



**CITY OF YPSILANTI
COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS – ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, MAY 1, 2012
7:00 P.M. – OPEN SESSION**

I. CALL TO ORDER –

The meeting was called to order at 7:08 p.m.

II. ROLL CALL –

Council Member Bodary	Present	Council Member Robb	Present
Council Member Jefferson	Present	Council Member Vogt	Present
Council Member Murdock	Present	Mayor Schreiber	Present
Mayor Pro-Tem Richardson	Present		

III. INVOCATION –

IV. PLEDGE OF ALLEGIANCE –

"I pledge allegiance to the flag, of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

V. INTRODUCTIONS –

Mayor Schreiber introduced Teresa Gilliotti, Senior Planner; David Kowal, Administrative Services Director; Walter Norris, Ypsilanti Housing Commission Director; Eric Temple, Ypsilanti Housing Director of Administrative Services; and Brian Vick, City Manager Candidate.

Mayor Pro Tem Richardson introduced her Class and also introduced Reverend Dwight Walls, Reverend Steven Riley and Reverend Melvin T. Walls.

VI. AGENDA APPROVAL –

Council Member Jefferson moved that Resolution 2012-087 be moved to item number one under the Resolutions/Motions/Discussions heading.

On a voice vote, the motion to approve the agenda as amended was unanimous.

VII. PRESENTATIONS –

1. Presentation of the FY 2012-13 Budget – Interim City Manager, Frances McMullan

See City of Ypsilanti website at www.cityofypsilanti.com for the FY 2012-13 Budget presentation or visit the Clerk's office for a hard copy of the FY 2012-13 Budget presentation.

VIII. PUBLIC HEARINGS

1. Approval of the transfer of a Class C Liquor License and Dance and Entertainment Permit from Theo Doors, Inc. to Clvetho, Inc. (Wurst Bar).

- A. Resolution No. 2012-075, determination

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, MLCC cannot consider the approval of an application for a new or transfer of an on-premises license without the approval of the local legislative body pursuant to the provisions of MCL 436.1501 of the Liquor Control Code of 1998.

WHEREAS, Clvtheo, Inc. has applied to the City of Ypsilanti and Michigan Liquor Control Commission requesting the following:

Transfer ownership of escrowed 2011 Class C licensed business with Dance-Entertainment Permit, located at 705 W. Cross Street, Ypsilanti, MI. Washtenaw County, from Theo Doors, Inc. to Clvtheo, Inc. (Wurst Bar)

WHEREAS, a public hearing to consider the proposed transfer to Clvtheo, Inc. (Wurst Bar) was properly noticed and held on May 1, 2012

NOW, THEREFORE, BE IT RESOLVED THAT the request of Clvtheo, Inc. for the property located at 705 W. Cross St. in Ypsilanti, MI. be approved.

OFFERED BY: Council Member Robb

SUPPORTED BY: Council Member Murdock

- B. Open Public hearing

Mayor Schreiber read the rules for audience participation.

There was no audience participation.

- C. Resolution No. 2012-076, close public hearing.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing on the Approval of a Transfer of a Class C Liquor License with a Dance and Entertainment permit from Theo Doors, Inc to Clvtheo, Inc. be officially closed.

On a voice vote the motion for Resolution 2012-076 was unanimous.

On a roll call vote, the motion to approve Resolution 2012-075 was as follows:

Council Member Bodary	Yes	Council Member Robb	Yes
Council Member Jefferson	Yes	Council Member Vogt	Yes
Council Member Murdock	Yes	Mayor Schreiber	Yes
Mayor Pro-Tem Richardson	Yes		

VOTE:

Yes:7 No: 0 Absent: 0 Motion: Carried

2. Approval of a Dance and Entertainment License for Diangoras Bar and Grill.

A. Resolution No. 2012-077, determination

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, MLCC cannot consider the approval of an application for a new or transfer of an on-premises license without the approval of the local legislative body pursuant to the provisions of MCL 436.1501 of the Liquor Control Code of 1998.

WHEREAS, Diangoras Bar & Grill Inc. has applied to the City of Ypsilanti and Michigan Liquor Control Commission requesting the following:

A New Dance-Entertainment Permit for, Diangoras Bar and Grill, Inc. to be held in conjunction with their 2011 Class C licensed business issued under MCL. 436.1521 (1), located at 517 W. Cross, Ypsilanti, MI. 48197.

WHEREAS, a public hearing to consider the proposed Dance-Entertainment Permit to Diangoras Bar and Grill, Inc. was properly noticed and a public hearing held on May 1, 2012.

NOW, THEREFORE, BE IT RESOLVED THAT the request of Diangoras Bar and Grill, Inc. for the property located at 517 W. Cross Street, Ypsilanti, MI. 48197 be approved.

OFFERED BY: Council Member Jefferson

SUPPORTED BY: Council Member Bodary

B. Open Public Hearing

Mayor Schreiber read the rules for audience participation.

Steven Thomason 517 W Cross Street, commented that the Diangoras is now Cross Roads Bar and Grill. He said that the bar has been renovated to include a dance floor where patrons can dance and live bands can play.

C. Resolution No. 2012-078, close public hearing.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing on the Approval of a Dance and Entertainment License for Diangoras Bar and Grill” be officially closed.

On a voice vote the motion for Resolution 2012-078 was unanimous.

Council Member Robb commented when liquor licenses have been approved in the past, there are e-mails from department heads, and the police department with regards to their recommendations for approval.

Felicia Rutledge, Acting City Clerk commented that she does have in her possession the approvals from DPS but did not include them in the packet. Additionally she said that she can put the information in the packets in the future.

Council Member Robb commented this is a public entity and information should be disbursed.

Mayor Schreiber asked if council would like to see the e-mails.

Mayor Schreiber asked council if they would like to delay until the next meeting.

Council Member Jefferson asked did any of the police reports contain negative comments.

Acting City Clerk Rutledge commented the reports did not contain any negative comments.

Council Member Bodary commented this is just a dance and entertainment permit and there is no need to delay until the next meeting.

Council Member Murdock commented he does not see any harm in delaying.

Mr. Jesse Thomason commented that in the past there was some negative association with the bar but since he has been managing the bar he has made several changes. He said he is trying hard to change the bar's image and the building has been renovated with a dance floor added. Additionally he said if problems were to arise, he would contact the police but there have been no problems.

Mayor Schreiber asked Mr. Thomason would this be a hardship on his business to delay.

Mr. Thomason commented no hardship would be placed on the business to delay for two weeks.

Moved by Council Member Murdock, supported by Council Member Robb to delay the approval of Resolution 2012-077 a Dance and Entertainment permit for Crossroads Bar and Grill until May 15, 2012.

