

1. City Council Regular Meeting Agenda

Documents: [2-19-13 FINAL AGENDA.PDF](#)

2. City Council Regular Meeting Packet

Documents: [02-19-13 PACKET.PDF](#)



**CITY OF YPSILANTI
COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, FEBRUARY 19, 2013
6:00 P.M.**

I. CALL TO ORDER -

II. ROLL CALL -

Council Member Jefferson	P A	Council Member Robb	P A
Council Member Moeller	P A	Council Member Vogt	P A
Council Member Murdock	P A	Mayor Schreiber	P A
Mayor Pro-Tem Richardson	P A		

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. AGENDA APPROVAL -

VI. WORK SESSION – Water Street (6:00 to 7:00 p.m.)

1. Marketing Update from CBRE
2. Update on Family Dollar
3. Update on East Side Recreation Center

VII. INTRODUCTIONS -

VIII. PRESENTATIONS -

1. Planning Commission & Historic District Commission Annual Report

IX. ORDINANCES – FIRST READING -

Ordinance No. 1185

1. Ainsworth Rezoning
 - A. Resolution No. 2013-022, determination (***postponed 2/5/13***)

Ordinance No. 1183A

2. Zoning Text Amendment: Food production, processing and sales
 - A. Resolution No. 2012-259, determination (***postponed 12/4/12***)
 - B. Open Public Hearing
 - C. Resolution No. 2013-033, close public hearing

3. Fireworks Ordinance
 - A. Resolution No. 2013-034, determination
 - B. Open Public Hearing
 - C. Resolution No. 2013-035, close public hearing

X. AUDIENCE PARTICIPATION -

XI. REMARKS BY THE MAYOR -

XII. MINUTES -

Resolution No. 2013-036, approving the minutes of January 29 and February 5, 2013.

XIII. RESOLUTIONS/MOTIONS/DISCUSSIONS -

1. Resolution No. 2013-037, reaffirming partnership for East Side Recreation Center.

XIV. LIASON REPORTS -

- A. SEMCOG Update
- B. Washtenaw Area Transportation Study
- C. Washtenaw Metro Alliance
- D. Urban County
- E. Freight House

XV. COUNCIL PROPOSED BUSINESS –

XVI. COMMUNICATIONS FROM THE MAYOR –

Nominations:

Human Relations Commission

Claudia Pettit (reappointment)
945 Sheridan St.
Ypsilanti, Michigan 48197
Expires: 2/6/2016

Huron River Watershed Council

Steve Wilcoxon (new appointment)
945 Sheridan St.
Ypsilanti, Michigan 48197
Expires: 12/2/2014

Discussion:

Mayors Against Illegal Guns

- MAIG Coalition letter in support of assault weapons ban
- MAIG Coalition letter in support of gun trafficking bills
- <http://www.demandaplan.org/>

Creating American Prosperity through Preservation (CAPP) Act

- CAPP bill facts for expanding federal historic preservation tax credits

XVII. COMMUNICATIONS FROM THE CITY MANAGER –

XVIII. AUDIENCE PARTICIPATION -

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XX. ADJOURNMENT –

A. Resolution No. 2013-039, adjourning the City Council meeting.



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City of Ypsilanti

Planning and Development Department

Memo

To: City Council
From: Teresa Gillotti, Planner II
Date: February 14, 2013

Subject: Water Street work session, Feb 19, 2013

The upcoming work session on the Water Street Redevelopment Area will be focused on three fairly immediate topics:

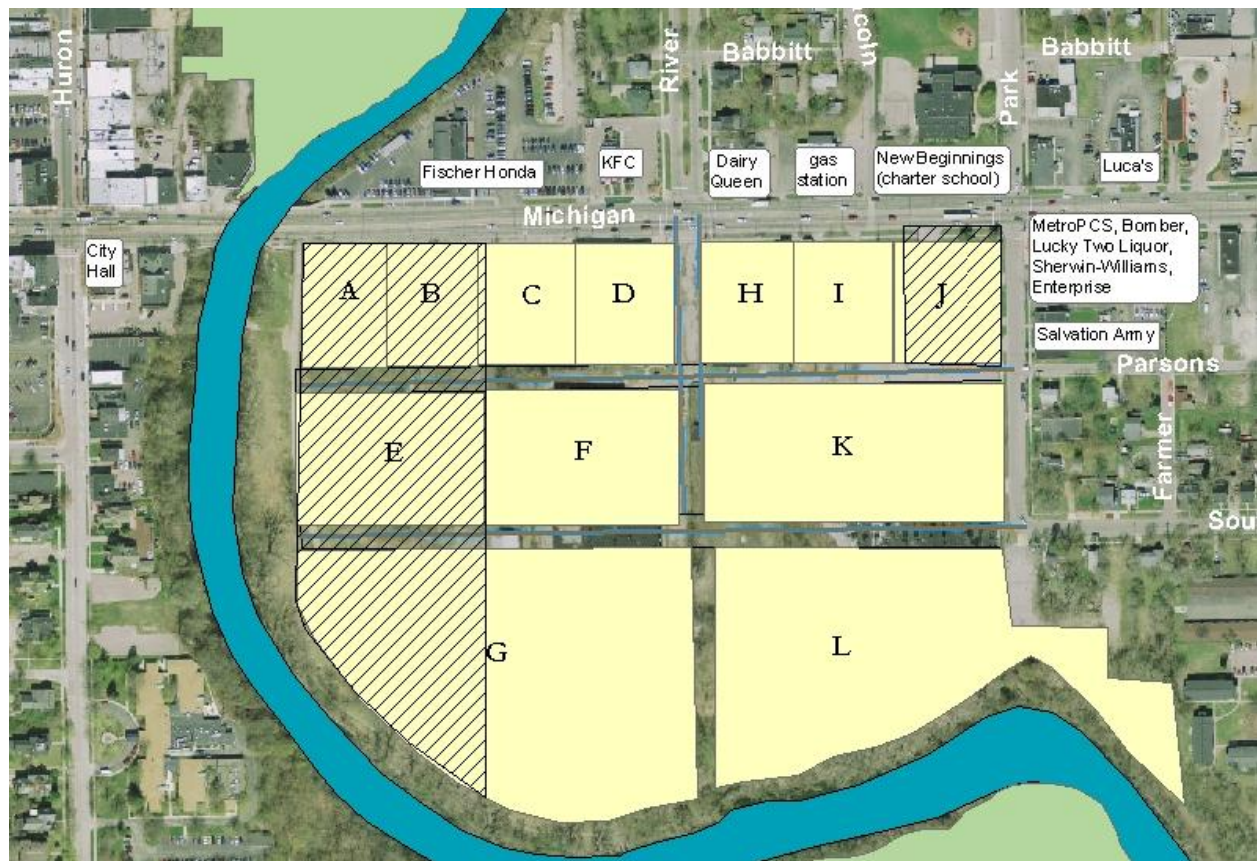
- 1- Marketing update from CBRE and related strategy
- 2- Family Dollar update
- 3- East Side Recreation Center update (with resolution)

Marketing Update:

Arthur Itkis, an associate from CBRE and primary contact for the City on the Water Street Redevelopment Area, will be presenting an update on their marketing efforts (see attached summary). I've also attached two recent reports, one for the last quarter of 2012 (multifamily and retail) in SE Michigan. In the multi-family report, Ypsilanti is showing a high occupancy rate for the 4th quarter of 2012. Note that Ypsilanti, as referenced in this report, includes a broader area than just the City limits. Mr. Itkis will attend the meeting and will present on development trends in the area and how the market is responding post-recession.

As a reminder, the page on the City's website featuring information is at www.cityofypsilani.com/waterstreet. The listing can be viewed [here](#). It is listed on loopnet and CPIX among other sites.

As a reminder, currently the City has Letters of Intent for approximately 9 acres of land. The remaining area is shown below:



Family Dollar update

Staff has been working with Family dollar on some design changes to the building including windows along the Michigan Avenue frontage, addition of street trees along Michigan Ave and Parks street, possible relocation of dumpster enclosure, and consideration of the use of swales for stormwater management. Revised concept plans are attached.

Staff has also been in conversation regarding potential to construct the building in order to support a second story addition, and the pros and cons around that. As well, staff has received a sample of the masonry product that will be available for view. This product was proposed for use in construction (see attached photos of it at a site in Ohio), as well as the potential for clay brick. Staff will review the options with council on Tuesday for your feedback.

At this point, staff is moving forward to meet the letter of intent timeline to bring revised concept plans and purchase agreement to council on March 5, 2013 for a public hearing and decision. Any further thoughts, comments or direction for staff should be provided to Teresa Gillotti at tgillotti@cityofpsilanti.com or 483-9646 by the work session or sooner if possible.

East Side Recreation Center

Staff continues to meet with the Washtenaw County Parks and Recreation Commission staff on this effort. As the next steps for the project will require direct expense on the part of the WCPRC to pay for formal design and estimates, the WCPRC is asking its partners to reaffirm their commitment to the project and to the previously adopted Letter of Intent. As part of the ongoing partnership commitment, the Ann Arbor YMCA has formed a committee and has requested development of a marketing study, as is their formal process for expansion.

Bob Tetens, Director of WCPRC will be in attendance and can provide additional information on next steps.



Marketing - Water Street Development
City of Ypsilanti
City Council Meeting
2/19/2013

Category	Recipients	Last Three Marketing Campaign Dates
Bank Branch / Financial Servies	50	May 31, 2012 / August 8, 2012 / January 29, 2013
Brokerage Community	312	May 31, 2012 / August 8, 2012 / January 29, 2013
Day Care/Schools/Church	4	May 31, 2012 / August 8, 2012 / January 29, 2013
Fitness	5	May 31, 2012 / August 8, 2012 / January 29, 2013
Food	29	May 31, 2012 / August 8, 2012 / January 29, 2013
Grocery	14	May 31, 2012 / August 8, 2012 / January 29, 2013
Health & Beauty	1	May 31, 2012 / August 8, 2012 / January 29, 2013
Hotels	34	May 31, 2012 / August 8, 2012 / January 29, 2013
Home	17	May 31, 2012 / August 8, 2012 / January 29, 2013
Industrial / Office Developers	3	May 31, 2012 / August 8, 2012 / January 29, 2013
Medical	5	May 31, 2012 / August 8, 2012 / January 29, 2013
Residential Developers	6	May 31, 2012 / August 8, 2012 / January 29, 2013
Retail Developers	141	May 31, 2012 / August 8, 2012 / January 29, 2013
Senior Care	31	May 31, 2012 / August 8, 2012 / January 29, 2013
Storage	9	May 31, 2012 / August 8, 2012 / January 29, 2013
Student Housing Developers	9	May 31, 2012 / August 8, 2012 / January 29, 2013



Detroit Semi-Annual Apartment Survey & Report

Quick Stats

	Current	Change from last	
		Yr.	6 mos.
Occupancy	96.3%	↑	↑
Avg Rent Psf	\$.93	↑	↓
Sales Activity	\$237M	↑	↑
Construction	0%	↔	↔

* The arrows are trend indicators over the specified time period and do not represent a positive or negative value. (e.g., absorption could be negative, but still represent a positive trend over a specified period.)

Hot Topics

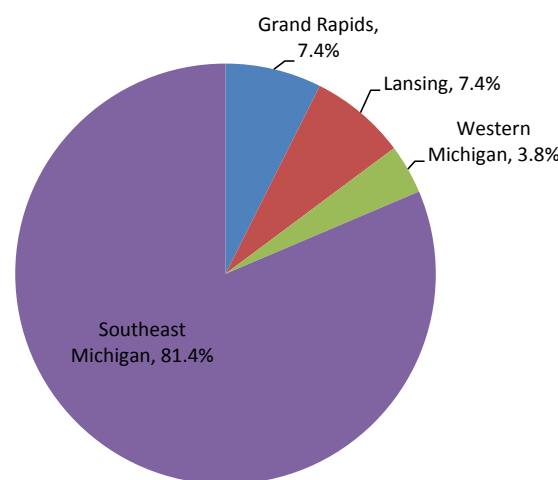
- Overall occupancy was 96%. A 1% increase for 2012.
- Other than Ann Arbor, the number of residential construction permits issued continues to be minimal for the southeast Michigan region.
- Average Cap Rates are in the 6.75%-8.0% range for stabilized assets.
- Average Cap Rates are in the 9.0% - 11.5% range for distressed assets.

The CBRE Detroit Multi-Housing Group is pleased to present the results of our Year-End 2012 Apartment Survey. This survey is a sample size of 402 properties or 85,742 units.

The majority of the apartments surveyed (81.4%), are located in southeastern Michigan, 7.4% are located in the Lansing/East Lansing submarket, 3.8% are located in Western Michigan, and 7.4% are located in the Grand Rapids submarket.

Survey Sample Statistics

Number of Properties	402
Total Units of Inventory	85,742
Avg No. of Units/Property	213
Average Occupancy Rate	96.3%
Smallest Property	40
Largest Property	1,500
Earliest Year Built	1928
Latest Year Built	2005
Average Year Built	1974



Source: CBRE, Inc.

Occupancy

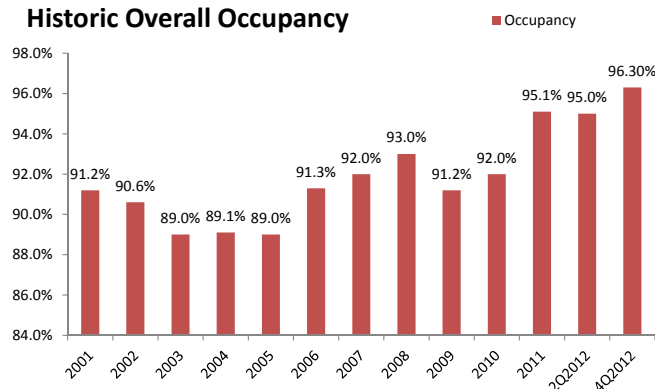
Occupancy rates saw a 1.3% increase from 95.1% at year end 2011 to 96.3% at year end 2012.

The average occupancy level for 2012 was slightly higher than the national average of 95%.

The highest occupied Metro Detroit submarket was Ann Arbor at 98.5%, up .1% from 2Q2012 and up .9% from year end 2011. The lowest occupied was the Detroit submarket at 91.31%, actually up 1.21% from 2Q2012 and .8% from year end 2011.

Most submarkets saw an occupancy increase from 2Q2012 with Dearborn having the largest increase from 91.9% to 94.3% (2.55%). Compared to year end 2011, the Woodward submarket had the largest increase from 88% to 94.3% (6.3%).

Historic Overall Occupancy



Source: CBRE, Inc.

Submarket	4Q12 Occupancy	2Q12 Occupancy	% Change
Ann Arbor	98.6%	98.5%	0.10%
Dearborn	94.3%	91.9%	2.55%
Detroit	91.3%	90.1%	1.31%
Downriver	96.2%	95.6%	0.62%
I-275 East	93.7%	92.9%	0.85%
I-275 West	96.2%	96.5%	-0.31%
I-94	94.3%	94.8%	-0.53%
M-53	97.3%	96.3%	1.03%
Oakland North	95.7%	95.0%	0.73%
Oakland South	97.4%	96.4%	1.03%
Oakland West	95.4%	95.2%	0.21%
Woodward	94.3%	95.2%	-0.95%
Ypsilanti	97.0%	96.6%	0.41%

*Submarket Map available on Page 8

Recent Market Sales

Date	Building Name	Address	City	# of Units	Sale Price	Price/ Unit	Year Built	Seller	Buyer
Jan-12	Windemere Park	2820 Windwood Dr.	Ann Arbor	480	\$44,200,000	\$92,083	1988	Northwestern Mutual	The Habitat Co.
Jan-12	Lake Village of Ann Arbor	101 Lake Village Dr.	Ann Arbor	360	\$41,475,000	\$115,208	1997/2002	Northwestern Mutual	The Habitat Co.
Jul-12	The Retreat	27517 Gateway Dr. East	Farmington Hills	424	\$20,000,000	\$47,170	1975	Joseph Mullen	Forum Real Estate
Mar-12	The Lincoln at Fairlane Town Center	100 Lincoln Lake	Dearborn	200	\$17,425,000	\$87,125	2002	Fairlane Town Center, LTD	TMF FTC, LLC
Nov-12	Traver Knoll Apartments	1984 Traver Road	Ann Arbor	216	\$12,600,000	\$58,333	1965/1972	First Holdings	McKinley
Nov-12	Silver Oaks of Southfield	23741 Pond Road	Southfield	210	\$12,250,000	\$58,333	1970	Olympic Investors, Inc.	N/A
Nov-12	Westbury Apartments	1025 Westbury Blvd.	Genoa Twp.	131	\$12,250,000	\$93,511	2003	Wells Fargo	N/A
Mar-12	Ironwood Place	2395 Leslie Circle	Ann Arbor	100	\$8,800,000	\$88,000	1990	Ironwood Assoc. LTD Partnership	Traver Ridge Apts II, LLC
Nov-12	Warren Club Apartments	29356 Dequindre Rd.	Warren	216	\$7,825,000	\$36,227	1966	Fred and Barbara Erb Fam. Foundation	Monarch Investments
Mar-12	Carnegie Park	26602 Carnegie Park	Southfield	177	\$7,050,000	\$39,831	1988	21st Century CP, LLC	CPI Apartment Fund 2012, LLC
Mar-12	Station 3 Lofts	333 E. Parent Ave.	Royal Oak	45	\$5,500,000	\$122,222	2009	Geoff Langdon	Jason Jones
Nov-12	Lakeview Villa	23960 Middlebelt	Farmington Hills	128	\$4,850,000	\$37,891	1979	SG Lakeview Apartments, LLC (Sanders)	Cosio
Jun-12	Pine Ridge Apartments	25625 Grodan Drive	Southfield	120	\$4,100,000	\$34,167	1978	Pine Ridge Investors	Corey Jacoby
Jan-12	Westland Park Apartments	130 E. Tami Circle	Westland	158	\$4,100,000	\$25,949	1970	Lender (short sale)	CPI Apartment Fund 10, LLC

6 KEY ASPECTS OF THE STRENGTH OF MICHIGAN'S AUTO INDUSTRY, AS ILLUSTRATED IN DETROIT REGIONAL CHAMBER REPORT

By David Muller | dmuller@mlive.com | January 11, 2013

DETROIT, MI – A common misperception among Michiganders is that the state's stalwart automotive industry is in decline, Detroit Regional Chamber President and CEO Sandy Baruah told a crowd at the Detroit Athletic Club Thursday night.

Quite the opposite is true, Baruah said, as the Chamber's MICHauto economic accelerator released its annual "Michigan is Auto" report, which underscores the strength of the state's storied automotive sector.

The report, a collaborative effort with the Center for Automotive Research and Dykema, showcases the state's auto assets just before the beginning of the North American International Auto Show, which runs Jan. 14-27. Baruah said this will be an annual tradition.

The report notes that Michigan's vehicle production has been back on the rise since tumbling from 2.3 million cars in 2007 to 1.9 million in 2008 and then 1.1 million in 2009. In 2010, production rose to 1.6 million cars, then hit 1.9 million in 2011, and through November of 2012, 2.1 million vehicles were produced in Michigan, the report says, using numbers from Automotive News.

"We are going to share this document with any economic development entity in any part of the state, so they can drive their economic development around this document," Baruah said Thursday.

Here are six key aspects of "Michigan is Auto":

Michigan's skill set

"Home to more than 65,000 engineers, Michigan ranked first in the nation for its concentration of engineering and architecture talent in 2011. It has the highest concentration of industrial and mechanical engineers of any state in the U.S. and as of May 2011, Michigan employed more industrial engineers (31,330) and mechanical engineers (23,760) than any other state in the country."

"Michigan has led the nation in manufacturing jobs created between 2010 and 2012, adding more than 57,000 jobs. Since 2010, Michigan has created 13,526 jobs specific to automotive manufacturing, which equals more than 12 jobs created every day for 3 years."

Michigan's competitive wages

"In 2011, Michigan's average hourly wage (\$20.07) compared favorably to the national average (\$21.32). Specific to unionized workers, Michigan's average hourly wage (\$22.91) also compared favorably to the national average (\$25.32), as did the average hourly wage for unionized workers in private manufacturing (\$21.29) compared the national average (\$22.48)."

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Michigan's productivity

- "Michigan produces more cars and trucks than any other state in the country, with 22 percent of the total U.S. vehicle production.
- In 2011, more than 1.9 million cars and trucks rolled off of Michigan assembly lines – nearly 65 percent more than the next closest state – an increase of 66 percent since the 2009 downturn.
- Michigan is on pace to produce roughly 2.3 million vehicles in 2012, the most in five years."

Michigan's cost-competitive real estate

"Michigan has more than 3,000 industrial properties and vacant lots ready for business, with an average asking price of \$21.90 per square foot and an average lease rate of \$4.28 per square foot."

Michigan's investments

"Michigan is the birthplace of the automotive industry and companies old and new are investing in the state. Since 2010, 78 new motor vehicle and motor vehicle parts companies have been founded in Michigan. According to the Center for Automotive Research, between 2010 and October 2012, automakers and suppliers invested \$10.6 billion in Michigan, nearly \$1 billion of which came from 40 foreign automotive firms from 16 different countries."

Michigan's automotive trade: imports and exports

"According to the U.S. Department of Commerce's International Trade Administration, Michigan companies exported more than \$24 billion in transportation equipment to 172 countries in 2011, an increase of nearly 77 percent since 2009. Michigan companies imported more than \$65 billion in transportation equipment in 2011, an increase of more than 80 percent from 2009."

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Market Rents

Most submarkets saw an increase in market rents over 2Q2012 with Downriver having the highest increase from \$664 to \$696 or 4.7%. However, the I-275 West submarket saw the highest decrease where rents dropped from \$952 to \$857 or 11.1%.

Since the 4Q2011, the most significant rent decreases occurred in the following markets: North Oakland where average rents fell from \$1,000 to \$758, a 31.9% decrease, Dearborn where rents fell from \$1,129 to \$955, an 18.2% decrease, and I-275 East where rents fell from \$788 to \$676, a 16.6% decrease.

The largest increase in rent growth from the 4Q2011 occurred in the M-53 submarket where rents increased

from \$666 to \$732 or 9.0%. This increase appears to be spurred by the decrease in concessions being offered.

Concessions seem to be drying up. Most of our survey respondents said they were not offering any concessions. However, if they had to give a concession, it was one month of free rent.

Submarket *	4Q12 Avg Rent	2Q12 Avg Rent	% Change
Ann Arbor	\$937	\$939	-0.3%
Dearborn	\$955	\$940	1.6%
Detroit	\$816	\$804	1.4%
Downriver	\$696	\$664	4.7%
I-275 East	\$676	\$659	2.5%
I-275 West	\$857	\$952	-11.1%
I-94	\$673	\$659	2.0%
M-53	\$732	\$716	2.2%
Oakland North	\$758	\$754	0.5%
Oakland South	\$911	\$899	1.4%
Oakland West	\$940	\$898	4.5%
Woodward	\$862	\$862	0%
Ypsilanti	\$756	\$754	0.3%

*Submarket Map available on Page 8

Class	Units	% of Total	Occup 4Q12	Occup 2Q12	Change	Avg Rent 4Q12	Avg Rent 2Q12	Change
A	28,468	33.2%	96.6%	95.1%	1.6%	\$1,005	\$1,001	0.4%
B	10,846	12.6%	95.9%	95.5%	0.4%	\$794	\$869	-9.4%
C	46,507	54.2%	96.2%	94.2%	2.1%	\$714	\$718	-0.6%

Rents By Unit Type



Source: CBRE, Inc.

Unit Type	Units	%Mix	Total SF	Avg Unit SF	Avg Low Rent	Avg High Rent	Avg Rent	Avg Rent/SF	Change Since 2Q2012
Studio	1,925	2.2%	943,250	490	\$489	\$761	\$617	\$1.26	-0.04%
1 BD/1BA	34,283	40.0%	25,129,439	733	\$592	\$816	\$705	\$0.96	3.88%
1BD/1.5BA	2,054	2.4%	1,754,116	854	\$615	\$804	\$729	\$0.85	-0.43%
2BD/1BA	17,840	20.8%	17,376,160	974	\$680	\$852	\$782	\$0.80	-0.83%
2BD/1BA-TH	1,010	1.2%	1,006,970	997	\$699	\$872	\$815	\$0.82	0.49%
2BD/1.5BA	990	1.2%	1,037,520	1,048	\$725	\$950	\$860	\$0.82	1.63%
2BD/1.5BA-TH	2,340	2.7%	2,555,280	1,092	\$840	\$1,080	\$930	\$0.85	0.17%
2BD/2BA	21,617	25.2%	24,643,380	1,140	\$887	\$1,250	\$985	\$0.86	-0.22%
2BD/2.5BA	321	0.4%	438,165	1,365	\$1,005	\$1,560	\$1,330	\$0.97	1.67%
3BD/1BA	322	0.4%	350,980	1,090	\$980	\$1,295	\$1,145	\$1.05	-6.86%
3BD/1BA-TH	410	0.5%	502,250	1,225	\$1,003	\$1,449	\$1,203	\$0.98	-10.81%
3BD/1.5BA	305	0.4%	404,125	1,325	\$1,090	\$1,565	\$1,310	\$0.99	-18.92%
3BD/2BA	1,580	1.8%	2,291,000	1,450	\$1,108	\$1,487	\$1,390	\$0.96	4.23%
3BD/2.5BA	555	0.6%	857,475	1,545	\$1,250	\$1,624	\$1,450	\$0.94	11.39%
3BD/3BA	190	0.2%	357,770	1,883	\$1,544	\$1,850	\$1,568	\$0.83	4.01%
TOTALS	85,742	100.0%	79,647,880	929	\$900	\$1,214	\$1,055	\$0.93	-0.89%

Detroit Retail MarketView

Q4 2012

CBRE Global Research and Consulting



US UNEMPLOYMENT RATE
7.8%



Michigan Unemployment Rate
8.9%



Metro Detroit Unemployment Rate
9.7%

RETAIL MARKET STABILIZES AMIDST "FISCAL CLIFF"

Quick Stats

Q4 2012		QoQ	YoY
Vacancy	10.8%	↑	↓
Lease Rate	\$13.39	↑	↑
Construction	528,000 SF	↑	↑

*The arrows are trend indicators over the specified time period and do not represent a positive or negative value. (e.g., absorption could be negative, but still represent a positive trend over a specified period.)

Hot Topics

- According to U.S. Census Bureau/Commerce Department, sales increased significantly in Q4 for the following categories: Clothing & Accessories ↑ 6.2%, Sporting Goods, hobby, book & music ↑ 6.5% and Gas Stations ↑ 3.8%
- According to the National Retail Federation, return fraud will cost Retailers \$2.9 billion this Holiday season
- Dallas-based 7-Eleven looks to add 20 new stores to Michigan in 2013, headlined with the hopes of opening one or more businesses in Detroit's Central Business District
- Villa, an Athletic fashion retailer based out of Philadelphia looks to add 25 new stores through creating up to 375 jobs

Michigan economy improving

The Detroit Metropolitan retail market has stabilized with economy alike. Michigan's unemployment rate declined to 8.9%, which is 0.7% down from the mark set in the fourth quarter of 2011. Recent spending trends will continue to help drive retail sales, which in correlation, may lead to redevelopment opportunities for underperforming strip centers and malls. Existing and new retailers are showing increased signs of activity, and this trend should continue heading into the new year.

Rental rates plateau

The Detroit Metropolitan area experienced a slight upswing in its vacancy rate reporting a 10.8% figure, which is down 0.5% from the fourth quarter of 2011. The Net asking lease rate increased to \$13.39 from the \$13.12 mark posted in the third quarter. As a result, landlords are giving less concessions and tenant allowances, which looks to continue in the first half of 2013.

Retail developments robust

In Troy, a 28,000 square foot Transit Center recently broke ground and looks to be completed by November of 2013. The \$6.3 million development will be utilized for regional high-speed rail and bus transportation. Additionally, Northville Park Place looks to provide space for retail big boxes, multi-tenant and restaurants. This 500,000 square foot mixed used development located at 7 Mile and Haggerty Rd is to be completed in 2014.

2013 CRE Outlook

Amidst the daunting "fiscal cliff", commercial real estate markets will inevitably be tied to political mandates in Washington. A resolution to all facets of the cliff will determine the ultimate course of the U.S. economy, although it has already made significant strides with increased consumer confidence and a retrenchment of the housing market. The U.S. commercial real estate market has shown resiliency in a lagging economy and will continue to be a lucrative investment option going forward.

Chart 1: Direct Vacancy Rate vs. Net Asking Rate

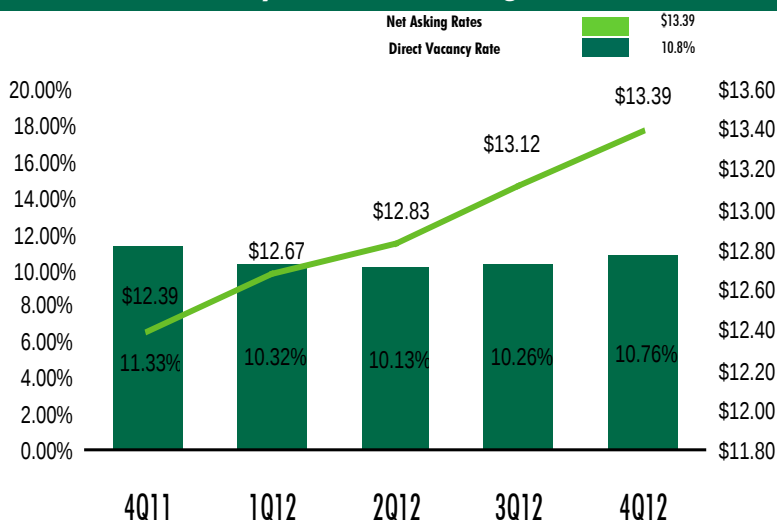
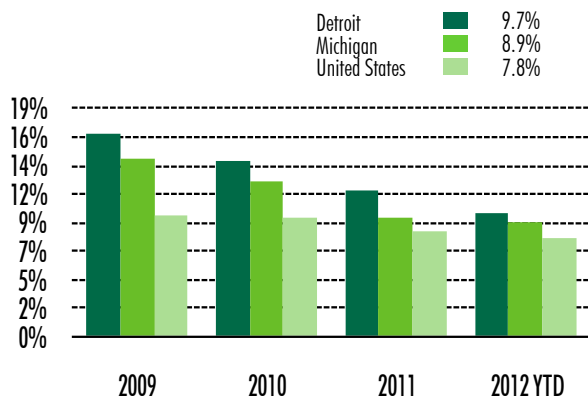


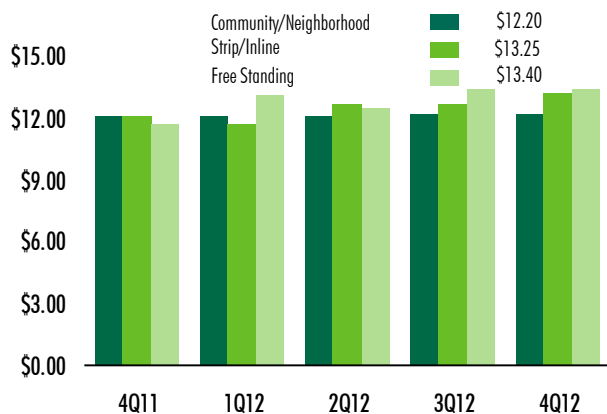
Table #1: Market Statistics

Submarket	Market Size	Vacancy Rate %	Net Asking Rate
Auburn Hills	3,442,553	2.4%	\$21.24
Birmingham	378,084	12.0%	\$24.75
Bloomfield-West Bloomfield	1,615,813	12.7%	\$19.26
Central Oakland	1,687,987	13.5%	\$13.07
Central Wayne	1,382,242	3.1%	\$9.05
Dearborn	1,610,800	10.0%	\$14.31
Detroit	2,285,626	26.6%	\$5.92
Eastern Macomb	1,341,349	5.6%	\$14.24
Farmington Hills	1,203,222	15.4%	\$12.74
Genesee-Lapeer	3,252,233	10.3%	\$15.57
Livingston	1,658,862	4.3%	\$18.19
Livonia	1,780,663	14.5%	\$13.22
NE Wayne	1,391,939	15.3%	\$15.00
Northern Macomb	2,066,545	14.3%	\$14.06
Novi	1,326,599	14.0%	\$20.00
Rochester Hills	2,312,047	8.0%	\$25.42
Saginaw-Bay	1,945,200	13.3%	\$8.43
SE Oakland	2,669,023	10.3%	\$13.92
SE Wayne	1,267,942	9.5%	\$11.84
Shelby Twp	1,374,724	2.8%	\$14.06
Southern Macomb	1,367,955	3.1%	\$17.93
Southfield	1,238,238	5.4%	\$15.73
Sterling Heights-Warren	2,896,066	12.7%	\$11.76
Taylor-Southgate	1,710,034	12.8%	\$11.54
Troy	1,955,678	18.2%	\$14.16
Washtenaw	2,835,581	8.1%	\$11.85
Western Oakland	1,134,027	8.3%	\$18.40
Western Wayne	1,526,490	14.3%	\$15.21
TOTAL	50,731,698	10.8%	\$13.39

Chart 2: Unemployment

Michigan's unemployment rate decreased by a half percent during the fourth quarter of 2012 to 8.9%. Although this is still considerably above the national average of 7.8%, Michigan's unemployment rate is down 0.7% from the mark set in the fourth quarter of 2011. The statewide improvement can be attributed to an increase of jobs in industries such as retail, transportation and utilities, manufacturing and government jobs. Since November of 2011 employment has increased by 46,000 jobs or 1.1%, according to the Bureau of Labor Statistics. Conversely, decline's occurred within the education and health services industry.

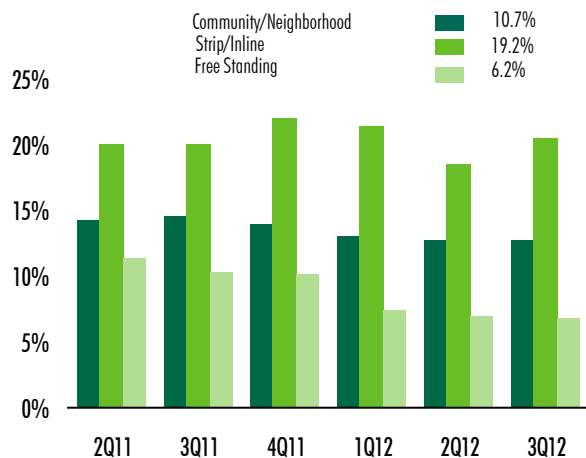
The national unemployment rate remained unchanged at 7.8%. Additionally, nonfarm payroll employment rose by 155,000 in December. Increases in employment were reported in health care, food services and drinking places, construction and manufacturing.

Chart 3: Average Asking Lease Rates

The average asking rental rate for retail space in the Detroit Metropolitan area experienced a slight uptick during the fourth quarter after posting a rate of \$13.39 NNN, which is up from the \$13.12 NNN mark set in third quarter.

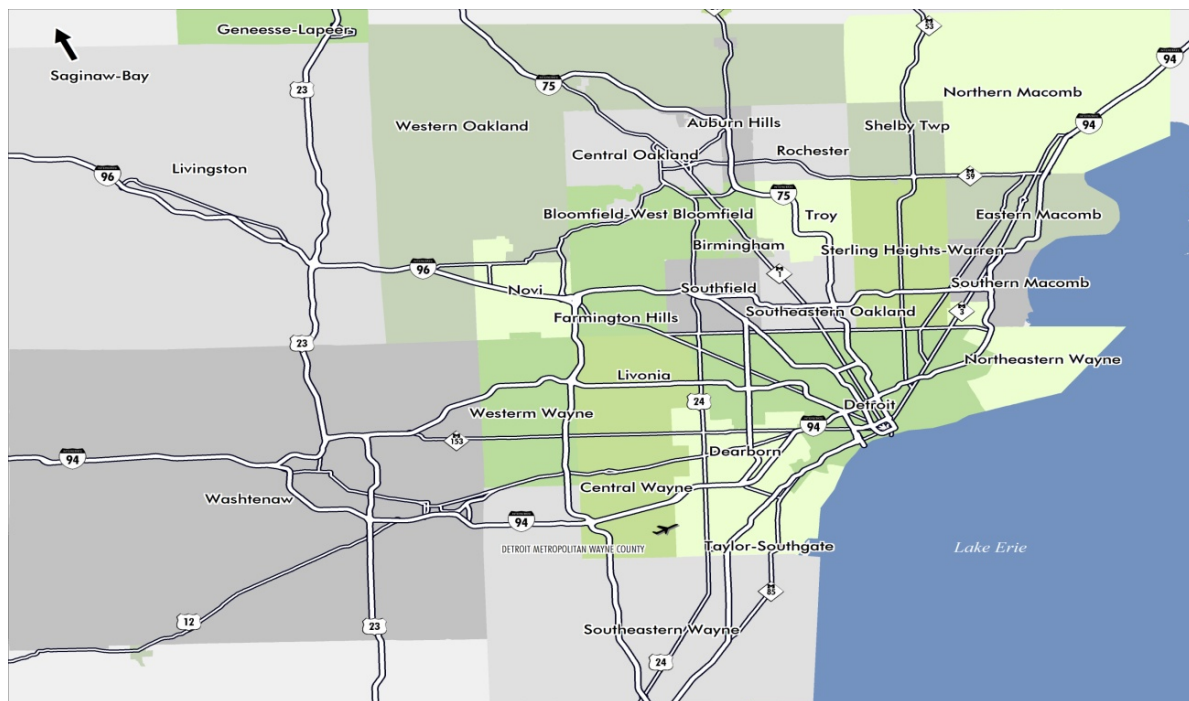
The Birmingham and Rochester submarkets continued to have the highest asking rates in Metro Detroit, averaging \$24.75 NNN and \$25.42 NNN, respectively. The submarket with the lowest average asking rate remained to be Detroit, which closed the quarter averaging \$5.92 NNN.

Average asking lease rates for Community/Neighborhood, Strip/Inline and Free-Standing development types increased across the board. Strip/Inline centers showed the most significant change reporting an increase of \$0.61.

Chart 4: Vacancy Rate

The Metro Detroit Retail posted an overall vacancy rate of 10.8% in the fourth quarter, which is down 0.5% from the fourth quarter of 2011. Stabilization of the market looks to provide an uptick for existing and new retailers.

The Auburn Hills submarket reported the lowest vacancy rate at 2.4%, while the Detroit submarket posted the highest vacancy for the fifteenth straight quarter reporting a rate of 26.6%.



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Global Research and Consulting

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Teresa Gillotti

From: William Tippmann [Bill@tipp-co.com]
Sent: Monday, 03 December, 2012 11:50 AM
To: Teresa Gillotti
Subject: masonry product





Bill Tippmann

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City of Ypsilanti

Planning and Development Department

Date: January 16, 2013

2012 Annual Report Planning Commission Ypsilanti, Michigan

INTRODUCTION

The Planning Commission of the City of Ypsilanti is governed by the Michigan Planning Enabling Act, State of Michigan Public Act 33 of 2008, and by the City of Ypsilanti's Zoning Ordinance.

In 2012, the Planning Commission's membership was as follows:

Roderick Johnson (chair)	Daniel Lautenbach
Richard Murphy (vice-chair)	Brett Lenart
Mark Bullard	Kelly Weger
Gary Clark	Cheryl Zuellig
Phil Holifield	

Under the Planning Enabling Act, the Commission must provide an annual report to City Council, as the legislative body of the City. This report discusses,

1. The operations of the Commission during the past year
2. The status of any on-going planning activities
3. Recommendations to the legislative body related to planning and development

PLANNING COMMISSION OPERATIONS

The Planning Commission met monthly during 2012, except for the months of January, April and August. From the perspective of formal applications, the Commission's agenda maintained an average load compared to previous years. The Commission considered 23 actions, including 7 site plans, 2 special use permits, and 2 text amendments.

In addition to a above-average number of applicants, the Commission addressed a number of significant issues that weren't tied to individual sites or applications.

- a series of study items including a draft disposition policy for City-owned property, a proposed expansion for Parkridge Community Center, consideration of Master Plan Changes for City-owned property including the former Boys and Girls club site and Superior Road property as well as a proposal for a Road Diet on State Trunk lines including Huron and Hamilton Streets and portions of Washtenaw Avenue.
- In July the Commission received the final presentation of the [Climate Action Plan](#) from the Michigan Suburbs Alliance. The plan was ultimately adopted by City Council on July 17, 2012 and is available on the City's website.
- The Commission also continued reviewing and making recommendations on capital improvement projects in the City of Ypsilanti, as called for in the Planning Enabling Act.
 - In October, the Planning Commission reviewed initial plans for the Grove Road project in the area between Emerick and Service Drive. Planning Commission recommended addition of a pedestrian crosswalk at Service drive, the addition of three ADA ramps at the crossing, and continuous sidewalk on the east side of S. Grove in the project area.
- Three committees were active during the past year
 - The Master Plan Committee met more regularly as funding was secured through Washtenaw County's Community Challenge grant for a full master plan and zoning ordinance revision. The committee developed the RFP for consultants, reviewed applications and recommended a process for two finalists to be recommended by the Planning Commission to City Council for the contract. Ultimately ENP & Associates was hired to conduct the Master Plan and Zoning ordinance revisions, along with their team of sub-consultants.
 - The Non-Motorized Committee met monthly and has representation from the DDA and Recreation Commission in addition to Planning Commission. The Committee will be submitting their annual report to the Commission in March.
 - The ordinance committee took on changes to zoning ordinance related to food production, processing and sales. The committee welcomed additional members to this process and guided staff to provide text amendment proposals which were considered twice by the Planning Commission and will be considered by City council in Feb. 2013.

Table 1: Planning Commission actions by type

Planning Commission Actions	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Site plan review	7	7	6	6	7	10	2	7	11	7
Amend approved site plan	0	0	0	0	4	1	1	1	2	1
Special use permit	3	3	6	3	3	6	1	1	7	2
Zoning map amendment	2	1	4	5	2	5	2	3	2	3
Zoning text amendment	2	1	3	1	2	2	3	6	6	2
Master plan amendment	0	2	3	2	0	2	0	1	0	0
Planned unit development	2	0	1	0	0	0	0	0	1	0
Amend approved PUD	0	1	0	0	0	1	0	0	0	0
Alley/Street closure/vacation	0	1	2	2	0	0	1	0	2	1
Change in non-conforming use	0	1	0	0	0	0	0	0	0	0
Allow add'l floor area in B1	0	0	0	0	1	0	0	0	0	0
Historic Overlay discretionary zoning (tally starts 2010)								1	0	0
Capital Improvements Review (tally starts in 2011)									2	1
Special topic planning (tally starts in 2012)										1
Study item (tally starts in 2012)										4
Conditional rezoning (tally starts in 2012)										1
Total Actions	16	17	25	19	19	27	10	20	33	23

Figure 1: Planning Commission applications by year



ONGOING PLANNING ACTIVITIES

As of the end of 2012, a few specific planning activities remain in-progress.

- Reimagine Washtenaw – Work continues on the overall effort as well as a right-of-way study for the corridor, and a Traffic Demand Management analysis including Eastern Michigan University and other major employers.
- 2013 will see the revival of work on the Huron/Whittaker pedestrian crossing of I-94. Progress had stalled on this effort after the study in 2004. The HUD Community Challenge grant includes funds for engineering design of the crossing. WATS will take the lead and the Planning Commission intends to be reengaged as the process restarts in the spring of 2013.
- Master Plan Revision formally began in November 2012, but will more formally kick off with a website, regularly Steering Committee meetings leading into a discovery charette in March, followed by a design charette in April. The entire master plan and zoning ordinance rewrite is expected to last 18 months.
- The property disposition strategy remains in a draft form and will likely be revised for Planning Commission in 2013.

COMMISSION RECOMMENDATIONS

The Commission urges that the importance of these and similar projects to Ypsilanti's future not be overlooked.

- Ypsilanti City Council has included in their 2011-2012 goals consideration of the sale of City-owned property. Planning Commission would like to be engaged in potential reuse considerations for the properties under consideration, as well as providing recommendations for a disposition policy for properties returned to the City through tax foreclosure sales. Some of this work is also likely to be addressed in the master plan revision process.
- The Commission would like to activate the Capital Improvements Committee to work on a 5-year Capital Improvements plan as it is a requirement of the State Planning Enabling Legislation. In addition to this being required by state law, it's recommendation of the recent SEMCOG report as well as the Redevelopment Ready Communities Certification administered by MEDC.
- Ongoing projects such as Water Street redevelopment remain priorities that require staff time and may further engage the Commission as the City continues a partnership with Washtenaw County Parks and Recreation Commission to develop a portion of the site.

ACTION

The Planning Commission will reviewed this report at its January16, 2013, meeting and approved transmittal to City Council.

Historic District Commission

2012 Annual Report

Membership

Jane Schmiedeke, Chair
Hank Prebys, Vice-Chair
Ronald Rupert
Michael Condon
Alex Pettit
Jennifer Henriksen
Anne Stevenson

Commission and Staff

Throughout 2012, the Historic District Commission (HDC) continued meeting on the second and fourth Tuesday of each month at 7:00 p.m. in the City Council Chambers.

The HDC was staffed by interns Connie Locker and Adam Cripps. As HDC Assistant, he worked 15-20 hours per week performing various administrative tasks to enable the Commission to fulfill its responsibilities under the historic district ordinance. Staff responsibilities included reviewing Historic District Work Permit Applications prior to meetings; corresponding with applicants; preparing meeting agendas, Commission packets, and minutes; property monitoring; and preparing reports as needed.

The Commission continued to provide prompt review of applications. The current application procedure begins with the filing of a Historic District Work Permit Application by noon on the Wednesday before the HDC meeting. The applications are then collected from the Building Department and reviewed by staff for completeness. Incomplete applications are addressed through written or phone correspondence to the applicant, requesting that additional information be provided prior to the meeting. Properties under consideration are photographed by staff for reference and included with all completed applications into assembled meeting packets. Packets are then posted on the City of Ypsilanti's website and emailed to the Commission on the Friday before each meeting.

The HDC Assistant attends each Commission meeting. After the meeting, the HDC Assistant writes all decision letters and a draft of the official minutes. The draft is then forwarded to the HDC Chair for review. The turnaround time for this process, from application submittal to mailing of decision letters, generally takes about ten days.

Potential applicants are encouraged to bring projects to the Commission as study items before formal submission of a Work Permit Application. This allows the Commission to provide feedback to property owners at a conceptual stage, clarifying expectations and allowing for a more predictable final review.

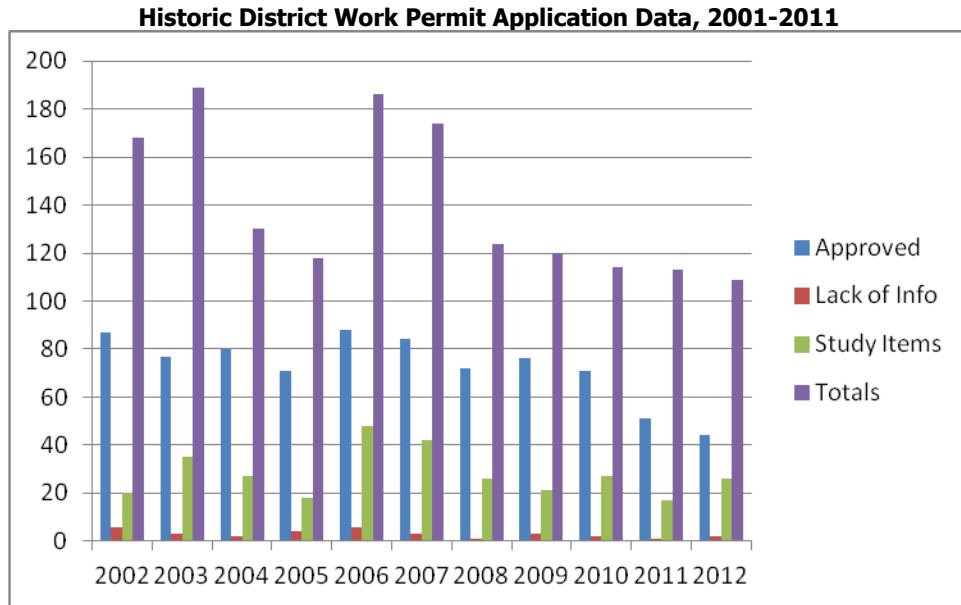
Statistics and Trends

Although the number of applications received this year was significantly lower than in recent years due to the impact of economic issues, the ambitious scope of many of the approved projects reflects the commitment of residents and businesses to the improvement of the local community. The number of applications and actions taken is shown in the table below.

Historic District Commission Actions, 2009-2012

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Applications approved as submitted	75	81	95	87	77	80	71	88	84	72	76	71	51	44
Applications approved with modifications	42	66	14	38	61	20	22	10	8	2	3	7	15	10
Administrative approvals		1						24	19	11	12	13	11	9
Applications denied due to lack of information	5	7	4	6	3	2	4	6	3	1	3	2	1	2
Applications denied due to inappropriateness	1	10	2	11	12	0	0	3	9	2	1	2	3	3
Applications pending at end of year	3	3	4	6	1	1	3	2	2	1	1	1	0	0
Study Items	21	25	29	20	35	27	18	48	42	26	21	27	17	26
Amendments to previous approvals								5	7	9	6	2	5	2
Total Applications	148	193	148	168	189	130	118	186	174	124	123	125	103	96

To illustrate the number of projects within the Historic District this year as compared to the past ten years, the chart below depicts HDC Work Permit application activity from 2002 through 2012.



Historic District Fact Sheets

In 2012, revisions began on the fencing fact sheet but were not approved before the end of the year. A review of the remaining fact sheets will be conducted throughout the coming year. Production of house style fact sheets will also begin in 2013.

Demolitions

No demolitions were approved in 2012.

Appeals

No appeals were requested in 2012.

Significant Projects

The Historic District continued to benefit from investment over the past year. Some of the significant projects are summarized here:

- 720 Norris – Application was made for the installation of solar panels on Corner Brewery. The application was approved on the condition that they be lowered in order to maintain the roofline and façade of the building. Installation of these panels supports the initiative of the brewery to become more eco-friendly.

