Court order. A draft of a Consent Judgment is being reviewed by the Defendants, and will be submitted to City Council for its review and approval. **Plaintiffs have been delayed in finalizing this matter, but expect to move forward soon.**

## C. EMINENT DOMAIN CASES

These are cases in which the City wishes to acquire property for a public improvement and the property owner wishes to contest either the necessity or the compensation offered. In cases where only the compensation is challenged, the City obtains possession of the property almost immediately, which allows for major projects to be completed.

### JOHN R. ROAD IMPROVEMENT PROJECT

1. *City of Troy v. Munchiando - The* City filed this condemnation lawsuit in connection with the John R. Road widening project. The City's complaint was filed on August 4, 2008. The Court entered the Order of Possession on September 22, 2008, giving the City legal title to the property. Through this Order, the Munchiandos can temporarily remain in the house, as long as they pay rent to the City. This means that only the amount of just compensation remains at issue in this case. The parties are now exchanging discovery. Discovery continues. **On September 2, 2009, case evaluation was held. The parties have until September 30, 2009 to either accept or reject case evaluation. If both parties accept the case evaluation award, then the case is settled for that amount. If either party rejects the case evaluation award, then the case proceeds to trial.**

### ROCHESTER ROAD IMPROVEMENT PROJECT

2. *City of Troy v RCU Independence Inc and Sentry Inc.* The City filed this condemnation action to acquire property located at 3688 Rochester Road in connection with the Rochester Road Improvement Project. The case was assigned to Judge Bowman of the Oakland County Circuit Court. Defendants filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction. In this Motion, they argued that the City did not engage in sufficient negotiations after making the written good faith offer for the property. The City argued that it was in compliance with all the statutory requirements. After oral argument, the Court dismissed the case, relying on the alleged lack of jurisdiction. The City filed an Appeal with the Michigan Court of Appeals, which is pending. In the meantime, the City filed a second condemnation complaint after additional discussions with the attorney representing the property owner. **On July 29, 2009, the Court entered an Order for Payment of Estimated Compensation and Surrender of Possession. This occurred only after the City agreed to assume the expenses for moving the car wash on the property. The case is now in the discovery phase of the litigation on the issue of just compensation. The City is still pursuing the appeal of the dismissal of the initial case to resolve the different statutory interpretations of the parties, since this issue is likely to arise in future condemnation matters.**

3. *City of Troy v Sentry Inc. and RCU Independence*. The City filed this condemnation action to acquire property located at 3785 Rochester Road in connection with the Rochester Road Improvement Project. The case was assigned to Judge Grant of the Oakland County Circuit Court. Defendants filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction on the basis of alleged insufficient negotiations after the written good faith offer was made. The City argued was in compliance with all statutory requirements. After oral argument, the Court dismissed the case, relying on the alleged lack of jurisdiction. The City filed a Motion for Reconsideration, which is still pending with the Court. In the meantime, the City filed a second condemnation complaint after additional discussions with the attorney representing the property owner. **The parties stipulated to an Order for Payment of Estimated Compensation and Surrender of Possession that was entered on July 29, 2009, after the City agreed to assume expenses for moving the car wash on the property. The only issue remaining is the final amount of just compensation. Discovery continues as it relates to that issue.**

4. *City of Troy v Midwest Master Investment*. The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3525-3529 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

5. *City of Troy v MNAD Property LLC.* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3424 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

6. *City of Troy v Troywood Shops*. The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3718-3736 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

7. *City of Troy v Lukich Realty*. The City of Troy filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3900 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

8. *City of Troy v Century Plaza, LLC.* The City of Troy filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3614-3675 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing. Case evaluation is scheduled for November 4, 2009.**

9. *City of Troy v Picano Land Limited Partnership* (Case No 09-097975). The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3775 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

10. *City of Troy v Picano Land Limited Partnership* (Case No 09-097982). The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is also with the address of 3775 Rochester Road (one Picano's parcel is vacant without its own address). The City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

11. *City of Troy v JMT Properties.* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3381 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

12. *City of Troy v P/G Equities.* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3921 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

13. City of Troy v 3385 Rochester Associates, LLC. The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3385 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **The City has filed a motion for entry of a final judgment to conclude this case, since the**

**property owners have not taken an active role in this litigation. The motion, seeking to declare the amounts already paid as the just compensation, is set for hearing on September 30, 2009.**

**14.** *City of Troy v William H. Price* (Price Funeral Home). The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3725 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

**15.** *City of Troy v William H. Price* (Property Adjoining Funeral Home). The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is addressed at 3725 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

16. *City of Troy v. Atto Construction.* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3921 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Case evaluation is scheduled for April 10, 2010.**

17. *City of Troy v. Space Station of Troy, Inc.*. The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3410 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **The City has discussed the case with the property owner, and will submit a proposed final judgment where the just compensation is the amount that has already paid to the property owner.**

18. *City of Troy v. Rochester Square Associates, et. al..* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3946 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Case evaluation will occur in January 2010.**

19. *City of Troy v. Susan Sandleman as Trustee for the Ester Jeffrey Trust.* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3914 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Case evaluation is currently scheduled for October 2009.**

20. *City of Troy v. Old Troy, LLC.*. The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3278 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Case evaluation is set for March 2010.**

21. *City of Troy v. UEOS Troy, LLC.* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3801 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **The parties have continued to negotiate a settlement of this case, and it is anticipated that a proposed Consent Judgment will be presented to City Council for its consideration in October.**

22. *City of Troy v. Ida Rudack Trust, et. al..* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3615 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Case evaluation is March 3, 2010.**

23. *City of Troy v. Diajeff, LLC..* The City filed this condemnation action in connection with the Rochester Road Improvement project. This property is at 3754 Rochester Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Case evaluation is March 10, 2010.**

## WATTLES ROAD IMPROVEMENT PROJECT

16. *City of Troy v Firas and Reeta Ibrahim.* The City filed this condemnation action in connection with the Wattles Road Improvement project. This property is at 1131 E. Wattles Road, and the City has now acquired title to the property that was required for the road construction project. The case will continue to allow a jury

to determine the value of the property that was acquired by the City. The case is now in the discovery phase. **Discovery is continuing.**

## D. CIVIL RIGHTS CASES

These are cases that are generally filed in the federal courts, under 42 U.S.C. Section 1983. In these cases, the Plaintiffs argue that the City and/or police officers of the City of Troy somehow violated their civil rights.

***1.*** *Gerald Molnar v. Janice Pokley, the City of Troy et al*.- Plaintiff filed this lawsuit against the City and Troy Detective Janice Pokley, after a jury found him not guilty of the charge of Criminal Sexual Conduct in the Second Degree. Plaintiff alleges that the City and Detective Pokley violated his constitutional rights to be from an unreasonable seizure, due process, and equal protection. These constitutional violations allegedly occurred during the criminal sexual conduct investigation of Plaintiff. Plaintiff also claims that the Troy defendants conspired with other named defendants to violate his constitutional rights, and intentionally inflicted emotional distress on Plaintiff. Plaintiff is requesting an unspecified amount of compensatory, exemplar, and punitive damages. On February 27, 2007, Troy filed a motion to dismiss, or in the alternative summary judgment. Plaintiff filed his response to our motion to dismiss on May 21, 2007. On August 28, 2008, the Court listened to the oral arguments on our motion to dismiss. On September 4, 2008, the Court issued an opinion and order granting our motion to dismiss Detective Pokely and the City. On September 10, 2008, Plaintiff filed a notice of appeal, and is seeking a reversal of this dismissal with the United States Court of Appeals for the Sixth Circuit (includes Michigan, Tennessee, Kentucky, and Ohio). After hosting a telephonic pre-trial conference, the Court will provide the briefing schedule for the parties. Plaintiff filed his appellate brief on June 18, 2009. Troy's response brief is due July 17th. **The City's brief was timely filed, and oral argument is set for December 3, 2009.**

*2.* *Steeg v City of Troy, et al.* – Plaintiff Donald Joseph Steeg filed this lawsuit against the City of Troy, Troy Police Chief Charles Craft, and Troy Police Officers Christina Giovannoni, Michael Giordano, and Scott Smith. Plaintiff alleges he suffered damages as a result of his contact with Troy police officers, who stopped his vehicle based on a citizen's complaint of erratic driving. The officers investigated to determine if Steeg was a drunk driver. Steeg alleges the officers violated his fourth amendment rights (alleged unlawful seizure and excessive force). The lawsuit was filed in the United States District Court for the Eastern District of Michigan and assigned to Judge Bernard A. Friedman. The Plaintiff is seeking over $75,000 in damages. The City Attorneys Office is representing the City and Chief Craft. The individual defendant police officers from Troy are being represented by the insurance company's designated attorney, Michael Rosati of Johnson, Rosati, LaBarge, Aseltyne, & Field, P.C. The case is in the discovery phase. Discovery continues. We have filed a Motion for Summary Judgment on

behalf of the City and Chief Craft. Attorney Rosati's office has filed a Motion for Summary Judgment on behalf of the individual officers. **This case has been settled for the nominal case evaluation amount. Orders dismissing the case against the City, Chief Craft, Officer Smith, Officer Giovannoni, and Officer Giordano have been entered with the Court.**

## E. PERSONAL INJURY AND DAMAGE CASES

These are cases in which the Plaintiff claims that the City or City employees were negligent in some manner that caused injuries and/or property damage. The City enjoys governmental immunity from ordinary negligence, unless the case falls within one of four exceptions to governmental immunity: a) defective highway exception, which includes sidewalks and road way claims; b) public building exception, which imposes liability only when injuries are caused by a defect in a public building; c) motor vehicle exception, which imposes liability when an employee is negligent when operating their vehicle; d) proprietary exception, where liability is imposed when an activity is conducted primarily to create a profit, and the activity somehow causes injury or damage to another; e) trespass nuisance exception, which imposes liability for the flooding cases.

1. *Mary Ann Hennig v. City of Troy-* Plaintiff has filed this lawsuit, claiming that the City is liable for injuries she sustained after her vehicle was struck by a Troy Police Officer as he was pursuing a suspected drug dealer. Her complaint alleges serious impairment of a bodily function, in that she has neurological damages. The City has filed an answer to the complaint, and the parties are now conducting discovery. The parties have exchanged witness list, expert witness lists and exhibit lists. The parties are continuing to do discovery including updating medical records and deposing witnesses. The Plaintiff has been examined by an orthopedic physician chosen by the City and is scheduled to be examined during the week of October 22, 2008 by a clinical neuropsychologist chosen by the City. Discovery is continuing. On December 12, 2007, the Court ordered facilitation of the case, which is scheduled for March 4, 2008. If the parties are unable to settle the case with facilitation, then a jury trial is scheduled to start on April 22, 2008. The Court ordered facilitation was conducted on March 28, 2008. In the interim, the City filed a Motion for Summary Disposition, alleging that Plaintiff cannot establish negligence, or that Ms. Hennig's injuries satisfy the no-fault minimum threshold standard, which is that the injuries constitute a "serious impairment of a bodily function." Troy's Motion will be heard on April 23, 2008. The jury trial date has been adjourned to July 29, 2008. Judge Mester denied our motion for summary disposition, finding an issue of fact that would need to be resolved at trial. The City filed a motion for reconsideration of this decision, which was denied by Judge Mester in a written opinion. As allowed under the governmental immunity state statute, the circuit court case has now been stayed so that the City can pursue an appeal with the Michigan Court of Appeals prior to the conclusion of a trial. The City timely filed its appeal on June 3, 2008. The City's Brief is due on or before October 8, 2008. The City timely

filed its appellate brief, as well as a reply to Plaintiff/ Appellee's brief. Oral argument in the Court of Appeals is scheduled for July 7, 2009. **The Court of Appeals has remanded the case for trial.**

2. *City of Troy v. Sunset Excavating, Inc. and Eclipse Excavating, LLC* – This lawsuit was filed by the City in the 52-4th District Court, since the damages are less than the $25,000 jurisdictional amount. On July 11, 2006, there was a major water main break near the intersection of Crooks Road and Wattles Road. Just prior to the water main break, employees of Eclipse Excavating LLC, a subcontractor for Sunset Excavating, Inc. were working in Troy's pressure reducing valve ("PRV") vault #3, located north of the water main break. This work was related to Oakland County's Crooks Road construction project. One of Eclipse's employees admits that he inadvertently moved one of the valves in the PRV vault, and tried to immediately self correct it by completely closing the valve, when it actually should have remained completely open. The City was not aware of this mistake until several hours later, as our employees were responding to the water main break. Since the actions of the employee from Eclipse Excavating actually caused the water main break, Troy is now seeking reimbursement for the $24,445.60 in labor and costs for the repair and necessary traffic control. We have served all of the parties with the complaint, and are now waiting for them to file answers. The parties are engaging in discovery. A pre-trial conference is set for January 26, 2009. After depositions and discovery, the matter will be sent to Case Evaluation on July 9, 2009. **This case was resolved by case evaluation, and the Defendants paid the City on September 9, 2009. This case is now closed.**

3. ***Nancy Huntley, Legal Guardian of Carolyn Huntley, a Protected Person v. City of Troy*- This lawsuit was filed in the Oakland County Circuit Court. Plaintiff alleges that on June 29, 2007, Carolyn Huntley was walking on the sidewalk located in front of 511 Cardinal, Troy, Michigan when she tripped and fell on an elevated concrete slab. Plaintiff alleges that Troy was negligent in failing to maintain the sidewalk; to provide adequate inspections; to give notice of a dangerous condition; and to use reasonable care in the design of the sidewalk. The City filed an Answer and Affirmative Defenses and also filed a Motion for Summary Disposition, arguing that Plaintiff failed to provide notice, as required by MCL 691.1404. Plaintiff's response to this motion is due on October 7, 2009, and Judge Rudy Nichols has scheduled oral argument for October 28, 2009.**

## F. MISCELLANEOUS CASES

1. *Kocenda v City of Troy*- David Kocenda has filed a complaint against the City of Troy, Chief Craft, Captain Murphy, Captain Mott, Lieutenant Hay, Lieutenant Pappas, and Lieutenant Rossman, alleging Defamation and Intentional Infliction of Emotional Distress. Plaintiff, a Troy police officer, claims he was offered a job as a police officer with the City of Palm Beach Gardens, Florida, but the offer was retracted because of

false information provided by Troy and its officers. He contends remarks made by Troy employees constitute both Defamation and Intentional Infliction of Emotional Distress. He is seeking damages in excess of $25,000. The lawsuit was filed in Oakland County Circuit Court and assigned to Judge Fred Mester. Troy's responsive pleading is due December 18, 2007. The City has filed a Motion for Summary Disposition, seeking a dismissal of the lawsuit against the City and its officers. The Court will set the date for the hearing on our motion. The Court granted the Motion for Summary Disposition and dismissed the case. Several months after the dismissal of his lawsuit, Kocenda filed an untimely Motion for Reconsideration. The Motion for Reconsideration was denied. Kocenda has now filed a Claim of Appeal with the Michigan Court of Appeals, seeking a reversal of the dismissal and/or the denial of the Motion for Reconsideration. The City filed a Motion to Dismiss the Claim of Appeal for lack of jurisdiction on the basis it was untimely. The Court of Appeals granted the motion and dismissed the appeal on August 27, 2008. We then filed a motion seeking costs from Kocenda and/or his attorney. This motion was pending as of the end of the quarter. The Court granted our motion for costs, and $100.00 was paid to the City. Kocenda subsequently filed a Motion for Relief from Order in Oakland County Circuit. In that motion, he alleged there was newly discovered evidence and that the original Order Granting Summary Disposition should be set aside. The motion was denied. Kocenda filed a delayed application for leave to appeal with the Michigan Court of Appeals. On May 21, 2009, the Court of Appeals granted the delayed application for leave to appeal but limited Kocenda's appeal to whether or not Judge Mester abused his discretion in denying Kocenda's motion to amend his complaint to allege a claim for tortious interference with a business relationship. **Plaintiff's appellate brief covered issues that went beyond the Court's earlier limitations. The City filed a motion to strike the matters that exceeded the Court's narrow ruling. This motion was denied by the Court, but the City was expressly authorized to address these additional issues in its responsive brief, which was timely filed. The parties are now waiting for the Court to schedule oral argument.**

2. *Frank Lawrence v City of Troy* – Mr. Lawrence is the brother of Thomas Lawrence who was issued two civil infraction traffic citations on October 4, 2008 for "no proof of insurance" and "failure to change address on driver's license". Frank Lawrence filed a FOIA request with Troy Police Department asking for a number of items, including but not limited to: all video recordings, radio transmissions, records and the officer's disciplinary file (if any), and the police policy on issuing "quota' tickets. Under Michigan Court Rule 2.303 (A)(3) discovery is not permitted in civil infraction actions. Additionally, FOIA does not require the release of information which would constitute an unwarranted invasion of personal privacy or law enforcement information such a, but not limited to, disciplinary files of police officers, personal telephone numbers, and operational manuals. Mr. Lawrence's FOIA was denied for these reasons. Instead of filing an appeal of the FOIA denial to the City Manager, Mr. Lawrence appealed the denial to the Oakland County Circuit Court. Mr. Lawrence filed a Motion for Summary Disposition and the City responded. Without requiring oral arguments, Judge Steven Andrews denied Mr. Lawrence's Motion for Summary Disposition in an Opinion and Order dated December 1, 2008. Judge Andrews also granted Summary

Disposition in the City's favor. Mr. Lawrence filed a Claim of Appeal with the Michigan Court of Appeals on December 22, 2008. The Court of Appeals in an unpublished opinion partially reversed the trial court, and remanded the matter for further proceedings including a determination by the trial court of whether or not specific documents are exempt from disclosure. **The parties are waiting for the Court to schedule a court date.**

## G. CRIMINAL APPEALS

These are cases involving an appeal from a decision of the 52-4 District Court in an ordinance prosecution case.

1. *City of Troy v Chowdhury*. In this case, the Defendant challenged the validity of Section 98.10.03 of Chapter 98 of the City of Troy Code, which authorizes a police officer to require a person less than 21 years of age to submit to a preliminary chemical breath analysis (PBT) if the police officer has reasonable cause to believe the person has consumed alcoholic liquor. Under the ordinance, the results of the PBT are admissible in a criminal prosecution to determine whether a minor consumed alcoholic liquor.
   On July 22, 2008, the District Court granted the Defendant's Motion to Suppress Evidence and ruled the results of a PBT administered to the Defendant were inadmissible because Troy's ordinance was unconstitutional. The City appealed this decision to the Oakland County Circuit Court. The Circuit Court denied the City's application for leave to appeal. The City then filed an application for leave to appeal to the Michigan Court of Appeals, which was granted. The City timely filed its appellate brief during this quarter. Oral Argument was scheduled for August 5, 2009. **Oral argument was held on August 5, 2009. On September 10, 2009, the Court of Appeals issued its Opinion and Order, affirming the decisions of the District Court and the Circuit Court.**

2. **City of Troy v Hohenstern. The Defendant in this case is charged with Operating While Intoxicated. He filed a "Motion to Suppress Breath Test Results, Field Sobriety Test Results, and Motion to Dismiss Charges and/or Case" in the District Court. After a hearing on June 2, 2009, District Court Judge Bolle denied the motion. The Defendant has filed an application for leave to appeal the decision to the Oakland County Circuit Court. The appeal was assigned to Oakland County Circuit Court Judge Denise Langford Morris. The City has filed a Motion to Dismiss or Deny Application for Leave to Appeal. A hearing on the motion is scheduled for September 30, 2009.**

3. **City of Troy v Erik Ziegler. The Defendant in this case is charged with Operating While Intoxicated. He filed a filed a Motion to Suppress and Dismiss, alleging the stop of his motor vehicle was improper and was in violation of the Fourth Amendment. An evidentiary hearing was held on**

**August 27, 2009. At the conclusion of the hearing, 52-4 District Court Judge Martone denied Defendant's motion. The Defendant has filed an application for leave to appeal the decision to the Oakland County Circuit Court. The appeal was assigned to Oakland County Circuit Court Judge Nanci J. Grant. A hearing on the application for leave to appeal is scheduled for October 14, 2009.**