On a roll call vote, the motion to delay Resolution 2012-077 was as follows:

Council Member Jefferson	No	Council Member Vogt	Yes
Council Member Murdock	Yes	Mayor Schreiber	Yes
Mayor Pro-Tem Richardson	Yes	Council Member Bodary	No
Council Member Robb	Yes		

VOTE:

Yes: 5

No: 2 (Jefferson; Bodary)

Absent: 0

Motion: Carried

3. Emergency Ordinance Addressing Floodplain Management Provisions of the State Construction Code.

A. Resolution No. 2012-079, determination

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed Ordinance entitled "AN EMERGENCY ORDINANCE TO AMEND CHAPTER 122 OF THE YPSILANTI CITY CODE TO UPDATE TO MOST RECENT FBFM MAPS AND REGULATIONS" be and hereby is adopted as an emergency ordinance, to protect the public health, safety and welfare concerning floodplains and insurance availability, with immediate effect, pursuant to City Charter section 2.11, to be effective for sixty (60) days from this date.

Ordinance No. 1173

An Ordinance Entitled "An Emergency Ordinance to Amend Chapter 122 of the Ypsilanti City Code to update to most recent FBFM maps and regulations"

THE CITY OF YPSILANTI ORDAINS::That to ensure immediate compliance with recent federal changes in floodplain management, and as an emergency ordinance to have immediate effect for the public health, safety and welfare concerning floodplain management, Chapter 122, Article I, Definitions and Article XV, Flood Damage Prevention Sec. 122-913 of the City Code be created as follows replacing existing text

Amend text:

**ARTICLE I
Sec. 122-2 DEFINITIONS**

***FBFM* means the flood boundary and floodway map, used as a floodplain management map that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. For the purposes of this chapter, the FBFM is the map titled Flood Insurance Rate Map(s) (FIRMS) Washtenaw County (All Jurisdictions) panel number(s) of 26161C; 00269E, 0288E, 0407E, and 0426E dated 4/3/12.**

***FIRM* means the flood insurance rate map titled Flood Insurance Rate Map(s) (FIRMS) Washtenaw County (All Jurisdictions) panel number(s) of 26161C; 00269E, 0288E, 0407E, and 0426E dated 4/3/12**

***Flood insurance study* means the engineering study performed by FEMA to identify flood-prone areas, insurance risk zones, and other flood data and contained in a document titled, Flood Insurance Study, Washtenaw County (All Jurisdictions) Community Number 260216, dated April 3, 2012.**

ARTICLE XV. FLOOD DAMAGE PREVENTION*

***Cross reference(s)--Businesses, ch. 22; vehicles for hire, ch. 114.**

Sec. 122-911. Flood hazard findings.

The flood hazard areas of the city are subject to periodic inundation which may result in safety hazards, loss of life, property and health, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and welfare. The flood losses are caused by the cumulative effects of obstructions in floodplains causing increased flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed or otherwise protected from flood damages.

Sec. 122-912. Purpose.

It is the purpose of this article to protect the general public and all land within the city subject to flood losses by provisions designed to do the following:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property in times of flood or which cause excessive increases in flood flow heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 122-913. Scope.

This article shall apply to all flood hazard areas. The boundaries of the flood hazard areas shall coincide with the boundaries of the areas indicated as within the limits of the 100 year flood in the report entitled *Flood Insurance Study, Washtenaw County (All Jurisdictions) Community Number 260216*, dated April 3, 2012., with accompanying Flood Insurance Rate maps and Flood Boundary and Floodway maps. Within the flood hazard area zone, a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary and floodway maps. The study and accompanying maps are adopted by reference, appended, and declared to be a part of this chapter. The term flood hazard area, as used in this chapter, shall mean flood hazard area zone and the term floodway, shall mean the designated regulatory floodway.

- (1) **AGENCY DESIGNATED.** Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the City of Ypsilanti is hereby designated as the enforcing agency to discharge the responsibility of the City of Ypsilanti under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Ypsilanti assumes

responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this ordinance.

(2) CODE APPENDIX ENFORCED. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Ypsilanti.

(3) DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled Washtenaw County, Michigan (All Jurisdictions) and dated April 3, 2012 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26161C; 00269E, 0288E, 0407E, and 0426E dated April 3, 2012 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

Sec. 122-914. Regulation of uses in floodplain areas.

Any proposed occupation, structure, excavation, fill, extraction, grading or scraping and any substantial improvement to an occupation, structure or area shall be reviewed and approved by the planning commission. "Substantial improvement" means any repair, reconstruction or improvement of an occupation, structure or area, the cost of which equals or exceeds 50 percent of the market value of the structure either, (i) before the improvement or repair is started or (ii) if the occupation, structure or area has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural member commences, whether or not that alteration affects the external dimensions of the structure or area. The term does not, however, include either (i) any project for improvement of a structure to comply with state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (ii) any alteration of a structure listed on the National Register of Historic Places or state register of historic places.

(1) *Permitted uses.* The following uses may be permitted in those portions of the floodplain which are not a floodway, to the extent that they are allowed uses within a given zoning district and subject to the construction standards of building code in effect for the city at the time of construction:

- a. Residential and nonresidential structures provided that the building official certifies to the planning commission that the proposed provisions for flood resistant construction, floodproofing or elevation meet or exceed the standards set forth in the city's building code.
- b. Recreational uses such as parks, swimming areas, picnic grounds, ball fields, hiking or biking trails, and wildlife and nature preserves.
- c. Residential support uses such as lawns, gardens, play areas, and parking areas which do not result in the filling in of floodplain areas.
- d. Industrial and commercial support uses which are open in nature such as loading areas or parking areas which do not result in the filling in of any floodplain areas.
- e. Utility facilities such as power plants, transmission lines, pipelines not crossing a lake or waterway, lighting facilities, and navigational and drainage aids.