- 100 W. Michigan- Work was approved for the Dalat restaurant to include the addition of six windows on the south elevation of the building and two others on the east elevation. An additional two windows on the east elevation were eliminated. This approval allowed the owners to establish residential space that could be rented.
- 203 S. Huron- Construction has begun on the Gilbert Residence's planned addition for the care of Alzheimer's and dementia patients which was approved in March of 2011. This work consists of an addition using brick with plank siding near the roofline, composite shingles, and clad windows to match the existing building.
- 209 Washtenaw- Replacement of yellowed and cracked Plexiglas window coverings was conducted at the Methodist Church at 209 Washtenaw. The Plexiglas was replaced with regular glass panes that were at least ¼" thick. In addition to replacing window coverings, the stained glass windows were treated with a material to strengthen and repair the existing lead comes.
- 201-203 W. Michigan- Application was received for repainting the upper two stories, window sashes, and arch elements of The Tap Room. An alternative palette than that proposed in the application was recommended.
- 39 E. Cross- Approval was given to Aubree's Pizza for lettering reconstructed on the east elevation of the structure. This "Lunch Buffet" advertisement was present in historic photographs of the building and was barely visible to the naked eye.
- Freight house – Under new management the Friends of the Freight house are working to open a small café in the former office of the building. Improvements continue to be made in the interior of the building in preparation for commuter rail service in the near future.
- Starkweather – During 2012, work has continued on Starkweather consisting of the removal of the cement porches on the south and east elevations. In addition preparations have begun for restoring the wood porch and pillars on the south elevation. Plans for 2013 include completion of the south porch and removal of the west elevation cement porch in order to replicate a wooden porch present in a photograph from 1911.

Educational Workshops

The HDC continued hosting educational workshops on topics of interest to residents of the district. Two sessions were planned consisting of:

- Repairing Historic Windows
- Weatherization Made Simple

Unfortunately, a medical emergency forced the cancellation of the weatherization workshop. It is currently being rescheduled for 2013.

Due to the success of these workshops, a series of similar presentations by preservation professionals from the Michigan Historic Preservation Network, the National Trust for Historic Preservation, private firms, and the State Historic Preservation Office has been planned for 2013.

Evaluation and Training

CLG Evaluation- 2012 saw an evaluation conducted of the Ypsilanti Historic District Commission. Created by MSHDA for the purpose of analyzing how historic district commissions in certified local governments operate, the evaluation was filled out and submitted to the state. Results of the evaluation are still forthcoming.

Commission Retreat- In July, the commission conducted training at Spark East. John Barr, the city attorney, discussed ethics with the commission while Ted Ligibel presented on the role of historic districts in the community. A review of current fact sheets was also conducted and discussion held as to how to update and make them more accessible to the general public.

Conclusion

Although of varied scope and scale, the projects completed throughout 2012 are excellent examples of the continued preservation efforts of property owners within the Ypsilanti Historic District. Commendation by the City is due to these owners for their substantial contribution to the community as they continue to support the efforts of the HDC to beautify the district and preserve the heritage of Ypsilanti's built environment.

This report respectfully submitted to the Ypsilanti City Council by the Historic District Commission.

Jane Schmiedeke, Chair
Historic District Commission

Date

Adam Cripps, HDC Assistant
Planning and Development Department

Date



REQUEST FOR LEGISLATION
February 19, 2013

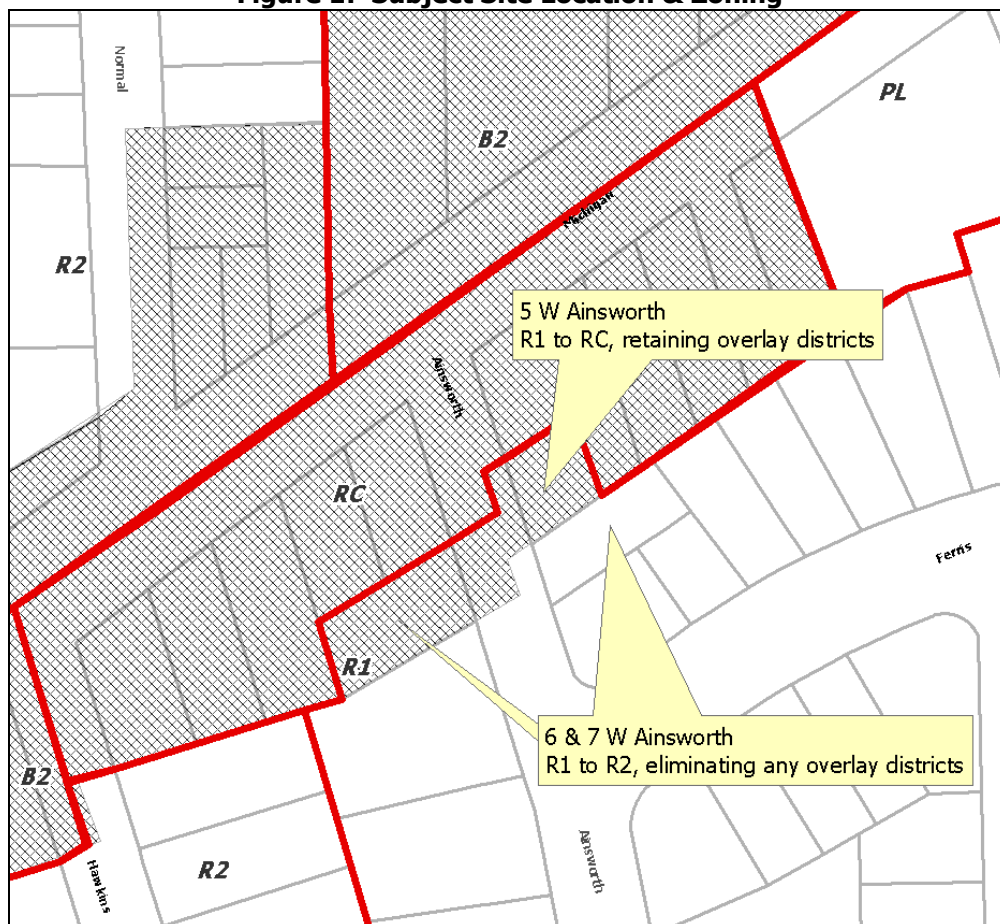
From: Teresa Gillotti, Planner II

Subject: Additional information related to rezoning of 5, 6, & 7 W Ainsworth – R1 to RC & R2

SUMMARY & BACKGROUND:

At the Feb. 5, 2013 meeting, City Council delayed the consideration of the rezoning of 5, 6, and 7 Ainsworth until the Feb. 19 meeting. Previously, several options had been considered, with the last one before tabling to be a rezoning of 5 Ainsworth from R1 to RC-residential-commercial, retaining overlay districts, and rezoning of 7 Ainsworth (the initial application) from R1 to R2 -one and two family residential. The original recommendation is provided visually below:

Figure 1: Subject Site Location & Zoning



Staff wanted to provide clarification on a few questions/comments that came up during the sessions.

- 1- **Spot Zoning:** As a reminder, spot zoning is when a single parcel is rezoned to a district/use different than other surrounding parcels. The issues around spot zoning include favoritism, the potential to set a (negative) precedent for other rezoning decisions, and can create the potential for the decision to be indefensible in court. At the previous council meeting, City Attorney O'Jack indicated that the change of zoning that included RC to R2 to R1 (as you move south from Michigan Avenue) could be defensible in that it shows a consistent decrease in density as one moves south into the neighborhood.

2- Existing Non-conforming lots in R1 single-family residential

5 Ainsworth: non-conforming lot size in R1 or R2.

6 Ainsworth: conforming – also conforms with R2, one-two family residential

7 Ainsworth: conforming – also conforms with R2, one-two family residential

3- Change from 1 to 2 family for 5 W Ainsworth

Currently, this building is existing, legal nonconforming due to lot size (less than 6000 sq ft) and setbacks (front yard, rear yard, and side yard). Changing the zoning to either RC or R2 would lessen the degree of nonconformity, but to different degrees.

Should the lot be rezoned to RC:

The building would become an existing, lawful nonconformity due to setback requirements (rear yard, abutting a residential district). However, the use of the building could be converted from single-family to two-family, as both are permitted uses in RC, and the nonconformity of the structure would not be affected. Should the structure be altered, it may only be altered in a way that would reduce the nonconformity. However, rezoning this lot to RC provides a number of commercial redevelopment options to the current owners, who also own 707 W Michigan, the parcel which surrounds this parcel to its north and east. As was noted at the last meeting, combination of 5 Ainsworth to 707 W. Michigan would create a parcel similar in size to existing lots on the Michigan Avenue frontage.

Should the lot be rezoned to R2:

This building would become an existing, lawful nonconformity, due both to lot size (less than 5000 sq ft) and setbacks (rear yard). As two-family uses in this district require a larger lot size (6000 sq ft), the amount of nonconformity would be greater than it currently is, and a two-family use would thus be not permitted. A single-family residence with no changes to the structure would be the only use permitted in this rezoning scenario.

- 4- **Noticing:** Currently the noticing and public hearing were for the changes as depicted in the map above. Although simply removing a parcel from consideration would not trigger a need to renote, changing the scope or type of rezoning would. For example, choosing to consider rezoning 5 W Ainsworth to R2 would trigger noticing; but choosing to remove 6 W Ainsworth from consideration would not.

Please contact Planning staff with any questions you may have regarding this rezoning at 734-483-9646 or by email to wesslerb@cityofypsilanti.com or tgillotti@cityofypsilanti.com

CITY MANAGER APPROVAL: _____ COUNCIL AGENDA DATE: _____

CITY MANAGER COMMENTS: _____

FISCAL SERVICES DIRECTOR APPROVAL: _____

An Ordinance Entitled "AINSWORTH REZONING"

THE CITY OF YPSILANTI ORDAINS:

That the following properties with the following addresses and tax code ID#:

- 6 W Ainsworth, tax identification code 11-11-39-130-015;
- 7 W Ainsworth, tax identification code 11-11-39-125-015;

Be rezoned from R1, Single-Family Residential, to R2, One- And Two- Family Residential; and to remove the overlay zones of RCO, Residential-Commercial Overlay, and EO, Entryway Overlay;

AND FURHTERMORE,

That 5 West Ainsworth, tax identification code 11-11-39-125-013, be rezoned from R1, Single-family Residential, to RC, Residential-Commercial, retaining unchanged any overlay zoning districts.

MADE, PASSED, AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS _____ DAY OF _____, 2013

FRANCES MCMULLAN, City Clerk

Attest

I do hereby confirm that the above Ordinance No. _____ was published in the Ypsilanti Courier on the _____ day of _____, 2013.

FRANCES MCMULLAN, City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the _____ day of _____, 2013.

FRANCES MCMULLAN, City Clerk

Notice Published: _____
First Reading: _____
Second Reading: _____
Published: _____
Effective Date: _____



POSTPONED to February 19, 2013
Resolution No. 2013 -022
February 5, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed ordinance entitled, "Rezoning of 5, 6, & 7 W. Ainsworth from R1 to RC & R2" be approved on **First Reading**.

OFFERED BY: _____

SUPPORTED BY: _____

YES:

NO:

ABSENT:

VOTE:



REQUEST FOR LEGISLATION
February 19, 2013

From: Teresa Gillotti, Planner II

Subject: Text amendment – Food production, processing and sales ordinance change recommendations, part II.

Background

Changes to the zoning ordinance related to food production and processing were presented to City Council at the December 4, 2012 meeting. Council seemed interested in pursuing the changes subject to additional information.

Staff worked on researching information related to the following topics:

- 1- Right to Farm Act and its relationship to the proposed zoning changes (and other city ordinances like the property maintenance code)
- 2- Consideration of provisions to proactively prevent nuisances in particular with gardens and hoop houses in residential areas
- 3- Policy for plants in median strip between sidewalk and street

Local ordinances and the Right to Farm Act.

Mr. Barr provided a memo (attached) with information regarding the history of the Right to Farm Act and how it interacts with local regulations. Based on the recent Supreme Court case in Troy, MI where local zoning was upheld in that circumstance. Mr Barr indicated that based on this case, he also was of the opinion that the property maintenance code would be valid even with a Right to Farm claim.

Response:

To address council's concern, the revised ordinance includes the following provision:

... the City of Ypsilanti is an urban environment, and while these provisions are intended to support the local food system, it is not the intent of these standards to create agricultural districts within the City. Additionally, if any gardening or related use invokes

the State Right-to-Farm Act, then this section and related sections in this division are to become null and void.

Additionally, Mr. Barr reviewed information from the State building code regarding agricultural buildings. He is of the opinion that any greenhouse or hoop house can be considered an agricultural use and would not be subject to the building code as long as it was not a commercial building utilized by the public in some manner.

Response:

The recommendation to limit the size of a greenhouse/hoophouse in residential areas to 720 remains in place. For parties interested in increasing the size to 1200 sf, a special use permit and site plan would be required.

Preventing Nuisance

To address concerns regarding potential nuisances around staff is proposing revisions to the ordinance which include:

- Gardens should not encroach on neighboring property
- The property shall be maintained in an orderly and neat condition and shall not be detrimental to the physical environment or to public health and general welfare, and remains subject to compliance with the property maintenance code, noise ordinance, and related ordinances.
- The property shall be maintained so as to prevent the free flow of storm water, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, or alleys.
- Motorized equipment within a residential zoning district or residential planned development district shall be restricted to hours beginning at 8:00 a.m. and ending at 8:00 p.m. Equipment, such as fans, necessary for the operation of greenhouses is exempted from this provisions
- Compost piles may only be used for waste generated on site, and are subject to 3 foot setback requirements
- Gardens shall utilize integrated pest management techniques and best practices in accordance with Ch. 110, Act II of this ordinance (manufactured fertilizer)

Policy for plants in median strip between sidewalk and street

Staff consulted with DPS regarding planting along these strips. There is a formal policy for planting trees in this area (www.cityofypsilanti.com/trees). Similarly, residents should inquire with DPS prior to planting in City right-of-way. However, in case of street projects or other cases where there may be ROW changes, plantings may be removed and not replaced.

As a review, here is a summary of what the ordinance revision would allow:

Food production in residential lots

There has been continued interest gardening vacant lots in the City of Ypsilanti. Currently, gardening is not allowed as a principle use, and is not defined as a permitted accessory use either. To prevent issues similar to what happened in Oak Park in the summer of 2011 (raised bed garden was considered a code violation), the Planning Commission is recommending zoning ordinance changes that will allow gardening as primary and accessory uses as below:

- Gardens/community gardens allowed as permitted primary use in R1, single family and R2 one-two family residential districts
 - Gardens as principal uses must maintain 3 foot setback on street frontages and maintain corner visibility clearance
 - No farm stands or other sale of goods grown in gardens/community gardens is allowed on garden sites.
- Gardens/community gardens allowed as permitted accessory use in R1, R2, R3, R4 and RO
- Community gardens allowed as permitted use in PL, Public land
- Landscaping definition now specifically includes “edible plants” as a permitted type of landscaping as well as raised beds.

Hoop houses/greenhouses

Due to Michigan’s growing season, there is increased interest in hoop houses, greenhouses and other similar structures to extend the growing season to nearly year round use. Interest is both in residential areas where homeowners and renters would like to legally have a hoophouse as an accessory structure and for those interested in larger gardens on vacant lots, to have a hoophouse as a season extension tool for garden/urban agriculture issues.

The accessory use application of the greenhouse/hoophouse was fairly simple to apply, however the committee and the Planning Commission had much deliberation regarding the location of greenhouses/hoophouses on vacant lots in R1 and R2 districts. Concerns ranged

from there the lack of an immediate resident/tenant to address any possible issues with the hoophouse maintenance, worry that they may be used as a second garage, and concern that hoophouses may be so large they could exceed the size of adjacent structures or generally not fit into the character of the neighborhood. On the supportive side, the benefits of seasonal extension were discussed as well as thoughts on what size would be most appropriate to accommodate the investment necessary for micro-farms.

In practice, greenhouses/hoophouses would not require permits, except in the case of greenhouse in an approved zoning district where sales were also conducted on site, or potentially in the case where they may be used for educational trainings or other public gatherings. In cases where greenhouses may be an accessory use to a garden on a vacant lot in R1 or R2, staff is recommending a size limitation of 720 sf, which is the maximum size of a garage for a single-family lot, if setbacks and other requirements are unable to be met. For hoophouses/greenhouses between 720 sf and 1200 sf, planning commission is recommending a special use/site plan for the larger size.

Recommended changes to the zoning text are as follows:

- Greenhouses and hoophouses are defined as exclusively for the cultivation of plants
- Greenhouses and hoophouses may be an accessory structure in R1, R2, R3, R4, RO and PL districts
 - In cases where a greenhouse is accessory to a garden as a principle use on a vacant lot, the greenhouse is limited in size to 720 sf, unless a special use permit is obtained, in which case the size can be increased to 1200 sf.
 - In cases where a greenhouse is accessory to a garden as a principle use on a vacant lot, the greenhouse is subject to front yard setback requirements.
- Greenhouses do not require building permits unless sales occur on site or otherwise open to the public.

Food Processing

Currently, the zoning ordinance limits food production uses to manufacturing districts, while catering is allowed in several districts. In many circumstances, food production would not be more intensive than the current catering use. Planning Commission is recommending a change to the catering definition to allow more commercial space for small scale food/beverage production. Additional recommendations create more uniform definitions for manufacturing linked to retail sale food stores, with the exception that in B1, there is still a limitation on the sale of alcohol.

Recommendations:

- Catering services use also include "the manufacture and processing of food products including brewing and distilling as Special use in RC, B1 and B2 and as permitted us in B4, WS, CI, M1 and M2
- See attached chart

RECOMMENDED ACTION: Approval

ATTACHMENTS:

- Recommended text amendments
- John Barr Memo 2/14/13
- MSU Extension brief October 2012
- mcl-act-230-of-1972 (see definition of building on page 2 and agricultural purpose definition on page 1)
- Code Works publication winter 2010
- Resolution



Resolution No. 2012 -259
December 4, 2012 (postponed)
February 19, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed ordinance entitled "FOOD PRODUCTION AMENDMENTS" be approved
on **First Reading**.

OFFERED BY: _____

SUPPORTED BY: _____

YES:

NO:

ABSENT:

VOTE:

Food Text Amendments
Modify Text as follows:

Definitions
122-2

Building means any temporary or permanent structure, having a roof or other covering, used or built for the support, enclosure, shelter, or protection of persons, animals, chattel or property of any kind, including but not limited to tents, awning, carports, greenhouses; and also semi-trailers, vehicles, mobile homes, or premanufactured or precut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers or similar structures.

Garden/Community Garden means land used to grow and harvest food or non-food crops for personal or group use. The products of gardens/community gardens may or may not be for commercial purposes.

Greenhouse means any building or structure used exclusively for the cultivation of plants whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for personal use and/or for subsequent sales.

Hoophouse means a temporary building used exclusively for the cultivation of plants whose roof and sides are made of PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape and in which the temperature and humidity can be regulated for the cultivation of plants for personal use and/or for subsequent sales

Landscaping means the treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, edible plants and flowers. A landscape design may include other decorative manmade materials such as wood chips, crushed stone, boulder, or mulch.

Structural features such as fountains, pools, statues, raised garden beds, and benches may also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted towards meeting the requirements for landscaping. Various landscaping related terms are defined as follows:

ZONING DISTRICTS: COMMUNITY GARDENS/GARDENS

R1 - Single-family residential

122-252 permitted use:

(4): Gardens/community gardens, exempt from area regulations in section 122-255, but subject to the requirements in section 122-816.

122-253 permitted accessory use

(8) Greenhouses/hoophouses, subject to requirements in 122-816

122-258 Development standards

- (a) Site plan review. In R1 single family residential districts site plan review and approval are required for all uses except detached single-family residential uses and garden/community garden uses in accordance with article IV of this chapter.

R2 - One- and Two-Family residential

122-272 permitted use:

(5): Gardens/community gardens, exempt from area regulations in section 122-275 but subject to the requirements in section 122-816.

122-273 permitted accessory use

(8) Greenhouses/hoophouses, subject to requirements in 122-816

122-278 Development standards

- (a) Site plan review. Site plan review and approval is required for all uses in the R2 one- and two-family residential district except detached single- and two- family residential uses and garden/community garden uses in accordance with article IV of this chapter.

R3 – Multiple-Family medium density residential district

122-293 Permitted Accessory uses

(8) gardens/community gardens

(9) Greenhouses/hoophouses, subject to requirements in 122-816

R4 – Multiple family high density residential district

122-313 permitted accessory uses

(9) gardens/community gardens

(10) Greenhouses/hoophouses, subject to requirements in 122-816

RO – Residential Office District

122-333 Permitted accessory uses

(9) gardens/community gardens

(10) Greenhouses/hoophouses subject to requirements in 122-816

B2 Community Business district

122-373 (special uses)

(19) greenhouses

B4 General Business District

122-413 (special use)

- (11) Outdoor retail sales of plant materials ~~not grown on the site~~, lawn furniture, playground equipment, and home garden supplies, subject to the specific provisions in section 122-800.

(13) greenhouses

WS Workshop Studio

122-432. permitted uses.

(17) Accessory uses customarily incidental and clearly ancillary to the above permitted uses when in accordance with article XI, division 2 of this chapter

122-433 (special uses)

(4) greenhouses

PL- Public Land

122-492. permitted use:

(7): Community gardens.

(8): greenhouses/hoophouses

CI Commercial-Industrial

122-518 (special use)

(20): Outdoor retail sales of plant materials ~~not grown on the site~~, lawn furniture, playground equipment, and home garden supplies, subject to the specific provisions in section 122-800.

122-667 General Standards for detached accessory structures

- (1) *Location.* All detached accessory structure shall be located in rear yards or side yards, except for greenhouses/hoophouses which are subject to the provisions in 122-816. On corner lots, detached accessory structures shall not be located in the required street side yard setback. In no instance shall a structure be located within a dedicated easement
- (2) Setback requirements:
 - a. From principal structure. A detached accessory structure shall be located no closer than seven (7) feet to any principal structure used for residential purposes, five feet from any principal structure used only for nonresidential purposes; or in any case, the minimum distance to comply with fire safety regulations, whichever is greater.
 - b. From rear or side lot lines. Unless regulated otherwise under the area regulations for each district, detached accessory structures shall be constructed a minimum of three feet from a rear or side lot line, and a minimum of one foot from any lot line which abuts an alley. However, on a through lot, the minimum setback from a rear lot line shall be 12 feet.
 - c. Attached to a principal building. When an accessory building or structure is structurally attached to a principal building, it shall be subject to all of the regulations of this chapter applicable to the principal building.
- (6) *Single-family-lot.* On any one single-family residential lot, no more than one private garage, ~~and~~ one storage shed, and one greenhouse/hoophouse shall be erected.

122-800: Outdoor retail sales of plant materials, lawn furniture, playground equipment, garden supplies, etc.

Outdoor retail sales of plant materials ~~not grown on the site~~, lawn furniture and decorations, playground equipment, and home and garden supplies shall be permitted subject to the conditions hereinafter imposed:

- (1) Plant storage and display areas shall comply with all minimum setback requirements for the zoning district.
- (2) The storage of soil, fertilizer, and similar loosely packaged materials shall be contained and covered to prevent it from blowing onto adjacent properties.

Specific Use Standards

122-816 Gardens/Community Gardens

The goal of this standard is to clarify within existing districts that gardening is allowed as an accessory use and to allow for interim or long term low-intensity gardens and/or community gardens on vacant lots in R1 and R2 districts as long as the use provides minimal impacts to residential character, and minimal increase in traffic in and around related parcels.

Furthermore, the City of Ypsilanti is an urban environment, and while these provisions are intended to support the local food system, it is not the intent of these standards to create agricultural districts within the City. Additionally, if any gardening or related use invokes the State Right-to-Farm Act, then this section and related sections in this division are to become null and void.

(1) All principal use gardens/community gardens in R1 and R2 districts must maintain a 3 foot setback on street frontages as well as meet traffic visibility regulations detailed in Sec. 122-649. Further, they shall not encroach onto adjacent parcels or rights-of-way.

(1)(2) In cases where greenhouses are an accessory to gardens in R1 or R2, the usable area of the greenhouse shall not exceed 720 square feet, except when a special use permit is obtained, in which case the maximum usable area shall not exceed 1200 square feet.

(2)(3) In cases where greenhouses are an accessory to gardens in R1 or R2, the front yard setback of the underlying district will apply.

(4) Sale of goods grown in a garden/community garden is prohibited on garden sites in residential districts. Sales of goods from greenhouse in business or other districts are subject to underlying district requirements.

(5) The property shall be maintained in an orderly and neat condition and shall not be detrimental to the physical environment or to public health and general welfare, and remains subject to compliance with the property maintenance code, noise ordinance, and related ordinances

(6) The property shall be maintained so as to prevent the free flow of storm water, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, or alleys.

(3)(7) Motorized equipment within a residential zoning district or residential planned unit development district shall be restricted to hours beginning at 8:00 a.m. and ending at 8:00 p.m. Equipment, such as fans, necessary for the operation of greenhouses is exempted from this provisions

(4)(8) Compost piles may only be used for waste generated on site, and are subject to setbacks....

(5)(9) Gardens shall utilize integrated pest management techniques and best practices in accordance with Ch. 110, Act II of this ordinance

Modify:

		Type	Existing Use	Proposed Use
B1	122-353 (3)	Special Uses	Catering services where more than fifty (50) percent of the food produced on the premises is consumed off the premises	Catering services <u>and the manufacture of food products including brewing and distilling</u>

B2	122-373 (4)	Special uses	Catering services where more than fifty (50) percent of the food produced on the premises is consumed off the premises	Catering services <u>and the manufacture of food products including brewing and distilling</u>
B4	122-412 (10)	Permitted	Catering Services	Catering services <u>and the manufacture of food products including brewing and distilling</u>
RC	122-511(7) <u>122-512</u> <u>(10)</u>	<u>Permitted</u> <u>Special Use</u>	Catering services where more than fifty (50) percent of the food produced on the premises is consumed off the premises, and the gross floor area or the Catering Service shall not exceed 1,500 square feet.	Catering services <u>and the manufacture of food products including brewing and distilling</u>
CI	122-517 (8)	Permitted	Catering services where more than fifty (50) percent of the food produced on the premises is consumed off the premises.	Catering services <u>and the manufacture of food products including brewing and distilling</u>
CI	122-517 <u>(28)</u>	Permitted		<u>Manufacture and processing of food products not elsewhere classified but not including slaughtering, sugar refining, and similar processes.</u>
CI	122-517 <u>(29)</u>	Permitted		Manufacture, compounding, processing, washing and cleaning, packaging, or treatment of such products as, but not limited to: bakery goods, candy, beverages, coffee, tea, spices, and other food products; cosmetics, powders, toiletries, and pharmaceutical products; household chemicals and cleaning products; and hardware and cutlery
CI	122-518 (11)	Special Use	Manufacture of handicraft products, statuary and art goods, pottery and ceramic products, cosmetics and toiletries, baked goods, confections, ice cream and nonalcoholic beverages in bulk , jewelry, clothing and garments, perfumes, electrical appliances and fixtures, draperies, novelty articles, advertising display, notions, smoking tobacco products, gauges, jigs, optical goods, luggage and leather products, toys and household supplies, personal accessories, paper, wood, plastic, or rubber molded products.	

CI	122-518 (12)	Special Use	Machine shops; metal galvanizing, buffing, plating and polishing shops; metal and plastic molding and extrusion shops; carpentry and woodworking shops; millwork and planing mills; tool and die shops; painting and sheet metal shops; undercoating and rust proofing shops; welding shops; enameling, painting and lacquering; japanning; brewing and distilling ; spinning and weaving, and powder production and cooperage.	
WS	122-432 (8)	Permitted	Manufacture of handicraft products, statuary and art goods, pottery and ceramic products, cosmetics and toiletries, baked goods, confections, ice cream and nonalcoholic beverages in bulk , jewelry, clothing and garments, perfumes, electrical appliances and fixtures, draperies, novelty articles, advertising display, notions, smoking tobacco products, gauges, jigs, optical goods, luggage and leather products, toys and household supplies, personal accessories, paper, wood, plastic, or rubber molded products.	
WS	122-432 (16)	Permitted		Catering services <u>and the manufacture of food products including brewing and distilling</u>
M1	122-452 (23)	Permitted		Catering services <u>and the manufacture of food products including brewing and distilling</u>
M1	122-452 (12)	Permitted	Manufacture, compounding, processing, washing and cleaning, packaging, or treatment of such products as, but not limited to: bakery goods, candy, beverages, coffee, tea, spices, and other food products; cosmetics, powders, toiletries, and pharmaceutical products; household chemicals and cleaning products; and hardware and cutlery.	
M1	122-452 (13)	Permitted	Manufacture of handicraft products, statuary and art goods, pottery and ceramic products, cosmetics and toiletries, baked goods, confections, ice cream and nonalcoholic beverages in bulk , jewelry, clothing and garments,	

			perfumes, electrical appliances and fixtures, draperies, novelty articles, advertising display, notions, smoking tobacco products, gauges, jigs, optical goods, luggage and leather products, toys and household supplies, personal accessories, paper, wood, plastic, or rubber molded products.	
M1	122-452 (23)	Permitted		<u>Manufacture and processing of food products not elsewhere classified but not including slaughtering, sugar refining, and similar processes.</u>
M1	122-472 (33)	Permitted		Machine shops; metal galvanizing, buffing, plating and polishing shops; metal and plastic molding and extrusion shops; carpentry and woodworking shops; millwork and planing mills; tool and die shops; painting and sheet metal shops; undercoating and rustproofing shops; welding shops; enameling, painting and lacquering; japanning; brewing and distilling ; spinning and weaving, and powder production and cooperage.
M1	122-453 (10)	Special use		Slaughtering*, sugar refining and other similar processes.
M2	122-453 (33)	Permitted		Catering services <u>and the manufacture of food products including brewing and distilling</u>
M2	122-472 (11)	Permitted	Machine shops; metal galvanizing, buffing, plating and polishing shops; metal and plastic molding and extrusion shops; carpentry and woodworking shops; millwork and planing mills; tool and die shops; painting and sheet metal shops; undercoating and rustproofing shops; welding shops; enameling, painting and lacquering; japanning; brewing and distilling ; spinning and weaving, and powder production and cooperage.	
M2	122-472 (12)	Permitted	Manufacture and processing of food products not elsewhere classified but not including slaughtering,	

			sugar refining, and similar processes. regulated under subsection 122-473(11).	
M2	122-472 (14)	Permitted	Manufacture, compounding, processing, washing and cleaning, packaging, or treatment of such products as, but not limited to: bakery goods, candy, beverages, coffee, tea, spices, and other food products ; cosmetics, powders, toiletries, and pharmaceutical products; household chemicals and cleaning products; and hardware and cutlery.	
M2	122-472 (20)	Permitted	Manufacture of handicraft products, statuary and art goods, pottery and ceramic products, cosmetics and toiletries, baked goods, confections, ice cream and nonalcoholic beverages in bulk , jewelry, clothing and garments, perfumes, electrical appliances and fixtures, novelty articles, advertising display, notions, smoking tobacco products, gauges, jigs, optical goods, luggage and leather products, toys and household supplies, personal accessories, paper, wood, plastic, or rubber molded products.	
M2	122-473 (12)	Special Use	Slaughtering, sugar refining, and other similar processes.	

Modify:

		Type	Existing Use	Proposed Use
B1	122-352 (13) (a)	Permitted	Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas, such as: (a) Food stores, grocery stores, food cooperatives, meats, dairy products, baked goods, ice cream, and similar food products, excluding the sale of alcohol. The manufacture of food products, such as baked goods or ice cream is permitted provided that a minimum of fifty (50) percent of the products are sold at retail from the same building, and that all	(a) Food stores, grocery stores, food cooperatives, meats, dairy products, baked goods, ice cream, and similar food products, excluding the sale of alcohol. Retail sale of poultry, fish and game (provided no slaughtering is allowed). The manufacture of food products, such as baked goods or ice cream is permitted provided that a minimum of fifty (50) percent of the products are sold at retail from the same building, and that

			activities and storage occur within a completely enclosed building.	all activities and storage occur within a completely enclosed building.
B2	122-372 (27) (a)	Permitted	Food stores: grocery stores, food cooperatives, meats, dairy products, alcoholic beverages, baked goods, ice cream, and similar food products. Retail sale of poultry, fish and game (provided no slaughtering is allowed). The manufacture of food products, such as baked goods or ice cream, is permitted provided that fifty (50) percent or more of the products are sold at retail from the same building, and all activities and storage occur within a completely enclosed building. The sale of alcoholic beverages for consumption on the premises is prohibited.	
B3	122-392 (25)	Permitted	a. Food stores: grocery stores, food cooperatives, meats, dairy products, alcoholic beverages, baked goods, ice cream, and similar food products. <u>Retail sale of poultry, fish and game (provided no slaughtering is allowed).</u> The manufacture of food products, such as baked goods or ice cream, is permitted provided that <u>that fifty (50) percent or more</u> 50 percent or more of the products are sold at retail from the same building, and all activities and storage occur within a completely enclosed building. The sale of alcoholic beverages for consumption on the premises is prohibited.	
B4	122-412 (32)	Permitted	Food stores: grocery stores, food cooperatives, meats, dairy products, alcoholic beverages, baked goods, ice cream, and similar food products. The retail sale of poultry, fish, and game is permitted, provided that <u>theno</u> slaughtering thereof <u>is not</u> allowed. The manufacture of food products, such as baked goods or ice cream, is permitted provided that 50 percent or more of the products are sold at retail from the same building, and all activities and storage occur within a completely enclosed building. The sale of alcoholic beverages for consumption on the premises is prohibited.	

RC	122-511 (26)	Permitted	Retail businesses, such as food stores, grocery stores, food cooperatives, meats, dairy products, baked goods, ice cream, personal use items (drugs, health care, dry goods, notions, hardware, books, magazines, periodicals, stationary and school supplies), florists shops, hobby and craft stores, gifts, antiques, jewelry, small household articles, tobacco products, toilet articles, wearing apparel and personal accessories, toys, and similar products.	
CI	122-517 (13)	Permitted	Grocery and food markets	<u>Food stores: grocery stores, food cooperatives, meats, dairy products, alcoholic beverages, baked goods, ice cream, and similar food products. Retail sale of poultry, fish and game (provided no slaughtering is allowed). The manufacture of food products, such as baked goods or ice cream, is permitted provided that fifty (50) percent or more of the products are sold at retail from the same building, and all activities and storage occur within a completely enclosed building. The sale of alcoholic beverages for consumption on the premises is prohibited.</u>



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~~~~~

Jesse O'Jack ~ Of Counsel  
William F. Anhut ~ Of Counsel – Retired

**To:** Teresa Gillotti, Ypsilanti City Planner  
**From:** John M. Barr, Ypsilanti City Attorney  
**Date:** 2/14/2013  
**Re:** Urban gardening

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This memorandum will discuss the law concerning urban gardening.

As a general principal, the Home Rule Act (MCL 117.4i) and other statutes give cities the power to regulate land uses within the boundaries of the city. The Home Rule Act (MCL 117.3k) also provides that cities may regulate construction and maintenance of buildings within the city.

The power to zone includes the power to create zones and to specify the activities allowed or prohibited in the several zones.

As cities developed and changed from rural to urban, zoning ordinances and building codes were adopted to protect and enhance the public health, safety and welfare.

Ypsilanti has a set of ordinances, including building and zoning ordinances that are codified in the city code. The ordinances regulate where buildings may be placed on property and how the buildings must be constructed. The zoning ordinance also regulates the type of activity allowed, such as residential, commercial, industrial, and the like.

A group of citizens interested in urban gardening would like the city to amend the ordinances to allow more rural type use of land in the city, including the construction of "hoop" houses. Hoop houses are usually cheaply constructed of plastic piping bent in a "U" or semi circle configuration and covered with thin, translucent, plastic sheeting.



Questions have arisen as to what ability the city has to regulate hoop houses, placement of gardens, storage of tractors and other gardening tools and other like questions, because of certain provisions in the Michigan Right to Farm Act (Act 93 of 1981) (RTFA) and the State Residential Code (SRC).

The RTFA provides in section (6) that the act supersedes local ordinances, and provides: "...a local unit of government shall not enact, maintain, or enforce an ordinance, regulation or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act."

The RTFA also provides in section 2 (a) that "Farm" means property and activities used in agricultural activities "...in the commercial<sup>1</sup> production of farm products." "Farm operation" is defined in part as the commercial production, harvesting and storage of farm products..." including marketing produce at roadside stands or farm markets.

The act also provides in section 3 that a farm or farm operation shall not be found to be a public nuisance if the operation conforms to generally accepted agricultural and management practices (GAAMP). GAAMPs are policies determined by the Michigan commission of agriculture.

The Michigan Supreme Court in the case of Papadelios v City of Troy 478 Mich 934 (2007) held that local ordinances are only preempted under the RTFA if they directly conflict with a provision of the RTFA or published GAAMP. In that case the court ruled that greenhouses and pole barn were not used for purposes "incidental to the use for agricultural purposes of the land on which the building was located."

So, in my opinion, to be a farm activity protected by the RTFA, an activity must be a commercial farm operation, done in accordance with a published GAAMP, and not in conflict with a local ordinance that is not in conflict with

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<sup>1</sup> Emphasis supplied



RTFA. Since there are no GAAMP for local gardens at the present time, just as none for raising chickens in a city, my opinion is that most, if not all garden uses in the city will be subject to our zoning ordinance, including location and size requirements.

The next question concerns whether or not a hoop house is subject to the Ypsilanti building code. Some time ago the state law changed and now cities must adopt the state building code. The state building code, known as the Michigan Residential Code (MRC) provides that building permits are not required for one story accessory structures of 200 square feet or less. (R105.2a1) Thus, it appears that hoop houses of 200 square feet or less would not require a building permit.

The MRC in the definition section provides that the word "building" does not include a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. The same section provides that the word "structure" does not include a structure incident to the use for agricultural purposes of the land on which the structure is located.

The State Department of Licensing and Regulatory Affairs (Mr. Curtis 517-241-9317) takes the position that these sections exempt all "agricultural" buildings from the building code.

The state position is not exactly on "all fours" with the opinion of the Michigan Supreme Court, in my opinion. However, at this time, I recommend that you consider that when we open the door to hoop houses, that they will not be subject to our building code, which is the MRC.

# Selected Zoning Court Cases Concerning the Michigan Right to Farm Act 1964-2012

Patricia Norris and Kurt H. Schindler, MSU Extension Land Use Team

October 5, 2012

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This public policy brief summarizes the important state court cases and other legal sources concerning the Michigan Right to Farm Act<sup>1</sup> and jurisdiction of local zoning ordinances for the period of 1964 to 2012.

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## Background

This Policy Brief is prepared from a tabular summary of court cases assembled by Dr. Patricia Norris, MSU Department of Agricultural Economics. Over the years local governments have seen less zoning authority over agricultural operations. Some of this has been a result of amendments to the Right to Farm Act (RTFA), but most has been a result of court cases attempting to apply the Act in relationship to local units of government. In part the Right to Farm Act reads:

“A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural and management practices according to policy determined by the Michigan commission of agriculture. Generally accepted agricultural and management practices shall be reviewed annually by the Michigan commission of agriculture and revised as considered necessary.”

– M.C.L. 286.473(1)

“A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the farm land, and if before that change in land use or occupancy of land, the farm or farm operation would not have been a nuisance.”

– M.C.L. 286.473(2)

Amendments to the Right to Farm Act further changed the relationship between local zoning and agricultural

operations, especially as a result of P.A. 261 of 1999, which became effective March 10, 2000. Part of the amendment reads:

“Beginning June 1, 2000, except as otherwise provided in this section, it is the express legislative intent that this act preempt any local ordinance, regulation, or resolution that purports to extend or revise in any manner the provisions of this act or generally accepted agricultural and management practices developed under this act. Except as otherwise provided in this section, a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act.”

– M.C.L. 286.474(6)

It was widely believed at the time, the restriction over local zoning jurisdiction would apply only to those activities which have written and adopted Generally Accepted Agricultural Management Practices (GAAMPs), and would not have an impact on local governments ability to control which zoning districts a farm operation would be allowed, or not allowed, in.

What follows is a summary of court cases on this issue. For additional information see “Questions About Intent and Application of Michigan’s Right to Farm Act” by Patricia Norris and Gary Taylor, *Planning and Zoning News*, pp5-11, March 2007. See also *Who is protected from zoning regulation under the Right to Farm Act (RTFA)* by Brad Neumann and Kurt H. Schindler for a decision tree which presents a series of questions in an attempt to determine where zoning has jurisdiction over

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<sup>1</sup>P.A. 93 of 1981, as amended, being M.C.L. 286.471 *et seq.*

agricultural activity or not.

## Expect Change

This policy brief reflects the current state of local zoning jurisdiction at the time of this writing (October 5, 2012). It is important to remember this is a moving target, and none of the cases, so far, are Michigan Supreme Court cases. So information here can change as a result of action by the Michigan Legislature, other court cases, or the Supreme Court.

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## Restrictions on Zoning Authority – Right to Farm Act

### ●1964

Court: Michigan Court of Appeals (373 Mich. App. 115; 128 N.W.2d 544 (1964))

Case Name: *Diponio v. Cockrum* (Washtenaw County)

Plaintiff seeks to enjoin defendant from selling at his farm stand (located on a 27 acre parcel in an Agricultural District) any produce not grown on that parcel, claiming it is in violation of township zoning ordinance. Defendant says ordinance is invalid and operation does not violate ordinance. Trial court said ordinance did not prohibit defendant's operations and so a ruling on the validity of the ordinance was not necessary. Supreme Court concludes that zoning ordinance is valid (issue was when and how the ordinance was adopted). Township ordinance allowed, for land in question,

“the carrying on of gardening activities or the production of agricultural products through the direct tilling of the soil, together with facilities for the sale of the products produced thereon...”

Appeals Court concluded that defendant should be allowed to sell any produce grown by him within the Agricultural District where the farm stand is located. This meant he could no longer sell produce he grew in an adjoining county.

### ●1986

Court: Michigan Court of Appeals (153 Mich. App. 787; 396 N.W.2d 536 (1986))

Case Name: *Village of Peck v. Hoist* (Sanilac County)

Village passed an ordinance requiring owners of buildings and dwellings within the village to use a

recently constructed public sewer system. Defendants refused to comply. Trial court ordered defendants to comply. Defendants appealed based on

- i) PA116<sup>2</sup> exempts them from any special assessment for or requirement to connect their dwelling to the sewer system and
- ii) Michigan's Right to Farm Act exempts them from complying with the ordinance.

Appeals Court concluded that PA 116 exemption from special assessments excluded dwellings or nonfarm structures located on the land. Thus they are not exempted by PA 116 participation from connecting their home to a public sewer system. On the second issue, the Court concluded that the Right to Farm Act was not a protection since the Village was not characterizing defendants' farm as a nuisance but was merely requesting that they connect their dwelling to the public sewer system. Also, “because the Right to Farm Act does not affect the application of state and federal statutes', it is not a defense to this action.”

### ●1988

Court: Michigan Court of Appeals (170 Mich. App. 446; 429 N.W.2d 185 (1988))

Case Name: *Northville Township v. Coyne* (Wayne County)

Defendant owns farmland used for commercial production of agricultural products since at least early 1970s. Use conforms with zoning. In 1984, resident farm manager (Coyne) erected a barn on the premises without first securing a building permit from township. After barn was constructed, township notified Coyne that he needed to file applications for a building permit and a zoning variance. Applications were denied, and township obtained a demolition order from the Circuit Court because the barn was a nuisance per se because it was built without a permit and in the front yard of the property. Owner admits barn was built without a permit but argues the barn was exempt from compliance with zoning and building ordinances under the Michigan Right to Farm Act.

Appeals Court concluded that because the barn serves as a storage site for farm machinery and implements, seeds, supplies and some produce, “its

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<sup>2</sup>Formerly the Farmland and Open Space Preservation Act, now recodified as the Farmland and Open Space Preservation part of the Michigan Natural Resources and Environmental Protection Act, part 361 of P.A. 1994, as amended (M.C.L. 324.36101 et seq.).

construction and use appears to conform to generally accepted agricultural and management practices” and the Right to Farm Act “is a valid defense to plaintiff’s nuisance suit that arises out of an alleged violation of its zoning ordinance.” Court of Appeals did not address building code issues and remanded those to the trial court, but they said the appropriate remedy should be fine or imprisonment or both but not demolition of the barn.

Note: Right to Farm Act was amended in 1995 to say that RTFA was not intended to interfere with zoning and State Building Code was amended in 1999 to say that buildings incidental to agriculture did not require a building permit.

### ●1990

Court: Michigan Court of Appeals (184 Mich. App. 228; 457 N.W.2d 52 (1990))

Case Name: *Jerome Township v. Milchi* (Midland County)

Defendant resides on land that has been zoned residential since 1965. Prior to that it was used for farming. In 1979 defendant established a commercial apiary on the property. Retail sale of bee by-products and bait was also conducted. By 1987, defendant had registered the apiary with Michigan Department of Agriculture (MDA). In 1987, defendant replaced a split-rail fence around the property with a stockade fence. Following complaints by neighbors, township filed suit against defendants claiming the apiary was an ag use not permitted by current zoning and thus a nuisance per se, retail sale of bee by-products and bait was not permitted under current zoning, and the fence violated the zoning ordinance which prohibited structures between the front and building lines except open fences through which there is clear vision. Trial court upheld apiary and retail sales. The Court concluded the fence could be modified to meet ordinance requirements.

Court of Appeals concluded that because apiary did not exist prior to 1965, it was a change in the nature of a nonconforming use (farming) that existed at the time the ordinance was enacted. Defendants argued that Right to Farm Act protected their apiary from being enjoined as a nuisance per se. The Appeals Court concluded that apiary was a farm operation for purposes of the RTFA, but the RTFA did not apply since the apiary did not exist prior to the 1965 zoning ordinance.

### ●1992

Court: Michigan Court of Appeals (195 Mich. App. 210; 489 N.W.2d 504 (1992))

Case Name: *Richmond Township v. Erbes* (Osceola County)

Defendants own forty acres of farmland in Township and have a small traditional farming operation on the property. In 1978, property was zoned residential. In 1985, defendant began making wood pallets from wood grown on the farm. As operation grew, wood from neighboring farms and sawed at local mills was used in the operation. In 1987, defendant requested to build a pole barn for storage, horse stalls and pallet assembly. Zoning administrator said uses were permitted because the property was zoned agricultural and defendant received a permit to build the barn. Later that year, defendant approached zoning administrator about proposed additions to the barn. At that time, zoning administrator informed him that the pallet assembly activities on the property were in violation of the zoning ordinance. Zoning and building permits for additions to the barn were denied. Plaintiff issued a notice of zoning violation (conducting industrial operation in a nonindustrial-use zone) and brought criminal and civil charges when defendant failed to respond. Criminal charges were dismissed. Defendant claimed ordinance was invalid because it was improperly enacted and that the Right to Farm Act protected their pallet operation. Trial court enjoined pallet making except for those constructed from wood grown on their property.

Court of Appeals affirmed, saying that pallets produced with wood grown elsewhere were not farm products.

### ●1993

Court: Michigan Court of Appeals (200 Mich. App. 179; 503 N.W.2d 675 (1993))

Case Name: *Steffens v. Keeler* (Livingston County)

Plaintiffs moved into their house Feb. 1985. At that time, there was a vacant dairy barn and a house on the property across the street from their house. Defendants moved into that house spring of 1987 and began purchasing pigs approximately five months later. Land is zoned agricultural/residential and area has agricultural and residential uses surrounding. Trial court found that the Right to Farm Act did not protect defendants from a nuisance claim, that the land surrounding had become predominantly residential,

and that farm was a nuisance. Michigan Department of Agriculture (MDA) investigated farm and found that Generally Accepted Agricultural Management Practices (GAAMPs) were not being used. Defendants developed and implemented a plan to use GAAMPs and subsequent MDA investigation found farm in compliance.

Court of Appeals concluded that farm was using GAAMPs and that land within a mile of the farm was not predominantly residential. Thus farm was immune from a nuisance complaint under Right to Farm Act.

## ●1996

Court: Michigan Court of Appeals (Unpublished<sup>3</sup> No. 172026 (1996))

Case Name: *City of Troy v. Papadelis (Papadelis I)* (Oakland County) vacated 454 Mich 912 (1997)

Defendants own two parcels, both zoned residential in 1956. One parcel (residential parcel) was purchased in 1974 and the other (greenhouse parcel) was purchased in 1977 or 1978. In 1991, plaintiff filed complaint seeking injunctive relief for some uses being made of the property. Issues revolved around expansion of greenhouse business on the greenhouse parcel, and expansion of some greenhouse activities, including construction of a parking lot (in 1988), on the residential parcel. Trial court concluded that greenhouse operation was a nonconforming use, was protected by the Right to Farm Act (RTFA), and that the plaintiffs had waited too long to complain about the parking lot on the residential parcel.

Court of Appeals affirmed the protection of the greenhouse activity on the greenhouse parcel and

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<sup>3</sup>Generally unpublished means there was not any new case law established. Unpublished opinions are not precedentially binding under the rules of *stare decisis* (MCR 7.215(c)(1). See *Dyball v Lennox*, 260 Mich. App. 698; 705 n 1 (2003)). A case is “unpublished” because there was not any new principal of law established (nothing new/different to report), or the ruling is viewed as “obvious.” An unpublished case may be a good restatement or summary of existing case law. Unpublished cases need not be followed by any other court, except in the court issuing that opinion. But, a court may find the unpublished case persuasive and dispositive, and adopt it or its analysis. Unpublished cases often recite stated law or common law. Readers are cautioned in using or referring to unpublished cases; and should discuss their relevance with legal counsel before use.) Unpublished cases might be cited, but only for their persuasive authority, not precedential authority. One might review an unpublished case to find and useful citations of published cases found in the unpublished case.)

concluded it was protected by the RTFA. However, expansion of the nursery business onto the residential parcel occurred after the parcel was zoned residential, so it is not protected by the RTFA.

See also *Troy v Papadelis II* case on page 4, *Troy v Papadelis III* case on page 9, *Troy v Papadelis IV* case on page 10, and *Troy v Papadelis V* case on page 12.

Court: Michigan Court of Appeals (Unpublished<sup>4</sup> No. 179297 (1997))

Case Name: *Almont Township v. Dome* (Lapeer County)

Defendant ran tree-farming operation. He placed a mobile home on the property without first obtaining a permit and used it as an office and storage facility. Township claimed the mobile home violated its zoning ordinance and constituted a nuisance per se. Trial court found that Right to Farm Act (RTFA) protected the farm operation. Plaintiff argued that since there are no written Generally Accepted Agricultural Management Practices (GAAMPs) for tree-farming, then trial court could not conclude that defendant's use of the mobile home was an accepted practice.