ADMINISTRATIVE PROCEEDINGS

1. *In the Matter of the Application of International Transmission Company, d/b/a ITCTransmission, for a Certificate of Public Convenience and Necessity for the Construction of a Major Transmission Line Running From and Through Sterling Heights, Troy, Clawson, and Royal Oak, MI.* ITCTransmission has requested permission to construct a new major transmission line- the Bismark- Troy Project. After meeting with City Administration, ITC's proposed location for this new transmission line is primarily through industrial properties, and underground. Previously, a route traversing Maple Road was considered. Before any construction can commence, ITCTransmission needs to obtain a Certificate of Public Convenience and Necessity from the Public Service Commission (PSC). In this proceeding, the PSC determines whether the public benefits justify the construction of the new transmission line; whether the proposed route is feasible and reasonable; and whether the proposed line presents an unreasonable threat to public health or safety. In this particular case, Detroit Edison and Consumers Power filed to intervene. On appeal, these petitions were granted. The parties are now conducting discovery. The expert witnesses of the parties were cross examined on September 27 and 28, 2007. The parties are now preparing written legal briefs for the Administrative Law Judge. Briefs have been filed, and the Administrative Law Judge issued his Notice of Proposal for Decision on December 5, 2007, concluding that ITC has not demonstrated that the quantifiable and nonquantifiable public benefits justify the line's construction, and/or that the proposed route is reasonable. Since Exceptions to this Notice of Proposal for Decision have been timely filed with the Michigan Public Service Commission, the Administrative Law Judge's Decision is not final, and the case will continue. On February 22, 2008, the Michigan Public Service Commission denied ITC's application for a Certificate of Public Necessity. On March 24, 2008, ITC timely filed its appeal of this decision with the Michigan Court of Appeals. ITC filed its appellate brief on July 14, 2008. The City's brief is due on October 13, 2008. The City timely filed its brief in this Court of Appeals matter. The Court also granted the motion of the Midwest Independent Transmission System Operator, Inc. to file an amicus curaie brief in the case. Briefs have been filed, and the parties are waiting for the Court to schedule oral argument. **This case was voluntarily dismissed by ITC on August 18, 2009. This case is now concluded.**

2. *In the matter of the Petitions on National Pollution Discharge Elimination Systems (NPDES Phase II General Permits)*. The City has joined several other municipalities in challenging several of the mandates in the NPDES Phase II General Permit, which was recently issued by the MDEQ. The new NPDES permit requires some storm water management techniques that exceed the federal mandates, and/or are not justified, based on the high cost of the mandate, in relation to the nominal environmental benefits. A status conference for the parties is set for October 1, 2008. The municipalities are currently exploring the coordination of efforts with other parties. Community representatives are meeting with representatives from the MDEQ to discuss possible resolutions of this matter without the necessity of a full blown administrative hearing. The parties are continuing to negotiate with the MDEQ. **The City of Riverview filed a class action complaint in the Ingham County Circuit Court, challenging the permit requirements as unfunded mandates. The petitioners to the NPDES permit administrative proceeding are named as participants in the proposed class action lawsuit. As a result, the class action determination may have an impact on the administrative proceeding. The motion for class certification is scheduled for October 15, 2009.**

If you have any questions concerning these cases, please let us know.

J-03a

September 23, 2009

City of Troy
Water Department
500 West Big Beaver Rd
Troy, MI 48084, 5285

RE: Andy Willett and Crew

What a GREAT experience to meet Andy and his crew.

On Saturday, September 19, 2009 you had scheduled water shut down due to construction work being done on Combermere behind our manufacturing location in the Maplewood Courts complex. This shutdown would have totally stopped our ability to produce product.

On that same Saturday we had a tour group from Taste-Full Tours scheduled to join us so consumers could see first hand how we process and make our pickles. It just so happened that the Food Network also scheduled this day to come and film our facility and processing for an upcoming episode on "The Best I Ever Ate" program. What a wonderful thing for Michigan, Troy and McClure's Pickles! This was a HUGE opportunity for us to showcase Michigan made products and our small, growing company.

So as not to inconvenience our tour guests and the Food Network, we made contact with Andy through a recommendation from the crew working on Combermere. I explained our situation to Andy and he was quick to assure us that we would have water with no interruption. We had plenty of fresh water to process properly as well as provide necessary water needs for those joining us.

This note is sent to thank Andy and his crew and to complement the City of Troy for having a professional, knowledgeable and understanding staff working with the public and taxpaying citizens in Troy.

For your tasting and eating enjoyment we are including a jar of McClure's Garlic Dill and Spicy pickles. Bon Appetite!

Sincerely,

The McClure's and Pickle Staff

Cc: Ms. Louise Schilling, Mayor

Mike McClure
T: 248.837.9323
mcclurespickles.com
picklehelp@mcclurespickles.com

# CITY OF FARMINGTON HILLS
# OFFICE OF THE MAYOR AND CITY COUNCIL

## RESOLUTION
## IN SUPPORT OF AREA-WIDE PUBLIC TRANSPORTATION

**WHEREAS,** Public Transportation is vital to the needs of a major metropolitan area (Macomb, Wayne and Oakland Counties); and

**WHEREAS,** the economic viability of this area depends on the ability of workers to get to jobs using a comprehensive public transit system that includes both fixed routes and flexible para-transit as determined by each participating municipality; and

**WHEREAS,** the basic needs of some in our area can only be met through the provision of area-wide public transit (medical office visits, grocery shopping etc.); and

**WHEREAS,** a stable, fair, equitable and broadly based funding mechanism is critical to the support of an area-wide public transit system; and

**WHEREAS,** our area has been hamstrung by a patchwork funding device that creates inequities and gaps in service, and subsidizes those who can access the service without paying the tax to support it; and

**WHEREAS,** The City of Farmington Hills has supported area-wide public transit by being an "opt-in" community in support of SMART since the system was established in 1996,

**NOW, THEREFORE, IT IS RESOLVED** that the City of Farmington Hills urges The Oakland County Board of Commissioners to allow all the voters of Oakland County the opportunity to vote on participating in the funding of a comprehensive area-wide public transit system through a county-wide tax of .59 mills or less as Macomb County does and Wayne County is considering: and

**IT IS FURTHER RESOLVED** that a copy of this resolution be sent electronically to all municipalities in Oakland County, all Oakland County Commissioners, and County Executive L. Brooks Patterson.

Adopted this 21st Day of September, 2009.

/s/ Jerry Ellis .
Jerry Ellis, Mayor

I, Kathryn A. Dornan, City Clerk of the City of Farmington Hills, Michigan do hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the Farmington Hills City Council at its regular meeting held September 21, 2009.

/s/ Kathryn A. Dornan .
Kathryn A. Dornan, City Clerk

J-04b

# City of Clawson

425 N. Main Street / Clawson, Michigan 48017
(248) 435-4500 FAX (248) 435-0515

**CM 09-177-09** **CONSIDERATION OF A RESOLUTION FROM THE CLAWSON HISTORICAL MUSEUM BOARD DISAPPROVING EXECUTIVE ORDER NO. 2009-36, SETTING FORTH CHANGES IN THE ORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT**

**MOTION BY:** Councilmember Phillips
**SUPPORTED BY:** Councilmember Airriess

**RESOLVED,** the Resolution from the Museum disapproving Executive Order No. 2009-36, setting forth changes in the organization of the Executive Branch of state;

**WHEREAS,** Governor Granholm has issued an executive order proposing the reorganization of the executive branch relative to the abolition of the Department of History, Arts, and Libraries;

**WHEREAS,** the State Library and archives are an important repository of 180 years of history, culture and literature, which are unique and valuable to the people of Michigan;

**WHEREAS,** the holdings of the library, museum and archives were created by the people of the State and funded by their taxes;

**WHEREAS,** the redistribution and divestment of the collection will cause irreparable damage to the collection and thereby render public access to the holdings impossible;

**WHEREAS,** moving the historical collection and archives will jeopardize the ability of future generations to benefit from the material the library and museum have preserved;

**NOW, THEREFORE, BE IT RESOLVED** that the Clawson City Council acting as advocates of the people of the State of Michigan, the Historical Commission and the Clawson Historical Society, hereby disapprove Executive Order No. 2009-36, issued July 13, 2009, proposing the reorganization of the executive branch of government relative to the abolition of the Department of History, Arts, and Libraries;

**BE IT FURTHER RESOLVED** that a copy of this resolution be sent to the Governor, the Senate Majority and Minority leaders and members of the Michigan Legislature who represent our residents, the Department of History and neighboring communities.

**CARRIED UNANIMOUSLY:**

STATE OF MICHIGAN )
)
COUNTY OF OAKLAND )

I DO HEREBY CERTIFY THAT THE ABOVE IS A TRUE COPY OF A RESOLUTION MADE, PASSED AND ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS, 425 N. MAIN STREET, CLAWSON, MICHIGAN ON TUESDAY, SEPTEMBER 1, 2009 AT 7:30 P.M.

G. Machele Kukuk

G. MACHELE KUKUK, CITY CLERK

City of Troy

# Memo

**To:** John Szerlag, City Manager

**From:** Cathleen A. Russ, Library Director

**CC:**

**Date:** 10/1/2009

**Re:** Governor Granholm's Executive Order 2009-36

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On Monday, July 13, Governor Granholm issued Executive Order 2009-36, which abolished the Department of History, Arts, and Libraries. There were several other provisions in the Executive Order which affected Michigan's libraries and museums. Following the issuance of EO 2009-36, many library boards and museum boards discussed this at their August meetings, and made resolutions which stated their position on the Governor's action. The Troy Public Library Advisory Board did not meet in August, but addressed this issue at the meeting held on Thursday, September 10, 2009.

Since July 13, there have been some changes to the original Executive Order. Below is a brief summary of what has changed:

1. On August 26, the governor issued an executive directive clarifying some of the issues. On September 9, the governor issued an amending executive order, 2009-43 (http://www.michigan.gov/gov/0,1607,7-168-21975-221451--,00.html). This addressed concerns about:
    a. The priority of the Michigan eLibrary, MeL (Michigan Electronic Library), and MeLCat (statewide interlibrary loan system)
    b. Keeping the Library of Michigan whole and in state government
    c. Having representation from the library community on the Michigan Center for Innovation and Reinvention Board
    d. Retaining the position of a state librarian

2. Although the Senate attempted to pass a series of bills to address the original concerns about EO 2009-36 before EO 2009-43 was issued, the House did not follow suit. On

September 11, EO 2009-36 as amended by 2009-43 took effect. In short, the Department of History, Arts and Libraries will be eliminated. The Library of Michigan will be moved to the Department of Education.

3. Funding remains the most important and most contentious issue. While the EO 2009-43 addressed many concerns, it also made statements about "subject to available appropriations." With regard to the $10M in state aid to public libraries and the maintenance of effort required for the $5M in federal funding that supports MeL and MeLCat, there are serious problems. To start, the governor and House did hold state aid to libraries at the requested $10M in the Department of Education budget. The Senate had cut state aid to $7.5M in the HAL budget. When they came to the conference committee meetings last week, the House had libraries funded at $10M and the Senate had libraries as a line item with nothing. On Sunday the committee ended up with proposing a 40% cut to state aid at $6M. This has serious implications for the ongoing operations of the Suburban Library Cooperative and the maintenance of effort required for the federal funds for MeL and MeLCat. A potential loss of $800,000 to those programs is anticipated and there are serious questions as to whether they will survive at that reduced level of funding.

   There is talk in the House of a supplemental budget with the potential of restoring the $10M in state aid. With regard to the Library of Michigan, the Michigan Library Association has been asked to make a recommendation for an appointment to the MCIR Board. At this point the MCIR Board's focus has been significantly curtailed and its purpose seems somewhat questionable.

Michigan Library Association President Larry Neal, in an email to me, stated, "If state aid to libraries is not restored to $10M by the time your city council meets on October 5, then the most effective course of action would be for them to have you send a letter to your legislators illustrating the impact of the loss of state aid and its consequences on the library, and thus citizens, you serve."

J-04c

J-4

# City of Clawson

425 N. Main Street / Clawson, Michigan 48017
(248) 435-4500 FAX (248) 435-0515

**CM 09-176-09** **CONSIDERATION OF A RESOLUTION FROM THE BLAIR MEMORIAL LIBRARY BOARD DISAPPROVING EXECUTIVE ORDER NO. 2009-36, SETTING FORTH CHANGES IN THE ORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT**

**MOTION BY:** Councilmember Phillips
**SUPPORTED BY:** Councilmember Moore

**RESOLVED,** the Resolution disapproving Executive Order No. 2009-36, setting forth changes in the organization of the Executive Branch of state government;

**WHEREAS,** Michigan's libraries are vital resources for Michigan families seeking jobs online, write resumes, filing for unemployment and disability benefits and accessing the internet; and

**WHEREAS,** Sixty-four percent of Michigan libraries report they are the only source of free internet access in their communities which is a critical link to technology and training for many who cannot afford it; and

**WHEREAS,** the State Library of Michigan holds the second largest collection of materials, is the third most visited library in the country and has the fifth highest circulation of state libraries nationally, the importance of this state resource is being ignored as both an educational and economic resource; and

**WHEREAS,** it is essential for the well-being of the citizens of the State of Michigan that libraries thrive as they are the cornerstones of a literate society and are on the cutting edge of a knowledge based economy; and

**WHEREAS,** State of Michigan Governor Jennifer M. Granholm's Executive Order No. 2009-36 goes much further than abolishing the Department of History, Arts and Libraries by diminishing the position, influence and stature of the library community and the State Library of Michigan; and

**WHEREAS,** the Executive Order fails to recognize statewide library services – MeLibrary online subscriptions, MeLCat interlibrary loan and MeL Tests and Tutorials – all resources used for research, education purposes, workforce development, job seeking and job preparation – were made possible through the leadership of the Library of Michigan and the collaboration, group purchasing and resource sharing of the entire library community saving the taxpayers $72 million;

**WHEREAS,** the Executive Order calls for breaking up the Library of Michigan without real cost savings and calls for the creation of the Michigan Center for Innovation and Reinvention Board which is asked to 'preserve and maximize the benefits to the public of existing state library and historical resources including collections, buildings and skilled personnel' but does not include any library community representation;

**WHEREAS,** State aid to libraries serves as the maintenance of effort requirement by the federal government to sustain federal funding for the MeLibrary, MeLCat and MeL Tests and Tutorials and the Senate budget threatens the viability of the entire statewide interlibrary loan and resource sharing system which includes every library in the state – academic, public, k-12 and special libraries;

**WHEREAS,** the State Aid to Public Libraries Act 89 of 1977 requires libraries shall receive a total of $1.50 per capita or approximately $15.4 million – but are currently receiving 96 cents per capita or $10 million – and the Senate-passed budget cuts library funding to $7.5 million – less than half of what is statutorily required by state law.