- f. Piers, boat ramps, bridges, and other such water related uses subject to approval by the water resources commission of the state department of natural resources.
 - g. Fencing of any type, provided that such fencing shall not be located in that portion of the floodplain that is a floodway or other areas essential to the conveyance of floodwaters.
 - h. Sidewalks, driveways, patios, and similar structures when constructed at grade.
 - i. Fill or removal of topsoil, sand, and gravel or other extraction operations, in that portion of a floodplain which is not a floodway provided the following conditions are met:
 - 1. Proof that proper long term maintenance will be provided so that the flood-carrying capacity is not diminished.
 - 2. Any fill or excavated area shall be protected from erosion during and after operations by rip-rap, vegetative cover, bulk-heading, or other approved means.
 - 3. The proposed filling in of land, provided that material equal to 110 percent of the fill volume is removed elsewhere from such premises and adjusted to be capable of storing floodwaters. Structures and parking areas may be permitted on such filled land provided the elevation of the filled land is at least one foot above the base flood elevation. A permit issued by the state department of natural resources under the state's floodplain regulatory authority, Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.3101 et seq., MSA 13A.3101 et seq.), shall be obtained prior to the filling of land in the floodplain. A copy of the state department of natural resources permit shall be provided to the city building inspection division prior to the issuance of a building permit.
 - j. Streets, railroads, and other rights-of-way.
 - k. Pavilions, open amphitheaters, detached garages, raised patios and decks, and other accessory structures provided they are properly anchored and made flood resistant and are not located in a floodway or other area essential to the conveyance of floodwaters.
 - l. Facilities for the storage and detention/retention of stormwater.
 - m. Storage yards for heavy equipment, materials, or machinery.
- (2) **Prohibited uses.** The following uses are not allowed in a floodplain area under any circumstances:
- a. New residential construction or occupation, including mobile homes, manufactured homes or pre-manufactured homes, are specifically prohibited in that portion of the floodplain that is a floodway. Other types of construction and occupation may be allowed in that portion of the floodplain that is a floodway; however, a hydraulic analysis shall be required which demonstrates that occupation and resulting obstruction of the floodway will not restrict the flood carrying capacity of the watercourse.
 - b. A landfill, dump, junkyard, recycling center or hazardous waste storage or treatment facility are expressly prohibited in a floodplain area.
 - c. The storage or processing of materials which in time of flooding become buoyant, flammable, explosive or otherwise injurious to public health, is expressly prohibited within a floodplain area.
 - d. On-site sewage disposal systems shall be permitted within a floodplain area.

- e. Any encroachment which would cause any increase in the base flood level.

Sec. 122-915. Review procedures.

- (a) ***Site plan review.*** All development, construction, occupation or substantial improvement proposals located within a floodplain area shall be reviewed by the planning commission in accordance with the site plan review procedures of article IV of this chapter, and the "Rules of the Washtenaw County Water Resources Commissioner." The planning commission, when reviewing an application for occupation, construction or substantial improvement in a floodplain, shall consider the following standards before rendering a decision:
 - (1) Any possible danger to life and property as a result of increased flood heights or velocities caused by encroachments on the floodplain.
 - (2) The danger that materials may be swept to other lands or downstream to the injury or property loss of others.
 - (3) The susceptibility of the proposed development and its contents to flood damage.
 - (4) The importance of the services provided by the development to the community.
 - (5) The requirement of the proposed development for a waterfront location and the availability of alternate locations not subject to flooding.
 - (6) The compatibility of the proposed use with existing and anticipated development of the surrounding area and the floodplain management program of the area.
 - (7) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (8) The measures taken to assure adequate drainage so as to reduce exposure to flood hazards.
 - (9) The planning commission may attach certain conditions to an approval such as limitations on period of use and operation; imposition of operational controls, deed restrictions, performance bonds, and covenants; or requirements for construction of dikes, levees, and other protection measures.
- (b) ***Building official's responsibility.*** Prior to site plans being submitted to the planning commission the building official shall:
 - (1) Certify that the proposed construction, occupation or substantial improvement complies with the city building code adopted in chapter 18.
 - (2) Where permits are required by other state or federal agencies, a copy of the approved permit shall be provided, by the applicant, prior to review by the planning commission.
 - (3) Cause to be verified and recorded on the site plan and building plans, the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - (4) Cause to be verified and recorded on the site plan and building plan, the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have or will be floodproofed.
 - (5) Require that all site plans and building plans for occupation, construction or substantial improvement within the floodplain have been prepared under the supervision of a registered professional engineer or architect. All site plans and building plans shall be signed by the registered professional engineer or architect.

- (6) Certify that notification has been made to adjacent communities and the state flood control coordinator of a proposed development, construction, occupation, substantial improvement alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and the planning commission.**
- (7) Be available at the meeting of the planning commission when such plans are reviewed to answer any questions relative to the floodplain or construction standards.**

Sec. 122-916. Building permit requirements.

No occupation, building or structure within a floodplain area shall be erected, moved, repaired, altered, or razed until a building permit shall have been obtained from the building official in accordance with the customary building permit requirements under chapter 18. For structures located within a floodplain, the following additional information shall be included with the building permit, and shall become a condition of the permit. All plans, specifications and conditions approved by the planning commission. The plans shall include all of the information required by section 122-912.

Sec. 122-917. Appeals, variances.

The zoning board of appeals shall hear and decide appeals and requests for variances from the requirements of this article, in accordance with the procedures and conditions set forth in this article. Prior to hearing of the appeal, the city planner shall certify to the zoning board of appeals that notices as required under this article have been made. Further, the city planner shall certify to the zoning board of appeals that the immediate downstream community's chief elected official and the state flood control coordinator have been notified of the request for appeals or variance and of the public hearing. Appeals or variances relating to the construction standards as set forth in the building code, shall be heard by the construction board of appeals as outlined in chapter 18. In addition, the following conditions shall be applied to variances granted from the floodplain regulations of this article:

- (1) Variances shall be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, public nuisances, or cause fraud on or victimization of the public.**
- (2) Any applicant to whom a variance is granted shall be given a written notice specifying the difference between the base flood elevation and the elevation at which a structure is being built, and a statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.**
- (3) All such variances to this article shall be maintained in a record and reported to the Federal Insurance Administration and the state flood control coordinator upon request.**

Sec. 122-918. Disclaimer of liability.

The degree of flood protection required by this article is considered the minimum necessary and reasonable for regulatory purposes. Larger floods may occur at any time, and excessive floodwater heights may be experienced due to manmade and natural causes. This article does not imply that areas outside the special flood hazard areas, or uses permitted within such areas, shall remain free from flooding or flood damages. This article shall not create a liability on the part of the city or any officer or employee thereof for any flood damage that results from compliance with or reliance upon this article or any administrative decision lawfully made thereunder.

OFFERED BY: Council Member Bodary
SUPPORTED BY: Council Member Vogt

Teresa Gillotti, Senior Planner commented that the Emergency Ordinance will last for 60 days and the insurance for residents will be re-instated.

Mayor Pro-Tem Richardson asked is the ordinance only in effect for 60 days or will there be no effect until 60 days.

Ms. Gillotti commented the emergency ordinance will be in effect for 60 days.

Council Member Bodary commented will any resident be able to purchase flood insurance.

Ms. Gillotti commented it should be a two day process before it goes into effect.