Court of Appeals disagreed:

“From a practical standpoint, it would seem nearly impossible to list every generally accepted agricultural and management practice for every possible type of farm or farming operation in the state.”

Plaintiff also argued that the 1995 amendment to the RTFA clarified that the RTFA has no effect on the application of zoning ordinances and so the defendant should not be protected by the RTFA. Court of Appeals concluded that since the 1995 amendment was after the case was decided by the trial court (1994), RTFA still offered protection (a la *Northville Township v. Coyne* on page 2) and declined to give the amendment retroactive effect.

## ●1997

Court: Michigan Court of Appeals (226 Mich. App. 90; 572 N.W.2d 246 (1997))

Case Name: *City of Troy v. Papadelis (Papadelis II)* (Oakland County)

This case came back to the Court of Appeals when the Supreme Court vacated the 1996 judgement (see *Troy v. Papadelis* on page 4) and remanded the case for

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<sup>4</sup>See footnote number 3.

reconsideration in light of the 1995 amendment of the Right to Farm Act (RTFA). Defendants appealed to the Supreme Court the Appeals Court decision that they could not continue to use the residential parcel for parking and other nursery-related uses. Defendants claimed that, since the first filing with the Court of Appeals, the RTFA was amended to provide greater protection to farming operations.

Appeals Court again affirmed lower court's decision that nursery was a legal nonconforming use on the greenhouse parcel. Court also concluded that nursery-related activities on the residential parcel were not legal nonconforming uses. Also, activity on the residential parcel is not protected by the RTFA since the RTFA specifically states that it "does not affect the application of state statutes and federal statutes", including the zoning enabling acts, so the RTFA is not a defense against enforcement of a zoning ordinance.

Note: no substantive difference from 1996 decision, page 4. See also *Troy v Papadelis I* case on page 4, *Troy v Papadelis II* case on page 4, *Troy v Papadelis III* case on page 9, *Troy v Papadelis IV* case on page 10, and *Troy v Papadelis V* case on page 12.

#### ●1998

Court: Michigan Court of Appeals (Unpublished<sup>5</sup> No. 175732 (1998))

Case Name: *Groveland Township v. Bowren* (Oakland County)

Defendant owns 16 acres of land that is zoned for agricultural use. After defendant constructed a breeding and boarding kennel, township sought an injunction against the kennel as a nuisance per se because it violated the zoning ordinance. Trial court concluded that ordinance did not violate the Right to Farm Act.

Court of Appeals agreed, concluding that the kennel is not akin to a farming operation. Also, post-1995 amendment to Right to Farm Act (RTFA), the RTFA is not a defense against enforcement of a zoning ordinance.

#### ●1999

Court: Michigan Court of Appeals (Unpublished<sup>6</sup> No. 206594 (1999))

Case Name: *Macomb Township v. Michaels* (Macomb County)

Defendant owns 300 acre farm in an area zoned for agricultural use. Since 1991, defendants composted yard waste from other communities on their farm in return for tipping fees, and area residents complained about the odor. Plaintiff argued that large-scale composting operation was in violation of zoning ordinance. Trial court concluded that the composting operation was an acceptable agricultural practice and protected under the Right to Farm Act (RTFA).

Court of Appeals concluded that RTFA does not preempt the application of the zoning ordinance at issue in the case. Supreme Court denied application to appeal.

See also *Macomb v. Michaels* on page 6.

#### ●2000

Court: Michigan Court of Appeals (241 Mich. App. 324; 615 N.W.2d 250 (2000))

Case Name: *Belvidere Township v. Heinze* (Montcalm County)

In summer of 1997, defendant purchased 35 acres for the purpose of hog farming, intending to raise 6,000-7,000 hogs at the site. At the time of the purchase, the zoning ordinance did not restrict large livestock operations. In April 1998, township passed a new zoning ordinance that required concentrated livestock operations to obtain a special use permit. Defendant was requested to stop construction of his facility until he obtained a special use permit but refused. Trial court concluded that prior activities at the site established a prior nonconforming use at the time the ordinance was enacted. Trial court also concluded that the Right to Farm Act (RTFA) did not exempt defendant from complying with the zoning ordinance.

Appeals Court concluded that defendant had not done enough material work to constitute a prior nonconforming use. Appeals Court concluded that, at time the case was filed, the RTFA was not a defense against enforcement of a zoning ordinance. However, it remanded the case for reconsideration given the 1999

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<sup>5</sup>See footnote number 3.

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<sup>6</sup>See footnote number 3.

amendment of the RTFA (which says that zoning ordinances cannot conflict with the RTFA or Generally Accepted Agricultural Management Practices (GAAMPs)).

Court: Michigan Court of Appeals (241 Mich. App. 417; 616 N.W.2d 243 (2000))

Case Name: *Brandon Township v. Tippet* (Oakland County)

Tippet owns 10 acres of land zoned as rural estate district. He parked and stored pieces of heavy equipment on the property. Tippet did not farm in Brandon Township, but he did farm in Marlette, Michigan (not located within Brandon Township). Tippet used the equipment to maintain his private road in Brandon Township and in a part-time excavating business. Equipment was not stored in a barn. Township filed complaint saying Tippet violated the local zoning ordinance which limited the number of such vehicles on a parcel and required that vehicles and equipment of the type involved should be stored in an enclosed building. The ordinance exempted vehicles used in “bona fide” farm operations. The zoning ordinance was enacted four years before Tippet built and occupied his house. The trial court rejected Tippet’s argument that by using the equipment for a bona fide farming operation outside Brandon Township he could qualify for a zoning exception within the township.

Because ordinance did not say that vehicles were exempt if used in a bona fide farming operation specifically in Brandon Township, Appeals court concluded that Tippet’s equipment were exempt. Not a Right to Farm Case.

## ● 2002

Court: Michigan Court of Appeals (249 Mich. App. 338; 643 N.W.2d 235 (2002))

Case Name: *Travis v. Preston* (Branch County)

Defendants began operating a hog farm in 1996. Plaintiffs, who live nearby, filed action for nuisance and injunctive relief against defendants because of obnoxious and offensive odors that made their residences uninhabitable, reduced the value of their homes and deprived them of the peaceful use and enjoyment of their homes. Plaintiffs alleged the farm violated the zoning permit and Michigan law and violated the local zoning ordinance. Ordinance said, in part, that uses should be conducted and operated so

that odors etc. are not “obnoxious” beyond the lot on which the use is located. Trial court concluded that the farm violated the zoning ordinance and that a township has the authority to promulgate ordinances that restrict the effect of the Right to Farm Act (RTFA).

Court of Appeals concluded that the December 1999 amendment to the RTFA that preempted local zoning should not be applied retroactively. Initial trial was in August 1999. Appeals Court remanded issue of whether obnoxious odor was present beyond the defendant’s property to reassess whether lawful zoning ordinance was violated.

## ● 2003

Court: Michigan Court of Appeals (Unpublished<sup>7</sup> No. 229228 (2003))

Case Name: *Macomb Township v. Michaels* (Macomb County)

Action commenced in 1995 when plaintiff alleged that defendants were operating a commercial composting business on property that was zoned for ag use. In earlier decision (*Macomb v. Michaels* on page 5), Court of Appeals concluded that Right to Farm Act (RTFA) could not serve as a defense to an action to enforce a zoning ordinance. On remand, trial court considered amendments to the RTFA and a new ordinance governing composting operations and concluded that the local municipality could no longer enact zoning ordinances that conflicted with the RTFA without the prior approval of Michigan Department of Agriculture (MDA).

On appeal, the Court of Appeals ruled that the RTFA amendments could not be applied retroactively. (Defendants did not submit a new application to the township to operate their business. Court of Appeals concluded that if defendants submit a new application and the application is refused, then the RTFA, as amended, could be considered.) Appeals Court did not specifically address whether the composting business would, in fact, be protected by RTFA.

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<sup>7</sup> See footnote number 3.

Court: Michigan Court of Appeals (Unpublished<sup>8</sup> No. 240444 (2003))

Case Name: *Milan Township v. Jaworski and Sexy Pheasant* (Monroe County)

Defendant breeds, raises and sells pheasants and quail at a hunting preserve on land zoned for agricultural use. The hunting preserve is licensed by the Michigan Department of Natural Resources (DNR). Township zoning ordinance required a special use permit to operate a hunting preserve on land that is agricultural. Special use permit was denied. Township filed a complaint and sought injunction. Township conceded that neither hunting nor the raising or selling of game birds violates its ordinances, but charging a fee to allow people to hunt rendered the preserve a commercial recreation area as defined in its ordinance. Special use permit is required for such a use in an agriculture district. Trial court granted injunction. Defendant argues that township ordinance is preempted by Michigan Natural Resources and Environmental Protection Act, (NREPA)<sup>9</sup> and Right to Farm Act (RTFA).

Court of Appeals concluded that the ordinance is not preempted by NREPA. However, ordinance is preempted by RTFA. Court of Appeals sought input from several sources to define the hunting preserve as an agricultural operation.

1. By definition in RTFA, the defendant's property is a farm because it is used for breeding, raising and selling game birds for commercial purposes.
2. The game birds raised on the property are farm products.
3. Hunting on the property constitutes a farm operation because it involves the harvesting of farm products.
4. That specific Generally Accepted Agricultural Management Practices (GAAMPs) for harvesting game birds aren't written down is immaterial.
5. Plus game birds are referenced in the GAAMPs related to care of animals.
6. Also, Ag. Commission recently adopted a resolution recognizing Gamebird Hunting Preserves as an agricultural activity and a value-added farm opportunity.

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<sup>8</sup>See footnote number 3.

<sup>9</sup>Michigan Natural Resources and Environmental Protection Act, P.A. 1994, as amended, (M.C.L. 324.101 *et seq.*)

The township's ordinance requiring a special use permit conflicts with the RTFA to the extent that it allows the township board to preclude a protected farm operation. (Supreme Court denied leave to appeal.)

Court: Michigan Court of Appeals (Unpublished<sup>10</sup> No. 236458 and 236459 (2003))

Case Name: *Padgett v. Mason County* (Mason County)

Plaintiff owns a 35 acre parcel in Victory Township, where he had a hog farming operation from 1980 until 1993, at which time a diseased herd led plaintiff to declare bankruptcy and cease the hog farming operation. In 1994, the plaintiff's land was rezoned from agricultural to residential. In 2000, another businessman assumed plaintiff's mortgage and contracted to dispose of his industrial ice cream waste as feed for hogs. County required a special use permit for farmer to resume hog operation because of zoning change. Request for a special use permit was denied. Plaintiff complained that the hog farm was a prior nonconforming use and also that the zoning ordinance is invalid because of the Right to Farm Act (RTFA).

Court of Appeals concluded that the operation was not a prior nonconforming use since, after bankruptcy, the hog operation was terminated until 2000. So the requirement of and denial of a special use permit was not in error. Court of Appeals also concluded that the RTFA was not applicable in this case since the hog farming had stopped before the zoning was changed, so that zoning was not being used to prevent a prior nonconforming use. (Note the following quote in this court decision:

“Ultimately, as set forth in Heinze, the purpose of the RTFA is to protect farmers from nuisance suits, not to make farms exempt from zoning.”)

## ● 2004

Court: Michigan Court of Appeals (Unpublished<sup>11</sup> No. 246596 (2004))

Case Name: *Village of Rothbury v. Double JJ Resort Ranch* (Oceana County)

Defendant owns residentially-zoned land in the Village. Plaintiff sued to enjoin agricultural and commercial activities on the land. Trial court determined that defendant's pumpkin patch and corn

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<sup>10</sup>See footnote number 3.

<sup>11</sup>See footnote number 3.

harvested to feed defendant's horses were exempt from zoning because they complied with Generally Accepted Agricultural Management Practices (GAAMPs) but the use of the corn field as a maze available to the public and the rental of horses for recreational riding were not protected.

Court of Appeals concluded that a riding stable is a farm operation and horse riding is a farm product so Right to Farm Act (RTFA) exempts them from local zoning. Court of Appeals also concluded that the corn maze is a farm product under RTFA and exempt from zoning laws. Court discussed raising of corn as an agricultural product, not just for consumption but also for pleasure. Also corn was rotated with other crops. GAAMPs address raising corn and crop rotations.

"Because an ordinance provision that only permits single family dwellings, playgrounds, and parks would prohibit farming operations, the ordinance provision conflicts with the RTFA and is unenforceable."

## ●2005

Court: Michigan Court of Appeals (267 Mich. App. 92; 702 N.W.2d 92 (2005))

Case Name: *Shelby Township v. Papesh* (Macomb County)

Defendants purchased just over one acre of property in Shelby Township in 1995. A farmhouse and two chicken coops were located on the property. Area surrounding the property was largely undeveloped and, at the time of purchase, farming was a permitted use. However, the local ordinance required a minimum of three acres for a farm. In 1996 defendants began raising chickens in the existing coops. By 1998, surrounding area began to be developed, large homes were built near and adjoining defendant's property, and neighbors began to complain about the poultry operation. In 2004, several neighbors filed a petition with the township requesting that it investigate the operation and suggested that odor and noise were a nuisance. Township then filed complaint with court arguing operation was a negligent public nuisance, a public nuisance in fact, and a nuisance per se (in violation of zoning ordinance). It also alleged that the operation was not in compliance with Generally Accepted Agricultural Management Practices (GAAMPs). Trial court concluded that the operation was a nuisance under the ordinance. It also concluded that the Right to Farm Act (RTFA) was inapplicable because the sales on the farm "did not rise to the level required for the RTFA

to even apply until at the earliest the year 2000 and perhaps the year 2003."

Court of Appeals reversed and remanded. Court of Appeals concluded that the ordinance was preempted by the RTFA.

"The ordinance conflicts with the RTFA to the extent that it allows plaintiff to preclude a protected farm operation by limiting the size of a farm...Any township ordinance, including a zoning ordinance, is unenforceable to the extent that it would prohibit conduct protected by the RTFA."

The remand was to determine whether the poultry operation was commercial in natural and in compliance with GAAMPs.

"If defendants' farm is to be protected by the RTFA, it must be also engaged in breeding, raising and selling poultry for commercial purposes as well as being in compliance with the appropriate GAAMPs as determined by the [Michigan] Commission [of Agriculture]."

Court: Michigan Court of Appeals (Unpublished<sup>12</sup> No. 257097 (2005))

Case Name: *King of the Wind Farms v. Michigan Commission of Agriculture* (Macomb County)

Plaintiff occupies a three hundred acre parcel of agriculturally zoned land in Macomb Township. Since 1991, plaintiff has been involved in litigation with the township regarding odors emanating from composting operations conducted on the land. Michigan Department of Agriculture (MDA) investigated the township's complaints and worked with plaintiff and its operators to obtain conformance with Generally Accepted Agricultural Management Practices (GAAMPs). When these efforts failed, MDA transferred investigation of the matter to Michigan Department of Environmental Quality (DEQ). Plaintiff subsequently petitioned MDA for reassessment of its operations for GAAMPs conformance. MDA declined because of interagency Memorandum of Understanding (MOU) between MDA and DEQ about how such situations would be handled. Plaintiff filed suit challenging MDA's authority to transfer oversight to DEQ and requesting that MDA be ordered to do the reassessment. Trial court found there was no legal duty on the part of MDA to reassess the operation once

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<sup>12</sup>See footnote number 3.

authority was transferred to DEQ for enforcement of environmental regulations. Court of appeals affirmed.

## ●2006

Court: Michigan Court of Appeals (Unpublished<sup>13</sup> No. 268920 (2006))

Case Name: *Papadelis v. Troy (Papadelis III)* (Oakland County)

Plaintiffs own a greenhouse and garden center in Troy. Property is zoned single family residential. Defendants argue that plaintiffs are engaging in commercial activity on their northern parcel in violation of the city's residential zoning ordinance. Plaintiffs contend the activity is protected under the Right to Farm Act (RTFA). There have been two previous actions between these parties which were concluded in favor of the City of Troy (see the two related cases on pages 5 and 6). Here, trial court found in favor of plaintiffs.

Court of appeals concluded that the activity on the parcel satisfies the definition of a farm operation because the parcel is used for storage, growing, sustaining, nurturing and wholesale of floriculture and horticulture products and defendant did not offer any evidence that the operation is not in compliance with Generally Accepted Agricultural Management Practices (GAAMPs). Defendants argue that RTFA does not apply because the operations on the parcel did not exist before the parcel was zoned for residential use in 1956. Court of Appeals concluded that sections 1 and 2 of M.C.L. 286.473 should be read separately.

“A farm operation that conforms to generally accepted agricultural and management practices is entitled to the protection provided by the RTFA without regard to the historic use of the property in question.”

Also, an ordinance limiting agricultural activity to parcels of a certain size is preempted by the RTFA. Also, a farming operation must be at least partially commercial in nature for the RTFA to apply. Also, zoning ordinances regarding building specifications are preempted by RTFA to the extent that the city is attempting to enforce them against a use protected under the RTFA. Application for appeal was made to the Michigan Supreme Court.

See also *Troy v Papadelis I* case on page 4, *Troy v*

*Papadelis II* case on page 4, *Troy v Papadelis IV* case on page 10, and *Troy v Papadelis V* case on page 12.

Court: Michigan Court of Appeals (Unpublished<sup>14</sup> No. 268142 (2006))

Case Name: *Armada Township v. Marah* (Macomb County)

Defendants own a parcel of slightly less than six acres in an area zoned residential/agricultural. For several years, defendants have raised llamas on their property. Township ordinance allows keeping of animals in the district, but only for riding, show or personal use and not for remuneration or sale. And activities are limited to a parcel of 2 acres or more. An additional acre is required for each animal after the first. The restrictions don't apply to “bona fide” farms, which must be 10 acres or larger. Plaintiff initiated misdemeanor prosecution of defendant charging violation of the ordinance. Defendant maintained that he was not conducting farming operations, in order to avoid the 10 acre requirement and by arguing that llamas did not meet the specification of animal types (horses, cows, similar animals) in order to avoid the additional acre per animal requirement. Defendant was successful in claim that his was a hobby operation (so the 10 acre requirement did not apply), but not in claiming that llama were sufficiently dissimilar to horses and cows (so he did need an additional acre for each animal). On appeal to the circuit court, the court declined to consider a new argument by defendant – that the township ordinance was preempted by the the Right to Farm Act (RTFA). A second nuisance complaint was filed by the township and the defendant again raised the RTFA preemption issue. Township argued that RTFA preemption defense was precluded since earlier argument by defendant was that his was not a farm operation. Court found for defendant.

Court of Appeals concluded that defendant could not claim to be a farm after his successful outcome in criminal court in which he claimed not to be a farm. Court did not address whether the RTFA actually preempts the township ordinance. Application for appeal, still pending, made to the Michigan Supreme Court.

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<sup>13</sup>See footnote number 3.

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<sup>14</sup>See footnote number 3.

## ●2007

Court: Michigan Supreme Court ORDER<sup>15</sup> (478 Mich. 934; 733 N.W.2d 397; 2007 Mich., June 29, 2007)

Case Name: *Papadelis v. City of Troy (Papadelis IV)* (Oakland County)

The unanimous Supreme court order indicates that because no provisions of the Right To Farm Act (M.C.L. 286.471 *et seq.* (RTFA), or any published Generally Accepted Agricultural and Management Practice (GAAMPs) address operations of greenhouses, no conflict exists between RTFA and a zoning ordinance. Thus a city can enforce zoning. Part of the court order's significance the points (1) RTFA does not contain specific regulation, and (2) there are not **published** GAAMPs.

In an order in lieu of granting leave to appeal, the court reversed in part the judgments of the trial court and the Court of Appeals to extent they held the RTFA and the State Construction Code exempted the plaintiffs from the defendant-city's ordinances "governing the permitting, size, height, bulk, floor area, construction, and location of structures used in the plaintiffs' greenhouse operations."

The court concluded assuming plaintiffs' acquisition of additional land entitled them under the city's zoning ordinance to make agricultural use of the north parcel (although the court expressed no opinion on this point), plaintiffs' structures were still "subject to applicable building permit, size, height, bulk, floor area, construction, and location requirements under" the city's zoning ordinances. Plaintiffs' "greenhouses and pole barn are not 'incidental to the use for agricultural purposes of the land' on which they are located within the meaning of MCL 125.1502a(f)." Since no RTFA provisions or any published GAAMP "address the permitting, size, height, bulk, floor area, construction, and location of buildings used for greenhouse or related agricultural purposes," there was no conflict between the RTFA and the city's ordinances regulating such matters precluding enforcement of the ordinances under the facts of the case.

The court remanded the case to the trial court for further proceedings not inconsistent with this order. In

all other respects, the applications for leave to appeal were denied because the court was not persuaded it should review the remaining questions. (Source: State Bar of Michigan e-Journal Number: 36466, July 6, 2007.)

The Supreme Court's order reads in its entirety:

"On order of the Court, the motion for leave to file brief *amicus curiae* is GRANTED. The application for leave to appeal the September 19, 2006 judgment of the Court of Appeals and the application for leave to appeal as cross-appellants are considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE in part the judgments of the Oakland Circuit Court and the Court of Appeals to the extent that they hold that the Right to Farm Act, MCL 286.471 *et seq.* (RTFA), and the State Construction Code, MCL 125.1502a(f), exempt the plaintiffs from the defendant city's ordinances governing the permitting, size, height, bulk, floor area, construction, and location of structures used in the plaintiffs' greenhouse operations. Assuming that the plaintiffs' acquisition of additional land entitled them under the city's zoning ordinance to make agricultural use of the north parcel (a point on which we express no opinion, in light of the defendant city's failure to exhaust all available avenues of appeal from that ruling after the remand to the Oakland Circuit Court in the prior action, see *City of Troy v Papadelis (On Remand)*, 226 Mich App 90 (1997)), the plaintiffs' structures remain subject to applicable building permit, size, height, bulk, floor area, construction, and location requirements under the defendant city's ordinances. The plaintiffs' greenhouses and pole barn are not "incidental to the use for agricultural purposes of the land" on which they are located within the meaning of MCL 125.1502a(f). As no provisions of the RTFA or any published generally accepted agricultural and management practice address the permitting, size, height, bulk, floor area, construction, and location of buildings used for greenhouse or related agricultural purposes, no conflict exists between the RTFA and the defendant city's ordinances regulating such matters that would preclude their enforcement under the facts of this case. We REMAND this case to the Oakland Circuit Court for further proceedings not inconsistent with this order. In all other respects, the applications are DENIED, because we are not persuaded that the

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<sup>15</sup>Order — A direction of a court made or entered in writing. One which terminates the action itself, or decides some matter litigated by the parties.

remaining questions presented should be reviewed by this Court.”

See the Appeals case, Michigan Court of Appeals *Papadelis v. Troy*, page 9. See also *Troy v Papadelis I* case on page 4, *Troy v Papadelis II* case on page 4, and *Troy v Papadelis V* case on page 12.

Full Text Opinion:

<http://www.michbar.org/opinions/supreme/2007/062907/36466.pdf>

Court: Michigan Court of Appeals (Unpublished<sup>16</sup> No. 271082, November 13, 2007)

Case Name: *People v. Templeton* (St. Clair County)

The trial court did not abuse its discretion in denying the Templeton-defendants’ motion for attorney fees and costs under the Right to Farm Act (RTFA) (MCL 286.471 *et seq.*) (MCL 286.473b) in this nuisance action. The relevant statute makes clear a prevailing farm or farm operation is not automatically entitled to attorney fees and costs. Rather, it is within the trial court’s discretion whether to award them. Because defendants succeeded in obtaining a dismissal of plaintiff’s nuisance action, they arguably prevailed according to the plain meaning of that term. However, the trial court did not err in denying defendants’ motion.

The trial court noted the parties reached a resolution pursuant to which plaintiff agreed to dismiss the case if defendants’ application for a farmland and open spaces agreement was approved. Thus, the parties agreed to resolve their dispute in lieu of trial. Contrary to defendants’ argument, it did not appear the plaintiff brought this action merely to harass defendants. Plaintiff’s contention the RTFA did not apply to the property appeared well founded. Although tax records listed the property as “agricultural,” the designation did not necessarily mean the property was used for farming. Defendant-Nelson Templeton’s income tax returns did not reflect any income or loss from farming activities until he filed an amended 2004 return after plaintiff filed suit. Further, defendants’ agreement to use the property for the next 10 years pursuant to the farmland and open spaces agreement, did not suggest the land was previously used for farming. Affirmed. (Source: State Bar of Michigan *e-Journal* Number: 37610, November 16, 2007.)

Full Text Opinion:

<http://www.michbar.org/opinions/appeals/2007/111307/37610.pdf>

## ● 2008

Court: Michigan Court of Appeals (Unpublished<sup>17</sup> No. 275315, May 20, 2008)

Case Name: *Woodland Hills Homeowners Ass'n of Thetford Twp. v. Thetford Twp.* (Genesee County)

Since defendant-Allison’s facility qualified as a commercial farming operation in compliance with Generally accepted agricultural and management practices (GAAMPS) and was afforded protections by the Michigan Right to Farm Act (RTFA)(MCL 286.471) (specifically no nuisance case could be maintained against the property) preempting the local zoning ordinance, the trial court properly granted Allison summary disposition because there was no genuine issue of material fact.

The local zoning ordinance at issue stated no farm may operate unless the farm is at least 20 acres in size. Allison’s property did not meet the size threshold. Plaintiff-Woodland contended the defendant-township should be forced to apply the zoning ordinance to prevent Allison from using his property for farming purposes. The court held in *Charter Twp. of Shelby v. Papesch* (page 8) where a zoning ordinance prevents an individual from operating a farm on a parcel of land because of the small size of the parcel, the ordinance is preempted by the RTFA where the RTFA would otherwise protect the operation.

The court held Allison’s farm was protected by the RTFA because it conformed to GAAMPS and the operation was commercial in nature. Thus, no nuisance cause of action could be maintained against the property. The court also held plaintiff did not have standing to bring the action where it failed to provide evidence demonstrating a resident of the subdivision had been injured by Allison’s conduct or operation and did not have specific allegations regarding aspects of his farm creating a nuisance. Plaintiff failed to distinguish its residents from members of the general public who did not belong to the association. Affirmed. (Source: State Bar of Michigan *e-Journal* Number: 39418, May 29, 2008.)

Full Text Opinion:

<http://www.michbar.org/opinions/appeals/2008/052008/39418.pdf>

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<sup>16</sup>See footnote number 3.

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<sup>17</sup>See footnote number 3.

●2009

Court: Michigan Court of Appeals (Unpublished<sup>18</sup> No. 286136, December 15, 2009)

Case Name: *Papadelis v. City of Troy (Papadelis V)* (Oakland County) (Michigan Farm Bureau, *Amicus Curiae*)

The trial court properly construed the provisions of the defendant-city's zoning ordinance and did not err in concluding they were inapplicable to the plaintiffs' greenhouses, cold frames, and pole barn. Thus, the Appeals Court affirmed the trial court's order denying defendants-City of Troy's motion for an order directing the plaintiffs-Papadelis to remove the buildings and the dismissal of defendants' counterclaim in this lengthy land use dispute. (See *Troy v Papadelis I* case on page 4, *Troy v Papadelis II* case on page 4, *Troy v Papadelis III* case on page 9, and *Troy v Papadelis IV* case on page 10.)

Papadelis (plaintiffs) own two adjacent parcels of land in the city, referred to as the north and south parcels. Both parcels are zoned "single-family residential" (R-1D) under the zoning ordinance. Thus, the parcels can be used for the purposes described in §§10.00.00 - 10.20.08 of the City of Troy zoning ordinance. Section 10.20.00 describes the "principal uses permitted" and provides no building or land shall be used and no building erected except for one or more of the specified uses. "Agriculture" is specified as a permitted principal use of property zoned R-1D. The ordinance defines "agriculture" as "[f]arms and general farming, including horticulture, floriculture . . ."

The city did not contest the floriculture and horticulture occurring on plaintiffs' property were "agriculture" and thus, a principal permitted use of the property. Rather, defendants appeared to claim while the use was permitted, the two greenhouses, pole barn, and cold frames were not permitted because they were in violation of other zoning ordinance provisions. Defendants argued they were all "accessory buildings" or "accessory supplemental buildings" under the ordinance and thus, subject to certain regulations.

The Appeals Court disagreed, concluding the buildings did not meet either definition as set forth in the ordinance. Pursuant to the definition of "accessory building" in §04.20.01, if the greenhouses, pole barn, and cold frames were not a barn, a garage, or a storage building/shed as defined by the ordinance, they were

not "accessory buildings." The buildings did not meet any of those definitions. Section 04.20.03 defined an "accessory supplemental building" in a manner contemplating a residential use as the main property use by its reference to a "building used by the occupants of the principal building for recreation or pleasure . . . ." There was no evidence the plaintiff-Papadelis' greenhouses and cold frames were used "for recreation or pleasure." Rather, the evidence showed they were used in conjunction with their horticulture and floriculture commercial business located on the south parcel.

The court opinion read:

"Next, defendants argue that allowing plaintiffs to maintain the contested agricultural buildings violates the intent of the ordinance which is to "provide for environmentally sound areas of predominantly low density single family detached dwellings." We disagree. The intention of providing low-density, single-family dwellings actually appears to be furthered by plaintiffs' agricultural use of their property. Preserving agricultural uses compatible with limited residential development, protecting the decreasing supply of agricultural land by allowing only limited residential development and/or maintaining some rural character to the community arguably provides 'for environmentally sound areas of predominately low density single family detached dwellings.'" In any case, this argument is without merit."

And

"Defendants also argue that the trial court's interpretation and conclusion that defendants' ordinance contains no provisions that relate to agricultural buildings 'defies common sense' and leads to an absurdity. We disagree. The wisdom of an ordinance, like a statute, is for the determination of the legislative body and must be enforced as written. See *City of Lansing v Lansing Twp*, 356 Mich 641, 648; 97 NW2d 804 (1959). Agriculture is a principal use permitted, as are one-family dwellings, accessory buildings, and others. That defendants' ordinance provides detailed and specific regulations with respect to some principal uses and does not include agriculture within the ambit of those regulations is the prerogative of the legislative body and we may not second-guess such wisdom. Further, plaintiffs' expert witness, Leslie Meyers, testified

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<sup>18</sup>See footnote number 3.

that as a zoning administrator in every municipality she has worked where there has been farming, agricultural buildings have been exempt from such regulation.”

The Supreme Court’s June 29, 2007 order (*Papadelis v City of Troy*, 478 Mich 934; 733 NW2d 397 (2007) (*Papadelis IV*, page 10)) requires that farm buildings, such as plaintiff’s structures, are subject to applicable building permit, size, height, bulk, floor area, construction, and location requirements, under local zoning. As to if City of Troy’s ordinances apply to plaintiffs’ greenhouses, pole barn, and cold frames was never reached or decided. Accordingly, the trial court’s decision, that the particular structures do not violate any applicable zoning ordinance, does not conflict with the Supreme Court’s order.

Affirmed.

Full Text Opinion:

<http://www.michbar.org/opinions/appeals/2009/121709/44574.pdf>

## ●2011

Law review article: "When Urban Agriculture Means Michigan's Right to Farm Act: The Pig's in the Parlor" by Patricia Norris, Gary Taylor, and Mark Wyckoff; *The Michigan State Law Review*; 2011MICH. ST. L. REV. 365.

In this article, the authors contend that judicial interpretations of the Right to Farm Act (RTFA) and the changing nature of Michigan agriculture-in particular, the rapidly-growing interest in urban agriculture-have raised several concerns and presented potential conflicts that suggest it is time, once again, to revisit the RTFA. Specifically:

- A. The RTFA affords nuisance protection to those farms using generally accepted agricultural and management practices (GAAMPs); however, judicial interpretations arguably have expanded the scope of GAAMPs beyond that envisioned by the Michigan legislature. Yet, the applicability of GAAMPs for urban environments has not been explicitly considered.
- B. The RTFA was originally adopted to protect farms and farmland in rural areas from encroachment by those "coming to the nuisance;" however, the RTFA now affords farms the right to bring the nuisance to town.
- C. The RTFA preempts local laws that extend, revise, or conflict with its provisions; however, judicial interpretations have led to the preemption of even

the most basic zoning regulations designed to minimize land use conflicts and protect the public health and safety of urban residents.

The balance of the article addresses these concerns, describes in more detail the conflicts created, and proposes potential legislative responses that could ameliorate the potential dampening effect of the RTFA on the burgeoning urban agriculture movement in Michigan.

Copy of the article:

<http://www.msulawreview.org/PDFS/2011-2/Norris.pdf>

(found at web page:

<http://www.msulawreview.org/Issues.aspx?ID=53>)

## ●2012

Court: Michigan Court of Appeals (Unpublished No. 301952, August 16, 2012)

Case Name: *County of Mason v. Indian Summer Coop., Inc.* (Mason County)

This abatement-of-a-nuisance action concerned whether a county zoning ordinance and state law required an agricultural cooperative to obtain special land-use zoning permit and construction code permit before beginning construction on both a warehouse that is to be used to store packaged processed-fruit products and an addition to a processing plant to store a snowplow and a boiler. The Appeals Court held, *inter alia*, that the ordinance required the defendant-cooperative to obtain special land-use permits to construct the warehouse and the addition.

Thus, the Appeals Court reversed the trial court’s order granting summary disposition in favor of the cooperative.

Mr. H, the cooperative’s president, approached the county as to the possible construction of a new warehouse on the parcel that was needed for a “labeling line” and “more warehouse space” to accommodate the storage of its “finished” product in plastic packaging containers in response to its customers’ needs. Although H had plans for the building construction, he tried to obtain a construction code building permit without going through “the special land use process.” R, the county’s zoning and building director and zoning administrator, informed H that no permit would be issued without further documentation required by the county zoning ordinance. H insisted that he did not have to comply with the special land-use permit process.

R contacted the MDA to determine whether the

cooperative was exempt from local zoning ordinances under the Michigan Right to Farm Act (RTFA) (MCL 286.471 *et seq.*). The Michigan Department of Agriculture (MDA) informed R that the cooperative was not exempt. The county filed a nuisance complaint against the cooperative, alleging that the cooperative's "actions in erecting a structure on the real property without securing the requisite zoning approval" and the "offending structure" that was "created on [the cooperative's] premises by the construction" were nuisances.

After the cooperative submitted an application "under protest" for special land-use approval, the Planning Commission held a public hearing, and the cooperative's site plan and special land-use application were approved. The county's employees "observed the cooperative constructing a new addition to the east side of its main processing plant," an activity not part of the approved site plan. Thus, the county issued another stop-work order and eventually a citation for violating the stop-work order.

The Appeals Court held that it could not conclude that the county improperly classified the use of the parcel as "agribusiness." Contrary to the cooperative's argument on appeal, the use of the parcel could not be classified as farming under the ordinance. The evidence showed that crops were not being grown on the parcel. Instead, the parcel "was used for processing and, with the new construction of the warehouse, for the purposes of labeling and storage of the cooperative's finished product before distribution to customers." Under the zoning ordinance, "commercial storage, processing, distribution, marketing, or shipping operations shall not be considered part of the farming operation." Also, the cooperative's use of the parcel fell within the ordinance's definition of "agribusiness."

The Appeals court held that given that the ordinance's definition of "agribusiness" included and was not limited to "the processing of farm products," the "cooperative's processing of fruit and its storage of processed farm products" - "finished" apple products - on the parcel fell within the ordinance's definition of agribusiness. Reversed. (Source: State Bar of Michigan e-Journal Number: 52464, August 30, 2012)

Full Text Opinion:

<http://www.michbar.org/opinions/appeals/2012/081612/52464.pdf>

Court: Michigan Court of Appeals (Unpublished No. 304979, August 23, 2012)

Case Name: *Brown v. Summerfield Twp.* (Monroe County)

The Appeals Court held that the trial court properly granted summary disposition on the plaintiff's Right to Farm Act (RTFA) (MCL 286.471 *et seq.*) claim because she offered no evidence that she was engaged in a commercial operation. The trial court also did not err in granting summary disposition on her substantial due process claim because the ordinance was not unreasonable, and the trial court did not err in granting summary disposition on her equal protection claim because she provided no evidence that the defendant-township treated any other person differently.

She claimed on appeal that the RTFA preempts a township ordinance that prohibited her from keeping horses on property less than 1½ acres. The trial court granted defendant's motion based on its finding that plaintiff was not engaged in a commercial farming operation. The RTFA preempts ordinances only to the extent that they impose restrictions on commercial farming operations. Thus,

any township ordinance, including a zoning ordinance, is unenforceable to the extent that it would prohibit conduct protected by

the RTFA, which includes ordinances requiring minimum lot sizes, which the Generally Accepted Agricultural and Management Practices (GAAMPs) do not address (*Shelby Twp v Papesh*, 267 Mich App 92, 107; 704 NW2d 92 (2005)). In other words, the RTFA does not apply to property owners who are not engaged in a commercial operation for profit.

MCL 286.472(b) defines farm operation as activity conducted "in connection with the commercial production, harvesting, and storage of farm products." Plaintiff cited to the reference in this statute, MCL 286.472(b)(vii), to "the care of farm animals." However, this subsection is part of a list of possible farm activities that might be conducted in connection with commercial production, harvesting, and storage. It does not create an exception to the commercial requirement.

Plaintiff offered no evidence that she kept horses for profit, either through breeding, boarding, or horse riding. Affirmed. (Source: State Bar of Michigan e-Journal Number: 52540, September 6, 2012)

Full Text Opinion:

<http://www.michbar.org/opinions/appeals/2012/082312/52540.pdf>

Court: Michigan Court of Appeals (Unpublished No. 304122, September 20, 2012)

Case Name: *Oberly v. Dundee Twp.*

The court held, *inter alia*, that the plaintiffs did not make a sufficient showing of disparate treatment or enforcement by the defendant-Township as to similarly situated individuals. Weighing against plaintiffs' claim of disparate treatment was the indication that the Township received complaints about the conduct of plaintiffs' auctions, but did not receive any such complaints as to the other businesses cited by plaintiffs and alleged to be similarly situated.

The case involved the propriety of ongoing auctions conducted by plaintiffs on their agriculturally zoned property allegedly in violation of the Township's ordinances. The auctions conducted on the property were primarily through Dundee Auction Services and involved the sale of personal property on a commission basis. Plaintiffs acknowledged that the property at issue is zoned for agricultural use and that they have regularly conducted auctions on the property, averaging two auctions occurring every month with about 100 to 150 people attending each event.

In 2001, the Township notified plaintiffs of an intent to preclude the ongoing conduct of auctions on their property. Plaintiffs retained counsel to negotiate with the Township on their behalf. No particular enforcement action was taken by the Township and plaintiffs' auctions continued unimpeded until 2007. The Township sent plaintiffs a letter indicating that it had received complaints as to the commercial use of the property zoned agricultural. The Township sued plaintiffs but the case was voluntarily dismissed. The plaintiffs initiated a second suit, and the defendants filed a motion for summary disposition, which the trial court granted as to all claims except the plaintiffs' claim of a violation of their rights to equal protection. The trial court later dismissed that claim also.

On appeal plaintiffs alleged, *inter alia*, that the trial court erred in dismissing their claim that defendants violated their equal protection rights and relied on an improper affidavit. Plaintiffs asserted that the Township treated them differently than it treated other individuals conducting business or commercial operations on their properties. The court disagreed where the plaintiffs failed to make the requisite showing of identical non-complying usage, rendering their constitutional argument of violation of their right to equal protection without a basis in the record.

Plaintiffs also challenged the grant of summary disposition in favor of defendants premised on the trial court's failure to apply the Michigan Right to Farm Act (RTFA), M.C.L. 286.471 *et seq.*, and the Michigan Department of Agriculture's Generally Accepted Agricultural Management Principles (GAAMPs). The court reviewed the applicability of the RTFA ("farm", "farm operation", "farm product", "commercial") and GAAMPs. There appeared to be no dispute that various agricultural activities have continued unimpeded by defendants.

Rather, the conflict centers on whether plaintiffs' conduct of auctions on their agriculturally zoned property falls under the protections proffered by the RTFA. . . . Plaintiffs' routine conduct of commission-based auctions is not the type of activity that the RTFA was intended or designed to protect. Clearly, the statutory intent is to protect farms and farmers from facing nuisance litigation premised on activities inherent in a farming operation, which are statutorily defined as including "the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products." MCL 286.473(1)(b).

The Township did not threaten plaintiffs' right to farm their land. But plaintiffs argued to "extend the protections of the RTFA to any activity, including auctions, conducted on agricultural property as long as some portion or percentage of the items sold at the auction constitute a good or service produced by the farm." The plaintiffs argued auctions fall within the meaning of a "farm market", as defined in the Farm Market GAAMP. The court found that a commission-based auction would not include 50% or more are produced on and by the affiliated farm.

In addition, plaintiffs ignore additional language within GAAMPs' definition of a farm market recognizing that such markets "may include marketing activities and services to attract and entertain customers and facilitate retail trade business transactions" but only "when allowed by applicable local, state and federal regulations." Such language is contrary to plaintiffs' assertion that the Township ordinances serving to restrict the conduct of auctions on their farm property are preempted by the RTFA.

Affirmed. (Source: State Bar of Michigan e-Journal Number: 52741, October 5, 2012)

## Glossary

### aggrieved party

one whose legal right has been invaded by the act complained of, or whose pecuniary interest is directly and adversely affected by a decree or judgment. The interest involved is a substantial grievance, through the denial of some personal, pecuniary or property right or the imposition upon a party of a burden or obligation. It is one whose rights or interests are injuriously affected by a judgment. The party's interest must be immediate, pecuniary, and substantial and not nominal or a remote consequence of the judgment – that is affected in a manner different from the interests of the public at large.

### aliquot

1 a portion of a larger whole, especially a sample taken for chemical analysis or other treatment.

2 (also **aliquot part** or **portion**) *Mathematics* a quantity which can be divided into another an integral number of times.

3 Used to describe a type of property description based on a quarter of a quarter of a public survey section.

n *verb* divide (a whole) into aliquots.

#### ORIGIN

from French *aliquote*, from Latin *aliquot* 'some, so many', from *alius* 'one of two' + *quot* 'how many'.

### amicus (in full amicus curiae)

n noun (plural **amici**, **amici curiae**) an impartial adviser to a court of law in a particular case.

#### ORIGIN

modern Latin, literally 'friend (of the court).'

### certiorari

n noun *Law* a writ by which a higher court reviews a case tried in a lower court.

#### ORIGIN

Middle English: from Law Latin, 'to be informed', a phrase originally occurring at the start of the writ, from *certiorare* 'inform', from *certior*, comparative of *certus*

'certain'.

### corpus delicti

n noun *Law* the facts and circumstances constituting a crime.

#### ORIGIN

Latin, literally 'body of offence'.

### curtilage

n noun An area of land attached to a house and forming one enclosure with it.

#### ORIGIN

Middle English: from Anglo-Norman French, variant of Old French *courtillage*, from *courtil* 'small court', from *cort* 'court'.

### dispositive

n *adjective* relating to or bringing about the settlement of an issue or the disposition of property.

### En banc

"By the full court" "in the bench" or "full bench." When all the members of an appellate court hear an argument, they are sitting *en banc*. Refers to court sessions with the entire membership of a court participating rather than the usual quorum. U.S. courts of appeals usually sit in panels of three judges, but may expand to a larger number in certain cases. They are then said to be sitting *en banc*.

#### ORIGIN

French.

### estoppel

n noun *Law* the principle which precludes a person from asserting something contrary to what is implied by a previous action or statement of that person or by a previous pertinent judicial determination.

#### ORIGIN

C16: from Old French *estouppail* 'bung', from *estopper*.

**et seq.** (also **et seqq.**)

*n* *adverb* and what follows (used in page references).

ORIGIN

from Latin *et sequens* ‘and the following’.

**hiatus**

*n* (plural **hiatuses**) a pause or gap in continuity.

DERIVATIVES

**hiatal** adjective

ORIGIN

C16: from Latin, literally ‘gaping’.

**in camera**

Refers to a hearing or inspection of documents that takes place in private, often in a judge’s chambers. Depending on the circumstances, these can be either on or off the record, though they’re usually recorded.

In camera hearings often take place concerning delicate evidentiary matters, to shield a jury from bias caused by certain matters, or to protect the privacy of the people involved and are common in cases of guardianships, adoptions and custody disputes alleging child abuse.

ORIGIN

Lat. *in chambers*.

**injunction**

*n* *noun*

1 *Law* a judicial order restraining a person from an action, or compelling a person to carry out a certain act.

2 an authoritative warning.

**inter alia**

*n* *adverb* among other things.

ORIGIN

from Latin

**Judgment** *non obstante veredicto*

also called **judgment notwithstanding the verdict**, or **JNOV**.

A decision by a trial judge to rule in favor of a losing party even though the jury’s verdict was in favor of the other side. Usually done when the facts or law do not support the jury’s verdict.

**laches**

*n* *noun* *Law* unreasonable delay in asserting a claim, which may result in its dismissal.

ORIGIN

Middle English (in the sense ‘negligence’): from Old French *laschesse*, from *lasche* ‘lax’, based on Latin *laxus*.

**littoral**

*n* *noun* Land which includes or abuts a lake or Great Lake is “littoral.” When an inland lake it includes rights to access, use of the water, and certain bottomland rights. When a Great Lake it includes rights to access and use of the water. See “riparian.”

**mandamus**

*n* *noun* *Law* a judicial writ issued as a command to an inferior court or ordering a person to perform a public or statutory duty.

ORIGIN

C16: from Latin, literally ‘we command’.

**mens rea**

*n* *noun* *Law* the intention or knowledge of wrongdoing that constitutes part of a crime. Compare with **actus reus**.

ORIGIN

Latin, literally ‘guilty mind’.

**obiter dictum**

*n* *noun* (plural **obiter dicta**) *Law* a judge’s expression of opinion uttered in court or in a written judgement, but not essential to the decision and therefore not legally binding as a precedent.

ORIGIN

Latin *obiter* ‘in passing’ + *dictum* ‘something that is said’.

**pecuniary**

*adjective* formal relating to or consisting of money.

DERIVATIVES

*pecuniarily* adverb

ORIGIN

C16: from Latin *pecuniarius*, from *pecunia* ‘money’.

**per se**

*n* *adverb* *Law* by or in itself or themselves.

ORIGIN:

Latin for ‘by itself’.

**res judicata**

*n* *noun* (plural **res judicatae**) *Law* a matter that has been adjudicated by a competent court and may not be pursued further by the same parties.

## ORIGIN

Latin, literally 'judged matter'.

## riparian

n *noun* Land which includes or abuts a river is riparian, and includes rights to access, use of the water, and certain bottomland rights. *Thies v Howland*, 424 Mich 282, 288 n 2; 380 NW2d 463 (1985). (Land which includes or abuts a lake is defined as "littoral." However, "the term 'riparian' is often used to describe both types of land," *id.*) See "littoral."

## scienter

n *noun* Law the fact of an act having been done knowingly, especially as grounds for civil damages.

## ORIGIN

Latin, from *scire* 'know'.

## stare decisis

n *noun* Law the legal principle of determining points in litigation according to precedent.

## ORIGIN

Latin, literally 'stand by things decided'.

## sua sponte

n *noun* Law to act spontaneously without prompting from another party. The term is usually applied to actions by a judge, taken without a prior motion or request from the parties.

## ORIGIN

Latin for 'of one's own accord'.

## writ

n *noun*

1 a form of written command in the name of a court or other legal authority to do or abstain from doing a specified act. (**one's writ**) one's power to enforce compliance or submission.

2 *archaic* a piece or body of writing.

## ORIGIN

Old English, from the Germanic base of *write*.

For more information on legal terms, see *Handbook of Legal Terms* prepared by the produced by the Michigan Judicial Institute for Michigan Courts:  
<http://courts.michigan.gov/mji/resources/holt/holt.htm>.

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## MSU Extension Land Use Team Contacts:

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[October 5, 2012 (10:02am); C:\Documents and Settings\Kurt\My Documents\wp\LU Court Cases\SelectedPlan&ZoneCourt RTFA 1964-2006.wpd]



# CODE WORKS!

[WWW.MICHIGAN.GOV/BCC](http://WWW.MICHIGAN.GOV/BCC)

WINTER 2010

## ATTENTION READERS!

In an attempt to reach more organizations and individuals involved in code inspections, we're asking for your help in getting the word out! If you know of an organization or individual that would benefit from the information posted in BCC's newsletter, please direct them to our website at [www.michigan.gov/bcc](http://www.michigan.gov/bcc). Then, click on the "Publications/Bulletins/Interpretations/Advisories" link for more information on how to subscribe to and receive an electronic notification of when each quarterly newsletter is posted.

## CODE CHANGES

Please visit [BCC's website](http://BCC's website) to monitor updates on code review processes.

BCC OFFICES CLOSED:  
FEBRUARY 15

## WORDS FROM DEPUTY DIRECTOR BETH ABEN

As most of you know, the bureau recently requested a fee increase for 1986 PA 54 instructors and programs. While we understand this proposal was met with opposition, the fee increase is necessary to support program activities. After careful deliberation, the Construction Code Commission approved the fees after the conclusion of a public hearing held on January 6, 2010. The new fees become effective April 1, 2010. The bureau did make one change to the fee proposal relative to instructor renewals before submission to the Commission. While the instructor fee will increase to \$100 effective April 1, 2010, if approved, the instructor will receive a lifetime approval, rather than being required to renew every 3-year cycle. Submissions received and receipted by March 31, 2010, will be processed under the current fee structure; therefore you still have the opportunity to take advantage of the current fee. All instructors who are active in the current registration cycle (2009-2012) will receive a letter prior to the end of the cycle to confirm their lifetime approval status.

Program approvals are increased to \$150 effective April 1, 2010. Therefore, in order to benefit from the current fee schedule, I encourage you to submit any new programs for the cycle by the end of March. The fee and program application must be receipted by March 31, 2010. The bureau is committed to working with instructors and organizations to minimize costs where possible; therefore, we are reviewing our current processes and procedures to determine if efficiencies may be achieved. If you have suggestions you believe beneficial, please forward to the bureau's email address at [bccinfo@michigan.gov](mailto:bccinfo@michigan.gov).

Thank you for your continued support of education and training programs for code officials, inspectors and plan reviewers. You will find the necessary forms for instructor and program applications on the [bureau's website](http://bureau's website). A link to all forms is found on the left side of the bureau's home page.