**NOW, THEREFORE, BE IT RESOLVED** that the Clawson City Council acting as advocates of the people of State of Michigan and in support of resources that ensure a high quality of life for all, strongly urges the Michigan Legislature to:

- Oppose Executive Order No 2009-36
- Support all legislative efforts to maintain library services and keep their functions whole under the Library of Michigan within state government;
- Maintain state aid to libraries at $10 million to retain the federal funding required to sustain the MeLibrary online subscription resources, MeLCat interlibrary loan and MeL Tests and Tutorials;
- Retain the position and role of the State Librarian.

**BE IT FURTHER RESOLVED** that a copy of this resolution be sent to the Governor, the Senate Majority and Minority Leaders and members of the Michigan Legislature who represent our residents, the State Library of Michigan and neighboring communities.

**CARRIED UNANIMOUSLY:**

STATE OF MICHIGAN )
)
COUNTY OF OAKLAND )

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G. Machele Kukuk

G. MACHELE KUKUK, CITY CLERK

City of Troy

# Memo

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**CC:**

**Date:** 10/1/2009

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    b. Keeping the Library of Michigan whole and in state government
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September 11, EO 2009-36 as amended by 2009-43 took effect. In short, the Department of History, Arts and Libraries will be eliminated. The Library of Michigan will be moved to the Department of Education.

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# Troy Youth Assistance Board Meeting

**Final Minutes of August 20, 2009 - 6:00 p.m.**

**Present**: Leonette Ciepielowski, Robin Beltramini, Robin Lilly, Nancy Piotrowski, Wendy Underwood, Bruce Baxter Dale Zygnowicz, Paul Scobie.

**Call to order:** Leonette called the meeting to order at 6:04 p.m. All rose for the Pledge of Allegiance.

**Minutes:** Robin B moved to approve the minutes of May 21, 2009. Wendy seconded, so moved.

**Treasurer's Report: George Zielinski:**

- Leonette presented June ending Treasurers Report.
- Leonette also presented July Treasurers Report; Robin B moved to approve both reports. Nancy P. seconded; so moved.

**Communications:**

- Received a packet about the Summit Nancy, Robin B and Leonette attended on June 24th.

**Caseworker's Report:**

- NEW ASSIGNMENT-My time in the Troy community has been rewarding and the bonds formed are deep. I love this program and those of you who work so hard to make TYA such a positive force in the community. With that in mind, I made the decision earlier this month to accept a supervisory position within Oakland County Youth Assistance. I have valued the privilege of serving students and families here in Troy and am excited about the challenge of contributing in my new capacity. My new assignment begins in early October and I will spend these next weeks in transition with our TYA leadership and the incoming Caseworker to insure the program continues without a hitch. Thanks to all of you who have made my time in Troy an experience to cherish.
- SUMMER CAMP-We move toward the conclusion of our 2009 Summer Camp Program at the end of August. We provided twenty eight scholarships to students this year. Many thanks to Brian Goul who assisted in registering families this year and to the many referral sources who sent children our way.
- MENTORS PLUS-Bruce Baxter and I interviewed Geraldine Feld earlier this month and expect to match her with a deserving child in the coming weeks Gerry recently moved to Sterling Heights after many years in Ferndale and was matched in Ferndale YA's Mentors PLUS Program with the same child for over five years. She will bring a lot of energy and care to TYA's program.
- CASEWORK-During May, June and July, 2009 twenty four new referrals came into TYA-fourteen for police, five from schools, three from community sources, and two from parents. Our caseload as of July 31, 2009 stood at 41- 30 boys and 11 girls.

**Executive Committee Report:**

- See below reports

**Committee Reports:**

**A. Camp/Skill Building: Brian Goul:**

- Discussion was held on how to fill all spots for all camps. Paul indicates a number of campers cancelled at the last minute. We may need to develop a waiting list next year.

**B. Family Education:**

- We will be having a meeting on Wednesday August 26, 2009 to finalize this year's events. Bulk mailing will be taking place also. We could use volunteers to sort and stuff envelopes.

**C. Fundraising- Vacant:**

**D. Mentors Plus-Bruce Baxter:**

- Bruce and Paul met with a possible new Mentor.

**E. Membership- Nancy Piotrowski:**

- See old business

**F. Publicity:**

- No report

**E. Youth Involvement-**

- Leonette reported on Executive Committee discussion related to the need to develop more "hands on" activities for volunteers to be involved with. One idea is specific programming with Rochester Villas Apartments or other low income housing pockets in the community.

**H. Youth Recognition-Committee**

- No report

**School Reports:**

- No report.

**Old Business:**

- Troy Chamber of Commerce: Non Profit Network.
- Membership/Recruitment: would like to have a complete list of activities new volunteers can volunteer for. Executive Committee will develop this list in preparation for September 10 Volunteer Expo.

**New Business:**

- Robin Beltramini will be our Volunteer of the Year at Annual Breakfast; Chief Mayer has agreed to be our keynote speaker.

**Community Information From Organization/Agencies Liaisons:**

- Wendy reports election is coming up for new school board; Kids at IA East have started the new school year. Things are coming along well.
- Robin Beltramini reports- summer is coming to an end, fall activities starting up. The dog swim will be held on September 12, 2009. City Council Election is coming up.

**Adjourned:** 7:10 p.m.

**Next meeting will be September 17, 2009 @ 6:00 p.m.**