B. Open Public Hearing

Mayor Schreiber read the rules for audience participation.

Bob Levy, 2504 Eagles Circle commented he supports the emergency ordinance.

C. Resolution No. 2012-080, close public hearing.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing to consider the proposed Ordinance entitled "AN EMERGENCY ORDINANCE TO AMEND CHAPTER 122 OF THE YPSILANTI CITY CODE TO UPDATE TO MOST RECENT FBFM MAPS AND REGULATIONS" be officially closed.

On a voice vote the motion for Resolution 2012-080 was unanimous.

On a roll call vote, the motion to approve Resolution 2012-079 was as follows:

Council Member Murdock	Yes	Mayor Schreiber	Yes
Mayor Pro-Tem Richardson	Yes	Council Member Bodary	Yes
Council Member Robb	Yes	Council Member Jefferson	Yes
Council Member Vogt	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Motion: Carried

4. An Amended Ordinance Addressing Floodplain Management Provisions of the State Construction Construction Code.

A. Resolution No. 2012-081, determination

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed Ordinance entitled "FLOOD DAMAGE PREVENTION ORDINANCE UPDATE" be approved on First Reading.

Ordinance No. 1170-A

An Ordinance Entitled "FLOOD DAMAGE PREVENTION ORDINANCE UPDATE"

THE CITY OF YPSILANTI ORDAINS::That Chapter 122, Article I, Definitions and Article XV, Flood Damage Prevention Sec. 122-913 of the City Code be created as follows replacing existing text

Amend text:

**ARTICLE I
Sec. 122-2 DEFINITIONS**

***FBFM* means the flood boundary and floodway map, used as a floodplain management map that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. For the purposes of this chapter, the FBFM is the map titled Flood Insurance Rate Map(s) (FIRMS) Washtenaw County (All Jurisdictions) panel number(s) of 26161C; 00269E, 0288E, 0407E, and 0426E dated 4/3/12.**

***FIRM* means the flood insurance rate map titled Flood Insurance Rate Map(s) (FIRMS) Washtenaw County (All Jurisdictions) panel number(s) of 26161C; 00269E, 0288E, 0407E, and 0426E dated 4/3/12**

***Flood insurance study* means the engineering study performed by FEMA to identify flood-prone areas, insurance risk zones, and other flood data and contained in a document titled, Flood Insurance Study, Washtenaw County (All Jurisdictions) Community Number 260216, dated April 3, 2012.**

ARTICLE XV. FLOOD DAMAGE PREVENTION*

***Cross reference(s)--Businesses, ch. 22; vehicles for hire, ch. 114.**

Sec. 122-911. Flood hazard findings.

The flood hazard areas of the city are subject to periodic inundation which may result in safety hazards, loss of life, property and health, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and welfare. The flood losses are caused by the cumulative effects of obstructions in floodplains causing increased flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed or otherwise protected from flood damages.

Sec. 122-912. Purpose.

It is the purpose of this article to protect the general public and all land within the city subject to flood losses by provisions designed to do the following:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property in times of flood or which cause excessive increases in flood flow heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 122-913. Scope.

This article shall apply to all flood hazard areas. The boundaries of the flood hazard areas shall coincide with the boundaries of the areas indicated as within the limits of the 100 year flood in the report entitled *Flood Insurance Study, Washtenaw County (All Jurisdictions) Community Number 260216*, dated April 3, 2012., with accompanying Flood Insurance Rate maps and Flood Boundary and Floodway maps. Within the flood hazard area zone, a regulatory floodway shall be designated. The boundaries of the regulatory floodway shall coincide with the floodway boundaries indicated on the flood boundary and floodway maps. The study and accompanying maps are adopted by reference, appended, and declared to be a part of this chapter. The term flood hazard area, as used in this chapter, shall mean flood hazard area zone and the term floodway, shall mean the designated regulatory floodway.

- (1) **AGENCY DESIGNATED.** Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the City of Ypsilanti is hereby designated as the enforcing agency to discharge the responsibility of the City of Ypsilanti under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Ypsilanti assumes responsibility for the administration and enforcement of said Act throughout the corporate limits of the community adopting this ordinance.
- (2) **CODE APPENDIX ENFORCED.** Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Ypsilanti.
- (3) **DESIGNATION OF REGULATED FLOOD PRONE HAZARD AREAS.** The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled Washtenaw County, Michigan (All Jurisdictions) and dated April 3, 2012 and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of 26161C; 00269E, 0288E, 0407E, and 0426E dated April 3, 2012 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

Sec. 122-914. Regulation of uses in floodplain areas.

Any proposed occupation, structure, excavation, fill, extraction, grading or scraping and any substantial improvement to an occupation, structure or area shall be reviewed and approved by the planning commission. "Substantial improvement" means any repair, reconstruction or

improvement of an occupation, structure or area, the cost of which equals or exceeds 50 percent of the market value of the structure either, (i) before the improvement or repair is started or (ii) if the occupation, structure or area has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural member commences, whether or not that alteration affects the external dimensions of the structure or area. The term does not, however, include either (i) any project for improvement of a structure to comply with state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (ii) any alteration of a structure listed on the National Register of Historic Places or state register of historic places.

(1) *Permitted uses.* The following uses may be permitted in those portions of the floodplain which are not a floodway, to the extent that they are allowed uses within a given zoning district and subject to the construction standards of building code in effect for the city at the time of construction:

- a. Residential and nonresidential structures provided that the building official certifies to the planning commission that the proposed provisions for flood resistant construction, floodproofing or elevation meet or exceed the standards set forth in the city's building code.
- b. Recreational uses such as parks, swimming areas, picnic grounds, ball fields, hiking or biking trails, and wildlife and nature preserves.
- c. Residential support uses such as lawns, gardens, play areas, and parking areas which do not result in the filling in of floodplain areas.
- d. Industrial and commercial support uses which are open in nature such as loading areas or parking areas which do not result in the filling in of any floodplain areas.
- e. Utility facilities such as power plants, transmission lines, pipelines not crossing a lake or waterway, lighting facilities, and navigational and drainage aids.
- f. Piers, boat ramps, bridges, and other such water related uses subject to approval by the water resources commission of the state department of natural resources.
- g. Fencing of any type, provided that such fencing shall not be located in that portion of the floodplain that is a floodway or other areas essential to the conveyance of floodwaters.
- h. Sidewalks, driveways, patios, and similar structures when constructed at grade.
- i. Fill or removal of topsoil, sand, and gravel or other extraction operations, in that portion of a floodplain which is not a floodway provided the following conditions are met:
 1. Proof that proper long term maintenance will be provided so that the flood-carrying capacity is not diminished.
 2. Any fill or excavated area shall be protected from erosion during and after operations by rip-rap, vegetative cover, bulk-heading, or other approved means.
 3. The proposed filling in of land, provided that material equal to 110 percent of the fill volume is removed elsewhere from such premises and adjusted to be capable of storing floodwaters. Structures and parking areas may be permitted on such filled land provided the elevation of the filled land is at least one foot above the base flood elevation. A permit issued by the state department of natural resources under the state's floodplain regulatory authority, Act No. 451

of the Public Acts of Michigan of 1994 (MCL 324.3101 et seq., MSA 13A.3101 et seq.), shall be obtained prior to the filling of land in the floodplain. A copy of the state department of natural resources permit shall be provided to the city building inspection division prior to the issuance of a building permit.