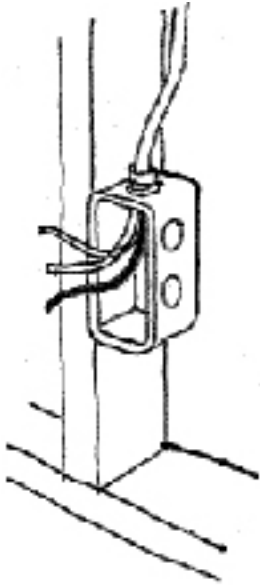
PROVIDING FOR  
MICHIGAN'S SAFETY  
IN THE BUILT ENVIRONMENT

# PLAN REVIEW DIVISION

## ELECTRICAL CONDUCTOR LENGTH (FOR SPLICE OR TERMINATION)

By Todd Cordill, NCARB, Chief

Plan Review Division



In 2009, several different local enforcing agencies cited inadequate conductor length of electrical wiring at an electrical box as a common violation with premanufactured units. In most cases, it has involved the ground conductor. The 2005 Michigan Electrical Code (MEC), Article 300.14 states:

“At least 150 mm (6 in.) of free conductor, measured from the point in the box where it emerges from its raceway or cable sheath, shall be left at each outlet, junction and switch point for splices or the connection of luminaries (fixtures) or devices. Where

the opening to an outlet, junction, or switch point is less than 200 mm (8 in.) in any dimension, each conductor shall be long enough to extend at least 75 mm (3 in.) outside the opening.

Exception: Conductors that are not spliced or terminated at the outlet, junction, or switch point shall not be required to comply with 300.14.”

This requirement is the same under the 2008 MEC, Article 300.14 that took effect December 2, 2009. This

requirement is also in Section E3306.10.3 of the 2006 Michigan Residential Code. If this requirement is not met during the manufacturing process for premanufactured units, it is expensive to correct a violation in the field. The remedy can range from opening walls and ceilings and re-wiring entire runs of cable to simply pulling new wires through the conduit and boxes in place.

An enforcing agency can cite violations of the code that were not caught during the manufacturing process, and report them to the Plan Review Division, per Rule 1142 (4) of the Part 11 Rules concerning the disposition of noncomplying units. Staff of the Plan Review Division will contact a manufacturer and in-factory inspection agency about the code violations a local enforcing agency has discovered. The manufacturer and inspection agency have the opportunity to state the reason for the item of noncompliance and how it may be corrected in the field. Local enforcing agencies shall report such items of noncompliance using the form found on the bureau’s website, “Notice of Premanufactured Violation”.

The requirements listed above for premanufactured units differ from the Code of Federal Regulations 24 (Part 1700 to end) Housing Urban Development standard for wiring methods and materials.

Please contact the Plan Review Division at (517) 241-9328 with any questions.

# ELEVATOR SAFETY DIVISION

## ELEVATOR RULES CHANGES

By Cal Rogler, Chief

Elevator Safety Division

The Elevator Safety Division is in the process of updating the elevator rules to the most current safety standards. The code committee has reviewed the standards the Elevator Safety Division uses to regulate elevating devices in Michigan and the Michigan Elevator Rules.

It is anticipated the new rules will take effect by the middle of the 2010 calendar year.

The new Michigan Elevator Rule set adopts the following standards:

- American Society of Mechanical Engineers, Safety Code for Elevators and Escalators, ASME A17.1-2007.

- American Society of Mechanical Engineers, Safety Standards for Platform Lifts and Stairway Chairlifts ASME A18.1-2008.
- American Society of Mechanical Engineers, Safety Standard for Belt Manlifts, ASME A90.1-2003.
- American National Standard, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations, ANSI A10.4-2007.

These editions of the standards are currently available from the American Society of Mechanical Engineers, at (800) 843-2763 or Global Engineering at (877) 413-5184. Be sure to specify the correct edition you are requesting.

If you have any questions regarding the new code, please contact the Elevator Safety Division at (517) 241-9337.

# BOILER DIVISION

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## ASME CODE CSD-1, PARAGRAPH CG-610 AND MORE

### Robert Aben, Chief Boiler Division

Licensed boiler installers must remember it is their obligation to assure equipment installed by them is in compliance with the requirements of ASME Code CSD-1. This is the licensee's obligation under their State of Michigan license regardless of who purchased the boiler or equipment.

Paragraph CG-610 of ASME Code CSD-1, states two requirements: 1) Safety controls required by CSD-1 to lockout shall not be reset remotely from the equipment. Someone must inspect the boiler to determine the reason for lockout before resetting the control; and 2) Safety controls shall not be electronically or automatically reset.

Having used the term "automatically", let me explain. Several places in CSD-1 you will see the phrase "automatic or manual reset type" in reference to safety controls. That phrase is always in close proximity to an EXCEPTION note which states, "Lockout is not required for boiler units installed in residences..." CSD-1 applies to boilers ranging from 0 to 12,500,000 btu/hr input and to all installation locations. Also note several allowances (in the CF tables) for a one time automatic recycle with specific time element requirements.

Over the years, I have heard licensees refer to a boiler as "residential". The heating industry may use this term to refer to small boilers, but remember when talking code requirements, there is no such term. The proper reference is "a boiler in a residence". Therefore, unless the boiler is installed in a residence where the boiler law has no jurisdiction, the boiler and its controls must be in compliance with ASME Code CSD-1.

Since the rule change effective November 6, 2006, adopting the 2005 ASME Code CSD-1, most of the electronic probe type low water cutoffs found on boilers do not meet CSD requirements. It has been observed that many of these cutoffs when locked out due to a low water issue, will reset by switching the control power off and back on. Only a few models meet the new requirements. Be aware of this when purchasing low water probe type cutoffs or any other controls for use on a boiler within the jurisdiction of the boiler law.

As a reminder, effective July 27, 2009, the 2006 edition of CSD-1 was adopted.

Questions may be directed to the Boiler Division at (517) 241-9334.

## BOARD AND COMMISSION MEETINGS

| <u>Meeting</u>                  | <u>Date</u> | <u>Time</u> | <u>Location</u>      |
|---------------------------------|-------------|-------------|----------------------|
| Barrier Free Design Board       | March 12    | 9:30 am     | Okemos – Conf Room 3 |
|                                 | May 14      | 9:30 am     | Okemos – Conf Room 3 |
| Board of Boiler Rules           | March 17    | 9:30 am     | Okemos – Conf Room 3 |
| Construction Code Commission    | April 7     | 9:30 am     | Okemos – Conf Room 3 |
| Electrical Administrative Board | February 18 | 9:30 am     | Okemos – Conf Room 3 |
|                                 | May 20      | 9:30 am     | Okemos – Conf Room 3 |
| Elevator Safety Board           | March 26    | 9:30 am     | Okemos – Conf Room 3 |
| Manufactured Housing Commission | April 21    | 10:00 am    | Okemos – Conf Room 3 |
| Board of Mechanical Rules       | May 19      | 9:00 am     | Okemos – Conf Room 3 |
| State Boundary Commission       | March 18    | 1:30 pm     | Okemos – Conf Room 3 |
|                                 | April 15    | 1:30 pm     | Okemos – Conf Room 3 |
|                                 | May 13      | 1:30 pm     | Okemos – Conf Room 3 |
| State Plumbing Board            | March 2     | 10:00 am    | Okemos – Conf Room 3 |

Dates and times are subject to change. Visit the [BCC website](http://www.michigan.gov/bcc) for updates.

# OFFICE OF LAND SURVEY AND REMONUMENTATION

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## REMONUMENTATION PROGRAM UPDATE

**By Chris Beland, Professional Surveyor**  
**Office of Land Survey & Remonumentation**

In July 2008, the Department of Energy, Labor & Economic Growth (DELEG), representing the Bureau of Construction Codes, Office of Land Survey and Remonumentation (OLSR), requested guidance from the Office of the Attorney General (OAG) regarding the proper administration of the State Survey and Remonumentation Act, 1990 PA 345, MCL 54.261-279. The advice was sought to clarify OLSR responsibilities as they pertain to corner positions not originally monumented by the General Land Office (GLO). Specifically, positions reported to lie within naturally occurring bodies of water, e.g., stream, river, lake, pond, etc., at the time the lands were physically surveyed and the lines run by the federal surveyors. In September of this year, OLSR received a copy of the legal advice rendered by the OAG.

In their advice, the OAG concludes that the Act's purpose was to allow for the "...restoration, rehabilitation or remonumentation..." of original corners "...established and monumented by the United States..." public land survey. The OAG advises that in the proper administration of the Act, DELEG, as represented by OLSR, "...may properly refuse to allow a county to include in the survey and remonumentation program public land survey corners" or "property controlling corners" the position of which were not previously established and monumented by the United States and or its contractors..."

The OAG performed a vast amount of research in the compiling of its advice. Quoted in their response is the Senate Fiscal Agency's (SFA) analysis of Senate Bill 380 (1990 PA 345 before adoption). The OAG discusses language from both the "Rationale" section and the first "Supporting Argument" of the SFA analysis as it lends directly to understanding the founding principles of the Act.

The SFA analysis clearly states the bill is intended to perpetuate "...approximately 165,200 section and quarter-section 'corners' set at half-mile intervals across the State", and that "...\$500 per corner is the average cost if a marker is missing and must be replaced..." Based on the SFA analysis in 1990, it was estimated the complete monumentation and

remonumentation of the state would take approximately 20 years and cost the Michigan public \$83 million.

In the 9th Biennial Report to the Legislature, the current status of the program is recapped. The report states through the 2008 grant year approximately 122,000 corners have been monumented or remonumented with nearly \$101 million being distributed. At the close of the 2008 grant year, the program completed its 15th year. An evaluation of these numbers would indicate the program is on track to be completed as planned; 122,000 corners equates to approximately 74 percent of the originally estimated 165,200, and 15 years is 75 percent of the program's 20-year life cycle.

However, many counties have included in their programs corner positions that were not originally "established and monumented" by the United States public land survey. And correspondence with the counties indicates though a few counties are close to completion, the average completion rate for most counties is less than 50 percent, leaving approximately a 25 percent discrepancy between where the program should be and where the program actually is.

Given the advice provided by the OAG and supported by the current status of the program, the bureau has determined the original intent of the program must be upheld in order to complete the program in an expeditious manner and properly administer the public funds dedicated to this monumental task.

To accomplish the original goals of the State Survey and Remonumentation Act, OLSR issued Information Memorandum 15 on November 6, 2009. Memorandum 15 addressed the OAG advice stressing the original intent of the program, clarifying the definition of program corners, and limiting the use of program funds. Information Memorandum 15 sets in place, starting with the 2010 grant year, only those corners originally "established and monumented" by the United States public land survey are eligible for reimbursement through the State Survey and Remonumentation Program.

Questions can be directed to OLSR at (517) 241-6321, or email [bccolsr@michigan.gov](mailto:bccolsr@michigan.gov).

# OFFICE OF LOCAL GOVERNMENT AND CONSUMER SERVICES

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## CONSTRUCTION BOARD OF APPEALS

**By Michael Somers, Analyst**

**Office of Local Government and Consumer Services**

Each week our office takes calls from contractors and homeowners who have received a code violation notice as a result of a failed inspection. Many of the callers disagree with the inspector's code interpretation and wish to dispute the violation.

In order to address such disputes, a process is authorized by Section 14 of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230.

MCL 125.1514 of PA 230 requires each local unit of government that elects to administer and enforce the code establish and maintain a Construction Board of Appeals. Requesting a formal appeal hearing is the proper course of

action when a permit holder or any interested party disputes a code interpretation made by a code official.

MCL 125.1514 (1) states in part:

“The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after the submission of the appeal.”

A formal hearing before a Construction Board of Appeals provides a legitimate and timely recourse to resolve code disputes in the appropriate manner.

Questions may be directed to the Office of Local Government and Consumer Services at (517) 241-9347.

## YOUR PARTNER FOR SERVICES AND ASSISTANCE

**By Michael Somers, Analyst**

**Office of Local Government and Consumer Services**

The beginning of a new year presents opportunities for us to move forward onto new challenges with the benefit of knowledge gained through our past experiences. As our economy recovers and begins to build a solid foundation for our future, the public we serve still deserves the highest quality services. Unfortunately, with few resources available, local units of government are challenged financially to provide much needed services.

The Bureau of Construction Codes can provide code administration and enforcement services, plan review and inspection assistance, code program evaluation services, contractor licensing investigations and actions, manufactured

housing community audits, technical code assistance, guidance on joint code enforcement, and many other vital construction code services to local units of government throughout the state.

The Bureau of Construction Codes is committed to partnering with local communities by offering construction code services and assistance to provide for the health, safety, and welfare of the public in the built environment.

For additional information on services and assistance, please contact the Office of Local Government and Consumer Services at (517) 241-9347.

## NEW ANALYST JOINS DIVISION

**By Kevin DeGroat, Regulation Specialist**

**Office of Local Government and Consumer Services**

On October 19, 2009, the bureau appointed Tracie Pack as an analyst in its Office of Local Government and Consumer Services. Ms. Pack, previously with the bureau's Office of Administrative Services, joins three other analysts to handle consumer complaints, manufactured housing community inspection audits, municipal performance evaluations and other assigned duties. An employee of the Department of Energy, Labor & Economic Growth for approximately 10 years, Tracie has considerable administrative experience working with the bureau's manufactured housing and construction trade regulatory programs.



# ELECTRICAL DIVISION

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## INSTALLATION OF WIND AND SOLAR RENEWABLE ENERGY SYSTEMS

By **Dan O'Donnell, Chief**  
**Electrical Division**

With uncertainty in the oil markets and the cost of electricity continuing to rise, there is a renewed interest in renewable sources of energy. Wind turbines and photovoltaic systems are two of the prominent types of renewable energy systems being marketed to consumers today. Industrial, commercial, and residential customers are seeking alternative solutions to their energy needs. Conserving resources, reducing consumption, and lowering utility bills provide a strong catalyst for consumers to look at renewable energy sources as a part of an overall energy plan.

The safe and proper installation of any electrical system is critically important. Renewable energy systems are no exception. Wind turbines and photovoltaic systems must be installed to meet the requirements set forth by any codes, standards, listing and labeling, or manufacturer's requirements

available for the particular system. All equipment must be approved for its intended use. Utility interactive inverters used for the interconnection of systems must be listed and identified for such use.

The installation of wind turbine and photovoltaic systems in Michigan require an electrical contractor's license as stipulated in MCL 338.887 (1) and (2) of the Electrical Administrative Act, PA 217 of 1956. MCL 338.885 (1), also requires all persons performing electrical installations must be licensed. Properly licensed and trained personnel can help assure a safe and code compliant installation. Understanding the potential dangers and recognizing electrical hazards are both part of any safe electrical installation.

Questions can be directed to the Electrical Division at (517) 241-9320.

## ELECTRICAL LICENSE RENEWALS

By **Dan O'Donnell, Chief**  
**Electrical Division**

Just a reminder that all master and journey electricians must complete an approved 2008 code update course in order to renew their 2011 electrical license. A list of approved 2008 code update courses can be found on the [bureau's website](#).

Questions related to electrical licensing or the 2008 code update requirements can be directed to the Electrical Division at (517) 241-9320.

## BCC CONTACT INFORMATION

### Telephone Numbers:

Administration (517) 241-9302  
Office of Administrative Services (517) 335-2972  
Office of Management Services (517) 241-9313  
Boiler Division (517) 241-9334  
Building Division (517) 241-9317  
Electrical Division (517) 241-9320  
Elevator Safety Division (517) 241-9337  
Mechanical Division (517) 241-9325  
Office of Local Government & Consumer Services (517) 241-9347  
Office of Land Survey & Remonumentation (517) 241-6321  
(includes State Boundary Commission)  
Plan Review Division (517) 241-9328  
Plumbing Division (517) 241-9330

### Facsimile Numbers:

Administration & Office of Administrative Services (517) 241-9570  
Office of Management Services & Plumbing Div. (517) 373-8547  
Building, Electrical, Mechanical, Plan Review Div., OLGCS  
(517) 241-9308  
Office of Land Survey & Remonumentation, Boiler & Elevator  
Safety Divisions (517) 241-6301

### Mailing Addresses:

P.O. Box 30254 (Codes: general correspondence)  
P.O. Box 30255 (Codes: permits, licenses, and other documents  
containing payment)  
P.O. Box 30704 (Office of Land Survey & Remonumentation)  
Lansing, Michigan 48909

# PLUMBING DIVISION

## PLUMBING LICENSE REPORTING AND THE PLUMBING CODE STATUS

By Robert Konyndyk, Chief

### Plumbing Division

The Plumbing Division has several items of interest which will benefit licensees in this edition of Code Works!

Affidavit holders, contractors, masters, journey, and apprentices are reminded to keep their licenses and registrations active and accurate to avoid the loss of licenses and delay in the renewal process. Keeping licenses and registrations current depends a great deal upon notifying the Plumbing Division of a change of address. The State Plumbing Act, 2002 PA 733, Section 31 (1) requires every holder of a license or registration to promptly notify the division of a change of their residence or place of business (address change). The change is to be made on the proper form available on the [bureau's website](#) or mailed upon request.

Failure to notify the division will result in a renewal form not reaching the licensee or registrant. Journey and masters not renewing their license within a three-year timeframe will lose their license and be required to retest. All address changes must be received by the division by the first week in February in order for firms and individuals to receive their renewal applications.

Another consideration which is extremely important to individuals is to provide complete, correct information on forms which are submitted to the division. Over the past several months, 50 to 65 percent of examination applications have not completed the required information fields (e.g., the examination applications were unsigned by the applicant). Incomplete applications require the division to correspond in writing with the applicant and wait for returned corrections in order to schedule the individual for the test. Incomplete applications appear to be from the applicant not taking the time to read the forms or not placing significant importance on providing required information. Also, the license renewal forms previously discussed are another area of concern. Applicants should review the current printed information and make necessary corrections when appropriate. Having updated telephone numbers in order to reach individuals is of great benefit to licensees and registrants and are of great value when inspection agencies attempt to contact licensees.

Questions on these matters may be directed to Robert Konyndyk, Plumbing Division, (517) 241-9330.

## PLUMBING CODE UPDATES AND PRODUCT APPROVALS

By Robert Konyndyk, Chief

### Plumbing Division

The code process continues for the adoption of the 2009 Michigan Plumbing Code. Licensees will be informed of continuing education requirements and code update classes after implementation of the new code which will be the third code update cycle requirement. I recently participated as a committee member charged with developing the 2012 Plumbing Code edition for the International Code Council. The bulk of the Plumbing Code should be finalized by fall 2010.

As a reminder, we all know the plumbing profession is ever changing with new materials and methods of construction; therefore, please refer to the [bureau's website](#) for new Certificates of Acceptance (product approvals) to stay abreast of these changes.

Questions on these matters may be directed to Robert Konyndyk, Plumbing Division, (517) 241-9330.

### INVOICES FOR BUILDING, ELECTRICAL, MECHANICAL & PLUMBING PERMITS CAN NOW BE PAID ONLINE THROUGH BCC'S ONLINE PERMIT MANAGER

BCC can now accept payments online for outstanding invoices for building, electrical, mechanical and plumbing permits. Payment must be made by a credit card and includes an additional processing fee of \$5.00 plus 10% of the total invoice balance. A link to [Online Permitting](#) is provided on the [bureau's website](#) under Quick Links. Step-by-step instructions are provided to guide users through the payment process.

# BUILDING DIVISION

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## AGRICULTURAL BUILDINGS

**By Larry Lehman, Chief  
Building Division**

Concerns have been raised with the Building Division recently because some local enforcing agencies have been applying provisions of the Michigan Building Code (MBC) by requiring building permits for buildings or structures that are exempt from the requirements for obtaining building permits as specified by the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230.

While the MBC has a definition of an agricultural building, the determination of when a building permit is required shall be made exclusively upon reviewing the applicable language in the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230.

1. Is the building or structure used for an agricultural purpose? The definition from the Act states:

“Means of, or pertaining to, or connected with, or engaged in agriculture or tillage which is characterized by the act or business of cultivating or using land and soil for the production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.”

2. Is the building or structure incidental to the use for agricultural purposes of the land on which the building is located? The definition of “building” from the Act states:

“Means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural

purposes of the land on which the building is located if it is not used in the business of retail trade. Building includes the meaning “or part or parts of the building and all equipment in the building” unless the context clearly requires a different meaning.”

3. Is the building or structure used in retail trade? The definition of “building” is again provided for clarity:

“Means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. Building includes the meaning “or part or parts of the building and all equipment in the building” unless the context clearly requires a different meaning.”

When a building or structure is defined as an agricultural purpose, incidental to and located on land that is an agricultural use, and not used in the business of retail trade, the building or structure is exempt from building, electrical, mechanical and plumbing permit requirements in the State of Michigan based upon the definitions previously provided in this article, the definition of a structure in the Act, and Section 10 (8) of the Act.

“Notwithstanding this section, a building permit is not required for a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade.”

Questions regarding this article may be directed to the Building Division at (517) 241-9317.

# ELEVATOR SAFETY DIVISION

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## FULL SIZE ELEVATOR INSTALLED IN A PRIVATE RESIDENCE

**By Cal Rogler, Chief  
Elevator Safety Division**

The Elevator Safety Division has been asked to provide the following information regarding the requirements for installing a full size elevator in a private residence. The American Society of Mechanical Engineers (ASME) A17.1 Safety Code for Elevators and Escalators has an elevating device which is designed and approved for installation within a private residence. The device is covered in Section 5.3 and is called a Private Residence Elevator. This device has specific requirements and limitations and must be installed within the stated requirements.

On occasion, a homeowner may desire an elevator which is larger or perhaps the needed rise is more than what the A17.1 Standard will allow for a private residence elevator. The ASME A17.1 Standard will allow a regular passenger elevator to be installed within a private residence. However, the installation

must comply completely with the requirements for a regular passenger elevator. None of the private residence elevator requirements may be used when installing a regular passenger elevator in a private residence. There are many areas of A17.1 which differ between a private residence elevator and a regular passenger elevator. Some of the areas which differ are the pit and overhead clearances as well as the hoistway door and car door requirements. Private residence elevators have rather minimal requirements for an elevator machine room. However, regular passenger elevators require a separate machine room which is properly secured and dedicated to elevator equipment only. When a regular passenger elevator is installed in a private residence, the machine room must comply completely with the requirements.

If you have any questions or concerns with regards to an elevator, please contact the Elevator Safety Division at (517) 241-9337.

# MECHANICAL DIVISION

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## INSTALLING BOILERS IN RESIDENCES WITH LESS THAN 6 FAMILIES

**By Tennison Barry, Chief  
Mechanical Division**

Effective June 11, 2008, a change to the Boiler Act of 1965, 1965 PA 290, MCL 408.757(e) directly affected mechanical contractors by being amended to exempt:

“[Steam and] hot water boilers operated at a pressure not exceeding 160 p.s.i.g. or a temperature not exceeding 250 degrees Fahrenheit that are located in a private residence or in an apartment building with a capacity of less than 6 families.”

With the addition of this exemption to PA 290, it became the responsibility of mechanical contractors licensed in hydronic heating and process piping to now install that equipment.

Furthermore, Board of Boiler Rules General Rules, Rule 408.4047(b) and (h) exempt:

(b) “A swimming pool heater, open car wash heater, and similar types of equipment which do not have intervening

valves on the return or discharge piping, which do not have a reduction in pipe size in the return or discharge piping, and which do not generate more than normal circulating pump pressure.”

(h) “A water tube or coil type hot water heating boiler requiring forced circulation not exceeding any 1 of the following:

- (i) Maximum water temperature of 200 degrees Fahrenheit.
- (ii) Relief valve set pressure of 30 psi.
- (iii) Heat input of 200,000 BTU/hr.”

Again, with the addition of the PA 290 exemption, it is now the responsibility of mechanical contractors licensed in hydronic heating and process piping to install this equipment as well.

If you have any questions, please direct them to Tennison Barry, Mechanical Division, (517) 241-9325.

# LICENSE EXAMINATION DATES

## **BCC ONLINE SERVICES**

[Manufactured Home Affidavit of Affixture  
Online Lookup](#)  
[Online License Search](#)  
[Disciplinary Action Report](#)  
[Easy Access to Permit & License Verification](#)  
[Statewide Search for Subdivision Plats](#)  
[Statewide Search for Remonumentation Data](#)  
[County Remonumentation Data Entry](#)  
[Building System Approval Reports](#)  
[Online Code Training Series](#)

## **BCC QUICK LINKS**

[Online Permitting](#)  
[Online License Renewals](#)  
[Codes & Standards Order Form](#)  
[Statewide Jurisdiction List](#)  
[Local School Construction Enforcement List](#)  
[Product Approvals](#)

## **CIVIL SERVICE WEBSITE**

[State Job Postings](#)

Code Works! is a quarterly publication of the Bureau of Construction Codes within the Department of Energy, Labor & Economic Growth.

### **Editor in Chief**

Beth Hunter Aben

### **Editors**

Deborah Young

Tracie Pack/Margie Hebden

Created under the authority of  
1972 PA 230.

| <u>Examination</u>                    | <u>Date</u> | <u>Location</u> | <u>Deadline</u> |
|---------------------------------------|-------------|-----------------|-----------------|
| Boiler Installer and Repairer         | March 3, 4  | Okemos          | Feb 5           |
|                                       | June 2, 3   | Okemos          | May 7           |
| Boiler National Board                 | Mar 3, 4    | Lansing         | Feb 5           |
|                                       | June 2, 3   | Lansing         | May 7           |
| Electrical/Fire Alarm/Sign Contractor | March 23    | Okemos          | Feb 24          |
|                                       | May 19      | Okemos          | April 21        |
| Fire Alarm Spec. Tech./Sign Spec.     | March 24    | Okemos          | Feb 24          |
| Electrician - Journeyman              | Feb 25      | Lansing         | Jan 27          |
|                                       | May 13      | Lansing         | April 15        |
| Electrician - Master                  | Feb 25      | Lansing         | Jan 27          |
|                                       | May 13      | Lansing         | April 15        |
| Elevator Journeyman                   | March 30    | Okemos          | March 9         |
|                                       | May 25      | Okemos          | May 4           |
| Elevator Contractor/Cert. of Comp.    | March 26    | Okemos          | Feb 26          |
|                                       | June 11     | Okemos          | May 14          |
| Mechanical Contractor                 | March 23    | Lansing         | Feb 23          |
| Plumbing - Contractor                 | March 24    | East Lansing    |                 |
| Plumbing - Master and Journey         | March 3     | East Lansing    |                 |

Dates and times are subject to change. Visit the [BCC website](#) for updates.



DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

## STILLE-DEROSSETT-HALE SINGLE STATE CONSTRUCTION CODE ACT Act 230 of 1972

AN ACT to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1989, Act 135, Eff. Oct. 1, 1989;—Am. 1994, Act 22, Eff. May 1, 1994;—Am. 1995, Act 270, Imd. Eff. Jan. 8, 1996;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Enacting sections 1 and 2 of Act 245 of 1999 provide:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code. [Effective July 31, 2001]

"Enacting section 2. The title and sections 2, 3, 8, 9, and 9a of the state construction code act of 1972, 1972 PA 230, MCL 125.1502, 125.1503, 125.1508, 125.1509, and 125.1509a, the title and sections 2 and 8 as amended by this amendatory act, apply to 1 or more of the following codes until the rules for the code update promulgated after October 15, 1999 for the specific code become effective, at which time each section does not apply to the particular code. Sections 2, 3, 8, 9, and 9a of the state construction code act of 1972, 1972 PA 230, MCL 125.1502, 125.1503, 125.1508, 125.1509, and 125.1509a, are repealed on the effective date of the last of the rules updating the following codes promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

Rules updating the electrical code (R 408.30801 et seq.) were promulgated November 19, 1999, and became effective December 7, 1999.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

*The People of the State of Michigan enact:*

### 125.1501 Short title.

Sec. 1. This act shall be known and may be cited as the "Stille-DeRossett-Hale single state construction code act".

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Former MCL 125.1501 to 125.1512, deriving from Act 304 of 1969 and pertaining to bonds for urban redevelopment, were rejected by the voters at the general election of November 3, 1970.

For transfer of powers and duties relating to the promulgation of rules by the state construction code commission from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For transfer of powers and duties of the executive director of the state construction code commission to the director of the department of consumer and industry services, and abolishment of the position, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### 125.1502 Repealed. 1999, Act 245, Eff. July 31, 2001.

**Compiler's note:** The repealed section pertained to definitions and references to act and code.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### 125.1502a Additional definitions.

Sec. 2a. (1) As used in this act:

(a) "Agricultural or agricultural purposes" means of, or pertaining to, or connected with, or engaged in agriculture or tillage which is characterized by the act or business of cultivating or using land and soil for the

production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(b) "Application for a building permit" means an application for a building permit submitted to an enforcing agency pursuant to this act and plans, specifications, surveys, statements, and other material submitted to the enforcing agency together or in connection with the application.

(c) "Barrier free design" means design complying with legal requirements for architectural designs which eliminate the type of barriers and hindrances that deter persons with disabilities from having access to and free mobility in and around a building or structure.

(d) "Board of appeals" means the construction board of appeals of a governmental subdivision provided for in section 14.

(e) "Boards" means the state plumbing, board of mechanical rules, and electrical administrative boards and the barrier free design board created in section 5 of 1966 PA 1, MCL 125.1355.

(f) "Building" means a combination of materials, whether portable or fixed, forming a structure affording a facility or shelter for use or occupancy by persons, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. Building includes the meaning "or part or parts of the building and all equipment in the building" unless the context clearly requires a different meaning.

(g) "Building envelope" means the elements of a building which enclose conditioned spaces through which thermal energy may be transferred to or from the exterior.

(h) "Business day" means a day of the year, exclusive of a Saturday, Sunday, or legal holiday.

(i) "Chief elected official" means the chairperson of the county board of commissioners, the city mayor, the village president, or the township supervisor.

(j) "Code" means the state construction code provided for in section 4 or a part of that code of limited application and includes a modification of or amendment to the code.

(k) "Commission" means the state construction code commission created by section 3.

(l) "Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or structures.

(m) "Construction regulation" means a law, act, rule, regulation, or code, general or special, or compilation thereof, enacted or adopted before or after January 1, 1973, by this state including a department, board, bureau, commission, or other agency thereof, relating to the design, construction, or use of buildings and structures and the installation of equipment in the building or structure. Construction regulation does not include a zoning ordinance or rule issued pursuant to a zoning ordinance and related to zoning.

(n) "Cost-effective", in reference to section 4(3)(f) and (g), means, using the existing energy efficiency standards and requirements as the base of comparison, the economic benefits of the proposed energy efficiency standards and requirements will exceed the economic costs of the requirements of the proposed rules based upon an incremental multiyear analysis. All of the following provisions apply:

(i) The analysis shall take into consideration the perspective of a typical first-time home buyer.

(ii) The analysis shall consider benefits and costs over a 7-year time period.

(iii) The analysis shall not assume fuel price increases in excess of the assumed general rate of inflation.

(iv) The analysis shall assure that the buyer of a home who qualifies to purchase the home before the addition of the energy efficient standards would still qualify to purchase the same home after the additional cost of the energy-saving construction features.

(v) The analysis shall assure that the costs of principal, interest, taxes, insurance, and utilities will not be greater after the inclusion of the proposed cost of the additional energy-saving construction features required by the proposed energy efficiency rules as opposed to the provisions of the existing energy efficiency rules.

(o) "Department" means the department of consumer and industry services.

(p) "Director" means the director of the department or an authorized representative of the director.

(q) "Energy conservation" means the efficient use of energy by providing building envelopes with high thermal resistance and low air leakage, and the selection of energy efficient mechanical, electrical service, and illumination systems, equipment, devices, or apparatus.

(r) "Enforcing agency" means the enforcing agency, in accordance with section 8a or 8b, which is responsible for administration and enforcement of the code within a governmental subdivision, except for the purposes of section 19 enforcing agency means the agency in a governmental unit principally responsible for the administration and enforcement of applicable construction regulations.

(s) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment.

(t) "Governmental subdivision" means a county, city, village, or township which in accordance with section 8 has assumed responsibility for administration and enforcement of this act and the code within its jurisdiction.

(u) "Mobile home" means a vehicular, portable structure built on a chassis pursuant to the national manufactured housing construction and safety standards act of 1974, title VI of the housing and community development act of 1974, Public Law 93-383, 42 U.S.C. 5401 to 5426, and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days.

(v) "Other laws and ordinances" means other laws and ordinances whether enacted by this state or by a county, city, village, or township and the rules issued under those laws and ordinances.

(w) "Owner" means the owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

(x) "Person with disabilities" means an individual whose physical characteristics have a particular relationship to that individual's ability to be self-reliant in the individual's movement throughout and use of the building environment.

(y) "Premanufactured unit" means an assembly of materials or products intended to comprise all or part of a building or structure, and which is assembled at other than the final location of the unit of the building or structures by a repetitive process under circumstances intended to insure uniformity of quality and material content. Premanufactured unit includes a mobile home.

(z) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner. Structure does not include a structure incident to the use for agricultural purposes of the land on which the structure is located and does not include works of heavy civil construction including, but not limited to, a highway, bridge, dam, reservoir, lock, mine, harbor, dockside port facility, an airport landing facility and facilities for the generation or transmission, or distribution of electricity. Structure includes the meaning "or part or parts of the structure and all equipment in the structure" unless the context clearly requires a different meaning.

(2) Unless the context clearly indicates otherwise, a reference to this act, or to this act and the code, means this act and rules promulgated pursuant to this act including the code.

**History:** Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

## **125.1503 Repealed. 1999, Act 245, Eff. July 31, 2001.**

**Compiler's note:** The repealed section pertained to state construction code commission.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

## **125.1503a State construction code commission; creation; membership; quorum; meetings; designation of chairperson; exercise of authority; rules; compliance with open meetings act and freedom of information act.**

Sec. 3a. (1) The state construction code commission is created and consists of the state fire marshal or an employee of the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, designated by the state fire marshal and a designee of the chairpersons of the barrier free design board, the electrical administrative board, the state plumbing board, and the board of mechanical rules, who shall be permanent members, and 12 residents of the state to be appointed by the governor with the advice and consent of the senate. Appointed members of the commission shall include 1 person from each of the fields of industrial management, architecture, professional engineering, building contracting, organized labor, premanufactured building, and 3 members representing municipal building inspection; 2 persons from the

general public; and a licensed residential builder. A member of the commission appointed by the governor before January 1, 2007 shall be appointed for a term of 2 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the commission appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the commission may be removed from office by the governor for inefficiency, neglect of duty, or misconduct or malfeasance in office. A member of the commission who has a pecuniary interest in a matter before the commission shall disclose the interest before the commission takes action in the matter, which disclosures shall be made a matter of record in its official proceedings. Each member of the commission, except the state fire marshal or the state fire marshal's designee, shall receive reimbursement for actual expenses incurred by the member in the performance of the duties as a member of the commission, subject to available appropriations.

(2) Nine members of the commission constitute a quorum. Except as otherwise provided in the commission's bylaws, action may be taken by the commission by vote of a majority of the members present at a meeting. Meetings of the commission may be called by the chairperson or by 3 members on 10 days' written notice. Not less than 1 meeting shall be held each calendar quarter. A meeting of the commission may be held anywhere in this state.

(3) The commission may elect 1 member as vice-chairperson, and other officers as it determines appropriate, for the terms and with the duties and powers as the commission determines. The vice-chairperson and other officers of the commission shall be elected from those members appointed to the commission by the governor. After December 31, 2006, the governor shall designate a member of the commission to serve as chairperson at the pleasure of the governor.

(4) The commission is within the department but shall exercise its statutory functions independently of the director, except that budgeting, personnel, and procurement functions of the commission shall be performed under the direction and supervision of the director. The director has the sole statutory authority to promulgate rules.

(5) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 192, Imd. Eff. June 19, 2006.

**Compiler's note:** Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

For transfer of powers and duties of the office of fire safety and state fire marshal to the director of the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

## **125.1504 State construction code; rules; promulgation; contents; purposes, objectives, and standards; availability of code to public.**

Sec. 4. (1) The director shall prepare and promulgate the state construction code consisting of rules governing the construction, use, and occupation of buildings and structures, including land area incidental to the buildings and structures, the manufacture and installation of building components and equipment, the construction and installation of premanufactured units, the standards and requirements for materials to be used in connection with the units, and other requirements relating to the safety, including safety from fire, and sanitation facilities of the buildings and structures.

(2) The code shall consist of the international residential code, the international building code, the international mechanical code, the international plumbing code published by the international code council, the national electrical code published by the national fire prevention association, and the Michigan uniform energy code with amendments, additions, or deletions as the director determines appropriate.

(3) The code shall be designed to effectuate the general purposes of this act and the following objectives

and standards:

(a) To provide standards and requirements for construction and construction materials consistent with nationally recognized standards and requirements.

(b) To formulate standards and requirements, to the extent practicable in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability.

(c) To permit to the fullest extent feasible the use of modern technical methods, devices, and improvements, including premanufactured units, consistent with reasonable requirements for the health, safety, and welfare of the occupants and users of buildings and structures.

(d) To eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.

(e) To insure adequate maintenance of buildings and structures throughout this state and to adequately protect the health, safety, and welfare of the people.

(f) To provide standards and requirements for cost-effective energy efficiency that will be effective April 1, 1997.

(g) Upon periodic review, to continue to seek ever-improving, cost-effective energy efficiencies.

(h) The development of a voluntary consumer information system relating to energy efficiencies.

(4) The code shall be divided into sections as the director considers appropriate including, without limitation, building, plumbing, electrical, and mechanical sections. The boards shall participate in and work with the staff of the director in the preparation of parts relating to their functions. Before the promulgation of an amendment to the code, the boards whose functions relate to that code shall be permitted to draft and recommend to the director proposed language. The director shall give consideration to all submissions by the boards. However, the director has final responsibility for the promulgation of the code.

(5) The code may incorporate the provisions of a code, standard, or other material by reference. The director shall add, amend, and rescind rules to update the code not less than once every 3 years to coincide with the national code change cycle.

(6) Before the Michigan building code, the Michigan residential code, the Michigan plumbing code, the Michigan mechanical code, the Michigan uniform energy code, and the Michigan rehabilitation code may be enforced, the director shall make each Michigan-specific code available to the general public for at least 45 days in printed, electronic, or other form that does not require the user to purchase additional documents or data in any form in order to have an updated complete version of each specific code, excluding other referenced standards within each code. This subsection does not apply to any code effective before April 1, 2005.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1995, Act 270, Imd. Eff. Jan. 8, 1996;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 584, Imd. Eff. Jan. 4, 2005.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**Administrative rules:** R 408.30101 et seq.; R 408.31070; R 408.31087 et seq. of the Michigan Administrative Code.

### **125.1504a Repealed. 1985, Act 220, Eff. Jan. 13, 1988.**

**Compiler's note:** The report of the advisory committee's actions and recommendations, required by this section, was transmitted by the Director of the Department of Labor to the Clerk of the House of Representatives and the Secretary of the Senate by letters dated January 5, 1988. 1988 Journal of the House 9 (No. 1, January 13, 1988) and 1988 Journal of the Senate 5 (No. 1, January 13, 1988).

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1504b Bed and breakfast.**

Sec. 4b. (1) A bed and breakfast is considered under the code to be a single family residential structure and shall not be treated as a hotel or other facility serving transient tenants. This section is effective throughout the state without local modification, notwithstanding the exemption provisions of section 8.

(2) This section does not affect local zoning, fire safety, or housing regulations.

(3) As used in this section, "bed and breakfast" means a single family residential structure that meets all of the following criteria:

(a) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(b) Serves meals at no extra cost to its transient tenants.

(c) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

**History:** Add. 1987, Act 112, Imd. Eff. July 13, 1987;—Am. 1996, Act 292, Imd. Eff. June 19, 1996.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1504c Installation of smoke alarms in existing buildings or structures; promulgation of rules required.**

Sec. 4c. (1) Beginning 1 year after the effective date of the rules promulgated under subsection (2), the owner of an existing building or structure constructed before November 6, 1974 shall install 1 or more smoke alarms in that building or structure, as provided in those rules.

(2) The director shall promulgate rules that establish standards and requirements for the installation of smoke alarms in a building or structure described in subsection (1). The rules shall include both of the following:

(a) For a single family dwelling, 1 or 2 family detached dwelling, or multiple family dwelling, a requirement for the installation of at least 1 single-station smoke alarm in each dwelling unit.

(b) For a building or structure that is not a single family dwelling, 1 or 2 family detached dwelling, or multiple family dwelling, a requirement for the installation of smoke alarms as provided in the code.

(3) A building that is renovated, reconstructed, or added to or whose use or occupancy is changed shall meet the requirements contained in the code for installation of smoke alarms.

(4) As used in this section, "smoke alarm" and "single-station smoke alarm" mean those terms as defined in section 82a of the housing law of Michigan, 1917 PA 167, MCL 125.482a.

**History:** Add. 2004, Act 65, Imd. Eff. Apr. 20, 2004.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1504d Residential occupancies; installation of operational carbon monoxide device; requirements; liability; definitions.**

Sec. 4d. (1) Beginning December 1, 2009 and involving only buildings and structures newly constructed on or after that date, the owner, operator, or builder of residential occupancies where the occupants are primarily transient in nature, including, but not limited to, boarding houses, hotels, and motels, shall install 1 operational carbon monoxide device at each source point.

(2) The carbon monoxide device described in subsection (1) may be battery-powered, plug-in with or without battery backup, wired into the dwelling's AC power line with secondary battery backup, or connected to a system by means of a control panel. The carbon monoxide device required under subsection (1) shall have an alarm that is audible. If the international building code contains a requirement for a carbon monoxide device and that requirement is adopted by the director as part of a code adopted after the effective date of the amendatory act that added this subsection, those requirements apply and shall be followed upon the effective date of the code.

(3) A person who installs, in accordance with the manufacturer's published instructions in existence at the time of installation, a carbon monoxide device shall have no liability, directly or indirectly, to any person with respect to the operation, maintenance, or effectiveness of the carbon monoxide device.

(4) The owner or operator of the residential occupancy described in subsection (1), who installs or arranges for the installation of and who maintains a carbon monoxide device in accordance with the manufacturer's published instructions in existence at the time of the installation, shall have no liability, directly or indirectly, to any person with respect to the operation or effectiveness of the carbon monoxide device.

(5) As used in this section:

(a) "Carbon monoxide device" means a device that detects carbon monoxide, alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection, and is certified by a nationally recognized testing laboratory to conform to the latest standards of the underwriters laboratories standards.

(b) "Operational" means working and in service.

(c) "Source point" means an area where a mechanism is present that provides a common source of heat from a fossil-fuel-burning furnace, boiler, or water heater, but does not include only the presence of a wood or fossil-fuel-burning fireplace or a wood or fossil-fuel-burning space heater.

**History:** Add. 2008, Act 376, Imd. Eff. Dec. 23, 2008.

**Popular name:** Act 230

**125.1504f Single-family or multifamily dwelling; installation of operational and approved carbon monoxide device; requirements; failure to comply; penalty; liability; definitions; name of section.**

Sec. 4f. (1) The director may provide for, at the time of initial construction of a single-family dwelling or a multifamily dwelling, or at the time of renovation of any existing single-family dwelling in which a permit is required, or upon the addition or creation of a bedroom, the installation of at least 1 operational and approved carbon monoxide device within the single-family dwelling or within each unit of the multifamily dwelling. A carbon monoxide device shall be located in the vicinity of the bedrooms, which may include 1 device capable of detecting carbon monoxide near all adjacent bedrooms; in areas within the dwelling adjacent to an attached garage; and in areas adjacent to any fuel-burning appliances.

(2) The carbon monoxide device described in subsection (1) may be battery-powered, plug-in with or without battery backup, wired into the dwelling's AC power line with secondary battery backup, or connected to a system by means of a control panel. If the international residential code is adopted by the director as part of a code adopted after the effective date of the amendatory act that added this section, those requirements apply and shall be followed upon the effective date of the code.

(3) An enforcing agency shall not impose a penalty for the failure of a person to comply with subsection (1) until the effective date of the code that may be adopted after the effective date of the amendatory act that added this section that incorporates that requirement.

(4) A person licensed under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412, who is in compliance with this section or rules promulgated under the code and installs, in accordance with manufacturer's published instructions at the time of installation, a carbon monoxide device shall have no liability, directly or indirectly, to any person with respect to the operation, maintenance, or effectiveness of the carbon monoxide device.

(5) As used in this section:

(a) "Approved" means a carbon monoxide device that is listed as complying with either ANSI/UL 2034 or ANSI/UL 2075 and that is installed in accordance with the manufacturer's instructions.

(b) "Carbon monoxide device" means a device that detects carbon monoxide and alerts occupants via a distinct and audible signal that is either self-contained in the unit or activated via a system connection.

(c) "Operational" means working and in service.

(6) This section shall be known and may be cited as the "Overbeck law".

**History:** Add. 2008, Act 377, Eff. Mar. 23, 2009.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**125.1505 Powers of commission.**

Sec. 5. (1) The commission has all powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including, without limitation, the powers hereinafter set forth.

(2) The commission may sue and be sued; have a seal and alter it; make and execute contracts and other instruments; and adopt, amend and rescind bylaws for its organization and internal management.

(3) The commission may promulgate, amend and rescind rules necessary, desirable or proper to carry out its powers and duties under this act and relating to the administration and enforcement of the code by enforcing agencies and relating to the qualifications and licensing of persons making inspections provided for under this act.

(4) The commission may encourage, support or conduct, either by itself or in cooperation with enforcing agencies, associations of building code officials, or any other persons, educational and training programs for employees, agents and inspectors of enforcing agencies.

(5) The commission may study the effect of the code, and other related laws, to ascertain their effect on the cost of building construction and maintenance, and the effectiveness of their provisions for insuring the health, safety and welfare of the people of this state.

(6) The commission may determine after testing and evaluation whether a material, product, method of manufacture or method of construction or installation is acceptable under the code; issue certificates of such acceptability; and establish procedures for the testing of such devices, materials, fixtures, methods, systems or processes, including contracting with an existing testing laboratory for such testing.

(7) The commission may take testimony and hold hearings relating to any aspect or matter relative to the administration or enforcement of this act. In the enforcement of this act, it may issue subpoenas to compel the attendance of witnesses and the production of evidence. The commission may designate 1 or more or its

members or employees to hold public hearings and report thereon to the commission.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Compiler's note:** In the last sentence of subsection (7), the phrase "1 or more or its members" should evidently read "1 or more of its members."

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**Administrative rules:** R 408.30101 et seq. of the Michigan Administrative Code.

#### **125.1506 Rules; promulgation; copies; exceptions.**

Sec. 6. Rules promulgated by the commission shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The commission shall send or deliver a copy of its promulgated rules to each governmental subdivision. This section shall not apply to rules adopted by the commission relating only to its organization or internal management or which fix fees to be established by the commission.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**Administrative rules:** R 408.30101 et seq. of the Michigan Administrative Code.

#### **125.1507 Director, subordinate officers, employees, experts, consultants, technical advisers, and advisory committees; appointment; duties; compensation; effectuating objectives of act; federal cooperation, funds, and grants.**

Sec. 7. (1) After consultation and with the approval of the commission, the director may do the following:

(a) Subject to civil service requirements, appoint subordinate officers and employees of the commission, including legal counsel, and prescribe their duties and fix their compensation.

(b) Appoint or use experts, consultants, technical advisers, and advisory committees for assistance and recommendations relative to preparation and promulgation of the code and to assist the commission and the director in carrying out this act.

(c) Subject to the advice of the commission, do those things necessary or desirable to effectuate the general purposes and specific objectives of this act.

(2) The director shall cooperate with agencies of the federal government, may enter into contracts to receive funds, and may receive grants from the federal government to carry out the purposes of this act.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1977, Act 254, Imd. Eff. Dec. 6, 1977;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1508 Repealed. 1999, Act 245, Eff. July 31, 2001.**

**Compiler's note:** The repealed section pertained to applicability of act and state construction code.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1508a Applicability of act and state construction code.**

Sec. 8a. (1) This act and the code apply throughout the state.

(2) Within 10 days after the effective date of this subsection, the director shall provide a notice of intent form to all governmental subdivisions administering and enforcing a nationally recognized model code other than the code established by the commission under this act. This form shall set forth the date return receipt is required, which date shall not be less than 60 days after receipt. The chief elected official of the governmental subdivision that receives this notice shall indicate on the form the intention of the governmental subdivision as to whether it shall administer and enforce the code and transmit this notice to the director within the prescribed period. If a governmental subdivision fails to submit a notice of intent to administer and enforce the code within the date set forth in the notice, the director shall send a notice by registered mail to the clerk of that governmental subdivision. The registered notice shall indicate that the governmental subdivision has 15 additional days in which to submit a notice of intent to administer and enforce the code. If the governmental subdivision does not respond by the end of the 15 additional days, it shall be conclusively presumed that the governmental subdivision does not intend to administer and enforce the code, and the director shall assume the responsibility for administering and enforcing this act and the code in that

governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce this act and the code. Governmental subdivisions may provide by agreement for joint enforcement of the code.

(3) A governmental subdivision that has elected to assume responsibility for the administration and enforcement of this act and the code, and has submitted a notice of intent to continue to administer and enforce the code to the director pursuant to section 8b, after the effective date of this subsection, may reverse that election.

(4) A governmental subdivision that, before the effective date of this subsection, has elected to exempt itself pursuant to section 8(1) may reverse that election, making itself subject to the act and the code. However, that action shall not take effect until 60 days after passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code.

(5) A governmental subdivision that, before the effective date of this subsection, has not administered and enforced either this act and the code or another nationally recognized model code may elect to enforce this act and the code pursuant to subsection (1) by the passage of an ordinance to that effect. A governmental subdivision that makes this election after the effective date of this subsection shall submit, in addition to the ordinance, an application to the commission for approval to administer and enforce that code within its jurisdiction. This application shall be made on the proper form to be provided by the commission. The standards for approval shall include, but not be limited to, the certification by the governmental subdivision that the enforcing agency is qualified by experience or training to administer and enforce the code and all related acts and rules, that agency personnel are provided as necessary, administrative services are provided, plan review services are provided, and timely field inspection services shall be provided. The director shall seek additional information if the director considers it necessary. The commission shall render a decision on the application for approval to administer and enforce the code that has been adopted and transmit its findings to that governmental subdivision within 90 days of receipt of the application. The commission shall document its reasons if the commission disapproves an application. A governmental subdivision that receives a disapproval may resubmit its application for approval. Upon receipt of approval from the commission for the administration and enforcement of the code, the governmental subdivision shall administer and enforce the code within its jurisdiction pursuant to the provisions of its approved application.

(6) The code or any of its sections shall take effect 6 months after the code's initial promulgation. The 6-month delay does not apply to rules promulgated to implement sections 13a, 13b, 13c, 19, and 21 and the requirements of barrier free design and energy conservation of this act and code. The 6-month delay does not apply to amendments to the code or any of the code's sections after the initial promulgation.

(7) The standards for premanufactured housing shall not be less than the standards required for nonpremanufactured housing, except that manufactured homes labeled pursuant to the national manufactured housing construction and safety standards act of 1974, title VI of the housing and community development act of 1974, Public Law 93-383, 42 U.S.C. 5401 to 5426, shall be considered to have complied with this requirement.

(8) The commission may limit the application of a part of the code to include or exclude the following:

(a) Specified classes or types of buildings or structures, according to use, or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable. The commission shall consider the specific problems of the construction or alteration of a single family, owner-occupied recreational dwelling that is located in a sparsely populated area and that is to be occupied on a part-time basis.

(b) Specified areas of the state based on size, population density, special conditions prevailing in the area, or other factors as may make differentiation or separate classification or regulation necessary, proper, or desirable.

(9) A building or structure that has baby changing stations in the women's restrooms shall have baby changing stations in the men's restrooms.

(10) The code shall provide, where appropriate, for standards involving location and construction of ratwalls that are not less than those standards in existence on the effective date of this section.

**History:** Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1508b Administration and enforcement of act and state construction code.**

Sec. 8b. (1) Except as otherwise provided in this section, the director is responsible for administration and enforcement of this act and the code. A governmental subdivision may by ordinance assume responsibility for administration and enforcement of this act within its political boundary. A county ordinance adopted pursuant to this act shall be adopted by the county board of commissioners and shall be signed by the chairperson of the county board of commissioners and certified by the county clerk.

(2) A governmental subdivision that has assumed the responsibility for administering and enforcing this act and the code may, through its chief legal officer, issue a complaint and obtain a warrant for a violation of this act or the code and prosecute the violation with the same power and authority it possesses in prosecuting a local ordinance violation. If pursuant to section 23, a governmental subdivision has by ordinance designated a violation of the act or code as a municipal civil infraction, the governmental subdivision may issue a citation or municipal ordinance violation notice pursuant to chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 to 600.8735, for a violation of the act or code. Unless otherwise provided by local law or ordinance, the legislative body of a governmental subdivision responsible for administration and enforcement of this act and the code shall designate an enforcing agency that shall discharge the responsibilities of the governmental subdivision under this act. Governmental subdivisions may provide by agreement for joint enforcement of this act.

(3) Subject to the other provisions of this act, an enforcing agency is any official or agent of a governmental subdivision that is registered under the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313, qualified by experience or training to perform the duties associated with construction code administration and enforcement.

(4) Before December 28, 1999, the director shall provide each governmental subdivision administering and enforcing this act and the code with a notice of intent form. This form shall set forth the date return receipt is required, which date shall not be less than 60 days. The chief elected official of the governmental subdivision that receives this notice shall indicate on the form the intention of the governmental subdivision as to whether it shall continue to administer and enforce this act and the code and transmit this notice to the director within the prescribed period. If a governmental subdivision fails to submit a notice of intent to continue to administer and enforce this act and the code within the date set forth in the notice, the director shall send a notice by registered mail to the clerk of that governmental subdivision. This notice shall indicate that the governmental subdivision has 15 additional days in which to submit a notice of intent to continue to administer and enforce this act and the code. If the governmental subdivision does not respond by the end of the 15 additional days, it shall be conclusively presumed that the governmental subdivision does not intend to continue to administer and enforce this act and the code and the director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which the governmental subdivision is located submits a notice of intent to continue to administer and enforce this act and the code.

(5) A county that is administering and enforcing this act and the code on December 28, 1999 and that submits a notice of intent to continue to administer and enforce this act and the code pursuant to subsection (4) is responsible for the administration and enforcement of this act and the code for each governmental subdivision within the county that does not submit a notice of intent to continue to administer and enforce this act and the code. The director shall notify the county of those governmental subdivisions that do not submit a notice of intent.

(6) A governmental subdivision that, before December 28, 1999, did not administer and enforce this act and the code may elect to assume the responsibility for the administration and enforcement of this act and the code pursuant to subsection (1) by the passage of an ordinance to that effect. A governmental subdivision that makes this election after December 28, 1999 shall submit, in addition to the ordinance, an application to the commission for approval to administer and enforce this act and the code within its jurisdiction. This application shall be made on the proper form to be provided by the commission. The standards for approval shall include, but not be limited to, the certification by the governmental subdivision that the enforcing agency is qualified by experience or training to administer and enforce this act and the code and all related acts and rules, that agency personnel are provided as necessary, that administrative services are provided, that plan review services are provided, and that timely field inspection services will be provided. The director shall seek additional information if the director considers it necessary. The commission shall render a decision on the application for approval to administer and enforce this act and the code and transmit its findings to the governmental subdivision within 90 days of receipt of the application. The commission shall document its

reasons, if the commission disapproves an application. A governmental subdivision that receives a disapproval may resubmit its application for approval. Upon receipt of approval from the commission for the administration and enforcement of this act and the code, the governmental subdivision shall administer and enforce this act and the code within its jurisdiction pursuant to the provisions of this act and the application.

(7) A governmental subdivision that elects to administer and enforce this act and the code within its jurisdiction by the adoption of an ordinance may rescind that ordinance and transfer the responsibility for the administration and enforcement of this act and the code to the director. The director shall assume the responsibility for administering and enforcing this act and the code in that governmental subdivision, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce the code. However, that action shall not take effect until 12 months after the passage of an ordinance to that effect. A structure commenced under an effective code shall be completed under that code.

(8) The director is responsible for administration and enforcement of this act and the code for buildings and structures that are not under the responsibility of an enforcing agency in those governmental subdivisions that elect to administer and enforce this act and the code. A building or structure owned by the state shall not be erected, remodeled, or reconstructed in the state, except school buildings or facilities or institutions of higher education as described in section 4 of article VIII of the state constitution of 1963, until written approval of the plans and specifications has been obtained from the bureau of construction codes and safety located within the department indicating that the state owned facilities shall be designed and constructed in conformance with the state construction code. The bureau of construction codes and safety shall be the lead agency in the coordination and implementation of this subsection. The bureau of construction codes and safety shall perform required plan reviews and inspections as required by the state construction code. Each department shall secure required plan approvals and permits from the bureau. Fees charged by the bureau for permits shall be in accordance with the commission's approved schedule of fees. State departments and institutions may allow local inspectors to inspect the construction of state owned facilities. However, an inspection conducted by a local inspector shall be of an advisory nature only.

(9) This section does not affect the responsibilities of the commission for administration and enforcement of this act under other sections of this act, or responsibilities under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33; 1937 PA 306, MCL 388.851 to 388.855a; the firefighters training council act of 1966, 1966 PA 291, MCL 29.361 to 29.377; 1942 (1st Ex Sess) PA 9, MCL 419.201 to 419.205; parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e; and section 58 of the social welfare act, 1939 PA 280, MCL 400.58.

(10) Pursuant to parts 215 and 217 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21799e, the director shall develop consistent construction standards for hospitals and nursing homes. These standards shall ensure that consistent, uniform, and equitable construction requirements and state supervision of the requirements are achieved. This subsection does not preclude a state agency or a governmental subdivision from conducting plan reviews or inspections necessary to ensure compliance with approved construction plans.

(11) Except as otherwise provided in this act, this act does not limit or restrict existing powers or authority of governmental subdivisions, and this act shall be enforced by governmental subdivisions in the manner prescribed by local law or ordinance. To the extent not inconsistent with this act, local laws and ordinances relating to administration and enforcement of construction regulations enacted before the effective date of the code by or for a governmental subdivision are applicable to administration and enforcement of the code in that governmental subdivision.

**History:** Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999;—Am. 2006, Act 192, Imd. Eff. June 19, 2006.

**Compiler's note:** Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

"(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code." [Effective July 31, 2001]

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

## **125.1509, 125.1509a Repealed. 1999, Act 245, Eff. July 31, 2001.**

**Compiler's note:** The repealed sections pertained to administration and enforcement of act and state construction code, and performance evaluation of enforcement agency.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1509b Performance evaluation of enforcing agency.**

Sec. 9b. (1) The director, as prescribed in this section, may conduct a performance evaluation of an enforcing agency to assure that the administration and enforcement of this act and the code is being done pursuant to either section 8a or 8b. A performance evaluation may only be conducted either at the request of the local enforcing agency or upon the receipt of a written complaint. If a performance evaluation is to be conducted upon the receipt of a written complaint, the director shall first refer the written complaint to the affected enforcing agency requesting a written response within 10 days. If the local enforcing agency fails to provide a written response, or if the response is considered inadequate, the director shall consult with the commission and request approval to conduct the performance evaluation. The director shall submit a written recommendation to the commission and shall send a copy to the affected enforcing agency, along with a reasonable notice of the commission meeting at which the recommendation will be presented. The decision of the commission to proceed with a performance evaluation shall be made at a public meeting. This decision shall be mailed to the enforcing agency 10 days in advance of conducting the performance evaluation.

(2) When conducting a performance evaluation of an enforcing agency, the director may request that the local enforcing agency accompany the director or other state inspectors on inspections. The inspections shall be for the enforcement of this act and the code. The enforcing agency shall maintain all official records and documents relating to applications for permits, inspection records including correction notices, orders to stop construction, and certificates of use and occupancy. The enforcing agency shall make available for review all official records between 8 a.m. and 5 p.m. on business days.

(3) Upon completion of a performance evaluation, the director shall report the findings and any recommendations to the commission and the local enforcing agency. The commission may issue a notice of intent to withdraw the responsibility for the administration and enforcement of this act and the code from a governmental subdivision after receiving the results of a performance evaluation. The notice shall include the right to appeal within 30 business days after receipt of the notice of intent to withdraw the responsibility. The notice shall also include the findings of the director, after completion of a performance evaluation, that the enforcing agency of that governmental subdivision has failed to follow the duties recognized under this act, the code, or its ordinance. Failure by the enforcing agency or the chief elected official of that governmental subdivision to request a hearing within 30 business days after receipt of the notice of intent to withdraw the responsibility shall be considered to exhaust the enforcing agency's administrative remedies and the notice shall be considered a final order of the commission under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The director shall assume responsibility for the administration and enforcement of this act and the code, unless the county within which that governmental subdivision is located has submitted a notice of intent to continue to administer and enforce this act and the code, when the notice is considered a final order of the commission. A structure commenced under an effective code shall be completed under that code.

(4) If an enforcing agency or the chief elected official of the governmental subdivision transmits an appeal of the notice of intent to withdraw the responsibility issued under subsection (3), the commission chairperson shall request appointment of a hearings officer. The hearings officer shall conduct a hearing of the appeal pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and issue a proposed decision which shall be sent to the affected parties. The proposed decision shall become the final order issued by the commission, unless exceptions are filed by a party within 30 days after receipt of the proposed decision. The commission shall review the proposed decision when exceptions are filed.

(5) The commission in reviewing a proposed decision may affirm, modify, reverse, or remand the proposed decision. When the commission affirms, modifies, reverses, or remands a proposed decision, the decision of the commission shall be in writing and contain the findings of fact and conclusions of law upon which its decision is based. Other than in a case of remand, the period for seeking judicial review of the commission's decision under section 104 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.304, shall begin to run upon receipt by the parties of the commission's written decision.

**History:** Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** Enacting section 1 of Act 245 of 1999 provides:

"Enacting section 1. The title and sections 2a, 3a, 8a, 8b, and 9b of the state construction code act of 1972, 1972 PA 230, the title as amended and sections 2a, 3a, 8a, 8b, and 9b as added by this amendatory act, are effective upon enactment but apply only to 1 or more of the following codes only upon the effective date of the particular code update promulgated after October 15, 1999:

"(a) The plumbing code, R 408.30701 to 408.30796 of the Michigan administrative code. [Effective July 31, 2001]

"(b) The electrical code, R 408.30801 to 408.30873 of the Michigan administrative code. [Effective December 7, 1999]

"(c) The mechanical code, R 408.30901a to 408.30995a of the Michigan administrative code. [Effective July 31, 2001]

“(d) The building code, R 408.30401 to 408.30499 of the Michigan administrative code.” [Effective July 31, 2001]

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**125.1510 Application for building permit; form; fee; contents; statement; site plan; affidavit; filing written instrument designating agent, attorney, architect, engineer, or builder; additional information required for residential builder or residential maintenance and alteration contractor, master or journeyman plumber, electrical contractor or master or journeyman electrician, or mechanical contractor; statement required in building application form; filing application; availability of application and other writings to public; custody of application; imposition of requirements for additional permits; buildings for which permit not required.**

Sec. 10. (1) Except as otherwise provided in the code, before construction of a building or structure, the owner, or the owner's builder, architect, engineer, or agent, shall submit an application in writing to the appropriate enforcing agency for a building permit. The application shall be on a form prescribed by the commission and shall be accompanied by payment of the fee established by the enforcing agency. The application shall contain a detailed statement in writing, verified by affidavit of the person making it, of the specifications for the building or structure, and full and complete copies of the plans drawn to scale of the proposed work. A site plan showing the dimensions, and the location of the proposed building or structure and other buildings or structures on the same premises, shall be submitted with the application. The application shall state in full the name and residence, by street and number, of the owner in fee of the premises on which the building or structure will be constructed, and the purposes for which it will be used.

(2) If construction is proposed to be undertaken by a person other than the owner of the land in fee, the statement shall contain the full name and residence, by street and number, of the owner and also of the person proposing the construction. The affidavit shall state that the specifications and plans are true and complete and contain a correct description of the building or structure, lot, and proposed work. The statements and affidavits may be made by an owner, or the owner's attorney, agent, engineer, architect, or builder, by the person who proposes to make the construction or alteration, or by that person's agent, engineer, architect, or builder. A person shall not be recognized as the agent, attorney, engineer, architect, or builder of another person unless the person files with the enforcing agency a written instrument, which shall be an architectural, engineering or construction contract, power of attorney, or letter of authorization signed by that other person designating the person as the agent, attorney, architect, engineer, or builder and, in case of a residential builder or maintenance and alteration contractor, architect, or engineer, setting forth the person's license number and the expiration date of the license.

(3) A person licensed or required to be licensed as a residential builder or residential maintenance and alteration contractor under the occupational code, 1980 PA 299, MCL 339.101 to 339.2721, a master or journeyman plumber pursuant to 1929 PA 266, MCL 338.901 to 338.917, an electrical contractor or master or journeyman electrician pursuant to the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892, or pursuant to a local ordinance, or as a mechanical contractor pursuant to the forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988, who applies for a building permit to perform work on a residential building or a residential structure shall, in addition to any other information required pursuant to this act, provide on the building permit application all of the following information:

(a) The occupational license number of the applicant and the expiration date of the occupational license.

(b) One of the following:

(i) The name of each carrier providing worker's disability compensation insurance to the applicant if the applicant is required to be insured pursuant to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(ii) The reasons for exemption from the requirement to be insured if the applicant is not required to be insured under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(c) One of the following:

(i) The employer identification number, if the applicant is required to have an employer identification number pursuant to section 6109 of the internal revenue code.

(ii) The reasons for exemption from the requirement to have an employer identification number pursuant to section 6109 of the internal revenue code if the applicant is not required to have an employer identification number pursuant to section 6109 of the internal revenue code.

(d) One of the following:

(i) The Michigan employment security commission employer number, if the applicant is required to make

contributions pursuant to the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(ii) If the applicant is not required to make contributions, the reasons for exemptions from the requirement to make contributions under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75.

(4) The building permit application form shall contain the following statement in 8-point boldfaced type immediately above the location for the applicant's signature:

"Section 23a of the state construction code act of 1972, 1972 PA 230, MCL 125.1523a, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of section 23a are subjected to civil fines."

(5) The application for a building permit shall be filed with the enforcing agency and the application and any other writing prepared, owned, used, in the possession of, or retained by the enforcing agency in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. An application shall not be removed from the custody of the enforcing agency after a building permit has been issued.

(6) This section shall be construed to allow the imposition of requirements in the code, or in other laws or ordinances, for additional permits for particular kinds of work, including plumbing and electrical, or in other specified situations. The requirements of the code may provide for issuance of construction permits for certain of the systems of a structure and allow construction to commence on those systems approved under that permit even though the design and approval of all the systems of the structure have not been completed and subsequent construction permits have not been issued.

(7) Notwithstanding this section, a building permit is not required for ordinary repairs of a building and structure.

(8) Notwithstanding this section, a building permit is not required for a building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1977, Act 195, Imd. Eff. Nov. 17, 1977;—Am. 1989, Act 135, Eff. Oct. 1, 1989;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Compiler's note:** In subsection (3), "forbes mechanical contractors act" evidently should read "Forbes mechanical contractors act."

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1511 Building permit; examination and approval of application; issuance; changes in plans; commencement of construction; compliance with application; suspension, revocation, or cancellation.**

Sec. 11. (1) The enforcing agency shall examine an application for a building permit. If the application conforms to this act, the code and the requirements of other applicable laws and ordinances, the enforcing agency shall approve the application and issue a building permit to the applicant. An application shall be granted, in whole or in part, or denied within 10 business days, except that in case of an unusually complicated building or structure, action shall be taken within 15 business days. Failure by an enforcing agency to grant, in whole or in part, or deny an application within these periods of time shall be deemed a denial of the application for purposes of authorizing the institution of an appeal to the appropriate board of appeals. The enforcing agency shall approve changes in plans and specifications previously approved by it, if the changes require approval and if the plans and specifications when so changed remain in conformity with law. Except as otherwise provided in this act or the code, the construction or alteration of a building or structure shall not be commenced until a building permit has been issued. The construction of a building or structure shall comply with the approved application for a building permit, and the enforcing agency shall insure such compliance in the manner provided in section 12 and in any other way it deems appropriate.

(2) The enforcing agency may suspend, revoke or cancel a building permit in case of failure or neglect to comply with the provisions of this act or the code, or upon a finding by it that a false statement or representation has been made in the application for the building permit.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1512 Inspection of construction; consent; time; inspectors; notice of violation; stop order; injunction.**

Sec. 12. (1) An enforcing agency shall periodically inspect all construction undertaken pursuant to a

building permit issued by it to insure that the construction is performed in accordance with conditions of the building permit and is consistent with requirements of the code and other applicable laws and ordinances.

(2) The owner of premises on which a building or structure is being constructed is deemed to have consented to inspection by the enforcing agency and the commission of the entire premises and of any construction being performed on it until a certificate of use and occupancy has been issued. An inspector, or team of inspectors, on presentation of proper credentials, may enter and inspect the premises and construction thereon, for purposes of insuring compliance with the building permit, the code and other applicable laws and regulations. An inspection shall be made between 8 a.m. and 6 p.m. on business days, or when construction is actually being undertaken, except if the enforcing agency has probable cause to believe that an immediate danger to life, limb or property exists, or except with permission of an owner, or his agent, architect, engineer or builder. An inspection pursuant to this section shall be solely for purposes of enforcing this act and other laws and ordinances related to construction of buildings and structures. A person other than the owner, his agent, architect, engineer or builder shall not accompany an inspector or team of inspectors on an inspection, unless his presence is necessary for the enforcement of this act, or other laws and ordinances related to construction of the building or structure, or except with the consent of an owner, or his agent, architect, engineer or builder.

(3) If construction is being undertaken contrary to a building permit, this act, or other applicable laws or ordinances, the enforcing agency shall give written notice to the holder of the building permit, or if a permit has not been issued then to the person doing the construction, notifying him of the violation of this act, or other applicable laws and ordinances, and to appear and show cause why the construction should not be stopped. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. If the holder of the permit or the person doing the construction fails to appear and show good cause within 1 full working day after notice is delivered, the enforcing agency shall cause a written order to stop construction to be posted on the premises. A person shall not continue, or cause or allow to be continued, construction in violation of a stop construction order, except with permission of the enforcing agency to abate the dangerous condition or remove the violation, or except by court order. If an order to stop construction is not obeyed, the enforcing agency may apply to the circuit court for the county in which the premises are located for an order enjoining the violation of the stop construction order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(4) Without limitation on other available remedies, an interested person may apply for an order, enjoining the continuation of construction undertaken in violation of a building permit, this act, the code or other applicable laws or ordinances, to the circuit court for the county in which the premises are located.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1513 Certificate of use and occupancy; issuance; contents; application; fee; temporary certificate; notice of final inspection.**

Sec. 13. A building or structure hereafter constructed shall not be used or occupied in whole or in part until a certificate of use and occupancy has been issued by the appropriate enforcing agency. A building or structure hereafter altered in whole or in part shall not be used or occupied until such a certificate has been issued, except that a use or occupancy in an already existing building or structure that was not discontinued during its alteration may be continued for 30 days after completion of the alteration without issuance of a certificate of use and occupancy. A certificate of use and occupancy shall be issued by the enforcing agency when the work covered by a building permit has been completed in accordance with the permit, the code and other applicable laws and ordinances. On request of a holder of a building permit the enforcing agency may issue a temporary certificate of use and occupancy for a building or structure, or part thereof, before the entire work covered by the building permit has been completed, if the parts of the building or structure to be covered by the certificate may be occupied before completion of all the work in accordance with the permit, the code and other applicable laws and ordinances, without endangering the health or safety of the occupants or users. When a building or structure is entitled thereto, the enforcing agency shall issue a certificate of use and occupancy within 5 business days after receipt of a written application therefor on a form to be prescribed by the enforcing agency and payment of the fee to be established by it. The certificate of use and occupancy shall certify that the building or structure has been constructed in accordance with the building permit, the code and other applicable laws and ordinances. The application for a certificate of use and occupancy for a new dwelling with a unit or units for rent shall set forth the information required in an application for a certificate of compliance for such a dwelling pursuant to the state housing law, and the certificate of use and occupancy

for such a dwelling shall be deemed its initial certificate of compliance. The enforcing agency shall give the owner of the building or structure or his agent at least 12 hours' notice of the time of any final inspection, by the enforcing agency of the work covered by the building permit, pursuant to the application for a certificate of use and occupancy.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1513a Definitions; prohibited appliances; exceptions; promulgation date.**

Sec. 13a. (1) As used in this section:

(a) "Central furnace" means a self-contained, gas-burning appliance for heating air by transfer of heat of combustion through metal to the air, and designed to supply heated air through ducts to spaces remote from, or adjacent to, the appliance location.

(b) "Clothes dryer" means a device used to dry wet laundry by means of heat derived from the combustion of fuel gases.

(c) "Household cooking gas appliance" means a gas appliance for domestic food preparation, providing any 1 or combination of the following:

(i) Top or surface cooking.

(ii) Oven cooking.

(iii) Broiling.

(2) The code shall contain, as a part of the energy conservation provisions, 1 or more provisions prohibiting the installation in a building or structure of any of the following new appliances which requires for its operation the use of a continuously burning pilot light:

(a) A central furnace having an input rate of 225,000 BTU per hour or less.

(b) A clothes dryer.

(c) A household cooking gas appliance having an electrical supply cord.

(3) The provisions of the code required by this section shall not apply to the following:

(a) A mobile home or modular home.

(b) An appliance that is designed to burn exclusively liquefied petroleum gas.

(c) An appliance which meets the energy efficiency standards prescribed by the federal regulations promulgated pursuant to the energy policy and conservation act, 42 U.S.C. 6201 to 6422.

(4) The provisions of the code required by this section shall be promulgated not later than 90 days after the effective date of this section.

**History:** Add. 1980, Act 233, Imd. Eff. July 20, 1980.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1513b "Lead free" defined; pipes, pipe fittings, solder, or flux to be lead free; exception.**

Sec. 13b. (1) As used in this section, "lead free" means either of the following:

(a) Solder and flux containing not more than 0.2% lead.

(b) Pipe and pipe fittings containing not more than 8% lead.

(2) Beginning on the effective date of this section, pipes, pipe fittings, solder, or flux which are used in the installation or repair of a plumbing system in a building or structure providing water for human consumption or a public water system shall be lead free.

(3) This section shall not apply to leaded joints necessary for the repair of cast iron pipes.

**History:** Add. 1988, Act 146, Imd. Eff. June 7, 1988.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1513c Definitions; minimum standards for board and room facilities; inspection; noncompliance; order; penalty; hearing; payment and recovery of civil penalty; applicability of section.**

Sec. 13c. (1) As used in this section:

(a) "Board and room facility" means a residential building that does not provide separate cooking facilities for individual occupants and that is arranged for primarily nontransient shelter and sleeping accommodations for 3 or more adults. Board and room facility does not include any of the following:

(i) A residential facility for students attending a college or university.

- (ii) A facility operated, licensed, or regulated by the state or the federal government.
- (iii) A bed and breakfast regulated under section 4b.
- (iv) A hotel or motel.
- (v) A private dwelling as that term is defined in section 2 of the housing law of Michigan, Act No. 167 of the Public Acts of 1917, being section 125.402 of the Michigan Compiled Laws.
- (b) "Operator" means a person who has charge, care, control, or management of a board and room facility.
- (c) "Owner" means a person who knows that a residential building in which that person has a legal or equitable interest is being used as a board and room facility, regardless of whether the person has possession of the facility. Owner includes an executor, administrator, trustee, or guardian of the estate of an owner of a residential building if the executor, administrator, trustee, or guardian knows that the residential building is being used as a board and room facility.
- (d) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (2) A board and room facility shall comply with the minimum property maintenance standards set forth in this act and in the BOCA national property maintenance code, 1993 edition, as published by the building officials and code administrators international, inc., or the uniform housing code, 1991 edition, as published by the international conference of building officials, which codes are adopted by reference and made a part of this section as if fully set out in this section. In addition, a board and room facility shall comply with all of the following:
  - (a) Interior stairways shall be enclosed by fire separation assemblies having a 1-hour fire resistance rating with all openings protected with smoke-actuated automatic-closing or self-closing doors having a fire resistance comparable to that required for the enclosure.
  - (b) Vertical openings shall be protected so that no primary exit route is exposed to an unprotected vertical opening. The vertical opening is protected if the opening is cut off and enclosed in a manner that provides a smoke and fire resisting capability of not less than 1 hour. Any doors or openings shall have fire and smoke resisting capability equivalent to that of the enclosure and shall be automatic-closing on detection of smoke or shall be self-closing.
  - (c) A fire alarm system shall be installed in accordance with the building code, except in buildings that have a smoke detection system meeting or exceeding the requirements of subdivision (f) if that detection system includes at least 1 manual fire alarm station per floor arranged to initiate the smoke detection alarm.
  - (d) Initiation of the required fire protective signaling system shall be by manual means as provided by the building code, except in buildings protected throughout with an approved fire suppression system installed in accordance with the building code, with initiation upon actuation of the extinguishing system operation.
  - (e) Occupant notification of a fire shall be provided automatically, without delay by internal audible alarm in accordance with the building code. Presignal systems are prohibited.
  - (f) Approved single station or multiple station smoke detectors powered by the building electrical service shall be installed in accordance with the building code on every level. In addition, approved single station smoke detectors powered by the building electrical service shall be provided in each sleeping room, except that existing battery powered detectors shall be accepted if, in the opinion of the code official, they are in operating condition.
  - (g) Portable fire extinguishers shall bear the label of an approved agency, be of an approved type, and be installed in a visible and accessible location on each occupied floor and basement.
  - (h) Fire exit drills shall be conducted at least once every 2 months in each facility. Each occupant shall be provided with a written evacuation plan filed with the local authority having jurisdiction. An egress plan shall be posted in each sleeping room showing the building diagram, the room location, and the location of exits.
  - (i) The interior finish on wall and ceilings and trim materials shall be a minimum class III, tested in accordance with ASTM E-84.
- (3) An enforcing agency shall inspect a board and room facility after receiving a complaint alleging a violation by that board and room facility of the minimum standards described in subsection (2), and shall determine whether the board and room facility is in compliance with this act.
- (4) If, following an inspection described in subsection (3), an enforcing agency determines that a board and room facility is not in compliance with this act, the enforcing agency shall issue an order to remedy the noncompliance and may issue an order to vacate the premises. The enforcing agency shall serve the order or orders upon the operator of the board and room facility and, if known, the owner of the residential building in which the board and room facility is situated.
- (5) This section prescribes minimum standards for board and room facilities. It does not invalidate ordinances or regulations that impose higher standards or stricter requirements.
- (6) The enforcing agency may adopt a schedule of monetary civil penalties, not to exceed \$500.00 for each

violation or day that a violation continues, which may be assessed for a violation of this section. If the enforcing agency believes that an owner or operator has violated this section, it may issue a citation after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation, the civil penalty established for the violation, and the right to appeal the citation pursuant to subsection (7). The citation shall be delivered or sent by registered mail to the alleged violator.

(7) Not later than 20 days after receipt of the citation, the alleged violator may petition the enforcing agency for an administrative hearing, which shall be held within 60 days after the enforcing agency receives the petition. The administrative hearing may be conducted by a hearing officer, who may affirm, dismiss, or modify the citation. The decision of the hearing officer is final and is not subject to appeal.

(8) A civil penalty assessed by the issuance of a citation under subsection (6) becomes final if a petition is not received within the time specified in subsection (7). A civil penalty imposed shall be paid to the governmental subdivision that has the responsibility of enforcing this section. A civil penalty may be recovered in a civil action brought by the governmental subdivision in the county in which the violation occurred or the defendant resides.

(9) This section applies to a board and room facility constructed or converted for use as a board and room facility after the effective date of this section. Beginning 6 months after the effective date of this section, this section also applies to a board and room facility constructed or converted for use as a board and room facility before the effective date of this section.

**History:** Add. 1994, Act 106, Imd. Eff. Apr. 18, 1994.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1513d Requirements for stairwell geometry.**

Sec. 13d. (1) Notwithstanding any provision in this act and until the promulgation of the complete building code update after October 15, 1999, a governmental subdivision shall not enforce a requirement for stairwell geometry in occupancies in use group R-3 structures and within dwelling units in occupancies in use group R-2 structures that differs from the stairwell geometry described in this section.

(2) As used in this section:

(a) “Stairwell geometry” refers to the configuration of a stairwell of a building in which the maximum riser height is 8-1/4 inches (210 mm), the minimum tread depth is 9 inches (229 mm), and a 1-inch (25 mm) nosing on stairwells with solid risers.

(b) “Use group R-2 structures” means all multiple-family dwellings having more than 2 dwelling units including, but not limited to, boarding houses and similar buildings arranged for shelter and sleeping accommodations in which the occupants are primarily not transient in nature and dormitory facilities that accommodate more than 5 persons over 2-1/2 years of age.

(c) “Use group R-3 structures” means all buildings arranged for occupancy as 1-family or 2-family dwelling units including, but not limited to, not more than 5 lodgers or boarders per family; multiple single-family dwellings where each unit has an independent means of egress and is separated by a 2-hour fire separation assembly; and a child care facility that accommodates 5 or less children of any age.

**History:** Add. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1513e Sharing elevator between 2 buildings.**

Sec. 13e. This act does not prohibit the sharing of an elevator between 2 buildings as long as the buildings are in compliance with this act, the code, and the following acts and rules promulgated under those acts:

(a) The fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(b) 1976 PA 333, MCL 338.2151 to 338.2160.

(c) 1967 PA 227, MCL 408.801 to 408.824.

(d) Any other act or rules regulating elevators in buildings.

**History:** Add. 2005, Act 50, Imd. Eff. June 23, 2005.

#### **125.1514 Construction board of appeals; creation; appointment, qualifications, and terms of members; appeal to board; hearing; decision; statement of reasons for decision; appeal to commission; copy of decision; additional powers or duties; procedures; conducting business at public meeting; notice; availability of certain writings to public.**

Sec. 14. (1) A construction board of appeals for each governmental subdivision enforcing the code shall be created consisting of not less than 3 nor more than 7 members, as determined by the governing body of the

governmental subdivision. Unless otherwise provided by local law or ordinance, the members of the board of appeals shall be appointed for 2-year terms by the chief executive officer of a city, village, or township and the chairperson of the county board of commissioners of a county. A member of the board of appeals shall be qualified by experience or training to perform the duties of members of the board of appeals. A person may serve on the board of appeals of more than 1 governmental subdivision. If an enforcing agency refuses to grant an application for a building permit, or if the enforcing agency makes any other decision pursuant or related to this act, or the code, an interested person, or the person's authorized agent, may appeal in writing to the board of appeals. The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after submission of the appeal. Failure by the board of appeals to hear an appeal and file a decision within the time limit is a denial of the appeal for purposes of authorizing the institution of an appeal to the commission. A copy of the decision and statement of the reasons for the decision shall be delivered or mailed, before filing, to the party taking the appeal.

(2) This act does not prevent a governmental subdivision from granting its board of appeals additional powers or duties not inconsistent with this act, or from establishing procedures to be followed by its board of appeals insofar as the procedures do not conflict with this act. Except as otherwise provided by this act, or by other laws or ordinances, a board of appeals may by rules establish its own procedures.

(3) The business which the board of appeals may perform shall be conducted at a public meeting of the board of appeals held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(4) A record of decisions made by the board of appeals, properly indexed, and any other writing prepared, owned, used, in the possession of, or retained by the board of appeals in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1977, Act 195, Imd. Eff. Nov. 17, 1977;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1515 Specific variance from code; requirements; breach of condition; permissible variance.**

Sec. 15. (1) After a public hearing a board of appeals may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

(a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of this state.

(b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

(2) A board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1516 Appeal to commission; time; hearing; quorum; effect of decision; copy of decision and statement of reasons; record of decisions; public inspection; referral of certain appeals to appropriate board; review of board's decision; petition.**

Sec. 16. (1) An interested person, or the interested person's authorized agent, may appeal a decision of a board of appeals to the commission within 10 business days after filing of the decision with the enforcing agency or, in case of an appeal because of failure of a board of appeals to act within the prescribed time, at any time before filing of the decision. The hearing of an appeal based on the denial of a request for a variance by a board of appeals is within the sole discretion of the commission. If deciding an appeal, the commission may act either as a whole or by a panel of 3 or more of the commission members designated by the

commission's chairperson to hear and decide the appeal. A majority of a panel constitutes a quorum and a decision by a panel requires concurrence of at least a majority of the panel's members. If an appeal has been presented to the commission within the time prescribed, the appeal shall be heard de novo by the commission. The commission may affirm, modify, or reverse a decision of the board of appeals or the enforcing agency. Except if modified or reversed by a court of competent jurisdiction, a decision of the commission made under this section is binding on the applicant and the affected board of appeals and enforcing agency. An appeal to the commission shall be decided within 30 days after receipt of the appeal by the commission. A copy of the decision and a statement of reasons for the decision shall be sent to the applicant and filed with the affected board of appeals and enforcing agency within 5 business days after the making of the decision. A record of decisions made by the commission under this section, properly indexed, shall be kept in the office of the commission, and be open to public inspection during business hours in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) Notwithstanding subsection (1), the executive director of the commission shall refer an appeal to the commission under subsection (1) which in the executive director's judgment relates principally to a mechanical, plumbing, electrical, or barrier free design matter to the appropriate board. The board shall hear and decide the appeal in the same manner as an appeal is heard and decided by the commission under this section, except that a board shall meet as a whole and not in a panel. A person aggrieved by a decision of a board on any appeal under this subsection may petition the commission to review the decision. The commission shall act on the petition within 5 business days after receipt, and may grant the petition at the commission's discretion except that the commission shall grant the petition if it appears that the appeal involves a question of major significance to the people of this state and that the case of the appellant has substantial merit. If the commission grants the petition, the commission acting as a whole shall review the decision in accordance with a procedure established by the commission's rules.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1974, Act 180, Imd. Eff. June 27, 1974;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 2001, Act 164, Imd. Eff. Nov. 7, 2001.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**Administrative rules:** R 408.30101 et seq. of the Michigan Administrative Code.

#### **125.1517 Effect of appeal on orders, determinations, decisions, and actions.**

Sec. 17. An appeal to a board of appeals or the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, does not stay a stop construction order issued by an enforcing agency or prevent an enforcing agency from seeking an order in a court of competent jurisdiction enjoining the violation of a stop construction order. In other cases, an appeal to a board of appeals, or to the commission pursuant to this act, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, shall act as a stay upon an order, determination, decision or action appealed from, unless the enforcing agency establishes that immediate enforcement of the order, determination, decision or action is necessary to avoid substantial peril to life or property.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Compiler's note:** For provisions of Act 306 of 1969, referred to in this section, see MCL 24.201 et seq.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1518 Filing claim of appeal or petition to review.**

Sec. 18. An appeal pursuant to Act No. 306 of the Public Acts of 1969, as amended, from a decision of the commission or a board, following an appeal from a decision of a board of appeals or enforcing agency shall be made by a claim of appeal filed with the court of appeals. An appeal pursuant to that act from any other decision of the commission or of a board shall be by petition to review filed with the Ingham county circuit court.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Compiler's note:** For provisions of Act 306 of 1969, referred to in this section, see MCL 24.201 et seq.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1519 Premanufactured units; certificate of acceptability; rules; building permit; fee; objections; hearing.**

Sec. 19. (1) The department shall promulgate rules establishing a procedure by which a premanufactured

unit intended for use in this state may be issued a certificate of acceptability by the department at its place of manufacture.

(2) The procedure shall require that the manufacturer submit to the department detailed plans and specifications for the premanufactured unit for approval as in compliance with the code. The department may require that the manufacturer submit test results on the premanufactured unit or its components, any material or information the department considers relevant, or 1 or more of the premanufactured units for testing and evaluation by the department.

(3) Each premanufactured unit shall be inspected by the department, or a qualified person approved by the department, to determine that the premanufactured unit has been manufactured in accordance with plans and specifications submitted under subsection (2). The department may issue a certificate of acceptability for a premanufactured unit that bears the approved label of an independent, nationally recognized body having follow-up inspection service satisfactory to the commission, certifying that the premanufactured unit complies with plans and specifications submitted under subsection (2).

(4) Plans and specifications for 1- and 2-family dwelling premanufactured units may be reviewed by the department or by an independent entity approved by the commission under rules promulgated by the department. The department shall establish submission procedures for plans and specifications reviewed by an independent entity approved by the commission.

(5) A local enforcing agency may also inspect a premanufactured unit at its place of manufacture to determine that it has been manufactured in accordance with plans and specifications submitted under subsection (2) and shall advise the state inspector and the commission in writing of any deviations found.

(6) An approved independent entity shall not conduct in-plant inspections of units for which it performed plan reviews. However, the manufacturer may request a variance from the commission if the literal application of the requirements of this section would result in an exceptional, practical difficulty relating to inspection of specific units. For purposes of this subsection, "exceptional, practical difficulty" includes, but is not limited to, a geographic distance between the manufacturing facility where the units are manufactured and the primary business location of the independent entity that conducts in-plant inspections on behalf of the manufacturer of more than 250 miles and is located in another state.

(7) If an application for a building permit specifying use of a premanufactured unit with a certificate of acceptability is submitted to an enforcing agency, and if the application, except for the part calling for use of a premanufactured unit with a certificate of acceptability, complies with applicable construction regulations, zoning laws, and local ordinances, the enforcing agency shall issue the building permit within the time specified in this act.

(8) At the time of installation, a premanufactured unit with a certificate of acceptability is subject only to the nondestructive tests approved by the department necessary to determine that it has not been damaged in transit or installation, and that it has been installed in accordance with the building permit and construction regulations.

(9) The fees established for a building permit when the application specifies use of a premanufactured unit with a certificate of acceptability, or for inspection of the installation of the premanufactured unit shall bear a reasonable relation to the costs incurred by the enforcing agency in issuing a permit or performing an inspection.

(10) Notwithstanding any other provision of this section, an enforcing agency may object to use of a premanufactured unit with a certificate of acceptability on the basis that the premanufactured unit does not comply with the code. If an enforcing agency on receipt of an application for a building permit specifying the use of a premanufactured unit does object, it may set forth its objections in writing to the department before issuance of a building permit and within 10 business days after receipt of the application. Within 10 business days after receipt of the objections, the commission, or a panel of 3 or more members designated for that purpose by its chairman, shall hold a hearing on the objections in accordance with rules promulgated by the department. After the hearing, the commission, or its panel, within 3 business days shall determine 1 of the following:

(a) The premanufactured unit does not comply with the code and order that the certificate of acceptability be voided.

(b) The premanufactured unit requires additional testing and evaluation in which case the testing and evaluation shall be conducted in accordance with this section.

(c) The objections are not valid and order the enforcing agency to issue the building permit within 3 business days.

(11) A certificate of acceptability issued by the department shall not be used for advertising purposes.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 2002, Act 721, Imd. Eff. Dec. 30, 2002.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**Administrative rules:** R 408.30101 et seq. of the Michigan Administrative Code.

### **125.1520 Examination of plans and specifications; assistance in inspection of construction or performance of duties.**

Sec. 20. At the request of an enforcing agency or the governmental subdivision, the commission may agree to examine any plans and specifications submitted to the enforcing agency or the governmental subdivision, in connection with an application for a building permit to determine whether they comply with the code. At the request of an enforcing agency or the governmental subdivision, the commission may agree to assist the agency or the governmental subdivision, in the inspection of any construction of buildings or structures, or in the performance of any other duty related to the administration and enforcement of the code.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1521 Petition for approval of materials, products and methods; testing and evaluation; certificate of acceptability.**

Sec. 21. A person may petition the commission to approve the use of a particular material, product, method of manufacture or method or manner of construction or installation. The petition shall be in writing on a form to be prescribed by the commission accompanied by such information and material as the commission may by rule require and by an initial fee. On receipt of the petition, the commission shall cause to be conducted testing and evaluation it deems desirable for the particular material, product, method of manufacture or method or manner of construction or installation. After the testing and evaluation, and after a hearing open to the public in which the results of the testing and evaluation are made part of the record, and the petitioner or any other interested party is allowed to present evidence in support of or against the petition, the commission may reject the petition in whole or in part, may in accordance with procedures established in this act amend the code in such manner as the commission deems appropriate, or may grant a certificate of acceptability for the particular material, product, method of manufacture, or method or manner of construction or installation. A petition shall not be rejected if the application is in proper form and the fees are paid, and if performance of the particular material, product, method of manufacture, or method or manner of construction or installation is adequate for its intended use and consistent with reasonable requirements for the health, safety and welfare of the people of this state. The commission may attach any condition it deems appropriate to a certificate of acceptability. A material, product, method of manufacture, or method or manner of construction or installation shall be acceptable for use throughout this state in accordance with the terms of a certificate of acceptability issued with respect to it. A copy of each certificate of acceptability shall be sent or delivered by the commission to each governmental subdivision, however, failure of the commission to comply with this requirement does not prevent or delay effectiveness of a certificate of acceptability. A certificate of acceptability issued by the commission pursuant to this section shall not be used for advertising purposes.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

### **125.1521a Installation or use of heating cable; application for approval; “heating cable” defined; construction of section.**

Sec. 21a. (1) Beginning 1 year after the effective date of the amendatory act that added this section, heating cable shall not be installed or used in a building or structure in this state until approved by the commission pursuant to section 21. As provided in section 8, this section is effective throughout the state without local modification.

(2) An application for approval of heating cable submitted to the commission, which includes listing by a nationally recognized testing laboratory found to comply with established standards, shall be approved unless the commission finds it would endanger the public safety.

(3) For purposes of this section, “heating cable” means heating cable as defined in section 2 of the heating cable safety act, that is, cable designed to be secured to pipes and vessels to reduce their likelihood of freezing or to facilitate the flow of viscous liquids. Heating cable also includes products used for deicing on roofs and in gutters and downspouts. Heating cable intended for industrial and commercial use is connected to the supply system by a permanent wiring method or by an attachment plug for connection to a receptacle outlet. Heating cable intended for residential and mobile home use has an attachment plug for connection to a

receptacle outlet. Heating cable is commonly known as heat tape.

(4) This section shall not be construed to limit the powers and duties granted pursuant to any other law to a state agency or official.

**History:** Add. 1994, Act 128, Imd. Eff. May 17, 1994.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1522 Fees; state construction code fund; fund for purchase and sale of codes and standards.**

Sec. 22. (1) The legislative body of a governmental subdivision shall establish reasonable fees to be charged by the governmental subdivision for acts and services performed by the enforcing agency or construction board of appeals under this act, which fees shall be intended to bear a reasonable relation to the cost, including overhead, to the governmental subdivision of the acts and services, including, without limitation, those services and acts as, in case of an enforcing agency, issuance of building permits, examination of plans and specifications, inspection of construction undertaken pursuant to a building permit, and the issuance of certificates of use and occupancy, and, in case of a board of appeals, hearing appeals in accordance with this act. The enforcing agency shall collect the fees established under this subsection. The legislative body of a governmental subdivision shall only use fees generated under this section for the operation of the enforcing agency or the construction board of appeals, or both, and shall not use the fees for any other purpose.

(2) To accomplish the objectives of this section and this act, a state construction code fund is created. The director, after approval by the commission and following a public hearing held by the commission, shall establish reasonable fees to be charged by the commission for acts and services performed by the commission including, without limitation, inspection of plans and specifications, issuance of certificates of acceptability, testing and evaluation of new products, methods and processes of construction or alteration, issuance of building permits, inspection of construction undertaken pursuant to a building permit, the issuance of certificates of use and occupancy, and hearing of appeals. Fees established by the department shall be intended to bear a reasonable relation to the cost, including overhead, of the service or act. Until the director establishes fees pursuant to this act, the fees established pursuant to this subsection shall remain in effect. The state treasurer shall be the custodian of the fund and may invest the surplus of the fund in investments as in the state treasurer's judgment are in the best interest of the fund. Earnings from those investments shall be credited to the fund. The state treasurer shall notify the director and the legislature of interest credited and the balance of the fund as of September 30 of each year. The director shall supervise and administer the fund. Fees received by the department and money collected under this act shall be deposited in the state construction code fund and shall be appropriated by the legislature for the operation of the bureau of construction codes, and indirect overhead expenses in the department. Funds that are unexpended at the end of each fiscal year shall be returned to the state construction code fund. A self-supporting fund shall be established within the commission to provide for the purchase and sale of codes and standards to the general public.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1523 Unlawful conduct; penalty; separate offenses; retention of fine by governmental subdivision; designation of violation as municipal civil infraction.**

Sec. 23. (1) Except as provided in subsection (3), a person or corporation, including an officer, director, or employee of a corporation, or a governmental official or agent charged with the responsibility of issuing permits or inspecting buildings or structures, who does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both:

(a) Knowingly violates this act or the code or a rule for the enforcement of this act or code.

(b) Knowingly constructs or builds a structure or building in violation of a condition of a building permit.

(c) Knowingly fails to comply with an order issued by an enforcing agency, a construction board of appeals, a board, or the commission pursuant to this act.

(d) Knowingly makes a false or misleading written statement, or knowingly omits required information or a statement in an inspection report, application, petition, request for approval, or appeal to an enforcing agency, a construction board of appeals, a board, or the commission.

(e) Knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building, or structure pursuant to this act.

(f) Unreasonably interferes with an authorized inspection.

(g) Knowingly issues, fails to issue, causes to be issued, or assists in the issuance of a certificate, permit, or license in violation of this act or a rule promulgated under this act or other applicable laws.

(h) Having a duty to report violations of this act or a rule promulgated under this act or other applicable laws, knowingly conceals a violation.

(2) With respect to subsection (1)(c), a person is guilty of a separate offense for each day that the person fails to comply with a stop construction order validly issued by an enforcing agency and for each week that the person fails to comply with any other order validly issued by an enforcing agency. With respect to subsection (1)(a) or (d), a person is guilty of a separate offense for each knowing violation of this act or a rule promulgated under this act and for each false or misleading written statement or omission of required information or statement knowingly made in an application, petition, request for approval, or appeal to an enforcing agency, a construction board of appeals, a board, or the commission. With respect to subsection (1)(b), a person is guilty of a separate offense for each knowing violation of a condition of a building permit.

(3) If a governmental subdivision has the responsibility of administering and enforcing this act and prosecutes a violation of this act, the governmental subdivision may retain a fine imposed upon conviction. If a governmental subdivision has the responsibility of administering and enforcing this act, the governmental subdivision may by ordinance designate a violation described in subsection (1) or (2) as a municipal civil infraction and provide a civil fine for the violation. The governmental subdivision may retain the civil fine imposed upon judgment.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1994, Act 22, Eff. May 1, 1994.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**Administrative rules:** R 408.30101 et seq. of the Michigan Administrative Code.

#### **125.1523a Civil violation; penalty; enforcement.**

Sec. 23a. (1) In addition to any other penalties or remedies provided by law, a person who is required to be licensed as a residential builder or residential maintenance and alteration contractor, or as a master or journeyman plumber, an electrical contractor or master or journeyman electrician, or a mechanical contractor shall not perform work on a residential building or a residential structure without first obtaining a license. A person who violates this section is responsible for a civil violation, and shall be fined not less than \$100.00 or more than \$500.00.

(2) The prosecuting attorney of the county in which the residential building or residential structure is located or the attorney general may enforce this section.

**History:** Add. 1989, Act 135, Eff. Oct. 1, 1989.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1524 Effect of existing construction regulations and permits.**

Sec. 24. Until 6 months after promulgation of the code, construction regulations heretofore or hereafter adopted by a governmental subdivision continue in effect unless repealed by local law or ordinance. Six months after the promulgation of the code and thereafter, construction regulations adopted by a governmental subdivision shall be considered repealed and invalid, except as provided in section 8. A building permit validly issued under local construction regulations within 6 months before promulgation of the code is valid, and the construction of a building or structure may be completed pursuant to that building permit. The construction of a building or structure started before promulgation of the code in an area of the state that did not as of the date of beginning of construction require a building permit may be completed without a building permit. Except as provided in section 28, construction regulations incorporated in any act of this state in effect or validly promulgated by any board, department, commission, or agency continue in effect until promulgation of the code at which time they shall be considered to be superseded.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1525 Effect of act on functions of state plumbing and electrical administrative boards.**

Sec. 25. This act does not affect the functions of the state plumbing board with respect to the licensing of master or journeyman plumbers and the registration of plumbers' apprentices, and of the electrical administrative board with respect to the issuance of class 1, electrical contractor's licenses, class 2, master electricians' licenses and class 3, journeyman's licenses.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1526 Transfer of state plumbing and electrical administrative boards to commission.**

Sec. 26. Subject to other provisions of this act concerned with the relationship between the commission and the boards, the state plumbing and electrical administrative boards are transferred to the commission without alteration of their functions.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1528 Inconsistent or conflicting provisions; construction of act.**

Sec. 28. (1) Any provision of section 34 of Act No. 18 of the Public Acts of the Extra Session of 1933, being section 125.684 of the Michigan Compiled Laws; Act No. 266 of the Public Acts of 1929, being sections 338.901 to 338.917 of the Michigan Compiled Laws; Act No. 222 of the Public Acts of 1901, being sections 338.951 to 338.965 of the Michigan Compiled Laws; the electrical administrative act, Act No. 217 of the Public Acts of 1956, being sections 338.881 to 338.892 of the Michigan Compiled Laws; and any other public act of this state which is inconsistent or in conflict with this act is superseded to the extent of the inconsistency or conflict.