- j. Streets, railroads, and other rights-of-way.
 - k. Pavilions, open amphitheaters, detached garages, raised patios and decks, and other accessory structures provided they are properly anchored and made flood resistant and are not located in a floodway or other area essential to the conveyance of floodwaters.
 - l. Facilities for the storage and detention/retention of storm water.
 - m. Storage yards for heavy equipment, materials, or machinery.
- (2) ***Prohibited uses.*** The following uses are not allowed in a floodplain area under any circumstances:
- a. New residential construction or occupation, including mobile homes, manufactured homes or pre-manufactured homes, are specifically prohibited in that portion of the floodplain that is a floodway. Other types of construction and occupation may be allowed in that portion of the floodplain that is a floodway; however, a hydraulic analysis shall be required which demonstrates that occupation and resulting obstruction of the floodway will not restrict the flood carrying capacity of the watercourse.
 - b. A landfill, dump, junkyard, recycling center or hazardous waste storage or treatment facility are expressly prohibited in a floodplain area.
 - c. The storage or processing of materials which in time of flooding become buoyant, flammable, explosive or otherwise injurious to public health, is expressly prohibited within a floodplain area.
 - d. On-site sewage disposal systems shall be permitted within a floodplain area.
 - e. Any encroachment which would cause any increase in the base flood level.

Sec. 122-915. Review procedures.

- (a) ***Site plan review.*** All development, construction, occupation or substantial improvement proposals located within a floodplain area shall be reviewed by the planning commission in accordance with the site plan review procedures of article IV of this chapter, and the "Rules of the Washtenaw County Water Resources Commissioner." The planning commission, when reviewing an application for occupation, construction or substantial improvement in a floodplain, shall consider the following standards before rendering a decision:
- (1) Any possible danger to life and property as a result of increased flood heights or velocities caused by encroachments on the floodplain.
 - (2) The danger that materials may be swept to other lands or downstream to the injury or property loss of others.
 - (3) The susceptibility of the proposed development and its contents to flood damage.
 - (4) The importance of the services provided by the development to the community.
 - (5) The requirement of the proposed development for a waterfront location and the availability of alternate locations not subject to flooding.

- (6) The compatibility of the proposed use with existing and anticipated development of the surrounding area and the floodplain management program of the area.
 - (7) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (8) The measures taken to assure adequate drainage so as to reduce exposure to flood hazards.
 - (9) The planning commission may attach certain conditions to an approval such as limitations on period of use and operation; imposition of operational controls, deed restrictions, performance bonds, and covenants; or requirements for construction of dikes, levees, and other protection measures.
- (b) ***Building official's responsibility.*** Prior to site plans being submitted to the planning commission the building official shall:
- (1) Certify that the proposed construction, occupation or substantial improvement complies with the city building code adopted in chapter 18.
 - (2) Where permits are required by other state or federal agencies, a copy of the approved permit shall be provided, by the applicant, prior to review by the planning commission.
 - (3) Cause to be verified and recorded on the site plan and building plans, the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - (4) Cause to be verified and recorded on the site plan and building plan, the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have or will be floodproofed.
 - (5) Require that all site plans and building plans for occupation, construction or substantial improvement within the floodplain have been prepared under the supervision of a registered professional engineer or architect. All site plans and building plans shall be signed by the registered professional engineer or architect.
 - (6) Certify that notification has been made to adjacent communities and the state flood control coordinator of a proposed development, construction, occupation, substantial improvement alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and the planning commission.
 - (7) Be available at the meeting of the planning commission when such plans are reviewed to answer any questions relative to the floodplain or construction standards.

Sec. 122-916. Building permit requirements.

No occupation, building or structure within a floodplain area shall be erected, moved, repaired, altered, or razed until a building permit shall have been obtained from the building official in accordance with the customary building permit requirements under chapter 18. For structures located within a floodplain, the following additional information shall be included with the building permit, and shall become a condition of the permit. All plans, specifications and conditions approved by the planning commission. The plans shall include all of the information required by section 122-912.

Sec. 122-917. Appeals, variances.

The zoning board of appeals shall hear and decide appeals and requests for variances from the requirements of this article, in accordance with the procedures and conditions set forth in this article. Prior to hearing of the appeal, the city planner shall certify to the zoning board of appeals that notices as required under this article have been made. Further, the city planner shall certify to the zoning board of appeals that the immediate downstream community's chief elected official and the state flood control coordinator have been notified of the request for appeals or variance and of the public hearing. Appeals or variances relating to the construction standards as set forth in the building code, shall be heard by the construction board of appeals as outlined in chapter 18. In addition, the following conditions shall be applied to variances granted from the floodplain regulations of this article:

- (1) Variances shall be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, public nuisances, or cause fraud on or victimization of the public.
- (2) Any applicant to whom a variance is granted shall be given a written notice specifying the difference between the base flood elevation and the elevation at which a structure is being built, and a statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (3) All such variances to this article shall be maintained in a record and reported to the Federal Insurance Administration and the state flood control coordinator upon request.

Sec. 122-918. Disclaimer of liability.

The degree of flood protection required by this article is considered the minimum necessary and reasonable for regulatory purposes. Larger floods may occur at any time, and excessive floodwater heights may be experienced due to manmade and natural causes. This article does not imply that areas outside the special flood hazard areas, or uses permitted within such areas, shall remain free from flooding or flood damages. This article shall not create a liability on the part of the city or any officer or employee thereof for any flood damage that results from compliance with or reliance upon this article or any administrative decision lawfully made thereunder.

OFFERED BY: Council Member Vogt

SUPPORTED BY: Council Member Jefferson

- B. Open Public Hearing.

Mayor Schreiber read the rules for audience participation.

There was no audience participation.

- C. Resolution No. 2012-082, close public hearing.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing to consider the proposed Ordinance entitled "FLOOD DAMAGE PREVENTION ORDINANCE UPDATE" be officially closed.

On a voice vote the motion for Resolution 2012-082 was unanimous.

On a roll call vote, the motion to approve Resolution 2012-081 was as follows:

Mayor Pro-Tem Richardson	Yes	Council Member Bodary	Yes
Council Member Robb	Yes	Council Member Jefferson	Yes
Council Member Vogt	Yes	Council Member Murdock	Yes
Mayor Schreiber	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Motion: Carried

IX. AUDIENCE PARTICIPATION-

Mayor Schreiber read the rules for audience participation.

Segrid Melvin, Town Center Place, commented about the corner of Hamilton and Michigan Ave. and the corner curb being fixed.

Doug McClure, 10340 Scio Church Road, commented he is running for Circuit Court Judge in Washtenaw County.

Leonardo Christian, 7 South Normal, commented that he did not support the decision of city council to delay the dance and entertainment permit for Crossroads Bar and Grill.

Reverend Steven Riley of Christ Temple commented that he is in support of Ypsilanti Housing Director of Administrative Services Eric Temple. He said that Mr. Temple serves as one of his Associate Ministers.

Moved by Mayor Pro-Tem Richardson, supported by Council Member Bodary to extend Reverend Riley's speaking for an additional two minutes.

Reverend Steven Riley commented that he uses to be ashamed of the South Side of Ypsilanti but with the work that the Ypsilanti Housing Commission has done with Hamilton Crossing has made him feel very prideful of the city of Ypsilanti.

Pastor Walls, Greater Shiloh Church, commented that he has pastured Mr. Eric Temple of the Ypsilanti Housing Commission and is in full support of him and what he does for the city of Ypsilanti.

Melvin T. Walls commented that he supports Mr. Norris and Mr. Temple of the Ypsilanti Housing Commission.

Kenneth Gate Walls III, commented he supports everything everyone else said supporting Eric Temple and Walter Norris of the Ypsilanti Housing Commission.

X. REMARKS BY THE MAYOR –

Mayor Schreiber commented that the delay of the dance and entertainment was city council's pleasure and he did ask Crossroads Bar and Grill manager if the two week delay would be an issue.

Mayor Schreiber commented that he appreciates everyone who came out to tonight's meeting.

Council Member Murdock commented that the ramps on Hamilton and Michigan Ave. should be looked into now.

Attorney Barr commented that Mr. Kirton has been working with the Michigan Department of Transportation, the Key Bank, and the City to remedy the handicap access issue on the corner of Michigan Ave. and Hamilton streets

XI. MINUTES –

Resolution No. 2012-083, approving the minutes of April 17, 2012.

On a voice vote, the motion to approve Resolution 2012-083 was unanimous

Resolution No. 2012-083A, approving the amended minutes of March 20, 2012.

On a voice vote, the motion to approve Resolution 2012-083A amending the minutes of March 20, 2012 was unanimous.

XII. CONSENT AGENDA-

XIII. RESOLUTIONS/MOTIONS/DISCUSSIONS –

1. Resolution No. 2012-084, to Manage Floodplain Development for the National Insurance Program.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

RESOLUTION TO MANAGE FLOODPLAIN DEVELOPMENT

FOR THE NATIONAL FLOOD INSURANCE PROGRAM

WHEREAS, the City of Ypsilanti in Washtenaw County desires to continue participation in the Federal Emergency Management Agency's (FEMAs) National Flood Insurance Program (NFIP) by complying with the program's applicable statutory and regulatory requirements for the purposes of significantly reducing flood hazards to persons, reducing property damage, and reducing public expenditures, and providing for the availability of flood insurance and federal funds or loans within its community, and

WHEREAS, the NFIP requires that floodplain management regulations must be present and enforced in participating communities, and utilize the following definitions which also apply for the purposes of this resolution:

1. Flood or Flooding means:

- a. **A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, 2) the unusual and rapid accumulation or runoff of surface waters from any source, 3) mudflows, and**
- b. **The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by**

some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.

2. **Flood Hazard Boundary Map (FHBM)** means an official map of a community, as may have been issued by the FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.
3. **Floodplain** means any land area susceptible to being inundated by water from any source (see definition of flooding).
4. **Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
5. **Floodplain management regulations** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.
6. **Structure** means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

WHEREAS, the Stille-Derossett-Hale Single State Construction Code Act”, Act No. 230 of the Public Acts of 1972, as amended (construction code act), along with its authorization of the state construction code composed of the Michigan Residential Code and the Michigan Building Code [and its Appendices (specifically Appendix G)] contains floodplain development and management regulations that comply with the FEMA NFIP minimum floodplain management criteria for flood prone areas, as detailed in Title 44 of the Code of Federal Regulations (44 CFR), Section 60.3, and

WHEREAS, by the action dates of this document or an existing historical ordinance adoption action dated May 1, 2012 the community affirms/accepted the responsibility to administer, apply, and enforce the provisions of the construction code act and the state construction code, specifically the Michigan Residential Code and the Michigan Building Code, to all construction within its community boundaries, and

NOW THEREFORE, to maintain eligibility and continued participation in the NFIP,

1. The community directs its construction code act designated enforcing agency, the Building Official of the City of Ypsilanti, to administer, apply, and enforce the floodplain management regulations as contained in the state construction code (including Appendix G) and to be consistent with those regulations by:
 - a. Obtaining, reviewing, and reasonably utilizing flood elevation data available from federal, state, or other sources pending receipt of data from the FEMA to identify the flood hazard area and areas with potential flooding.
 - b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resources Protection," of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 - c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area or special flood hazard

area, the construction code act enforcing agent shall implement the following applicable codes according to their terms:

1. Floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code.
2. Floodplain management regulation portions and referenced codes and standards of the current Michigan Building Code.
3. Appendix G of the current Michigan Building Code.
- d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.
- e. Assisting in the delineation of flood hazard areas; providing information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintaining floodproofing and lowest floor construction records, cooperating with other officials, agencies, and persons for floodplain management.
- f. Advising FEMA of any changes in community boundaries, including appropriate maps.
- g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing, and elevations to which structures have been floodproofed.
2. The community assures the Federal Insurance Administrator (Administrator) that it intends to review, on an ongoing basis, all amended and revised FHBMs and Flood Insurance Rate Maps (FIRMs) and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to continue to participate in the program.
3. The community further assures the Administrator that it will adopt the current effective FEMA Flood Insurance Study (FIS), FHBMs, and/or the FIRMs by reference within its Floodplain Management Map Adoption Ordinance or similarly binding ordinance documentation.

OFFERED BY: Council Member Bodary

SUPPORTED BY: Council Member Jefferson

On a roll call vote, the motion to approve Resolution 2012-084 was as follows:

Mayor Schreiber	Yes	Mayor Pro-Tem Richardson	Yes
Council Member Bodary	Yes	Council Member Robb	Yes
Council Member Jefferson	Yes	Council Member Vogt	Yes
Council Member Murdock	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Motion: Carried

2. Resolution No. 2012-085, approving the Groundwater Ordinance and indemnification.
(Ordinance NO. 1171) (Second Reading)

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI THAT:

the attached indemnity agreement from Equilon Enterprises, LLC, dba Shell Oil Products, US, is approved and the Mayor and City Clerk are authorized to sign for and on behalf of the city.

BE IT FURTHER RESOLVED THAT:

ordinance number 1171 "The Ground Water Ordinance" be approved on second reading.

**CITY OF YPSILANTI, MICHIGAN
ORDINANCE NUMBER 1171**

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE, AND TO PROVIDE FOR THE REGULATION AND RESTRICTION OF GROUNDWATER WELLS IN CERTAIN AREAS OF THE CITY OF YPSILANTI DUE TO THE PRESENCE OF GROUNDWATER CONTAMINATION.

THE CITY OF YPSILANTI ORDAINS:

SECTION 1. DEFINITIONS. For the purposes of this Ordinance, the words and phrases listed below shall have the following meanings:

"Well" means an opening in the surface of the earth for the purpose of removing water through non-mechanical or mechanical means for any purpose.

"Restricted zone" shall mean an area legally described and incorporated within this ordinance.

SECTION 2. WATER WELL RESTRICTED ZONE.

A. The following described area is the restricted zone as defined under this Ordinance. A scaled map illustrating the restricted zone is attached as Exhibit A. See Exhibit B for legal description.

B. Except as provided in Section 5 of this ordinance, and after the effective date of hereof, no person or legal entity shall install or allow or permit or provide for the installation or utilization of a well on any property on which they have an ownership interest, or lessee or tenant interest, or control within the restricted zone. Property within the restricted zone shall be serviced only by public water supply.

SECTION 3. WELLS AFFECTING CONTAMINATED GROUNDWATER. No well may be used or installed at any place in the City if the use of the well will have the effect of causing the migration of contaminated groundwater or a contaminated groundwater plume to

previously un-impacted groundwater, or adversely impacting any groundwater treatment system, unless the well is part of an MDEQ or United States Environmental Protection Agency approved groundwater monitoring or remediation system.

SECTION 4. NON-CONFORMING WELLS. Any existing well, the use of which is prohibited by this ordinance shall be plugged or abandoned in conformance with all applicable laws, rules, regulations, permit and license requirements, orders and directives of any governmental entity or agency of competent jurisdiction, or, in the absence of an applicable law, rule, regulation, requirement, order, directive, in conformance with the protocol developed consistent with the American Standards for Testing and Materials standard #D5299-92.

2

SECTION 5. EXCEPTIONS.

A. Water service unavailable. If City water service is unavailable to a premises in the restricted zone, any well on that premises shall annually be tested by the City by a laboratory that is acceptable to and for chemical parameters specified by the Michigan Department of Environmental Quality Water Division (MDEQ). The results of that test shall be submitted to the MDEQ, or the Washtenaw County Health Department for review. If the MDEQ or the County Health Department determines that the well is safe and suitable for use, and proof of that determination is delivered annually to the City, that well may be used No split or conveyance of property shall be effective to render City water services unavailable.

B. Construction of de-watering wells. Wells in the restricted zone used for construction de-watering are not prohibited by this ordinance, provided that the water generated by that activity is properly handled and disposed in compliance with all applicable laws and regulations. Any exacerbation caused by the use of wells under this exception shall be the responsibility of the person operating the de-watering well, as provided in Part 201 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

C. Groundwater monitoring and remediation wells. Wells used for groundwater monitoring and/or remediation as part of a response activity approved by the Michigan Department of Environmental Quality are not prohibited by this ordinance.

SECTION 6. PENALTY. Any person or legal entity who shall violate any provision of this ordinance shall be deemed guilty of a misdemeanor offense punishable by imprisonment for not more than 90 days or by fine of not more than \$500.00 or both such fine and imprisonment in the discretion of the Court.

In addition, the City may seek an order from a court of appropriate jurisdiction to restrain any person from violating this ordinance, including the collection of costs and attorney fees associated with such enforcement action. Any well in violation of this ordinance shall also be declared and deemed a nuisance, subject to abatement, and shall be immediately taken out of service and lawfully abandoned consistent with all applicable state and local regulations. Any person found to be in violation is subject to being ordered by a court of appropriate jurisdiction to properly and lawfully remove or abandon the well.

SECTION 7. NOTIFICATION OF INTENT TO AMEND OR REPEAL. At least thirty (30) days prior to any amendment or repeal in whole or in part of this ordinance, the City of Ypsilanti shall notify the Michigan Department of Environmental Quality, or its successor

agency, of its intent to so act.

SECTION 8. SEPARABILITY. If any article, section, subsection, sentence, clause, phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the Ordinance, it being the intent of the City of Ypsilanti that this Ordinance shall be fully severable.

The City of Ypsilanti shall promptly notify the Michigan Department of Environmental Quality upon the occurrence of any event described in this section.

SECTION 9. CONFLICT WITH OTHER ORDINANCES. All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 10. OTHER ORDINANCES NOT AFFECTED. The balance of the Code of ordinances, City of Ypsilanti, Michigan, except as herein or previously amended, shall remain in full force and effect. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessment, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

SECTION 11. PUBLICATION OF ORDINANCE. The City Clerk shall cause this ordinance, or a summary of this ordinance, to be published by printing same in the newspaper of record. Copies of this ordinance are available at the office of the city clerk for inspection by, and distribution to, the public during normal office hours.

OFFERED BY: Council Member Murdock
SUPPORTED BY: Mayor Pro-Tem Richardson

On a roll call vote, the motion to approve Resolution 2012-085 was as follows:

Council Member Bodary	Yes	Council Member Robb	Yes
Council Member Jefferson	Yes	Council Member Vogt	Yes
Council Member Murdock	Yes	Mayor Schreiber	Yes
Mayor Pro-Tem Richardson	Yes		

VOTE:

Yes: 7 No: 0 Absent: 0 Motion: Carried

3. Resolution No. 2012-086, approving appointments to Boards and Commissions

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT, the following individuals be appointed to the Boards and Commissions as indicated below:

<u>NAME</u>	<u>BOARD</u>	<u>TERM TO EXPIRE</u>
Cheryl Zuelling	Planning Commission	05/01/2015

**702 Collegewood
Ypsilanti, MI. 48197**

(re-appointment)

**Brett Lenart
98 Oak
Ypsilanti, MI 48197**

**Economic Development Corporation
(replacing David Davis)**

05/01/2017

OFFERED BY: Council Member Bodary
SUPPORTED BY: Council Member Jefferson

Mayor Schreiber commented he is pleased with both appointments.

On a roll call vote, the motion to approve Resolution 2012-086 was as follows:

Council Member Jefferson	Yes	Council Member Vogt	Yes
Council Member Murdock	Yes	Mayor Schreiber	Yes
Mayor Pro-Tem Richardson	Yes	Council Member Bodary	Yes
Council Member Robb	No		

VOTE:

Yes: 7 No: 1 (Robb) Absent: 0 Motion: Carried

4. Resolution No. 2012-087, approving items from the Ypsilanti Housing Commission.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, both the check registry and the results from the completed Board of Commissioners (BOC) requested investigation by the YHC attorney into the Eric Temple matter were not included in the Council requested information we received from the YHC on April 2; and

WHEREAS, City Council requests the same investigation report that the YHC attorney presents to its BOC also be released by the BOC to Council; and

WHEREAS, City Council also request the minutes of the BOC meeting which the Board passed the resolution requesting the investigation, including the requested investigation resolution to be released by the BOC to Council; and

WHEREAS, City Council also requests employee records that verify Eric Temple in fact earned the vacation pay he received during April 2009 thru June 2009; and

WHEREAS, City Council also requests a written report signed by each Commissioner which includes all findings and actions, and their opinion of the completed investigation report to be released by the BOC to Council; and

WHEREAS, City Council further requests that the actual payroll check registry of 2009, not photo copies of its pages, be released by the BOC to Council; and

WHEREAS, City Council further requests that the BOC reiterate to the Executive Director each item requested by Council and that the BOC review and sign each document received from the E.D. to make sure that Council's requests are properly met.

NOW, THEREFORE, BE IT RESOLVED THAT according to law all public employees wages and employment records are public information and that this City Council has the duty to represent its constituents by requesting these documents to help ensure good government the YHC and its BOC shall produce the requested information or provide, in hard copy, legal documentation that expresses, in legal terms, all reasons that discourage release of such information.

BE IT FURTHER RESOLVED THAT all documents requested must be released to Council no later than Friday, May 11, 2012.

OFFERED BY: Council Member Jefferson

SUPPORTED BY: Mayor Pro-Tem Richardson

Mayor Schreiber asked was there any discussion behind this resolution.

Council Member Jefferson commented that would like to offer an amendment to the Resolution 2012-087,

Moved by Council Member Jefferson, supported by Mayor Pro-Tem Richardson to amend Resolution 2012-087.

On a roll call vote, the motion to amend Resolution 2012-087 was as follows:

Council Member Robb	Yes	Council Member Murdock	Yes
Council Member Vogt	Yes	Mayor Pro-Tem Richardson	Yes
Mayor Schreiber	No	Council Member Jefferson	Yes
Council Member Bodary	Yes		

Vote:

Yes: 6 No: 1 (Schreiber) Absent: 0 Motion: Carried

Mayor Schreiber asked for any discussion on the amendment to Resolution 2012-087

Council Member Jefferson commented wanted to clarify what we did and did not get from YHC received vacation pay should be earned over a period of time.

Mayor Schreiber did speak with the YHC legal counsel and city council did receive a final version of the YHC report.

Council member Bodary asked what are the documents that council has on the table before them tonight.

Mayor Schreiber asked council would they like to hear from Mr. Norris

On a voice vote, the City Council agreed to hear from Mr. Norris.

Mr. Norris commented that the documents council received late in the afternoon are previously submitted documents.

Mr. Norris commented he is waiting on the payroll company to submit some paycheck stubs that will account for the additional items that Council Member Jefferson is asking for.

On a roll call vote, the motion to approve Resolution 2012-087 as amended was as follows:

Council Member Vogt	Yes	Council Member Murdock	Yes
Mayor Schreiber	No	Mayor Pro-Tem Richardson	Yes
Council Member Bodary	Yes	Council Member Robb	Yes
Council Member Jefferson	Yes		

VOTE:

Yes: 6 No: 1 (Schreiber) Absent: 0 Motion: Carried

XIV. LIASON REPORTS -

- A. SEMCOG Update -
- B. Washtenaw Area Transportation Study- Council Member Murdock commented an amendment to the transportation tip program and has added \$100,000.00 for W. Cross.
- C. Washtenaw Metro Alliance – Council Member Robb nothing to report
- D. Urban Counties- Mayor Schreiber commented about a public hearing and proposed project on Burton Rd
- E. Freight House- Council Member Murdock

XV. COUNCIL PROPOSED BUSINESS –

Mayor Pro-Tem Richardson commented about the Nation Day of Prayer to be held on May 3, 2012 from 11-1pm.

Council Member Murdock commented that he and Council Member Jefferson attended a workshop on road maintenance.

Council Member Murdock commented about residency programs for City of Ypsilanti employees. He said that EMU has some housing programs that they are looking into for their employees and the city should look at different housing programs for its employees.

Council Member Murdock commented the state legislators have banned domestic partnerships.

Council Member Bodary asked Interim City Manager McMullan for a report from CBRE on the Water Street property.

Council Member Jefferson commented he attended a workshop with Council Member Murdock about roads.

Council Member Jefferson commented that the Harriet Street has gotten worse and needs immediate attention.

XVI. COMMUNICATIONS FROM THE MAYOR –

Mayor Schreiber nominated Lisa Wozinack for the Huron River Watershed who is replacing Tom Roach.

Mayor Schreiber commented that May 10th would be a target date to execute a contract with the City Manager of City Council's choice.

Mayor Schreiber thanked City Manager candidate Brian Vick for attending the meeting.

XVII. COMMUNICATIONS FROM THE CITY MANAGER –

XVIII. AUDIENCE PARTICIPATION –

City Manager Candidate, Brian Vick commented he likes to visit the communities where he is being considered and thanked city council for their consideration.

XIX. REMARKS FROM THE MAYOR –

XX. REPORTS SUBMITTED-

XXI. ADJOURNMENT –

Resolution No. 2012-088A, adjourning the City Council meeting.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the City Council Meeting be adjourned, on call, by the Mayor or two (2) members of Council.

OFFERED BY: Council Member Murdock

SUPPORTED BY: Council Member Jefferson

On a voice vote, the motion to approve Resolution 2012-088A to adjourn the City Council Meeting was unanimous.

The meeting was adjourned at 9:26 p.m.