(2) This act shall not be construed to repeal, amend, supersede, or otherwise affect the powers and duties presently exercised under part 55 (air pollution) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.5501 to 324.5542 of the Michigan Compiled Laws; part 124 of Act No. 368 of the Public Acts of 1978, being sections 333.12401 to 333.12434 of the Michigan Compiled Laws; the Michigan occupational safety and health act, Act No. 154 of the Public Acts of 1974, being sections 408.1001 to 408.1094 of the Michigan Compiled Laws; the boiler act of 1965, Act No. 290 of the Public Acts of 1965, being sections 408.751 to 408.776 of the Michigan Compiled Laws; or Act No. 227 of the Public Acts of 1967, being sections 408.801 to 408.824 of the Michigan Compiled Laws. This act shall not be construed to repeal, amend, or otherwise affect Act No. 306 of the Public Acts of 1937, being sections 388.851 to 388.855a of the Michigan Compiled Laws.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1996, Act 48, Imd. Eff. Feb. 26, 1996.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1529 Enforcement of code or construction regulations by governmental subdivision or enforcing agency.**

Sec. 29. Except as otherwise provided in this act, this act does not abrogate or impair the power of a governmental subdivision or enforcing agency to enforce the provisions of the code or any other applicable construction regulations, or to prevent violations or impose sanctions on violators.

**History:** 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1994, Act 22, Eff. May 1, 1994.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

#### **125.1530 Saving clause; pending or subsequent prosecutions.**

Sec. 30. Proceedings pending and rights and liabilities existing, acquired or incurred under existing construction regulations as long as they remain in effect are saved. The proceedings may be consummated according to the law in force when the proceedings were commenced. Neither this act nor the code shall be construed to alter, affect or abate a pending prosecution, or prevent prosecution hereafter instituted under such repealed construction regulations for offenses committed as long as the construction regulations remain in effect. Prosecutions instituted after the repeal of existing construction regulations for offenses committed before the effective date of the repeal may be continued or instituted in accordance with construction regulations in effect at the time of the commission of the offenses.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code

**125.1531 Effective date.**

Sec. 31. This act shall take effect January 1, 1973.

**History:** 1972, Act 230, Eff. Jan. 1, 1973.

**Popular name:** Act 230

**Popular name:** Uniform Construction Code



Resolution No. 2013 - 033  
February 19, 2013

**RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:**

THAT the public hearing to consider the proposed ordinance entitled "FOOD PRODUCTION AMENDMENTS" be officially closed.

OFFERED BY: \_\_\_\_\_

SUPPORTED BY: \_\_\_\_\_

YES:

NO:

ABSENT:

VOTE:



**Barr,  
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John M. Barr  
Karl A. Barr  
~~~~~

Jesse O'Jack ~ Of Counsel
William F. Anhut ~ Of Counsel – Retired
Jane A. Slider ~ Legal Assistant

REQUEST FOR LEGISLATION

DATE: January 11, 2013

FROM: John M. Barr

SUBJECT: Fireworks Ordinance

SUMMARY/BACKGROUND

In 2011, the State of Michigan passed the Michigan Fireworks Safety Act, MCL 28.451 et seq. This Act abolished the previous state-wide prohibition against consumer fireworks. Since the passing of the Act, many citizens have voiced concerns about the use of these devices. These concerns relate to the frequency of use, the time of use, and the location of use.

Section 7 of the Act allows municipalities to regulate the use of fireworks, but only for days that are not national holidays, the day before a national holiday, or the day after a national holiday. This ordinance completely prohibits their use on days that the Act allows municipalities to regulate. Any use of consumer fireworks that is in violation of this ordinance results in a misdemeanor.

To avoid issues that may result in changes to the law, or to the existence of national holidays, this ordinance refers to the appropriate state and federal statute for the requisite definition. Section 12 of the Act already proscribes certain requirements and prohibitions relating to the use of consumer fireworks. Those include requiring permission from property owners, prohibiting sales to minors, and prohibiting the use of such devices under the influence of drugs or alcohol.

ATTACHMENTS: Amendments to Code relative to misdemeanors

RECOMMENDED ACTION: Review and adoption of the Code changes

DATE RECEIVED:_____ **AGENDA ITEM NO.**

CITY MANAGER COMMENTS:

FOR AGENDA OF:_____ **FINANCE DIR. APPROVAL**



Resolution No. 2013-034
February 19, 2013

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that an Ordinance regarding the use of consumer fireworks within the City of Ypsilanti, pursuant to MCL 28.457(2) be approved on the First Reading.



**CITY OF YPSILANTI
NOTICE OF ADOPTED ORDINANCE
Ordinance No. 1186**

An ordinance to regulate the use of consumer fireworks within the City of Ypsilanti, pursuant to MCL 28.457(2).

1. THE CITY OF YPSILANTI ORDAINS That Section 74-93 of the Ypsilanti City Code be added with the following language:

74-93. Discharge of fireworks.

It shall be unlawful for a person to ignite, discharge or use consumer fireworks within the City of Ypsilanti on any day of the year which is not a national holiday, the day before a national holiday, or the day after a national holiday. For the purposes of this section, national holidays are determined by 5 U.S.C. 6103, consumer fireworks are defined by MCL 28.452(f).

2. Severability. If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this Ordinance and the application of such provision to other persons, firms, corporations, legal entities, or circumstances by such judgment shall be confined in its operation to the clause, sentence, section, paragraph, or part of this Ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to be the legislative intent of this body that the Ordinance would have been adopted had such invalid or unconstitutional provisions not have been included in this Ordinance.

3. Repeal. All other Ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistencies, hereby repealed.

4. Savings Clause. 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, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

5. Copies to be available. Copies of the Ordinance are available at the office of the city clerk for inspection by, and distribution to, the public during normal office hours.

6. Publication and Effective Date. The City Clerk shall cause this Ordinance, or

a summary of this Ordinance, to be published by printing the same in the Ypsilanti Courier. This Ordinance shall become effective after publication at the expiration of 30 days after adoption.

MADE, PASSED AND ADOPTED BY THE YPSILANTI CITY COUNCIL THIS _____ DAY OF _____, 2013.

Frances McMullan, City Clerk

Attest

I do hereby confirm that the above Ordinance No. _____ was published in the Ypsilanti Courier on the _____ day of _____, 2013.

Frances McMullan, City Clerk

CERTIFICATE OF ADOPTING

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the City Council held on the _____ day of _____, 2013.

Frances McMullan, City Clerk

Notice Published: _____

First Reading: _____

Second Reading: _____

Published: _____

Effective Date: _____



Resolution No. 2013 - 035
February 19, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing to consider an ordinance regarding the use of consumer fireworks within the City of Ypsilanti, pursuant to MCL 28.457(2) be officially closed.

OFFERED BY: _____

SUPPORTED BY: _____

YES:

NO:

ABSENT:

VOTE:



Resolution No. 2013 – 036
February 19, 2013

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Minutes of January 29 and February 5, 2013 be approved.

OFFERED BY: _____

SUPPORTED BY: _____

YES: NO: ABSENT: VOTE:



**CITY OF YPSILANTI
SPECIAL COUNCIL MEETING MINUTES
CITY COUNCIL CHAMBERS – ONE SOUTH HURON ST.
YPSILANTI, MI 48197**

**TUESDAY, JANUARY 29, 2013
7:30 A.M.**

I. CALL TO ORDER

The meeting was called to order at 7:38 a.m.

II. ROLL CALL

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

Council Member Jefferson moved, supported by Council Member Vogt to excuse the absence. On a voice vote Council Member Susan Moeller's absence was excused with Council Member Robb dissenting.

III. INVOCATION

The Mayor asked all to stand for a moment of silence.

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. AGENDA APPROVAL

HR Manager Judi Smith explained the need to add Resolution No. 2013-021 to the agenda. She said a former employee wants to withdraw money from a 457(b) Deferred Compensation with Zurich, a former company the city used in the past. She said Zurich will not release funds with a resolution from Council stating that she is authorized to sign documentation.

On a voice vote, with Council Member Robb dissenting, the agenda was approved with the addition of Resolution No. 2013-021, authorizing the Human Resources Manager or its designee to sign contracts and documents relating to the 457(b) Deferred Compensation plan and/or services.

VI. CLOSED SESSION

Closed Session to discuss pending litigation, OMA 15.268, Section 8(e)

Council Member Jefferson moved, supported by Council Member Vogt to adjourn to closed session.

On a roll call, the vote to adjourn to closed session was as follows:

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

VOTE:

Yes: 6 No: 0 Absent: 1 (Moeller) Vote: Carried

Meeting adjourned to a closed session at 7:45 a.m.

Open session resumed at 8:01 a.m.

VII. INTRODUCTIONS

Mayor Schreiber introduced Human Resources Manager Judi Smith.

VIII. AUDIENCE PARTICIPATION

None

IX. RESOLUTIONS/MOTIONS/DISCUSSIONS

1. Resolution No. 2013-019, authorizing a worker's compensation settlement.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the settlement of Case No. 9914560WC1000160001 and Invoice No. 14059 in the amount of \$75,000 to CompOne Administrators, Inc. is hereby approved and the Finance Department is authorized to issue payment.

OFFERED BY: Council Member Robb

SUPPORTED BY: Council Member Murdock

Council Member Robb asked how the city could prevent this and what steps should be taken in the future.

Mayor Pro-Tem Richardson recalled that the employee was placed on light duty.

Council Member Robb stated that the light duty assignment wasn't appropriate and therefore it would not hold up in court as valid.

City Manager Lange said maybe the employee could have been transferred to a job in city hall.

Human Resources Manager Judi Smith said that had been tried before and didn't work.

Council Member Robb asked if supervisors understand what an appropriate light duty assignment is.

Ms. Smith said she believes staff has learned from this incident.

Mr. Lange stated this is not a case where one size fits all. He said he will work with Attorney Barr and Attorney Rick Fanning for a policy. He said he doesn't feel department heads are up to making these types of decisions.

Council Member Robb suggested that a policy be created to ensure that department heads know what to do in these instances.

Mr. Lange said he would be sure that this process is corrected while he is manager.

Council Member Murdock commented that most workers' compensation cases don't go this route.

Ms. Smith added that insubordination contributed to the dismissal and thus made the difference in this case. She said city administration felt the correct steps were taken.

Council Member Murdock said it made sense to place the employee on light duty in order to prevent them from receiving worker's compensation forever.

Mr. Lange recalled a situation in the Fire Department where the employee was kept out until they were 10% fit for work, however historically this isn't the case. He said getting them back to work as soon as possible is what usually happens. He said the negative part to this is paying the employee the same rate of pay for doing considerably less.

Ms. Smith commented the DPS Department is tricky due to the limited skill sets of the employees.

Mr. Lange said he would bring a policy back to Council for approval.

Council Member Robb asked for a breakdown of the \$75,000 payment.

Ms. Smith indicated \$10,000 is for the employee's lawyer; \$5,176 is for his Medicare; \$200 for State of Michigan and \$59,712 for the employee.

Council Member Vogt asked what the costs are for the city's labor attorney.

Ms. Smith said she didn't know.

Council Member Vogt indicated he would like to know the cost.

On a roll call, the vote to approve Resolution No. 2013-019 was as follows:

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

VOTE:

Yes: 6 No: 0 Absent: 1 (Moeller) Vote: Carried

2. Resolution No. 2013-021, authorizing the Human Resources Manager or its designee to sign contracts and documents relating to the 457(b) Deferred Compensation plan and/or services.
(Added)

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the Ypsilanti City Council deems it to be in the best interest of its employees to continue to offer a 457 (b) Deferred Compensation Plan; and

RESOLVED, that the Human Resources Department of the City of Ypsilanti will service this benefit known to all City employees and provide them with contact information for this supplemental benefit.

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council authorizes the Human Resources Manager or its designee to sign contracts and all documents related to the 457(b) Deferred Compensation plan and/or services.

OFFERED BY: Council Member Vogt

SUPPORTED BY: Council Member Jefferson

Human Resources Manager Judi Smith explained that former employee Jennifer Goulet made contributions to a former plan the city offered through Zurich and in order to Ms. Goulet to take her money out she needs someone from human resources to sign the paperwork.

Council Member Murdock asked if the program uses employee dollars and is only administered by the city.

Ms. Smith answered yes.

Mr. Lange said he wasn't sure if the city ever contributed in the past.

On a roll call, the vote was as follows:

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

VOTE:

Yes: 5 No: 1 (Robb) Absent: 1 (Moeller) Vote: Carried

X. REMARKS BY THE MAYOR

Mayor Schreiber complimented the recent painting of the chambers.

XI. ADJOURNMENT

Resolution No. 2013-020, adjourning the Special 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 Jefferson

SUPPORTED BY: Council Member Vogt

On a voice vote the motion carried and the meeting adjourned at 8:17 a.m.



Draft

**CITY OF YPSILANTI
COUNCIL MEETING MINUTES
CITY COUNCIL CHAMBERS - ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, FEBRUARY 5, 2013
6:00 P.M. – CLOSED SESSION
7:00 P.M. – OPEN SESSION**

I. CALL TO ORDER

The meeting was called to order at 6:08 p.m.

II. ROLL CALL

Council Member Jefferson (6:14)	Present	Council Member Robb	Present
Council Member Moeller (6:28)	Present	Council Member Vogt	Present
Council Member Murdock	Present	Mayor Schreiber	Present
Mayor Pro-Tem Richardson	Present		

Mayor Pro-Tem Richardson moved, supported by Council Member Vogt to excuse the absences. On a voice vote the absences were excused.

III. INVOCATION

The Mayor asked all to stand for a moment of silence.

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. AGENDA APPROVAL

The agenda was approved as presented.

VI. CLOSED SESSION (6:00 to 7:00 p.m.)

Closed Session to discuss collective bargaining OMA 15.268, Section 8(c).

On roll call, the vote to adjourn to closed session was as follows:

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

VOTE:

Yes: 5 No: 0 Absent: 2 (Jefferson, Moeller) Vote: Carried

The meeting adjourned to closed session at 6:10 p.m.

Open session resumed at 7:08 p.m.

VII. INTRODUCTIONS

Mayor Schreiber introduced DTE Regional Manager Paul Ganz, Michigan Suburbs Alliance Place Programs Director and Transportation Coordinator Richard Murphy, Public Services Director Stan Kirton, Interim Housing Commission Director Eric Temple, Fiscal Services Director Marilou Uy, Senior Planner Teresa Gillotti, Fire Union President Ken Hobbs and Management Intern Jessica Tang.

VIII. PRESENTATIONS

1. Grove Road Update – ~~OHM~~ **Public Services Director Stan Kirton gave a brief overview of the timeline for the project.**

Mr. Kirton reported that bids are going out in June and the project should start after the July holiday. He said OHM should have fine plans ready in March.

2. Ypsilanti Housing Commission Update – Interim Director Eric Temple

Mr. Temple gave an update on Hamilton Crossing Phase I and II construction, occupancy and vacancy levels, minority hiring and the Family Empowerment Program.

IX. ORDINANCES – FIRST READING

Ordinance No. 1185

1. Ainsworth Rezoning
 - A. Resolution No. 2013-022, determination

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the proposed ordinance entitled, "Rezoning of 5, 6, & 7 W. Ainsworth from R1 to RC & R2" be approved on First Reading.

Ordinance No. 1185

An Ordinance Entitled "AINSWORTH REZONING"

THE CITY OF YPSILANTI ORDAINS:

That the following properties with the following addresses and tax code ID#:

- **6 W Ainsworth, tax identification code 11-11-39-130-015;**
- **7 W Ainsworth, tax identification code 11-11-39-125-015;**

Be rezoned from R1, Single-Family Residential, to R2, One- And Two- Family Residential; and to remove the overlay zones of RCO, Residential-Commercial Overlay, and EO, Entryway Overlay;

AND FURTHERMORE,

That 5 West Ainsworth, tax identification code 11-11-39-125-013, be rezoned from R1, Single-family Residential, to RC, Residential-Commercial, retaining unchanged any overlay zoning districts.

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

- B. Open public hearing

No one was present to speak.

C. Resolution No. 2013-023, close public hearing.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the public hearing for the proposed ordinance entitled, "Rezoning of 5, 6, & 7 W. Ainsworth from R1 to RC & R2" be officially closed.

OFFERED BY: Mayor Pro-Tem Richardson

SUPPORTED BY: Council Member Vogt

On a voice vote, the motion carried and the public hearing was closed.

Council Member Robb asked were there any comments from the residents.

Mayor Pro-Tem Richardson said the residents she spoke to indicated they want the area to stay R1 but said they would accept R2 since the duplex is already there.

Council Member Jefferson commented he received the same comments.

Senior Planner Gillotti explained that parcel 7 is already a duplex but the zoning change would allow both parcels 6 and 7 to become duplexes.

Mayor Pro-Tem Richardson said neighbors only want one duplex.

Ms. Gillotti explained why the proposal was presented as such and the dangers of spot zoning.

Attorney Jesse O'Jack explained that spot zoning is hard to defend in court and the city could likely lose. He said spot zoning is not a good idea.

Mayor Schreiber asked if parcel 5 is a buildable lot.

Ms. Gillotti said a single-family house could be built on the lot. She explained the lot is considered a non-conforming lot because it doesn't meet any of the setback requirements.

The owner of 7 Ainsworth was present and stated that she spoke with the owners of parcels 5 and 6 and they don't have a problem with the proposed rezoning.

Ms. Gillotti explained that the master plan recommends these parcels be up-zoned to R2 and RO. She said she applied future land use to this request by using the master plan.

Mayor Pro-Tem Richardson moved, supported by Council Member Moeller to amend the resolution to allow parcels 5 & 7 to be rezoned to R2 from R1 and allow parcel 6 to remain as is.

Council Member Moeller expressed that she doesn't like changing zoning without input from the residents.

Council Member Murdock suggested parcels 5 and 7 be rezoned because parcel 5 is too small to do anything. He said this would allow future expansion.

Council Member Jefferson suggested that parcel 6 be rezoned because residents have no problem with that.

Ms. Gillotti said she could actively pursue communication with the neighbors to see where they stand.

Mayor Pro-Tem Richardson withdrew her motion. Council Member Moeller supported.

Council Member Jefferson moved, supported by Mayor Pro-Tem Richardson to amend the resolution to allow parcels 5, 6 and 7 to be rezoned from R1 to R12.

Ms. Gillotti indicated the request would be re-noticed with the changes, if the amendment is approved.

Council Member Robb questioned the rezoning of parcel 5.

Council Member Murdock recommended rezoning parcels 5 and 7.

Attorney O'Jack stated that rezoning only parcel 7 would result in spot zoning and said it is better to change at least one of them to R2. He said he would prefer if parcel 5 was changed to RC and parcel 7 to R2 and re-noticing would not be required then. He said the changes in the master plan gives good reason to allow this.

Mayor Pro-Tem Richardson suggested the resolution be tabled to allow her to talk with the owner of parcel 5.

Mayor Pro-Tem Richardson moved, supported by Council Member Moeller to postpone the resolution to February 19, 2013.

On a roll call, the vote to postpone Resolution No. 2013-022 until February 19, 2013 was as follows:

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

VOTE:

Yes: 4 No: 3 (Murdock, Robb, Schreiber) Absent: 0 Vote: Carried (postponed)

X. AUDIENCE PARTICIPATION

1. Ken Hobbs, Fire Union President, expressed opposition to Public Safety and said it eliminates quality fire services for the community. He recommended that other options be explored and said merging with Ypsilanti Township and Ann Arbor are better than going to Public Safety.
2. Richard Murphy explained the focus and function of the Regional Transportation Authority (RTA) and suggested that the city not rush into leaving the RTA. He shared the benefits of remaining a part and the disadvantages if the County is removed. (Entire sheet of comments on file in Clerk's Office)

XI. REMARKS BY THE MAYOR

Mayor Schreiber appreciated the comments from Mr. Murphy and Mr. Hobbs.

XII. MINUTES

Resolution No. 2013-024, approving the minutes of January 22, 2013.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Minutes of January 22, 2013 be approved.

OFFERED BY: Council Member Murdock

SUPPORTED BY: Council Member Vogt

On a voice vote the motion carried and the minutes were approved as submitted.

Council agreed to hear Resolution No. 2013-026 before Resolution No. 2013-025.

XIII. RESOLUTIONS/MOTIONS/DISCUSSIONS

~~1. Resolution No. 2013-025, approving City Council goals. (Moved)~~

1. Resolution No. 2013-026, approving proposed agreement with DTE for streetlight conversions.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City of Ypsilanti contracts with Detroit Edison Company (DTE) to provide and maintain street lights within the city limits; and

WHEREAS, DTE is initiating two programs this year, the Series Circuit Conversion and the Mercury Vapor Conversion Programs; and

WHEREAS, participation in both programs will convert 260 Mercury Vapor Light fixtures to LED light fixtures; and

WHEREAS, the City's participation in these two programs will substantially decrease streetlight energy costs; and

WHEREAS, agreements are needed between the City and DTE in order to participate in the conversion programs; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council approves the proposed agreement with DTE replace 260 Mercury Vapor light fixtures with LED light fixtures.

FURTHER, that the Mayor and City Clerk are authorized to sign this agreement, subject to approval by the City Attorney.

OFFERED BY: Council Member Vogt

SUPPORTED BY: Council Member Murdock

Public Services Director Stan Kirton gave the background and introduced DTE Regional Manager Paul Ganz and DET Account Manager Tim Miller.

Background:

This is one of two new programs that DTE is rolling out this year. The first program is the Series Circuit Conversion Program, which entails replacing the series circuit. This program will be done at no labor cost to the City. DTE will replace 29 – 400 Watt Mercury Vapor (MV) Lights and 7 – 250 Watt Mercury Vapor Lights to High Pressure Sodium (HPS) Lights at no cost to the City. DTE has offered an option for the City to upgrade the HPS lights to LED lights for the up cost of the LED light fixtures from the HPS lights fixtures. The estimated cost for this upgrade to LED lights is approximately \$360/light fixture less the DTE rebate of approximately \$122/light fixture. The current annual energy cost for these 36 lights is \$18,558.48; after the LED conversion, the annual energy cost for these 36 lights will drop to \$11,211.74 annually. The return on investment (ROI) will be approximately 1.77 years.

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The second program is the Mercury Vapor to LED Conversion Program, which also pays for the labor to convert MV lights to LED light fixtures. DTE has offered to convert 224 MV lights ; 162- 175 Watt MV to 67 Watt LED; 45 – 250 Watt MV to 131 Watt or 67 Watt LED; 17- 400 Watt MV to 135 Watt LED. The approximate cost to the City for the LED conversions is \$67,282 less the DTE rebates of approximately \$14,706. The final project costs to the City will be approximately \$52,576. The current annual energy cost for these 224 lights is \$49,721.76, after the LED conversion, the annual energy cost for these 224 lights will drop to \$33,172.44 annually. The return on investment (ROI) will be approximately 3.18 years.

If the City chooses to participate in both programs, 260 MV lights will be converted to LED for approximately \$80,274 less the DTE rebates of approximately \$19,090 which will bring the total cost to the City down to approximately \$61,184. The 2012-13 FY budget includes \$50,000 for LED conversions of streetlights, the remaining balance of \$11,184 for the cost of the conversions can be paid for with energy refund received from DTE, the Energy Efficiency Revolving Fund or from the allocation for streetlight conversions in the FY 2013-14 budget. Participation in these programs will eliminate all MV lights east of Huron Street and result in a substantial decrease in streetlight energy costs.

Mr. Ganz said he is thrilled about this program and appreciated the tenacity of city staff and Mr. Kirton. He said Ypsilanti is the first community to take advantage of the program which will have a quick payback.

Mr. Miller gave a PowerPoint presentation on the 2013 Series Circuit Conversion and Mercury Vapor to LED Conversion Campaign. ***(Presentation on file in Clerk's office)***

Mr. Miller gave the scope of the project and said the upgrade would start at N. River Street going east on N. Congress and stopping at Emerick Street. It would include 7 lights going south on N. Prospect starting at the intersection on N. Congress. His presentation included the Series Circuit details, why it is a good time for the city to begin this program and explained how the program would provide better lighting and reduce energy bills.

On a roll call vote, the vote to approve Resolution No. 2013-026 was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

Council took a 10 minute recess. The meeting reconvened at 9:17 p.m.

2. Resolution No. 2013-025, approving City Council goals.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City Charter requires that each year in February, City Council provides the City Manager by resolution the budget priorities for the next fiscal year.

NOW THEREFORE BE IT RESOLVED, in accordance with Section 5.02 of the City Charter, the following direction is hereby given:

That the City Manager shall present City council with a balanced Resources Allocation Plan for Fiscal Year 2013-2014 using the following organizational values, goals and action strategies:

Organizational Values

Three fundamental values continue to underlie our work together on behalf of the citizens of and visitors to the City of Ypsilanti.

1. Open, transparent and accessible decision-making

We are committed to openness and transparency in our decision-making, doing whatever we can to ensure that information is available to the public in a timely fashion and in a manner that is easily understood, and providing opportunities for public engagement and participation in decision-making.

2. Fiscal solvency and sustainability

We are committed to ensuring the long-term financial stability of the City. Our budget decisions must reflect a balance between short and long-term considerations, and we will work to reduce the costs of city services to the extent we can while maintaining effective city services and a sound infrastructure.

3. Customer Friendly Service

We are committed to providing services to residents and visitors in a customer friendly fashion, ensuring that service processes are effective and understandable, being responsive to requests for service to the extent we can consistent with procedures and resources, and ensuring that people recognize the limits of our ability to respond.

Budget Priorities for FY 2013-2014

During City Council's goal setting session held on January 3, 2013, Council deliberated on a number of issues, the most significant being the five year recovery plan. In addition, they discussed a number of other priorities. Formal adoption of council's budget priorities will take place at the February 5, 2013 council meeting. I am consolidating council's proposed long and short-term goals, and associated action steps, in an effort to make these as straightforward as possible to reflect council's comments as expressed during their January 3, 2013 goal setting meeting.

THE PRIMARY GOAL OF THE CITY IS AS FOLLOWS:

To ensure Ypsilanti's long-term financial viability and sustainability over the next five to twenty years. Coupled with this goal, the city has to provide its citizens with an appropriate level of city services that allows the city to be perceived as a desirable place to live, work and invest in.

ACTION STEPS

1. The city is reorganizing its employees in such a way that the new organization considers both cost savings for the city and how it will improve customer service for the individuals that come in contact with the city.

- a. Restructuring and re-orienting the city workforce. City employees are being strongly encouraged to become more valuable to the city. We will begin immediately to start cross training city employees to do multiple jobs.**
- b. Re-negotiate all union contracts so that all new city employees hired after either July 1, 2012 or January 1, 2013, will be placed within a comprehensive and parallel tier two benefit package. New non-union employees will be included in this two tier benefit package.**
- c. The city staff is working to find opportunities for joint ventures that benefit both parties within and outside the city's operations that will save the city money.**

- d. In order to provide better quality services for the citizens of the City of Ypsilanti, we are in the process of hiring an additional eight full time employees and two part-time employees.
 - e. Making sure that each employee is being utilized to their highest and best level of productivity for the benefit of the city.
2. Continue to take steps to manage the city's debt as cost effectively as possible.
 3. Reduce overhead costs for all city operations by selling excess city property.
 4. Design and implement street light assessment district including consideration of capital improvement.
 5. Complete the City's web site as described to Council by City Staff in 2011 including transferring all archival information found on the previous version of the web site to the new version.
 6. Audit motor pool funds and provide recommendations for appropriate funding and equipment replacement levels.
 7. Refocus efforts on revitalizing key vacant buildings (The Train Depot, Smith Furniture, Thompson Building, Pub 13, for example)
 8. Provide assessment and recommendation for changes to garbage and recycling pick-up that reduces costs, maintains services and emphasizes waste reduction.
 9. Continue to work toward defining appropriate levels of service and secure long-term funding for public transportation.
 10. Engage community in work on Master Plan process.
 11. Develop and implement a set of strategies to address the police and fire employee pension and health obligations including the completion of a study of the Fire & Police pension to understand the cost of moving to MERS.
 12. Develop a strategy for the marketing and development of the Water Street redevelopment area to include, but not limited to, finding a single developer, revisiting rezoning, and exploring extraordinary incentives required to attract preferred developers.
 13. Consider potential for city council committees to assist the city administration in achieving desired city council goals.
 14. Find ways to dedicate more city revenues toward code enforcement and fire/housing inspection.
 15. Use Energy Efficiency Fund to convert lighting to LED and implement other energy efficiency improvements in City Hall.
 16. Pursue implementation of recommendations in the City's Non-Motorized and Climate Action Plans.
 17. Undertake evaluation of merging the public housing agencies of the City of Ypsilanti and City of Ann Arbor.

18. Explore opportunities for Local Investing.

19. Continue efforts to bring rail to Ypsilanti and plan for the train depot/platform and other improvements necessary to support its arrival.

20. Develop a legal action plan to ensure the court order for the completion of the envelope of the Thompson Building is met on time.

OFFERED BY: Council Member Robb

SUPPORTED BY: Council Member Jefferson

Council Member Robb pointed out his additions to the original resolution.

Council Member Murdock explained his changes to the original resolution.

City Manager Lange asked if Peninsular Dam should be added.

Council Member Murdock said he will add that to next year's list but would suggest that the money be reserved for it.

Mayor Schreiber asked Mr. Lange if he was okay with the additions.

Mr. Lange answered yes and said the annuity issue will require some time and he will have to look at the actuarial report.

On a roll call, the vote to approve Resolution No. 2013-025 was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

3. Resolution No. 2013-027, approving the Employee Non-Union Benefit Plan.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

Whereas, City Council has met and discussed the city's long term financial status and possible solutions; and

Whereas, City Council's discussion included developing a comprehensive plan that included a combination of budget reductions; and

Whereas, the City Manager and staff has developed an employee non-union benefits plan that addresses benefits for all new non-union employees not covered by an individual employment agreement; and

Now therefore be it resolved, that the Ypsilanti City Council approves the attached employee non-union benefit plan for all non-union employees not covered by an individual employment agreement effective January 1, 2013.

OFFERED BY: Council Member Vogt
SUPPORTED BY: Council Member Jefferson

Background:

City Council began examining the city's financial condition and possible solutions during their annual goal setting in January 2013. The discussion included developing a comprehensive plan that included a combination of budget reductions. Council expressed a desire during goal setting to discuss and potentially adopt benefit package changes to all new non-union employees not covered by individual employment agreements effective January 1, 2013.

Non-union positions that are covered by, or need to be covered by in the future, non-union employment agreements include the following positions: City Manager, Public Safety Director, Police Chief, Deputy Police Chief, Fire Chief, Assistant to the City Manager, Director of Administration Services, City Clerk, Finance Director, DPS Director and Director of Planning and Community Development.

City Manager Lange said he believes he's moving the city in the right direction and he is willing to compromise with Council's wishes. He said he has limited the number of top staff with individual employee contracts and will keep them at a minimal.

Council Member Robb asked if any other communities were benchmarked.

Mr. Lange responded no and said he went with what was already in place and tried to scale back to a reasonable level.

Council Member Robb asked about vacation days and how they are accrued; and explained how pro-rating is done at Ford Motor Company. He also mentioned the health care waiver offered by the City of Ferndale and suggested that the city reduce its waiver. He also said a policy decision should be made regarding vacation payouts as well. Mr. Robb suggested the bereavement leave be narrowed down to make it common across the board for all employees and that vacation days and cash-out be looked at.

Mr. Lange said he would look into the suggestions.

Council Member Robb said the non-union handbook can be changed at anytime and suggested that we not wait another four years.

On a roll call vote, the vote to approve Resolution No. 2013-027 was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

4. Resolution No. 2013-028, approving amended Deficit Elimination Plan.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City of Ypsilanti Comprehensive Annual Financial Report as of June 30, 2012 revealed that the 2003 General Obligation Unlimited Tax Bonds fund (341) has a deficit fund balance of \$23,938; and

WHEREAS, Act 275 of the Public Acts of 1980 requires that a Deficit Elimination Plan be formulated by the City of Ypsilanti and filed with the State of Michigan, Department of Treasury; and

WHEREAS, a plan was submitted on December 19, 2012 to the Department of Treasury, noting that it was presented to the Ypsilanti City Council for approval on December 18, 2012; and

WHEREAS, a letter of response was received from the Department of Treasury instructing the City to amend the plan; and

NOW, THEREFORE, BE IT RESOLVED that the Ypsilanti City Council adopts this amended deficit elimination plan for the 2003 General Obligation Unlimited Tax Bonds fund (341)

Fiscal Year Ending June 30	2011	2012	2012	2013	2013
	Total	Detail	Total	Detail	Total
<u>Revenue</u>					
Taxes	720,195		718,239		745,391
Taxes					742,922
Property Taxable value		307,707,457		288,207,946	
Millage rate		2.3339/1000		2.5777 1000	
Delinquent Taxes					1,500
IFT					109
Interest on current taxes					787
Interest on Delinquent taxes					73
Investment earnings	786		1,334		1,150
Other revenue	451		-		-
Total Revenue	721,432		719,573		746,541
<u>EXPENDITURES</u>					
Principal	495,000		515,000		535,000
Interest and fiscal charges	218,547		199,919		113,974
Interest 10/1//2012				95,019	
Interest 4/1/2013 after refunding				18,530	
Paying agent fees and Admin. fees				425	
Bond Issuance Cost					51,678

MTT settlements	495			900
Board of review adjustments	568			500
Washtenaw County charge backs	37,116		19,040	5,100
Total Expenditures	751,726		733,959	707,152
Net changes	(30,294)		(14,386)	39,389
Fund Balance, beginning of year	20,743		(9,551)	(23,937)
Fund Balance, End of year	(9,551)		(23,937)	15,452

BE IT FURTHER RESOLVED that the City of Ypsilanti's Fiscal Services Director re-submits the amended deficit elimination plan to the Michigan Department of Treasury for certification.

OFFERED BY: Council Member Jefferson

SUPPORTED BY: Council Member Vogt

Fiscal Services Director Marilou Uy gave the background.

Background:

On December 18, 2012, Council adopted a deficit elimination plan for the 2003 General Obligation Unlimited Tax Bonds fund (341). On December 19, 2012, the City of Ypsilanti Fiscal Services Director mailed the adopted deficit elimination plan to the State of Michigan, Department of Treasury. On January 9, 2013, the City received a letter from the State of Michigan Department of Treasury requesting amending the deficit elimination that was submitted on December 19, 2012. An amended plan was prepared for the 2003 General Obligation Unlimited Tax Bonds Fund showing the revenues, expenditures, changes in fund balance, beginning fund balance and ending fund balance through the year of the deficit's eventual elimination.

Ms. Uy stated the State wanted a more detailed explanation.

On a roll call vote, the vote to approve Resolution No. 2013-028 was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

- Resolution No. 2013-029, approving actuarial services for Other Post Employment Benefits (OPEB).

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the GASB standards require an actuarial valuation of Other Post Employment Benefits every other year; and

WHEREAS, the Finance Department posted the Requests for Proposals by email and at www.mitn.info (The Michigan Inter-governmental trade network) on October 26, 2012; and

WHEREAS, MWM's proposal for a three-year contract was \$27,000 that includes the actuarial valuation for the years 2012, 2014 and 2016; and

WHEREAS, MWM will provide the necessary information for GASB 43 and GASB 45 for the audit reports for fiscal year ends 2013, 2015 and 2017; and

NOW BE IT HEREBY RESOLVED that the Ypsilanti City Council approve contract for the three valuation years (2012, 2014 and 2016) with MWM Consulting Group in the amount of \$27,000.

OFFERED BY: Council Member Jefferson

SUPPORTED BY: Council Member Vogt

Background:

The Governmental Accounting Standards Board (GASB) issued Standards 43 and 45 requiring governmental agencies to begin reporting Other Post Employment Benefit (OPEB) costs on an accrual basis beginning with fiscal years ending after December 2007. These standards require a new actuarial valuation every two years.

A request for proposal was posted at www.mitn.info (The Michigan Inter-governmental Trade Network) on October 26, 2012 and parties who had expressed interest over the last year were emailed the proposal. Four proposals were received on November 23, 2012, with the following results:

ACTUARIAL FIRMS PROPOSAL(2012,2014,2016)	3-YEAR
MWM Consulting Group	\$27,000
Gabriel Roeder Smith and Company	\$36,000
Millman, Inc.	\$34,500
Watkins, Ross & Co.	\$34,500

The criteria used to evaluate the proposals are as follows:

Qualification	25 pts
Prior OPEB actuarial experience	30 pts
Sample Reports	20 pts
Proposed fee	10 pts
Total	85 pts

It wasn't necessary for to check references because the city has had prior experience with the highest and second highest scoring firms and recommend awarding MWM Consulting a contract for the three valuation years (2012, 2014 and 2016) at a total cost of \$27,000.

Council Member Murdock asked if the firm will advise the city on what monies need to be put aside yearly.

Ms. Uy replied yes and the liability also.

On a roll call, the vote to approve Resolution No. 2013-029 was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

6. Resolution No. 2013-030, authorizing commencement of a special assessment project to determine feasible and value of creating a streetlight special assessment district.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the City of Ypsilanti is now facing budgetary challenges and will be in the near future; and

WHEREAS, the creation of a streetlight special assessment district would levy necessary funds to pay for lighting costs and capital improvements; and

WHEREAS, Ypsilanti City Code Section 90-31 requires a City Council resolution to authorize and commence a special assessment project; and

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council will authorize the commencement of a special assessment project to determine the feasibility and value of creating a streetlight special assessment district

OFFERED BY: Council Member Robb

SUPPORTED BY: Council Member Vogt

Background:

Given the budgetary challenges the City faces, City Council previously requested staff to proceed with a special assessment district for street lighting. The special assessment district will encompass the entire City and levy a fee to pay for electricity costs as well as capital improvements. Possible assessment methods include A) a flat fee, irrespective of parcel size, B) fees based upon average parcel area and C) fees based upon perimeter.

Ypsilanti City Code Section 90-31 requires a City Council resolution to authorize and commence a special assessment project; the attached resolution will authorize a start to the process of creating a streetlight special assessment district for Ypsilanti.

Created in consultation with the City Attorney, find below a tentatively proposed schedule outlining next steps should City Council approve this resolution to authorize and commence the special assessment project.

TENTATIVE TIMELINE:

- February 19, 2013 - Report of City Manager: Presentation of assessment options
- March 5, 2013 - Preliminary Resolution of Necessity and Public Hearing
- March 19, 2013 - City Council Approval: Directs City Assessor to prepare the roll
- Last week of March 2013 – Mail notice to property owners and second Public Hearing to consideration objections to roll
- April 23, 2013 – Approval/Changes/Rejection of the roll
- July 1, 2013 – Special Assessment District goes into effect

Management Intern Jessica Tang was present to address Council.

Ms. Tang stated the resolution authorizes staff to begin the process of looking at establishing a special assessment. She stated that a full presentation will be made at the February 19th meeting.

Mayor Schreiber asked if there is a Manager's report coming.

Ms. Tang answered the report will be done with the presentation.

Council Member Robb asked what will the presentation contain.

Ms. Tang replied possible methods of calculating the assessment, proposed costs to the city and some benchmarks.

Council Member Robb asked if the capitalized costs will be included.

Ms. Tang answered yes, capital improvement costs will be a part of the discussion.

Mr. Lang added that EMU is the biggest contributor and they are aware that this is being explored.

Mayor Schreiber referred to the Bolt decision and asked if any court cases have been researched. He said a public good must be established.

Council Member Robb suggested that staff look at how storm water utility fees are assessed.

Council Member Murdock stated staff must prove there is a benefit for the assessment and said there are many examples for staff to look at and suggested they research what other municipalities have done.

On a roll call, the vote to approve Resolution No. 2013-030 was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

7. Resolution No. 2013-032, supporting the City of Ann Arbor efforts to change the Regional Transit Authority (RTA) legislation or have Washtenaw County removed from the RTA.

Whereas, the Michigan State Legislature has created a Regional Transit Authority (RTA) to include Washtenaw County; and

Whereas, the City of Ypsilanti has a long time relationship with the City of Ann Arbor and the Ann Arbor Transit Authority (AATA) to provide transit to the City of Ypsilanti; and

Whereas, the City of Ypsilanti, City of Ann Arbor and the Townships of Ypsilanti and Pittsfield are exploring possible urban core regionalization within Washtenaw County to provide transit services; and

Whereas, the City of Ann Arbor has requested changes in the RTA legislation or in the absence of such changes the removal of Washtenaw County from the RTA.

Therefore Be It Resolved that the City of Ypsilanti supports The City of Ann Arbor efforts to change the RTA legislation or have Washtenaw County removed from the RTA.

And Further Resolved that the City Clerk is hereby directed to notify the Governor, the Michigan State Legislature, the Washtenaw County Board of Commissioners and Kirk Profit of this resolution.

OFFERED BY: Council Member Murdock

SUPPORTED BY: Council Member Jefferson

Council Member Murdock gave the background.

Council Member Murdock stated the city of Ann Arbor and AATA have concerns with the Regional Transportation Authority (RTA) and have requested to have Washtenaw County removed. He said he is concerned about the best way to maintain service in Ypsilanti and he believes the city can benefit from supporting the city of Ann Arbor's request. He said the city has a 40 year relationship with AATA and the service has worked well and they want Ypsilanti to be a part of their system. He said currently the RTA has no buses and no service. He said he doesn't feel the RTA is good for Ypsilanti at this now and mentioned that Ypsilanti Township also supports getting out of the RTA. He said Ypsilanti should partner with those who can help Ypsilanti.

Mayor Pro-Tem Richardson said she spoke with AATA and they didn't take a hard stance on being removed from the RTA. She said she doesn't fully understand why the city wants to pull out.

Council Member Murdock explained that the RTA has no funding right now. He said the city can join the RTA later if they desire, however at this point it makes no sense. He said the city needs to focus on partnering with other in the County in order to provide service otherwise the city won't have any.

Council Member Robb said he fears the resolution sends the message that the city of Ypsilanti is not in the RTA because Ann Arbor isn't.

Mayor Schreiber said he supports Ann Arbor's request because the RTA doesn't work for the county or the city at this time. He said he would support the resolution with reservation

Council Member Murdock said he spoke with Kirk Profit and the legislation to remove the County will be coming forward soon. He proposed the city work with partners to get the needed service.

Mayor Pro-Tem Richardson said she is concerned that funds will be affected if the city pulls out.

Council Member Murdock said AATA is eligible for funds outside of the RTA. Regarding the rail, he said there needs to be a unanimous vote and some are against it currently.

Council Member Jefferson asked if AATA would compete with RTA for funds.

Council Member Murdock answered there is always competition for federal and state funds. He said he is more concerned about the service from Ypsilanti to Ann Arbor rather than Ypsilanti to Detroit.

Council Member Vogt said he in favor of the resolution. He asked if a two week delay would affect anything because he is interested in what insiders have to say.

Council Member Murdock said there is a limited amount of time and the legislation is moving at the state level. He said he is not against the RTA but feels strongly that the city needs to work with those who

they need to maintain service. He stated he met with Richard Murphy, Mayor Heiftje and AATA. He said he also attended about two dozen meetings.

Mr. Lange agreed that Mr. Murdock has been in on most discussions and has the most experience.

On a roll call vote, the vote to approve Resolution No. 2013-032 was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

XIV. LIASON REPORTS

- A. SEMCOG Update – new office will open soon.
- B. Washtenaw Area Transportation Study - none
- C. Washtenaw Metro Alliance - none
- D. Urban County - none
- E. Freight House - none

XV. COUNCIL PROPOSED BUSINESS

Murdock

Requested an executive session be scheduled soon to allow for an update on pending litigation.

Robb

Inquired about the number of snow tickets issued.

Jefferson

Mentioned he plans to bring forth changes to the medical marijuana ordinance soon.

XVI. COMMUNICATIONS FROM THE MAYOR

None

XVII. COMMUNICATIONS FROM THE CITY MANAGER

Mr. Lange made the following comments:

- Reported he plans to drive the budget hard from this point
- Reported city contracts are moving forward
- Announced Sylvonna Reed was hired as the Deputy Clerk
- Reported the Clerk/Treasurer Consolidation is moving forward. The office will open on Monday, February 11, 2013.

XVIII. AUDIENCE PARTICIPATION

None

XIX. REMARKS FROM THE MAYOR

None

Council Member Vogt moved, supported by Council Member Jefferson to extend the meeting to 11:30 p.m.

On a voice vote the motion carried.

On a roll call, the vote to adjourn to closed session was as follows:

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

VOTE:

Yes: 7 No: 0 Absent: 0 Vote: Carried

XX. ADJOURNMENT

A. Resolution No. 2013-031, 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 Jefferson

SUPPORTED BY: Council Member Vogt

On a voice vote the motion carried. The meeting adjourned to closed session at 10:50 p.m.



Resolution No. 2013 -037
February 19, 2013

A RESOLUTION ACKNOWLEDGING A PARTNERSHIP BETWEEN THE CITY OF YPSILANTI AND THE WASHTENAW COUNTY PARKS AND RECREATION COMMISSION, TO DESIGN, BUILD AND OPERATE A COMMUNITY RECREATION CENTER IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF YPSILANTI (WATER STREET REDEVELOPMENT AREA)

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, the Washtenaw County Parks and Recreation Commission, in response to survey data and citizen interest, has been considering and exploring opportunities for the development of a community recreation center to serve the residents of the greater Ypsilanti area, and;

WHEREAS, the Commission has determined that the most beneficial location for the development of a community recreation center would be within the central business district of the City of Ypsilanti, specifically on the northwest corner of the Water Street redevelopment site - adjacent to the Huron River, Michigan Avenue (US-12) and the proposed alignment of the Commissions Border-to-Border trail, and;

WHEREAS, the Commission, in consideration of the limited resources currently available for such a project, first approached the City of Ypsilanti in late 2011 and proposed a project partnership that at a minimum includes the Commission and the City of Ypsilanti, and;

WHEREAS, under the proposed partnership the City of Ypsilanti would provide the land necessary for the project; the Commission would construct and own the community recreation center, and;

WHEREAS, the Commission and the City Council both approved an initial Letter of Intent to proceed with work towards the development of the Eastside Recreation Center on January 10, 2012 (see exhibit 1), and;

WHEREAS, in early 2012 the Commission contracted for the professional services of a multidisciplinary design team from the University of Michigan's Graduate School of Architecture and Urban Planning to evaluate the merits of the proposed project; to determine the appropriateness of the site; to develop a conceptual site plan for the community recreation center at the preferred location; and to explore the opportunities and challenges for development of the remainder of the Water Street Redevelopment Area, and;

WHEREAS, to inform the public and gather the necessary input and support essential for a successful project, the conceptual study and design (including scale models) have been presented at a number of public meetings of both the Ypsilanti City Council and the Washtenaw County Parks and Recreation Commission; were formally presented at a public open house, where the plans and models were left on display for several days to allow for additional public review and comment; and have also been available online for review and comment, and;

WHEREAS, an important component of the project is the extension of the Commissions Border-To-Border Trail, which would link the City's riverside parklands now separated by multiple roads and the river, to form a non-motorized linear park throughout the City -- a broadly supported community vision first expressed over 100 years ago in a plan prepared by the Olmsted Brothers, the pre-eminent landscape design firm of that era, and;

WHEREAS, with the financial and design assistance provided by the Commission, the City has already been awarded two grants (2011 and 2012) from the Michigan Department of Natural Resources Trust Fund program to facilitate the extension of the Border-to-Border Trail, with a bridge crossing the river and connecting Riverside Park and the Water Street site near the proposed community recreation center; and then to continue an urban non-motorized trail along the rivers edge through the Water Street site to Waterworks Park and further to Grove Road, with the potential to ultimately connect the City and the recreational resources of Ford Lake, and;

WHEREAS, the parties agree that the successful completion of these projects would be of significant benefit for the residents of the greater Ypsilanti area; would recognize, restore and emphasize the cultural and environmental significance of the Huron River to the quality of life in the Ypsilanti community; and would serve as a catalyst for additional redevelopment of the Water Street site, and;

WHEREAS, the parties agree and acknowledge that resources are limited and that none could accomplish this broad community vision unilaterally; and that these projects are still in the preliminary design phase and that there are many details that will need to be resolved among the parties should there be agreement for the projects to proceed to construction;

NOW THEREFORE BE IT RESOLVED, that by way of this resolution the undersigned parties publicly demonstrate their support for this project and their commitment to provide the necessary resources and/or skills, to work together cooperatively and in good faith, in the best interests of the community, towards the completion of this ambitious effort, and;

BE IT FURTHER RESOLVED that the City of Ypsilanti agrees to provide sufficient land at the preferred site as previously agreed to in the Letter of Intent approved on January 10, 2012 to allow the Commission to confidently proceed to the design phase; that the Washtenaw County Parks and Recreation Commission agrees to proceed with the design phase for the building and

further define the site plan, including determining the exact footprint of the project and the amount of land necessary, and;

BE IT FURTHER RESOLVED that the parties agree that this intergovernmental, public/private partnership demonstrates a commendable and challenging level of collaboration that should serve as a model for future efforts to improve the quality of life for residents in communities throughout Washtenaw County.

OFFERED BY: _____

SUPPORTED BY: _____

YES:

NO:

ABSENT:

VOTE:

Statement by Claudia Pettit:

I currently work for Michigan Rehabilitation Services assisting individuals with disabilities to obtain self sufficiency through employment. I have worked in the field of disability for over 18 years and I am a strong advocate for all individuals who need assistance overcoming barriers. I have a Master's degree in Rehabilitation Counseling from Michigan State University and I am a Certified Rehabilitation Counselor and Licensed Professional Counselor. I currently serve on several boards including The Michigan Rehabilitation Association, The Michigan Rehabilitation Counselors and Educators Association, The Normal Park Neighborhood Association and The Ypsilanti Heritage Foundation.

I believe my professional and community work has provided a good background for working with the Human Relations Commission. My personal goals for working on the commission would include:

- To assist with any City related issues regarding discrimination or prejudice that arise by providing solution focused guidance to City Council that will foster healthy relationships between the City of Ypsilanti, its residents, businesses and visitors
- To promote a strong inclusive environment within the City of Ypsilanti that supports all individuals and groups operating and living within the City of Ypsilanti.
- To work towards a common goal of full participation in the Ypsilanti community of all individuals by assisting with the removal of physical, environmental and attitudinal barriers

Statement by Steve Wilcoxon:

Dear Mayor Schreiber,

...

As we discussed, I have been a resident of Ypsilanti since 1990. I have been active in the community. I was a member of the Ypsilanti School District Sex Education Planning Committee. I have been on the board of a number of organizations over the years. However, the most relevant was six years on the Board of the Ecology Center, the last year and a half of which I served as the board president.

I obtained a Masters degree in Environmental Health (Water Quality) from the University of Michigan. My thesis looked at the phototoxic effects of polyaromatic hydrocarbons on benthic invertebrates. This was done through the Great Lakes Environmental Research Laboratory/NOAA (Ann Arbor). I spent a fair share of time wading in the Huron River and tributaries for samples.

Currently, I am the Biochemistry Quality Control Manager for Cayman Chemical. Cayman is a small company, located in Pittsfield Township, focused on supplying research grade chemicals to research laboratories. Prior to Cayman, I managed a pulmonary research laboratory at the University of Michigan/VA Medical Center for over fifteen years. Projects there focused on ventilator induced pneumonia and lung failure in immunodef.

Goal statement: I intend to use my training in Environmental Health/Water Quality and experience on previous boards to advance Ypsilanti's perspective within the watershed and advance the Huron River's stature within Ypsilanti.



Creating American Prosperity through Preservation (CAPP) Act

Purpose and History of the Federal Rehabilitation Tax Credit

Since 1982, the federal historic tax credit (HTC) has proven to be one of the nation's most effective federal programs to promote urban and rural revitalization. The federal historic tax credit revitalizes communities, creates jobs and helps protect our heritage - while returning revenue to the federal government.

The HTC is administered by the National Park Service and the Internal Revenue Service and is comprised of two distinct and separate tax credits used to rehabilitate vacant schools, warehouses, factories, retail stores, apartments, hotels and offices throughout the country.

- **The 20 percent credit**
The 20 percent credit applies only to certified historic structures. A certified historic building is one that is listed individually on the National Register of Historic Places, or contributes to the character of a National Register-listed Historic District. The 20 percent credit is available for any income producing property.
- **The 10 percent credit**
The 10 percent credit is for the rehabilitation of non-historic, non-residential buildings built before 1936.

The Track Record of the HTC

- Since inception, the HTC has rehabilitated more than 38,000 buildings, created 2.2 million jobs and leveraged nearly \$100 billion in private investment nationwide.
- On average the credit leverages about \$5 dollars of private investment for every \$1 dollar in federal funding.
- The cumulative \$19.2 billion cost of this program has been more than offset by the \$24.4 billion in federal tax receipts generated by these rehabilitation projects.
- The HTC has revitalized the historic cores of cities and towns across America, enhancing property values, encouraging additional reinvestment by adjacent owners and augmenting tax revenue for federal, state and local governments.

What's the Creating American Prosperity Through Preservation (CAPP) Act?

The CAPP Act, H.R. 2479 in the House and S. 2074 in the Senate, is a bill that proposes strategic adjustments to the federal historic tax credit that would enhance the credit's already impressive track record of generating economic benefits.

Prosperity through Preservation

Protect and Enhance the Historic Tax Credit

In brief, CAPP's provisions would:

- **Bring Jobs and Economic Development to “Main Street” Towns and Rural Communities**
The provisions would increase the amount of the credit from 20 percent to 30 percent for “small deals” (projects less than \$5 million in qualifying rehabilitation expenditures).
- **Facilitate Economic Development by Non-profit and Government Agencies, and in Low-Income Areas**
Current law discourages these agencies from sponsoring the rehabilitation or leasing of historic properties. Most of these projects are in low-income areas and CAPP would change the law to facilitate nonprofits’ and governmental agencies’ use of the credit to create affordable housing, community health centers, charter schools and other projects of high community benefit.
- **Encourage Energy Efficiency in Historic Rehabilitation**
CAPP provisions would increase the historic credit amount by two percentage points for historic rehabilitation projects that achieve 30 percent or greater savings in energy consumption.
- **Eliminate Federal Taxation on State Historic Tax Credit Proceeds**
Thirty states have enacted state historic tax credits, which, when combined with the federal credit, have powerful economic impacts. However, current federal taxation of state tax credits significantly diminishes their project value. CAPP would eliminate federal taxation of the state credits, and put more dollars into projects.
- **Expand the Number of Buildings Eligible for Rehabilitation**
The 10 percent rehabilitation credit is currently only available to buildings built before 1936. The CAPP Act would change the required building age to “fifty years or older,” making the credit more useful, and building potential for comprehensive economic development that includes post-World War II areas and communities.



February 11, 2013

The Honorable John Boehner
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

Rep. Nancy Pelosi
Democratic Leader
United States House of Representatives
Washington, DC 20515

Sen. Mitch McConnell
Republican Leader
United States Senate
Washington, DC 20510

RE: U.S. Mayors Call on Congress to Support Assault Weapons Ban

Dear Speaker Boehner, Majority Leader Reid, Leader Pelosi, and Leader McConnell:

Military-style assault weapons and high-capacity ammunition magazines have been at the center of some of our country's deadliest mass shootings. Just since July, we have watched in horror as they have been used to gun down moviegoers in an Aurora theater, Sikh worshippers in an Oak Creek temple, and even young children in a Newtown elementary school. In order to prevent the next rampage and help save American lives, our nation needs clear and enforceable legislation that will take these weapons and magazines off our streets.

As the men and women who are responsible for protecting those streets, we write to urge your support for the **Assault Weapons Ban of 2013 (S. 150 / H.R. 437)**, introduced by Senator Dianne Feinstein and Congresswoman Carolyn McCarthy. Our bipartisan coalition of more than 850 U.S. mayors stands firmly behind this bill, which would ban the importation, sale, manufacture, transfer, and possession of assault weapons and high-capacity magazines – with some exceptions, including for law enforcement and military use, as well as for those weapons lawfully owned at the time of enactment.

In an effort to strengthen the now-expired 1994 version of the ban, this legislation would broaden the definition of “assault weapon” to prevent manufacturers from remodeling their weapons to circumvent the law. The new ban would be permanent and would require background checks for grandfathered weapons that are sold or transferred after the enactment date, including those sold or transferred by private sellers. It would also prohibit the sale and transfer of grandfathered high-capacity ammunition magazines.

These measures would go a long way toward ensuring the safety of our communities, and they enjoy the backing of a majority of Americans – including gun owners.

While military-style assault weapons and high-capacity magazines often play a prominent role in mass shootings, they are also a common threat in everyday incidents of gun violence that don't always make national headlines. According to the Department of Justice, high-capacity magazines are used in 14 to 26 percent of all gun crimes and in 31 to 41 percent of fatal police shootings. As Oklahoma City Police Chief Bill Citty said in January 2011 after one of his officers was fatally ambushed by a teenager with a semiautomatic AR-15: "There are just more and more assault rifles out there, and it is becoming a bigger threat to law enforcement each day. They are outgunned."

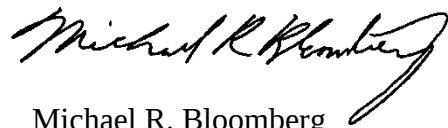
It's no wonder law enforcement groups across the country support a ban on these military-style weapons and high-capacity magazines, including the International Association of Chiefs of Police (IACP), the Major Cities Chiefs Association (MCC), and the Police Executive Research Forum (PERF).

We hope you will stand up for our communities, our law enforcement officials, and our children by supporting this common-sense proposal to curb gun violence. Far too many Americans are being killed with deadly assault weapons – it's up to you to act.

Sincerely,



Thomas M. Menino
Coalition Co-Chair
Mayor of Boston



Michael R. Bloomberg
Coalition Co-Chair
Mayor of New York City

Signed by Members of Mayors Against Illegal Guns:

Mayor Samuel L. Jones, Mobile, Alabama
Mayor Satish I. Hiremath, Oro Valley, Arizona
Mayor Scott LeMarr, Paradise Valley, Arizona
Mayor Greg Stanton, Phoenix, Arizona
Mayor Jennifer Eckstrom, South Tucson, Arizona
Mayor Bill Rappaport, Star Valley, Arizona
Mayor Mark W. Mitchell, Tempe, Arizona
Mayor Jonathan Rothschild, Tucson, Arizona
Mayor Larry S. Bryant, Forrest City, Arkansas
Mayor Arnell Willis, Helena, Arkansas
Mayor Lawrence Owens, Hughes, Arkansas
Mayor McKinzie Riley, Wrightsville, Arkansas
Mayor Marie L. Gilmore, Alameda, California
Mayor Wade Harper, Antioch, California
Mayor Elizabeth Patterson, Benicia, California
Mayor Tom Bates, Berkeley, California
Mayor Cheryl Cox, Chula Vista, California
Mayor Eugene Montanez, Corona, California

Mayor Diane Furst, Corte Madera, California
Mayor Joseph Krosova, Davis, California
Mayor Jennifer West, Emeryville, California
Mayor Teresa Arballo Barth, Encinitas, California
Mayor John Reed, Fairfax, California
Mayor Bill Harrison, Fremont, California
Mayor Maria Orozco, Gonzales, California
Mayor Connie Boardman, Huntington Beach, California
Mayor James T. Butts, Jr., Inglewood, California
Mayor Dan Hillmer, Larkspur, California
Mayor Bob Foster, Long Beach, California
Mayor Antonio Villaraigosa, Los Angeles, California
Mayor Lou La Monte, Malibu, California
Mayor Rob Schroder, Martinez, California
Mayor Mary Ann Lutz, Monrovia, California
Mayor Paul Eaton, Montclair, California
Mayor R. Michael Kasperzak, Jr., Mountain View, California

Mayor Alan L. Nagy, Newark, California
Mayor Pat Eklund, Novato, California
Mayor Jean Quan, Oakland, California
Mayor Amy R. Worth, Orinda, California
Mayor Stephen P. Pougnet, Palm Springs, California
Mayor Bill Bogaard, Pasadena, California
Mayor Luis I. Molina, Patterson, California
Mayor David Glass, Petaluma, California
Mayor L. Dennis Michael, Rancho Cucamonga, California
Mayor Pete Aguilar, Redlands, California
Mayor Gayle McLaughlin, Richmond, California
Mayor Kevin Johnson, Sacramento, California
Mayor Kay Coleman, San Anselmo, California
Mayor Patrick J. Morris, San Bernardino, California
Mayor Edwin M. Lee, San Francisco, California
Mayor Chuck Reed, San Jose, California
Mayor Stephen H. Cassidy, San Leandro, California
Mayor Jan Marx, San Luis Obispo, California
Mayor Gary O. Phillips, San Rafael, California
Mayor Miguel Pulido, Santa Ana, California
Mayor Helene Schneider, Santa Barbara, California
Mayor Don Lane, Santa Cruz, California
Mayor Jill Hunter, Saratoga, California
Mayor Larry Forester, Signal Hill, California
Mayor Emmet O'Donnel, Tiburon, California
Mayor Osby Davis, Vallejo, California
Mayor Jeffrey Prang, West Hollywood, California
Mayor Christopher Cabaldon, West Sacramento, California
Mayor Matthew Appelbaum, Boulder, Colorado
Mayor Michael B. Hancock, Denver, Colorado
Mayor Randy P. Penn, Englewood, Colorado
Mayor Marjorie Sloan, Golden, Colorado
Mayor Carolyn Cutler, Lafayette, Colorado
Mayor Bob Murphy, Lakewood, Colorado
Mayor Robert Muckle, Louisville, Colorado
Mayor Marc A. Snyder, Manitou Springs, Colorado
Mayor Joe Gierlach, Nederland, Colorado
Mayor Joyce Downing, Northglenn, Colorado
Mayor Don Stephens, Salida, Colorado
Mayor Andrew Muckle, Superior, Colorado
Mayor Stuart Fraser, Telluride, Colorado
Mayor Adam Salina, Berlin, Connecticut
Mayor Bill Finch, Bridgeport, Connecticut
Mayor Mark Boughton, Danbury, Connecticut
Mayor Scott D. Jackson, Hamden, Connecticut
Mayor Pedro E. Segarra, Hartford, Connecticut
Mayor Daniel Drew, Middletown, Connecticut
Mayor John DeStefano, New Haven, Connecticut
Mayor Daryl Justin Finizio, New London, Connecticut
Mayor Patricia A. Murphy, New Milford, Connecticut
Mayor Richard A. Moccia, Norwalk, Connecticut
Mayor Michael A. Pavia, Stamford, Connecticut
Mayor Ryan Bingham, Torrington, Connecticut
Mayor Neil M. O'Leary, Waterbury, Connecticut
Mayor Scott Slifka, West Hartford, Connecticut
Mayor John M. Picard, West Haven, Connecticut

Mayor Michael J. Smith, Blades, Delaware
Mayor John P. Buchheit, III, Delaware City, Delaware
Mayor Diane C. Hanson, Dewey Beach, Delaware
Mayor James L. Ford, III, Lewes, Delaware
Mayor Kenneth Branner, Middletown, Delaware
Mayor Dennis P. Williams, Wilmington, Delaware
Mayor Susan Gottlieb, Aventura, Florida
Mayor Jean Rosenfield, Bal Harbour, Florida
Mayor Noah S. Jacobs, Biscayne Park, Florida
Mayor Woodrow L. Hay, Boynton Beach, Florida
Mayor Kristin Jacobs, Broward County, Florida
Mayor Marilyn Gerber, Coconut Creek, Florida
Mayor James C. Cason, Coral Gables, Florida
Mayor Judy Paul, Davie, Florida
Mayor Peggy Noland, Deerfield Beach, Florida
Mayor Bruce B. Mount, Eatonville, Florida
Mayor Craig Lowe, Gainesville, Florida
Mayor Glenn Singer, Golden Beach, Florida
Mayor Charles Sanders, Greenwood, Florida
Mayor Joy Cooper, Hallandale Beach, Florida
Mayor Peter J. M. Bober, Hollywood, Florida
Mayor Kenneth M. Schultz, Hypoluxo, Florida
Mayor Gow B. Fields, Lakeland, Florida
Mayor Patricia Gerard, Largo, Florida
Mayor Barrington Russell, Lauderdale Lakes, Florida
Mayor Richard J. Kaplan, Lauderhill, Florida
Mayor Howard A. Schieferdecker, Maitland, Florida
Mayor Tomas Regalado, Miami, Florida
Mayor Matti H. Bower, Miami Beach, Florida
Mayor Lori C. Moseley, Miramar, Florida
Mayor Connie Leon Kreps, North Bay Village, Florida
Mayor John Brady, North Lauderdale, Florida
Mayor Andre Pierre, North Miami, Florida
Mayor Myra L. Taylor, Opa-Locka, Florida
Mayor Buddy Dyer, Orlando, Florida
Mayor Dominic Persampiere, Oviedo, Florida
Mayor James P. Sasser, Pahokee, Florida
Mayor Frank C. Ortis, Pembroke Pines, Florida
Mayor Cindy Lerner, Pinecrest, Florida
Mayor Diane Veltri Bendekovic, Plantation, Florida
Mayor Thomas A. Masters, Riviera Beach, Florida
Mayor Norman S. Edelcup, Sunny Isles Beach, Florida
Mayor Michael J. Ryan, Sunrise, Florida
Mayor Daniel Dietch, Surfside, Florida
Mayor John Marks, III, Tallahassee, Florida
Mayor Beth Talabisco, Tamarac, Florida
Mayor Jeri Muoio, West Palm Beach, Florida
Mayor Eric Jones, West Park, Florida
Mayor Daniel J. Stermer, Weston, Florida
Mayor Gary Resnick, Wilton Manors, Florida
Mayor Kasim Reed, Atlanta, Georgia
Mayor Deke Copehauer, Augusta, Georgia
Mayor Donna Pittman, Doraville, Georgia
Mayor Earnestine D. Pittman, East Point, Georgia
Mayor James Thomas, Jr., Hinesville, Georgia
Mayor Robert A. B. Reichert, Macon, Georgia

Mayor June D. Bradfield, McRae, Georgia
Mayor Jim Still, Jr., Mountain Park, Georgia
Mayor Kathie deNobriga, Pine Lake, Georgia
Mayor Jere Wood, Roswell, Georgia
Mayor Patricia Wheeler, Stone Mountain, Georgia
Mayor Ralph Moore, Union City, Georgia
Mayor William P. Kenoi, Hilo, Hawaii
Mayor Bernard P. Carvalho, Jr., Kauai, Hawaii
Mayor Larry Hartwig, Addison, Illinois
Mayor Arlene J. Mulder, Arlington Heights, Illinois
Mayor Joel Fritzler, Carbondale, Illinois
Mayor Rahm Emanuel, Chicago, Illinois
Mayor Harriet Rosenthal, Deerfield, Illinois
Mayor Kris Povlsen, DeKalb, Illinois
Mayor Teresa Kernc, Diamond, Illinois
Mayor Thomas A. Brown, East Hazel Crest, Illinois
Mayor Alvin L. Parks, Jr., East St. Louis, Illinois
Mayor David L. Anderson, Elburn, Illinois
Mayor David J. Kaptain, Elgin, Illinois
Mayor Elizabeth Tisdahl, Evanston, Illinois
Mayor James J. Sexton, Evergreen Park, Illinois
Mayor Michael Howley, Hickory Hills, Illinois
Mayor Joseph T. Tamburino, Hillside, Illinois
Mayor Gerald C. Turry, Lincolnwood, Illinois
Mayor Joseph J. Broda, Lisle, Illinois
Mayor Eugene Williams, Lynwood, Illinois
Mayor Henderson Yarbrough, Sr., Maywood, Illinois
Mayor Christopher Koos, Normal, Illinois
Mayor Leon Rockingham, Jr., North Chicago, Illinois
Mayor Kyle R. Hastings, Orland Hills, Illinois
Mayor Robert S. Straz, Palos Heights, Illinois
Mayor Gerald R. Bennett, Palos Hills, Illinois
Mayor Greg Marston, Pingree Grove, Illinois
Mayor Lawrence J. Morrissey, Rockford, Illinois
Mayor George Van Dusen, Skokie, Illinois
Mayor Don A. DeGraff, South Holland, Illinois
Mayor Beniamino Mazzulla, Stone Park, Illinois
Mayor Laurel Prussing, Urbana, Illinois
Mayor Robert Sabonjian, Waukegan, Illinois
Mayor Sam D. Pulia, Westchester, Illinois
Mayor Richard Hickman, Angola, Indiana
Mayor Mark Kruzan, Bloomington, Indiana
Mayor Tom C. Henry, Fort Wayne, Indiana
Mayor Karen Freeman-Wilson, Gary, Indiana
Mayor Dennis Tyler, Muncie, Indiana
Mayor Peter Buttigieg, South Bend, Indiana
Mayor William E. Gluba, Davenport, Iowa
Mayor T. M. Franklin Cownie, Des Moines, Iowa
Mayor Ray D. Buol, Dubuque, Iowa
Mayor Matt Hayek, Iowa City, Iowa
Mayor Robert E. Scott, Sioux City, Iowa
Mayor Buck Clark, Waterloo, Iowa
Mayor Crosby Gernon, Hiawatha, Kansas
Mayor Carl Brewer, Wichita, Kansas
Mayor Gene McMurry, Carrollton, Kentucky
Mayor Greg Fischer, Louisville, Kentucky

Mayor Kip "Kip" Holden, Baton Rouge, Louisiana
Mayor Mitchell J. Landrieu, New Orleans, Louisiana
Mayor Rodney A. Grogan, Patterson, Louisiana
Mayor Cedric B. Glover, Shreveport, Louisiana
Mayor William R. Stokes, Augusta, Maine
Mayor Charlotte M. Warren, Hallowell, Maine
Mayor Michael Brennan, Portland, Maine
Mayor Joshua J. Cohen, Annapolis, Maryland
Mayor Stephanie Rawlings-Blake, Baltimore, Maryland
Mayor Victoria Jackson-Stanley, Cambridge, Maryland
Mayor Margo G. Bailey, Chestertown, Maryland
Mayor Michael H. Callahan, Cheverly, Maryland
Mayor Andrew M. Fellows, College Park, Maryland
Mayor Brian K. Grim, Cumberland, Maryland
Mayor Robert C. Willey, Easton, Maryland
Mayor Sidney A. Katz, Gaithersburg, Maryland
Mayor Peter Benjamin, Garrett Park, Maryland
Mayor Dennis J. Scheessele, Indian Head, Maryland
Mayor Craig A. Moe, Laurel, Maryland
Mayor Phyllis Marcuccio, Rockville, Maryland
Mayor James Ireton, Jr., Salisbury, Maryland
Mayor Jeffrey Slavin, Somerset, Maryland
Mayor Bruce R. Williams, Takoma Park, Maryland
Mayor Thatcher W. Kezer, III, Amesbury, Massachusetts
Mayor Kevin J. Dumas, Attleboro, Massachusetts
Mayor William F. Scanlon, Jr., Beverly, Massachusetts
Mayor Thomas Menino, Boston, Massachusetts
Mayor Joseph C. Sullivan, Braintree, Massachusetts
Mayor Linda M. Balzotti, Brockton, Massachusetts
Mayor Henrietta Davis, Cambridge, Massachusetts
Mayor Carlo DeMaria, Jr., Everett, Massachusetts
Mayor Lisa A. Wong, Fitchburg, Massachusetts
Mayor Alex Morse, Holyoke, Massachusetts
Mayor Patrick O. Murphy, Lowell, Massachusetts
Mayor Gary Christenson, Malden, Massachusetts
Mayor Michael J. McGlynn, Medford, Massachusetts
Mayor Robert J. J. Dolan, Melrose, Massachusetts
Mayor Jonathan F. Mitchell, New Bedford, Massachusetts
Mayor Donna D. Holaday, Newburyport, Massachusetts
Mayor Setti D. Warren, Newton, Massachusetts
Mayor David J. Narkewicz, Northampton, Massachusetts
Mayor Edward A. Bettencourt, Jr., Peabody, Massachusetts
Mayor Thomas Koch, Quincy, Massachusetts
Mayor Daniel Rizzo, Revere, Massachusetts
Mayor Kimberley Driscoll, Salem, Massachusetts
Mayor Joseph A. Curtatone, Somerville, Massachusetts
Mayor Domenic Sarno, Springfield, Massachusetts
Mayor Thomas Hoyer, Taunton, Massachusetts
Mayor Susan M. Kay, Weymouth, Massachusetts
Mayor Scott Galvin, Woburn, Massachusetts
Mayor John Hieftje, Ann Arbor, Michigan
Mayor Phil O'Dwyer, Berkley, Michigan
Mayor John B. O'Reilly, Jr., Dearborn, Michigan
Mayor Dave Bing, Detroit, Michigan
Mayor Diane Goddeeris, East Lansing, Michigan
Mayor Dayne Walling, Flint, Michigan

Mayor George Heartwell, Grand Rapids, Michigan
Mayor Karen Majewski, Hamtramck, Michigan
Mayor Bobby J. Hopewell, Kalamazoo, Michigan
Mayor Virg Bernero, Lansing, Michigan
Mayor Brenda L. Lawrence, Southfield, Michigan
Mayor Paul T. Schreiber, Ypsilanti, Michigan
Mayor Don Ness, Duluth, Minnesota
Mayor Peter Lindstrom, Falcon Heights, Minnesota
Mayor R.T. Rybak, Minneapolis, Minnesota
Mayor Chris Coleman, St. Paul, Minnesota
Mayor Wardell Walton, Belzoni, Mississippi
Mayor Johnny DuPree, Hattiesburg, Mississippi
Mayor Harvey Johnson, Jackson, Mississippi
Mayor McArthur Straughter, Yazoo City, Mississippi
Mayor Linda Goldstein, Clayton, Missouri
Mayor Sylvester "Sly" James, Kansas City, Missouri
Mayor Randall L. Rhoads, Lee's Summit, Missouri
Mayor Francis Slay, St. Louis, Missouri
Mayor Shelley Welsch, University City, Missouri
Mayor Jim Suttle, Omaha, Nebraska
Mayor Donald A. Groesser, Ralston, Nebraska
Mayor Dean Trefethen, Dover, New Hampshire
Mayor Fred Tagliarini, Aberdeen, New Jersey
Mayor Ed Johnson, Asbury Park, New Jersey
Mayor Lorenzo T. Langford, Atlantic City, New Jersey
Mayor Mark Smith, Bayonne, New Jersey
Mayor Timothy J. Driscoll, Bergenfield, New Jersey
Mayor Patrick H. McHale, Bogota, New Jersey
Mayor Albert B. Kelly, Bridgeton, New Jersey
Mayor Dana L. Redd, Camden, New Jersey
Mayor Chuck Cahn, Cherry Hill, New Jersey
Mayor Janice Kovach, Clinton, New Jersey
Mayor Sophie Heymann, Closter, New Jersey
Mayor M. James Maley, Jr., Collingswood, New Jersey
Mayor Thomas Hannen, Jr., Cranford, New Jersey
Mayor Joseph R. Smith, East Newark, New Jersey
Mayor Robert L. Bowser, East Orange, New Jersey
Mayor Antonia Ricigliano, Edison, New Jersey
Mayor J. Christian Bollwage, Elizabeth, New Jersey
Mayor Carlos Colina, Emerson, New Jersey
Mayor Colleen Mahr, Fanwood, New Jersey
Mayor Warren Cooper, Frenchtown, New Jersey
Mayor Joseph Delaney, Garfield, New Jersey
Mayor Gerald R. Drasheff, Guttenberg, New Jersey
Mayor Maria DiGiovanni, Hackettstown, New Jersey
Mayor Domenick Stampone, Haledon, New Jersey
Mayor Raymond J. McDonough, Harrison, New Jersey
Mayor Richard S. Goldberg, Hawthorne, New Jersey
Mayor Gary Minkoff, Highland Park, New Jersey
Mayor Dawn Zimmer, Hoboken, New Jersey
Mayor Paul Anzano, Hopewell, New Jersey
Mayor Wayne Smith, Irvington, New Jersey
Mayor Jerramiah Healy, Jersey City, New Jersey
Mayor Michael B. Ryan, Lake Como, New Jersey
Mayor David M. DelVecchio, Lambertville, New Jersey
Mayor Richard J. Gerbounka, Linden, New Jersey

Mayor Mauro D. Raguseo, Little Ferry, New Jersey
Mayor Frank W. Minor, Logan Township, New Jersey
Mayor Nicholas Russo, Longport, New Jersey
Mayor Michael E. Beck, Lower Township, New Jersey
Mayor William Laforet, Mahwah, New Jersey
Mayor Michael Fressola, Manchester Township, New Jersey
Mayor Victor DeLuca, Maplewood, New Jersey
Mayor Frank M. North, Merchantville, New Jersey
Mayor Patrick O'Hagan, Midland Park, New Jersey
Mayor James A. Gallos, Milford, New Jersey
Mayor Sandra Haimoff, Millburn, New Jersey
Mayor Robert D. Jackson, Montclair, New Jersey
Mayor Dennis Vaccaro, Moonachie, New Jersey
Mayor Timothy Dougherty, Morristown, New Jersey
Mayor J. Brooke Hern, New Providence, New Jersey
Mayor Cory Booker, Newark, New Jersey
Mayor Peter C. Massa, North Arlington, New Jersey
Mayor Francis M. Womack, III, North Brunswick, New Jersey
Mayor Randy George, North Haledon, New Jersey
Mayor Owen Henry, Old Bridge, New Jersey
Mayor James R. Barberio, Parsippany-Troy Hills, New Jersey
Mayor Alex D. Blanco, Passaic, New Jersey
Mayor Jeffrey Jones, Paterson, New Jersey
Mayor Wilda Diaz, Perth Amboy, New Jersey
Mayor Harry L. Wyant, Phillipsburg, New Jersey
Mayor Sharon M. Robinson-Briggs, Plainfield, New Jersey
Mayor Jesse L. Tweedle, Sr., Pleasantville, New Jersey
Mayor Liz Lempert, Princeton, New Jersey
Mayor Pasquale Menna, Red Bank, New Jersey
Mayor Paul Aronsohn, Ridgewood, New Jersey
Mayor Sandy Moscaritolo, River Edge, New Jersey
Mayor Jamel C. Holley, Roselle, New Jersey
Mayor Joe Accardi, Roselle Park, New Jersey
Mayor Kevin Glover, Scotch Plains, New Jersey
Mayor Michael J. Gonnelli, Secaucus, New Jersey
Mayor Alex Torpey, South Orange, New Jersey
Mayor Nicholas Poliseno, Spotswood, New Jersey
Mayor Peter S. Rustin, Tenafly, New Jersey
Mayor Clifton People, Jr., Union, New Jersey
Mayor Brian P. Stack, Union City, New Jersey
Mayor Robert Romano, Vineland, New Jersey
Mayor Robert D. Parisi, West Orange, New Jersey
Mayor Shing-Fu Hsueh, West Windsor, New Jersey
Mayor John Birkner, Jr., Westwood, New Jersey
Mayor Julia C. Andrews, Whitehouse Station, New Jersey
Mayor John E. McCormac, Woodbridge, New Jersey
Mayor Jeffrey R. Goldsmith, Woodcliff Lake, New Jersey
Mayor Keith Kazmark, Woodland Park, New Jersey
Mayor Joe Murrieta, Grants, New Mexico
Mayor Kenneth D. Miyagishima, Las Cruces, New Mexico
Mayor Ray Alborn, Ruidoso, New Mexico
Mayor David Coss, Santa Fe, New Mexico
Mayor Albert Campos, Jr., Santa Rosa, New Mexico

Mayor Gloria J. Chavez, Tijeras, New Mexico
Mayor Gerald Jennings, Albany, New York
Mayor James Gaughan, Altamont, New York
Mayor Ann Thane, Amsterdam, New York
Mayor Peter R. Porcino, Ardsley, New York
Mayor Andrea Smallwood, Athens, New York
Mayor Randy Casale, Beacon, New York
Mayor Matthew T. Ryan, Binghamton, New York
Mayor James J. Schoenig, Brewster, New York
Mayor Eugene Christopher, Broadalbin, New York
Mayor Byron Brown, Buffalo, New York
Mayor G. Wayne McIlroy, Carthage, New York
Mayor Joseph Keegan, Castleton, New York
Mayor Jerome Kobre, Chestnut Ridge, New York
Mayor John A. Lane, Clinton, New York
Mayor John McDonald, Cohoes, New York
Mayor Jeff Katz, Cooperstown, New York
Mayor Mark Evans, Coxsackie, New York
Mayor Robert J. Foster, Deferiet, New York
Mayor Sally E. Burns, Delanson, New York
Mayor Steven P. Hoffman, Depew, New York
Mayor Randy Sterling, Dryden, New York
Mayor Allan A. Kasprzak, East Aurora, New York
Mayor Paul Rickenbach, East Hampton, New York
Mayor Mitchell Levinn, East Nassau, New York
Mayor Henry Doerr, Elbridge, New York
Mayor Jeffrey Kaplan, Ellenville, New York
Mayor James Matthews, Ellisburg, New York
Mayor Stephen G. Sommers, Fabius, New York
Mayor Mark Olson, Fayetteville, New York
Mayor James J. Miccio, Fishkill, New York
Mayor Andrew Hardwick, Freeport, New York
Mayor John Diamond, Glens Falls, New York
Mayor Dayton J. King, Gloversville, New York
Mayor Jean A. Celender, Great Neck Plaza, New York
Mayor Ralph J. Kreitzman, Great Neck Village, New York
Mayor Barbara Moore, Greenwood Lake, New York
Mayor Martin Natoli, Hagaman, New York
Mayor Emery Cummings, Jr., Hammondsport, New York
Mayor Ronald Belmont, Harrison, New York
Mayor Peter Swiderski, Hastings-on-Hudson, New York
Mayor Michael Kohut, Haverstraw, New York
Mayor Natale J. Tartamella, Head of the Harbor, New York
Mayor Wayne J. Hall, Sr., Hempstead, New York
Mayor Richard Beirman, Sr., Herrings, New York
Mayor Bernard Jackson, Hillburn, New York
Mayor Joseph M. Lee, Hilton, New York
Mayor Shawn Hogan, Hornell, New York
Mayor Brian C. Smith, Irvington, New York
Mayor Svante L. Myrick, Ithaca, New York
Mayor Samuel Teresi, Jamestown, New York
Mayor Susan Lopatkin, Kensington, New York
Mayor Shayne R. Gallo, Kingston, New York
Mayor Robert Blais, Lake George, New York
Mayor Ronald S. Cooper, Lake Success, New York
Mayor Anne H. McAndrews, Larchmont, New York

Mayor Martin Oliner, Lawrence, New York
Mayor Carl Luft, Lima, New York
Mayor Norman L. Marsh, Little Valley, New York
Mayor Corrine Kleisle, Lyons, New York
Mayor Barbara Clark, Madison, New York
Mayor Patricia McDonald, Malverne, New York
Mayor Mark-Paul Serafin, Manlius Village, New York
Mayor James F. Hidy, Massena, New York
Mayor Dennis Leahy, Maybrook, New York
Mayor Anthony Sylvester, Mechanicville, New York
Mayor Terry Grimshaw, Mexico, New York
Mayor Richard J. Donovan, Minoa, New York
Mayor James C. Purcell, Monroe, New York
Mayor Jeffrey Oppenheim, Montebello, New York
Mayor Gordon Jenkins, Monticello, New York
Mayor Ernest D. Davis, Mount Vernon, New York
Mayor Noam Bramson, New Rochelle, New York
Mayor Mike Bloomberg, New York, New York
Mayor Peter M. Blandino, Newark, New York
Mayor Judith L. Kennedy, Newburgh, New York
Mayor Paul A. Dyster, Niagara Falls, New York
Mayor Laura Nolan, North Haven, New York
Mayor Marvin Natiss, North Hills, New York
Mayor Joseph Maiurano, Norwich, New York
Mayor Linda L. Witte, Olean, New York
Mayor Richard P. Miller, Jr., Oneonta, New York
Mayor William R. Hanauer, Ossining, New York
Mayor Brian Wona, Otisville, New York
Mayor Paul Pontieri, Patchogue, New York
Mayor Mary Foster, Peekskill, New York
Mayor Anthony Fratto, Phoenix, New York
Mayor Christopher Sanders, Piermont, New York
Mayor Donald M. Kasprzak, Plattsburgh, New York
Mayor Peter Scherer, Pleasantville, New York
Mayor Robert Weitzner, Port Washington, New York
Mayor John Bruno, Ravena, New York
Mayor Daniel J. Dwyer, Rensselaer, New York
Mayor Kevin Neary, Richmondville, New York
Mayor Thomas Richards, Rochester, New York
Mayor John Durkin, Roslyn, New York
Mayor Matthew Bloomfield, Russell Gardens, New York
Mayor Grant Rohrmoser, Sandy Creek, New York
Mayor Clyde Rabideau, Saranac Lake, New York
Mayor Scott Johnson, Saratoga Springs, New York
Mayor Gregge Harrian, Savona, New York
Mayor Gary R. McCarthy, Schenectady, New York
Mayor Paul F. Gee, Scottsville, New York
Mayor Omer Cousineau, Sharon Springs, New York
Mayor John Patterson, Sherman, New York
Mayor Ken Wray, Sleepy Hollow, New York
Mayor Leonard Szymanski, Sloan, New York
Mayor Karen Strickland, South Dayton, New York
Mayor Geoffrey N. Prime, South Floral Park, New York
Mayor Patricia DuBow, South Nyack, New York
Mayor Mark Epley, Southampton, New York
Mayor Letty J. Rudes, Speculator, New York

Mayor Joyce Lobene, Spencerport, New York
Mayor Noramie F. Jasmin, Spring Valley, New York
Mayor Dagan LaCorte, Suffern, New York
Mayor Edward Stewart, III, Sylvan Beach, New York
Mayor Stephanie A. Miner, Syracuse, New York
Mayor Drew Fixell, Tarrytown, New York
Mayor Ronald Piloizzi, Tonawanda, New York
Mayor Louis A. Rosamilia, Troy, New York
Mayor A. Martin Petrovic, Trumansburg, New York
Mayor Beth Greenwood, Tully, New York
Mayor Michael Esmay, Upper Nyack, New York
Mayor Theodore H. Young, Waterloo, New York
Mayor Michael P. Manning, Watervliet, New York
Mayor Brian D. McCoy, Wayland, New York
Mayor David Goldsmith, Wesley Hills, New York
Mayor Scott M. Burto, West Carthage, New York
Mayor John Ramundo, Jr., West Haverstraw, New York
Mayor David Carr, Westfield, New York
Mayor Thomas M. Roach, White Plains, New York
Mayor Mike Spano, Yonkers, New York
Mayor Anthony C. Leone, Jr., Yorkville, New York
Mayor Walter B. Goodenough, Carolina Shores, North Carolina
Mayor Mark Chilton, Carrboro, North Carolina
Mayor Mark Kleinschmidt, Chapel Hill, North Carolina
Mayor Darryl D. Moss, Creedmoor, North Carolina
Mayor Bill Bell, Durham, North Carolina
Mayor Jackie Holcombe, Morrisville, North Carolina
Mayor Jaqueline vdH Sergent, Oxford, North Carolina
Mayor Nancy McFarlane, Raleigh, North Carolina
Mayor Victor Varela, Ronda, North Carolina
Mayor J. Allen Joines, Winston-Salem, North Carolina
Mayor Dennis Walaker, Fargo, North Dakota
Mayor Dan Pillow, Addyston, Ohio
Mayor Donald Plusquellic, Akron, Ohio
Mayor Bernard Baronowski, Andover, Ohio
Mayor Ronald A. Bischof, Barnesville, Ohio
Mayor Deborah L. Sutherland, Bay Village, Ohio
Mayor Merle S. Gorden, Beachwood, Ohio
Mayor Daniel S. Pocek, Bedford, Ohio
Mayor Fletcher Berger, Bedford Heights, Ohio
Mayor Cyril Kleem, Berea, Ohio
Mayor John M. Licastro, Bratenahl, Ohio
Mayor Samuel J. Alai, Broadview Heights, Ohio
Mayor David Seagraves, Brookville, Ohio
Mayor Lowell E. Anderson, Caldwell, Ohio
Mayor William J. Healy, II, Canton, Ohio
Mayor Tammy D. Drobina, Carroll, Ohio
Mayor Diana Stockmaster, Centerburg, Ohio
Mayor Mark Mallory, Cincinnati, Ohio
Mayor Frank Jackson, Cleveland, Ohio
Mayor Edward J. Kelley, Cleveland Heights, Ohio
Mayor Danny Stacy, Cleves, Ohio
Mayor Michael Coleman, Columbus, Ohio
Mayor William Armentrout, Creston, Ohio
Mayor Gary D. Leitzell, Dayton, Ohio

Mayor Gary L. Comer, De Graff, Ohio
Mayor Terry L. Lindeman, Doylestown, Ohio
Mayor Gary Norton, East Cleveland, Ohio
Mayor Ted Andrzejewski, East Lake, Ohio
Mayor James P. Swoger, East Liverpool, Ohio
Mayor Patricia Burnside, Englewood, Ohio
Mayor Bill Cervenick, Euclid, Ohio
Mayor Thomas H. Nagel, Fairborn, Ohio
Mayor Charles H. Johnson, Forest Park, Ohio
Mayor Gary Middlemus, Frazeyburg, Ohio
Mayor Kirk Emmert, Gambier, Ohio
Mayor Dave Nelson, Geneva-on-the-Lake, Ohio
Mayor Mark Williams, Genoa, Ohio
Mayor Alan Zaffiro, Golf Manor, Ohio
Mayor Ray E. DeGraw, Grandview Heights, Ohio
Mayor Gary Lee Young, Greenville, Ohio
Mayor Lance Westcamp, Groveport, Ohio
Mayor Richard L. Verga, Harveysburg, Ohio
Mayor Clifford Mason, Hebron, Ohio
Mayor Lou Bertrand, Hiram, Ohio
Mayor Susan J. Pelkowski, Holloway, Ohio
Mayor William A. Currin, Hudson, Ohio
Mayor Rich Blankenship, Ironton, Ohio
Mayor Jerry Fiala, Kent, Ohio
Mayor Deborah L. Neale, Lakeline, Ohio
Mayor David J. Berger, Lima, Ohio
Mayor Jo Ann Toczec, Linndale, Ohio
Mayor Patricia A. Fallot, Louisville, Ohio
Mayor Joseph M. Cicero, Jr., Lyndhurst, Ohio
Mayor Donald Kuchta, Macedonia, Ohio
Mayor Steve Adams, Malvern, Ohio
Mayor Jeffrey A. Lansky, Maple Heights, Ohio
Mayor Joe A. Matthews, Marietta, Ohio
Mayor Bruce G. Rinker, Mayfield Village, Ohio
Mayor Robert Schwab, McComb, Ohio
Mayor Glenn W. Holmes, McDonald, Ohio
Mayor Richard Cain, Mineral City, Ohio
Mayor James B. Waller, Minerva, Ohio
Mayor Susan C. Renda, Moreland Hills, Ohio
Mayor Mike Porter, Mount Gilead, Ohio
Mayor Charles Neff, Mount Sterling, Ohio
Mayor Jeffrey C. Wherley, Nellie, Ohio
Mayor James A. Friel, Newcomerstown, Ohio
Mayor Daniel R. Brooks, North College Hill, Ohio
Mayor Terrance J. McConnell, North Kingsville, Ohio
Mayor Ed Klco, North Perry, Ohio
Mayor Kathy Mulcahy, Orange Village, Ohio
Mayor Richard M. Bain, Pepper Pike, Ohio
Mayor Billy R. Spencer, Piquette, Ohio
Mayor Timothy Redden, Plymouth, Ohio
Mayor Timothy Sicafuse, Poland, Ohio
Mayor David A. Malone, Portsmouth, Ohio
Mayor Daniel J. Ursu, Richmond Heights, Ohio
Mayor William Nibert, Richwood, Ohio
Mayor William R. Flaute, Riverside, Ohio
Mayor Earl M. Leiken, Shaker Heights, Ohio

Mayor Patrick C. Monahan, Shawnee Hills, Ohio
Mayor John Smith, Silverton, Ohio
Mayor Georgine Welo, South Euclid, Ohio
Mayor Matthew Brett, South Russell, Ohio
Mayor Warren R. Copeland, Springfield, Ohio
Mayor William C. Burkhardt, St. Bernard, Ohio
Mayor Domenick Mucci, Jr., Steubenville, Ohio
Mayor Clayton Weller, Sugarcreek, Ohio
Mayor Michael P. Bell, Toledo, Ohio
Mayor Mary Myers, Verona, Ohio
Mayor Daniel V. Wilczynski, Walbridge, Ohio
Mayor Doug Franklin, Warren, Ohio
Mayor Allen Patchin, West Farmington, Ohio
Mayor Ann Schreiner, West Millgrove, Ohio
Mayor Kim Maggard, Whitehall, Ohio
Mayor William A. Margalis, Wickliffe, Ohio
Mayor Richard J. Bonde, Willowick, Ohio
Mayor Susan Upton Farley, Woodlawn, Ohio
Mayor Charles Sammarone, Youngstown, Ohio
Mayor Jeff Tilton, Zanesville, Ohio
Mayor Kitty Piercy, Eugene, Oregon
Mayor Charlie Hales, Portland, Oregon
Mayor James Hopely, Aldan, Pennsylvania
Mayor Ed Pawlowski, Allentown, Pennsylvania
Mayor Charles T. Wahl, Ambler, Pennsylvania
Mayor Gretchen Dosch, Applewold, Pennsylvania
Mayor Bernard Killian, Aspinwall, Pennsylvania
Mayor Doris E. Howell, Avondale, Pennsylvania
Mayor Alexander Bennett, Jr., Baldwin, Pennsylvania
Mayor Phillip Ferrizzi, Bally, Pennsylvania
Mayor John Arthur Brown, Bangor, Pennsylvania
Mayor Donald L. Wunderler, Bath, Pennsylvania
Mayor Cloyd W. Wagner, Beavertown, Pennsylvania
Mayor Stanley Goldman, Bellefonte, Pennsylvania
Mayor Robin J. Gochenauer, Bendersville, Pennsylvania
Mayor Gail Stoudt, Bernville, Pennsylvania
Mayor John B. Callahan, Bethlehem, Pennsylvania
Mayor Everett W. Saxton, Bolivar, Pennsylvania
Mayor Vincent H. Liebel, Boswell, Pennsylvania
Mayor Marianne Deery, Boyertown, Pennsylvania
Mayor Kenneth Lockhart, Brentwood, Pennsylvania
Mayor Verncel L. Creveling, Briar Creek, Pennsylvania
Mayor David Wonderling, Brookville, Pennsylvania
Mayor Lester J. Ward, Brownsville, Pennsylvania
Mayor Anna Marie Quader, Burgettstown, Pennsylvania
Mayor Loyce Harpster, Burnham, Pennsylvania
Mayor Margaret Stock, Butler, Pennsylvania
Mayor David H. Rhome, Canonsburg, Pennsylvania
Mayor Justin M. Taylor, Carbondale, Pennsylvania
Mayor Donald Baumgarten, Castle Shannon, Pennsylvania
Mayor Barbara A. Schlegel, Catasauqua, Pennsylvania
Mayor James S. Perry, Chalfant, Pennsylvania
Mayor Marilyn J. Becker, Chalfont, Pennsylvania
Mayor Peter Lagiovane, Chambersburg, Pennsylvania
Mayor Ronald W. Lockwood, Cherry Valley, Pennsylvania
Mayor John A. Linder, Chester, Pennsylvania

Mayor Paul H. McKenna, Churchill, Pennsylvania
Mayor Richard L. Lattanzi, Clairton, Pennsylvania
Mayor Andrea J. Estadt, Clarion, Pennsylvania
Mayor Harry Kelly, Clarks Summit, Pennsylvania
Mayor James P. Schell, Clearfield, Pennsylvania
Mayor John Hartman, Cleona, Pennsylvania
Mayor Frank C. Kelly, Collingdale, Pennsylvania
Mayor Daniel Rutland, Colwyn, Pennsylvania
Mayor Allen Gyorko, Confluence, Pennsylvania
Mayor Joseph Carrelli, Conyngham, Pennsylvania
Mayor Anthony G. Celeste, Coraopolis, Pennsylvania
Mayor Mark J. Thomas, Cornwall, Pennsylvania
Mayor Gail E. Knauf, Cressona, Pennsylvania
Mayor Timothy J. Carroll, Dallas, Pennsylvania
Mayor Helen R. Thomas, Darby, Pennsylvania
Mayor John Lignelli, Donora, Pennsylvania
Mayor Thomas R. Lloyd, Dormont, Pennsylvania
Mayor Richard A. Pope, Dover, Pennsylvania
Mayor Josh Maxwell, Downingtown, Pennsylvania
Mayor Libby White, Doylestown, Pennsylvania
Mayor Philip Krivacek, Duquesne, Pennsylvania
Mayor Betty M. Hays, Eagles Mere, Pennsylvania
Mayor Louis J. Payne, East Pittsburgh, Pennsylvania
Mayor Mark A. Pacilla, East Washington, Pennsylvania
Mayor Salvatore J. Panto, Jr., Easton, Pennsylvania
Mayor J. Edward Cook, Edgewood, Pennsylvania
Mayor Wayne T. Murphy, Edgeworth, Pennsylvania
Mayor Ray Plummer, Ehrenfeld, Pennsylvania
Mayor Joseph J. Cisco, Ellport, Pennsylvania
Mayor Anthony J. Court, Ellwood City, Pennsylvania
Mayor Winfield Iobst, Emmaus, Pennsylvania
Mayor Dorothy H. Quinn, Emsworth, Pennsylvania
Mayor Joseph Sinnott, Erie, Pennsylvania
Mayor Gary Foster, Evans City, Pennsylvania
Mayor D. Gary Evans, Factoryville, Pennsylvania
Mayor Charles Moore, Falls Creek, Pennsylvania
Mayor Olive McKeithan, Farrell, Pennsylvania
Mayor Gary McBrien, Felton, Pennsylvania
Mayor Robert P. Frey, Folcroft, Pennsylvania
Mayor Jose Rosado, Fountain Hill, Pennsylvania
Mayor Kim Phillips, Frackville, Pennsylvania
Mayor Fred C. Moyer, Jr., Freeburg, Pennsylvania
Mayor Gerald C. Yob, Freemansburg, Pennsylvania
Mayor James E. Swartz, Jr., Freeport, Pennsylvania
Mayor Edward F. Burns, Girardville, Pennsylvania
Mayor Arnie Bowser, Greensboro, Pennsylvania
Mayor Roy Del Rosario, Hamburg, Pennsylvania
Mayor Linda Thompson, Harrisburg, Pennsylvania
Mayor Norm Hawkes, Hatboro, Pennsylvania
Mayor Ronald Cyphert, Hawthorn, Pennsylvania
Mayor John Hoerner, Highspire, Pennsylvania
Mayor Joseph R. Dodson, Hollidaysburg, Pennsylvania
Mayor Betty Esper, Homestead, Pennsylvania
Mayor Tim McGuire, Homewood Borough, Pennsylvania
Mayor Dee Dee Brown, Huntingdon Borough, Pennsylvania
Mayor John J. Zano, Hyde Park, Pennsylvania

Mayor George E. Hood, Indiana, Pennsylvania
Mayor Nicholas Yanosich, Industry, Pennsylvania
Mayor Gerald C. Croushore, Ingram, Pennsylvania
Mayor James C. Sanders, Jefferson, Pennsylvania
Mayor Ed Foley, Jenkintown, Pennsylvania
Mayor Donald Bosh, Knoxville, Pennsylvania
Mayor Sandra Green, Kutztown, Pennsylvania
Mayor Dorothy Shea Yazurlo, Laflin, Pennsylvania
Mayor Joseph Legnasky, Lake City, Pennsylvania
Mayor Rick Gray, Lancaster, Pennsylvania
Mayor Christopher Blaydon, Langhorne, Pennsylvania
Mayor Jayne C. Young, Lansdowne, Pennsylvania
Mayor Fred Feltenberger, Laureldale, Pennsylvania
Mayor Peter Poninsky, Leetsdale, Pennsylvania
Mayor Donald L. Rehrig, Lehighton, Pennsylvania
Mayor Deborah A. Bargo, Lewistown, Pennsylvania
Mayor Nick Vay, Lincoln, Pennsylvania
Mayor John L. Mark, Liverpool, Pennsylvania
Mayor William D. Hart, Lykens, Pennsylvania
Mayor Randy Schlegel, Lyons, Pennsylvania
Mayor Thomas A. Bell, Mahaffey, Pennsylvania
Mayor Gerard J. McGlone, Jr., Malvern, Pennsylvania
Mayor Eric B. Phillips, Manheim, Pennsylvania
Mayor David Sturgess, Manor, Pennsylvania
Mayor Alexander J. Chelik, Mayfield, Pennsylvania
Mayor Terry S. Bennett, McDonald, Pennsylvania
Mayor Weslee A. Clapper-Krepps, McKean, Pennsylvania
Mayor John Christopher Soff, Meadville, Pennsylvania
Mayor Bob McMahon, Media, Pennsylvania
Mayor Ethel I. Kellerman, Milesburg, Pennsylvania
Mayor Thomas S. Kramer, Millbourne, Pennsylvania
Mayor Richard Trostle, Mohnton, Pennsylvania
Mayor John P. Antoline, Monaca, Pennsylvania
Mayor Mary Jo Smith, Monessen, Pennsylvania
Mayor John Dorin, Montoursville, Pennsylvania
Mayor Maureen A. Piselli, Morton, Pennsylvania
Mayor Timothy M. Allison, Mount Union, Pennsylvania
Mayor Raymond Bodnar, Munhall, Pennsylvania
Mayor Stephen Szymusiak, Nanty-Glo, Pennsylvania
Mayor Joseph Taylor, New Milford, Pennsylvania
Mayor Frances Tkach, New Philadelphia, Pennsylvania
Mayor Nicholas W. DeSantis, New Stanton, Pennsylvania
Mayor Mary M. Hetrick, Newport, Pennsylvania
Mayor Lee I. Hall, North Charleroi, Pennsylvania
Mayor Thomas Reenock, Northhampton, Pennsylvania
Mayor George F. McCloskey, Norwood, Pennsylvania
Mayor Michele Petrini Avvisato, Old Forge, Pennsylvania
Mayor Austin Scandiber, Orwigsburg, Pennsylvania
Mayor Lewis Paul Cowher, Osceola Mills, Pennsylvania
Mayor Geoffrey L. Henry, Oxford, Pennsylvania
Mayor Fred Carpenter, Palmyra, Pennsylvania
Mayor William McCall, Parker, Pennsylvania
Mayor Ardele R. Gordon, Parkside, Pennsylvania
Mayor Robert Winkler, Pennadel, Pennsylvania
Mayor Michael Nutter, Philadelphia, Pennsylvania

Mayor Kimberly D. Brown-Zerbe, Pine Grove, Pennsylvania
Mayor Luke Ravenstahl, Pittsburgh, Pennsylvania
Mayor Bonnie Heath, Pottstown, Pennsylvania
Mayor John D.W. Reiley, Pottsville, Pennsylvania
Mayor Vaughn D. Spencer, Reading, Pennsylvania
Mayor Dr. Guillermo Udarbe, Ridgway, Pennsylvania
Mayor Desiree D. DeNicola, Roseto, Pennsylvania
Mayor Edwin W. Rosenberry, Saxton, Pennsylvania
Mayor Thomas C. Hufnagle, Sellersville, Pennsylvania
Mayor Anthony Hajjar, Seward, Pennsylvania
Mayor Joseph A. McGranaghan, Shamokin Dam, Pennsylvania
Mayor Robert O'Neill, Sharon Hill, Pennsylvania
Mayor Richard Panza, Sharpsburg, Pennsylvania
Mayor Bruce Hockersmith, Shippensburg, Pennsylvania
Mayor Boyd E. Paul, Snow Shoe, Pennsylvania
Mayor William Meyer, Somerset, Pennsylvania
Mayor John Reynolds, Souderton, Pennsylvania
Mayor James C. Kennedy, South Coatesville, Pennsylvania
Mayor Clyde R. Wadsworth, South Fork, Pennsylvania
Mayor Elizabeth A. Goreham, State College, Pennsylvania
Mayor Thomas F. Acri, Steelton, Pennsylvania
Mayor Sherman Metzgar, Stockertown, Pennsylvania
Mayor William A. Boyd, Stoystown, Pennsylvania
Mayor Harold Randy Davis, Strattenville, Pennsylvania
Mayor Charles Baughman, Stroudsburg, Pennsylvania
Mayor William A. Davis, Sugar Notch, Pennsylvania
Mayor Paul R. McArdle, Summit Hill, Pennsylvania
Mayor David L. Persing, Sunbury, Pennsylvania
Mayor Richard H. Lowe, Swarthmore, Pennsylvania
Mayor Luke Duignam, Tatamy, Pennsylvania
Mayor Jay R. Stover, Telford, Pennsylvania
Mayor Charles Harper, Three Springs, Pennsylvania
Mayor Kenneth Danser, Timblin, Pennsylvania
Mayor Francis B. Zalewski, Trainer, Pennsylvania
Mayor William Allar, Tremont, Pennsylvania
Mayor J. David Cutchineal, Tullytown, Pennsylvania
Mayor LeAnn Hritz, Tunnelhill, Pennsylvania
Mayor Adam R. Forgie, Turtle Creek, Pennsylvania
Mayor Thomas Micozzie, Upper Darby, Pennsylvania
Mayor Jeffrey Steffler, Wampum, Pennsylvania
Mayor Esther Cotner, Washingtonville, Pennsylvania
Mayor Richard A. Starliper, Waynesboro, Pennsylvania
Mayor Carolyn T. Comitta, West Chester, Pennsylvania
Mayor Gerald W. Gross, West Easton, Pennsylvania
Mayor Ralph Harrington, West Elizabeth, Pennsylvania
Mayor Frank Schmidt, West Hazleton, Pennsylvania
Mayor John W. Dindak, West Homestead, Pennsylvania
Mayor Mary E. Popovich, West Newton, Pennsylvania
Mayor John Henry, West View, Pennsylvania
Mayor Dick Vargeson, Westfield, Pennsylvania
Mayor James F. Nowalk, Whitehall Borough, Pennsylvania
Mayor Edward D. Hozza, Jr., Whitehall Township, Pennsylvania
Mayor Thomas M. Leighton, Wilkes-Barre, Pennsylvania

Mayor John A. Thompson, Wilkinsburg, Pennsylvania
Mayor David Perruso, Wilson, Pennsylvania
Mayor Larry Markel, Windsor, Pennsylvania
Mayor Dolores Jones-Butler, Yeadon, Pennsylvania
Mayor John Sanford, Yoe, Pennsylvania
Mayor C. Kim Bracey, York, Pennsylvania
Mayor Alford Shull, York Springs, Pennsylvania
Mayor Joan Derco, Youngwood, Pennsylvania
Mayor Charles Lombardi, North Providence, Rhode Island
Mayor Donald Grebien, Pawtucket, Rhode Island
Mayor Angel Taveras, Providence, Rhode Island
Mayor Scott Aredisian, Warwick, Rhode Island
Mayor Joseph Riley, Charleston, South Carolina
Mayor Joseph T. McElveen, Jr., Sumter, South Carolina
Mayor Darrick Jackson, Timmonsville, South Carolina
Mayor Ron Littlefield, Chattanooga, Tennessee
Mayor Jerry Gist, Jackson, Tennessee
Mayor Thomas W. Taylor, Maryville, Tennessee
Mayor A C Wharton, Memphis, Tennessee
Mayor Tom Beehan, Oak Ridge, Tennessee
Mayor Bill Lusk, Signal Mountain, Tennessee
Mayor Lee Leffingwell, Austin, Texas
Mayor Tony Martinez, Brownsville, Texas
Mayor Carl D. Sherman, DeSoto, Texas
Mayor Annise D. Parker, Houston, Texas
Mayor Richard Ward, Hurst, Texas
Mayor Dave Claunch, West Lake Hills, Texas
Mayor Dana Williams, Park City, Utah
Mayor John Hollar, Montpelier, Vermont
Mayor Christopher C. Louras, Rutland City, Vermont
Mayor William B. Euille, Alexandria, Virginia
Mayor Faye Prichard, Ashland, Virginia
Mayor Satyendra Singh Huja, Charlottesville, Virginia
Mayor McKinley Price, Newport News, Virginia
Mayor Paul D. Fraim, Norfolk, Virginia
Mayor Brian A. Moore, Petersburg, Virginia
Mayor Robert W. Lazaro, Jr., Purcellville, Virginia
Mayor Dwight C. Jones, Richmond, Virginia

Mayor David A. Bowers, Roanoke, Virginia
Mayor William D. Sessoms, Jr., Virginia Beach, Virginia
Mayor Kelli Linville, Bellingham, Washington
Mayor H. Clarence Bauman, Chewelah, Washington
Mayor Garland D. Walton, Connell, Washington
Mayor Will Ibershof, Duvall, Washington
Mayor Liz Reynolds, Enumclaw, Washington
Mayor Gary S. Jensen, Ferndale, Washington
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Mayor Spencer Nichols, Pe Ell, Washington
Mayor Paul Warden, Prosser, Washington
Mayor John Marchione, Redmond, Washington
Mayor Terry Anderson, SeaTac, Washington
Mayor Mike McGinn, Seattle, Washington
Mayor Matthew Larson, Snoqualmie, Washington
Mayor Dianne W. White, Stanwood, Washington
Mayor Marilyn Strickland, Tacoma, Washington
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Mayor Paul R. Soglin, Madison, Wisconsin
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Mayor Chris L. Meyer, Marshfield, Wisconsin
Mayor Kurt Sonnentag, Middleton, Wisconsin
Mayor Tom Barrett, Milwaukee, Wisconsin
Mayor Steve Scaffidi, Oak Creek, Wisconsin
Mayor John T. Dickert, Racine, Wisconsin
Mayor James E. Tipple, Wausau, Wisconsin
Mayor Vincent C. Gray, Washington, D.C.



February 11, 2013

Rep. John Boehner
Speaker of the House
U.S. House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

Sen. Harry Reid
Majority Leader
U.S. Senate
522 Hart Senate Office Building
Washington, DC 20510

Rep. Nancy Pelosi
Minority Leader
U.S. House of Representatives
235 Cannon House Office Building
Washington, DC 20515

Sen. Mitch McConnell
Minority Leader
U.S. Senate
361A Russell Senate Office Building
Washington, DC 20510

Re: America's Mayors Urge Congress to Support Making Gun Trafficking a Crime as Part of a Larger Legislative Package to Reduce Gun Violence

Dear Majority Leader Reid, Minority Leader McConnell, Speaker Boehner and Minority Leader Pelosi:

We write on behalf of more than 850 members of the bipartisan coalition of Mayors Against Illegal Guns to urge Congress to help law enforcement fight firearms trafficking by passing legislation that would criminalize gun trafficking. We believe that this policy recommendation, along with legislation requiring background checks for all gun sales, would go a long way toward reducing gun violence. The coalition supports bi-partisan legislation introduced by Senators Gillibrand and Kirk (S.179), Senators Leahy and Durbin (S.54) and Representatives Maloney, Cummings, Meehan and Rigell (H.R.452). Each bill would give law enforcement a badly needed tool to interdict and prosecute the criminals who are flooding our streets with illegal guns.

Today, there is no clear and effective statute making gun trafficking a crime. Prosecutors have instead been forced to rely on weak laws that prohibit engaging in the business of selling guns without a federal license. Legislation passed in 1986 defines “engaged in the business” as repeatedly selling guns for profit, but includes several exceptions for “occasional sales” and selling from a “personal collection.”¹

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has called this definition and its exceptions “needlessly complex” and has said the legal standard “often frustrates the prosecution of people who supply guns to felons and other prohibited

¹ 18 U.S.C. § 922(a)(1)(A); 18 U.S.C. § 921(a)(21)(C)

persons.”² As a result, according to the Justice Department’s Inspector General, U.S. Attorneys decline 25 percent of all ATF cases based on “engaging in a firearms business without a license” while declining only 9 percent of drug conspiracy cases.

Moreover, penalties for the crime are not commensurate with the severity of the offense. Dealing guns without a license carries a prison sentence of only 0 to 5 years, the same as trafficking chicken or livestock. By comparison, sanctions for trafficking stolen goods or drugs are substantially higher; the penalty for trafficking a kilogram of heroin is ten years to life. According to ATF, lenient penalties make it harder to obtain cooperation from defendants when they are arrested, denying law enforcement a critical tool in investigating firearms trafficking.

In addition, Congress needs to strengthen the laws against “straw purchasing” guns. A straw purchaser buys a gun from a licensed dealer and falsely states on the required paperwork that he or she is the actual buyer of the gun, when in fact the purchase is made on behalf of a prohibited purchaser or a gun trafficker who does not want his name on the background check form. Federal law currently regulates straw purchases by prohibiting “lying and buying” on the required paperwork.³ The penalty for committing a straw purchase is up to 10 years in prison,⁴ but, according to ATF officials, the “typical” straw purchase prosecution results only in probation.⁵ Forty percent of defendants charged and convicted of “lying and buying” received probation.⁶

Because illegal guns are trafficked across state and international lines, gun trafficking is a federal problem that requires a federal solution. According to the data provided by ATF, 30 percent of traced guns cross state lines after their initial purchase and before they are recovered in crimes. The gun trafficking bills introduced in this Congress, including S.179, S.54 and H.R.452 would provide that federal solution.

S.179 makes it a crime punishable by up to 20 years to transfer or receive guns when the transfer would reasonably result in any serious crime, and H.R.452 makes it a crime punishable by up to 20 years to transfer or purchase a gun for the purpose of giving it to a prohibited person. In both bills, kingpins who supervise at least five other people in a gun-trafficking ring could be punished by up to 25 years in prison. S. 54 would raise the penalties on straw purchasing, making it a crime punishable by up to 20 years for a person to purchase a gun with the intent to transfer it to another person. If the straw purchaser has reason to believe the person will use the gun in a violent crime, the penalty goes up to 30 years.

² Department of Justice, National Integrated Firearms Violence Reduction Strategy (2001) (available at <http://www.usdoj.gov/archive/opd/gunviolence.htm>); U.S. Departments of Justice and Treasury, Gun Shows: Brady Checks and Crime Gun Traces, at 24 (January 1999).

³ 18 U.S.C. § 922(a)(6).

⁴ 18 U.S.C. § 922(a)(6); 18 U.S.C. § 924(a)(2).

⁵ Committee on Oversight and Government Reform, Minority Staff Report, “Outgunned: Law Enforcement Agents Warn Congress They Lack Adequate Tools to Counter Illegal Firearms Trafficking,” June 2011, at 8.

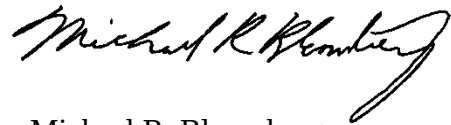
⁶ U.S. Department of Justice, Office of Inspector General, “Review of ATF’s Project Gunrunner,” November 2010, available at <http://www.justice.gov/oig/reports/ATF/e1101.pdf>.

Congress's failure to address the flood of illegal guns into our communities continues to fuel violence. Together with proposals to require universal background checks, we believe these federal gun trafficking bills will reduce gun violence. Our Mayors urge you to pass this legislation to give our federal law enforcement the tools they need to punish the gunrunners who endanger our communities.

Sincerely,



Thomas M. Menino
Coalition Co-Chair
Mayor of Boston



Michael R. Bloomberg
Coalition Co-Chair
Mayor of New York City

SIGNED BY MEMBERS OF MAYORS AGAINST ILLEGAL GUNS:

Mayor Samuel L. Jones, Mobile, Alabama
Mayor Satish I. Hiremath, Oro Valley, Arizona
Mayor Scott LeMarr, Paradise Valley, Arizona
Mayor Greg Stanton, Phoenix, Arizona
Mayor Jennifer Eckstrom, South Tucson, Arizona
Mayor Bill Rappaport, Star Valley, Arizona
Mayor Mark W. Mitchell, Tempe, Arizona
Mayor Jonathan Rothschild, Tucson, Arizona
Mayor Larry S. Bryant, Forrest City, Arkansas
Mayor Arnell Willis, Helena, Arkansas
Mayor Lawrence Owens, Hughes, Arkansas
Mayor McKinzie Riley, Wrightsville, Arkansas
Mayor Marie L. Gilmore, Alameda, California
Mayor Wade Harper, Antioch, California
Mayor Elizabeth Patterson, Benicia, California
Mayor Tom Bates, Berkeley, California
Mayor Cheryl Cox, Chula Vista, California
Mayor Eugene Montanez, Corona, California
Mayor Diane Furst, Corte Madera, California
Mayor Joseph Krosova, Davis, California
Mayor Jennifer West, Emeryville, California
Mayor Teresa Arballo Barth, Encinitas, California
Mayor John Reed, Fairfax, California
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Mayor Maria Orozco, Gonzales, California
Mayor Connie Boardman, Huntington Beach, California
Mayor James T. Butts, Jr., Inglewood, California

Mayor Dan Hillmer, Larkspur, California
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Mayor Antonio Villaraigosa, Los Angeles, California
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Mayor Rob Schroder, Martinez, California
Mayor Mary Ann Lutz, Monrovia, California
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Mayor Bill Bogaard, Pasadena, California
Mayor Luis I. Molina, Patterson, California
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Mayor Gayle McLaughlin, Richmond, California
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Mayor Robert Muckle, Louisville, Colorado
Mayor Marc A. Snyder, Manitou Springs, Colorado
Mayor Joe Gierlach, Nederland, Colorado
Mayor Joyce Downing, Northglenn, Colorado
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Mayor Andrew Muckle, Superior, Colorado
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Mayor Greg Fischer, Louisville, Kentucky
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Mayor Johnny DuPree, Hattiesburg, Mississippi
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Mayor Albert B. Kelly, Bridgeton, New Jersey
Mayor Dana L. Redd, Camden, New Jersey
Mayor Chuck Cahn, Cherry Hill, New Jersey
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Mayor Sophie Heymann, Closter, New Jersey
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Mayor Robert L. Bowser, East Orange, New Jersey
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Mayor Wayne Smith, Irvington, New Jersey
Mayor Jerramiah Healy, Jersey City, New Jersey
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Mayor David M. DelVecchio, Lambertville, New Jersey
Mayor Richard J. Gerbounka, Linden, New Jersey
Mayor Mauro D. Raguseo, Little Ferry, New Jersey
Mayor Frank W. Minor, Logan Township, New Jersey
Mayor Nicholas Russo, Longport, New Jersey
Mayor Michael E. Beck, Lower Township, New Jersey
Mayor William Laforet, Mahwah, New Jersey
Mayor Michael Fressola, Manchester Township, New Jersey
Mayor Victor DeLuca, Maplewood, New Jersey
Mayor Frank M. North, Merchantville, New Jersey
Mayor Patrick O'Hagan, Midland Park, New Jersey
Mayor James A. Gallos, Milford, New Jersey
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Mayor Francis M. Womack, III, North Brunswick, New Jersey
Mayor Randy George, North Haledon, New Jersey
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Mayor Wilda Diaz, Perth Amboy, New Jersey
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Mayor Sharon M. Robinson-Briggs, Plainfield, New Jersey
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Mayor Nicholas Polisenio, Spotswood, New Jersey
Mayor Peter S. Rustin, Tenafly, New Jersey
Mayor Clifton People, Jr., Union, New Jersey
Mayor Brian P. Stack, Union City, New Jersey
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Mayor Robert D. Parisi, West Orange, New Jersey
Mayor Shing-Fu Hsueh, West Windsor, New Jersey
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Mayor Kenneth D. Miyagishima, Las Cruces, New Mexico
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Mayor David Coss, Santa Fe, New Mexico
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Mayor Henry Doerr, Elbridge, New York
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Mayor Ralph J. Kreitzman, Great Neck Village, New York
Mayor Barbara Moore, Greenwood Lake, New York
Mayor Martin Natoli, Hagaman, New York
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Mayor Ronald Belmont, Harrison, New York
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Mayor Richard Beirman, Sr., Herrings, New York
Mayor Bernard Jackson, Hillburn, New York
Mayor Joseph M. Lee, Hilton, New York
Mayor Richard B. Milne, Honeoye Falls, New York
Mayor Shawn Hogan, Hornell, New York
Mayor Brian C. Smith, Irvington, New York
Mayor Svante L. Myrick, Ithaca, New York
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Mayor Susan Lopatkin, Kensington, New York
Mayor Shayne R. Gallo, Kingston, New York
Mayor Robert Blais, Lake George, New York
Mayor Ronald S. Cooper, Lake Success, New York
Mayor Anne H. McAndrews, Larchmont, New York
Mayor Martin Oliner, Lawrence, New York
Mayor Carl Luft, Lima, New York
Mayor Norman L. Marsh, Little Valley, New York
Mayor Corrine Kleisle, Lyons, New York
Mayor Barbara Clark, Madison, New York
Mayor Patricia McDonald, Malverne, New York
Mayor Mark-Paul Serafin, Manlius Village, New York
Mayor James F. Hidy, Massena, New York
Mayor Dennis Leahy, Maybrook, New York

Mayor Anthony Sylvester, Mechanicville, New York
Mayor Terry Grimshaw, Mexico, New York
Mayor Richard J. Donovan, Minoa, New York
Mayor James C. Purcell, Monroe, New York
Mayor Jeffrey Oppenheim, Montebello, New York
Mayor Gordon Jenkins, Monticello, New York
Mayor Ernest D. Davis, Mount Vernon, New York
Mayor Noam Bramson, New Rochelle, New York
Mayor Mike Bloomberg, New York, New York
Mayor Peter M. Blandino, Newark, New York
Mayor Judith L. Kennedy, Newburgh, New York
Mayor Paul A. Dyster, Niagara Falls, New York
Mayor Laura Nolan, North Haven, New York
Mayor Marvin Natiss, North Hills, New York
Mayor Joseph Maiurano, Norwich, New York
Mayor Linda L. Witte, Olean, New York
Mayor Richard P. Miller, Jr., Oneonta, New York
Mayor William R. Hanauer, Ossining, New York
Mayor Brian Wona, Otisville, New York
Mayor Paul Pontieri, Patchogue, New York
Mayor Mary Foster, Peekskill, New York
Mayor Anthony Fratto, Phoenix, New York
Mayor Christopher Sanders, Piermont, New York
Mayor Donald M. Kasprzak, Plattsburgh, New York
Mayor Peter Scherer, Pleasantville, New York
Mayor Robert Weitzner, Port Washington, New York
Mayor John Bruno, Ravena, New York
Mayor Daniel J. Dwyer, Rensselaer, New York
Mayor Kevin Neary, Richmondville, New York
Mayor Thomas Richards, Rochester, New York
Mayor John Durkin, Roslyn, New York
Mayor Matthew Bloomfield, Russell Gardens, New York
Mayor Grant Rohrmoser, Sandy Creek, New York
Mayor Clyde Rabideau, Saranac Lake, New York
Mayor Scott Johnson, Saratoga Springs, New York
Mayor Gregge Harrian, Savona, New York
Mayor Gary R. McCarthy, Schenectady, New York
Mayor Paul F. Gee, Scottsville, New York
Mayor Omer Cousineau, Sharon Springs, New York
Mayor John Patterson, Sherman, New York
Mayor Ken Wray, Sleepy Hollow, New York
Mayor Leonard Szymanski, Sloan, New York
Mayor Karen Strickland, South Dayton, New York
Mayor Geoffrey N. Prime, South Floral Park, New York
Mayor Patricia DuBow, South Nyack, New York
Mayor Mark Epley, Southampton, New York
Mayor Letty J. Rudes, Speculator, New York
Mayor Joyce Lobene, Spencerport, New York
Mayor Noramie F. Jasmin, Spring Valley, New York

Mayor Dagan LaCorte, Suffern, New York
Mayor Edward Stewart, III, Sylvan Beach, New York
Mayor Stephanie A. Miner, Syracuse, New York
Mayor Drew Fixell, Tarrytown, New York
Mayor Ronald Pillozzi, Tonawanda, New York
Mayor Louis A. Rosamilia, Troy, New York
Mayor A. Martin Petrovic, Trumansburg, New York
Mayor Beth Greenwood, Tully, New York
Mayor Michael Esmay, Upper Nyack, New York
Mayor Theodore H. Young, Waterloo, New York
Mayor Michael P. Manning, Watervliet, New York
Mayor Brian D. McCoy, Wayland, New York
Mayor David Goldsmith, Wesley Hills, New York
Mayor Scott M. Burto, West Carthage, New York
Mayor John Ramundo, Jr., West Haverstraw, New York
Mayor David Carr, Westfield, New York
Mayor Thomas M. Roach, White Plains, New York
Mayor Mike Spano, Yonkers, New York
Mayor Anthony C. Leone, Jr., Yorkville, New York
Mayor Walter B. Goodenough, Carolina Shores, North Carolina
Mayor Mark Chilton, Carrboro, North Carolina
Mayor Mark Kleinschmidt, Chapel Hill, North Carolina
Mayor Darryl D. Moss, Creedmoor, North Carolina
Mayor Bill Bell, Durham, North Carolina
Mayor Jackie Holcombe, Morrisville, North Carolina
Mayor Jaqueline vdH Sergent, Oxford, North Carolina
Mayor Nancy McFarlane, Raleigh, North Carolina
Mayor Victor Varela, Ronda, North Carolina
Mayor J. Allen Joines, Winston-Salem, North Carolina
Mayor Dennis Walaker, Fargo, North Dakota
Mayor Dan Pillow, Addyston, Ohio
Mayor Donald Plusquellic, Akron, Ohio
Mayor Bernard Baronowski, Andover, Ohio
Mayor Ronald A. Bischof, Barnesville, Ohio
Mayor Deborah L. Sutherland, Bay Village, Ohio
Mayor Merle S. Gorden, Beachwood, Ohio
Mayor Daniel S. Pock, Bedford, Ohio
Mayor Fletcher Berger, Bedford Heights, Ohio
Mayor Cyril Kleem, Berea, Ohio
Mayor John M. Licastro, Bratenahl, Ohio
Mayor Samuel J. Alai, Broadview Heights, Ohio
Mayor David Seagraves, Brookville, Ohio
Mayor Lowell E. Anderson, Caldwell, Ohio
Mayor William J. Healy, II, Canton, Ohio
Mayor Tammy D. Drobina, Carroll, Ohio
Mayor Diana Stockmaster, Centerburg, Ohio
Mayor Mark Mallory, Cincinnati, Ohio
Mayor Frank Jackson, Cleveland, Ohio

Mayor Edward J. Kelley, Cleveland Heights, Ohio
Mayor Danny Stacy, Cleves, Ohio
Mayor Michael Coleman, Columbus, Ohio
Mayor William Armentrout, Creston, Ohio
Mayor Gary D. Leitzell, Dayton, Ohio
Mayor Gary L. Comer, De Graff, Ohio
Mayor Terry L. Lindeman, Doylestown, Ohio
Mayor Gary Norton, East Cleveland, Ohio
Mayor Ted Andrzejewski, East Lake, Ohio
Mayor James P. Swoger, East Liverpool, Ohio
Mayor Patricia Burnside, Englewood, Ohio
Mayor Bill Cervenick, Euclid, Ohio
Mayor Thomas H. Nagel, Fairborn, Ohio
Mayor Charles H. Johnson, Forest Park, Ohio
Mayor Gary Middlemus, Fazeysburg, Ohio
Mayor Kirk Emmert, Gambier, Ohio
Mayor Dave Nelson, Geneva-on-the-Lake, Ohio
Mayor Mark Williams, Genoa, Ohio
Mayor Alan Zaffiro, Golf Manor, Ohio
Mayor Ray E. DeGraw, Grandview Heights, Ohio
Mayor Gary Lee Young, Greenville, Ohio
Mayor Lance Westcamp, Groveport, Ohio
Mayor Richard L. Verga, Harveysburg, Ohio
Mayor Clifford Mason, Hebron, Ohio
Mayor Lou Bertrand, Hiram, Ohio
Mayor Susan J. Pelkowski, Holloway, Ohio
Mayor William A. Currin, Hudson, Ohio
Mayor Rich Blankenship, Ironton, Ohio
Mayor Jerry Fiala, Kent, Ohio
Mayor Deborah L. Neale, Lakeline, Ohio
Mayor David J. Berger, Lima, Ohio
Mayor Jo Ann Toczec, Linndale, Ohio
Mayor Patricia A. Fallot, Louisville, Ohio
Mayor Joseph M. Cicero, Jr., Lyndhurst, Ohio
Mayor Donald Kuchta, Macedonia, Ohio
Mayor Steve Adams, Malvern, Ohio
Mayor Jeffrey A. Lansky, Maple Heights, Ohio
Mayor Joe A. Matthews, Marietta, Ohio
Mayor Bruce G. Rinker, Mayfield Village, Ohio
Mayor Robert Schwab, McComb, Ohio
Mayor Glenn W. Holmes, McDonald, Ohio
Mayor Richard Cain, Mineral City, Ohio
Mayor James B. Waller, Minerva, Ohio
Mayor Susan C. Renda, Moreland Hills, Ohio
Mayor Mike Porter, Mount Gilead, Ohio
Mayor Charles Neff, Mount Sterling, Ohio
Mayor Jeffrey C. Wherley, Nellie, Ohio
Mayor James A. Friel, Newcomerstown, Ohio
Mayor Daniel R. Brooks, North College Hill, Ohio

Mayor Terrance J. McConnell, North Kingsville, Ohio
Mayor Ed Klco, North Perry, Ohio
Mayor Kathy Mulcahy, Orange Village, Ohio
Mayor Richard M. Bain, Pepper Pike, Ohio
Mayor Billy R. Spencer, Piketon, Ohio
Mayor Timothy Redden, Plymouth, Ohio
Mayor Timothy Sicafuse, Poland, Ohio
Mayor David A. Malone, Portsmouth, Ohio
Mayor Daniel J. Ursu, Richmond Heights, Ohio
Mayor William Nibert, Richwood, Ohio
Mayor William R. Flaute, Riverside, Ohio
Mayor Earl M. Leiken, Shaker Heights, Ohio
Mayor Patrick C. Monahan, Shawnee Hills, Ohio
Mayor John Smith, Silverton, Ohio
Mayor Georgine Welo, South Euclid, Ohio
Mayor Matthew Brett, South Russell, Ohio
Mayor Warren R. Copeland, Springfield, Ohio
Mayor William C. Burkhardt, St. Bernard, Ohio
Mayor Domenick Mucci, Jr., Steubenville, Ohio
Mayor Clayton Weller, Sugarcreek, Ohio
Mayor Michael P. Bell, Toledo, Ohio
Mayor Mary Myers, Verona, Ohio
Mayor Daniel V. Wilczynski, Walbridge, Ohio
Mayor Doug Franklin, Warren, Ohio
Mayor Allen Patchin, West Farmington, Ohio
Mayor Ann Schreiner, West Millgrove, Ohio
Mayor Kim Maggard, Whitehall, Ohio
Mayor William A. Margalis, Wickliffe, Ohio
Mayor Richard J. Bonde, Willowick, Ohio
Mayor Susan Upton Farley, Woodlawn, Ohio
Mayor Charles Sammarone, Youngstown, Ohio
Mayor Jeff Tilton, Zanesville, Ohio
Mayor Kitty Piercy, Eugene, Oregon
Mayor Charlie Hales, Portland, Oregon
Mayor James Hopely, Aldan, Pennsylvania
Mayor Ed Pawlowski, Allentown, Pennsylvania
Mayor Charles T. Wahl, Ambler, Pennsylvania
Mayor Gretchen Dosch, Applewold, Pennsylvania
Mayor Bernard Killian, Aspinwall, Pennsylvania
Mayor Doris E. Howell, Avondale, Pennsylvania
Mayor Alexander Bennett, Jr., Baldwin, Pennsylvania
Mayor Phillip Ferrizzi, Bally, Pennsylvania
Mayor John Arthur Brown, Bangor, Pennsylvania
Mayor Donald L. Wunderler, Bath, Pennsylvania
Mayor Cloyd W. Wagner, Beavertown, Pennsylvania
Mayor Stanley Goldman, Bellefonte, Pennsylvania
Mayor Robin J. Gochenauer, Bendersville, Pennsylvania
Mayor Gail Stoudt, Bernville, Pennsylvania
Mayor John B. Callahan, Bethlehem, Pennsylvania

Mayor Robert M. Myers, Birdsboro, Pennsylvania
Mayor Everett W. Saxton, Bolivar, Pennsylvania
Mayor Vincent H. Liebel, Boswell, Pennsylvania
Mayor Marianne Deery, Boyertown, Pennsylvania
Mayor Kenneth Lockhart, Brentwood, Pennsylvania
Mayor Verncel L. Creveling, Briar Creek, Pennsylvania
Mayor David Wonderling, Brookville, Pennsylvania
Mayor Lester J. Ward, Brownsville, Pennsylvania
Mayor Anna Marie Quader, Burgettstown, Pennsylvania
Mayor Loyce Harpster, Burnham, Pennsylvania
Mayor Margaret Stock, Butler, Pennsylvania
Mayor David H. Rhome, Canonsburg, Pennsylvania
Mayor Justin M. Taylor, Carbondale, Pennsylvania
Mayor Donald Baumgarten, Castle Shannon,
Pennsylvania
Mayor Barbara A. Schlegel, Catasauqua, Pennsylvania
Mayor James S. Perry, Chalfant, Pennsylvania
Mayor Marilyn J. Becker, Chalfont, Pennsylvania
Mayor Peter Lagiovane, Chambersburg, Pennsylvania
Mayor Ronald W. Lockwood, Cherry Valley,
Pennsylvania
Mayor John A. Linder, Chester, Pennsylvania
Mayor Paul H. McKenna, Churchill, Pennsylvania
Mayor Richard L. Lattanzi, Clairton, Pennsylvania
Mayor Andrea J. Estadt, Clarion, Pennsylvania
Mayor Harry Kelly, Clarks Summit, Pennsylvania
Mayor James P. Schell, Clearfield, Pennsylvania
Mayor John Hartman, Cleona, Pennsylvania
Mayor Frank C. Kelly, Collingdale, Pennsylvania
Mayor Daniel Rutland, Colwyn, Pennsylvania
Mayor Allen Gyorko, Confluence, Pennsylvania
Mayor Joseph Carrelli, Conyngham, Pennsylvania
Mayor Anthony G. Celeste, Coraopolis, Pennsylvania
Mayor Mark J. Thomas, Cornwall, Pennsylvania
Mayor Gail E. Knauf, Cressona, Pennsylvania
Mayor Timothy J. Carroll, Dallas, Pennsylvania
Mayor Helen R. Thomas, Darby, Pennsylvania
Mayor John Lignelli, Donora, Pennsylvania
Mayor Thomas R. Lloyd, Dormont, Pennsylvania
Mayor Richard A. Pope, Dover, Pennsylvania
Mayor Josh Maxwell, Downingtown, Pennsylvania
Mayor Libby White, Doylestown, Pennsylvania
Mayor Philip Krivacek, Duquesne, Pennsylvania
Mayor Betty M. Hays, Eagles Mere, Pennsylvania
Mayor Louis J. Payne, East Pittsburgh, Pennsylvania
Mayor Mark A. Pacilla, East Washington, Pennsylvania
Mayor Salvatore J. Panto, Jr., Easton, Pennsylvania
Mayor J. Edward Cook, Edgewood, Pennsylvania
Mayor Wayne T. Murphy, Edgeworth, Pennsylvania

Mayor Ray Plummer, Ehrenfeld, Pennsylvania
Mayor Joseph J. Cisco, Ellport, Pennsylvania
Mayor Anthony J. Court, Ellwood City, Pennsylvania
Mayor Winfield Iobst, Emmaus, Pennsylvania
Mayor Dorothy H. Quinn, Emsworth, Pennsylvania
Mayor Joseph Sinnott, Erie, Pennsylvania
Mayor Gary Foster, Evans City, Pennsylvania
Mayor D. Gary Evans, Factoryville, Pennsylvania
Mayor Charles Moore, Falls Creek, Pennsylvania
Mayor Olive McKeithan, Farrell, Pennsylvania
Mayor Gary McBrien, Felton, Pennsylvania
Mayor Robert P. Frey, Folcroft, Pennsylvania
Mayor Jose Rosado, Fountain Hill, Pennsylvania
Mayor Kim Phillips, Frackville, Pennsylvania
Mayor Fred C. Moyer, Jr., Freeburg, Pennsylvania
Mayor Gerald C. Yob, Freemansburg, Pennsylvania
Mayor James E. Swartz, Jr., Freeport, Pennsylvania
Mayor Edward F. Burns, Girardville, Pennsylvania
Mayor Arnie Bowser, Greensboro, Pennsylvania
Mayor Roy Del Rosario, Hamburg, Pennsylvania
Mayor Linda Thompson, Harrisburg, Pennsylvania
Mayor Norm Hawkes, Hatboro, Pennsylvania
Mayor Ronald Cyphert, Hawthorn, Pennsylvania
Mayor John Hoerner, Highspire, Pennsylvania
Mayor Joseph R. Dodson, Hollidaysburg, Pennsylvania
Mayor Betty Esper, Homestead, Pennsylvania
Mayor Tim McGuire, Homewood Borough, Pennsylvania
Mayor Dee Dee Brown, Huntingdon Borough,
Pennsylvania
Mayor John J. Zano, Hyde Park, Pennsylvania
Mayor George E. Hood, Indiana, Pennsylvania
Mayor Nicholas Yanosich, Industry, Pennsylvania
Mayor Gerald C. Croushore, Ingram, Pennsylvania
Mayor James C. Sanders, Jefferson, Pennsylvania
Mayor Ed Foley, Jenkintown, Pennsylvania
Mayor Donald Bosh, Knoxville, Pennsylvania
Mayor Sandra Green, Kutztown, Pennsylvania
Mayor Dorothy Shea Yazurlo, Laflin, Pennsylvania
Mayor Joseph Legnasky, Lake City, Pennsylvania
Mayor Rick Gray, Lancaster, Pennsylvania
Mayor Christopher Blaydon, Langhorne, Pennsylvania
Mayor Jayne C. Young, Lansdowne, Pennsylvania
Mayor Fred Feltenberger, Laureldale, Pennsylvania
Mayor Peter Poninsky, Leetsdale, Pennsylvania
Mayor Donald L. Rehrig, Lehigh, Pennsylvania
Mayor Deborah A. Bargo, Lewistown, Pennsylvania
Mayor Nick Vay, Lincoln, Pennsylvania
Mayor John L. Mark, Liverpool, Pennsylvania
Mayor William D. Hart, Lykens, Pennsylvania

Mayor Randy Schlegel, Lyons, Pennsylvania
Mayor Thomas A. Bell, Mahaffey, Pennsylvania
Mayor Gerard J. McGlone, Jr., Malvern, Pennsylvania
Mayor Eric B. Phillips, Manheim, Pennsylvania
Mayor David Sturgess, Manor, Pennsylvania
Mayor Jeremy A. Berardinelli, Marianna, Pennsylvania
Mayor Alexander J. Chelik, Mayfield, Pennsylvania
Mayor Terry S. Bennett, McDonald, Pennsylvania
Mayor Weslee A. Clapper-Krepps, McKean, Pennsylvania
Mayor John Christopher Soff, Meadville, Pennsylvania
Mayor Bob McMahon, Media, Pennsylvania
Mayor Ethel I. Kellerman, Milesburg, Pennsylvania
Mayor Thomas S. Kramer, Millbourne, Pennsylvania
Mayor Richard Trostle, Mohnnton, Pennsylvania
Mayor John P. Antoline, Monaca, Pennsylvania
Mayor Mary Jo Smith, Monessen, Pennsylvania
Mayor John Dorin, Montoursville, Pennsylvania
Mayor Maureen A. Piselli, Morton, Pennsylvania
Mayor Timothy M. Allison, Mount Union, Pennsylvania
Mayor Raymond Bodnar, Munhall, Pennsylvania
Mayor Stephen Szymusiak, Nanty-Glo, Pennsylvania
Mayor Joseph Taylor, New Milford, Pennsylvania
Mayor Frances Tkach, New Philadelphia, Pennsylvania
Mayor Nicholas W. DeSantis, New Stanton, Pennsylvania
Mayor Mary M. Hetrick, Newport, Pennsylvania
Mayor Lee I. Hall, North Charleroi, Pennsylvania
Mayor Thomas Reenock, Northhampton, Pennsylvania
Mayor George F. McCloskey, Norwood, Pennsylvania
Mayor Michele Petrini Avvisato, Old Forge, Pennsylvania
Mayor Austin Scandiber, Orwigsburg, Pennsylvania
Mayor Lewis Paul Cowher, Osceola Mills, Pennsylvania
Mayor Geoffrey L. Henry, Oxford, Pennsylvania
Mayor Fred Carpenter, Palmyra, Pennsylvania
Mayor William McCall, Parker, Pennsylvania
Mayor Ardele R. Gordon, Parkside, Pennsylvania
Mayor Robert Winkler, Pennndel, Pennsylvania
Mayor Michael Nutter, Philadelphia, Pennsylvania
Mayor Kimberly D. Brown-Zerbe, Pine Grove, Pennsylvania
Mayor Luke Ravenstahl, Pittsburgh, Pennsylvania
Mayor Bonnie Heath, Pottstown, Pennsylvania
Mayor John D.W. Reiley, Pottsville, Pennsylvania
Mayor Vaughn D. Spencer, Reading, Pennsylvania
Mayor Dr. Guillermo Udarbe, Ridgway, Pennsylvania
Mayor Desiree D. DeNicola, Roseto, Pennsylvania
Mayor Edwin W. Rosenberry, Saxton, Pennsylvania
Mayor Thomas C. Hufnagle, Sellersville, Pennsylvania
Mayor Anthony Hajjar, Seward, Pennsylvania

Mayor Joseph A. McGranaghan, Shamokin Dam, Pennsylvania
Mayor Robert O'Neill, Sharon Hill, Pennsylvania
Mayor Richard Panza, Sharpsburg, Pennsylvania
Mayor Bruce Hockersmith, Shippensburg, Pennsylvania
Mayor Boyd E. Paul, Snow Shoe, Pennsylvania
Mayor William Meyer, Somerset, Pennsylvania
Mayor John Reynolds, Souderton, Pennsylvania
Mayor James C. Kennedy, South Coatesville, Pennsylvania
Mayor Clyde R. Wadsworth, South Fork, Pennsylvania
Mayor Elizabeth A. Goreham, State College, Pennsylvania
Mayor Thomas F. Acri, Steelton, Pennsylvania
Mayor Sherman Metzgar, Stockertown, Pennsylvania
Mayor William A. Boyd, Stoystown, Pennsylvania
Mayor Harold Randy Davis, Strattenville, Pennsylvania
Mayor Charles Baughman, Stroudsburg, Pennsylvania
Mayor William A. Davis, Sugar Notch, Pennsylvania
Mayor Paul R. McArdle, Summit Hill, Pennsylvania
Mayor David L. Persing, Sunbury, Pennsylvania
Mayor Richard H. Lowe, Swarthmore, Pennsylvania
Mayor Luke Duignam, Tatamy, Pennsylvania
Mayor Jay R. Stover, Telford, Pennsylvania
Mayor Charles Harper, Three Springs, Pennsylvania
Mayor Kenneth Danser, Timblin, Pennsylvania
Mayor Francis B. Zalewski, Trainer, Pennsylvania
Mayor William Allar, Tremont, Pennsylvania
Mayor J. David Cutchineal, Tullytown, Pennsylvania
Mayor LeAnn Hritz, Tunnelhill, Pennsylvania
Mayor Adam R. Forgie, Turtle Creek, Pennsylvania
Mayor Thomas Micozzie, Upper Darby, Pennsylvania
Mayor Jeffrey Steffler, Wampum, Pennsylvania
Mayor Esther Cotner, Washingtonville, Pennsylvania
Mayor Richard A. Starliper, Waynesboro, Pennsylvania
Mayor Carolyn T. Comitta, West Chester, Pennsylvania
Mayor Gerald W. Gross, West Easton, Pennsylvania
Mayor Ralph Harrington, West Elizabeth, Pennsylvania
Mayor Frank Schmidt, West Hazleton, Pennsylvania
Mayor John W. Dindak, West Homestead, Pennsylvania
Mayor Mary E. Popovich, West Newton, Pennsylvania
Mayor John Henry, West View, Pennsylvania
Mayor Dick Vargeson, Westfield, Pennsylvania
Mayor James F. Nowalk, Whitehall Borough, Pennsylvania
Mayor Edward D. Hozza, Jr., Whitehall Township, Pennsylvania
Mayor Thomas M. Leighton, Wilkes-Barre, Pennsylvania
Mayor John A. Thompson, Wilkinsburg, Pennsylvania

Mayor David Perruso, Wilson, Pennsylvania
Mayor Larry Markel, Windsor, Pennsylvania
Mayor Dolores Jones-Butler, Yeadon, Pennsylvania
Mayor John Sanford, Yoe, Pennsylvania
Mayor C. Kim Brace, York, Pennsylvania
Mayor Alford Shull, York Springs, Pennsylvania
Mayor Joan Derco, Youngwood, Pennsylvania
Mayor Charles Lombardi, North Providence, Rhode Island
Mayor Donald Grebien, Pawtucket, Rhode Island
Mayor Angel Taveras, Providence, Rhode Island
Mayor Scott Aredisian, Warwick, Rhode Island
Mayor Joseph Riley, Charleston, South Carolina
Mayor Joseph T. McElveen, Jr., Sumter, South Carolina
Mayor Darrick Jackson, Timmons, South Carolina
Mayor Ron Littlefield, Chattanooga, Tennessee
Mayor Jerry Gist, Jackson, Tennessee
Mayor Thomas W. Taylor, Maryville, Tennessee
Mayor A C Wharton, Memphis, Tennessee
Mayor Tom Beehan, Oak Ridge, Tennessee
Mayor Bill Lusk, Signal Mountain, Tennessee
Mayor Lee Leffingwell, Austin, Texas
Mayor Tony Martinez, Brownsville, Texas
Mayor Carl D. Sherman, DeSoto, Texas
Mayor Annise D. Parker, Houston, Texas
Mayor Richard Ward, Hurst, Texas
Mayor Dave Claunch, West Lake Hills, Texas
Mayor Dana Williams, Park City, Utah
Mayor Thom Lauzon, Barre, Vermont
Mayor Miro Weinberger, Burlington, Vermont
Mayor John Hollar, Montpelier, Vermont
Mayor Christopher C. Louras, Rutland City, Vermont
Mayor William B. Euille, Alexandria, Virginia
Mayor Faye Prichard, Ashland, Virginia
Mayor Ron Rordam, Blacksburg, Virginia
Mayor Satyendra Singh Huja, Charlottesville, Virginia
Mayor McKinley Price, DDS, Newport News, Virginia
Mayor Paul D. Fraim, Norfolk, Virginia
Mayor Brian A. Moore, Petersburg, Virginia
Mayor Robert W. Lazaro, Jr., Purcellville, Virginia
Mayor Dwight C. Jones, Richmond, Virginia
Mayor David A. Bowers, Roanoke, Virginia
Mayor William D. Sessoms, Jr., Virginia Beach, Virginia
Mayor Kelli Linville, Bellingham, Washington
Mayor H. Clarence Bauman, Chewelah, Washington
Mayor Garland D. Walton, Connell, Washington
Mayor Will Ibershof, Duvall, Washington
Mayor Liz Reynolds, Enumclaw, Washington
Mayor Gary S. Jensen, Ferndale, Washington

Mayor Ava Frisinger, Issaquah, Washington
Mayor Ron Poulson, Kalama, Washington
Mayor David M. Ferguson, Mesa, Washington
Mayor Daniel N. Mork, Millwood, Washington
Mayor James F. Gerwig, Morton, Washington
Mayor Dennis Palmer, Oakesdale, Washington
Mayor Spencer Nichols, Pe Ell, Washington
Mayor Paul Warden, Prosser, Washington
Mayor John Marchione, Redmond, Washington
Mayor Terry Anderson, SeaTac, Washington
Mayor Mike McGinn, Seattle, Washington
Mayor Matthew Larson, Snoqualmie, Washington
Mayor Dianne W. White, Stanwood, Washington
Mayor Marilyn Strickland, Tacoma, Washington
Mayor Soo Ing-Moody, Twisp, Washington
Mayor Richard F. Turner, Mayor, Weehawken
Mayor Harrold H. Howell, Jr., Madison, West Virginia
Mayor William C. Whalen, Ashland, Wisconsin
Mayor Larry MacDonald, Bayfield, Wisconsin
Mayor Keith G. Bosman, Kenosha, Wisconsin
Mayor Paul R. Soglin, Madison, Wisconsin
Mayor Justin M. Nickels, Manitowoc, Wisconsin
Mayor Chris L. Meyer, Marshfield, Wisconsin
Mayor Kurt Sonnentag, Middleton, Wisconsin
Mayor Tom Barrett, Milwaukee, Wisconsin
Mayor Steve Scaffidi, Oak Creek, Wisconsin
Mayor John T. Dickert, Racine, Wisconsin
Mayor James E. Tipple, Wausau, Wisconsin
Mayor Vincent C. Gray, Washington, D.C.



City of Ypsilanti

City Manager's Office

Memorandum

To: Mayor Schreiber and City Council

From: Ralph Lange, City Manager

Date: February 15, 2013

Subject: Annual Living Wage Report

Pursuant to the Living Wage Ordinance, outlined below is the annual report to the Mayor and City Council regarding the living wage.

In the past year, we have had contracts subject to the Living Wage Ordinance. The companies listed below have submitted the proper paperwork to be in compliance with the Living Wage Ordinance.

Al's Asphalt Paving	Pittsfield Charter Township
Barr-Anhut & Associates	P.K. Contracting
Denney Constructions	Rehmann Robson PC
Environmental Wood Solution	Saf' Play Services Inc.
Louie's Landscaping, Inc.	Saladino Construction Co.

There have been no significant problems with compliance with the Ordinance. The Human Resources Department has verified that the contracts comply with the provisions of the Ordinance. A Letter of Verification or payroll records were obtained from those companies.

To date, there have been no complaints filed in relation to the Ordinance.



City of Ypsilanti

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Resolution No. 2013-039
February 19, 2013

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: _____

SUPPORTED BY: _____

YES: NO: ABSENT: VOTE: