



Planning Commission
97 North Broad Street
Hillsdale, Michigan 49242-1695
(517) 437-6440 Fax: (517) 437-6450

Planning Commission Agenda
September 15, 2021

- I. Call to Order 5:30 pm**
 - A. Pledge of Allegiance
 - B. Roll Call

- II. Public Comment**
 - Any Commission related item – 3 min. limit

- III. Consent Items/Communications**
 - A. Approval of agenda – **Action**
 - B. Approval of Planning Commission 8-18-2021 minutes – **Action**
 - C. Communications
 - 1. R2PC September Meeting Packet

- IV. Site Plan Review**
 - A. 190 Uran St., Building 186 Additions

- V. Old Business**
 - A. PC Bylaws – COI section

- VI. New Business**
 - A. B-2 Downtown Ordinance Review

- VII. Zoning Administrator Report**

- VIII. Commissioners' Comments**

- IX. Adjournment**

Next meeting Wednesday, October 20, 2021 at 5:30 pm

Planning Commission Meeting Minutes
Hillsdale City Hall
Council Chambers
August 18, 2021
5:30 pm

Call to Order

Meeting opened at 5:30pm by Chairman Moore with Pledge of Allegiance, followed by roll call by Secretary Swan.

Members Present

Members Present: Chairman Moore, Vice Chairmen Scholl, Secretary Swan, Commissioner Morrisey, Commissioner McConnell, Commissioner Laycock.

Member Absent: Commission Parker.

Public Present: Alan Beeker Zoning Administrator, Jack McLain.

Consent Agenda and Minutes

Motion to approve consent items and communications along with the minutes from the June 30 meeting made by Commissioner Laycock, seconded by Commissioner Morrisey, motion passed unanimously.

Public Comment

Jack McClain stated he does not think 153 Hillsdale Street meets current zoning and stated some of the zoning regulations do not match. He also stated Hillsdale should put in charging stations for electric vehicles.

Master Plan Public Hearing

No public comment and no discussion from the Commission.

Motion made by Commissioner Morrisey to recommend the Master Plan to the Hillsdale City Council for adoption, seconded by Vice Chairmen Scholl, Motion passed unanimously.

Old Business

No Old Business.

New Business

Bylaws Review:

Discussion on requirements for continuing education, discussion on ex parte communication.

Walking Trail Access Policy:

Discussion about coming up with a policy and then sending it to Council.

Zoning Ordinance Review Update:

Alan Beeker updated the Commission on things that are being looked at, he will be bringing something more back for the Commission to review and work on.

Zoning Administrator Report

Alan Beeker asked if there are any commissioners that would be willing to put together the annual planning commission report to present or give to council. Chairman Moore said he would take that task on. Alan gave a heads up about a DuPont project review that will be in next month's packet. Alan also said the Keefer Hotel project was started and gave an update.

Commissioner's Comments

Chairman Moore stated he had tried the car charger in Jonesville and how slow the charge was and that most will be overnight charging stations.

Adjournment

Motion to adjourn at 6:15pm by Commissioner Morrisey, seconded by Commissioner Laycock, motion passed unanimously.

Minutes respectfully submitted by Secretary Swan.

Next meeting: September 15, 2021 at 5:30 pm.

AGENDA

REGION 2 PLANNING COMMISSION

Full Commission

FOR FURTHER INFORMATION, CONTACT:

Steven Duke, Executive Director
(517) 768-6706

DATE: Thursday, September 9, 2021

TIME: 2:00 P.M.

WHERE:

Jackson County Tower Bldg.
120 W. Michigan Ave., 5th Fl.
Jackson, MI 49201

Comments will be solicited on each item following discussion and prior to any final action.

PAGE #

1. Call to Order
2. Approval of the September 9, 2021 Agenda – **ACTION**
3. Public Comment
4. Approval of the Full Commission Meeting Minutes for July 8, 2021 (see enclosure) – **ACTION** 2
5. Approval of Action Taken at the August 12, 2021 Executive Committee Meeting (see enclosure) – **ACTION** 5
6. Receipt of Treasurer's Report of August 31, 2021 (see enclosure) – **ACTION** 8
7. Approval of September 9, 2021 Submitted Bills (see enclosure) – **ACTION** 12
8. Staff Progress Report for August, 2021 (see enclosure) – **DISCUSSION** 13
9. Approval of Amendments to the JACTS FY 2020-2023 Transportation Improvement Program (TIP) (see enclosure) – **ACTION** 18
 - Jackson County Department of Transportation
10. Approval of the 2050 JACTS Long Range Transportation Plan (LRTP) Socio-Economic Data (see enclosure) – **ACTION** 19
11. Approval of Travel Request to Attend the Michigan Association of Regions (MAR) Annual Conference, Muskegon, MI (see enclosure) – **ACTION** 21
12. Retirements – R2PC Chair and the Executive Director (see enclosure) – **ACTION** 22
 - Appointment of new R2PC Chair
 - Appointment of R2PC Executive Director / Approval of 3-year Contract
 - Approval of Part-Time Employment Agreement with Steve Duke
13. Other Business
 - REMINDER - The October 14, 2021 R2PC Executive Committee Meeting is at Lenawee Now, 5285 W. US-223, Adrian, MI 49221
 - Annual Dinner Discussion
14. Public Comment / Commissioners' Comments
15. Adjournment

Region 2 Planning Commission

120 West Michigan Avenue • Jackson, Michigan 49201 • ☎ (517) 788-4426 • 📠 (517) 788-4635

Region 2 Planning Commission

Serving Hillsdale, Jackson and Lenawee Counties

MEETING MINUTES

Region 2 Planning Commission - Full Commission

**** ZOOM MEETING ****

Thursday, July 8, 2021

I. **Call to Order** – Chair Terry called the meeting to order at 2:01 PM. A quorum was present.

Attendance:

Acker	Driskill (E)	Jenkins	✓ Shotwell
Adams	Duckham (E)	Jennings	Sigers (E)
✓ Bair (E)	Elwell (E)	Karnaz	✓ Snell
Baker	Frazier	Kastel	Snow
Bales	Gaede (E)	Keller	✓ Southworth
Barnhart	Gallagher, D.	Koehn	Sutherland
Beach	Gallagher, F.	Kubish (E)	Swartzlander (E)
Beckner	Gentner	Lammers	Teriaco
Beeker (E)	✓ Goetz	Lance	✓ Terry (E)
Blythe	Gould, J.	Linnabary	Tillotson (E)
Boggs	✓ Gould, L. (E)	McClary	Todd
Bolton	Grabert (E)	Miller	Votzke
Bush	Greene (E)	Navarro	Wagner
✓ Camacho	Greenleaf	Nickel	Wardius
Chamberlain	Griffin	Overton (E)	Webb
Collins	✓ Guetschow (E)	Pixley	Wiley
Cornish	Hartsel	✓ Poleski	Williams
Cousino	Hawkins	Richardson	Wilson
Cure	✓ Hawley	Ries	Winter
David	Heath	Root	✓ Witt (E)
DeBoe	✓ Herlein	✓ Schlecte	✓ Wittenbach (E)
Dillon	Horwath	Sessions	
✓ Drake (E)	Jancek (E)	Shaw	

Key: ✓ = present (E) = Executive Committee member

Staff Present: Grant Bauman, Tanya DeOliveira, Steve Duke, James Latham

Others Present: Christine Beech, Rives Township; Mike Davis, MDOT; Angie Kline, JCDOT; Katie Stewart, MDOT; Bret Taylor, JCDOT; Joan Havican, Village of Parma; Katie Stewart, MDOT

- II. **Approval of the July 8, 2021 Agenda** – The motion was made by Comm. Snell, supported by Comm. Schlecte, to approve the July 8, 2021 agenda as presented. The motion carried unanimously.
- III. **Public Comment** – Chair Terry requested public comment. No comments were received.
- IV. **Approval of the Full Commission Meeting Minutes for May 13, 2021** – The motion was made by Comm. Bair, supported by Comm. Snell, to approve the Full Commission meeting minutes of May 13, 2021 as submitted. The motion carried unanimously.
- V. **Approval of the Action Taken at the June 10, 2021 Executive Committee Meeting** – The motion was made by Comm. Bair, supported by Comm. Snell, to approve the action taken at the June 10, 2021 Executive Committee meeting. The motion carried unanimously.
- VI. **Receipt of Treasurer’s Report of June 30, 2021** – A motion was made by Comm. Snell, and supported by Comm. Camacho, to receive the June 30, 2021 Treasurer’s Report as presented. The motion carried unanimously.
- VII. **Approval of July 8, 2021 Submitted Bills** – A motion was made by Comm. Bair, supported by Comm. Snell, to approve payment of the July 8, 2021 submitted bills. The motion carried unanimously.
- VIII. **Staff Progress Report for June, 2021** – The June, 2021 staff progress report was included in the agenda packet. The R2PC staff each reported on their planning activities for the month.
- IX. **Approval of Amendments to the JACTS FY 2020-2023 Transportation Improvement Program (TIP)** – The following amendment was submitted for Commission review and approval:

Ms. Kline reported that the Jackson County Department of Transportation (JCDOT) was requesting the following “regionally significant” project be included in the JACTS FY 2020-2023 Transportation Improvement Program (TIP):

FY	Name	Limits	Description	Funding	Action
2021	County Farm – Springport Corridor Improvement Project	County Farm Road, from Dearing to Shirley	County Farm rehabilitation, new construction of Technology Drive North	\$5,918,000 EDA \$1,279,500 Local \$7,397,500 Total	Add

The motion was made by Comm. Bair, supported by Comm. Snell, to approve the proposed JCDOT amendment as presented. The motion carried unanimously.

- X. **Approval of the R2PC FY 2022 Planning Work Program (PWP)** – Mr. Duke reviewed the R2PC FY 2022 PWP and budget included in the agenda packet. The total budget revenues are projected to be \$852,437 for the fiscal year beginning October 1, 2021 and ending September 30, 2022. Revenue sources include MDOT, FHWA, EDA, OHSP, and membership dues. Mr. Duke reported that included in the budget is a 3 percent cost of living increase for staff.

The motion was made by Comm. Drake, supported by Comm. Bair, to approve the FY 2022 PWP and budget as presented. The motion carried unanimously.

- XI. Approval of the R2PC FY 2022 Regional Transportation Planning Work Program and Resolution** – Mr. Duke reviewed the R2PC FY 2022 Regional Transportation Work Program which lists the various activities to be completed for MDOT and Hillsdale, Jackson, and Lenawee counties. The MDOT grant for this program is funded at \$51,279 and requires no local matching funds.

The motion was made by Comm. Shotwell, supported by Comm. Bair, to approve the FY 2022 Regional Transportation Planning Work Program and authorizing the R2PC Chair and Executive Director to sign the MDOT project agreement for receipt of the funds as described above. The motion carried unanimously.

- XII. Other Business** – Mr. Duke reported that R2PC received notification from Raisin Charter Township soliciting public comments on their 2021 edition of the Raisin Township Master Plan. The plan can be viewed on the township's website.

The City of Reading, per the Michigan Planning Enabling Act, notified the R2PC that they have adopted their Master Plan on June 8, 2021.

Mr. Duke asked the Commissioners if they thought we should have our annual dinner and meeting this year in November. The dinner was canceled last year due to the pandemic. The consensus of those in attendance was to host the annual meeting this fall.

Commissioner Goetz asked Mike Davis, MDOT, if MDOT could review visibility issues with the US-223/Horton Road intersection in Lenawee County.

Mr. Duke reported that the City of Jackson has lifted their State of Emergency, therefore, all future meetings will be conducted in person beginning with the August, 2021 Executive Committee meeting.

No other business was brought before the Commission.

- XIII. Public / Commissioners' Comments** – No additional public or Commissioner comments were received.

- XIV. Adjournment** – There being no further business, Chair Terry adjourned the meeting at 2:40 PM on a motion by Comm. Shotwell, and supported by Comm. Bair.

Chris Wittenbach
Secretary

Region 2 Planning Commission

Serving Hillsdale, Jackson and Lenawee Counties

MINUTES

Region 2 Planning Commission – Executive Committee
Hillsdale City Hall
97 N. Broad Street
Hillsdale, MI 49242

Thursday, August 12, 2021

- I. **Call to Order** – Chair Terry called the meeting to order at 2:10 p.m. A quorum was present.

Executive Committee Members:

✓ Bair	Grabert	✓ Terry
✓ Beeker	Greene	✓ Tillotson
Drake	Guetschow	Witt
Driskill	✓ Jancek	✓ Wittenbach
Duckham	Kubish	
✓ Elwell	Overton	
Gaede	Sigers	
✓ Gould	Swartzlander	

Key: ✓ = present

Other Commissioners Present: Christine Beecher; Judy Southworth

Others Present: Chad Cumberworth, Jackson Area Transportation Authority; Sue Smith, Hillsdale EDP

Staff Present: Duke, Hurt

- II. **Pledge of Allegiance** – Those present rose for the Pledge of Allegiance.
- III. **Approval of the Agenda** – A motion was made by Comm. Tillotson, supported by Comm. Bair, to approve the August 12, 2021 Executive Committee agenda as presented. The motion carried unanimously.
- IV. **Public Comment** – Chair Terry announced the first opportunity for public comment. No public comments were received.

- V. **Approval of Minutes of the June 10, 2021 Executive Committee Meeting** – A motion was made by Comm. Jancek, supported by Comm. Bair, to approve the June 10, 2021 Executive Committee meeting minutes as submitted. The motion carried unanimously.
- VI. **Receipt of the Treasurer’s Report of July 31, 2021** – A motion was made by Comm. Bair, supported by Comm. Jancek, to approve receipt of the Treasurer’s Report for July 31, 2021. The motion carried unanimously.
- VII. **Approval of the August 12, 2021 Submitted Bills** – A motion was made by Comm. Jancek, supported by Comm. Bair, to approve payment of the August 12, 2021, submitted bills as presented. The motion carried unanimously.
- VIII. **Staff Progress Report for July, 2021** – Mr. Duke presented highlights from the staff report:
 - Staff conducted the second CEDS Committee meeting
 - Staff sent out approximately 150 surveys to property owners in the Leoni Downtown Development District to gather input for the strategic plan
 - The R2PC will be hosting an informational workshop on the American Rescue Plan Act (ARPA) funding on October 13th
 - Staff conducted Rural Task Force meetings in each of the three counties to allocate HIP Covid transportation funds
 - Staff developed base-year socio-economic data for the JACTS 2050 Long Range Transportation Plan update
 - Staff preparing the FY 2022 OHSP enforcement grant
 - Staff submitted the draft Jackson County Hazard Mitigation Plan to the MSP for review and comment
 - Staff continued working on numerous master/recreation plans throughout the region
- IX. **Hillsdale Economic Development Partnership Update** -- Ms. Sue Smith, CEO, updated the Committee on recent activities the Hillsdale Economic Development Partnership staff assisted with or participated in over the past several months.
- X. **Approval of Amendments to the JACTS FY 2020-2023 Transportation Improvement Program (TIP)** – The following amendments to the JACTS FY 2020-2023 Transportation Improvement Program (TIP) were submitted for review and approval.

Mr. Cumberworth reported that JATA was requesting the following amendments to the JACTS FY 2020-2023 Transportation Improvement Program (TIP):

FY	Name	Limits	Primary Work Type	Description	Funds & Source
2021	5307 – CTF Urbanized Formula	Countywide	Operating	Operating Assistance	\$1,315,859 – Federal (5307) \$1,717,224 – State (CTF) \$3,033,083 – Total
2021	5307 – CTF Urbanized Formula	Countywide	Operating	1% safety & security from Section 5307 Federal Operating	\$13,159 – Federal (5307) \$3,290 – State (CTF) \$16,449 – Total

Mr. Duke reported that MDOT was requesting the following amendment to the JACTS FY 2020-2023 Transportation Improvement Program (TIP):

FY	Job number	Phase	Name	Limits	Length	Description	Funds & Source	Amendment Type
2021	209494	ROW	TSC Wide	Various Locations – Jackson TSC	0	Modernizing signalized intersection to current standards	\$35,000 – Federal (STG) \$0 – State \$35,000 - Total	Budget over 25%
2021	212899	CON	I-94	I-94 from Jackson/Calhoun County Line east to M-60 in Jackson County	12.405	Tree removal and ROW fencing removal / installation	\$1,129,825 – Federal (IM) \$125,536 – State \$1,255,361 – Total	Add

The motion was made by Comm. Jancek, supported by Comm. Elwell, to approve the proposed Jackson Area Transportation Authority and MDOT amendments as presented. The motion carried unanimously.

- XI. **Other Business** – Mr. Duke stated that the R2PC annual dinner and meeting will be held November 4th at the Jackson County Country Club. Invitations will be included in the September agenda packet.

Included in the agenda packet was a meeting calendar for the remainder of 2021. The meetings will be conducted in person.

- XII. **Public Comment / Commissioners Comments** – Chair Terry announced that he will be retiring as the manager of the City of Litchfield at the end of September; therefore, Vice-Chair Jancek will assume Chair responsibilities until elections are held in February, 2022.

Chair Terry reported that Executive Director Duke plans to retire in the near the future. Discussions are underway by the Personnel & Finance Committee to find a new Executive Director.

- XIII. **Adjournment** – There being no further business, the meeting was adjourned by Chair Terry at 3:01 p.m.

Chris Wittenbach
Secretary

REGION 2 PLANNING COMMISSION
Treasurer's Report - Monthly Summary
as of August 31, 2021

Checking Account Balance ending July 31, 2021		\$	546,577.88
Deposit Summary:			
<i>August 2021 EFT Deposits</i>		\$	-
<i>August 2021 Bank Deposits</i>			5,872.46
<i>August 2021 Adjustments</i>			(830.05)
Total Deposits plus Bank Balance		\$	<u>551,620.29</u>
Expenses:			
<i>Submitted Expenses - August 2021 **</i>	\$	(16,438.60)	
<i>Interim Expenses</i>		(2,647.63)	
<i>Payroll/Related Expenses</i>		(29,337.07)	
Subtotal of Expenses	\$	<u>(48,423.30)</u>	\$ (48,423.30)
Balance Checking Account ending August 31, 2021		\$	503,196.99
<i>Balance CD Investments ending August 31, 2021</i>		\$	<u>106,148.33</u>
Total Cash on Hand		\$	<u>609,345.32</u>

**Note that this amount can include cleared checks from prior months' submitted bills.

REGION 2 PLANNING COMMISSION
Deposits and Adjustments to Cash
as of August 31, 2021

8/31/2021	EFT Deposits:		\$ -
	None		
	Subtotal - EFT Deposits		\$ -
8/31/2021	Check Deposits:		
	Grass Lake Charter Township - Planning Services Through June	2,114.42	
	Hanover Township - Planning Services Through June	2,989.44	
	Village of Brooklyn - Planning Services Through June	768.60	
	Subtotal - Check Deposits		\$ 5,872.46
8/31/2021	Adjustments to cash:		
	<i>Bank fees - August</i>	\$ (143.52)	
	<i>Paycor Fees - August</i>	(232.50)	
	<i>Credit Card Charges - Postage - August</i>	(169.60)	
	<i>Credit Card Charges - Supplies - Office Max</i>	(74.35)	
	<i>Credit Card Charges - Meals - Artesian Wells LLC</i>	(142.48)	
	<i>Credit Card Charges - Meals - The Dirty Bird</i>	(31.60)	
	<i>Credit Card Charges - Software - DataMgmt Time Clock</i>	(36.00)	
	Subtotal - Adjustments to Cash		\$ (830.05)
	Total Net Deposits		\$ 5,042.41

**REGION 2 PLANNING COMMISSION
INTERIM BILLING and PAYROLL EXPENSES
as of August 31, 2021**

Interim Billing for August, 2021

<u>Vendor</u>	<u>Description</u>	<u>Amount</u>	<u>Check #</u>
Allegra	R2PC Packet - July 2021	\$ 143.08	14975
Hillsdale County Road Commission	Rental of Community Center	\$ 250.00	14981
Jackson County	Postage - July 2021	\$ 76.19	14980
Jackson County	Accounting Services/Phone	\$ 1,904.22	14980
Legal News	Subscription Renewal	\$ 80.00	14986
Mlive	Advertising	\$ 194.14	14984
Total Interim Billing for August, 2021		\$ 2,647.63	

Payroll & Travel Related Expenses:

<i>Paid August 6, 2021</i>		<i>by Direct Deposit/EFT</i>	
Paycor	Payroll Disbursement	\$ 14,433.33	
G. Bauman	Travel Reimbursement	\$ 54.66	
J. Hurt	Travel Reimbursement	\$ 66.08	
J. Liogghio	Supplies	\$ 44.46	
Total		\$ 14,598.53	

<i>Paid August 20, 2021</i>		<i>by Direct Deposit/EFT</i>	
Paycor	Payroll Disbursement	\$ 14,483.23	
T. DeOliveira	Travel Reimbursement	\$ 31.31	
J. Hurt	Travel Reimbursement	\$ 224.00	
Total		\$ 14,738.54	

Total Payroll Expenses for August, 2021		\$ 29,337.07	
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**Region 2 Planning Commission
Outstanding Accounts Receivable
as of August 31, 2021**

Municipality/Source	Date	Inv. No.	Amount
Raisin Township - planning services through June	7/14/2021	3502	4,113.74
Somerset Township - planning services through June	7/14/2021	8004	1,804.35
MDOT - Rural Task Force - planning services through June	8/27/2021	2006	4,005.35
MDOT - Asset Management - planning services through June	8/27/2021	2004	1,300.00
MDOT - FHWA - planning services through June	8/27/2021	2005	52,893.93
MSP - Jackson County - Hazard Mitigation Grant through June	8/27/2021	2012	18,885.90

FY 2021 Balance as of August 31, 2021

\$ 83,003.27

REGION 2 PLANNING COMMISSION
Submitted Bills
September 9, 2021

Vendor	Description	Amount Due
Blue Cross/Blue Shield	Employee Health Ins. (Oct. 2021)	\$ 4,938.98
Blue Cross/Blue Shield	Supplement F (Oct. 2021)	\$ 241.57
Blue Cross/Blue Shield	Prescription Coverage (Oct. 2021)	\$ 109.30
City of Jackson	Traffic Counts 10/1/20-6/30/21/UWP Reimb.	\$ 15,602.03
County of Jackson	Rent Expense for September 2021	\$ 3,201.58
ICMA Retirement Trust	ICMA 401 Contribution	\$ 2,478.57
Jackson Area Transp. Auth.	JACTS UWP FY 2021	\$ 12,001.72
The SBAM Plan	Group Life/AD&D (Oct. 2021)	\$ 139.02
Vantage Point Transfer Agents	ICMA RHS Contribution	\$ 291.53
Total Submitted Billing - September, 2021		\$ 39,004.30

Region 2 Planning Commission

Serving Hillsdale, Jackson and Lenawee Counties

Staff Progress Report *August, 2021*

Area-Wide Regional Planning Activities

Economic Development Activities

- **Economic Development Administration (EDA).** Staff was involved in the following activities on behalf of the R2PC Economic Development District (EDD):
 - Non-competitive EDD (Economic Development District) CARES (Coronavirus Aid, Relief, and Economic Security) Act supplemental grant award to address the economic consequences of the COVID-19 Pandemic. The \$351,183 award will fund the launching of an easy-to-use website that will serve as a resource for local businesses, the hiring of a disaster recovery coordinator, and the implementation of other CEDS goals.
 - Staff provided additional COVID recovery information and resources to MMTC to populate the COVID recovery website throughout August.
 - Staff submitted the required semi-annual ED-916 GRPA reports to EDA for the CARES Act grant on August 20.
 - EDA grant award for R2PC EDD's FY 2021 Partnership Planning Assistance, which will be used to write the 2021-2025 edition of the Region 2 Economic Development District Comprehensive Economic Development Strategy (CEDS).
 - Staff participated in EDA's American Recovery Plan Act (ARPA) webinar focused on Travel and Tourism, which includes outdoor recreation, on August 3.
 - Staff facilitated the third 2021 CEDS Committee meeting on August 4 at the Lenawee Community Foundation.
 - Staff submitted the required semi-annual ED-916 GRPA reports to EDA for the FY 2021 Partnership Planning grant on August 20.
- **Downtown Development Authorities (DDAs).** Staff attended the monthly meetings of the City of Jackson.
 - Staff began analyzing the Leoni DDA Master Plan survey results and continued narrative development for the Leoni DDA Downtown Master Plan.
 - Staff assisted the Jackson DDA with an on-site inventory of all the graffiti located within the district's boundaries. The final report, including photos, will be delivered to the City for further action.

[August, 2021 Staff Progress Report]

R2PC Activities

- **R2PC Website.** Staff continued updating www.region2planning.com.
- **ARPA Workshop.** The R2PC will be hosting a virtual informational workshop on Wednesday, October 13th (9 AM to Noon), sponsored by Michigan State University, regarding local government American Rescue Plan funding. The focus of the meeting will be to provide assistance in understanding the guidance, best practices, documentation of funds, and understanding federal procurement guidelines.
- The Personnel and Finance Committee met regarding the September 30th retirement of Steve Duke, Executive Director, and Chair Doug Terry, Manager – City of Litchfield. An interview was conducted with a potential candidate for the Executive Director’s position.
- Staff attended a City of Jackson Brownfield Redevelopment Committee meeting and the newly organized downtown retailers “Vagrant, Panhandlers, Loiters” committee meeting.
- Tanya DeOliveira, Principal Transportation Planner, resigned her position at R2PC effective August 31, 2021.

Regional Transportation Planning Hillsdale, Jackson, and Lenawee Counties

Program Management

- **Rural Task Force.** Staff submitted the Rural Task Force monthly progress report to MDOT and participated in the monthly conference call. Funds for the upcoming FY 2023 – 2026 STIP cycle are not yet available.
- **Asset Management.** Staff participated in the monthly statewide conference call. Staff shared that the Jackson County Department of Transportation was in the midst of their data collection. The Hillsdale County Road Commission and the Lenawee County Road Commission were both waiting until September/October to collect PASER data. The City of Jackson hired a consultant to do their inventory and will have the work completed by the end of September.
- **CMAQ.** The Lenawee County CMAQ Committee was informed they are eligible for program funding during the FY2023 – 2026 call for projects. The committee will meet later this fall at a public meeting to decide what projects will be funded.
- **Small Urban Program.** Staff notified members of the Adrian/Tecumseh/Clinton and the Hillsdale/Jonesville small urban program that the FY 2023 – 2026 call for projects and public meetings for the new STIP will be happening this fall.
- Staff attended a workshop and site visit to review possible trail connections between the west end of the Falling Waters Trail in Concord in Jackson County and either Homer or Albion in Calhoun County. Staff is working with state agencies and community officials to identify a feasible route to connect the counties together by a non-motorized trail.
- Staff attended the monthly Michigan Association of Regions (MAR) meeting via Zoom.

[August, 2021 Staff Progress Report]

Metropolitan Area Transportation Planning Jackson Area Comprehensive Transportation Study

Program Management

- Staff attended the monthly Michigan Transportation Planning Association meeting.
- Staff attended the Local Transportation Advisory Council (LTAC) meeting.
- **2050 LRTP.** Staff prepared a memo for the JACTS Technical Advisory and the JACTS Policy Committee requesting the formal approval of the 2018 total employment, 2018 total population, and 2017 total household data that will be used in the JACTS 2050 Long Range Transportation Plan Travel Demand Model. This information is used as data inputs to predict future deficiencies along major traffic corridors within the transportation system in Jackson County. Both committees unanimously approved the data. The next step is formal approval of the data in September by the Region 2 Planning Commission.
- Staff prepared for, and conducted, the August meetings of the JACTS Technical Advisory and Policy Committees.

Technical Assistance

- Staff continues to provide administrative services for the Active Jackson Coalition and attends the monthly meeting.
- Staff continues to provide assistance to the group discussing a trail for the Watkins Lake State Park/Brooklyn area. The Steering Committee has begun meeting to begin work on the project.

Transportation Improvement Program (TIP)

- Amendments were incorporated into FY 2020-2023 TIP, and posted to the Region 2 Planning Commission website.
- Staff monitored and updated JobNet as necessary.

Jackson Traffic Safety Program

- Staff continued work on the FY 2022 OHSP Traffic Safety grant.

Local Planning Assistance

The requests of member units of government within Hillsdale, Jackson, and Lenawee Counties are listed below. These activities were prepared at cost to the individual units of government requesting the service (unless alternative funding was available).

[August, 2021 Staff Progress Report]

Jackson County

Grass Lake Township. Staff provided the following service(s):

- **Master Plan.** Compiled the results of the community survey conducted as part of the Master Plan update and sent them to the Zoning Administrator for review.

County of Jackson. Staff provided the following service(s):

- **County Planning Commission (JCPC).** Cancelled the August 12 JCPC meeting due to a lack of agenda items.
- **Master Plan.** Updated the draft Future Land Use Plan, including an optional agricultural preservation area category.
- **Hazard Mitigation Plan.** Made a minor revision to the Hazard Mitigation Plan based upon an observation made by a reviewer of the document.

Leoni Township. Staff provided the following service(s):

- **Master Plan.** Met with the Planning Commission on August 18 to discuss proposed chapters/appendices of the Master Plan.
- **Recreation Plan.** Compiled the results of the recreation survey conducted as part of the Recreation Plan update. Met with the Recreation Committee on August 25 to discuss the survey results and to begin the process of updating the goals and action plan components of the Recreation Plan.

Parma Township. Staff provided the following service(s):

- **Zoning Ordinance.** Updated the Zoning Ordinance to include all of the amendments made to the legislation since the last time the Ordinance revised.
- **Master Plan.** Began the process of compiling American Community Survey (ACS) data in order to update the demographic information to be included in the next edition of the Master Plan.

Lenawee County

Cambridge Township. Staff provided the following service(s):

- **Zoning Ordinance.** Answered various questions of the Township Clerk regarding the administration of the Zoning Ordinance.

County of Lenawee. Staff provided the following service(s):

- **County Planning Commission (LCPC).** Facilitated the August 19 meeting and summarized staff advisements regarding 2 sets of proposed text amendments to the Madison Township Zoning Ordinance; proposed rezonings in the Townships of Rollin, Woodstock, and Raisin; 3 PA 116 agreements in Franklin Township; and 6 PA 116 agreements in Seneca Township.

Macon Township. Staff provided the following service(s):

- **Master Plan.** Facilitated the Master Plan portion of the August 11 meeting of the Planning Commission. Continued to develop the Community Survey with the Planning Commission.

[August, 2021 Staff Progress Report]

Raisin Township. Staff provided the following service(s):

- **Master Plan.** Finalized the adopted version of the Master Plan and sent it to the Township for distribution. Also posted the information on the R2PC website.

Rollin Township. Staff provided the following service(s):

- **Zoning Ordinance.** Answered a question posed by a Township Official regarding the zoning ordinance.

Greater Irish Hills

Greater Irish Hills Inter-Municipality Committee. Staff provided the following service(s):

- **Greater Irish Hills Recreation Plan.** Continued the process of identifying all of the regionally and locally significant recreation facilities located in the Greater Irish Hills Region.



Jackson County Department of Transportation



Christopher J. Bolt, MPA, PE, ICMA-CM
Assistant County Administrator & Managing Director

Angela N. Kline, PE
Deputy Managing Director / Director of Engineering & Technical Services

Keeping Our Community Safely in Motion...

Memorandum

Date: August 10, 2021

To: Mr. Steven Duke
Executive Director
Region 2 Planning Commission

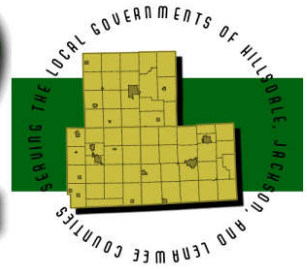
From: Angela N. Kline, PE
Director of Engineering/ Deputy Managing Director

RE: August JACTS TIP Amendment

Jackson Department of Transportation is requesting approval from the Region 2 Planning Commission, JACTS Technical Advisory, and JACTS Policy Committees concerning the following Transportation Improvement Program (TIP) Amendment for FY2020- 2023:

Fiscal Year	Job #	Project Name	Limits	Project Description	Funding	Action
2022	N/A	HIP COVID Relief (Urban)	N/A	Debt Service Repayment	\$347,885.00 STUL \$0.00 Local \$347,885.00 Total	ADD
2022	N/A	HIP COVID Relief (Rural)	N/A	Debt Service Repayment	\$357,866.00 RTF \$0.00 Local \$357,866.00 Total	ADD

Region 2 Planning Commission



TO: Region 2 Planning Commission Members

FROM: Tanya DeOliveira, Transportation Planner

DATE: August 30, 2021

SUBJECT: Approval of the 2017 Total Employment Data, 2018 Total Population and 2018 Total Household Data used in the Travel Demand Model for the JACTS 2050 Long Range Transportation Plan

In preparation for the upcoming 2050 Long Range Transportation Plan, the total employment, total population, and total household data used in the Travel Demand Model must be reviewed for accuracy. The data are used to predict future deficiencies along major traffic corridors within the transportation system in Jackson County.

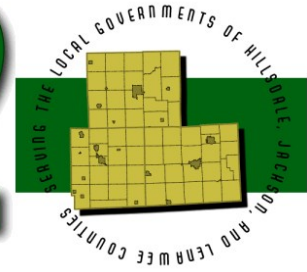
Staff completed an internal review of the total population and the total household information in June. Township, Village, and City officials were given an opportunity to review and provide feedback on the data in July. The Enterprise Group also reviewed the total employment data in July, and provided minor updates.

Staff is seeking formal approval of the information that will be used in the Travel Demand Model for the JACTS 2050 Long Range Transportation Plan. The socio-economic data has been reviewed and approved by the JACTS Technical Advisory and Policy committees at their respective meetings in August. The data to be approved is in the table on the next page. Please contact Tanya DeOliveira at 517.768.6703 or tdeoliveira@mijackson.org with any questions or comments.

**2017 Total Employment Data, 2018 Total Population and 2018 Total Household Data
used in the Travel Demand Model
for the JACTS 2050 Long Range Transportation Plan**

Jurisdiction	For Approval		For Approval		For Approval	
	2010 Total Population	2018 Total Population	2010 Total Households	2018 Total Households	2010 Total Employment	2017 Total Employment
City of Jackson	33,528	32,542	13,273	12,870	28,098	28,419
Village of Brooklyn	1,206	1,266	577	563	1,205	1,344
Village of Concord	1,050	1,033	412	400	535	548
Village of Grass Lake	1,173	1,185	462	488	419	362
Village of Hanover	441	453	164	168	177	153
Village of Parma	769	769	287	293	179	173
Village of Springport	800	804	293	314	367	328
Blackman Township	24,012	23,586	7,585	8,122	16,591	17,376
Columbia Township	6,214	6,173	2,556	2,466	1,449	1,484
Concord Township	1,673	1,530	623	565	255	358
Grass Lake Township	4,511	4,566	1,683	1,777	1,163	1,407
Hanover Township	3,254	3,344	1,254	1,287	623	562
Henrietta Township	4,705	4,754	1,851	1,846	479	528
Leoni Township	13,808	13,725	5,488	5,836	4,741	5,099
Liberty Township	2,961	2,979	1,168	1,209	406	435
Napoleon Township	6,776	6,739	2,667	2,797	1,612	1,240
Norvell Township	2,963	2,940	1,209	1,260	149	251
Parma Township	2,504	2,500	916	958	238	425
Pulaski Township	2,075	2,127	761	787	117	157
Rives Township	4,683	4,644	1,731	1,680	413	491
Sandstone Township	3,437	3,440	1,259	1,274	1,323	1,713
Spring Arbor Township	8,267	8,180	2,734	2,686	1,848	2,061
Springport Township	1,359	1,366	512	548	83	130
Summit Township	22,558	22,844	9,188	9,270	7,912	8,632
Tompkins Township	2,671	2,720	1,023	1,134	136	226
Waterloo Township	2,856	2,949	1,097	1,164	394	428
Total	160,254	159,158	60,773	61,762	70,912	74,330

Region 2 Planning Commission



MEMORANDUM

TO: Region 2 Planning Commission

FROM: Steven Duke, Executive Director

DATE: September 1, 2021

SUBJECT: Approval of Travel to the Michigan Association of Regions (MAR) Annual Conference in Muskegon, September 28-30, 2021.

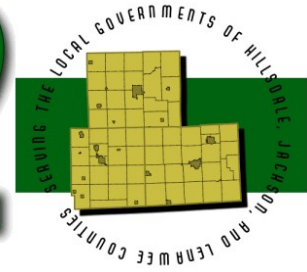
The Michigan Association of Regions (MAR) is hosting their annual conference in Muskegon on September 28-30, 2021. The conference offers the latest tools and techniques in the planning field and the opportunity to learn about planning in other regions of Michigan. Conference topics cover a complete range of regional and local planning issues.

The estimated costs for attendance are as follows:

Travel	\$ 80
Registration	\$ 0
Lodging	\$ 775
Meals	<u>\$ 100</u>
TOTAL	\$ 955

Authorization is requested to send to two (2) staff members to the conference. Costs are included in the R2PC FY 21 budget.

Region 2 Planning Commission



TO: Region 2 Planning Commission

FROM: Chair Doug Terry
R2PC Personnel & Finance Committee

DATE: September 1, 2021

RE: Approval of the Employment the Contract with Mr. Jacob Hurt, Deputy Director,
as the New R2PC Executive Director Effective October 1, 2021

The Personnel & Finance (P & F) Committee conducted an interview on August 12, 2021 with Mr. Jacob Hurt, Deputy Director/Economic Development Planner, for the position of Executive Director left vacant by the upcoming retirement of Steve Duke. The consensus of the P & F Committee was to offer the Executive Director's position to Mr. Hurt and instructed Mr. Duke to contact Mr. Kevin Thomson, R2PC Attorney, to prepare a contract defining employment responsibilities, benefits, and proposed salary.

Mr. Hurt has reviewed the attached 3-year employment contract and has agreed to the terms and conditions set forth.

As the Chair of the Personnel & Finance Committee and Chair of the Region 2 Planning Commission, I am requesting authorization approving the aforementioned employment contract offering the position of R2PC Executive Director to Mr. Jacob Hurt beginning October 1, 2021.

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT, hereafter “Agreement”, is made and entered into this 9th day of September, 2021, by and between the **Board of Directors of Region 2 Planning Commission**, 120 West Michigan Avenue, Jackson, MI 49201, hereinafter referred to as the “Board” and **Jacob Hurt** of 163 W. Pearl Street, Apt. 204, Jackson, MI 49201, hereinafter referred to as “Executive Director”.

RECITALS:

WHEREAS, Jacob Hurt has been appointed the Executive Director of Region 2 Planning Commission.

WHEREAS, the parties to this Agreement desire to reduce to writing the terms and conditions of Executive Director’s employment with Region 2 Planning Commission.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Employment. The Board does hereby employ Jacob Hurt as Executive Director of Region 2 Planning Commission under the terms provided hereunder. Executive Director shall put forth his best efforts to execute his duties as Executive Director to the satisfaction of the Board including, but not limited to the following duties:

- A. Preparation and administration of an annual work program and budget for the agency;
- B. Administration of Region 2 Planning Commission policies;
- C. Supervision of a staff of professional planners and support staff;
- D. Coordination of Region 2 Planning Commission planning programs;
- E. Representation of the Region 2 Planning Commission before federal and state agencies, local units of government, local governmental agencies, citizens, and citizens groups;
- F. Reporting to the Region 2 Planning Commission;
- G. Oversight and involvement to Region 2 Planning Commission planning programs in transportation, land use, economic development, traffic safety, park and recreation, community services and facilities, and local planning assistance; and
- H. Other duties and responsibilities assigned by the Region 2 Planning Commission, and those required as the chief executive officer of an independent agency.

Together with such other and additional duties as the Board may assign from time to time.

2. **Term.** This Agreement shall be for Three (3) years which shall commence on the 1st day of October 1, 2021. This Agreement shall be renewable for successive Three (3) year terms unless either party notifies the other at least 180 days prior to the termination of any term that the Agreement shall not be renewed.

3. **Compensation.** Executive Director initial annual compensation shall be One Hundred Thousand and no/100ths (\$100,000.00) Dollars to be increased to One Hundred Two Thousand Five Hundred and 00/100 (\$102,500.00) Dollars after six (6) months contingent upon a satisfactory review by the Board of Directors of Region 2 Planning Commission to be thereafter increased to One Hundred Five Thousand and 00/100 (\$105,000.00) after twelve (12) months contingent upon a second satisfactory review by the Board of Directors of Region 2 Planning Commission payable during the term of this Agreement in bi-monthly installments.

4. **Benefits.** In addition to the salary compensation indicated immediately above, the Executive Director shall also be entitled to those benefits as outlined in the Personnel Policy/Handbook of Region 2 Planning Commission.

5. **Pension.** The Board shall contribute to Executive Director's pension in an amount equal to seven and one-half (7.5) percent of Executive Director's annual salary to the International City Manager's Association pension account. Further, the Executive Director shall contribute a matching seven and one-half (7.5) percent of Executive Director's annual salary into said pension account.

6. **Automobile Reimbursement.** The Executive Director shall receive a mileage reimbursement for use of Executive Director's personal vehicle for official business compensable at the standard governmental mileage reimbursement rate established annually by the Internal Revenue Service.

7. **Vacation.** Executive Director shall be entitled to four (4) weeks paid vacation annually.

8. **Educational / Professional Conferences.** Executive Director shall be entitled to attend and the Board shall pay reasonable expenses for conferences deemed to be in the best interest of Region 2 Planning Commission. Executive Director must obtain attendance approval of the Board prior to the schedule of any educational / professional conference.

9. **Evaluation.** The Board shall evaluate Executive Director's performance and provide a performance evaluation to Executive Director on an annual basis. The initial evaluation shall be within the first six months of employment; the second one during the second year of employment. Thereafter, evaluations shall be provided annually.

10. **Termination for Cause.** Executive Director may be terminated by the Board for "good cause" or for the breach of any fiduciary or fidelity obligation to Region 2 at any time during the term of this Agreement if, in the reasonable opinion of Board, Executive Director commits any act of dishonesty, fraud, misrepresentation or other act of moral turpitude, is grossly negligent in the execution of his duties, commits misconduct, fails to obey the requirements of the Board, commits any act of insubordination, intentionally disregards rules or policies set forth by the Board or otherwise acts in a manner which undermines the direction of the Board, is accused or convicted of a crime, or otherwise acts negatively upon the integrity of the position.



TO: Planning Commission

FROM: Zoning Administrator

DATE: September 15, 2021

RE: 190 Uran St.-Bldg. 186 Additions

Background: Dupont, located at 190 Uran St., is proposing two additions to existing Building 186. The plans were submitted for review on August 18, 2021. Included is the Zoning review report. The Dept. Head report will be submitted at the time of the meeting on September 15, 2021.

August 26, 2021

The construction documents for the plans of the proposed addition to Building 186 located at 190 Uran Street were received for Zoning permit review on August 18, 2021. The review of the proposed site plan indicated several items not included in the submitted documents dated August 18, 2021.

The list of items required to be included in plans submitted to the City for plan review will be included with this letter. Below is a list of the primary items missing from the submitted plans:

- Property dimensions and legal description
- Building dimensions
- Site Area listing pervious and impervious amounts
- Parking lot calculations (Sec. 36-600 & 36-623)
- Building elevations showing height. (Sec. 36-411)
- Zoning classification
- Landscaping (Sec. 36-148 & 36-150), existing landscaping can be used to meet requirements.
- Storm water calculations. City requires that post-construction storm water leaving the site not exceed pre-construction storm water.
- Will there be any hazardous materials stored in the new building.

Upon submittal of the revised documents, a preliminary meeting will be scheduled with the City Department Heads. Following that meeting and upon receipt of any necessary revisions, the Planning Commission will review the drawings at the regular meeting which will be held on September 15, 2021 at 5:30 pm. The location will be at City Hall, 97 N. Broad St. in the 3rd Floor Council Chambers.

If you have any questions, you may contact me by phone or email.

Thank you.
Alan Beeker
Planning/Zoning Administrator



SITE PLAN REVIEW CHECKLIST

The City of Hillsdale site plan review process is required for all new commercial and industrial projects. Applications are filed with the Planning and Zoning Office.

A site plan review procedure is hereby established for the City of Hillsdale. The purpose of a site plan review is to determine compliance with the provisions set forth herein and to promote the orderly development of the City, the stability of land values and investments in the general welfare, and to help prevent impairment or depreciation of land values and development of the erection of structures or additions or alterations thereto without proper attention to siting and appearance.

The following provisions in this section shall apply to all uses requiring site plan review by this Ordinance, including multiple family developments, site condominium developments, all uses requiring a special approval use permit, and accessory uses to the previously mentioned uses. Approved plans shall regulate the development on the premises, unless modified in the same manner as the plans were originally approved.

Site plan reapplication after one (1) year will be considered as though new and on the merits as submitted. All fees shall apply for reapplication.

Site plan shall be rescinded one (1) year after Planning Commission approval unless project has commenced. Evidence of commencement shall be approval of a building permit. This does not apply if site plan is submitted as a phased development.

The Planning Commission may consider a projected completion date beyond one (1) year as proposed by applicant at the time of submission. Site plan reapplication after one (1) year will be considered as though new and on the merits as submitted. All fees shall apply for reapplication. For any proposed site plan review dealing with residential developments, written notice will be delivered by mail, or personally, to all persons to whom any real property within (300) feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings within three hundred (300) feet of the premises in question. The notice shall be given at least three (3) days prior to the hearing.

- Purpose.
Site plan review is required for certain residential, commercial and industrial and other non-residential projects due to the impact these projects have upon the City's ability to provide proper infrastructure to support the projects, properly deliver community services and minimize any negative impact upon the health, welfare and safety of persons in the community.
- Site Plan Review.
A property owner or developer shall submit a site plan for review by the Planning Commission prior to the commencement of improvements to property for the following projects:
 - Any new construction, except one-family residential.
 - Any new construction in B-1, B-2, B-3, C-1, I-1, I-2, O-1, PRD, PUD, RD-1 or RM-1.

- Any redevelopment/use in the above mentioned districts where the building has been vacant for six (6) or more months.
- Any redevelopment/use in the above mentioned districts that alter the existing flow of traffic or parking pattern.
 - Any residentially related use permitted in a residential zoned district such as, but not limited to public and private facilities including:
 - multiple family dwelling units, condominiums, mobile home communities, planned unit developments;
 - new schools, churches, hospitals or nursing homes or additions thereto;
 - parks, community centers, libraries, museums, galleries, cultural centers or any governmental, administrative or service uses.
 - special approval use permits and accessory use to the previously mentioned uses.

The Planning Commission may require planted greenbelts, earth and/or landscaped berms, setbacks and/or walls on any site plan in any zoning district to secure the intent of the zoning district requirements and to protect adjacent property owners from unsightly existing exterior land uses, changes in zoning district boundaries or, when in the opinion of the Planning Commission, such plantings or walls will significantly enhance the site in question.

The Planning Commission may require scenic easements, for woodlands or portions of woodlands, rock formations, or any natural feature of land or resource which would perpetuate the natural attractiveness of any site. All such scenic easements shall be maintained as described and approved on the site plan and supporting documents of record.

Review schedule established.

A. Preliminary Review:

1. To be scheduled a minimum of 30 days prior to the final review at the Planning Commission regular meeting with the Owner, Architect or Engineer, Zoning Administrator, Building Inspector, and City Department Directors.

B. Final Review

1. Plans and specifications, signed and sealed by a professional engineer or architect,
2. Site plan, drawn to scale, showing the information required on the Commercial Site Plan Application.
3. (2) Two full size copies + (10) Ten half size copies + (1) One electronic copy of plans and specifications shall be submitted with the completed application.
4. Must be submitted (15) fifteen business days prior to the Planning Commission regular meeting date.

Planning Commission options for action.

The planning commission may approve, approve with modifications, reject, or table any site plan.

Submission Requirements

All site plans, as required by this Ordinance, shall be submitted to the City in at least ten (10) copies, signed and sealed, as well as in electronic format (pdf). The City Zoning Administrator shall adhere to the following procedures in the review of the site plan. All site plan reviews shall use the following procedures:

- Prior to site plan submission, a meeting should be held with the applicant and Zoning Administrator to review the proposal. Items listed herein, as required submission, will be reviewed.
- The Planning Commission shall approve with specified changes and/or conditions, or disapprove, the applicant's request using the standards described in Section 36-61 of this Ordinance.
- Conditions or changes stipulated by the Planning Commission shall be recorded in the minutes of the meeting and made available to the applicant in writing. A revised site plan showing changes and conditions shall be submitted to the Zoning administrator before any permits are issued: Four (4) final site plans plus electronic format (pdf), including changes and conditions, shall be signed by and distributed to the following parties:
 - Applicant
 - Zoning Administrator
 - Board of Public Utilities
 - Planning Commission Chair (to remain on file)

The following information is required to be included in site plans submitted for review. The referenced standards shall apply to the items as listed below in the Table of Requirements and Standards.

Requirement	Standard
North Arrow	Clear and prominent, pointing to the top or right of the page.
Scale	1" = 40'-0" for lots less than 3 acres 1" = 100'-0" for lots over 3 acres
Key / Legend	Identifies and defines all symbols and prominent features
Plan Date	Date of preparation, date of all revisions and nature of revisions.
Location Map	Map of City of Hillsdale, with site identified
Name, Address, Telephone Numbers of Owner, Developer and Design Professional	Telephone Numbers (cell and land line) Fax Number Email Address
Seal and Signature of professional who prepared plans	Professional Engineer or Architect registered in Michigan. Each set submitted must be signed and sealed.
Legal Description	Metes and bounds, or lot numbers of all parcels included in the project.
Property Dimensions	Adjacent to line being described
Site Area	<u>Total Area</u> Impervious Area: Roof Sidewalk Pavement Detention / Retention Pervious Area: Grass / Landscape Impervious and pervious areas must equal total area
Road Right-of-Way – Improvements of Right-of-Way	Adjacent (show both sides) Internal
Zoning Designation and Land Use (if non-conforming)	Site (existing and proposed) Adjacent parcels Adjacent to right-of-way Per official City Zoning Map
Topography and Grades	Existing and proposed Contours of (2) two foot intervals
Lot Coverage in Percent	Building footprint(s) – per Sec. 36-411 Hillsdale Zoning Ordinance
Sidewalks and Bike Paths (internal and external)	Sidewalk min. 4 ft. width

Revised 8/14/2014

Required Building Setback	Front, rear and side per Sec. 36-411 Hillsdale Zoning Ordinance
Building Size(s), Use(s) and Location(s)	Existing, proposed, total per Sec. 36-411 Hillsdale Zoning Ordinance Schedule of Regulations -- per allowed uses in appropriate zoning classifications.
Distance between buildings	At the closest point -- per Michigan construction code as currently adopted by the City of Hillsdale, all applicable sections.
Building Height in feet	Per Section 36-411 Schedules of Regulations, Hillsdale Zoning Ordinance
Parking Spaces	Number, dimensions, layout for regular and handicap spaces Per Michigan Barrier Free Standards Per Section 36-600 Hillsdale Zoning Ordinance Per Section 36-623 Hillsdale Zoning Ordinance
Barrier Free (HDCP) Accommodations	MDOT Standard Details Michigan Barrier Free Code
Driveway Widths	Turning Template AASHTO Green Book Designate design vehicle
Driveway Construction	
Off-Street Loading Zones	Per Section 36-651 Hillsdale Zoning Ordinance Per Section 36-652 Hillsdale Zoning Ordinance Per Section 36-653 Hillsdale Zoning Ordinance
Curb Cut: Drive Location and Design	Chapter 30 -- Hillsdale City Code of Ordinances MDOT Curb Cut Standards Turning Template AASHTO Green Book Designate design vehicle
Acceleration, Deceleration, Passing Lanes (where applicable)	MDOT Standard Details AASHTO Green Book
Utility Locations: existing and proposed	Board of Public Utilities may require flow projections and concurrent pressure calculations <u>Water:</u> Size, hydrants, valves, materials, estimates of water usage if industrial. <u>Sewer:</u> Size, inverts, rim elevations, grades, inlets, materials, connections, cleanouts, detention / retention
Storm Water Management	
Erosion and sedimentation control practices, wind erosion and dust control	MDEQ Publication of Approved BMP's and according to City Policy.
Drainage Control	Inlet management during construction
Tracking Control	Minimize mud tracked into street MDOT standards
Non Storm Water Control	Storage containment, according to National Fire Prevention Association
Sign (Location, Size, Detail)	Per Section 26 Hillsdale Zoning Ordinance
Wetland / Floodplain Boundaries	FEMA Maps MIRIS Wetland Maps WHPA Well Head Protection Area
Existing and Proposed Easements	Owner and purpose Liber and page easement
Existing Improvements within 200 feet of Site	Buildings, driveways, sidewalks, trees and bushes
Landscaping	Section 36-148, Schedule of Regulations, Hillsdale Zoning Ordinance Article X Hillsdale Zoning Ordinance
Fences	Article IX Hillsdale Zoning Ordinance
Screening	Article IX Hillsdale Zoning Ordinance
Lighting	Hillsdale Zoning Ordinance
Dumpster Pad	Per Section 36-148, Schedule of Regulations, Hillsdale Zoning Ordinance
Berms	Location, size, planning, details Per Section 36-148, Schedule of Regulations, Hillsdale Zoning Ordinance

Revised 8/14/2014

Building Elevations	Building height Location of windows, doors, lighting, signage, landscaping Building materials
Number of Proposed Multi-Family Developments, Area of Individual Units	Division 14, Hillsdale Zoning Ordinance Per Section 36-148, Schedule of Regulations, Hillsdale Zoning Ordinance
Proposed Use Group and Construction Type	Michigan Building Code, as currently adopted by the City of Adrian, all applicable sections.
Hazardous materials – storage, classifications, amounts, and locations	International Fire Code, as currently adopted by the City of Hillsdale, all applicable sections.
Proposed type(s) of fire protection systems	International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
Walkway leading to a fire apparatus roadway	4'-0" foot access International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
Access to roads	Loading (75,000 lbs.) Posted as fire lanes min. width 20'-0", vertical clearance 13'-6" Hydrants – min. width 26'-0" 62,000 gsf or 100 dwelling units – 2 access roads International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
Buildings over 30'-0" in height, no aerial access obstructions	Minimum 3 means of access min. width 26'-0" Parallel to building – width 15'-0" – 30'-0" International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
Dead-end drives longer than 150'-0"	Turnaround per International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
Fire flow testing	International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
Use Group, Occupancy Load, NFPA Construction Type, Building Height	International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
Sprinkler and standpipe system connection location	International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.
On-site turning radius	International Fire Code as currently adopted by the City of Hillsdale, all applicable sections.

The site plan shall be reviewed by the Planning Commission and other appropriate bodies as heretofore designated with a recommendation for its approval or disapproval and any conditions the Planning Commission or other appropriate bodies feel should be imposed.

The Planning Commission shall have the function and power to approve or disapprove the site plan subject to compliance with such modifications and conditions as may be deemed necessary to carry out the purpose of these regulations and other ordinances.

The Planning Commission shall have the function and power to request additional professional review from the City Attorney, Engineering Consultant and / or Planning Consultant, and the applicant shall be responsible for any and all charges incurred therefore.

The Zoning Permit may be revoked in any case where the conditions of such permit have not been or are not being complied with, in which case the Planning Commission shall give the permittee notice of intention to revoke such permit at least ten (10) days prior to review of the permit by the Planning Commission. After conclusions of such review, the Planning Commission may revoke such permit if it feels that a violation in fact exists and has not been remedied prior to such hearing.

BUILDING 186

SOUTH EXPANSION FOR:

DUPONT

HILLSDALE, MICHIGAN

CONCRETE NOTES

- THE DESIGN, DETAILING, FABRICATION AND CONSTRUCTION OF ALL REINFORCED CONCRETE SHALL CONFORM TO THE FOLLOWING: AMERICAN CONCRETE INSTITUTE (ACI) 318, ACI 301, SPECIFICATIONS FOR STRUCTURAL CONCRETE FOR BUILDINGS; ACI SP-66, ACI DETAILING MANUAL EXCEPT AT SUPPLEMENTED.
- CURBS OF CONCRETE SHALL CONFORM TO ALL ACI PROVISIONS FOR HOT AND COLD WEATHER CONDITIONS.
- CONCRETE MINIMUM DESIGN STRENGTHS @ 28 DAYS.

FOUND. & FOUND. WALLS	$f'c = 3,000$ PSI (5 BAG MIX)
FLOOR SLABS	$f'c = 4,000$ PSI (6 BAG MIX)
- VERIFY THAT ALL EMBEDDED ITEMS AND PENETRATIONS ARE SET AT PROPER LOCATIONS AND ELEVATIONS BEFORE CONCRETE IS POURED.
- CHAMFER ALL EXPOSED CONCRETE EDGES 3/4" UNLESS OTHERWISE NOTED.
- ALL REINFORCING STEEL FOR CONCRETE SHALL CONFORM TO ASTM A-615, GRADE 60, FY460 KSI.
- ALL WELDED WIRE FABRIC SHALL CONFORM TO ASTM A-185.
- SLAB CONCRETE SHALL BE PLACED ON COMPACTED GRANULAR SUBBASE OR COMPACTED AGGREGATE BASE AS SHOWN ON THE PLANS.
- CONCRETE SHALL NOT BE PLACED ON ICE, SNOW, SOFT OR FROZEN MATERIAL.
- ALL EXTERIOR CONCRETE (INCLUDING FOOTINGS & FROST WALLS) SHALL BE AIR-ENTRAINED, 4% - 7%.
- ANCHOR RODS AND MISCELLANEOUS METALS SHALL CONFORM TO ASTM A-36. NUTS FOR ANCHOR RODS TO BE ASTM A563 HEAVY HEX WASHERS FOR ANCHOR RODS TO BE ASTM F436. SET ANCHOR RODS IN ACCORDANCE WITH PRE-ENGINEERED BUILDING MANUFACTURERS RECOMMENDATIONS. COORDINATE BUILDING LINES WITH THESE PLANS.
- FOUNDATION DESIGN BASED ON A NET ALLOWABLE SOIL PRESSURE OF 2,000 LBS PER SQUARE FOOT AND LOADS PROVIDED BY PRE-ENGINEERED BUILDING MANUFACTURER. PRIOR TO PLACING CONCRETE, VERIFY WITH THE PROJECT GEOTECHNICAL SPECIAL INSPECTOR ALLOWABLE SOIL PRESSURE, THE POTENTIAL FOR POSSIBLE SETTLEMENT, AND OVER EXCAVATION/FILL REQUIREMENTS. CONTACT ENGINEER IF SOIL CONDITIONS ARE NOT ACCEPTABLE. FOUNDATIONS AND SLAB-ON-GRADE SHALL BE PLACED ON COMPACTED ENGINEERED FILL OR NATURAL SOILS OR RAMMED AGGREGATE GEOPHERS AS DESCRIBED IN MCDOWELL & ASSOCIATES GEOTECHNICAL REPORT DATED MARCH 5, 2021.
- UNLESS OTHERWISE NOTED, LAP REINFORCEMENT A MINIMUM OF 40 BAR DIAMETERS. PROVIDE LAPPED HORIZONTAL CORNER BARS IN ALL WALL AND FOOTING CORNERS.
- PLACE AND COMPACT BACKFILL AT FOUNDATIONS, WALLS & SLABS PER THE SPECIAL INSPECTORS REQUIREMENTS. BACKFILL IN EQUAL LIFTS (8" MAX) ON EACH SIDE OF WALLS. COMPACT BACKFILL TO 95%.
- WALLS TO BE POURED MONOLITHICALLY. FOOTINGS FOR WALLS TO BE POURED MONOLITHICALLY. U.N.O. REINFORCEMENT / DOWELS FOR EXISTING FOOTING MODIFICATIONS TO BE PLACED 3' FROM SUBGRADE (BOTTOM).
- UNLESS DETAILED OTHERWISE, REINFORCEMENT COVER AS FOLLOWS: CONCRETE CAST AGAINST EARTH = 3 INCHES; CONCRETE CAST AGAINST FORMS = 2 INCHES.
- EXCAVATION TO BE PER OSHA STANDARDS.
- ALL CONSTRUCTION SAFETY, FORM DESIGN AND TEMPORARY WALL BRACING TO BE BY CONTRACTOR.
- ALL PIER TIES TO BE LAPPED MIN. 4' AT ENDS UNLESS SHOWN OTHERWISE.
- U.N.O. DOWELS INTO EXISTING CONCRETE TO UTILIZE "HLTI HY-200", "REDHEAD A-7" ANCHORING SYSTEM OR EQUAL. INSTALL PER MANUFACTURERS REQUIREMENTS.

MIN. EMBEDMT. AS FOLLOWS:	
#3 REINF.	= 4 1/4"
#4 REINF.	= 6 1/4"
#5 REINF.	= 8"
#6 REINF.	= 9 3/4"
- CONTINUE HORIZONTAL REINFORCEMENT OF FROST WALLS AND FOOTINGS THRU REIN.

GENERAL BUILDING NOTES

- CONSTRUCTION SAFETY BY CONTRACTOR(S).
- ALL ELECTRICAL, MECHANICAL, PLUMBING AND FIRE PROTECTION REQUIREMENTS FOR CONSTRUCTION SHALL BE PER APPLICABLE CODES AND DESIGNED BY A LICENSED PROFESSIONAL REGISTERED IN THE STATE OF MICHIGAN. VERIFY WITH OWNER STORAGE MATERIALS FOR FIRE PROTECTION METHODS/DESIGNS.
- THE PRE-ENGINEERED METAL BUILDING SHALL BE DESIGNED PER THE LATEST EDITION OF THE 2015 MICHIGAN BUILDING CODE AND BE PERFORMED BY A PROFESSIONAL ENGINEER REGISTERED IN THE STATE OF MICHIGAN.
- FOUNDATIONS SHOWN ON THESE DRAWINGS ARE BASED ON LOADINGS OF THE PRE-ENGINEERED BUILDING MANUFACTURER. CONTACT ENGINEER PRIOR TO POURING FOUNDATIONS TO VERIFY FINAL BUILDING LOADS AND FOOTING SIZES.
- ALL SPECIAL INSPECTIONS TO BE PER 2015 MICHIGAN BUILDING CODE.
- FOR PROTECTION OF UNDERGROUND UTILITIES CALL THE APPLICABLE STATE/LOCAL 1 CALL SYSTEM A MIN. 3 WORKING DAYS PRIOR TO EXCAVATING.

STRUCTURAL LOADING INFORMATION (ALSO REFER TO PRE-ENGINEERED BUILDING DRAWINGS)

BUILDING CODE: 2015 MICHIGAN BUILDING CODE
& MICHIGAN REHABILITATION CODE FOR EXIST. BLDGS.

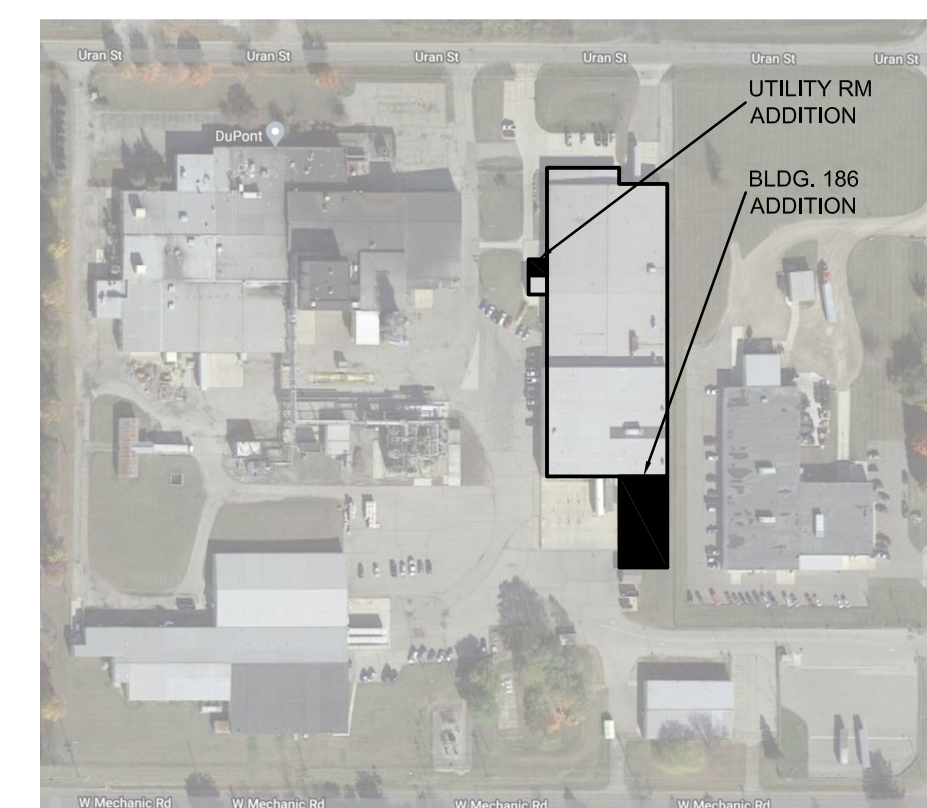
DESIGN LOADING: AS FOLLOWS

ROOF LIVE LOAD = 20 PSF
GROUND SNOW LOAD $P_g = 20$ PSF + APPLICABLE DRIFT
FLAT ROOF SNOW LOAD $P_f = 14$ PSF
SNOW EXPOSURE FACTOR $C_e = 0.9000$
SNOW LOAD IMPORTANCE FACTOR $I_s = 1.0$
THERMAL FACTOR $C_t = 1.0$

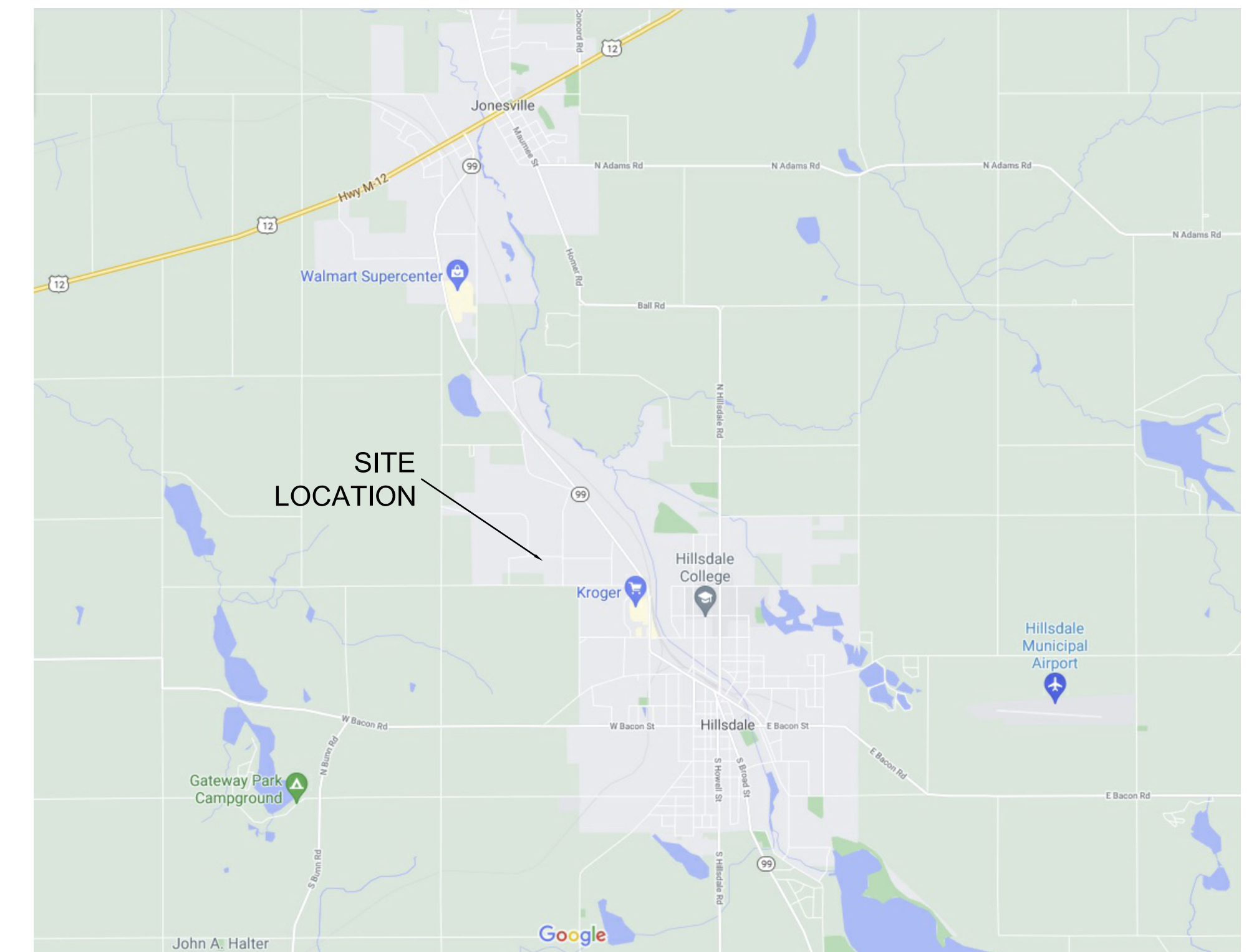
BASIC WIND SPEED = 115 MPH
WIND IMPORTANCE FACTOR $I_w = 1.0$
WIND EXPOSURE = B
INTERNAL PRESSURE COEFFICIENT $GCP1 = \pm 0.18$

SEISMIC IMPORTANCE FACTOR $I_E = 1.00$
MAPPED SPECTRAL RESPONSE ACCELERATIONS $S_S = 0.127$ % g; $S_1 = 0.050$ % g
SITE CLASS = D
SPECTRAL RESPONSE COEFFICIENTS $S_{DS} = 0.136$; $S_{D1} = 0.080$
SEISMIC DESIGN CATEGORY = B
BASIC SEISMIC FORCE RESISTING SYSTEM = ORDINARY STEEL
DESIGN BASE SHEAR = 8.19 KIPS

ANALYSIS PROCEDURE USED = EQUIVALENT LATERAL FORCE



ENLARGED SITE
NORTH N.T.S.



BLDG. ADDRESS: 190 URAN ST., HILLSDALE, MICHIGAN 49242

LOCATION MAP
NORTH N.T.S.

PROJECT INFORMATION:

BUILDING USE GROUP: S-1 MODERATE HAZARD STORAGE

BLDG. CONST. TYPE: 11-B
BLDG. CODE: 2015 MICHIGAN BUILDING CODE
AND MICHIGAN REHABILITATION CODE FOR EXIST. BLDGS.

BLDG. SQUARE FOOTAGE: BLDG. ADDITION = 10,746

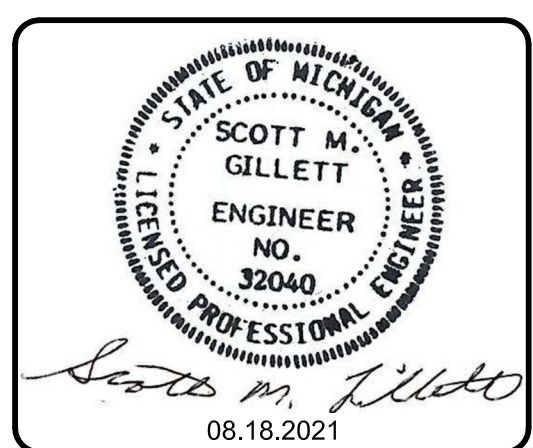
OWNER: DUPONT, 190 URAN ST., HILLSDALE, MI 49242

CONTRACTOR: OHARROW CONST. CO., 4575 ANN ARBOR RD., JACKSON, MI 49202

ENGINEER: THRUSH ENGINEERING INC., 4575 ANN ARBOR RD., JACKSON, MI 49202

SHEET INDEX:

- T1.1 - TITLE SHEET AND NOTES
- C1.1 - PROPOSED SITE PLAN
- A1.1 - FOUNDATION/FLOOR PLAN AND FOUNDATION DETAILS
- A1.2 - FOUNDATION DETAILS AND BUILDING SECTION
- A1.3 - ELEVATIONS



Thrush Engineering, Inc.
4575 ANN ARBOR RD., JACKSON, MI 49202 (517) 764-4770
Engineer SCOTT GILLETT Dated 08.18.2021
Drawn by J. FEENEY Checked by SMG
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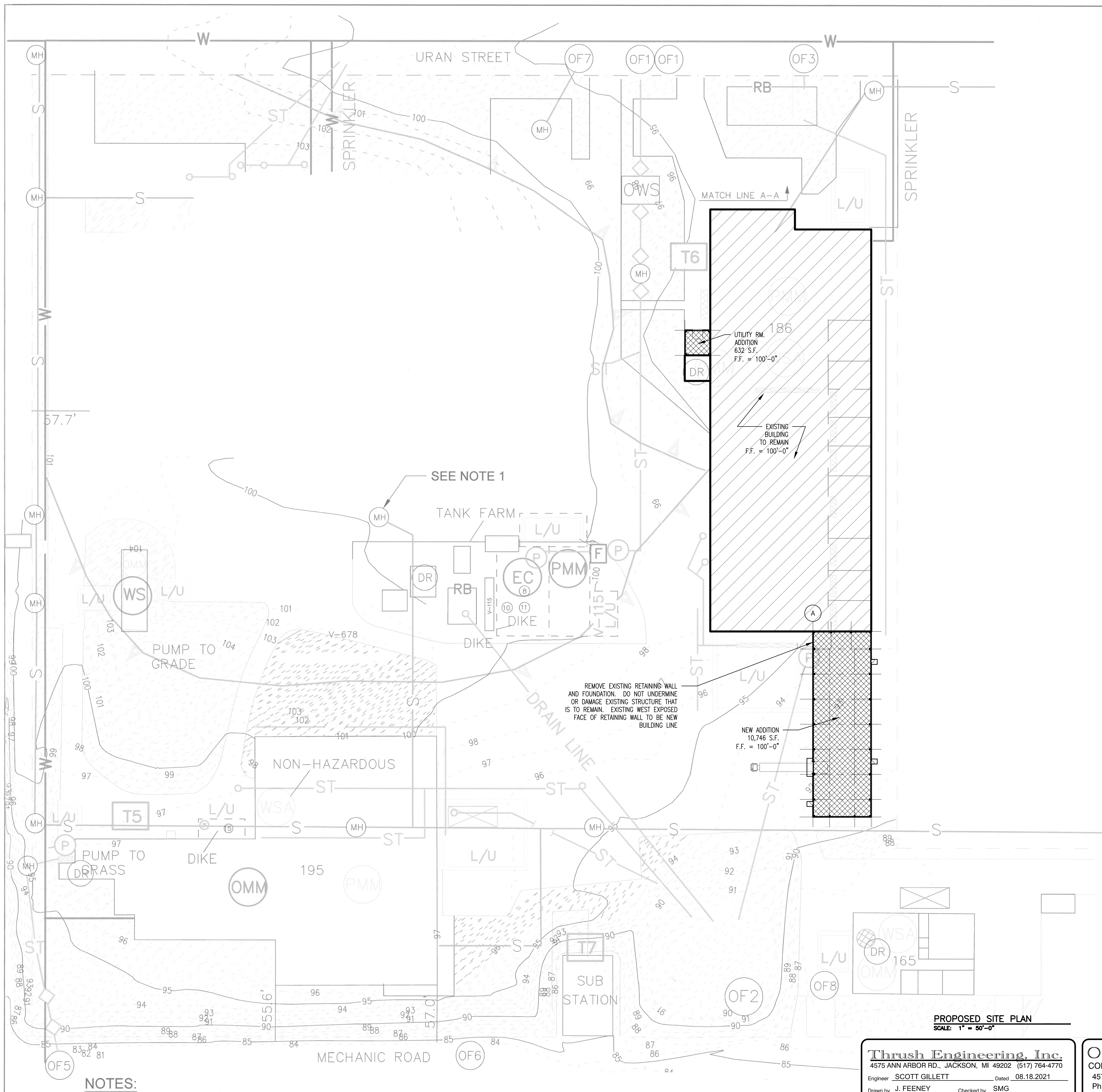
O'HARROW CONSTRUCTION CO.
COMMERCIAL & INDUSTRIAL CONTRACTORS
4575 ANN ARBOR RD., JACKSON, MI
Ph. 517-764-4770 FAX 517-764-5564
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REVISION	DATE
FOR PERMITS AND CONSTRUCTION	08.18.2021

PROJECT FOR:
NEW EXPANSIONS FOR DUPONT
BUILDING 186 & UTILITY ROOM
190 URAN ST.
HILLSDALE, MICHIGAN 49242

DATED: 08.18.2021
DRAWN BY: J. FEENEY
PROJECT NO.: 1-21-230

SHEET
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NOTES:

1. OLD SANITARY LINE FROM FORMER BUILDING 190 SITE HAS BEEN AIR-GAPPED AT MANHOLE

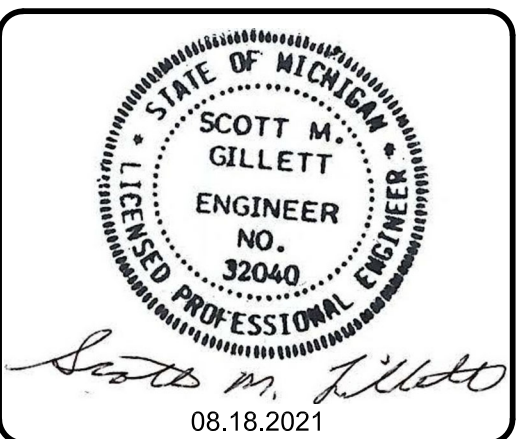
PROPOSED SITE PLAN
SCALE: 1" = 50'-0"

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Engineer SCOTT GILLETT Dated 08.18.2021
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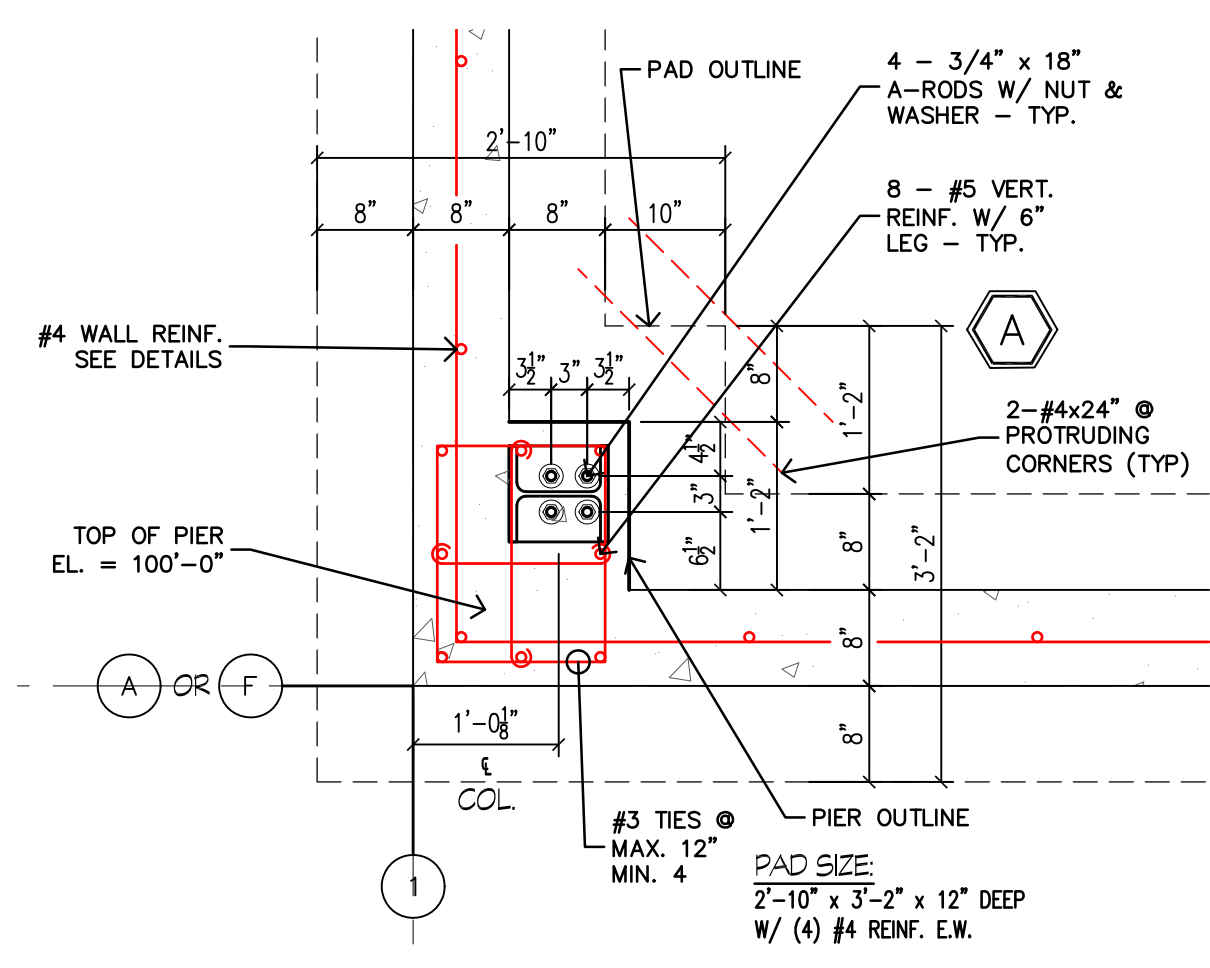
REVISION	DATE
FOR PERMITS AND CONSTRUCTION	08.18.2021

PROJECT FOR
NEW EXPANSIONS FOR DUPONT BUILDING 186 & UTILITY ROOM
190 URAN ST.
HILLSDALE, MICHIGAN 49242

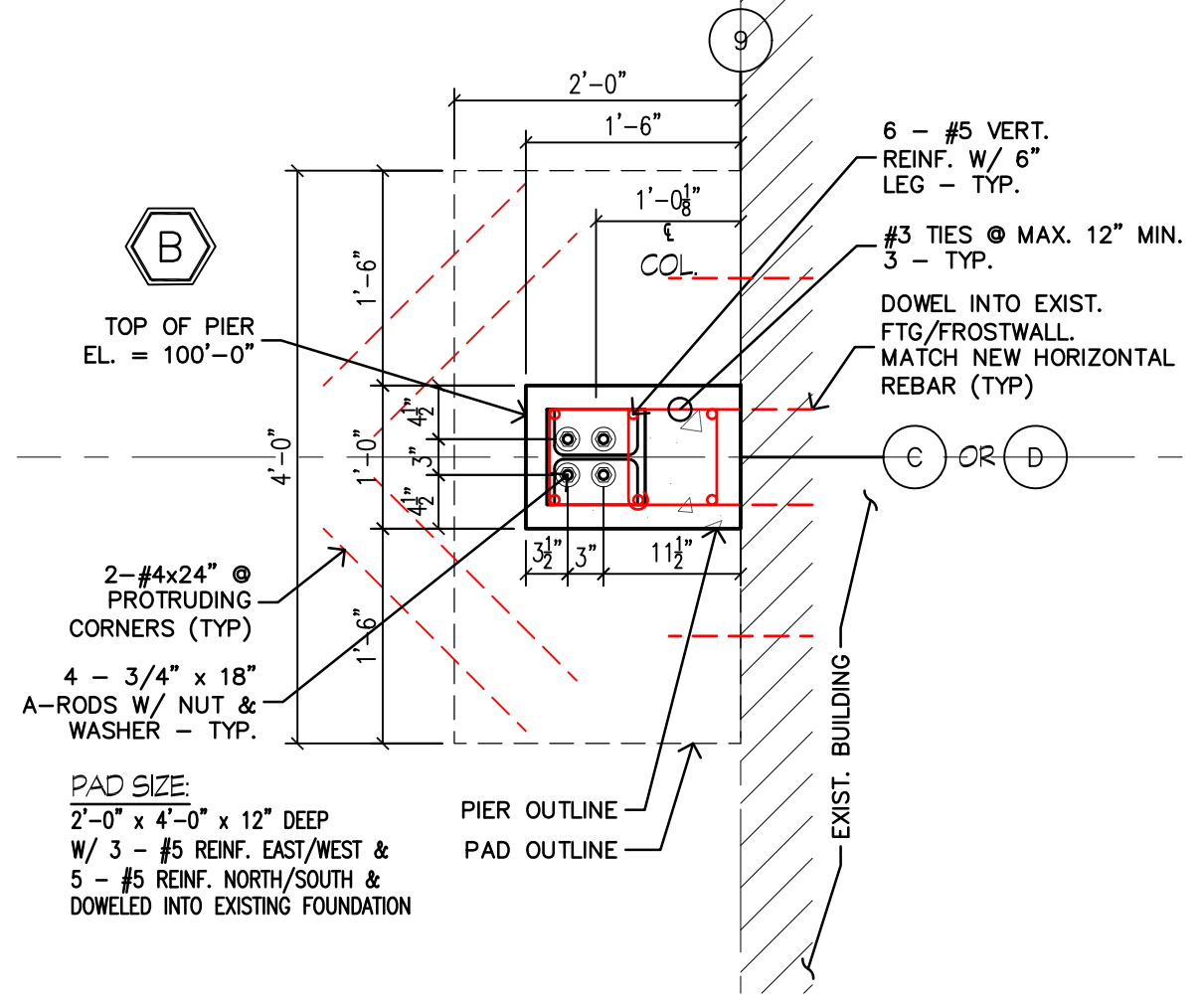


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DRAWN BY J. FEENEY

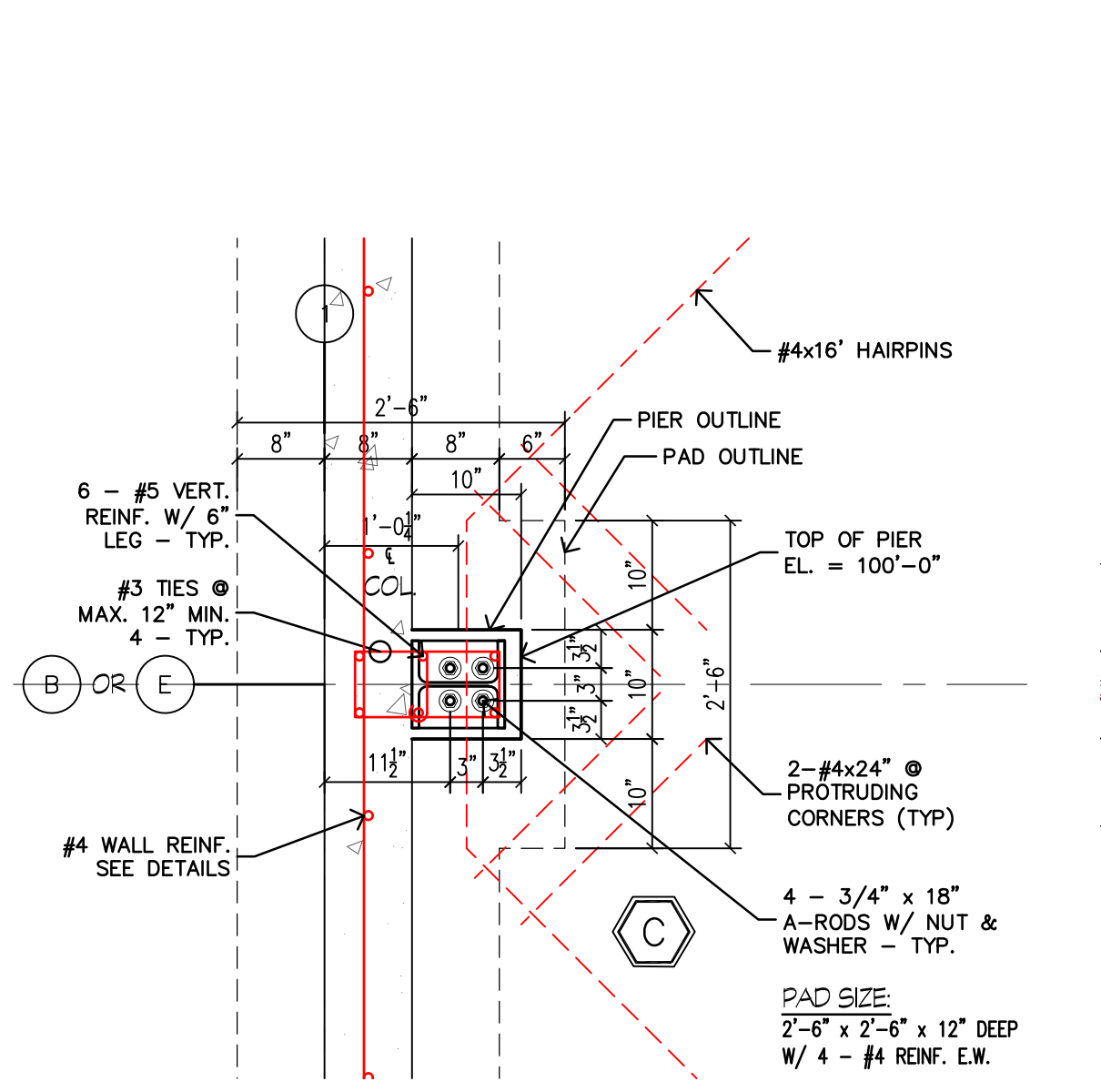
SHEET **C1.1**
OF 5



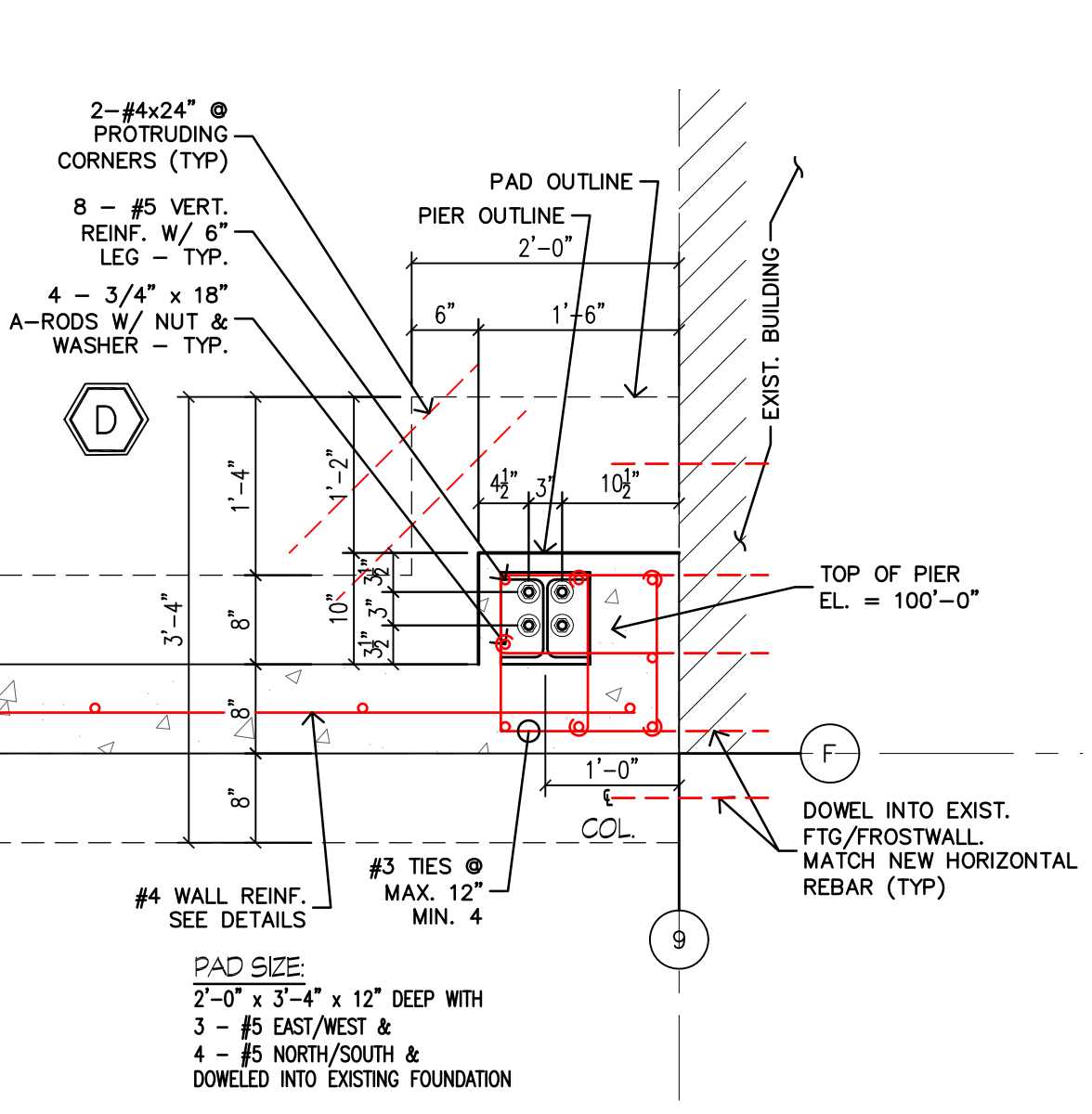
A PIER PLAN PIER HEIGHT = 3'-0"
A1.1 SCALE: 3/4" = 1'-0"



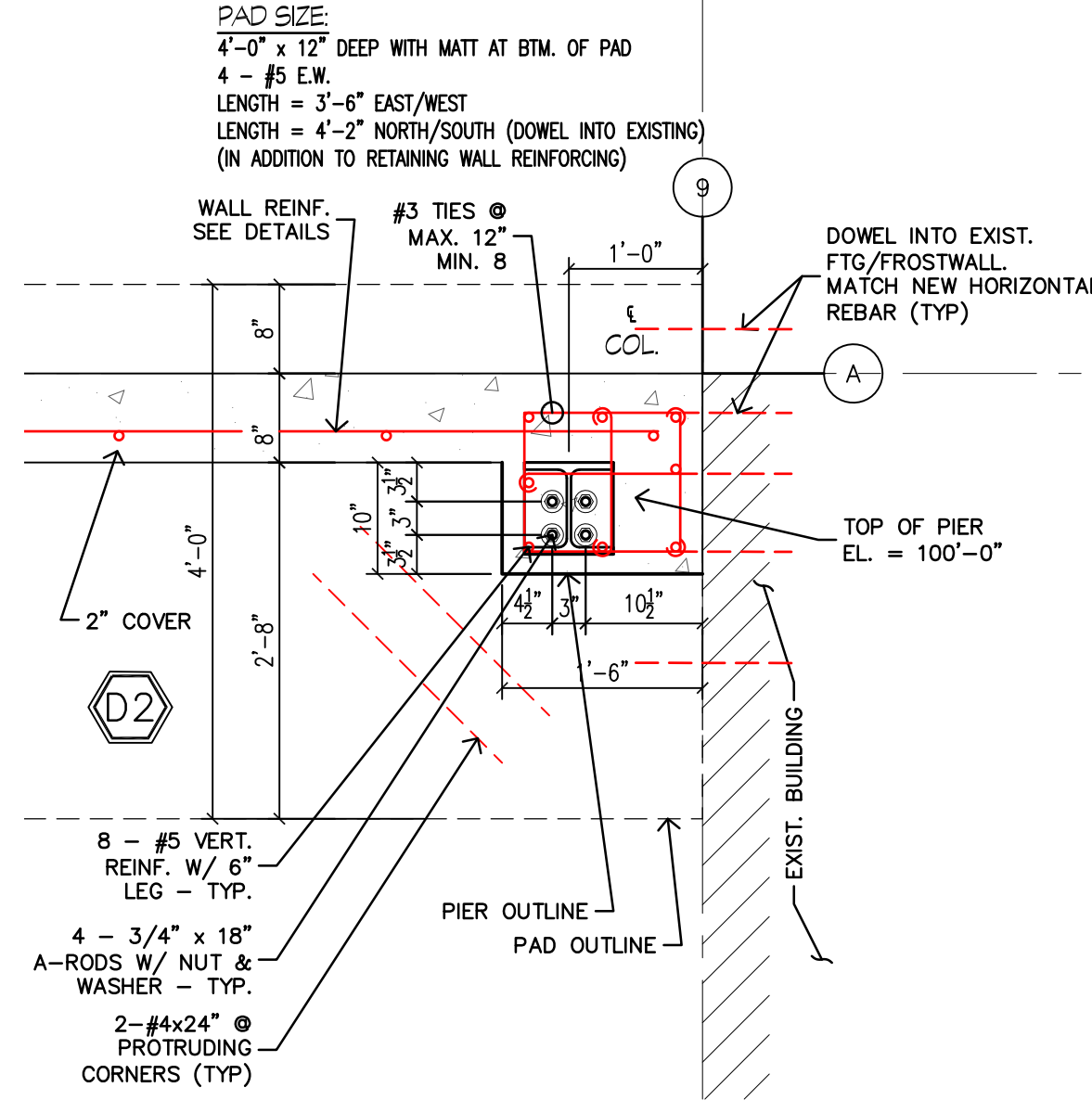
B PIER PLAN PIER HEIGHT = 1'-6"
A1.1 SCALE: 3/4" = 1'-0"



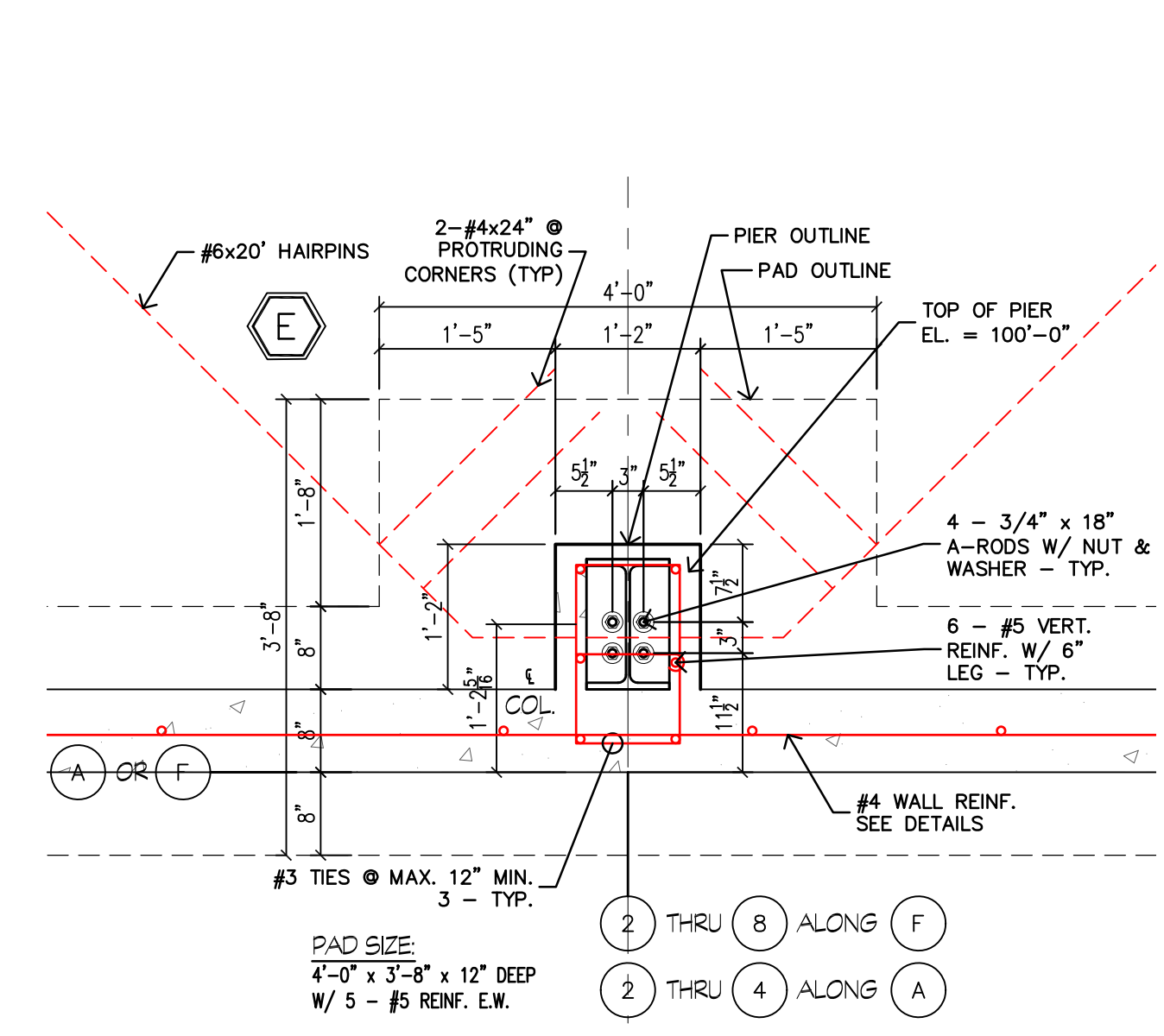
C PIER PLAN PIER HEIGHT = 3'-0"
A1.1 SCALE: 3/4" = 1'-0"



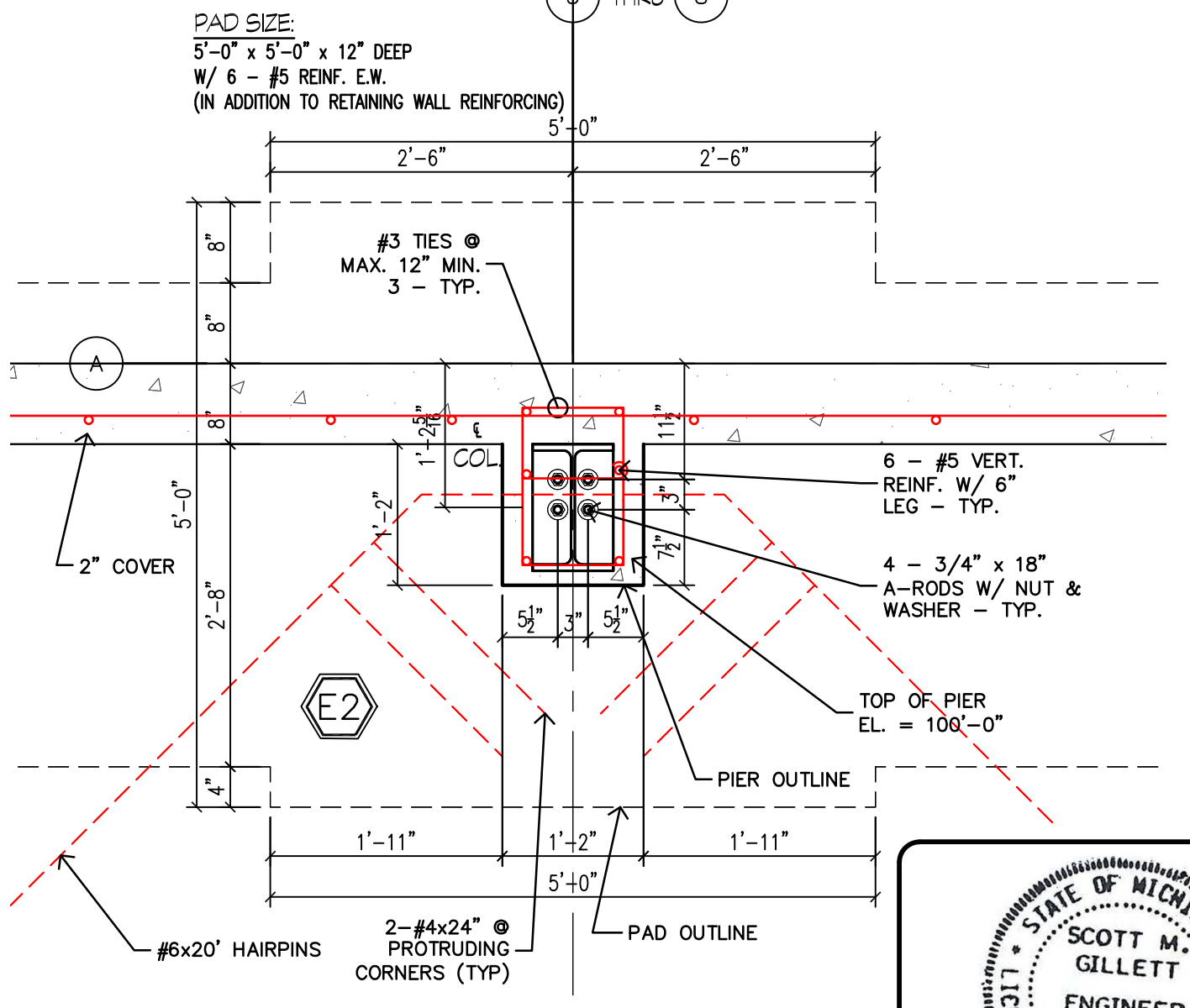
D PIER PLAN PIER HEIGHT = 3'-0"
A1.1 SCALE: 3/4" = 1'-0"



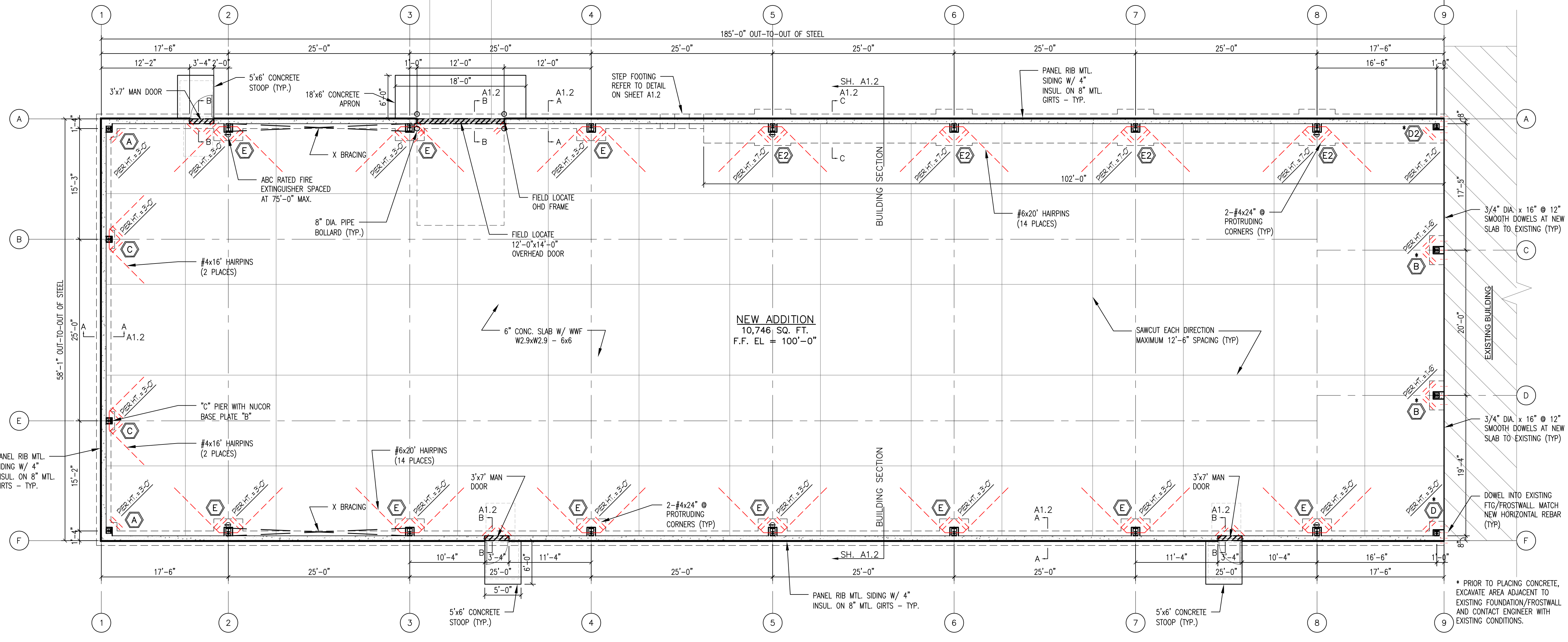
D2 PIER PLAN PIER HEIGHT = 7'-0"
A1.1 SCALE: 3/4" = 1'-0"



E PIER PLAN PIER HEIGHT = 3'-0"
A1.1 SCALE: 3/4" = 1'-0"

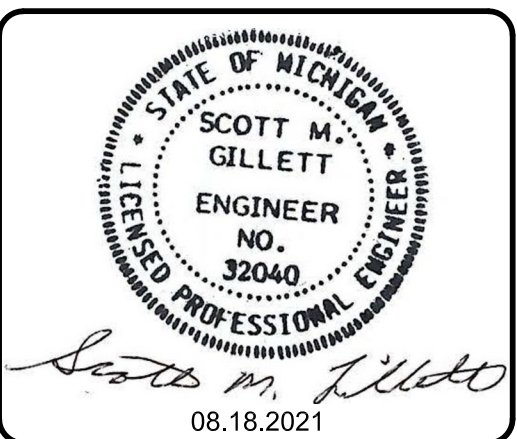


E2 PIER PLAN PIER HEIGHT = 7'-0"
A1.1 SCALE: 3/4" = 1'-0"



DUPONT 186-3 FOUNDATION/FLOOR PLAN
NORTH SCALE: 1/8" = 1'-0" SCALE: 1/8" = 1'-0"

* PRIOR TO PLACING CONCRETE, EXCAVATE AREA ADJACENT TO EXISTING FOUNDATION/FROSTWALL AND CONTACT ENGINEER WITH EXISTING CONDITIONS.



Thrush Engineering, Inc.
4575 ANN ARBOR RD., JACKSON, MI 49202 (517) 764-4770
Engineer: SCOTT GILLETT Dated: 08.18.2021
Drawn by: J. FEENEY Checked by: SMG

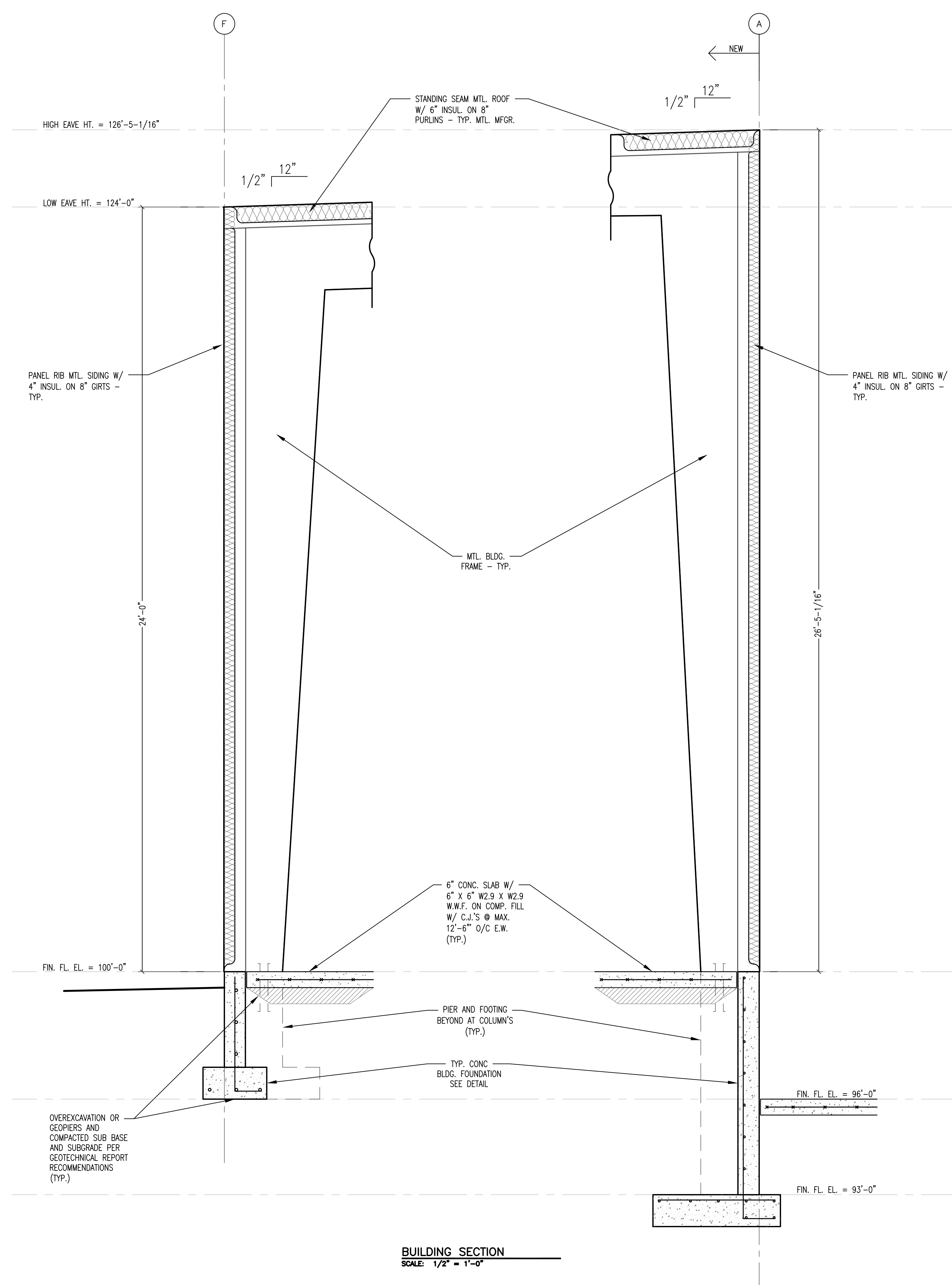
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COMMERCIAL & INDUSTRIAL CONTRACTORS
4575 ANN ARBOR RD., JACKSON, MI
Ph. 517-764-4770 FAX 517-764-5564

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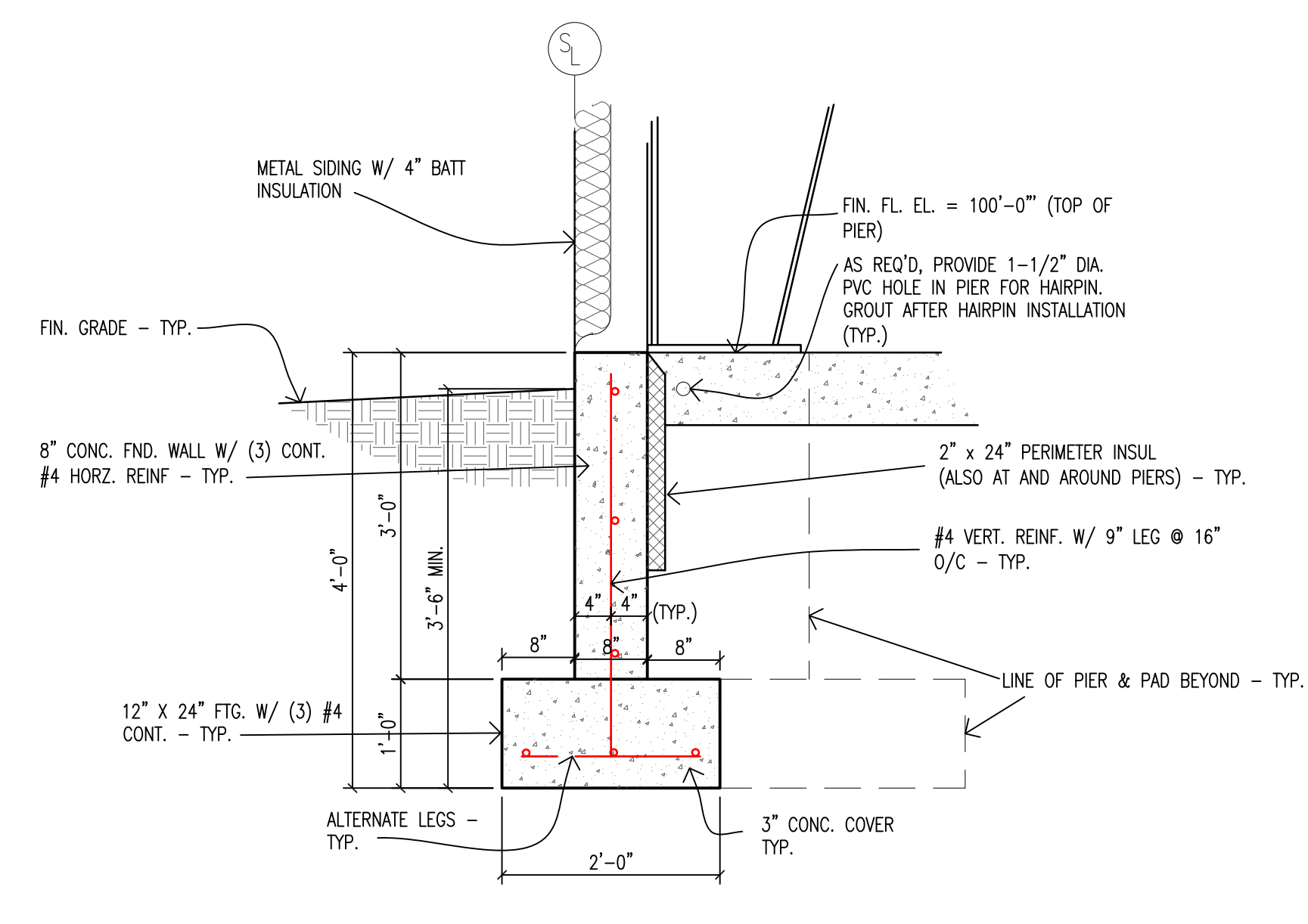
PROJECT FOR:
NEW EXPANSIONS FOR DUPONT BUILDING 186 & UTILITY ROOM
190 URAN ST.
HILLSDALE, MICHIGAN 49242

DATED: 08.18.2021
DRAWN BY: J. FEENEY
PROJECT NO: 1-21-230

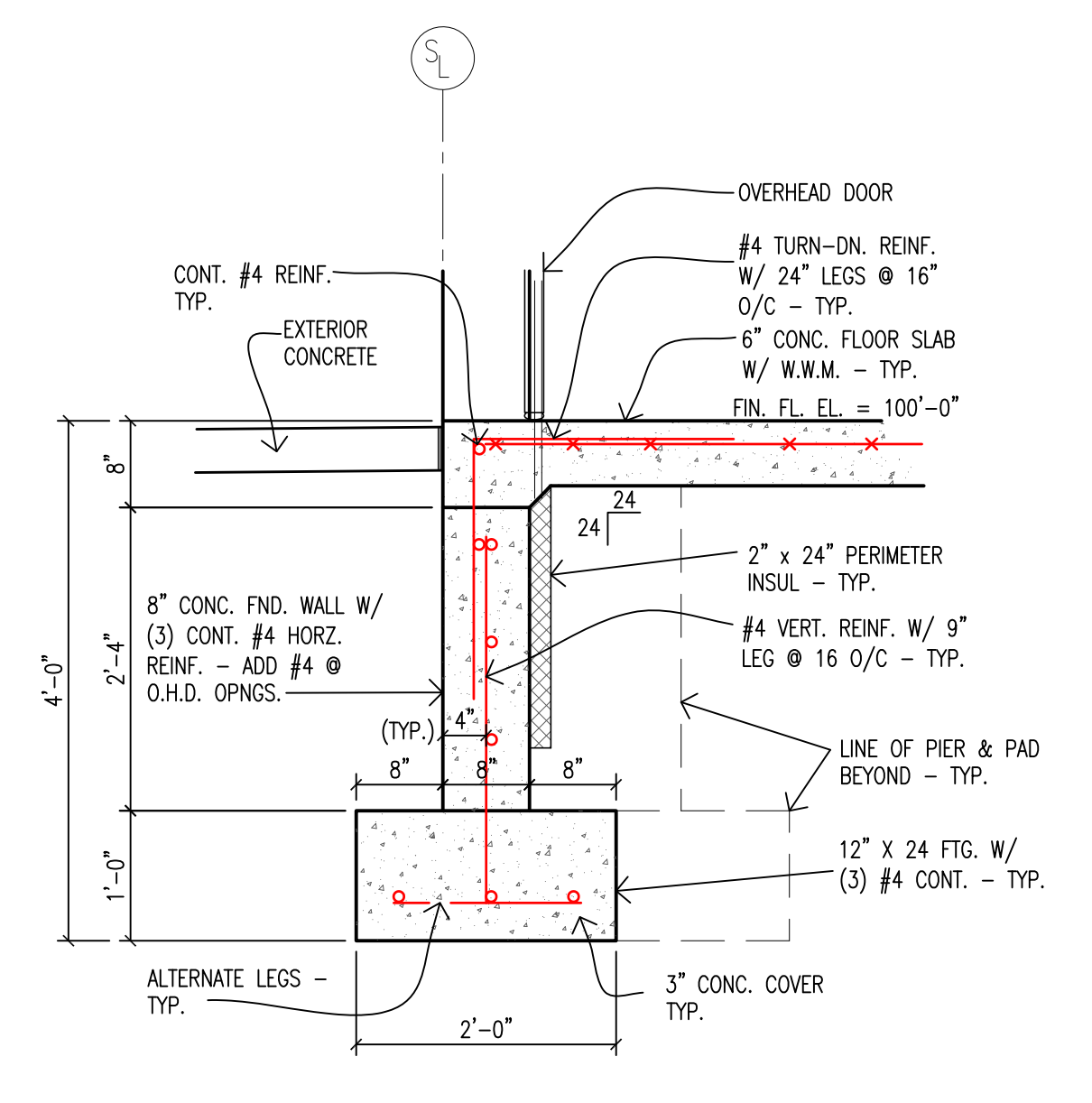
SHEET
A1.1
OF 5



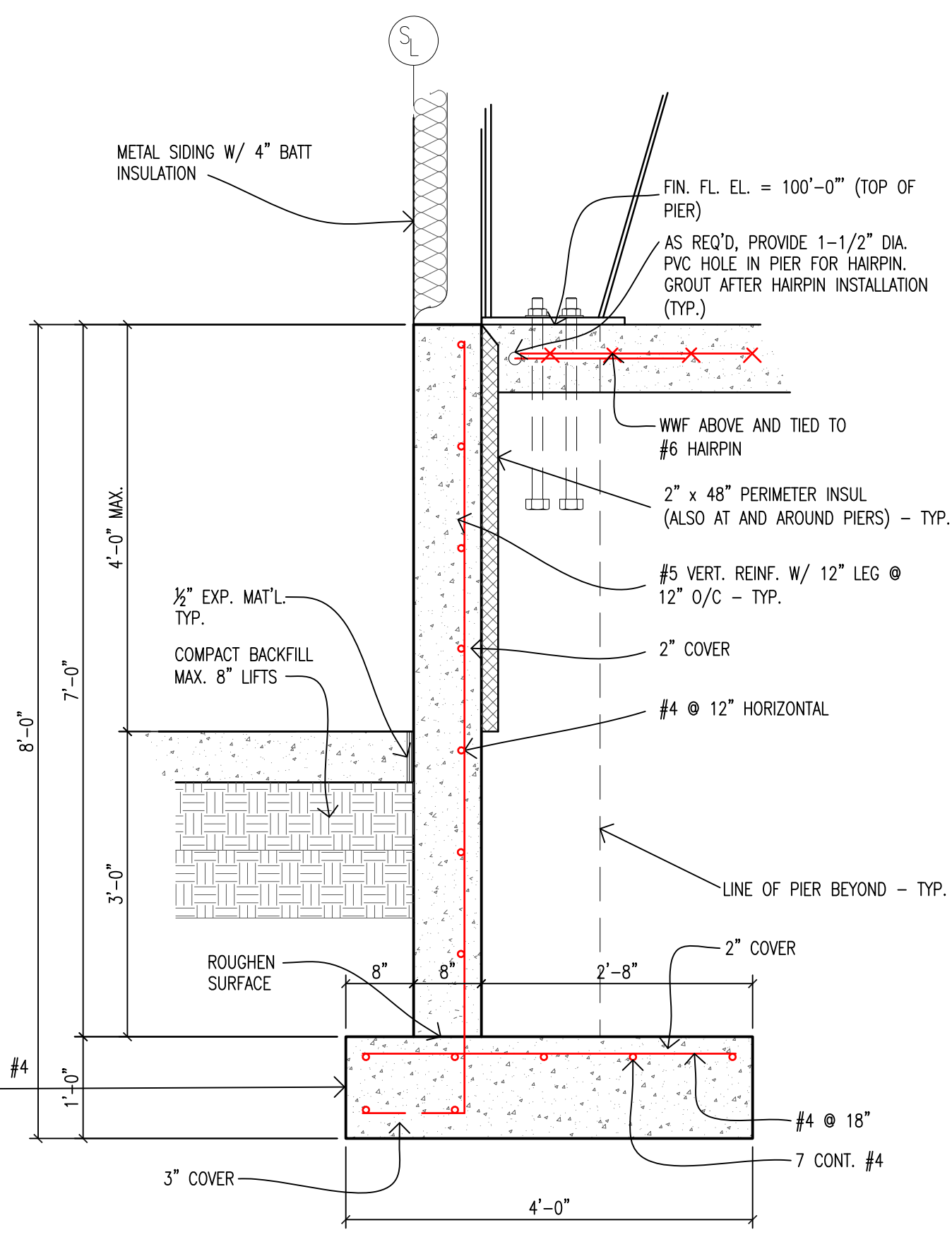
BUILDING SECTION
SCALE: 1/2" = 1'-0"



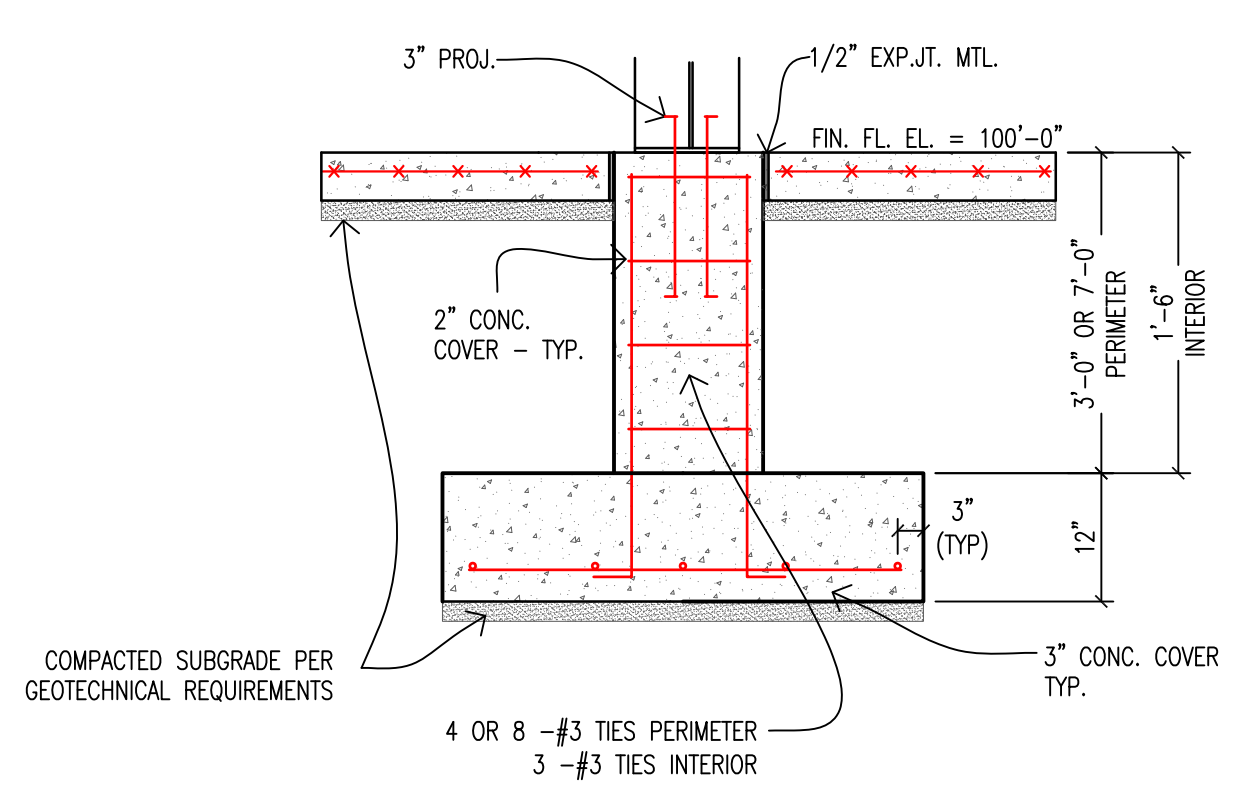
FOUNDATION WALL DETAIL A-A
SCALE: 3/4" = 1'-0"



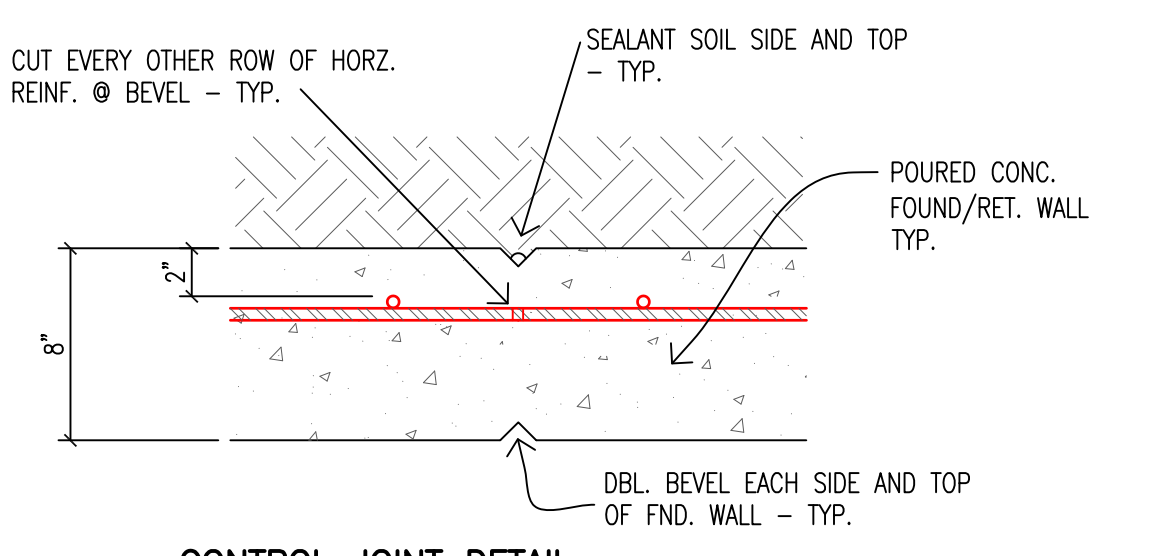
FOUNDATION WALL DETAIL B-B
SCALE: 3/4" = 1'-0"



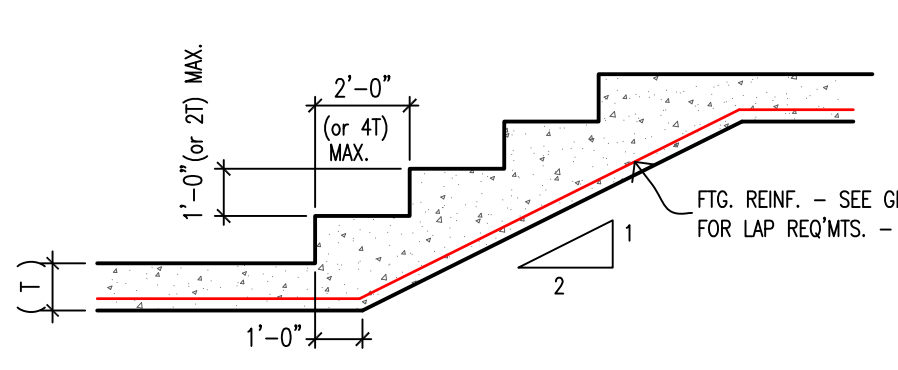
FOUNDATION WALL DETAIL C-C
SCALE: 3/4" = 1'-0"



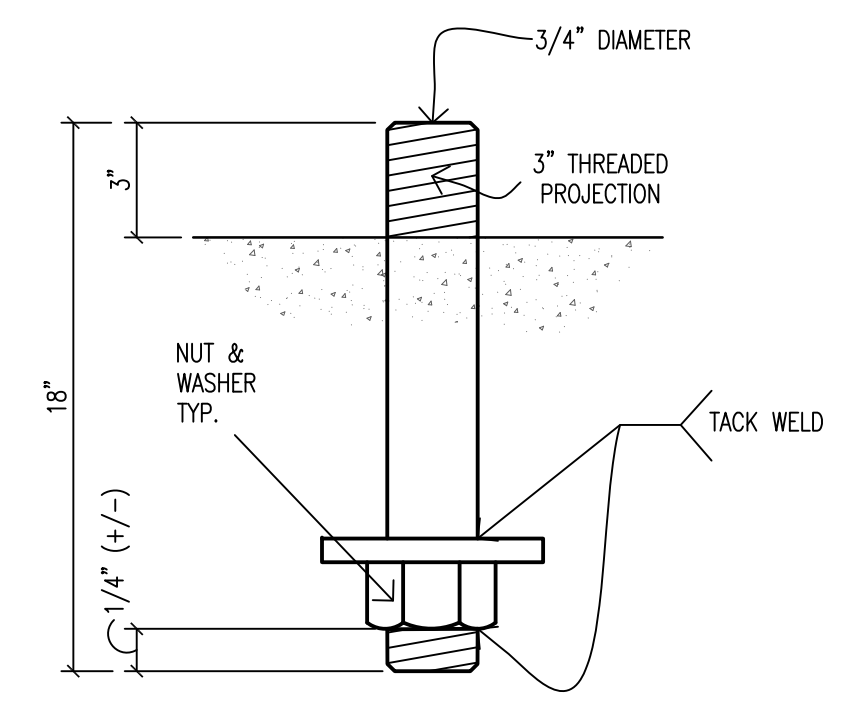
TYPICAL PIER & PAD DETAIL
SCALE: 3/4" = 1'-0"



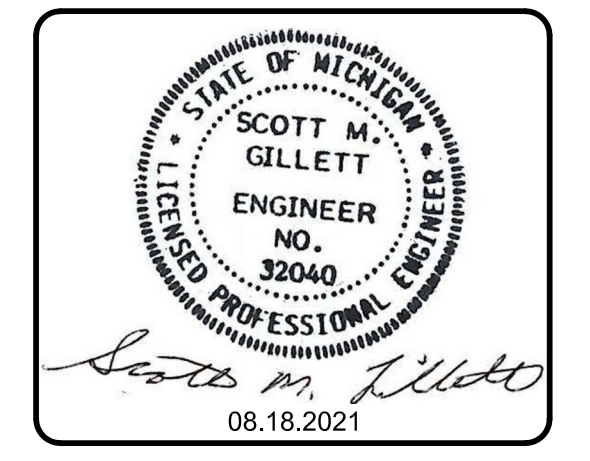
CONTROL JOINT DETAIL
NOT TO SCALE PLAN VIEW



STEP FOOTING DETAIL
SCALE: 3/4" = 1'-0"



ANCHOR ROD DETAIL
NOT TO SCALE



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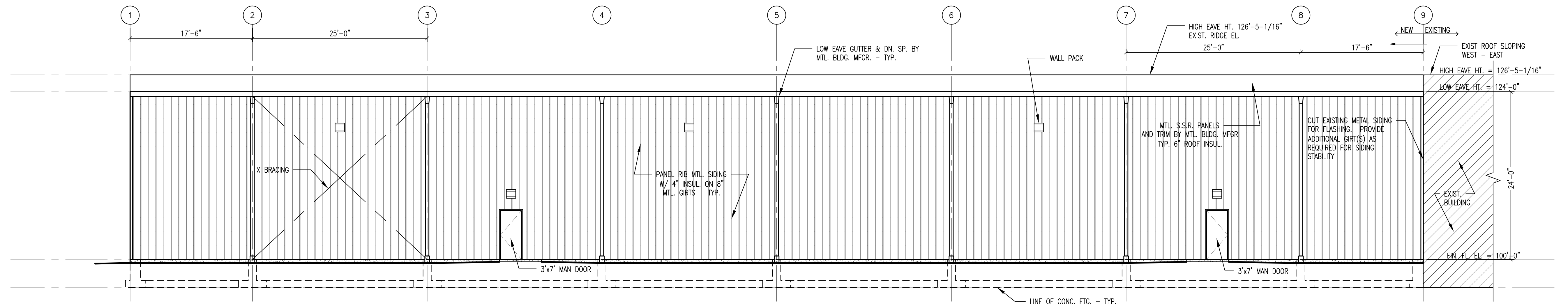
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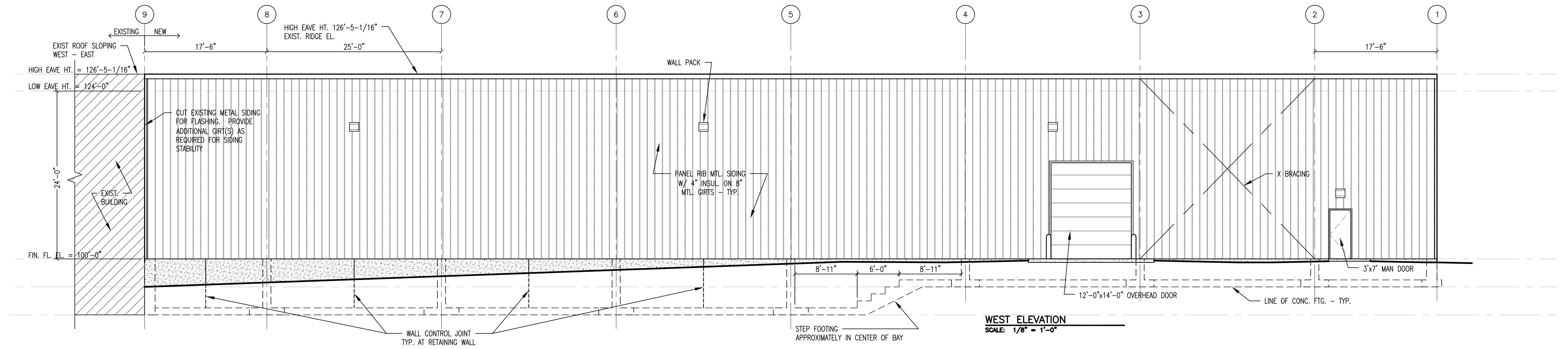
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190 URAN ST.
HILLSDALE, MICHIGAN 49242

DATED
08.18.2021
DRAWN BY
J. FEENEY
PROJECT NO.
1-21-230

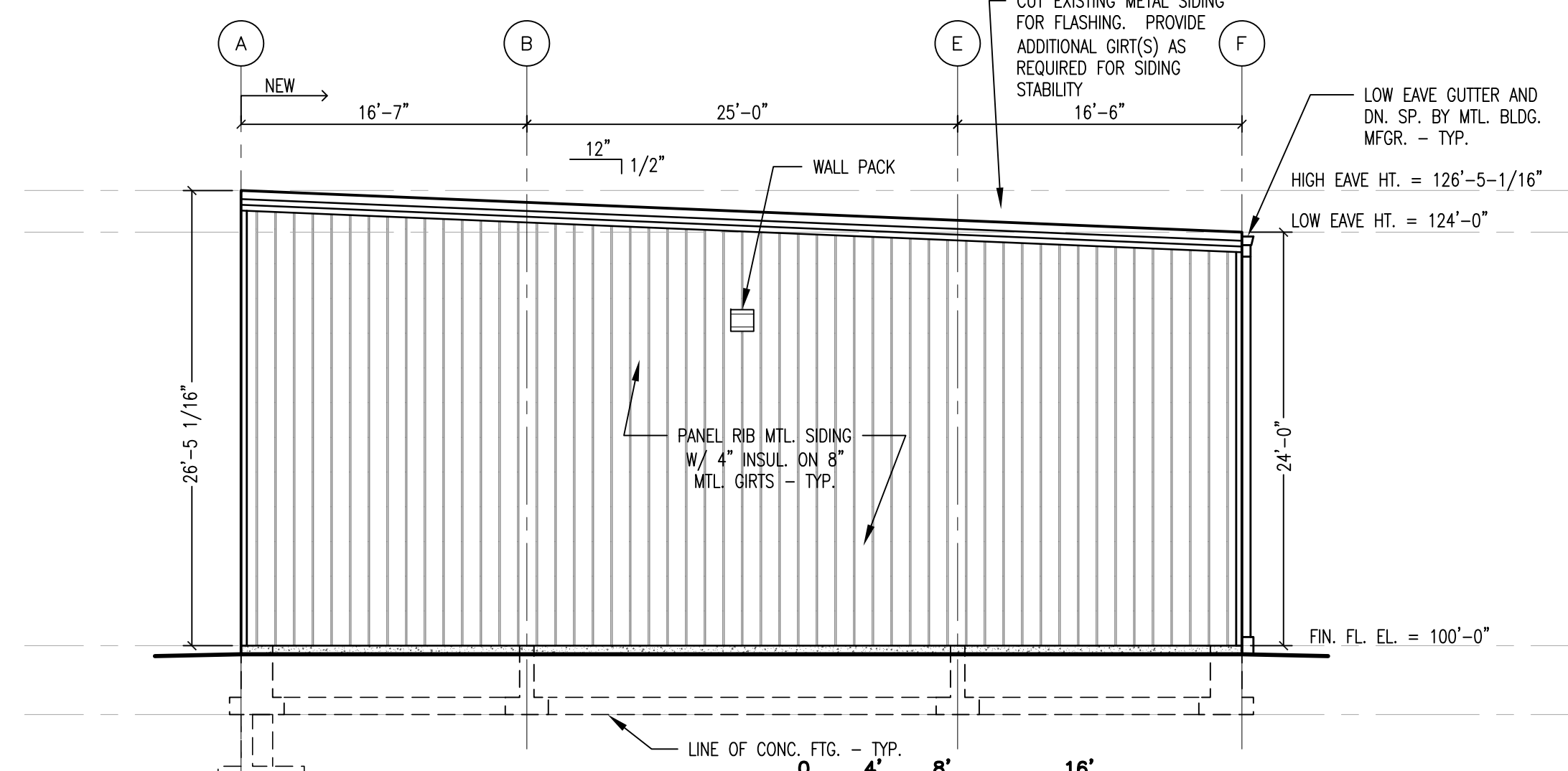
SHEET
A1.2
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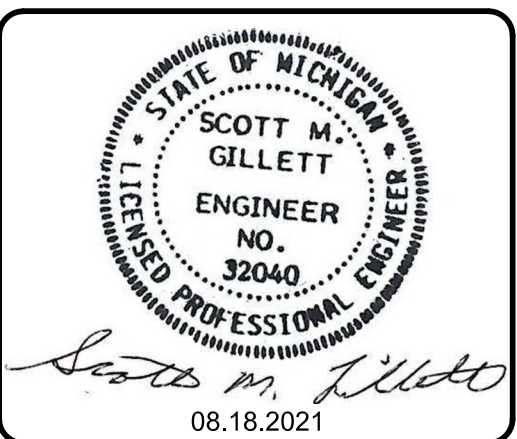
EAST ELEVATION
SCALE: 1/8" = 1'-0"



WEST ELEVATION
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



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190 URAN ST.
HILLSDALE, MICHIGAN 49242

DATED 08.18.2021
DRAWN BY J. FEENEY

SHEET **A1.3** OF 5



TO: Planning Commission

FROM: Zoning Administrator

DATE: September 15, 2021

RE: PC Bylaws – COI Section

Background: During our August meeting, we discussed the need to better define Conflict of Interest (COI) and amend the bylaws accordingly. Included in the packet is some information to review and discuss. The goal is to better define what COI is and how to avoid it.

**PLANNING COMMISSION BYLAWS
Of the City of Hillsdale**



Adopted, effective immediately,

Adopted: February 16, 2021
Effective: February 16, 2021

I. Name Purpose

- A. The name shall be the City of Hillsdale Planning Commission, hereafter known as the “Commission”.
- B. The name shall be the City of Hillsdale Council, hereafter known as the “Council”.
- C. These Bylaws are adopted by the Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 et seq.), hereinafter “the Planning Act.”
- D. These Bylaws are also adopted to facilitate the duties of the Commission for administration of a zoning ordinance as outlined in P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et seq.), hereinafter “the Zoning Act.”

II. Membership

- A. The Commission shall consist of 7 members appointed in accordance with MCL 125.3815 et. seq.
- B. Membership of the Commission shall consist of the following:
- C. Not less than six (6) members of the planning commission shall be qualified electors of the City of Hillsdale.
- D. Members shall be appointed for three-year terms. However when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of one third of all commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one third of all commission members continue to expire each year.
- E. Ex officio members may include the City Manager and the Mayor, or a person designated by him or her provided that no ex officio member may serve as planning commission chair. The terms of office of elected officials serving as ex officio members shall expire with their respective elected terms of office, and the term of the City Manager shall expire with the term of the Mayor that appointed him or her.
- F. The membership shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the City of Hillsdale, in accordance with the major interests such as:
 - a. Agriculture/Natural resources;
 - b. Recreation/public health;
 - c. Education;
 - d. Government; non-profit/charitable
 - e. Industry/Commerce
- G. The membership shall also be representative of the entire geography of the City of Hillsdale to the extent practicable, and as a secondary consideration to the representation of the major interests.
- H. Not more than one third of the total membership of the Commission shall consist of, collectively, the City Manager, the Mayor, or a person designated by either.

A. Liaisons

The Commission may name “liaisons” to the Commission. The purpose of liaisons is to provide certain City of Hillsdale officials and quasi-officials the ability to participate in discussions with the Commission, in addition to speaking in public participation, and nothing else. Liaisons cannot vote, introduce motions, initiate any other parliamentary action, or be counted for a quorum. Liaisons, if not already appointed as Commission members, are:

- a. Assessing department staff, and their agents and consultants.
- b. City Manager
- c. City engineering, water, sewer, DPW, or similar department heads.
- d. City Attorney

B. Attendance

If any member of the Commission is absent from three consecutive regularly scheduled meetings, then that member shall be considered delinquent. Delinquency shall be grounds for the Council to remove a member from the Commission for nonperformance of duty, or misconduct. The Commission secretary, or acting secretary in the absence of the elected secretary, shall keep attendance records and shall notify the Council whenever any member of the Commission is absent from three consecutive regularly scheduled meetings, so the Council can consider further action allowed under law or excuse the absences.

C. Training

Each member shall have attended at least four hours per year of training in planning and zoning during the member’s current term of office. As provided in the ordinance creating the Commission, failure to meet the training requirements shall result in the member not being reappointed to the Commission. Training shall be provided by one or more of the following organizations: Michigan Association of Planning, Michigan State University Extension, Michigan Townships Association, and Michigan Municipal League, continuing education programs of Michigan State University, University of Michigan, Northern Michigan University, Central Michigan University, or Wayne State University.

III. Duties of all members

A. Incompatibility of Office/Conflict of Interest

Each member of the Commission shall avoid and refrain from engaging in conflicts of interest. As used herein, a conflict of interest shall include by way of example and not limitation the following:

- 1. Unless permitted by a majority vote of the remaining members of the Commission determining that a conflict of interest does not exist, the actions of a member of the Commission in deliberating on, reviewing, participating in, presenting, or commenting on any of the following shall constitute a conflict of interest:
 - a. A case concerning or involving him or her.
 - b. A case concerning land that he or she owns in whole or in part.
 - c. A case concerning land that is adjacent to land that he or she owns in whole or in part.

- d. A case concerning land in or to which he or she has a financial interest or any other relationship from which he or she may stand to have financial gain, loss, or other benefit or detriment.
 - e. A case involving a corporation, company, partnership, or any other business or entity in which he or she is a sole or part owner or has any other relationship from which he or she may stand to have financial gain, loss, or other benefit or detriment.
 - f. A case involving any issue the resolution of which will or might result in financial gain, loss, or other benefit or detriment to him or her.
 - g. A case concerning or involving his or her spouse, or members of his or her spouse's family including, but not limited to children, step-children, parents, siblings, grandparents, and non-relative members of his or her household.
2. When a case involves the possible existence of a conflict of interest, the affected member or any remaining member of the Commission having knowledge of it shall immediately raise the question. Thereupon, the question shall be put to the remaining Commission members as to whether a conflict of interest exists or not. Whether a conflict of interest exists or not shall be determined by a majority of the remaining planning commission members.
3. Upon the discovery or determination of a conflict of interest, all of the following steps shall be taken:
 - a. The existence of the conflict of interest shall be declared on the record by the member declaration of it or the Commission's determination of it, together with the underlying facts pertinent thereto.
 - b. The affected member shall immediately cease any of his or her participation in the Commission's deliberations, review, and determination of the involved matter.
 - c. During the Commission's hearing and consideration of the matter, the affected member shall either leave the meeting or remove himself or herself from his or her seat at the Commissioners' table until the involved matter is concluded.
4. If a member of the Commission is appointed to and accepts another office, which is an office that is incompatible with his or her membership on the Commission, then the appointment to and acceptance of the other office shall result in and be deemed to be the member's automatic resignation from the Commission as of its effective date. If a member of another office is appointed to the Commission and accepts the appointment, and the appointment to the Commission is incompatible with his or her membership in the other office, then the member's acceptance of the appointment to the Commission shall be deemed to be his or her resignation from the other office as of its effective date.

B. Ex Parte Contact

Members shall avoid Ex Parte contact about cases where an administrative decision is before the commission whenever possible.

Despite one's best efforts it is sometimes not possible to avoid Ex Parte contact. When that happens, the member should take detailed notes on what was said and report to the Commission at a public meeting or hearing what was said, so that every member and other interested parties are made aware of what was said.

C. Site Inspections

Site inspections shall be done by the zoning administrator or other staff. A written report of the site inspection shall be orally presented to the Commission at a public meeting or hearing on the site. No more than one member of the Commission may visit the site at a time and they shall be accompanied by the Zoning Administrator.

D. Not Voting On the Same Issue Twice

Any member of the Commission shall avoid situations where they are sitting in judgment and voting on a decision which they had a part in making. As used here, sitting in judgment and voting on a decision which they had a part in making, at a minimum shall include, but not necessarily be limited to, the following:

1. When the appeal is of an administrative or other decision by Commission and the member of the Commission sits both on the Commission and Zoning Board of Appeals.
2. When the appeal is of an administrative or other decision by any committee of the Commission, Council, or other committee and the member of the Commission sits both on that committee and Zoning Board of Appeals or both on the Commission and Zoning Board of Appeals.
3. When the case is an administrative decision which was decided by the Commission and sent to the Council for further action, and the member of the Commission sits both on the Commission and Council.

E. Accepting gifts

Gifts shall not be accepted by a member of the Commission or liaisons from anyone connected with an agenda item before the Commission. As used here, gifts shall mean cash, any tangible item, or service, regardless of value; and food valued over \$10. This section does not apply to the Commission accepting gifts for the exercise of its functions pursuant to M.C.L. 125.3823(3), §23(3) of the Planning Act.

F. Spokesperson for the Commission

Free and open debate should take place on issues before the Commission. Such debate shall only occur at meetings of the Commission. Once a vote is taken and an issue is decided by vote, the duty of each member of the Commission is to represent the position reflected by the outcome of the vote. Minority reports and requests for reconsideration may take place only at an open meeting of the Commission. From time-to-time or on a specific issue, the Commission may appoint a spokesperson for the Commission for all matters which occur outside of the meetings of the Commission.

IV. Officers

A. Selection

At the regular meeting in December of each year, the Commission shall select from its membership a Chair and a Vice-Chair. All officers are eligible for reelection. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice-Chair for the unexpired

term. The Commission may also designate another person who is not a member of the Commission to be the recording Secretary.

B. Tenure

The Chair and Vice-Chair shall take office January 1 following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

C. Chair's Duties

The Chair retains his or her ability to discuss, make motions and vote on issues before the Commission. The Chair shall:

1. Preside at all meetings with all powers under parliamentary procedure;
2. May call special meetings pursuant to Section 5.B of these Bylaws;
3. Represent the Commission, before Council;
4. Execute documents in the name of the Commission;
5. Perform such other duties as may be ordered by the Commission.

D. Vice-Chair's Duties

The Vice-Chair shall:

1. Act in the capacity of Chair, with all the powers and duties found in Section 4.C of these Rules, in the Chair's absence;
2. Perform such other duties as may be ordered by the Commission.

E. Secretary's Duties

The Secretary shall:

1. Be responsible for the minutes of each meeting, pursuant to Section VI of these Bylaws if there is not a recording secretary.
2. Review the draft of the minutes, and submit them for approval to the Commission. Copies of minutes shall be distributed to each member of the Commission prior to the next meeting of the Commission.
3. Receive all communications, petitions, and reports to be addressed by the Commission, delivered or mailed to the Secretary in care of the Assessing department Office.
4. Keep attendance records pursuant to Section II of these Bylaws.
5. Provide notice to the public and members of the Commission for all regular and special meetings, pursuant to the Open Meetings Act, P.A. 267 of 1976, as amended, M.C.L. 15.261 et seq.
6. Prepare an agenda for Commission meetings pursuant to Section V of these Bylaws.
7. Perform such other duties as may be ordered by the Commission.

V. Meetings

A. Regular meetings

Meetings of the Commission will be held monthly at a date and time to be determined annually for the City calendar. The meetings shall be held at City Hall, 97 N. Broad St., Hillsdale,

Michigan. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternate day in the same month. An annual notice of regularly scheduled Commission meetings shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.)

B. Special Meetings

Special meetings shall be called in writing and directed to the Planning Secretary in the following manner:

1. By the Chair.
2. By any two members of the Commission.

Notice of special meetings shall be given by the Secretary to members of the Commission at least twenty four (24) hours prior to such meeting and shall state the purpose, time, day, month, date, year and location of the meeting (the Secretary may delegate this function to staff). In addition, notices shall comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act M.C.L. 15.261 et seq.).

C. Recess

The Chair, or the Commission, after the meeting has been in session for two hours (not including site inspections), shall suspend the Commission's business and evaluate the remaining items on its agenda. The commission shall then decide to finish that meeting's agenda, may act to continue the meeting on another day (fix the time at which to adjourn), or complete some agenda items and continue the meeting on another day to complete other agenda items or postpone certain agenda items to the next meeting. If applicable such action shall include the time, day, month, date, year, and location the Commission will reconvene. If more than 18 hours will pass before the reconvened Commission, public notice shall be given to comply with P.A. 267 of 1976, as amended, (being the Michigan Open Meeting Act M.C.L. 15.261 et seq.). Upon reconvening, a roll call of attendance shall be the first item of business before proceeding with the same agenda. The commission shall resume with the same meeting agenda, proceeding at the same point where they left off, without the addition of additional business.

D. Quorum

More than half the total number of seats for members of the Commission, regardless if vacancies exist or not, shall constitute a quorum for the transaction of business and the taking of official action for all matters before the Commission. Whenever a quorum is not present at a regular or special meeting, those present shall adjourn the meeting to another day.

E. Motions

Motions shall be restated by the Chair before a vote is taken.

F. Findings of Fact

All actions taken in an administrative capacity including but not limited to; special use permits, subdivisions, zoning, site plan review, planned unit developments, review and submission on another municipality's proposed plan, review and submission on a capital improvement, review of township zoning, shall include each of the following parts:

1. A finding of fact, listing what the Commission determines to be relevant facts in the case in order to eliminate misleading statements, hearsay, irrelevant, and untrue statements.
2. Conclusions to list reasons based on the facts for the Commission's action, often directly related, or not, to a finding of compliance, or noncompliance, to standards.
3. The Commission's action, recommendation or position, approval, approval with conditions, or disapproval.

G. Voting

Voting shall be by voice and shall be recorded as passing or failing. Roll call votes will be recorded only upon request by a member of the Commission and shall be recorded by "yes" or "no". Members must be present to cast a vote. Voting by proxy shall not occur. The affirmative vote of a majority of those present or a majority of a quorum, whichever is greater, shall be necessary for the adoption of motions. The affirmative vote of two thirds the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

H. Commission Action

Action by the Commission on any matter on which a hearing is held shall not be taken until the hearing has been concluded.

I. Parliamentary Procedure

Parliamentary procedure in Commission meetings shall be informal. However, if required to keep order, Commission meetings shall then be governed by Roberts Rules of Order Newly Revised, (10th Edition, Perseus Publishing, New York, 2000 (ISBN 0-7382-037-6)) for issues not specifically covered by these Bylaws. Where these Bylaws conflict, or are different than Robert's Rules of Order, then these Bylaws control.

J. Public Participation

All regular and special meetings, hearings, records, and accounts shall be open to the public.

1. All public comment on all agenda items should be presented at the beginning of the meeting where provided in the printed agenda. After that point during the meeting, public comment is normally not allowed; however, sometimes the Commission may direct questions to members of the public. Public comment is at the beginning of the meeting so the Commission can hear concerns and questions before acting on an issue. Those making public comment are expected to be familiar with the issue and have prepared comments ahead of time. To help the public in preparing for the meeting, any written material shall be made available without cost for members of the public asking for a copy prior to the meeting.
2. The Chair may limit the amount of time allowed for each person wishing to make public comment at a Commission meeting. The Chair may ask members of the audience to caucus with others sharing similar positions so they may select a single spokesperson. If a single spokesperson is selected, that individual shall be able to make public comment at the Commission meeting without time limit or an extended time limit.

K. Consensus Business

Certain items of business before the Commission are routine matters where no discussion normally occurs or is expected to occur and a consensus for adoption normally occurs or is expected to occur. The individual preparing the agenda may mark such items on the agenda as a Consent Item, if that individual feels it qualifies as consensus business. The agenda or material presented on the issue should indicate the proposed action; approve, disapprove, no comment, approve with modification. Any Consent Item can be removed by request of a member. It may be automatically removed if discussed during Public Participation. A motion to adopt the Consent Items can be made to adopt all agenda items still included as Consent Items. The approval of minutes and the expense report shall be proposed on the agenda as Consent Items. Consensus business can be proposed for any item on the agenda, but shall never include any of the following:

1. Items of business which are listed in Section X of these bylaws.
2. Review of plans and zoning ordinances, or any part or amendment thereto.
3. Action on special use permits, planned unit developments, site plans, and similar administrative actions.
4. Election of officers.
5. Any item not printed on the agenda which is delivered, along with adequate supporting information, to Commissioners prior to the meeting.

The motion to adopt Consent items in the minutes shall clearly list each item and indicate its action/disposition.

L. Order of Business/Agenda

The Secretary, or designee, shall prepare an Agenda for each meeting and the order of business shall be as follows:

1. Call to Order, Roll Call, and Pledge of Allegiance.
2. Matters pertaining to citizens present at the meeting, in the following order:
3. Advertised Public Hearings.
 - a. The Chair will declare such a public hearing open and state its purpose. The petitioner, or proponent of the action advertised will be heard first.
4. Persons requested by the Commission to attend the meeting.
5. Other public participation for items on this agenda.
6. Housekeeping business.
 - a. Consent Business.
 - b. Approval of Minutes.
 - c. Approval of Department's expense report.
 - d. Other.
7. Unfinished business and reports.
 - a. Items considered here are taken up in the same order as established by the Commission to fix a priority for consideration and work done in the planning office.
8. New business
 - a. Other business and communications
9. Public participation for items not on this agenda.
10. Adjournment.

M. Delivery of Agenda

The agenda and accompanying materials shall be delivered to each Commission member to be received one week prior to the regular meeting date.

N. Placement of Items on the Agenda

1. The Assessing department/Zoning Administrator shall be the office of the Commission and handler of Commission requests.
2. The Assessing department/Zoning Administrator may receive items related to a petition on behalf of the Commission between the time of the adjournment of the previous Commission meeting and ten (10) business days prior to the next regularly scheduled Commission meeting.
3. Completed petition items for review received by the Assessing department/Zoning Administrator less than ten (10) business days prior to the next regularly scheduled Commission meeting shall be set aside to be received by the Commission at its next regularly scheduled meeting. The Commission may act on those items of a minor nature or table action to the subsequent regular or special Commission meeting. Those items requiring action or items normally receiving staff review, analysis, or recommendation shall be tabled until the subsequent regular or special Commission meeting.

I. Record

A. Minutes and Records

The Commission Secretary shall keep, or cause to be kept, a record of Commission meetings, which, shall at a minimum include an indication of the following:

1. Copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, M.C.L. 15.261 et seq.)
2. Copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence:
 - a. Time and place the meeting was called to order.
 - b. Attendance.
 - c. Indications of others present by listing names of those who choose to sign in and/or a count of those present.
 - d. Summary or text of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting, and who gave the report and in what capacity. An alternative is to attach a copy of the report if offered in writing.
 - e. Summary of all points made in public participation or at a hearing by the applicant, officials, and guests and an indication of who made the comments. An alternative is to attach a copy of the public's statement, petition, or letter if it is provided in written form.
 - f. Full text of all motions introduced, whether seconded or not, who made the motion and who seconded the motion. For each motion, the following should be included:
 - i. Who testified and a summary of what was said.

- ii. A statement of what is being approved (e.g. special use permit, variance, conditional use permit, subdivision, land division, etc.)
- iii. The location of the property involved (tax parcel number and description, legal description is best).
- iv. What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes).
- v. What evidence was considered (summary of discussion by members at the meeting).
- vi. The administrative body's findings of fact.
- vii. Reasons for the decision made. (If the action is to deny, then each reason should refer to a section of an ordinance which would be violated or with which not complied.)
- viii. The decision (e.g. approves, deny, approve with modification).
- ix. A list of all required improvements (and if they are to be built up-front or name the type of performance security to be used), if any.
- x. List of all changes to the map/drawing/site plan that was the changes on the map of what was applied for, rather than listing the changes. Do not use different colors. The map will most likely be photo copied. Then colors on the copy will not show at all or will just be black.)
- xi. Make the map/drawing/site plan part of the motion (e.g. "...attached to the original copy of these minutes as appendix `A', and made a part of these minutes...").
- xii. Who called the question.
- xiii. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "the motion passed/failed after a voice vote."
- xiv. That a person making a motion withdrew it from consideration.
- xv. All the Chair's rulings.
- xvi. All challenges, discussion and vote/outcome on a Chair's ruling.
- xvii. All parliamentary inquiries or point of order.
- xviii. When a voting member enters or leaves the meeting.
- xix. When a voting member or staff member has a conflict of interest and when the voting member ceases and resumes participation in discussion, voting and deliberations at a meeting.
- xx. All calls for an attendance count, the attendance, and ruling if a quorum exists or not.
- xxi. The start and end of each recess.
- xxii. All of the Chair's rulings of discussion being out of order.
- xxiii. Full text of any resolutions offered.
- xxiv. Summary of announcements.
- xxv. Summary of informal actions, or agreement on consensus.
- xxvi. Time of adjournment.
- xxvii. Records of any action, support documents, maps, site plans, photographs, correspondence received, attached as an appendix to the minutes.

B. Retention

Commission records shall be preserved and kept on file according to the following schedule:

1. Minutes, bonds, oaths of officials, zoning ordinances, master or compressive plans, other records of decisions, Commission or department publications: permanent.
2. General ledger: 20 years.
3. Account journals: 10 years.
4. Bills and/or invoices, receipts, purchase orders, vouchers: 7 years.
5. Correspondence: Permanent.

VII. Committees

A. Ad Hoc Committees

The Commission or Chair may establish and appoint ad hoc committees for special purposes or issues, as deemed necessary. Less than a quorum may serve on an ad hoc committee at any given time.

B. Citizen Committees

The Commission, Chair, or Assessing department/Zoning Administrator may establish and appoint citizen committees with the consent of the Commission. Membership can be any number, so long as less than a quorum of the Commission serves on a citizen committee at any given time. The purpose of the citizen committee is to have more citizen and municipal government involvement, to be able to use individuals who are knowledgeable or expert in the particular issue before the Commission and to better represent various interest groups in the City of Hillsdale.

VIII. Rules of Procedure for All Committees

A. Subservient to the Commission

All committees are subservient to the Commission and report their recommendations to the Commission for review and action. The Commission can overrule any action of any committee.

B. Same Principles

The same principals of these Bylaws for the Commission also apply to all committees of the Commission.

IX. Mileage and Expenses

Mileage and travel expenses shall be paid to members of the Commission at rates established by the Council for attending certain training programs representing the City of Hillsdale as authorized by the Commission.

X. Hearings

A. Plan Hearings

Before the adoption of any part of a plan, as defined in the Planning Act, or any amendment to a plan, or recommending approval of an amendment to the Council, the Commission shall hold a

public hearing on the matter. Notice of the time and place of the hearing shall be given, not less than 15 days prior to such hearing, by at least one publication in each newspaper of general circulation.

B. Special Hearings

Notice of special hearings for the purposes of presenting preliminary master plans, obtaining public opinion on a problem, or discussion of a particular problem with interested parties will be given in the most practical manner and to persons, or group representatives most interested, and as required by the Planning Act, Zoning Act, and relevant local zoning ordinance.

C. Notice of Decision

A written notice containing the decision of the Commission will be sent to petitioners and originators of a request for the Commission to study a special problem.

XI. Zoning Responsibilities

All powers of the zoning commission have been transferred to this Commission, pursuant to M.C.L. 125.3301 of the Zoning Act.

A. Zoning adoption or amendment including PUD zoning amendments

The commission shall review and act on all proposed zoning ordinances, or zoning amendments pursuant to the Zoning Act. At least one hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the zoning ordinance and the Zoning Act. After the hearing, action shall be in the form of a recommendation to the Council. At a minimum the recommendation shall include:

1. Zoning plan for the areas subject to zoning, or zoning amendment of the City of Hillsdale
2. The establishment of or modification of zoning districts, including the boundaries of those districts, if applicable
3. The text of a zoning ordinance or amendment with the necessary maps and zoning regulations to be adopted for a zoning district or the zoning jurisdiction as a whole
4. The manner of administering and enforcing the zoning ordinance

B. Special Use Permit including PUDs

The Commission shall review and act on all special use permits pursuant to the Zoning Act and Zoning Ordinance. At least one hearing shall be held on each proposed zoning ordinance or amendment, with notices given as specified in the zoning ordinance and the Zoning Act. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to Section V of these Bylaws.

C. Site Plan Review

The Commission shall review and act on all site plans which the zoning ordinance requires Commission action. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to Section V of these Bylaws.

D. Appeals

The Commission shall not act, or otherwise hear issues on zoning ordinance interpretation, zoning map interpretation, non-use variances, or use variances. Such matters shall be exclusively the jurisdiction of the Zoning Board of Appeals.

XII. Plan Reviews

The Commission shall review all adjacent, or contiguous, local government plans (township, village, and city), adjacent county plans, local governments government plans (township, village, and city plans) within the boundaries serviced by the Commission, and the county plans in which the Commission's service area is located. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to Section V of these Bylaws.

The review should focus on:

- A. First and foremost, the process is intended to increase coordination of planning between governments.
- B. Consistencies or inconsistencies with your government's plan(s) for matters such as:
 - a. Border issues
 - b. Issues of greater than local concern
 - c. Comparison with local plan contents
 - d. Comparison with county/regional plan contents
 - e. Comparison to other relevant adopted plans (such as an historic preservation plan, local wetland protection plan, TIF or brownfield redevelopment plan, etc.).
 - f. Comparison to various implementation strategies.
- C. The review shall be in the form of a letter and shall take into account:
 - a. Respect for the idea that the submission and review stages are near the end of a plan adoption process. A community may be ready to adopt and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
 - b. Focus only on significant issues, in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
 - c. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.
 - d. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.
 - e.

XIII. Capital Improvements Review

Capital Improvements

The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public way, grounds, agricultural land, open spaces, buildings, or properties before work is started and after municipal capital improvement planning approval is obtained. All preliminary plans and reports for the physical development of the City of Hillsdale, including the general location, character and extent of streets and roads, viaducts, bridges, farmland, agricultural land, forest land, parks and open spaces; the general location of public buildings and

other public property; the general location and extent of public utilities and terminals. Action shall be in the form of a motion which contains (or is included in the minutes) a finding of fact, conclusions as to a list of reasons for the action, and the Commission's advisory action, pursuant to Section V of these Bylaws.

When reviewing the proposed project the planning commission should at a minimum consider the following issues. If the answer to any of the below is “no,” then the planning commission’s review of the project should not be favorable.

- A. Is the proposed project consistent with adopted plans?
- B. Is the project consistent with other governmental management plans?
- C. Is the project consistent with the plans of each municipality located within or contiguous to the City of Hillsdale?
- D. Is the project consistent with adopted, if any, capital improvement plans?

The review shall be in the form of a letter, sent within 35 days after the proposal is filed for review, and shall take into account:

- A. Respect for the idea that the submission and review stages are near the end of a process. A community may be ready to start construction and others may be waiting for the task to be done.
- B. Focus only on significant issues in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
- C. Be clear and document statements to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments or agencies of governments.
- D. Include mutual respect of others, so the comments are factual, objective, and based on sound planning principles.

XIV. Subdivision Review

Prepare a Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance), or amendments to the same, to submit to the City of Hillsdale Council.

A. Proposed Subdivisions

The Commission is to implement the following:

1. Staff for the Commission is to receive a plat and determine that the submission is complete. If incomplete, the plat shall be returned to the applicant with a list of deficiencies. If complete, the plat shall be received on behalf of the Commission.
2. Conduct a review of plats of proposed subdivisions (and/or site-condominium).
3. Hold a hearing on a proposed subdivision (and/or site-condominium) with notice of the hearing sent not less than 15 days before the date of the hearing.
4. The notice shall contain an explanation of what the hearing is for, the location and nature of the proposed development, the date, and time, place of the hearing, where written comments may be submitted, and the deadline for those written comments.
5. The notice shall be sent to the person indicated on the plat (and/or draft site-condominium master deed) as the proprietor or other person(s) to who notice of the hearing shall be sent, the property owner, and adjacent property-owners.

6. The notice shall be published in a newspaper of general circulation in the City of Hillsdale.
7. Any others as required by the Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance).
8. Within 63 days of a complete plat (and/or draft site-condominium master deed) being submitted, act on the proposed subdivision (and/or site-condominium) in the form of a recommendation to the City of Hillsdale Council of the municipality in which the proposed subdivision (and/or site-condominium) is located.
9. If applicable standards under the Land Division Act (M.C.L.560.101 et seq.), Condominium Act (M.C.L. 559.101 et seq.) if applicable, and Subdivision Ordinance (and/or Subdivision, Land Division, Site-Condominium Ordinance), the Commission shall recommend approval.
10. Grounds for any recommendation of disapproval of a plat (and/or Site-Condominiums) shall be stated upon the record of the Commission.
11. If the Commission does not act within the 63-day period, the plat (and/or Site-Condominiums) shall be considered to have been recommended for approval, and a certificate to that effect shall be issued by the Commission upon request of the applicant. The applicant may waive the 63-day period and grant an extension.

B. Master Plan Amendment

Commission approval of a subdivision shall be considered to be an amendment to the master plan and a part thereof. The Commission shall cause the official copies of the master plan to be modified to reflect the amendment to the master plan within 30 days of the subdivision approval.

XV. Other Matters to be considered by the Commission

Commission Action

The following matters shall be presented for consideration at a meeting of the Commission:

- A. At least annually, the adoption of priorities for the Commission's plan of work.
- B. Annually, preparation of an annual report of the Commission.
- C. Office, or Administrative Policy and ruling of interpretation of regulations by the Commission or its staff.

Land subdivision plats.

All Planning reports and plans before publication.

Such other matters as the Planning Administrator shall find it advisable or essential to receive consideration by the Commission.

XVI. Adoption, Repeal, Amendments

Upon adoption of these Bylaws all previous Bylaws shall be repealed.

The Commission may suspend any one of these Bylaws, for duration of not more than one agenda item or meeting.

These Bylaws may be amended at any regular or special meeting by a two-thirds vote of the members present.

Conflict of Interest rules apply to all communities, regardless of size

Kurt H. Schindler, [Michigan State University Extension](#) - September 22, 2014

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Often a small community struggles to avoid a “conflict of interest” situation – particularly hard because of its small size. But there are not any exceptions or special dispensation due to the size of a community.

Most are familiar with the idea that a person in a government office should avoid conflict of interest. But sometimes in small communities that can be difficult.

A conflict of interest means a situation when one is making a decision in their government office capacity which is also impacting one's:

- Finances
- Relatives/family (employer/employees, business partner)
- Proximity (as it influences one's property value)

Courts and statutes have established the minimum standard which creates a conflict of interest. However, a local government or a government body (in its bylaws or rules of procedure) can raise the bar and set a higher standard for when a situation is considered a conflict of interest.

For example, “proximity” at a minimum means adjacent, as in next door. So if a member of a planning commission has his or her next door neighbor applying for a special use permit, that planning commission member would have a conflict of interest. But what about two doors or 300 feet away? Those would be the “higher standard” for when a situation is considered a conflict of interest. But it is not always good to raise the bar in

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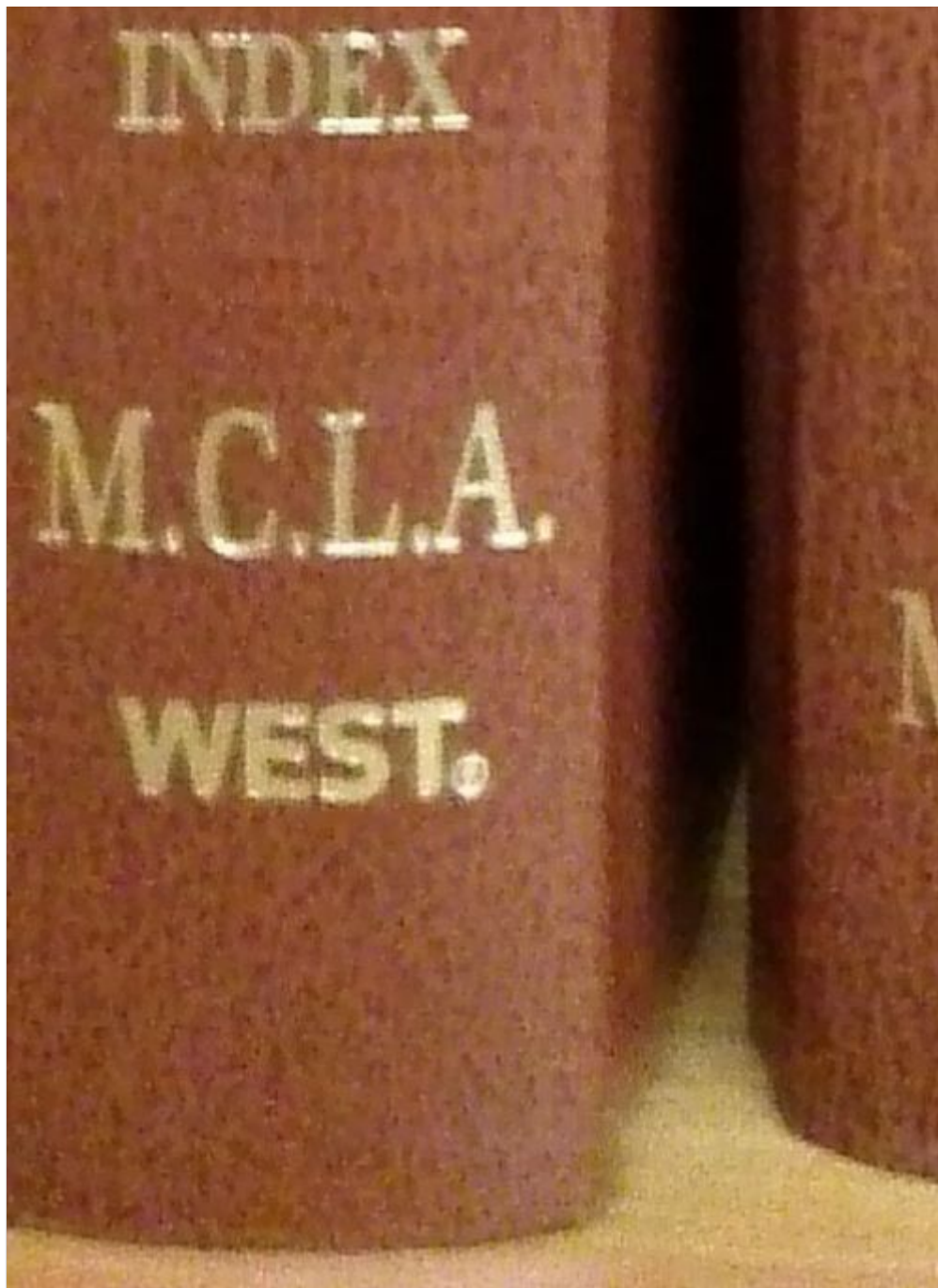
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and Zoning



this way. In a very small village, if everything within 300 feet is a conflict of interest, the village may constantly lose a quorum. So a community has to balance practicality with the level of standard before something becomes a conflict of interest.

The same type of balancing should be thought about for “relatives.” Is it immediate family, extended family or third cousin twice removed? The same issue exists between what is pragmatic and the level of standard before something becomes a conflict of interests. There will be communities where the definition of “relatives” may result in constantly losing a quorum to be able to conduct business.

For a planning commission or zoning board of appeals, Michigan law does not provide for, or give any special dispensation due to the size of a community, or the likelihood there may be more or less opportunity for conflict of interest to exist. Michigan State University Extension land use educators receive questions from time-to-time from individuals who are looking for some exception or special consideration from these rules because their community is small. Those types of exceptions or special considerations do not exist for planning commissions or zoning boards of appeals.

(The rules about conflict of interest can be different for elected bodies. For example, a county commissioner shall not be interested directly or indirectly in any contract or other business transaction with the county unless the contract or transaction has been approved by 3/4 of the members of the county board of commissioners [MCL 46.30].)

When one has a conflict of interest that does not preclude one from serving on a board or commission, it does mean for that particular case, the member with the conflict does not vote, discuss (in or outside the meeting), or participate at the meeting (e.g., leaves the meeting room) for that agenda item. If the member has interests that need to be represented on that agenda item, it is done through an agent (spouse, lawyer, friend or other person). Appointments to a planning commission or zoning board of appeals are up to the elected body (township board of trustees, village council, city council, county board of commissioners) and they are free to appoint whomever they wish, and not appoint whomever they wish, within the confines of the municipal planning commission ordinance or the zoning board of appeals section of the zoning ordinance. Appointment is a decision and does not need an explanation.

“Incompatible office” is different. It is when one person holds two public offices, and one office is subordinate to the other, or one office is responsible for a contract relationship, or negotiation, with the other. In those instances, the person cannot hold both offices, and must resign from one. (Some prosecuting attorneys will say the first office is automatically vacated upon appointment to the second office, whether the person intended to do so or not.) So consideration of a possible incompatible office may be an important consideration by an elected body when appointing someone to a planning commission or zoning board of appeals. Also there are some exceptions to incompatible office situations. Exceptions to the incompatible office rule are the ex officio member(s) of a planning commission (that also serves on the legislative body) (MCL 125.3815(5)), the ex officio member of the zoning board of appeals (that also serves on the planning commission) (MCL 125.3601(4)) and the ex officio member of the zoning board of appeals (that also serves on the legislative body) (MCL 125.3601(6)). (The rules about incompatible office can be different for elected bodies. For example, a “public servant”

can be emergency medical service personnel if in a local government with a population fewer than 25,000 [MCL 15.323a]. Other exceptions exist for public servants that work less than 25 hours per week and other considerations [MCL 15.323], and a list of other miscellaneous exceptions [MCL 15.183], not all of which generally apply to planning commissions and zoning boards of appeals.)

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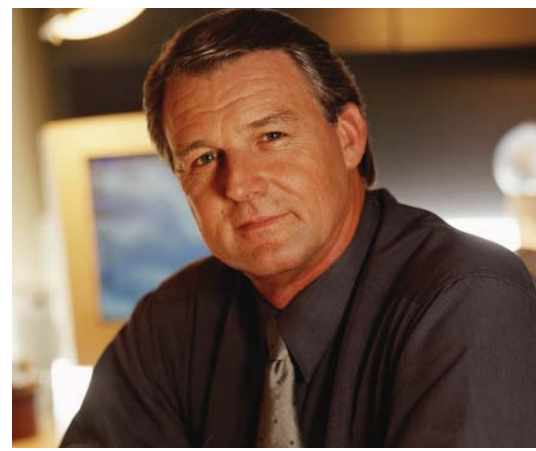
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Ethics Handbook for Michigan Municipalities



integrity > fair dealing > responsibility > accountability > openness



michigan municipal league
Better Communities. Better Michigan.



Thank you

The Michigan Association of Municipal Attorneys wishes to thank the Michigan Municipal League Foundation for their generous financial support of the Ethics Handbook project. The Foundation contribution has greatly assisted with the publication and distribution of the handbook, ensuring that it will be available to local governments and interested parties throughout Michigan.

Ethics Handbook For Michigan Municipalities

Presented by
The Ethics Roundtable
of the Michigan Association of Municipal Attorneys

A publication of



michigan municipal league

Better Communities. Better Michigan.

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Dedication

This handbook is dedicated to the memory of William L. Steude, general counsel of the Michigan Municipal League from 1971 to 1997, and past chair of the Ethics Roundtable, a committee of the Michigan Association of Municipal Attorneys. Bill was a proponent of ethical conduct and civility in government at all levels, and this handbook was originally his idea. The essay on “Civility in Government” is his, and in it he considers the respect that is deserved by and owed to, both the public and its dedicated local government officials and staff. We have all benefited from Bill’s belief in the necessity of the trustworthiness of government, and with this handbook we hope to advance that belief.

Foreword

The Michigan Municipal League, representing some 518 local governments, is proud to join the Michigan Association of Municipal Attorneys in presenting a comprehensive resource for local government officials interested in the topic of ethics as it applies to municipalities.

One of the hallmarks of municipal governance in Michigan is its strong tradition of ethical conduct in the provision of services for local communities. The actions of municipal elected and appointed officials adhere not only to a statutory framework, but also to professional codes of conduct, local provisions, local organizational culture and, perhaps most importantly, a strong sense of personal ethics borne of the civic pride that leads individuals to be municipal officials. The Michigan Municipal League has traditionally worked to articulate and support the tradition of ethical conduct in Michigan's municipalities. This handbook represents an important additional step. It is both a conceptual resource and a "how to" manual. It is comprehensive in that it addresses numerous facets of ethics. And, it documents the ways numerous municipalities have addressed ethics, in a formal sense, by adopting a local ethics ordinance.

One of the great attributes of municipal government in Michigan is that the government can be tailored to meet the needs of a particular community. The best way to address an issue in one community may be very different from a neighboring community—the topic of ethics included. Thus, this handbook does not seek to present a "model." Rather it discusses the concept of ethics as it applies to municipal government, highlights particular issues, and then presents how several communities have addressed

those issues. It should be pointed out that for many municipalities it will be appropriate to adopt only selected provisions set forth in the handbook.

In making the choice to adopt an ordinance, a community should bear in mind that an ethics ordinance is a tool. While adopted with the intent of improving the government of the municipality, care has to be given to how this tool is used. That is, an ethics ordinance can be a shield—to shield the community from unethical conduct—or it can be used as a sword to unfairly attack municipal officials, and if so used, it can be a detriment to the community.

Ultimately, this handbook is a powerful resource for Michigan's municipal leaders to engage in community dialogue and deliberation to choose the best approach *locally* for maintaining high ethical standards in Michigan municipalities.

This handbook represents a great deal of devotion to this topic by a number of persons. Without their selfless contributions, it would not have been possible. In particular I would like to recognize and thank Daniel C. Matson, chair of the Ethics Roundtable whose guidance and persistence made the handbook a reality. Dennis A. Mazurek, senior counsel of Detroit's Law Department, who organized and analyzed the sample ordinance provisions, and Mary M. Grover, the editor of the handbook, who molded its disparate parts into a unified publication.

William C. Mathewson
General Counsel, Michigan Municipal League;
Secretary/Treasurer, Michigan Association of
Municipal Attorneys

Preface

This handbook is offered as a guide for establishing ethical standards for the conduct of all persons in service to municipal governments in Michigan. A number of Michigan communities have adopted some form of statement about ethics which may appear in the local charter, in an ordinance, or in both. Other communities may be considering adopting some form of standards of conduct for their public officials. This publication is intended to provide assistance to municipal officials in their efforts to either create new ethics policies and procedures, or to update them in keeping with today's expectations regarding the conduct of elected officials, employees, and volunteers.

The Home Rule principle allows Michigan communities to tailor ethics standards to fit local needs and expectations. Each can adopt provisions that are appropriate for a particular community in order to promote public trust in public officials and in government. Elected and appointed officials, staff and volunteers may rely upon this stated framework within which they conduct the affairs of government.

The authors and reviewers of this handbook bring considerable experience to the effort as they have represented the interests of Michigan municipalities and have encountered a broad range of ethical issues and concerns that confront public officials. The publication is the outcome of many such experiences as identified by members of the Ethics Roundtable, a group formed by the Michigan Association of Municipal Attorneys. The Roundtable has focused on aiding local officials to understand and to resolve ethics problems within established legal and voluntary requirements.

With this reference, municipal officials may consider addressing a variety of areas of conduct that would be appropriate for their organizations. The reader may also examine a variety of options that are currently in use in a number of Michigan communities. These approaches are the result of extensive study and discussion, and they reflect local concerns and values.

It is strongly recommended that the municipal attorney be involved in each step of the process of developing, proposing, and adopting ethical

standards. Numerous legal issues must be considered whenever local law of this nature is created, and particularly when enforcement is involved.

Ethical administration of government invites the citizen's confidence in, and respect for, government. Good governance is valued by the community. It is sustained by those who have dedicated themselves to public service, and it is reflected in the decisions made and the actions taken by that government. To that end, the Ethics Roundtable commends this handbook to all citizens of Michigan communities, and to those who serve them, in recognition of the need to promote, and to earn, the public trust.

I wish to acknowledge contributions to this work by members of the Ethics Roundtable of the Michigan Association of Municipal Attorneys, including the following: Dennis A. Mazurek, senior counsel of the City of Detroit Law Department, for his comprehensive research and analysis in authoring Chapter 3, the central chapter of the handbook. John J. Rae, former Midland city attorney, who brought erudite and insightful sharing of the meaning of ethics. Peter A. Letzmann, former Troy city attorney, and foremost seminar organizer and presenter to municipalities on many topics, always with ethical concerns in mind. Michael P. McGee, senior principal with Miller, Canfield, Paddock and Stone, PLC, who applies labor law considerations to the book. William C. Mathewson, general counsel, and Sue A. Jeffers, associate general counsel, of the Michigan Municipal League, who continue to field numerous inquiries regarding ethical issues from constituent municipalities. Dene Westbrook, Jeanette Westhead, and Breanne Bloomquist at the League for their design and production expertise. Mary M. Grover, of Traverse City, public sector facilitator, trainer and presenter of ethics programs on local, state, national and international levels, who served as editor. Many others have generously served as members of the Ethics Roundtable through its years of existence, and their meaningful participation in the ever-current ethics discussion has led to the completion of this handbook.

Daniel C. Matson, Chair
The Ethics Roundtable

Chapter 1: The Importance of Ethics for a Local Government

Essays

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“Ethics” and Why it Matters

By John J. Rae

Why should a municipal government be concerned about ethics? At first blush this appears to be a question, the answer to which is so obvious, that it need not be asked. As is the case with so many things, however, things are, more often than not, more complicated than they appear to be.

Aside from the almost automatic response of many, who might say that ethics must mean some sort of standard of good behavior, there appears to be little agreement about what the word “ethics” really means. This has led, unfortunately, to the term becoming so loose in scope and meaning that it is in danger of becoming as floppy as words like *liberal*, or *conservative*, words which often convey whatever meaning the speaker or writer wants, but to the listener or the reader, the words may have a very different meaning.

In addition to the immediate barrier to understanding which this moveable meaning creates (or perpetuates), the standard of good behavior which is supposedly being followed is, by this confusion, in danger of becoming nothing more than a belief that one’s personal opinion on the subject is no better or worse than the opinion of anyone else. The result is a kind of relativism around the word “ethics,” which logically raises the question of whether there should really be any “ethics” standards in the first place.

A large part of the problem here is that the term “ethics” has a number of meanings assigned to it by any standard dictionary. For example, one reference includes all of the following:

1. the study of the general nature of morals and of the specific moral choices to be made by an individual in his relationship with others; i.e. the philosophy of morals or moral philosophy;
2. a set of moral principles or values;

3. the moral quality, fitness or propriety of a course of action; and
4. the rules and standards governing the conduct of a profession.

Also, the historical tension between the religious traditions in our pluralistic society, and the protections of individual rights under our governmental system, inevitably lead to even more disagreement over the subject of “ethics.”

Given all of the foregoing, then why do we bother trying to establish any kind of rational system of ethics guidance for municipal government? The answer is that most people recognize civil society’s need for something which will enable them to live together in a peaceful and productive way. This recognition is already reflected in our Constitution, public laws, statutes, ordinances and regulations. What is driving the renewed interest in codes of ethics, however, appears to be an ever-growing belief that these laws do not go far enough.

What a carefully crafted and defined “ethics” code or ordinance can do is to establish behavioral standards of integrity, fair dealing, responsibility, accountability, and disinterested conduct which are not specifically covered by existing laws, but which are an essential part of the fiduciary duty (the highest standard of conduct) which is almost universally recognized in this country as being owed to the public by its public servants and officials.

Civility in Local Government: The Civil Society

By William L. Steude

While the subject of civility in government is a different concept than that of ethics in government, there can be little doubt that there is a close relationship between the two. It is hard to imagine that true ethical behavior would not be characterized by civil behavior, even though the opposite might not always be the case. The authors of this publication believe that these concepts complement one another, and for this reason have decided to include this chapter. We can find no better explanation and exposition of the subject than was set forth by our mentor, teacher and friend, Bill Steude, in an article entitled, "Civility in Local Government: The Civil Society," which appeared in the April 2001 issue of the Michigan Municipal Review. The article follows, in its entirety. – Editor

The decline in civil conduct and discourse, public and private, needs no documentation. But a search over the Internet under "civility" produces much that supports the case for its sharp decline and a yearning for its restoration. Universities have commissions to promote civility on campuses. Churches offer civility pledges to candidates for public office. Congress even had a civility camp where members and their families gathered to improve the courtesy level in the U.S. House of Representatives. The City of Bloomington, Indiana, established a task force for a safe and civil city, promoting discussion of what it means to be a civil participant. Several state jurisdictions have promulgated civil codes for practicing attorneys.

President George W. Bush, in his 13-minute inaugural address, referred to "civility" four times. He said, "Civility is not a tactic or a sentiment. It is the determined choice of trust over cynicism, of community over chaos."

To be civil, in ordinary understanding, means to be polite, respectful, decent, tolerant, graceful in language and gesture, tone, exercising restraint toward others, cooling the hot passions

of partisanship, adversarial and personalized argument, with magnanimity toward others.

The decline in civility in public affairs reflects the overall decline in American civility – in professional sports, the media, talk shows, politics, academics, interpersonal communication, even road rage. The loss of civility in our national life betrays more fundamental trends in our society and culture, argues Harvard Law Professor Stephen L. Carter in his recent book on civility.¹ He traces the historic, cultural and religious roots of civility that have withered or rotted and now account for the serious lapse in civil social behavior.

Civility probably cannot be codified into standards of behavior enforceable by penalty. In fact, civility codes for public officials may even set a lower threshold, and be an incentive for lowering, rather than raising standards, by setting what you can get away with, not how you should be.

There is no constitutional duty of a public official to be civil. But note Article I, Section 17 of the Michigan Constitution, in the same section in which the due process clause appears, which provides:

"the right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed."

This "fair and just treatment clause" does not speak to civility, but civility can help set the tone for demonstrating fair and just treatment in hearings and investigations.²

However impossible it may be to mandate, civility might be inspired by conscientious attention to the trappings of a meeting of a public body, by the physical setting, by the rules of procedure and the conscious example of members of the public body themselves.

The trappings of a meeting

Opening ceremonies, such as a prayer by a member of the clergy in the community, the pledge of allegiance to the flag led by Girl or Boy Scouts or by veterans, and a formal roll call of the members can set the level of respect with which such formality is usually accorded.

Remember, a city commission or council is an elected legislative body whose members take exactly the same constitutional oath of office taken by the governor and by every other elected official in the state. If members and the public have the respect for one another and from one another that reflects that status, a certain formal level of discourse and decorum might maintain a higher level of civility.

The physical setting for the meeting, the furnishings and seating arrangements, and even the council's attire influence and can elevate expectations about public deportment at council meetings. A card table or fold up table with folding chairs for the council members seems to belittle the office and may invite an informality that can slide into uncivil discourse or worse.

Money spent on decent furnishings and the setting is well worth the cost. It reflects the level of respect accorded by the community toward its self-government and its elected representatives.

Rules of procedure

No deliberative body can efficiently conduct its business without rules. A governing body has a relatively free hand in designing its own rules of procedure as long as constitutional (First Amendment), statutory (Open Meetings Act), and local charter requirements are not violated. Although most municipal governments which have rules seem to have automatically adopted *Robert's Rules*, *Robert's* does not necessarily have to be the primary source for local rules of procedure.

Robert's Rules of Order are complicated, highly detailed, and are intended primarily for large legislative bodies or for meetings of large associations whose membership may number

hundreds. Its procedures may be unnecessarily cumbersome for small governing bodies: the five-to-seven-member councils of most Michigan municipalities.³

For example, *Robert's* requires a second to support an ordinary motion and put it into debate, but a *small* body which meets weekly, fortnightly or monthly might opt not to require a second at all, but could proceed to debate directly if the rules permit it.

The complex details of parliamentary procedure may also confuse and frustrate elected officials and the public, particularly if the rules are seen as being manipulated for or against one side of an issue or the other, or are seen as being ignored, misunderstood or wrongly invoked. Such a use of the rules of procedure, or the perception of their *misuse*, will counter the very purpose of rules of procedure – to protect the minority and promote orderly deliberations and decisions, and will further undermine public confidence in government.

Truth in government depends on a set of procedural rules that are followed consistently, give equal opportunity for every member of the body to participate in making the decision, make for the most efficient procedure possible, and result in a decision by a majority of the body on the merits of the issue, not on manipulation of procedures.

A governing body ordinarily has the discretion to adopt its own simplified set of procedural rules, unless *Robert's Rules* or some other authority has been mandated by the municipal charter.⁴ Such rules do not automatically command civility, but a good set of rules may minimize the perception that the rules are drawn, or bent, to control an outcome. If parliamentary maneuvering is seen as manipulating the proceedings, a frustrated council member or minority, or the attending public, can erupt in anger.

Civility and decorum is strained by the gadfly, the activist and the protester, who tend to distrust government and those in government. If they engage in abusive and baseless charges, or monopolize a meeting, the presiding official can rapidly lose the ability to maintain order, unless the council backs a zero tolerance policy toward such disruptive behavior.

Personal attacks generate counter attacks and lead to verbal duels and free-for-alls difficult to break, leaving civility and decorum in the dust. The presiding officer in that event may have no choice except to declare a brief recess so tempers and rhetoric may cool.

A rule against personal attacks, applicable equally to members of the body and the public, can help keep a discussion “problem centered” and not “person centered.” A procedure to enforce a zero tolerance policy in progressive steps can be effectuated,

1. By reminding the speaker of the rule if a violation occurs.
2. If the misconduct persists, by calling the speaker to order, citing the rule—a formal warning which may cause the speaker to lose the floor, if the rule so provides (although it may also authorize restoring the floor to the speaker if the abuse ends and the body formally permits the speaker to resume); or
3. If the abuse still persists after warnings, the chair “names the offender”—a last resort step which has the effect of preferring charges. The presiding officer states what the offender has done. The body then decides how to penalize the member, if the offender is a member of the governing body. The rule could specify a range of penalties—e.g. reprimand, formal censure, or municipal civil infraction. If the offender is a member of the public, the presiding officer may order the offender to be escorted from the meeting room.⁵

A rule limiting the length of council meetings and speeches by elected officials and the public will contribute to keeping the deliberations on point. No good government is likely to occur in the late night hours of a meeting when the limits of patience strain the limits of civility.

Procedural rules that permit and promote flexible opportunities for public input may diffuse public frustration at being foreclosed from opportune comment and encourage constructive debate. For example,

- Schedule public comment time at the beginning of the meeting (or of a work session), rather than at the end of the meeting.
- Provide a short time for public comment at the first reading of an ordinance, rather than, or in addition to, at the second reading; (preliminary public comment may surface overlooked problems early and minimize any perception at the second reading that the work has already been done and gone too far to be altered and the issue already decided).
- Hold regular meetings explicitly for public participation separate from or in conjunction with and preceding the regular council meeting.

Titles and debate

How members of a governing body address one another and how the public is conditioned to address the council can promote the level of civility if formalities are observed. Using the “first name” may be appropriate in a casual street encounter or on the phone with a friend or neighbor who is a colleague on the council or a constituent, but it is not appropriate in a formal session of the governing body when addressing one another.

Titles may be a source of sensitivity to gender biased titles.

“Commissioner” when the legislative body is a commission is an easy gender-free title. “councilman” requires its counterpart, “councilwoman,” but “councilmember” fits either, and “councilor” is a shorter alternative. “Trustee” will work for general law villages. “Madam” or “mister mayor,” or just plain “mayor” works for cities. “Madam” or “mister president,” or just plain “president” works for a village presiding officer.

If the title is not in the municipal charter, the rules of procedure can establish the titles, how to address one another, and the practice that members of the public should be requested to follow suit. For example, “Council members shall be addressed as “councilor.”

Remember, a local government council is not only a local elected legislative body with chartered status. A council acquires a quasi-judicial character when it sits as a zoning board of appeals or other appellate hearing body. The decorum should reflect the quasi-judicial duty to be, and seem, judicious and dignified.

Judge Learned Hand was right: “(This) much I *think* I do know—that a society so driven that the spirit of moderation is gone, no court can save; that a society where that spirit flourishes, no court need save; that a society which evades its responsibility by thrusting on the courts the nurture of this spirit, that spirit in the end will perish.” The same might be said of civility.

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1. Stephen L. Carter, *Civility: Manners, Morals and the Etiquette of Democracy*, 1998, Basic Books.
 2. Violation of fair and just treatment in a legislative hearing was the basis for a \$7.6 million judgment against the Detroit Board of Education in an unpublished opinion of the Michigan Court of Appeals in *Jo-Dan Ltd. v. Detroit Board of Education*, No. 201406, July 14, 2000.
 3. A Michigan Municipal League survey of councils disclosed 80 with 5 members; 2 with 6; 420 with 7; 11 with 8; 15 with 9; 3 with 10; and 2 with 11 members. Of 533 councils, 502, or 94%, had 7 or fewer members.
 4. See *Suggested Rules of Procedure for Small Local Government Boards*, A. Fleming Bell II, Institute of Government, 2nd edition, 1998, presented to the IMLA 65th Annual Conference, 2000.
 5. See David M. Grubb, “Maintaining Civility at Council Meetings,” *New Jersey Municipalities*, March 1995, pp. 24, 47-48 for a good discussion of this. See also Webster’s New World *Robert’s Rules of Order, Simplified and Applied*, 1999, pp. 155-156.

Chapter 2: Things to Keep in Mind

Essays

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Different Forms of Local Government; Different Routes to Adopting Ethics Standards for Your Community

By William C. Mathewson

For most people, using this handbook will be straight forward. Michigan municipal elected and appointed officials who are giving consideration to adopting ethics standards for their community can review the handbook to see how others have addressed this issue. Finding the preferred approach from the materials presented, an official can offer a route for adoption of ethics standards in his or her community. However, to enhance the handbook as a resource, especially for persons new to municipal government within Michigan or from outside the state, it may be helpful to pause for a moment to review the Michigan local government structure in which the adoption of ethics standards fits, once the decision has been made locally to do so.

This handbook, which is a collection of essays, makes reference to different legal routes for the incorporation of ethics standards in the governance of a Michigan municipality. Each is accurate but it is helpful to understand how each fits within the larger picture.

There are several forms of local government within Michigan. In addition to Michigan's eighty-three counties, there are home rule cities (HRC), home rule villages (HRV), general law villages (GLV), charter townships (CT) and general law townships (GLT). Michigan cities and villages maintain a strong tradition of home rule. However, with ethics as with other governmental concerns, the state can prescribe what will be the law on a particular subject matter so long as the state statute is consistent with the state constitution. Some state laws relate to local ethics provisions. Two examples are labor law and campaign finance.

But to date, the state Legislature has not chosen to enact a comprehensive statute that would control the way local units of government would enforce ethical conduct within their jurisdictions. This may not always be the case, as it has periodically been discussed, typically within the context of addressing ethics with respect to all governmental jurisdictions within the state, including state government. Thus,

at present, local units of government have discretion in choosing the best approach to take to address ethical conduct within their unit of government.

For cities and villages in Michigan, this means that they may proceed in one of two ways. They can adopt an ethics provision in their city or village charter (the local equivalent of a constitution) coupled with the subsequent adoption of a local ordinance (the local equivalent of a statute) to carry out the intent of the charter provision. They can also adopt an ethics ordinance, without direct mention of the topic in the charter, under the authority granted in the Home Rule City Act, Home Rule Village Act or General Law Village Act to adopt ordinances to carry out the general grant of authority to these units of local government. If this were done, however, some sanction provisions might not be enforceable. (Perhaps a third way would be local guidelines, but they would not have the force of law and would not be legally enforceable.)

The essay by Bill Steude that follows this one discusses in some detail ethics provisions in the context of a municipal charter commission. This route is applicable to a city or home rule village that is being incorporated for the first time and thus has a charter commission to write its initial charter. Or, more likely, this route is one that would be taken by an existing city or home rule village that has chosen to convene a charter commission to review and offer new or revised sections of its existing charter for presentation to the electorate—which could include a provision regarding ethics.

Putting an ethics provision in the city's or village's local "constitution" (charter) could also take the form of a charter amendment. An amendment to the city's or village's existing charter could be offered to the citizens for their approval without convening a charter revision commission. An ethics amendment could stand alone or be one of a few amendments placed on the ballot for the electorate to consider. There are thus two ways to change an existing city or village charter: in cities or home rule villages

through the convening of a charter commission and presenting the proposed revised charter to the voters; or in cities and all villages by placing selected amendments on the ballot.

While a city or village charter can speak to or even require, addressing ethics, it need not do so. A city or village could adopt a binding set of ethics provisions in the form of an ordinance without the specific involvement of the charter. The majority of this handbook is devoted to setting forth samples and discussion of ethics provisions in ordinance form. This is appropriate because regardless of the approach taken in a charter, it is presumed that the implementation of ethical conduct/standards will be in the form of an ordinance. In fact, it would be impractical to put in a charter (again, the local equivalent of a constitution) the level of detail that is typical in an ordinance that addresses ethics.

With respect to cities and villages, a logical next question is why involve the charter of a city or village if a legally enforceable ethics ordinance can be adopted on its own, so to speak. There are various responses and ultimately the individual community will need to decide what the best approach is. That having been said, one reason is that some sanction provisions in an ordinance, such as removal from office, would not be enforceable if not authorized in the charter. Another reason for a charter provision is that it could be drafted to *mandate* that there be an ethics ordinance for the city or village. While it is beyond the scope of this publication to discuss the degree to which it is appropriate to require the legislative body (council or commission) to enact such an ordinance, if the citizens feel strongly enough about the topic of ethics they can require that the city or village adopt and enforce standards.

But whether a charter requires adoption of an ethics ordinance or speaks more generally about the topic, making reference in the charter is a clear expression of the intent of the electorate and should serve to guide the elected and appointed officials. Also, as a practical matter, a charter provision once adopted by the electorate will stand until changed by that electorate, unless the charter provision is nullified by state or federal law.

Conversely, care should be taken in putting an ethics (or any) provision in a charter. For instance, if the issue addressed is too topical, it may lose importance over time and the city or village will be saddled with a provision in its charter that is obsolete. The more relevant danger, however, is that the charter provision will be too detailed or too inflexible, thus restricting the appropriate implementation of the intent of the provision through the adoption, and if needed, subsequent revision of an ordinance. Again, further discussion of this aspect is beyond the scope of this particular essay. But suffice to say, care should be taken in drafting and adopting an ethics provision in a charter (or for that matter in ordinance form)...if for no other reason, as even with the best of intentions, such provisions may be subject to misuse, to unfairly attack a local official (sword) rather than protect (shield) the community.¹

Each of the sample ordinances presented in this handbook happen to be from cities. Other local units of government in Michigan could adopt similar provisions. In the case of villages, under the Home Rule Village or General Law Village Acts, the considerations for doing so are equivalent to cities. With respect to general law villages' charter authority² while their basic governing document is a state statute (the GLV Act) it is deemed to be their charter. The Act does not speak to ethics provisions but general law villages have the authority to amend their charters (via amendment but not revision) and to adopt local ordinances, including provisions pertaining to ethics.

Charter townships and general law townships do not have home rule charters, but rather are respectively governed by specific state statutes augmented by somewhat limited authority to adopt local ordinances. Ethics ordinances could be adopted, with the above noted limitation regarding sanctions.

	HRC	HRV	GLV	CT	GLT
Charter Revision	X	X			
Charter Amendment	X	X	X		
Ordinance	X	X	X	X	X
Guidelines	X	X	X	X	X

In summary, then, local government officials who seek to address the topic of ethics within their local governments need to be cognizant of the fact that there are different routes that can be taken. For cities and villages, their respective charter may or may not address the topic, in the initial charter or later by revision (HRC, HRV) or amendment (HRC, HRV, GLV), but to the extent that enforceable specifics are desired they will be in the form of a city or village ordinance. And in the case of local governments without charters, ethics ordinances may be adopted to the extent of their respective ordinance adoption authority under state law. Finally, the local approach presumes that the state does not in the future seek to preempt local authority and impose ethics standards on government officials including those at the local level.

For a complete discussion of forms of local government, a good source of information is chapter one of *Local Government Law and Practice in Michigan*, published by the Michigan Municipal League and the Michigan Association of Municipal Attorneys. This chapter, by Stratton S. Brown and Cynthia B. Faulhaber, outlines each of the forms

of local government and the authority that each has. Also, chapter seventeen, by Daniel C. Matson, sets forth the process of charter amendment and revision. Additional material regarding charter revision and amendment and other powers of cities and villages is available through the Municipal League's library. Information with respect to Michigan's townships is available from the Michigan Townships Association. Practical expertise on charter revision and amendment is available from municipal attorneys who specialize in that area of the law. Finally, the city, village, or township attorney for each jurisdiction is an essential resource when consideration is given to adopting standards for the local government to govern ethical conduct by its elected and appointed officials.

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1. See the following essay by Bill Steude, "Including Ethics Provisions in Charters: Advice for Charter Commissions"
 2. There are 211 general law villages; new village incorporations must be as home rule villages.

Including Ethics Provisions in Local Government Charters: Advice for Charter Commissions

By William L. Steude

[Editor's note: In this essay the author primarily addresses the incorporation of an ethics provision through the charter revision process that applies to Home Rule cities and villages. See the preceding essay, "Different Forms of Local Government; Different Routes to Adopting Ethics Standards for Your Community."]

Revelations in the media about the conduct of some public officials have raised the consciousness of local voters and taxpayers about appropriate standards of conduct for government officials. In

response, some local governments have voluntarily adopted ethics codes that focus on various aspects of the conduct of those entrusted with the public's business. In 1998 the Michigan Law Revision Commission published a report¹ calling for adoption of legislation that would provide an ethics code with uniform standards applicable to all public officials in local governments statewide. Charter commissions, authorized to draft or to revise the charter of a local government, often wonder *whether* to include ethics provisions, and *how far to go* in mandating adoption of an ethics code or ethical conduct.

Michigan law

The Home Rule Acts² neither mandate nor prohibit including a provision regarding ethical conduct or a code of ethics, so a charter commission could choose not to include ethics. In fact, most Home Rule charters in Michigan address ethics indirectly, or selectively, or not at all.

A Home Rule local government can enact an ethics ordinance without a specific charter provision authorizing it to do so. A broad powers provision in the charter could authorize the adoption of a comprehensive ethics code, as the Home Rule City Act permits a charter to provide,

. . . for any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants and through its regularly constituted authority to pass all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state.³

General approaches and alternatives

A charter is not an ordinance; rather, it is the basic local law by which the local government is to be governed for a period that may be as long as forty or fifty years. The job of a charter commission is to establish a prescriptive legislative framework for the community, a document that isn't caught up in issues that may be currently of public concern. A charter commission *can* include a detailed system of ethical standards and enforcement procedures in the charter. However, this approach will be time consuming, and it carries some risk of making the charter outdated if some of the details are nullified by subsequent preemptive state legislation. In general, charter commissions are advised to *avoid excessive detail in the charter*, and leave the task of developing the details, by ordinance and policy, to the local governing body.

One approach would be for the charter to provide an alternative to inaction by the governing body by authorizing citizen initiatives and referenda. By this means, local voters could initiate an ethics ordinance by petition, or originate or reject local ethics legislation through the ballot process.⁴ The

charter may also be amended by the legislative body or by initiative of the voters, to address ethics requirements.⁵

If the commission chooses to include an ethics provision in the proposed charter, it has a number of options to consider.

1. It can *authorize* the adoption of an ethics ordinance by the governing body, which then could enact a detailed code of ethics.
2. It can *mandate* that an ethics ordinance be adopted within a specific period of time after the charter is adopted.⁶

A charter commission could also:

3. include in the charter a list of general principles or standards of conduct, without going into specific detail. For example, the list could refer to general standards of accountability, impartiality, integrity, confidentiality, conflicts of interest, or public trust. An ordinance could subsequently define these standards in greater detail, and provide procedures for enforcement.
4. take a traditional approach and address selective aspects of ethical conduct in the charter, focusing on particular problems that may have triggered community concerns, such as nepotism (the public employment of relatives), or specific areas of conflicts of interest, and require timely disclosure.⁷
5. specifically authorize or require in the charter the governing body to adopt a comprehensive ordinance with specific provisions governing the receipt of gifts, disclosure of conflicts of interest, moonlighting (i.e., a local government employee having a second job that might create a conflict of interest with the employee's public employment), pre-employment and post-employment limitations, and restrictions regarding nepotism, political activity, and representation before local government bodies.
6. have the charter authorize or require the establishment of an enforcement body, such as an ethics commission or board,

with responsibility to maintain and enforce the ethical standards of the charter and ordinances. Such a board or commission could assist local officials in determining the appropriate course of action when they are faced with uncertainty or conflict between ethical obligations. It could support public officials and employees in situations of unwarranted charges or criticism by adopting administrative rules, issuing advisory opinions, or recommending amendments to an ordinance or charter. It could also sanction unfounded complaints.

7. include a provision to require the governing body, and each local government board and commission established by charter, ordinance or law, to adopt standards of conduct for their respective members. The standards of conduct could be made subject to periodic review and approval by the governing body, or by the ethics board or commission if one is established.
8. include a provision to require that ethics education be included in orientation programs for newly elected officials, and in the training and continuing education of public employees.

Finally, the Michigan Municipal League maintains a charter database that is an excellent resource with examples of some of the approaches charter commissions have taken in recent years, to improve the ethical environment in the local government, and by extension, in the community.

4. State law would remain applicable to local officials and local governments. It governs conflicts of interest in public contracts, campaign finance, lobbying, the expenditure of public funds, codes of professional conduct governing the city manager, city attorney, public accountants, licensed engineers and other occupations, personnel policies and collective bargaining agreements affecting public employees.
5. See MCL 117.21, amendment by initiative for cities; and MCL 78.17, amendment by initiative for Home Rule villages.
6. One charter commission mandated enactment of a comprehensive ordinance within six months of the adoption of the charter. It was difficult to meet this deadline, and a longer period should be considered. A better approach is found in the Charter of the City of Jackson, Section 9.13: "Within two years after the effective date of this charter, the council shall adopt by ordinance a code of ethics by which all persons in the municipal service shall abide, whether compensated or voluntary." The Charter was adopted on November 4, 1997; the Ethics Ordinance was adopted November 16, 1999.
7. For example, Section 2-106 of the 1997 Detroit City Charter provides, "The use of public office for private gain is prohibited. The city council shall implement this prohibition by ordinance, consistent with state law. . . . The ordinance shall provide for the reasonable disclosure of substantial financial interests held by any elective officer, appointee, or employee who regularly exercises significant authority over the solicitation, negotiation, approval, amendment, performance or renewal of city contracts, and in real property which is the subject of a governmental decision by the city or any agency of the city. The ordinance shall prohibit actions by elective officers, appointees, or employees which create the appearance of impropriety."

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1. *Final Report to the Michigan Law Revision Commission on the Proposed Government Ethics Act of 1999*, Michael A. Lawrence, November 2, 1998; published in the MLRC 33rd Annual Report, 1998, p. 13119.
 2. The Home Rule City Act 279 of 1909, MCL 117.1 et seq.; the Home Rule Village Act 278 of 1909, MCL 78.1 et seq.
 3. MCL 117.4j.

Labor Considerations

By Michael P. McGee

Although a municipal government may have authority to adopt an ethics policy or ordinance, the government as a public employer also may have an affirmative obligation to negotiate over such a policy or ordinance if the public employer is unionized. Specifically, if the policy or ordinance has an impact on or concerns the union members' wages, hours, or other employment conditions ("mandatory subjects of bargaining"), the public employer must bargain with the union before the policy or ordinance may be adopted.

In the seminal case of *Detroit Police Officers Association v City of Detroit*, 391 Mich 44 (1974), the city adopted a residency ordinance after reaching impasse in contract negotiations with the union. The union filed an unfair labor practice charge, and the case proceeded to the Michigan Supreme Court which held that just because an employer may have a legal right to take such action, it does not mean it may do so in derogation of its obligation under the Public Employment Relations Act ("PERA"):

"The enactment of an ordinance, however, despite its validity and compelling purpose, cannot remove the duty to bargain under PERA if the subject of the ordinance concerns the "wages, hours or other terms and conditions of employment" of public employees. If the residency ordinance were to be read to remove a mandatory subject of bargaining from the scope of the collective bargaining negotiations, the ordinance would be in direct conflict with state law and consequently invalid. Const. 1963, art.7, §22. . . . Therefore, if as we will consider below, residency is a mandatory subject of bargaining, a city ordinance cannot foreclose collective bargaining on the subject." *Id.*

The Court concluded that a residency requirement is a mandatory subject of bargaining, but found that the city did not engage in an unfair labor practice because it did not adopt the ordinance until after it had bargained to impasse in good faith. The Court noted that "[i]n future negotiations, however, the

city will again be required to bargain in good faith on the residency requirement if it is proposed as a bargaining issue by the [union]." *Id.*

Both the Michigan Employment Relations Commission (MERC) and subsequent appellate decisions have resulted in similar holdings circumstances other than residency. For instance, in *Pontiac Police Officers Association v City of Pontiac*, 397 Mich 674 (1976), the city refused to bargain over a union proposal regarding a grievance procedure for disciplined police officers. The city argued that because the city charter provided for a specific means by which discipline was to be imposed upon the officers, the charter provision controlled and there was nothing to bargain over. MERC disagreed, holding that the city committed an unfair labor practice by refusing to bargain because the grievance procedure was a mandatory subject of bargaining. On appeal, the Michigan Supreme Court affirmed MERC's ruling. See also *Local 1383, International Association of Firefighters, AFL-CIO v City of Warren*, 411 Mich 642 (1981) (a collective bargaining provision negotiated under PERA supersedes both a City Charter and the Michigan Constitution); *Senior Accountants, Analysts and Appraisers Association, UAW v City of Detroit*, 218 Mich App 263 (1996) (city cannot unilaterally implement pension provisions for union members without collective bargaining; the city could, however, through a City Charter Revision Commission, submit proposed changes to the electorate prior to collective bargaining as long the city did not implement or enforce the voter-approved changes until the employer satisfied its PERA collective bargaining obligations).

Neither the courts nor MERC have yet addressed the question of whether ethics regulation is a "mandatory subject of bargaining" under PERA. Ethics regulation typically does not implicate wages or hours, and thus the unanswered question is whether ethics regulation falls within the scope of "other terms and conditions of employment."

This will depend on the facts and circumstances of the particular regulatory scheme. It may be, for example, that the *standards* announced by an ethics policy (e.g., disclosure of conflicts of interest, prohibitions for receiving gifts, etc.) may be imposed in the exercise of normal management rights. *Consequences* for breaching the standards, on the other hand, to the extent they affect discipline or punishment, may very well fall within the scope of mandatory bargaining under *Detroit Police Officers Association, supra*, and its progeny.

Accordingly, before a municipal employer adopts or implements an ordinance or any type of ethics policy or regulation that may affect its unionized employees, or refuses to bargain with a union based on a conflicting governmental policy, the employer should first consult with legal counsel to evaluate compliance with applicable labor law.

Chapter 3: The Substance of a Local Government Ethics Ordinance

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Definitions for an Ethics Ordinance

By Dennis A. Mazurek

Initial drafting considerations

An ethics ordinance should include definitions of some of the terms that will be used in its provisions. Many of these words will have a definition that is specific to the ordinance, rather than a more commonly understood meaning.

Charter requirements

Before drafting definitions, it must first be determined whether the local government charter requires that an ethics ordinance be organized around a central directive, and whether it must include specific definitions.¹ For example, the Detroit ethics ordinance was required to define the term “private gain,” and it is organized around the central theme of prohibiting the use of public office for private gain.

Jurisdiction and scope

As with any ordinance, the drafters must determine the persons to be regulated by the ethics ordinance, and the scope of the regulation. The definitions will establish the persons and relationships that are intended to be regulated. The jurisdiction of an ethics ordinance could be extended to,

- elected and appointed officials,
- full-time and part-time employees,
- paid and unpaid members of boards and commissions,
- people who provide services under a personal services contract, and
- the spouses or domestic partners, children, and other relatives of any or all of the above.

The scope of the ordinance will also be reflected in the definitions. For example, the definitions could establish that the ordinance will regulate,

- certain confidential information,
- decisions, and
- ownership interests.

Universal and comprehensive

It is important that the definitions be universal and comprehensive, and in as clear language as possible. Universality means the definition could be applied to most, if not all, Michigan municipalities. Comprehensive means complete definitions that have a tight interrelationship to one another.

Examples of definitions

Although there are no “definitive” definitions, the following definitions would be applicable in most local governments. They are both universal and comprehensive, and the list itself is comprehensive, as well.²

Agency means any department, office, multi-member body, or other organization of the local government.

Appointee means one who holds either a compensated or an uncompensated position, including an individual who is appointed by the mayor, the legislative body, other elected officials, or a department, division or commission head.

Basic living expenses means shelter, utilities, and all other costs directly related to the maintenance of the common household of the common residence of the [spouse or] domestic partners and any other cost, such as medical care, where some or all of the cost is paid as a benefit because a person is another person’s [spouse or] domestic partner.

City means the city of _____. [Alternatively, **village, township, or county** means the local government of _____.]

Clerk means the clerk of the local government of _____.

City council means the legislative body of the city of _____. [Alternatively, commission or board means the legislative body of the jurisdiction of _____.]

Commercial gain means the use by a public servant of any local government resource including, but not limited to, the local government's time, equipment, facilities, supplies or staff, which results or is intended to result in unauthorized income or other benefit to the public servant.

Confidential information means information that has been obtained by a public servant in the course of acting as a public servant, that is not available to members of the public pursuant to the Michigan Freedom of Information Act, being MCL 15.231 *et seq.*, or pursuant to other law, regulation, policy or procedure recognized by law, and that the public servant is unauthorized to disclose, including:

1. any written information, whether in document or in electronic form, which could be exempted from disclosure pursuant to state law or to other pertinent law, regulation, policy or procedure recognized by law, unless the public servant disclosing the information is permitted by such authority to make disclosure; and
2. any non-written information which, if written, could be exempted from disclosure pursuant to state law or to other pertinent law, regulation, policy or procedure recognized by law, unless the public servant disclosing the information is permitted by such authority to make disclosure; and
3. information which was obtained in the course of or by means of a written or electronic record or oral report of a lawful executive or closed session, whether or not the disclosure of the information would violate state law, unless the public servant disclosing the information is authorized by state law to make disclosure, or unless the public servant disclosing the information has been properly authorized to make disclosure pursuant to an applicable law, regulation, policy or procedure, except that when such information is available through channels

which are open to the public, this provision does not prohibit public servants from disclosing the availability of those channels.

Decision means:

1. a determination, action, vote, or other disposition upon a motion, proposal, recommendation, resolution, or ordinance by members of the governing body, or of a governing body of a local government agency; or
2. a determination, action or other disposition taken by an elected official with the authority to do so, or a local government agency in the performance of its public duties.

Domestic partner³ means one of two adults who

1. have a common residence; and
2. agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership; and
3. are not married or are not a member of another domestic partnership; and
4. are not related by blood in a way that would prevent them from being married to each other in this state; and
5. are at least eighteen years of age; and
6. have chosen to share one another's lives in an intimate and committed relationship of mutual caring; and
7. are capable of consenting to the domestic partnership.

Exercises significant authority means having the ability to influence the outcome of a decision on behalf of the local government in the course of the performance of a public servant's duties and responsibilities.

Extraordinary circumstances means circumstances which, due to the unavailability of information that is critical to the disposition by the Board of Ethics of an advisory opinion request or of a complaint, have prevented the board from completing its investigation.

Have a common residence means that both domestic partners share the same residence. Two people can have a common residence even if one or both have additional residences, or if both domestic partners do not possess legal title to the common residence. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return to it.

Immediate family means:

1. a public servant's spouse or domestic partner, or
2. a public servant's relative by marriage, lineal descent, or adoption who receives, directly or indirectly, more than one-half of his or her support from the public servant, or from whom the public servant receives, directly or indirectly, more than one-half of his or her support; or
3. an individual claimed by a public servant or a public servant's spouse as a dependent under the United States Internal Revenue Code, being 26 USC 1 *et seq.*

Joint responsibility means that each domestic partner agrees to provide for the other partner's basic living expenses if the partner is unable to provide for himself or herself.

Local government means the governmental organization of a jurisdiction which is a subdivision of a major political unit, as a state; the governing organization of the jurisdiction of _____.

Mayor means the mayor of the city of _____.

Municipal government means a Michigan city or village, for the purposes of this handbook.

Ownership interest means a financial or pecuniary interest that a public servant has in the affairs of 1) any business entity in which the public servant or a member of his or her immediate family is an officer, director, member, or employee; 2) any business entity in which the public servant or a member of his or her immediate family controls, or directly or indirectly owns, in excess of 5% of the total stock or an interest totaling \$50,000 or more in value; or 3) any person or business entity with whom the public servant has a contract.

Personal services contract means a contract for the retention of an individual to perform services on behalf of the local government for a fixed period and for fixed compensation.

President means the president of the village of _____.

Private gain⁴ means any benefit which is accepted or received by a public servant, or is perceived by a reasonable person to be accepted or received by a public servant, as remuneration for the purpose of improperly influencing an official action in a specific manner or for refraining from the performance of an official action in a specific manner, or as inducement for the public servant to act in favor of some interest other than in the public interest.

To clarify, *unless the above-standard is violated*, the following types of benefits, monetary payments or reimbursements, gifts, awards or emoluments may be received by a public servant:

1. payment of salaries, compensation or employee benefits to a public servant by the local government, or the payment of salaries, compensation or employee benefits to a public servant by an employer or business other than the local government pursuant to a contract where the payment is unrelated to the public servant's status as a public servant;
2. authorized reimbursement by the local government to a public servant of actual and necessary expenses incurred by the public servant;
3. fees, expenses or income, including those resulting from outside employment, which are permitted to be earned by, or reimbursed to, a public servant in accordance with the Code, policies, rules and regulations of the local government;
4. campaign or political contributions which are made and reported by a public servant in accordance with state law;
5. admission or registration fee, travel expenses, entertainment, meals or refreshments a) that are furnished to a public servant by the sponsor(s) of an event, appearance or ceremony which is related to official local government business in

connection with such an event, appearance or ceremony and to which one or more members of the public are invited, or b) that are furnished to a public servant in connection with a speaking engagement, teaching, or the provision of assistance to an organization or another governmental entity as long as the local government does not compensate the public servant for admission or registration fees, travel expenses, entertainment, meals or refreshments for the same activity;

6. admission, regardless of value, to a charitable or civic event to which a public servant is invited in his or her official representative capacity as a public servant where any admission or other fees required of all persons attending the event are waived or paid for the public servant by a party other than the local government or the public servant;
7. an award publicly presented to a public servant by an individual or by a non-governmental entity or organization in recognition of public service, acts of heroism, or crime solving;
8. an award, gift or other token of recognition presented to a public servant by representatives of a governmental body or political subdivision who are acting in their official capacities;
9. a gift received from a public servant's relative or immediate family member, provided that the relative or immediate family member is not acting as a third party's intermediary or an agent in an attempt to circumvent this article;
10. a registration fee for a seminar or other informational conference that a public servant attends in a capacity other than as a speaker, panelist, or moderator, where such registration fee that is charged for the public servant's attendance is waived or paid for the public servant by a party other than the local government or the public servant;
11. expenses or gratuities, including but not limited to admission fees, lodging, meals or transportation, that are paid for a public servant and are related to the

public servant's participation at a seminar, conference, speaking engagement or presentation in his or her official capacity as a speaker, panelist or moderator where such expenses or gratuities are waived or paid for, as the case may be, by a party other than the local government or the public servant, provided that, within five business days after the conclusion of the seminar, conference, speaking engagement or presentation, such public servant files with the clerk a statement which contains the following information for each expense that is paid for or waived or for each gratuity that is provided: a) a description of the expense or of the gratuity; b) the amount of the expense or of the gratuity; c) the date that the expense was incurred or that the gratuity was received; d) the date that the expense was paid or waived, or that the gratuity was received; and e) the name and address of the party who paid or waived the expense or who provided the gratuity;

12. meals or beverages provided to the public servant by an individual or by a non-governmental organization during a meeting related to official local government business;
13. anything of value, regardless of the value, presented to or received by a public servant on behalf of the local government where the thing of value is offered to, and accepted by, the local government;
14. a gift to a public servant that either is returned to the donor or is donated to the local government or to a charitable organization within thirty days of the public servant's receipt of the gift, provided that the public servant does not claim the donation as a charitable contribution for tax purposes;
15. complimentary single copies of trade publications, books, reports, pamphlets, calendars, periodicals or other informational materials that are received by a public servant;
16. compensation paid to a public servant for a published work which did not involve the use of the local government's time, equipment, facilities, supplies, staff or other resources where the payment is arranged or paid for by the publisher of the work;

17. compensation paid to a public servant for a published work which did involve the use of the local government's time, equipment, facilities, supplies, staff or other resources where the payment of the compensation to the public servant is lawfully authorized by a representative of the local government who is empowered to authorize such compensation;
18. receipt by the public servant of anything of value, where the payment, gift or other transfer of value is unrelated to, and does not arise from, a public servant's holding or having held a public position, and where the activity or occasion for which the payment, gift or other transfer of value given does not involve the use of the local government's time, equipment, facilities, supplies, staff or other resources in any manner or degree that is not available to the general public;
19. hospitality that is extended to a public servant by an individual, or by an organization, for a purpose unrelated to the official business of the local government, including a gift of food, beverage, or lodging; and
20. receipt by a public servant of a devise, bequest or inheritance.

Public servant means the elected mayor, president, members of the legislative body, any member of any local government agency, board, commission, or other voting body that is established by the local government Charter or by the Code, and any appointee, any employee, or any individual who provides services to the local government within or outside of its offices or facilities pursuant to a personal services contract.

Relative means a person who is related to a public servant as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, uncle, aunt, nephew, niece, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, brother-in-law, or sister-in-law.

Voting body means the governing body and any other local government authority, board, commission, committee, council or group, regardless of whether its function is legislative, administrative, quasi-administrative, or quasi-judicial or any combination thereof, which, in order to take any official action, even where the action is advisory, must act as a body on the basis of a vote of some or all of its members.

Summary and conclusion

A first step in drafting an ethics ordinance must be a consideration of and discussion about the following issues:

1. Does the local government charter *require* that the ethics ordinance be organized around a central directive, or contain specific definitions?
2. If the charter does not mandate the enactment of an ethics ordinance, and if it doesn't require that the ethics ordinance be organized around a central directive or theme, and if it does not require specific definitions, which of the definitions listed in this chapter should be included?
3. What kinds of ethical issues have occurred in the past, or might arise in the future, with the elected officials, appointees, employees, volunteers and independent contractors associated with the local government?

The answers to these and other policy questions will ensure that charter-mandated requirements will be met, and that the definitions will be tailored to the needs and the concerns of the community. The answers will also assist policy makers in building a consensus with local government elected officials, appointees, employees, volunteers and independent contractors, as well as with the public, in accepting and adhering to the ethics ordinance. It is, therefore, recommended that the drafters of the ethics ordinance favorably consider the above definitions as a starting point for debate.

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1. For example, see the 1997 Detroit City Charter, Section 2-106, footnote.
 2. The terms and the definitions are adapted from the ethics ordinance of the City of Detroit, Section 2-6-3 of the 1984 Detroit City Code.
 3. The inclusion of “*domestic partner*” relationships is based on the reality that there are certain close personal, often intimate relationships involving non-married public servants which are equivalent to the personal relationships which exist between legally married spouses. The potential for public servants to be influenced by or on behalf of partners involved with them in such “*domestic partner*” relationships or arrangements is just as real as the potential for public servants to be influenced by or on behalf of spouses in legal marriages or family members. This article does not adopt any position regarding the propriety of such non-marital relationships among domestic partners. However, for purposes of implementing standards for the conduct of public servants in the performance of their duties for the local government, the article does attempt to include within its reach all public servants.

The definition of domestic partner included in this section is modeled on the definition of domestic partner contained in Division 2.5 of the Family Code, Article 9 of Chapter 1, Part 5 of Division 5 of Title 2 of the Government Code, and Section 1261 of the Health and Safety Code of the State of California.

4. *Private Gain*: Section 2-106 of the 1997 Detroit City Charter expressly prohibits the use of public office for private gain. Accordingly, a major provision in this article is the prohibition against a public servant’s acceptance or receipt of private gain as compensation for 1) the taking of an official action in a specific manner by the public servant (for example, a particular decision or vote in a specific manner), or refraining from the taking of an official action, as the result of an improper influence by another party; or 2) incentive or inducement for the public servant to act in favor of an interest other than the public interest. In the interest of maintaining honesty, integrity and impartiality in government, the goal of this provision is to ensure that public servants conduct government business in a manner that enhances public confidence and respect for city government, and places paramount importance on the public interest, rather than a public servant’s own personal interest or the private interest of a third-party.

Improper influence upon a public servant’s official actions refers to 1) any action that would constitute a violation of federal or state laws regulating the conduct of public officials, such as state law prohibiting the acceptance by any executive, legislative or judicial officer of a bribe (Section 118 of the Michigan Penal Code, being MCL 750.118; or 2) facts, events or circumstances which give rise to an appearance of impropriety in the taking of an official action by a public servant, when such facts, events or circumstances are considered objectively according to a reasonable person standard.

What constitutes private gain to a public servant may take many shapes and forms and may vary depending upon the facts and circumstances of a situation. Therefore, the above definition of private gain does not attempt to enumerate all forms or types of tangible economic gain, or circumstances or situations from which a public servant may derive tangible economic gain for himself or herself. Rather than attempt to list what is private gain that may not be accepted in all circumstances, the article attempts to illustrate for public servants the circumstances or types of remuneration, emoluments, gratuities or other items that a public servant may accept without violation of this article. The listing set forth in this section is based on the most typical situations which confront city public servants. However, this is not an exhaustive list, and there may be other types of economic benefit to a public servant that are permissible under this article.

Fundamental Standards of Conduct For an Ethics Ordinance

By Dennis A. Mazurek

Overview

Before deciding upon the standards of conduct to regulate, drafters of the ethics ordinance must first determine whether the local government charter requires that its ethics ordinance include certain standards of conduct. For example, the 1997 Detroit City Charter (Section 2-106) required enactment of an ethics ordinance which, at a minimum, regulated specific areas of conduct: prohibiting the use of public office for private gain; “reasonable” financial disclosure for some officers; and the avoidance of the appearance of impropriety.

If the charter does not mandate specific provisions or standards for the ethics ordinance, the drafters can be guided by the experience of ethics experts and the ten fundamental standards of conduct that follow. Human nature too often lures public officials and public employees into taking advantage of their positions of trust to use these positions inappropriately and to unfairly benefit themselves, their families or their friends. It is this competition between self-interest and the public interest that results in unethical (and sometimes illegal) conduct; it is this conflict that gives rise to formal, codified statements regarding ethical conduct.

Ethics ordinances from 18 local governments were surveyed for this publication: Bay City, Detroit, DeWitt, Farmington Hills, Flushing, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Riverview, Rochester Hills, Royal Oak, Sterling Heights, Warren, Wyandotte, and Ypsilanti. Many of them include some or all of the ten fundamental standards. In alphabetical order, the standards are:

1. Conflicts of interest
2. Disclosure
3. Impartiality
4. Improper use of position
5. Incompatible employment

6. Nepotism
7. Personal interests
8. Political activity
9. Public information
10. Public property and personnel

A list of citations to these local governments’ charter and ordinance provisions is in Appendix C.

These are the areas that are most often regulated because these are the areas in which misconduct by public officials most often occurs. In order to give drafters the benefit of learning from the language and the experience of existing ethics ordinances, excerpts from the ordinances of these communities are offered to illustrate different approaches to articulating the ten basic standards of conduct. In the pages that follow, each standard is presented with a statement of its purpose, along with a compilation of excerpts from ethics ordinances. In some instances the actual language is used; in others, the codes were used as references and the language is not verbatim. Variations that are used by different municipalities are noted in footnotes.

Editor’s note: To aid the reader, ordinance language options are either in brackets within the text, or footnoted. The excerpts presented here reflect a community’s thinking at a point in time, although the ethics ordinance may have subsequently been revised. Also, some stylistic changes were made for consistency with the rest of the text, eg. capitalization of the titles of officials.

1. Conflicts of interest

Purpose: The duty of a public servant is to represent the best interests of the public entity, and to serve the entity with the highest degree of loyalty. This standard is at the heart of any ethics ordinance. The absence of an easily understood standard regarding conflicts of interest diminishes the effectiveness of an ethics ordinance, and ignores the primary reason for having one. The fundamental concept is that a public official is not to exploit this position of power in unjust or inappropriate ways.

- A public servant shall not make a loan of public funds, grant a subsidy, fix a rate, issue a license, permit or certificate, [participate in the negotiation or execution of contracts] or otherwise regulate, supervise or participate in a decision that pertains¹ to an entity in which the public servant, or a member of his or her immediate family, has an ownership [or financial or personal] interest.² (*Bay City, Detroit, Harper Woods, Lansing, Rochester Hills, Warren*)
- A public servant [whether paid or unpaid] shall not solicit or accept [or receive, directly or indirectly] a³ gift or loan of money, [compensation], goods, services⁴ [contribution, reward, employment],^{5 6 7} or other things of value^{8 9} which would tend to influence¹⁰ the manner in which the officer or employee performs his or her official duties.^{11 12 13 14 15 16 17} (*Bay City, DeWitt, Farmington Hills, Flushing, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Riverview, Rochester Hills, Warren, Wyandotte, Ypsilanti*)
- A public servant shall not represent his or her individual [personal] opinion as that of the city.¹⁸ (*DeWitt, Harper Woods, Lansing, Warren*)
- A public servant shall not solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or any other advisory capacity in any proceeding or application, request for ruling,

determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or any solicitation or proposal thereof.
(*Royal Oak*)

- A public servant shall not accept any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a contract or order. (*Royal Oak*)
- A public servant shall not retain a person to solicit or secure a contract with the local government upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for the retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
(*Royal Oak*)
- A public servant shall not be a party, directly or indirectly, to any contract with the city except for the renewal or negotiation of an employment or independent contractor contract with a city officer or employee, or a collective bargaining agreement or contracts with any bona fide union. (*Ypsilanti*)
- Except for personal employment agreements authorized by the governing body, a public servant shall not solicit, negotiate, renegotiate, or approve, directly or indirectly, any contract, or amendment of any contract, with the city and 1) himself or herself, 2) any partnership, limited liability company or unincorporated association, or other legal entity of which the officer or employee is a partner, member, owner or part owner or employee, 3) any corporation in which the officer or employee is an owner or stockholder of more than one percent (1%) of the total outstanding stock of any class where the stock is not listed on an exchange, or of value of \$25,000 or more where the stock is listed on a stock exchange or of which the public servant is a director, officer, or employee, or 4) any trust of which the officer or employee is a beneficiary or trustee, or represents any party to such contract. (*Ypsilanti*)

2. Disclosure

Purpose: If a government is to be both transparent and accountable, the public must know of real and potential conflicts of interest. The general public, and those within the local government organization, are entitled to know about the relationships and circumstances which might influence a public servant's performance of duty, and which might diminish an official's independence and objectivity. Public disclosure makes it possible to evaluate the potential effects of these interests upon the public official, and to prohibit participation in decision making, in the public interest. Questions about which information, how much, and when to disclose it should be resolved in favor of full, and timely, public disclosure.

- A public servant [or his or her relative] shall not engage in business with the city, directly or indirectly, [or have any financial or personal interest in any business transaction with the city] without filing a complete [written] disclosure statement for each business activity, prior to engaging in the activity, and on an annual basis. (*Farmington Hills, Jackson, Midland, Sterling Heights*)
- A public servant shall not participate, as an agent or representative of the city, in approving, disapproving, voting upon, abstaining from voting, recommending or otherwise acting upon any matter¹⁹ in which he or she [or a relative] has a direct or indirect financial²⁰ interest²¹ without disclosing²² the full nature and extent of their interest.²³ (*Detroit, Farmington Hills, Jackson, Midland, Riverview*)

3. Impartiality

Purpose: Public officials must assure the public that, except for publicly approved pay and related benefits, they receive no benefits or services that aren't available to any member of the public.

Intent and purpose

- It is the intent of this Code that a public servant, regardless of whether specifically prohibited by this Code, shall avoid any action which might result in, or create the appearance of,

1. Using public office or employment for private gain.
2. Giving improper preferential treatment to any person or organization.
3. Impeding government efficiency or economy.
4. A lack of independence or impartiality of action.
5. Making a government decision outside of official channels.
6. Affecting adversely the confidence of the public in the integrity of the local government.

It is not the intent of this Code to limit the right or ability of any public servant to exercise his or her discretion in making legitimate policy decisions which are within their discretion so long as such action does not provide a special benefit to that person, relieve the public servant of a particular duty, or treat that person differently than other similarly situated residents in the community. (*DeWitt*)

Fair and equal treatment

- No public servant shall request, use or permit the use of any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to the public at large. All public servants shall treat all citizens of the local community with courtesy, impartiality, fairness and equality under the law. (*DeWitt*)

4. Improper use of position

Purpose: To the public, an official is the governmental organization. An official's misuse of his or her position not only destroys public confidence in that public official, but it also destroys trust and confidence in the governmental organization as well. A public official must use the position and power of public office for the benefit of the community as a whole. Thus, a public official should not receive a greater benefit from his or her actions than anyone else in the community. Although this standard may seem unnecessary because the potential effect of the misconduct is so

obvious, a clear and specific statement establishes for all the assurance that abuse or exploitation of public office or public employment will not be tolerated.

- A public servant shall not make any policy statements which promise to authorize or to prevent any future action, agreement or contract, when, in fact, the public servant has no authority to do so. (*Lansing*)
- A public servant shall not act on behalf of the city in the making of contracts when, in fact, he or she has no authority to do so. (*Ypsilanti*)
- A public servant shall not make policies that affect the citizens of the community that are not authorized by the local government Charter, Code of Ordinances, governing body, an authorized agency of the local government, or its adopted policies. (*Wyandotte*)
- A public servant shall not use his or her official position in violation of federal or state law, or to obtain or to create the appearance to obtain a private gain for the public servant in return for improperly influencing a decision of the mayor, of the city council, of the city clerk, or of a member of a city authority, board, commission, committee, council or group, or other city agency. (*Detroit, Rochester Hills*)
- A public servant shall not use, or attempt to use, his or her official position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for himself or herself, a relative, his or her immediate family, or others. (*Farmington Hills, Jackson, Livonia, Mason, Midland*)
- A public servant shall not use his or her public office and employment for personal [private or economic] gain,^{24 25} [or use or attempt to use his official or her official position to secure special privileges or exemptions for himself or herself, or others, except as provided by law].²⁶ (*Bay City, Flushing, Lansing, Rochester Hills, Sterling Heights, Wyandotte, Ypsilanti*)
- A public servant shall not make or participate in making a decision in his or her capacity as a public servant knowing that the decision will provide him or her, a member of his or her immediate family, or a business with which he or she is associated, a financial benefit of more than an incidental nature which is distinguishable from the benefits to the public servant as a member of the public or as a member of a broad segment of the public. (*Ypsilanti*)
- A public servant shall not take any action or create the appearance of making a government decision outside official channels. (*Rochester Hills*)
- A public servant shall not take any action or create the appearance of impeding government efficiency or economy. (*Rochester Hills*)
- A public servant shall not take any action or create the appearance of giving preferential treatment to any organization or person. (*Rochester Hills*)
- A public servant shall not take any action, or create the appearance, that adversely affects the confidence of the public in the integrity of the city. (*Rochester Hills*)
- Public servants who are members of a city agency shall not take final action on any matter under consideration that is before the agency until the citizens' rights to address the agency have been provided for, subject always to the provisions of the Michigan Open Meetings Act. (*Wyandotte*)
- A public servant shall not interfere with the ordinary course of law enforcement within the city, and shall not suggest or request special favors or consideration or disposition of any law enforcement person of the city, including the city manager, chief of police, police officers, ordinance officers, city attorney or administrative staff, concerning any city law enforcement matter including, but not limited to, parking tickets, traffic tickets, ordinance tickets, or the enforcement of city codes. (*Ypsilanti*)

5. Incompatible or dual employment

Purpose: Dual employment or dual representation by a public official can cause a conflict of interest between the discharge of official duties and the requirements of another employer. Such a conflict might impair the official's independent judgment. However, it may be possible to permit a public servant to participate in discussion or decision making due to "necessity," as determined by the public body, provided that full, timely and public disclosure takes place prior to discussion and action.

- A public servant shall not engage in or accept employment, or render services, for a private or public interest where such employment or service is incompatible [or in conflict] with the [proper] discharge [or performance] of the public servant's official duties [and responsibilities] for the city, or where such employment or service is reasonably expected²⁷ to impair the public servant's independence of judgment or action in the discharge [performance] of his or her official duties [and responsibilities] for the city. (*Bay City, Detroit, DeWitt, Farmington Hills, Harper Woods, Riverview, Rochester Hills, Warren, Wyandotte*)
- A public servant shall not act, for compensation from any person other than the municipality, as an agent, attorney, or representative for another person, business or organization in any matter that is pending before a city agency [other than in the course of the duties and responsibilities of his or her office or employment pursuant to duties assigned by city employee unions] [other than himself or herself before the governmental body of which the public servant is a member or employee] . (*Detroit, Flushing, Lansing*)
- A public servant may represent another person, business, or organization before a city agency where such representation is a required part of the public servant's official duties. (*Detroit*)

- A public servant shall not engage in private employment with, or render services for, any private person who has business transactions with the city, without first making a full public disclosure of the nature and extent of such employment. (*Sterling Heights*)
- A public servant who, while a city employee, is participating directly or indirectly in the procurement process, shall not become or be the employee of, or perform a service for, any person who is contracting with the city. (*Royal Oak*)
- An elected public servant shall not engage in employment with any other agency or department of the city. (*Wyandotte*)

Note: Incompatible public offices

Daniel C. Matson

There are standards governing an official holding more than one public office at the same time, and they are found in the Incompatible Public Offices Act, (IPOA), 1978 PA 566 (MCL 15.181 *et seq.*). Section 1(b) of the Act defines "incompatible offices:"

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

1. The subordination of one public office to another
2. The supervision of one public office by another
3. A breach of duty of public office

Perhaps the most difficult questions arise as to when a breach of duty of public office has occurred when more than one public office is held.

The Michigan Attorney General has issued numerous formal opinions regarding public officials holding incompatible offices simultaneously. Excerpts from opinions adopted by courts involving breach of duty include these interpretive statements:

A breach of duty arises when a public official holding dual offices cannot protect, advance, or promote the interest of both offices simultaneously. A public office is a public trust, and the courts have imposed a fiduciary standard upon public officials that requires disinterested conduct.

It is well established that a breach of duty creating an incompatibility exists when a person holding dual public offices is placed at opposite sides of a contract. An incompatibility can also result out of a non-contractual matter, such as when one office has to pass upon a matter affecting the other office. (OAG 1997, No. 6931, p 124 (February 3, 1997); *Macomb County Prosecutor v Murphy*, 233 Mich App 372, 381, 382 (1999).)

Section 3 of the IPOA allows certain limited exceptions to a person holding two or more incompatible offices at the same time. The exceptions do not apply to allow or sanction activity constituting conflict of interest prohibited by the Constitution or laws of Michigan.

If there is any question about whether or not holding more than one office is incompatible, it is advisable to seek an opinion from the municipal attorney *before* the problem arises.

6. Nepotism

Purpose: Whether deserved or not, the limitation or prohibition of public service by certain persons related by blood, adoption or marriage, to others within the governmental organization avoids actual and perceived favoritism or partiality. The very fact of the relationship creates the perception of unfairness. In smaller communities it may be common for related parties to work for, or to serve in, the local government, particularly in dual-income families. In these situations the perception of favoritism can be reduced if the local government requires that such relationships be fully and publicly disclosed.

- A public servant shall not cause the employment or any favorable employment action of an immediate family member, or participate in any employment decision about such family member.

- The spouse of any elected city official, or the city administrator, shall be disqualified from holding any appointive office. The immediate family members of any elected official, or the city administrator, or the spouses of any such family members shall be disqualified from holding full-time or permanent part-time employment exceeding ten hours per week with the city during the term served by the elected official or during the tenure of the city administrator. (*Livonia, Mason*)

7. Personal interests

Purpose: The existence of a private business relationship between a public official and the municipality presents the opportunity for real or perceived abuse of public office. To protect the interests of all, the relationship should either be avoided, or should be fully and publicly disclosed.

This standard is akin to incompatible employment in that the conduct is detrimental to the objectivity of the public servant. However, participation in discussions or actions may be permitted if there is a showing of "necessity," as determined by the public body, provided that full public disclosure, and explanation, takes place.

- A public servant shall not engage in any act [or business transaction which may cause him or her] [or his or her immediate family or business that he or she is associated with] to derive a personal profit or gain directly or indirectly as a result of his or her official position [or authority] or omission in the discharge of his or her official duties for private gain [or use his or her official position or authority to profit from a business transaction] [or act in an official capacity on matters in which he or she has a private financial interest clearly separate from that of the general public]. (*Bay City, Detroit, DeWitt, Flushing, Harper Woods, Lansing, Warren*)
- A public servant shall not speculate or deal in equipment, supplies, materials, or property purchased by or sold to the city. (*Rochester Hills*)

- A public servant shall not hold a substantial financial interest, i.e., any stake, including stockholder, partner, joint venture, creditor, guarantor or director, in a firm which provides services or supplies, materials or equipment to the city, *excluding* holding an interest in a firm providing services or supplies, materials, or equipment to the city where, after reporting the conflict, 1) the contract for services or supplies, materials, or equipment is awarded pursuant to sealed bids, 2) the public servant is not involved, directly or indirectly, with making the decision on the award of the contract or with the city department for which the contract relates, and 3) the city council determines, after reviewing the circumstances, that the award of the contract would be in the best interests of the city. *(Rochester Hills)*

8. Political activity²⁸

Purpose: Public officials do not waive their constitutional rights upon assuming a position in a municipal government. However, reasonable limits can be established so that there is no public subsidy of the political activity. Political activity by public officials and employees jeopardizes the goal that the governmental unit will be objective and fair, and treat all equally. Local government assets such as employees' time, materials and other resources belong to the public, and should not be used for personal or political purposes.

Public officials must use public assets for authorized purposes only, and not for personal political benefit, or for the political benefit of someone else. Political activity should not be permitted under any circumstance during business hours.

- A public servant shall not use any city time or property for his or her own political benefit or for the political benefit of any other person seeking elective office, provided that the foregoing shall not prohibit the use of property or facilities available to the general public on an equal basis for due consideration paid. *(Livonia, Mason)*

9. Public information

Purpose: Government insiders are often "those in the know," with access to information that may not be generally available. To avoid abuse of a public position, information must be used only as authorized, and not for personal benefit or advancement.

- A public servant shall not benefit financially²⁹ [or further his or her private economic interests or that of a relative or any other person] from confidential information acquired in the course of holding office or employment,^{30 31} [or knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person].³² *(Bay City, Detroit, DeWitt, Farmington Hills, Harper Woods, Jackson, Lansing, Midland, Rochester Hills, Royal Oak, Sterling Heights, Warren, Wyandotte, Ypsilanti)*
- Except as authorized by law, a public servant shall not knowingly disclose³³ to a third party [to any unauthorized person] confidential information that is acquired in the course of his or her employment [in the course of holding office]^{34 35} [including, but not limited to, information provided, obtained or discussed in closed or executive sessions of city council]³⁶ [in advance of the time prescribed [authorized] [by the governmental body] [department head, city manager or law] for its authorized release to the public], [except as otherwise required [provided] or permitted by law]. *(Bay City, Detroit, DeWitt, Harper Woods, Lansing, Rochester Hills, Warren, Wyandotte, Ypsilanti)*
- A public servant shall not use information protected from disclosure by the Michigan Freedom of Information Act which she or he has obtained by reason of such position or authority. *(Flushing)*
- A public servant shall not disclose any confidential information, without prior formal authorization of the public body having jurisdiction, concerning any city official or employee, or any other person, or any property or governmental affairs of the city. *(Sterling Heights)*

- A public servant shall not suppress or refuse to provide city reports or other information which is publicly available. (*Livonia, Mason*)
- A public servant shall not suppress any public city report, document, or information available to the general public because it might tend to affect unfavorably his or her private financial or political interest. (*Farmington Hills*)

2. Whether the charter requires that the ethics ordinance have a specific focus, for example, a requirement to prohibit or limit the acceptance of gifts;
3. Whether some or all of the standards of conduct that have been featured in this chapter should be included; and
4. What kinds of ethical issues have occurred in the local government in the past, or what kinds of ethical issues might arise in the future, with elected officials, appointees, employees, and independent contractors.

10. Public property and personnel

Purpose: Public resources or assets that are not offered to the general public are not to be used by the public official or anyone else for private purposes. To do so subsidizes private activities with public dollars.

- [Unless judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures], a public servant shall not [request], [directly or indirectly] use [misuse] [or permit others to use] any city [publicly]-owned [or publicly-supported] real or personal property, [vehicle, equipment, material, labor or service], city funds, city personnel, or any other tangible city assets [under his or her care] [or control] for commercial gain [for personal [financial] gain or benefit] [or personal convenience or private advantage of himself or herself or any other person] [for private economic interest or that of a relative] [or for a member of his or her immediate family or a business entity with which he or she is associated] [or the private benefit of a third party]. (*Bay City, Detroit, Farmington Hills, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Sterling Heights, Warren, Ypsilanti*)

Answering these questions will ensure that charter-mandated requirements will be met, and that the standards of conduct will be tailored to the needs and the will of the community. Further, the discussion itself will increase awareness of ethical issues, and will help build a consensus among elected officials, appointees, employees, and independent contractors, as well as with the public.

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1. or relates
 2. other than as a citizen, officer, or employee of the city
 3. substantial
 4. promise
 5. or promise of future employment
 6. for the benefit of a person or organization, other than the city
 7. in the form of money, a loan, service, travel, entertainment, hospitality, or other thing of promise
 8. for the benefit of a person or organization
 9. or give anything of value
 10. or would unduly influence
 11. under circumstances where it can reasonably be inferred that the gift is intended to influence him or her in the performance of his or her official action or is intended as a reward for any official action
 12. or duties
 13. based upon an agreement or understanding that a vote or an official action or decision would be influenced thereby
 14. to accept in a one-year period a gift or any other item exceeding \$100 in value from people or business entities under circumstances which may tend to impair his or her independence of judgment or action in the performance of his or her official duties

Summary

When selecting the standards of conduct to be codified, drafters should consider:

1. Whether the local government charter requires that the ethics ordinance contain certain minimum standards of conduct;

15. or favors, gratuities, or special consideration from anyone currently doing business with the city, seeking to do business with the city, or who may currently be negotiating to do business with the city in the future, or who may otherwise seek any actions or approval by the city unless specifically allowed by city policy, including soliciting or accepting, without reimbursement, meals, sporting event tickets, social amenities, or attendance at any event with any organization that does business or seeks to do business with the city unless specifically sanctioned as a city sponsored event,
16. or which is intended to influence a vote, decision, or other exercise of official authority in any matter involving the city
17. based upon an agreement that the vote or official action or the official action or decision of the public servant would be influenced thereby
18. or falsely represent his or her personal opinion to be the official position or determination of the governmental body which he or she is a member or employee
19. or in a decision or transaction
20. an economic
21. or benefit
22. on the public record
23. or without providing written notification to the city council, if an elected public servant, or to his or her immediate supervisor if a non-elected public servant.
24. or use the authority, title, or prestige of his or her public office for the attainment of a public servant's financial gain or that of a member of his or her immediate family's private financial benefit when inconsistent with the public interest
25. or engage in a business transaction in which the public servant may profit from his or her official position or authority
26. or make unauthorized use of his or her public position to obtain financial gain for himself or herself, a member of his or her immediate family, or a business [or entity] with which he or she is associated.
27. or tends to impair
28. The Michigan Campaign Finance Act, MCL 169.201 *et seq.*, requires that candidates for public office make campaign contributions and expenditures public by filing appropriate reports.
29. or use for private gain
30. or obtained or may obtain by reason of his or her position or authority
31. or use or permit the use of confidential information to advance a financial or personal interest of himself or herself, or of any other person
32. or make unauthorized use of any confidential information received through holding such public position to obtain financial gain for himself or herself, a member of his or her immediate family or a business [or entity] with which he or she is associated
33. or divulge
34. in the course of holding his or her position
35. in the course of his or her service
36. to any person not authorized to obtain such information

Consequences for Violating the Ethics Ordinance

By Dennis A. Mazurek

Overview

This chapter discusses the range of penalties, or sanctions, which can be found in the ethics ordinances of the 18 local governments that were surveyed for this study. These municipalities have taken different approaches to responding to violations of their ethics ordinances, and to enforcement. It's important to remember there are many players on the municipal stage, such as elected and appointed officials, employees (full-time and part-time), volunteers, vendors, and

contractors. Not all will come within the scope of an ethics ordinance. For those who are subject to an ethics ordinance, the range of sanctions runs from self-policing with no formal sanctions, to criminal penalties:

No sanction or penalty

Public admonition or reprimand

Public censure

Forfeiture of office and removal proceedings

Disciplinary action

Termination of contract (external vendors or contractors)

Municipal civil infraction

Cumulative sanctions

Misdemeanor

Felony

Review of decision

Those who are charged with drafting or developing an ethics ordinance can consider a wide range of penalty options, and the penalties can be tailored to fit the community.

Before thinking about penalties, however, the first step must be to decide whether the ethics ordinance should be “*aspirational*,” whether it should have sanctions that are enforceable, or whether it should be something in between. An aspirational approach reminds officials of their mission in service to the public, sets forth what they should aspire to and how they should conduct themselves, but it stops short of imposing serious penalties for failing to live up to the standards. An approach that demands greater accountability states the standards of conduct that are expected, the consequences for violating the standards, and the means by which it will be enforced, which is usually through the local court system.

Ethics ordinances that lean toward the aspirational can be found in both large and small municipal governments, such as Detroit, Farmington Hills, Jackson, Mason, Midland, Riverview, and Rochester Hills. A more accountable approach can be found in the ethics ordinances of Bay City, Flushing, Harper Woods, Lansing, Livonia, Royal Oak, Sterling Heights, Warren, and Ypsilanti. Interestingly, two communities, DeWitt and Wyandotte, have combined the two approaches.

Considerations

To help drafters think through the kind of ethics ordinance they want for their community, the following considerations are proposed for discussion.

1. What does the local government charter say about enforcement?
2. Should the ethics ordinance be aspirational, establishing the standards of conduct that public officials should exemplify, or should the standards be enforceable, with penalties or sanctions imposed when violations occur?
3. If the standards of conduct are to be enforced, who will,
 - a. Receive and process complaints?
 - b. Investigate complaints?
 - c. Decide whether a violation has occurred?
 - d. Decide whether a sanction should be imposed?
 - e. Enforce the sanction?
 - f. Oversee the process?
 - g. Provide advice about whether a proposed action violates the ethics ordinance?
 - h. Provide training to all those to whom the ethics ordinance applies?
4. At what point in the process does the Michigan Freedom of Information Act provide the public with a right to know?
5. Should a body, such as a board of ethics, be created to respond to requests for advisory opinions and complaints?
6. Where discipline is contemplated, how will collective bargaining agreements be affected?
7. Will the local government be able to successfully prosecute its elected officials before its elected district court judges?
8. What effect will potential civil or criminal penalties have on employee morale?

9. Will civil or criminal penalties dissuade potential employees from seeking employment with the local government organization?
10. Does the political will exist to adopt an ordinance with serious sanctions?
11. Will the sanctions be fairly and uniformly applied?

A discussion of these questions is important to help policy makers understand what is being undertaken, and to develop a consensus for action. The process can be especially challenging when, in effect, the policy makers are proposing and enacting legislation to regulate themselves.

Responding to violations of an ethics ordinance

Eleven different kinds of responses to violations have been identified in the ethics ordinances of the 18 local governments that were surveyed. The enforcement sanctions are included below in the order of severity, from lesser to greater. Each example provides the actual language from the ordinance.

No sanctions

An aspirational ordinance is intended to encourage and promote the highest standards of ethical conduct and behavior by city officials and employees; it is not designed to be a punitive measure. It is anticipated that the issuance of advisory opinions by the Board of Ethics will conclude all matters originating as requests for advice, and substantially all matters originating as complaints. The Board of Ethics is not an adjudicative body and no finding of the Board should be deemed conclusive, nor should it subject any municipal official or employee to penalties. *(Mason)*

This chapter is intended to establish standards governing conduct in dealings with the city. Violations of this chapter shall not make the violator subject to a fine or incarceration. *(Rochester Hills)*

Public admonition

In the event the Board of Ethics determines that a violation of this article has occurred, the Board may adopt a resolution of public admonition [*Editor's note: mild rebuke or reprimand*] against a public servant which includes the mayor, members of the city council, the city clerk, any member of any city agency, board, commission, or other voting body that is established by the city charter or by the city code, and any appointee, any employee, or any individual who provides services to the city within or outside of its offices or facilities pursuant to a personal services contract regarding the violation. *(Detroit)*

Public censure of elected officials

Violation of this Ordinance by an elected official may result in censuring by unanimous vote of the remaining members of the city council. [*Editor's note: A censure is a strong disapproval or condemnation, expressed by a resolution passed by the governing body.*] *(Riverview)*

Forfeiture of office and removal proceedings

Where, based upon an investigation arising from a complaint, the Board of Ethics determines that there may be grounds for further investigation for possible forfeiture of or removal from office under the City Charter and applicable law, the matter may be referred by the Board to the city council for consideration of forfeiture or removal proceedings in accordance with the City Charter. *(Detroit)*

Depending upon the employment status of the city official or employee involved, or group concerned, and the nature of the action requested, all matters concerning the Conflict of Interest and Ethical Code shall be directed to either i) the mayor, the city council and the city attorney for elected and appointed officials, or ii) to the city manager and the city attorney for full and part-time appointed employees. In matters concerning the mayor, city manager or city attorney, the mayor pro tem will assume

the controlling authority position in place of the affected official. When requested, these authorities shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning Conflict of Interest and the Ethical Code policy of the city. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved which may include, but is not limited to, taking [*Editor's note: or recommending*] appropriate disciplinary action, including removal from office or appointed position, in accordance with the City Charter, the City Code, state law, or the regulations or policies of the city. (*Farmington Hills, Jackson, Midland*).

The penalty or penalties imposed are not exclusive remedies under this ordinance and any and all statutory and Charter penalties or forfeitures may also be enforced. (*DeWitt, Sterling Heights*)

Any individual who believes that a violation exists as prohibited by this article may make a complaint which shall be a written formal signed complaint to the chief of police, who shall cause same to be investigated and referred to the city attorney for review and recommendation with a copy to the complainant. When requested, the above-listed authorities shall take appropriate action upon any complaint, request for information or otherwise resolve matters concerning a violation of said article. The appropriate action to be taken in any individual case shall be at the discretion of the above authorities, which may include, but is not limited to, taking appropriate disciplinary action, including removal from office or appointed position in accordance with the City Charter, Code of Ordinances or state law. (*Wyandotte*)

Disciplinary action

Where the Board of Ethics determines that a violation of this article by such public servant may present grounds for disciplinary action, the matter may be referred by the Board to such public servant's supervisor with a recommendation that the public

servant's conduct be reviewed for disciplinary action. Any such disciplinary action must be carried out in accordance with the provisions of the City Charter and other laws, policies and procedures that are applicable to the position of the public servant and with the gravity of the offense. (*Detroit*)

Depending upon the employment status of the public servant or group involved, or group concerned, and the nature of the action requested, all matters concerning the Conflict of Interest and Ethical Code shall be directed to either i) the mayor, the city council and the city attorney for elected and appointed officials, or ii) to the city manager and the city attorney for full and part-time employees. In matters concerning the mayor, city manager or city attorney, the mayor pro tem will assume the controlling authority position in place of the affected official. When requested, these authorities shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning Conflict of Interest and the Ethical Code policy of the City. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved which may include, but is not limited to, taking [*Editor's note: recommending*] appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the City Charter, the City Code, state law, or the regulations or policies of the city, or the requirements of any collectively bargained agreement. (*Farmington Hills, Jackson, Midland*)

Violation of this Ordinance by the city manager, or an officer or employee may result in disciplinary action, up to and including discharge, in accordance with city policies, applicable collective bargaining agreements, and employment contracts. (*Riverview*)

Any individual who believes that a violation exists as prohibited by this article may make a complaint which shall be a written formal signed complaint to the city of Wyandotte

chief of police, who shall cause same to be investigated and referred to the city attorney for review and recommendation with a copy to the complainant. When requested, the above-listed authorities shall take appropriate action upon any complaint, request for information or otherwise resolve matters concerning a violation of said article. The appropriate action to be taken in any individual case shall be at the discretion of the above authorities, which may include, but is not limited to, taking appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the City Charter, Code of Ordinances or state law. *(Wyandotte)*

Recommendation of termination of contract

Where the Board of Ethics determines that an existing city contract has been entered into in violation of the provisions of this article, after such determination and recommendation from the Board, the city may void or seek termination of the contract where legally permissible. *(Detroit)*

Municipal civil infraction¹

This chapter is intended to encourage and promote the highest standards of ethical conduct and behavior by city officials and employees and is not intended to be a punitive measure. It is anticipated that the issuance by the Board of Ethics of advisory opinions will conclude all matters originating as requests for advice and substantially all matters originating as complaints. The Board of Ethics is not an adjudicative body and no finding of the Board shall be deemed conclusive nor, in and of itself, subject any city official or employee to penalties. In the event of legal proceedings alleging a violation of this chapter, then in accordance with the provisions of the City Charter, a violation of this chapter shall constitute a municipal civil infraction, and shall subject a person found responsible by a court of violating this chapter to a maximum civil fine of not more than one hundred dollars. *(Livonia)*

Misdemeanor

Any official, officer or employee who violates this ordinance shall be guilty of a misdemeanor, which shall be punishable by a fine not to exceed \$500 or by imprisonment of not more than ninety days in jail or both, in the discretion of the court. *(Bay City, DeWitt, Ypsilanti)*

Any person violating any of the provisions in this article shall, upon conviction, be punished as prescribed in this Code. *(Sterling Heights)*

Any person convicted under the provisions of this ordinance shall be deemed guilty of misconduct. *(DeWitt, Sterling Heights)*

Violation of the provisions of this ordinance shall be a misdemeanor. *(Flushing, Harper Woods, Lansing)*

Failure of an elected official or appointee to file a disclosure form with the city clerk by March 28 of each year, or to file a conflict of interest disclosure form with the city clerk, shall be a misdemeanor and may result in a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not more than ninety days, or both. *(Wyandotte)*

Felony

To the extent that violations of ethical standards of conduct set forth in this Ordinance constitute violations of the Michigan Criminal Code they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Ordinance. *(Royal Oak)*

Cumulative sanctions

The invocation of one subsection of this section does not preclude the application of any other subsection of this section or of any other applicable laws or policies. *(Detroit)*

The penalty or penalties imposed are not exclusive remedies under this ordinance and any and all statutory and Charter penalties or forfeitures may also be imposed. *(DeWitt, Sterling Heights)*

Review of Decision

Where the Board of Ethics finds that a decision of the mayor, the city council, the city clerk, an appointee, or other public servant was made in violation of this article, the board may recommend to the mayor, the city council, the city clerk, an appointee, or other public servant that such decision be reviewed in accordance with the applicable provisions of the City Charter and the City Code. Upon such recommendation, the decision may be reviewed by the mayor, the city council, the city clerk, appointee, or other public servant in accordance with the applicable provisions of the City Charter, the City Code, and any other applicable laws.

(Detroit)

Conclusion

What will happen when it appears, or when it is determined, that the ethics ordinance has been violated? Is it enough to plainly say what the public official's duty to the public is? Is it enough to say, in a formal and public way, what the standards of conduct should be for those who serve the local government? Or should some kind of consequence, from private admonition to criminal penalty, flow from a violation of those standards?

In drafting an ethics ordinance, the selection of an appropriate sanction and enforcement process for a municipality is a difficult task. While it is advisable to avoid harsh and extreme punishment for incidental infractions, it is unwise to allow significant violations to go unpunished. At the same time, it is important to remember that Michigan statutes provide for the prosecution of criminal offenses.

While both the aspirational and accountable approaches to ethics ordinances are worthy of consideration, the aspirational approach affords greater control of the enforcement process than does a more punitive approach. With both, enforcement involves some type of sanction. The aspirational approach is grounded in the concept of self-policing, and minimizes reliance on overloaded district courts by keeping enforcement "in-house." On the other hand, the punitive approach ultimately plays out in the courts, where the imposition of sanctions is a matter left to the discretion of judges for whom a violation of an ethics ordinance may be no more compelling than a minor violation of any ordinance of the local government.

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1. There is an important legal distinction between a *municipal civil infraction* and a *civil infraction* as defined by statute. Consult the enabling act relevant to your jurisdiction to determine which class of infraction applies. Section 4L of the Michigan Home Rule City Act, MCL 117.4L, identifies certain statutes that will permit or prohibit their classification in either category.

Enforcement and Administration of an Ethics Ordinance

By Dennis A. Mazurek

Considerations

In designing systems for enforcement and administration of an ethics ordinance, the complexity of the task will depend on whether the drafters choose an aspirational approach to encouraging ethical behavior, or a more accountable and enforceable approach by which certain ethical conduct is required. The aspirational approach reminds public officials of the standards of conduct to which they should aspire, but it does not assign serious penalties for failure to abide by

the standards. On the other hand, an approach that includes serious sanctions must set clear standards for required conduct, along with the consequences for violating the standards.

In thinking through an enforcement system, drafters should consider some basic questions.

1. Which segments of the municipal organization come within the jurisdiction of the ethics ordinance?

2. Should there be one enforcement system for elected and appointed officials, and a separate process for employees?
 3. Who should be given authority to investigate and enforce the ordinance when the conduct of elected officials is questioned?
 4. Should the group that will have responsibility for enforcement be part of the municipal organization, or should it be independent of the municipality?
 5. Who shall appoint the members of that group, and how long should they serve?
 6. How should the process balance an individual respondent's right to privacy, and the public's right to know? Can any part of the process remain private under the Michigan Freedom of Information Act?
 7. How shall the enforcement system be funded? Should the ethics ordinance include a requirement that the municipality provide "adequate" resources for enforcement?
- k. Keeping records of complaints and results;
 - l. Providing advice, or advisory opinions, about whether a contemplated action would violate the ethics ordinance; and
 - m. Providing periodic training to all who are within the jurisdiction of the ethics ordinance.

In general, an enforcement process and administrative system usually include:

- a. Receipt and processing of complaints or allegations that the ethics ordinance has been violated;
- b. Notice to the person(s) complained about;
- c. Investigation of complaints;
- d. An initial decision whether a violation may have occurred, or whether the complaint is without grounds and should be dismissed;
- e. Gathering and recording of facts;
- f. Hearing the respondent's version of the circumstances of the alleged misconduct;
- g. Testimony from witnesses;
- h. Deciding whether a sanction should be imposed, and if so, what sanction;
- i. Implementing or enforcing the sanction;
- j. Overseeing the enforcement process;

Overview

As always, a first step is to determine whether the local government charter requires a specific enforcement mechanism that must be codified in the ethics ordinance, and then implemented. An example of how a local government incorporated some of the elements listed above, Section 2-106(2) of the 1997 Detroit City Charter may be helpful. It mandates a comprehensive structure for enforcement and improvement of ethical standards, and a Board of Ethics is its primary enforcement and administrative mechanism.

Section 2-106(2) An independent Board of Ethics is created. The Board of Ethics shall consist of seven members:

1. Seven members of the public,
 - a. Three of whom shall be appointed by the city council,
 - b. Three of whom shall be appointed by the mayor; and
 - c. One of whom shall be jointly appointed by the mayor and city
2. None of the Board members shall be removed by the respective appointing authority except for cause; *[Editor's note: "Cause" in this context might include breach of a duty relating to the office, e.g. misfeasance, malfeasance, or nonfeasance.]*
3. The term of membership of the Board shall be five years, and not more than two members' terms shall expire in any one year;
4. Each appointee may serve a maximum of two consecutive five-year terms, not to exceed a total of ten years.

Public members of the Board shall be residents of the city who are not elected officers, appointees, or employees of the city at any time during their Board membership. Members shall serve without compensation. All city elected officers, appointees, and employees shall be available for consultation with the Board of Ethics as it deems necessary. The Board of Ethics shall issue advisory opinions regarding the meaning and application of provisions of the Charter, city ordinances or other laws or regulations establishing standards of conduct for elected officers, appointees, or employees. Advisory opinions shall be rendered upon written request by an elected officer, appointee, or employee. Advisory opinions shall be published by the Board annually in a report to the mayor and city council. The opinions shall not disclose the identity of the elected officers, appointees, or employees concerned.

All meetings of the Board shall be open to the public, unless an individual involved in the matter to be addressed requests in writing that the meeting be closed, or unless otherwise provided by ordinance.

Consistent with state law, the Board of Ethics may recommend improvements in the standards of conduct to ensure the ethical behavior of city elected officers, appointees, and employees, or in the organization and procedures related to the administration and enforcement of those standards. The Board of Ethics shall be authorized by ordinance to conduct investigations on its own initiative, subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, appoint independent counsel when necessary, and to perform other functions essential to ensure the integrity of city government. The Board shall establish its rules and procedures, in accordance with Section 2-111 of this Charter. Funds sufficient to enable the Board to perform its duties shall be appropriated annually.

Examples of different enforcement systems

The ethics code enforcement mechanisms in the ordinances of 17 local governments in Michigan were surveyed and are highlighted below. These examples are from Bay City, Detroit, DeWitt,

Farmington Hills, Flushing, Harper Woods, Jackson, Lansing, Livonia, Mason, Midland, Riverview, Royal Oak, Sterling Heights, Warren, Wyandotte, and Ypsilanti. Six different versions of enforcement systems were identified in these ordinances.

1. Boards of Ethics

The cities of Detroit, Lansing, Livonia, Mason, and Warren have enacted ordinances requiring a Board of Ethics. Although the Ethics Ordinance of the city of Detroit goes far beyond where most communities will want to go, it, again, provides a useful and detailed example of the various elements that drafters might want to consider.

Charter independence; duties; promulgation of rules.

- a. The city of Detroit Board of Ethics is an independent body that was created by Section 2-106(2) of the 1997 Detroit City Charter for the following purposes:
 1. To render advisory opinions regarding the meaning and application of provisions of the 1997 Detroit City Charter, this article, and other laws or regulations which pertain to disclosure requirements and standards of conduct for public servants;
 2. To conduct investigations based upon a complaint in order to ensure the integrity of city government, through the subpoenaing of witnesses, the administering of oaths, the taking of testimony, compulsion of the production of relevant evidence, and, when necessary, the appointment of independent counsel; and
 3. To recommend a) improvements in the disclosure requirements that are found in Division 2 of this article, and the standards of conduct that are found in Division 3 of this article, and b) improvements in the administration and enforcement thereof, in order to promote an ethical environment within city government, and to ensure the ethical behavior of public servants.

- b. In accordance with Section 2-111 of the 1997 Detroit City Charter, the Board of Ethics shall promulgate administrative rules to perform its duties as set forth in the 1997 Detroit City Charter and this article.

Limitations on Board's authority

The Board does not have the authority to reverse or otherwise modify a prior decision of the mayor, the city council, the city clerk, appointee, or other public servant.

Resources and staffing

- a. A sufficient annual appropriation shall be provided to enable the Board of Ethics to perform its duties as set forth in the 1997 Detroit City Charter and this article, including hiring adequate staff.
- b. The corporation counsel shall assign legal counsel from the city of Detroit Law Department who shall provide representation and advice to the Board on legal matters. The Board may refer a matter to the city attorney from the law department who represents the Board for appropriate action. Upon completion of review and consideration, the city attorney shall report his or her findings to the Board. Any retention of outside counsel on behalf of the Board of Ethics shall be governed by the provisions of section 6-408 of the 1997 Detroit City Charter.

Each city agency to cooperate and assist

As needed, each city agency shall cooperate in gathering information to assist the Board of Ethics in performing its duties.

Information provided to Board to remain confidential

Members of the Board of Ethics or any public servant who have access to any confidential information that is related to the functions or activities of the Board are prohibited from divulging such information to any person who is not authorized to possess the information.

Annual report

- a. On or before April 1 of each year, the Board of Ethics shall issue simultaneously to the mayor and to each member of the city council a report that contains:

1. An analysis of all activities of the Board including the number of advisory opinions requested and the number issued, and the number of complaints filed and the disposition thereof during the preceding calendar year;
 2. A compilation of opinions that have been issued during the preceding calendar year; and
 3. The Board's recommendations, if any,
 - a) for improvement of the disclosure requirements that are found in Division 2 of this article, and of the standards of conduct that are found in Division 3 of this article, and
 - b) for improvement of the administration and enforcement thereof.
- b. In addition, a copy of this annual report shall be submitted to the city clerk, each department director, each agency head and the municipal reference library.

2. Chief of police/city attorney

In the ethics ordinance of the city of Wyandotte, the chief of police and the city attorney direct the enforcement process.

- a. Any individual who believes that a violation exists as prohibited by this article may make a complaint which shall be a written formal signed complaint to the city of Wyandotte chief of police, who shall cause same to be investigated and referred to the city attorney for review and recommendation with a copy to the complainant.
- b. The above listed authorities, when requested, shall take appropriate action upon any complaint, request for information or otherwise resolve matters concerning a violation of said article.
- c. The appropriate action to be taken in any individual case shall be at the discretion of the above authorities, which may include, but is not limited to, any of the following:
 1. Pursuing further investigation by the controlling authority;

2. Taking appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the Wyandotte City Charter, Code of Ordinances or state law;
3. Pursuing such other course of action which is reasonable, just and appropriate under the circumstances;
4. Pursuing criminal prosecution for failure to file the necessary disclosure forms required in this article;
5. Determining no action is required and stating the reasons therefore; and
6. Recovering the costs and expenses the city has incurred against an individual under the cost recovery provisions of Section 2-312.5.

3. City attorney

The Bay City ordinance provides that the city attorney shall head up the enforcement system.

All complaints concerning violations of this ordinance shall be made to the city attorney, who shall investigate and prosecute all allegations concerning or relating to violations of this ordinance.

4. City manager/city commission/city council

Riverview and Royal Oak chose the city manager, city commission and city council to be the enforcement system.

The following sanctions shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement, nor the city's obligation to comply with such collective bargaining agreements.

- a. Mayor and commissioners. The Royal Oak city commission shall have the authority to issue an oral or written warning or reprimand to one of its members for violations of the ethical standards in this Ordinance.
- b. Employees other than elected officials. The city manager, or the city commission if the employee is appointed by the commission pursuant to the Charter, may impose any

one or more of the following sanctions upon an employee for violations of the ethical standards in this Ordinance:

1. Oral or written warnings or reprimands;
 2. Suspension with or without pay for specified periods of time; or,
 3. Termination from employment.
- c. Non-employees. The city manager or city commission may impose any one or more of the following sanctions on a non-employee for violations of the ethical standards:
1. Written warnings or reprimands;
 2. Termination of contract; or,
 3. Disbarment or suspension.

5. Mayor/city council/city attorney/city manager

The ordinances of Farmington Hills, Jackson, and Midland include the mayor, city council, city attorney, and city manager in the enforcement system.

- a. All matters concerning the conflict of interest and ethical code shall be directed to one of the two following controlling authorities depending upon the employment status of the city of Farmington Hills official /employee involved, or group concerned, and the nature of the action requested:
 1. Elected and appointed officials of the city of Farmington Hills to the mayor, city council and city attorney.
 2. Appointed employees, full and part-time, of the city of Farmington Hills to the city manager and city attorney.
- b. The above listed authorities when requested, shall take appropriate action upon any complaint, request for information, or otherwise resolve matters concerning conflict of interest and the ethical code policy of the city of Farmington Hills. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved which may include but is not limited to any of the following:

1. Referral of the matter to a higher authority.
 2. Pursuing further investigation by the controlling authority.
 3. Taking appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the Farmington Hills City Charter, City Code, state law, or the regulations or policies of the city of Farmington Hills.
 4. Determining no action is required.
 5. Pursuing such other course of action which is reasonable, just and appropriate under the circumstances.
- c. The above listed controlling authorities may render written advisory opinions, when deemed appropriate, interpreting the Conflict of Interest and Ethical Code of Conduct as set forth in Section 3 above. Any city official /employee may seek guidance from the controlling authority upon written request on questions directly relating to the propriety of their conduct as officials and employees. Each written request and advisory opinion shall be confidential unless released by the requester.
1. Request for opinions shall be in writing.
 2. Advisory opinions may include guidance to any employee on questions as to:
 - a. Whether an identifiable conflict exists between his/her personal interests or obligations and his/her official duties.
 - b. Whether his/her participation in his/her official capacity would involve discretionary judgment with significant affect on the disposition of the matter in conflict.
 - c. What degree his/her personal interest exceeds that of other persons who belong to the same economic group or general class.
 - d. Whether the result of the potential conflict is substantial or constitutes a real threat to the independence of his/her judgment.
 - e. Whether he/she possesses certain knowledge or know-how which the city will require to achieve a sound decision.
 - f. What effect his/her participation under the circumstances would have on the confidence of the people in the impartiality of their city officials and employees.
 - g. Whether a disclosure of his/her personal interests would be advisable, and, if so, how such disclosure should be made so as to safeguard the public interest.
 - h. Whether it would operate in the best interest of the people for him/her to withdraw or abstain from participation or to direct or pursue a particular course of action in the matter.

6. District court

Dewitt, Flushing, Harper Woods, Sterling Heights, and Ypsilanti have ethics ordinances featuring the district court as the head of the enforcement system.

Any person who shall be convicted, by a court of competent jurisdiction, of violating any of the provision(s) of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment of not more than ninety days, or both, in the discretion of the court.

- a. In addition, any person so convicted by a court of competent jurisdiction shall forfeit any city employment or office held. The office shall be vacant upon conviction.
- b. Any person convicted by a court of competent jurisdiction of a misdemeanor involving election fraud, or any felony, or a misdemeanor involving moral turpitude committed in the course of employment with the city, shall forfeit any city employment or office held. The office shall be vacant upon conviction.

Chapter 4: How to Proceed

Essay

Developing, Adopting and Implementing an
Ethics Ordinance: The Process55

Developing, Adopting and Implementing an Ethics Ordinance: The Process

By Daniel C. Matson

1. Getting started

A charter can be *silent* on the question of an ethics ordinance, or it can *mandate* the adoption of an ethics ordinance, along with a time certain for enactment. In either case, because there is much to consider about the content of an ethics ordinance, and because there is much to research, a reasonable amount of time for its development should be allowed. A period of one year seems to be adequate time for most communities to prepare and enact an ethics ordinance, although some require a longer time.

2. The study committee

A committee should be formed to review the initial draft of a proposed ethics ordinance or to draft the ordinance in consultation with a knowledgeable municipal attorney. It is helpful to involve people with municipal experience, people with a legal background, and people with broad experience in the community. It is helpful to include at least one elected official who serves on the legislative body and who is interested in the undertaking. This person may assist in formulating the ethics policy, and also by endorsing and presenting the ordinance to the legislative body for adoption.

3. Finding background materials and examples

This publication is intended to serve as a guide for the ethics ordinance study committee. It provides the basic standards of conduct that are found in many ethics ordinances, and it points to a number of ordinances currently in use in Michigan cities. The Michigan Municipal League database can identify more communities in which comprehensive ethics ordinances exist. In addition, the League will provide

copies of ordinances upon request. Since no two communities will have the same perspective or approach toward codifying standards of conduct, it is strongly advised that the ethics ordinance of another local government not be adopted as is. One size doesn't fit all, and it is important that an ethics ordinance be tailored to the circumstances of the community and the municipality that will be asked to adopt and to abide by the ordinance.

4. Legal research and drafting

Ideally, the development of an ethics ordinance should have the benefit of legal advice every step of the way. This might be a luxury for some municipal governments, but legal review should occur periodically, or at least at the end of the drafting process, before the work product is offered to the public. Both Constitutional and statutory law must be consulted to ensure that the ethics provisions are valid subject matters for the ordinance, and are not preempted by higher law. Also, the ethics ordinance will affect various rights and duties of municipal employees, and collective bargaining agreements must be considered.

The municipal charter or a contract with the attorney may require the attorney to draft the document in its entirety because it is to be an ordinance, or may at least require the attorney's review prior to its presentation to the legislative body. Involving the attorney in the complete process is strongly recommended.

5. Adopting the ordinance

When the ethics ordinance committee is satisfied with its work product, and after it has had adequate legal review, the proposed ordinance is then submitted to the legislative body for consideration,

along with the committee's recommendation for adoption. Members of the committee may assist in the discussion during the public forum as the matter is debated. They can provide background information, explain the rationale for the standards of ethical conduct chosen, explain the committee's approach to the proposed ordinance, and facilitate an understanding of both the meaning and the effect of the provisions in the proposed ordinance.

6. Publication of the ordinance

The complete ordinance, or a summary of it, must be published in the manner required by state and local law. In addition, each person in service to the municipality (elected and appointed officials, full- and part-time employees, and volunteers serving on boards and commissions) should be given a copy of the ordinance. They should also be required to read it and be given an opportunity to raise questions about its effects. Depending upon the structure of the organization, it may be appropriate to have department heads review the ordinance with staff in special meetings scheduled for that purpose.

7. Living with the ethics ordinance

The ethics ordinance exists to provide a reasonable framework in which the local government servant is to function and meet public expectations. To be as effective as possible, on-going training and discussion should be available for all who come within the jurisdiction of the ordinance. The purpose of any ethics ordinance is, after all, to promote the trustworthiness of government. Those who serve *in* government, and those who are served *by* government, which is all of us, want to know that our government exists to promote the public good.

Appendix A: The Contributors

The contributing authors and the editor of the Ethics Handbook are all attorneys at law and they are all current and longstanding members of the Ethics Roundtable of the Michigan Association of Municipal Attorneys. All are indebted to William L. Steude, as without his belief in the importance of ethical conduct in the affairs of government, this project would not have happened.

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Editor

Appendix B:

Some Ethics-Related Michigan Statutes

The following are Michigan statutes that have been referred to in the text, and that have implications for the development of ethics codes and ethics ordinances by local governments. The list is not intended to be comprehensive, but, rather, instructive.

Conflicts of Interests as to Contracts Act,
Act 317, 1968 (MCL 15.321 *et seq.*)

Failure to uphold or enforce the law
(MCL 752.11)

False statement of public finances
(MCL 750.489)

Incompatible Public Offices Act
(MCL 15.181)

Political Activities by Public Employees,
Act 160, 1976 (MCL 15.401 *et seq.*)

Public moneys, manner of keeping,
embezzlement, etc.
(MCL 750.490)

Purchase of goods on public credit
(MCL 750.490a)

Standards of Conduct and Ethics Act,
Act 196, 1973
(MCL 15.341 *et seq.*)

Whistleblower's Protection Act,
Act 469, 1980
(MCL 15.361-15.369)

Willful neglect of duty
(MCL 750.478)

Appendix C:

Eighteen Local Government Ethics Ordinances

The text refers to eighteen municipalities' charters and ethics ordinances that were reviewed, and excerpts from them were offered as examples. The following is a listing of the citations for these charters and ordinances, some of which are available on the Michigan Municipal League website. Also included are citations for municipal charters that include provisions regarding ethics.

Local Government	Population ¹	Charter or Ordinance Citation
DeWitt	4,441	Charter Art. 8, §8.14; Code of Ordinances, Ch. 2, Art. VI, §2-191 <i>et seq.</i>
Mason	7,985	Ordinance 132, effective October 1, 1999
Flushing	8,110	Ch. 37 of Ordinances, §3701 Code of Conduct, A through G; and §3702 Financial Disclosure; adopted 1993
Riverview	12,744	City Code of Ordinances, Ch. 2, Div. 3, Secs. 2-71 through 2-78
Harper Woods	13,621	Ordinance 96-3: Article VIII, Secs. 2-275 through 2-280, City Code of Ordinances
Ypsilanti	21,832	Ypsilanti City Code, Chapter 46, Articles II and III, adopted May 22, 1995
Wyandotte	26,940	Ord. No. 1235, Sec. 1; revised July 18, 2005
Jackson	34,879	Charter, §9.13 Ethics Ordinance, adopted Nov. 4, 1997; Ordinance 99-25, adopted Nov. 16, 1999
Bay City	34,879	Charter, Article 7, §§7.1-7.3; Code of Ordinances, Chapter 2, §2.30 <i>et seq.</i>
Midland	41,760	Ordinance No. 1337: Ch. 32, Secs.32-1 through 32-6, City of Midland Code of Ordinances, dated January 22, 1996
Royal Oak	58,299	Ch. 45, Royal Oak City Code, adopted in 1993, and amended in 1998 and 2004
Rochester Hills	69,995	Ch. 50, Ethics, Secs. 50-1 through 50-7, effective February 13, 1996
Farmington Hills	80,223	Code of Ethics, adopted December 11, 1989
Livonia	97,977	Ethics Ordinance, §2.200.010 through §2.200.100, adopted 1997
Lansing	115,518	Charter, Ch. 5, §§5-501-5-505; Ordinance 290.01-290.12 (1966)
Sterling Heights	128,034	Code of Ethics for Public Officials and Employees, Ord. No.165, §1.01, with Guidelines, effective December 18, 1974
Warren	135,311	Article VIII, Code of Ethics, §§2-371 through 2-381, adopted September 11, 1991
Detroit	886,671	Detroit City Charter, §2-106 <i>et seq.</i> , 1997 Detroit City Charter; Detroit Code, Article VI Ethics, §2-6-1 <i>et seq.</i>

1. Source of population data: U.S. Census Bureau, 2005 population estimates

Appendix D:

Ethics Resources for Local Governments

Aaron, Henry J., Thomas E. Mann and Timothy Taylor. *Values and Public Policy*. Brookings Institution Press, Washington, D.C., 1994.

Bell, A. Fleming, II. *Ethics in Public Life, Adapted from Ethics, Conflicts, and Offices: A Guide for Local Officials*. Institute of Government, the University of North Carolina at Chapel Hill, 1998. The book explores what ethics and the public trust mean, and presents ways that the ethical climate of government can be improved.

Berman, Evan M., Jonathan P. West, and Stephen J. Bonczek, eds. *The Ethics Edge*. Washington, D.C.: International City/County Management Association, 1998. A collection of articles covering contemporary insights and current ideas on management practice in ethics.

Bok, Sissela. *Lying: Moral Choice in Public and Private Life*. Pantheon Books, a division of Random House, Inc., 1978. A inquiry into the practice of lying, the avoidance of the hard questions, and the resulting damage.

Bowman, James S., ed. *Ethical Frontiers in Public Management*. Jossey-Bass Publishers, San Francisco, 1992. The book presents current research that defines the moral environment found in public management, examines how and why thinking about government ethics needs to be revitalized, and offers theoretical strategies to bring that renewal to fruition.

Denhardt, Kathryn G. *The Ethics of Public Service: Resolving Moral Dilemmas in Public Organizations*. Greenwood Press, New York, 1988.

Dworkin, Ronald. *A Matter of Principle*. Harvard University Press, Cambridge, MA, 1985.

Elliott, Kimberly Ann, ed. *Corruption and the Global Economy*. Institute for International Economics, Washington, D.C., 1997. In some parts of the world, corruption threatens to slow or reverse trends toward democratization and international economic integration.

Ethics in Action Training Package. Washington, D.C.: International City/County Management Association, 1999. Designed to help local government leaders and staff explore ethics issues together. Using case studies, exercises, real local government examples, and mini lectures, the training package addresses how all staff can make ethical decisions all the time and how to build and maintain an ethical local government.

Fisher, Roger, Elizabeth Kopelman, and Andrea Kupfer Schneider. *Beyond Machiavelli: Tools for Coping with Conflict*. Harvard University Press, 1994. The authors look systematically at what is wrong with the world, present a theory on how conflicts ought to be handled, and suggest practical skills for bringing that theory to bear on the real world. They bring a perspective that is applicable on the world stage, and at the dinner table.

Fisher, Roger, and William Ury. *Getting to Yes: Negotiating Agreement without Giving In*. Houghton Mifflin Company, 1981. What is the best way for people to deal with their differences? Being respectful, and separating the people from the problem goes a long way.

Glazer, M.P., et al. *The Whistleblowers: Exploring Corruption in Government and Industry*. Basic Books, New York, 1989.

Institute for Local Government, *Ethics Law Compliance Best Practices, A Check List*, 2005. See http://www.cacities.org/resource_files/23862.finalcompliancebooklet.pdf

Kellar, Elizabeth K., ed. *Ethical Insight, Ethical Action: Perspectives for the Local Government Manager*. Washington, D.C.: International City/County Management Association, 1988. The book covers the inevitable tensions between personal and organizational ethics, and several of the articles deal specifically with the nature of responsibility in public organizations.

Kellar, Elizabeth K., and Mary Slawson. *Ethos: Multimedia Ethics Training for Local Governments CD-ROM*. Washington, D.C.: International City/County Management Association, 1999. An interactive training program featuring 21 real-life ethics scenarios with options for resolutions. The participant watches a scenario, chooses a response, and learns the preferred response.

Lewis, Carol W. *The Ethics Challenge in Public Service: A Problem-Solving Guide*. Jossey-Bass Publishers, San Francisco, 1991. The author offers practical tools and techniques that public managers can use in making ethical choices in the ambiguous, pressured world of public service.

Lewis, Carol W. *Scruples & Scandals: A Handbook on Public Service Ethics for State and Local Government Officials and Employees in Connecticut*. The Institute of Public Service and the Institute of Urban Research, The University of Connecticut, 1986. The book looks further than Connecticut, and is meant to provide a useful, practical examination of the formal procedures and processes by which we seek to encourage, if not ensure, "good" or "right" behavior.

McCullough, Thomas E. *The Moral Imagination and Public Life: Raising the Ethical Question*. Chatham House Publishers, Chatham, NJ, 1991.

Richter, William L., Frances Burke and Jameson W. Doig, eds. *Combating Corruption, Encouraging Ethics: A Sourcebook for Public Service Ethics*. American Society for Public Administration, Washington, D.C., 1990.

Sabato, Larry J., and Glenn R. Simpson. *Dirty Little Secrets: The Persistence of Corruption in American Politics*. Times Books, New York, 1996.

Salkin, Patricia E., ed. *Ethical Standards in the Public Sector: A Guide for Government Lawyers, Clients, and Public Officials*. Section of State and Local Government Law, American Bar Association, 1999. The book is a compilation of essays, articles, and research, intended to help government lawyers focus on some of the ethical considerations that arise in the practice of law in the public sector.

Speers, JoAnne. *2000-2006: A California Ethics Odyssey*. A report distributed by the International Municipal Lawyers Association at its 2006 Mid Year Seminar held April 23-25, 2006 in Washington, D.C.

Steinberg, Sheldon S., and David T. Austern. *Government, Ethics, and Managers: A Guide to Solving Ethical Dilemmas in the Public Sector*. Praeger, New York, 1990.

Zimmerman, Joseph. *Curbing Unethical Behavior in Government*. Greenwood Press, Westport, Connecticut, 1994. The book stresses the importance of action to ensure open government as a deterrent to improper conduct, a facilitator for its detection, and a promoter of a moralistic political culture.

Appendix E:

Professional Associations' Codes of Ethics

American Association of School Administrators
aasa.org

American Institute of Certified Planners
planning.org

American Planning Association
planning.org

American Public Works Association
(Standards of Professional Conduct)
apwa.net

American Water Works Association
(Members' Code of Practice, and Policy
on Conflicts of Interest)
awwa.org

Association of Government Accountants
agacgfm.org

Government Finance Officers Association
gfoa.org

International Association of Assessing Officers
iaao.org

International Association of Chiefs of Police
(Also at ethics.iit.edu/codes)
theiacp.org

International City/County Management Association
icma.org

Michigan Association of Planning
planningmi.org

Michigan Government Finance Officers Association
migfoa.org

Michigan Local Government Management
Association (adopted the ICMA Code of Ethics)
mlgma.org

Michigan Municipal Treasurers Association
(Code of Professional Ethics)
mmta-mi.org/pdf/profcodeethics

National School Boards Association
nsba.org

State Bar of Michigan
Rules of Professional Conduct
Code of Judicial Conduct
michbar.org



michigan municipal league
Better Communities. Better Michigan.





PLANNING COMMISSION BYLAWS

ARTICLE I – PURPOSE

- A. **Planning Act.** These bylaws are adopted by the Planning Commission to facilitate the performance of its duties as outlined in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 *et seq.*), hereinafter "the Planning Act." The adoption or amendment of the *Master Plan* shall follow the procedures established in the Planning Act and Chapter 62 Planning Commission of the Code of the City of Grand Rapids, as amended.
- B. **Zoning Act.** These bylaws are also adopted to facilitate the duties of the Planning Commission for administration of a zoning ordinance as outlined in P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*), hereinafter "the Zoning Act." The adoption or amendment of Chapter 61 Zoning Ordinance of the Code of the City of Grand Rapids, as amended, shall follow the procedures established in the Zoning Act.

ARTICLE II – MEMBERSHIP

- A. **Appointment of Members.** The Planning Commission shall consist of nine (9) members, who shall be qualified electors of the City of Grand Rapids, except as provided in the Planning Act. An elected officer or employee of the City of Grand Rapids is not eligible for appointment.
 - 1. Appointment. Members shall be appointed by the Mayor, subject to the approval of the City Commission.
 - 2. Term of Office. The term of each member shall be three (3) years and shall expire on the first Monday in January on the third year succeeding his or her appointment or until his or her successor takes office.
 - 3. Compensation. Members shall serve without compensation.
- B. **Representation.** The membership of the Planning Commission shall be representative of the three (3) wards of the City of Grand Rapids to the extent practicable. Each Planning Commission member shall represent and advocate for what is best for the City of Grand Rapids as a whole, without regard to personal or special interests. In making its appointments, the Mayor and City Commission shall select members who are knowledgeable about important segments of the community, as required under the Planning Act.
- C. **Committees.** The Chair or Planning Commission may establish and appoint committees of the Planning Commission and advisory committees, as deemed necessary. Membership on advisory committees may include members of the Planning Commission, provided a quorum is not present, as well as others who are more knowledgeable on the particular issue and/or better represent various interest groups.

D. Conflict of Interest. Each member of the Planning Commission shall avoid conflicts of interest.

1. Definition. A conflict of interest may include, but is not necessarily limited to, the following:
 - a. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
 - b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
 - c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
 - d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a financial benefit to him or her.
 - e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents-in-law, or members of his or her household.
 - f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:
 - (i) An applicant or agent for an applicant or
 - (ii) Has a direct interest in the outcome.
2. Consultation with City Attorney. Whenever a Planning Commissioner is uncertain whether he or she has a possible conflict of interest, the Planning Commissioner shall consult with and consider the advice of the Assistant City Attorney assigned by the City Attorney as the legal advisor to the Planning Commission.
3. Disclosure of Possible Conflict. Each Planning Commissioner shall disclose a conflict of interest as defined in 0.1. above, or other potential conflict of interest, prior to the presentation of the applicable agenda item. In all cases, the Planning Commission shall deliberate on the disclosure and by a majority vote of the remaining members present, shall determine whether a conflict of interest exists.
4. Conflict of Interest Exists. Where a conflict of interest is determined to exist, the affected member shall cease to participate in discussion on the subject item and shall leave the room until that agenda item is concluded.
5. No Conflict of Interest Exists. Where no conflict of interest is determined to exist, the affected member shall participate in discussion and shall vote on the agenda item. It is not permissible for a Planning Commissioner to abstain on any matter, except where there is a conflict of interest.
6. Voting with Conflict of Interest. Knowingly voting on any matter in which a member has a conflict of interest shall constitute malfeasance of office.

E. Removal from Planning Commission. The City Commission may remove a member of the Planning Commission from office, for any of the following reasons:

1. Malfeasance, Misfeasance, or Nonfeasance of Office. If any member of the Planning Commission performs a lawful act in a wrongful manner (malfeasance), performs a

wrongful or unlawful act as a public official (misfeasance), or fails to act when a duty to act existed (nonfeasance). Any of these shall be grounds for the City Commission to remove a member of the Planning Commission, upon written charges and after a public hearing.

2. Deficient Attendance. If any member of the Planning Commission is absent from three (3) consecutive regularly scheduled meetings or five (5) absences in a twelve (12) month period, then that member shall be considered delinquent. Delinquency shall be grounds for the City Commission to remove a member from the Planning Commission, upon written charges and following a public hearing.

ARTICLE III - ORGANIZATION AND DUTIES

- A. **Election of Officers.** At the first regular meeting in July of each year, the Planning Commission shall select from its membership a Chair, Vice Chair, and Secretary. The Chair, Vice Chair, and Secretary shall take office at the first meeting in January of the following year and shall hold office for a term of one (1) year or until successors are selected and assume office. Terms in office shall be limited to two (2) consecutive years.
- B. **Chair's Duties.** The Chair retains his or her ability to participate and vote on matters before the Planning Commission, as governed by *Webster's New World Robert's Rules of Order Simplified and Applied*. The Chair shall:
 1. Preside at all meetings with all powers under *Webster's New World Robert's Rules of Order Simplified and Applied*.
 2. Rule out of order any irrelevant remarks; remarks which are personal; remarks about another's race, religion, sex, physical condition, ethnic background, beliefs or similar topics; profanity; or other remarks which are not about the topic before the Planning Commission.
 3. Appoint committees, and act as ex-officio member of all committees of the Planning Commission.
 4. Call special meetings as needed.
 5. Appoint an Acting Secretary in the event the Secretary is absent from a Planning Commission meeting.
 6. Perform other duties as may be ordered by the Planning Commission.
- C. **Vice Chair's Duties.** The Vice Chair shall:
 1. Act in the capacity of Chair in the Chair's absence.
 2. Perform other duties as may be ordered by the Planning Commission.
- D. **Secretary's Duties.** The Secretary shall:
 1. Execute documents in the name of the Planning Commission.

2. Be responsible for the minutes of each meeting if the recording secretary is absent.
3. Conduct all official correspondence at the direction of the Chair, and with the assistance of the Planning Director as needed.
4. Perform other duties as may be ordered by the Planning Commission.

E. Duties of All Members. All members shall abide by the following standards.

1. Member Participation. Free and open debate should take place on issues before the Planning Commission. Such debate shall only take place at meetings of the Planning Commission. The Chair shall act as spokesperson for the Planning Commission and shall represent the position reflected by the outcome of the vote. Requests for reconsideration may take place only at an open meeting of the Planning Commission.
2. Attendance. Members shall make every effort to attend all regular and special meetings of the Planning Commission. Except in emergency or unforeseen circumstances, members shall notify the Planning Department of an absence at least forty eight (48) hours before the scheduled meeting.
3. Avoid Ex Parte Contact. Members shall avoid *ex parte* contact regarding any pending agenda item before the Planning Commission whenever possible. If it is not possible to avoid *ex parte* contact, the member shall publicly report to the Planning Commission what was said and by whom, so that other members and interested persons are made aware of the same information.
4. Acceptance of Gifts.
 - a. Members shall not accept gifts from anyone connected with an agenda item before the Planning Commission. As used here, a gift shall mean cash, any tangible item or service, regardless of value; and food valued over \$10.
 - b. The provision of food in connection with meetings, member training costs, and the reimbursement for mileage and similar expenses by the City of Grand Rapids shall not be considered gifts.
 - c. The Planning Commission may accept grants or contributions for Planning Commission purposes (e.g. special planning study). Money so accepted shall be deposited with the City of Grand Rapids Treasurer into a special fund for the purpose designated by the donor or Planning Commission.
5. Not Vote on Same Issue Twice. When an appeal of a decision of the Planning Commission is heard before the Board of Zoning Appeals, and a member of the Planning Commission also is a member of the Board of Zoning Appeals, that member shall not sit in judgment nor vote on a decision in which he or she had a part in making.

F. Recording Secretary's Duties. The Recording Secretary shall not be a member of the Planning Commission or any of its committees, and shall:

1. Take notes for minutes and prepare a first draft of minutes for review and signature by the Secretary.

2. Perform other duties as may be ordered by the Planning Commission or Planning Director.
- G. **City Attorney.** The Assistant City Attorney assigned to the Planning Commission by the City Attorney shall be the legal advisor for the Planning Commission and shall provide appropriate advice on matters of procedure and law.
 - H. **Annual Budget.** The Planning Director shall present the annual budget of the Planning Department as approved by the City Commission, prior to the start of each fiscal year.
 - I. **Annual Report to the City Commission.** The City Planning Commission shall submit an annual report in August of each year to the City Commission concerning its operations, its membership composition, the status of planning activities, and recommendations to the City Commission related to planning and development issues.

ARTICLE IV – MEETINGS

- A. **Regular Meetings.** Regular meetings of the Planning Commission shall be scheduled on the second and fourth Thursdays of the month at 12:30 p.m. When a regular meeting falls on a legal holiday, the Planning Commission shall reschedule or cancel the meeting. Meetings shall be held in either Room 303 or in Room 201 Public Hearing Room at 1120 Monroe Avenue N.W. or in Room 901 or the City Commission Chambers in City Hall at 300 Monroe Avenue N.W. or at such location as the City Manager shall provide as the meeting place for the Planning Commission. The Planning Director may cancel regular meetings when there are insufficient agenda items or when a quorum will not be present.
- B. **Special Meetings.** Special meetings may be called at the request of the Chair or at least two (2) members of the Planning Commission provided the Secretary, with the assistance of the Planning Director, has sufficient time to issue a written notice to Planning Commissioners at least forty eight (48) hours before the meeting. The request for a special meeting shall indicate the purpose of the meeting, and may be made at a Planning Commission meeting, by telephone, or in writing (email is acceptable.)
- C. **Workshop Meetings.** The Planning Commission, may at its option, schedule workshop meetings to discuss, formulate, and deliberate planning and zoning policies issues only. The intent of workshop meetings is to promote an informal, open dialogue on policy issues in an effort to seek consensus and resolution to policy matters. Formal rules of procedure for the conduct of business at workshop meetings shall be waived, except that the Chair shall serve as moderator. No formal action on any matter shall be made at workshop meetings, but shall be placed on a regular Planning Commission agenda for final disposition.
- D. **Public Notice.** All regular, special and workshop meetings shall be open to the public, and proper notice shall be given to the public pursuant to the Michigan Open Meetings Act, as amended (Act 267 of 1976, MCL 15.261. *et seq.*).
- E. **Robert's Rules of Order.** *Webster's New World Robert's Rules of Order Simplified and Applied* shall be followed for issues not specifically covered by these bylaws. Where these bylaws conflict or are different than *Robert's Rules*, then these bylaws shall govern.
- F. **Quorum.** A quorum of the Planning Commission shall consist of five (5) members, even

when the Planning Commission may be comprised of fewer than nine (9) members. No action shall be taken in the absence of a quorum, except to receive information reports or presentations not requiring action by the Commission, to schedule matters for public hearings, and to adjourn the meeting to a subsequent date.

G. Agenda. The order of business for all regular meetings shall generally be as follows, except as determined by the Planning Director or Chair.

1. 12:30 p.m. - Call Meeting to Order, Roll Call.
2. Review and Approval of Minutes.
3. Planning Director's Report.
4. Conflict of Interest.
5. 1:00 p.m. - Public Hearings. (See ARTICLE V for detail.)
6. Petitions and Communications (See ARTICLE VI for detail.)
7. Committee and Staff Reports.
8. Planning Commission Discussion.
9. Public Comment. (See ARTICLE VI for detail.)
10. Adjournment.

H. Voting. Voting shall be by voice and shall be recorded as the number in support and the number in opposition. Abstentions for conflicts of interest shall be noted. Roll call votes shall only be recorded upon request by a member of the Planning Commission and shall be recorded by "yes" or "no." Members must be present to cast a vote. Voting by proxy shall not occur.

1. Simple Majority. Provided a quorum of five (5) or more members is present, a majority vote of those members present shall be necessary to approve any motion, resolution or recommendation, other than to adopt or amend the Master Plan or as otherwise required under State law, City ordinance or *Webster's New World Robert's Rules of Order Simplified and Applied*. However, the adoption of a subplan, as defined and described in the Michigan Planning Enabling Act and in Chapter 62 of the City Code, shall be carried by the affirmative vote of not less than five (5) members of the Planning Commission.
2. Two-Thirds Majority. The adoption of a Master Plan or any such part or amendment or extension or addition to the Master Plan, shall be carried by the affirmative vote of not less than six (6) members of the Planning Commission.

I. Recess. When the meeting has been in session for three (3) hours, the Chair may suspend the Planning Commission's business and evaluate the remaining items on the agenda. The Planning Commission shall then decide to finish the meeting's agenda or postpone some or all of the remaining agenda items to the next regular meeting or to schedule a

special meeting.

J. Records of Meeting. The Planning Director shall keep a public record of Planning Commission meetings, which at a minimum, shall include the following:

1. Meeting minutes for all regular and special meetings of the Planning Commission.
2. A Resolution to Approve, Deny, or Table, as applicable, for each agenda item heard, as approved and executed by the Secretary of the Planning Commission.
3. Applicant's submission, including but not limited to, the application form, description of the project, site plans, elevations, and other relevant material.
4. Staff report presented to the Planning Commission.
5. Written comments from the public regarding agenda items.

K. Motion to Renew. A motion to renew a defeated item may be requested by a minimum of three (3) members of the Planning Commission no later than the second regular meeting following the subject vote. No vote shall be taken at that meeting. The Planning Director shall schedule the item for Planning Commission reconsideration as soon as practicable, in accordance with standard procedures for public notice normally required for the type of application being reviewed. At the scheduled meeting, the Planning Commission shall reconsider the defeated item and shall vote to approve, approve with conditions, or deny the request. If denied, no additional motions to renew the subject item shall be permitted.

ARTICLE V - PROCEDURES FOR PUBLIC HEARINGS

A. Public Hearings. The following procedures shall be followed for required public hearings for applications pending before the Planning Commission. Where it appears necessary to maintain the efficient conduct of the Planning Commission's business and to give all interested citizens an opportunity to be heard, the Chair may establish time limits for persons appearing before the Planning Commission.

1. Staff Presentation. The Planning Director or his or her designee shall present a description of the proposal, its location, its relationship to surrounding properties, and the nature of the request. The presentation shall also include a brief summary of written public comment received by the Planning Department.
2. Applicant Presentation. The Applicant may present his or her proposal. Suggested time limit: six (6) minutes.
3. Public Comment Begins. The Chair shall announce that public comment will be taken.
4. Public Comments. Individuals who wish to speak shall be asked to state their name and address for the public record, but shall not be required to do so. Comments must be relevant to the proposed project. Suggested time limits:
 - a. Six (6) minutes for a spokesperson appearing in favor or in opposition to the proposal, or
 - b. Three (3) minutes for each person speaking in favor or in opposition to the

proposal.

5. Applicant Response. The Applicant shall be allowed to respond to the public comments. Suggested time limit: three (3) minutes.
6. Public Comment Ends. The Chair shall announce that the public comment period is closed and no further comment will be taken.
7. Questions. Regardless of the procedures stated above, any member of the Planning Commission may, during the public hearing, ask questions or seek additional information from any person appearing before the Commission.

B. Deliberation and Decision. Following the presentations and public comment period, the Planning Commission shall deliberate in public on the agenda item. A motion to approve, deny or table the matter shall be made, seconded and voted upon at this time.

C. Postponed Public Hearing. In the event a scheduled public hearing has to be postponed, the Planning Commission may, but is not required to, take the comments of persons desiring to provide comment so that they do not have to appear at the rescheduled public hearing. In such event, the minutes of those comments shall be made available to and considered by the Planning Commission at the rescheduled public hearing and shall be made a part of the official record of the matter under consideration.

ARTICLE VI - PROCEDURES FOR OTHER PUBLIC COMMENT

A. Petitions and Communications. On each individual petition or communication for which a public hearing is not required to be held, but on which the Planning Commission will be required to act, after the staff presentation of the item is made but before Planning Commission discussion, the Applicant shall be permitted to speak for a maximum of six (6) minutes. It shall be at the Planning Commission's discretion as to whether or not public comment is taken on Site Plan Review applications. If allowed, any other interested person will be permitted to speak regarding the item for a maximum of three (3) minutes each.

B. Public Comment Before Adjournment. At the conclusion of each meeting, prior to adjournment, anyone wishing to address the Planning Commission on any other matter relevant to its functions and responsibilities, on which the public has not been afforded an opportunity to speak earlier in the meeting, shall be permitted to speak up to a maximum of three (3) minutes.

C. Other Public Comment.

1. Chair's Discretion. At the discretion of the Chair, a person may be permitted to speak at any time on any matter for any length of time deemed appropriate by the Chair (even for periods longer than otherwise permitted by these rules) when the Chair or other Commissioner determines the Planning Commission may benefit from such presentation.
2. Limit on Redundant Presentations. Notwithstanding the foregoing, whenever circumstances warrant, due to the length of a meeting agenda, the unusual number of people wishing to speak, or other similar reason, the Chair shall have the right to limit redundant presentations. In no event, however, shall a person otherwise

entitled to speak be deprived of the opportunity to give his or her name and address, whether they are in favor of or opposed to an item, and very briefly their reasons (for the same reasons as a previous identified speaker shall be sufficient).

ARTICLE VII - AMENDMENTS

These bylaws may be amended at any meeting of the Planning Commission provided that notice of the proposed amendment shall appear on the agenda of the meeting at which the amendments are to be considered.

ARTICLE VIII - CONSISTENCY WITH OTHER ACTS

Should any provisions of these bylaws be inconsistent with the provisions of Public Acts which are referred to herein, as amended, or any other applicable law, the provisions of said Acts or law shall prevail.

THESE BYLAWS WERE DULY ADOPTED BY THE CITY OF GRAND RAPIDS PLANNING COMMISSION DURING ITS REGULAR MEETING HELD ON MARCH 26, 2009.

YEAS: 5
NAYS: 0



Adopted: 03/26/2009
Amended: 04/12/2018

Secretary



TO: Planning Commission

FROM: Zoning Administrator

DATE: September 15, 2021

RE: B-2 Downtown Ordinance Review

Background: In 2017, the City replaced the B-2 zoning use ordinance with a form-based coded ordinance. During the convening years, it has become apparent that some minor revisions need to be made. The copy submitted for review shows the proposed changes to the existing ordinance.

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SECTION 36.279

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Regulating Plans have three purposes:

Administrative: The boundaries on the Regulating Plan identify where different rules for development apply—they create an “index” to the code that allows a user to identify the zone applicable to a specific property and refer to the code text for detailed regulations.

Regulatory: A Regulating Plan may be detailed enough to show specific regulations, such as measurement lines or thoroughfare types.

Planning: The boundaries invoke the standards which define the critical differences in the form and character of each zone in the public realm, and cumulatively of the public realm as a whole.

Adapted from “The Regulating Plan,” Form-Based Codes: A Guide for Planners, Urban Designers, Municipalities, and Developers

Article III -Division 7 CITY OF HILLSDALE DOWNTOWN BUSINESS DISTRICT

Section 36.271 Purpose

The Hillsdale Downtown Business District is a departure from traditional zoning in that it focuses less on the use of a parcel and more on the preservation of the City’s character as it is expressed in its built form. To do this, development standards are integrated with public realm standards and include form regulations which are intended to support the re-creation and expansion of the City’s successful downtown built environment. Key elements include architectural standards, mixed uses by right, diversity among travel modes, residential accommodation in the downtown, and a parking strategy organized by district rather than by parcel.

	CURRENT ZONING	INTENT
Downtown	Downtown Commercial Office	Preserve, replicate Integrate into commercial

Section 36.272 Regulated Uses, General Standards, Special Use Permit Standards and Splicing

36.272.01 Text and Diagrams

The text and diagrams in the Downtown Business District address the location and extent of land uses, implement the vision articulated in the Hillsdale Placemaking process, and express community intentions regarding urban form and design. These expressions may differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and housing types within each, and provide specific measures for regulating relationships between buildings, and between buildings and outdoor public areas, including streets.

36.272.02 Regulated Uses

Regulated uses are identified for each zone either as a Permitted Use (P) or a use requiring a Conditional Use Permit (CUP). All CUP uses must address the General Standards listed below. If the CUP has additional standards over and above the General Standards the special provision column references that specific section of the Zoning Ordinance. All uses will require the submission of a site plan pursuant to Division 2 of the City of Hillsdale Zoning Ordinance.

Sec. 36-272.03 General Standards

The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will: Be designed, constructed, operated, and maintained so as to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent



uses of land, and to promote the use of land in a socially and economically desirable manner. Be designed to protect natural resources; the health, safety, welfare, and social and economic well-being of those who will use the development under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity. Be necessary to meet the intent and purpose of the zoning ordinance; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards. Meet the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured. Meets the intent of the Hillsdale Placemaking Plan to provide harmonious streetscapes and consistent architecture.

Sec. 36-272.04 Splicing

The Downtown Business District focuses attention on the development and form of public and private properties and spaces within the area designated on the Regulating Plan referenced in Section 36.272.05. Requirements regarding site development standards such as parking, lighting, and encroachments included in this Ordinance will take precedence over the requirements in the City of Hillsdale Zoning Ordinance. The Downtown Business District will replace the following Sections of the City of Hillsdale Zoning Ordinance:- Division 7 - B-2 Downtown Form-Based District. All other provisions of the City of Hillsdale Zoning Ordinance remain intact and valid.

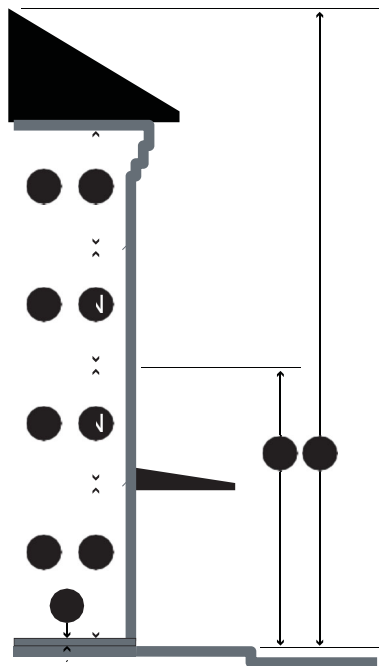
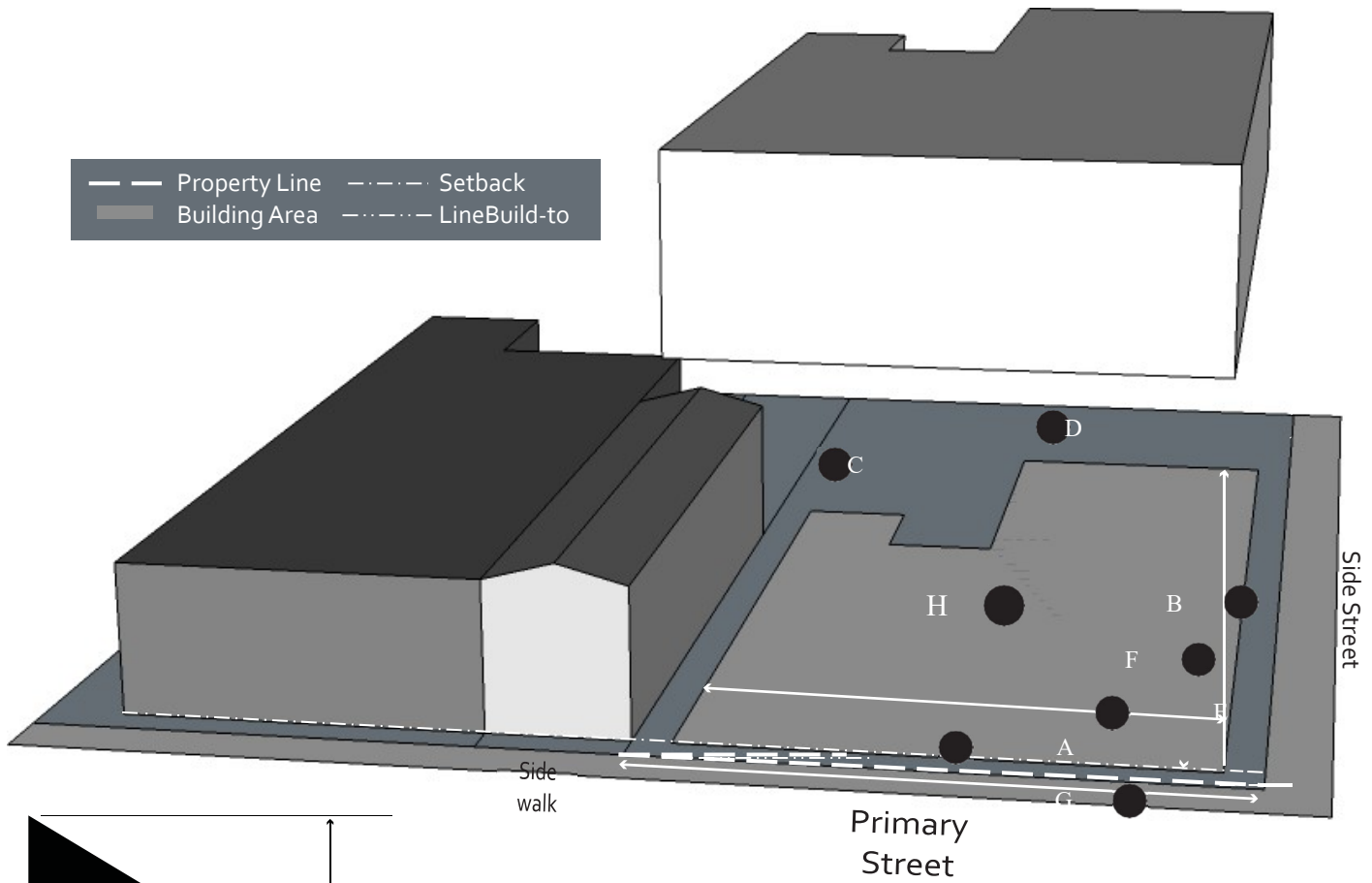
Sec. 36-272.05 Properties Currently Developed and Occupied

The Regulating Plan encompasses properties that have been developed under the current City of Hillsdale Zoning Ordinance. These properties may not comply with the dimensional and form requirements of the Downtown Business District and will not be considered as nonconforming. If the property changes occupancy after the effective date of this Ordinance it will comply with the applicable section of this Ordinance except Section 36.274 “Lot and Building Placement.” If the property is demolished, redeveloped, or vacant it will comply with all of the provisions of this Ordinance.

Section 36.273 Regulating Plan

A Regulating Plan connects the regulations in the Business Code to the specific lots and rights-of-way they govern. This is similar to the Zoning Map of a use-based code. However, the primary purposes of a Regulating Plan are quite different from a conventional zoning map: addressing the intensity of development rather than use, and prescribing a quality public realm rather than proscribing incompatible uses. Therefore, its function is quite distinct. The intent of the Hillsdale Downtown Business District to preserve the historic built form of the community core, and to establish a functional and aesthetic linkage between the traditional downtown and the campus of Hillsdale College. Because the locus of each of these goals is within the public realm, this code has been developed to maximize its impact there. The public right-of-way is the organizing principle within each Category. Therefore, the Regulating Category which applies to each lot or parcel is determined by the right-of-way adjacent to its front lot line. This method promotes a cohesive experience on both sides of the public space, the right-of-way.

Section 36.274 LOT AND BUILDING PLACEMENT



NOTES
All buildings must have a primary ground-floor entrance which faces the primary street.
Rear-facing buildings, loading docks, overhead doors, and other service entries are prohibited on street-facing facades.
Air compressors, mechanical pumps, exterior water heaters, utility equipment, waste containers, storage tanks, and similar equipment shall not be stored or located within any area adjacent to a street right-of-way.

LOT AND BUILDING TERMINOLOGY

BUILD-TO LINE

A line parallel to the property line where the facade of the building is required to be located.

SETBACK

The distance by which a building must be separated by the property line or ROW, typically defined and regulated as a minimum

PRIMARY STREET FRONTAGE BUILD-OUT

The percent of the lot frontage which must be occupied by the building facade

SIDE STREET, CORNER LOT FRONTAGE BUILD-OUT

The percent of the side lot boundary which must be occupied by the building face

MAXIMUM LOT WIDTH

The largest allowed distance between lot corners along the front ROW

MINIMUM LOT WIDTH

The smallest allowed distance between lot corners along the front ROW

LOT DEPTH

The minimum depth of a lot, expressed in feet

LOT COVERAGE

The percent of the lot covered by buildings and accessory structures

IMPERVIOUS COVERAGE

The percent of the lot covered by impervious surfaces including roofs, patios, driveways, and other hard surfaces which result in water runoff

GROUND FLOOR

The bottom floor of a building, providing access to the outdoors

UPPER FLOORS

All floors above the ground floor of a building

MINIMUM BUILDING HEIGHT

The shortest allowed vertical distance between the sidewalk and the top point of reference for a building facade along the front ROW

MAXIMUM BUILDING HEIGHTS

The largest allowed vertical distance between the sidewalk and the top point of reference for a building

GROUND FLOOR FINISHED LEVEL HEIGHT

The vertical distance allowed between the sidewalk and the top of the finished floor on the ground level, regulated as a minimum

MINIMUM GROUND-FLOOR CEILING HEIGHT

The smallest allowed vertical distance between the finished floor and ceiling on the ground floor of a building

Section 36.275 REGULATING PLAN CATEGORIES

Section 36.275.01 Downtown Core (DC)



PURPOSE
The Downtown Core category is designed to foster a mix of commercial, institutional, and residential uses that are accessible by multiple modes to serve the community as a whole.
DISTINGUISHING CHARACTERISTICS
Retail, workplace, and civic activities mixed with attached housing types such as apartments and live/work units
GENERAL CHARACTER
Predominantly attached buildings, landscaping within the public right-of-way, substantial pedestrian activity

DESIRED FORM	
Mixed Use	
LOT PROPERTIES	
Area	None
Width	None
Depth	None
BUILDING PLACEMENT	
Small or no setbacks; buildings oriented to the street with placement and character defining a street wall	
Front build-to line	0' from sidewalk
Side street build-to line, corner lot	0' from sidewalk
Side setback	0' from property line
Rear setback	Loading space only
BUILDING FRONTAGE	
Frontage types	Shopfront, Gallery, Arcade
Building front facade as % of lot width (minimum)	90%
Side street facade as % of lot width (minimum)	60%
HEIGHT	
Building maximum (stories / height)	4 stories / 50' or Planning Commission approval
Building minimum (stories / height)	2 stories / 18'
Difference between adjacent buildings (stories, max)	1
First floor height	Min. 10' Max.14'
Upper floor height	Min. 8' Max.14'
COVERAGE	
Impervious surface (max)	100%
Landscaped (min)	0%
PARKING	
Public	On-street, public lots
Private	Public lots; off-street spaces accessible via alleys
TRANSPORTATION MODES	
Primary	Pedestrian

Secondary	Car, truck, bus, bicycle
OPEN SPACE TYPE	
Plazas, squares, pocket parks, ROW landscaping amenities	

Sec. 36.275.02 DOWNTOWN EDGE (DE)



PURPOSE
The Downtown Edge category provides a mix of commercial, office, and residential uses, integrated into the existing built form. It serves as a transition between the intensely developed Downtown Core and the residential neighborhoods.
DISTINGUISHING CHARACTERISTICS
Retail and workplace activities mixed with detached and attached housing types such as townhomes and mansion apartments; limited off-street parking.
GENERAL CHARACTER
Midsized detached buildings which may have more than one unit and/or more than one use; balance between landscape and buildings; presence of pedestrian amenities such as sidewalks and pedestrian scale lighting.

DESIRED FORM	
Variety of 1 story commercial buildings and 2 to 3 story residential and mixed use buildings	
LOT PROPERTIES	
Area	None
Width	None
Depth	None
BUILDING PLACEMENT	
Close to right-of-way with or without a landscaped greenbelt	
Front build-to line	0' - 25'
Side street build-to line, corner lot	0' - 25'
Side setback	0' from property line; If openings in building, 10' from property line
Rear setback	<u>On-site parking or</u> Loading space only
BUILDING FRONTAGE	
Frontage types	Shopfront, Stoop, Porch
Building front facade as % of lot width (minimum)	N/A
Side street facade as % of lot width (minimum)	N/A
HEIGHT	
Building maximum (stories / height)	2-5 <u>3</u> stories / 35'-40'
Building minimum (stories / height)	1 story / 12' Max.
Difference between adjacent buildings (stories, max)	1
First floor height	Min.10' Max.12'
Upper floor height	Min. 8' Max.12'
COVERAGE	
Impervious surface (max)	85%
Landscaped (min)	15%
PARKING	
Public	On-street, public lots, <u>on-site</u>
Private	Public lots, limited off-street parking by parcel, <u>private lots</u>
TRANSPORTATION MODES	

Primary	Pedestrian, bicycle, car
Secondary	Truck, bus
OPEN SPACE TYPE	
Plazas, squares, pocket parks, ROW landscaping amenities	

Section 36.276 REGULATED USES

Regulated uses are identified for each Category either as a Permitted Use (P) or a use requiring a Conditional Use Permit (CUP). If a use is blank with no designation or not listed, the use is not permitted in that zone. All uses requiring a CUP must address the standards in this code. If the CUP invokes additional standards, the special provision column references that specific section of the Zoning Ordinance.

USE	CLASSIFICATION	
	DC	DE
RESIDENTIAL	<u>UPPER FLOORS ONLY AND GROUND FLOOR ALLEY ACCESS</u>	
One-family detached dwellings		P
One-family attached dwellings		P
Duplexes		P
Lofts	P	P
Live/work units	P	P
Multiple Family - Small	P	P
Multiple Family - Large	P	P
Home Occupation	P	P
Home Occupation - 2 or more persons	P	P
RESIDENTIAL - SERVICES	UPPER FLOORS ONLY	
Nursing homes		P
Child care centers	P	P
PUBLIC AND PRIVATE INSTITUTIONAL		
Schools (public, parochial, private)	P	P
Civic uses	P	P
Assembly and meeting halls	P	P
Churches	P	P
Educational	P	P
Post office	P	P
Fine arts	P	P
Performing and screen arts	P	P
Recreational facilities	P	P
Municipal/public works	P	P
Mortuaries and funeral homes		P

USE	CLASSIFICATION	
	DC	DE
TRANSPORTATION / UTILITIES		
Parking (public or private)	P	P
Public transit stop or station	P	P
Power generation	P	P
Public utilities	P	P
Warehousing	P	
Wireless Telecommunication Facilities		
OFFICE		
Professional offices	P	P
Medical facilities, including urgent care		P
Medical/clinical/general practitioner offices	P	P
Veterinary clinic		P
COMMERCIAL		
Mixed use with residential above 1st floor	P	P
Retail, except with the following features	P	P
Alcoholic beverages	P	P
Drive-thru		P
Floor area over 10,000 square feet		P
On-site production of items	P	P
Operating hours between 10pm and 7am	P	
Gasoline service station		P
Convenience market less than 3,500 sq.ft.	P	P
Restaurant, cafe, coffee shop, bar, tavern, except with the following features	P	P
Drive-thru		P
Drive-in		P
Outdoor service	P	P
Microbrewery, small distillery, small winery	P	P
Farmers Market	P	P
Personal services	P	P
Health and fitness facilities	P	P
Clubs, dance halls, lodges	P	P
Banks and financial, except with the following features	P	P
Drive-thru		P

Automobile service		
Gasoline stations		P
LODGING		
Hotel/motel	P	P
Bed and Breakfast	P	P

Section 36.277 BUILDING FRONTAGES

36.277.01 Facade Components and Materials

CUSTOMER ENTRANCES

Each side of a building facing a public street shall include at least one customer entrance, except that no building shall be required to provide entrances on more than two sides of the structure that face public streets

Buildings shall have clearly defined, highly visible customer entrances that include no less than three of the following design features:

Canopies / porticos above the entrance	Gabled roof forms or arches above the entrance	Outdoor plaza adjacent to the entrance having seating and a minimum depth of 20'
Roof overhangs above the entrance	Entry recesses / projections	Architectural details such as tile work and moldings that are integrated into the building structure and design above and/or directly adjacent to the entrance
Arcades that are physically integrated with the entrance		
Raised corniced parapets above the entrance		
Display windows that are directly adjacent to the entrance		

WINDOWS AND TRANSPARENCY

A minimum of 75% of the ground floor story front facade between 1' and 8' above the sidewalk shall be comprised of transparent, non-reflective windows into the nonresidential space

A minimum of 30% of the upper story facade measured floor-to-floor shall have transparent, non-reflective, vertically oriented windows

FACADE ORNAMENTATION

All visible elevations shall include decorative features such as cornices, pilasters, and friezes.

FACADE MASSING

Front facades 60' wide or wider shall incorporate wall offsets of at least two feet in depth (projections or recesses) a minimum of every 40'. Each required offset shall have a minimum width of 20'.

Any section along the build-to line which is not defined by a building must be defined by a 3'6" masonry screen wall which is set back 5' from the build-to line. In the case of an existing parking lot, the screening wall can be located adjacent to the sidewalk. The area between the build-to line and the setback should be landscaped as possible.

ROOFS

Flat roofs shall have three-dimensional cornice treatments

All roof-based mechanical equipment, as well as vents, pipes, antennas, satellite dishes, and other roof penetrations (with the exception of chimneys), shall be located on the rear elevations or screened with a parapet wall having a three-dimensional cornice treatment so as to minimize the visual impact

BUILDING MATERIALS

Durable and traditional building materials shall be used, with an explicit preference for brick construction. Fluted concrete masonry units and scored concrete masonry unit block, although not considered traditional building materials, may be used but shall not exceed 25% of the surface square footage of any portion of the building exposed to a public right-of-way, or customer access or parking area

Materials such as exterior insulation finish system (EIFS), concrete panels, and panel brick are not considered durable and traditional building materials, and shall not be used

Sec. 36.277.02 Private Facades

Common Yard: a planted Frontage wherein the Facade is set back substantially from the Frontage Line. The front yard remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep Setback provides a buffer from the higher speed Thoroughfares.

Porch & Fence: a planted Frontage wherein the Facade is set back from the Frontage Line with an attached porch, permitted to encroach. A fence at the Frontage Line maintains street spatial definition.

Terrace or Lightwell: a Frontage wherein the Facade is set back by an elevated terrace or a sunken lightwell. This type buffers Residential use from urban Sidewalks and removes the private yard from public Encroachment

Forecourt: a Frontage wherein a portion of the Facade is close to the Frontage Line and the central portion is set back. The Forecourt is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks.

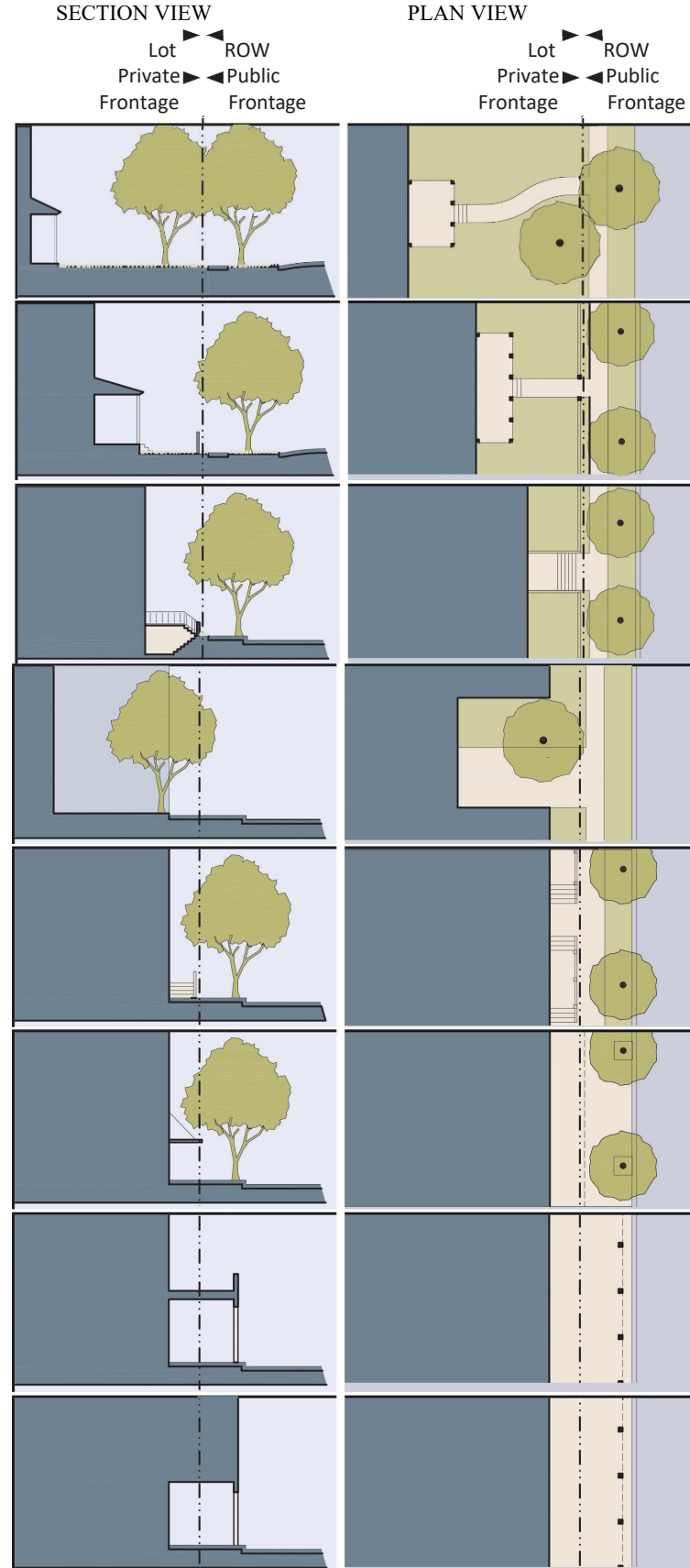
Stoop: a Frontage with the first Story elevated from the Sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use.

Shopfront: a Frontage with the building entrance at Sidewalk grade. This type is conventional for Retail use. It has a substantial glazing on the Sidewalk level and an awning that may overlap the Sidewalk to within 2 feet of the Curb. Syn: Retail Frontage.

Gallery: a Frontage with an attached cantilevered shed or a lightweight colonnade overlapping the Sidewalk. This type is conventional for Retail use. The Gallery shall be no less than 10 feet wide and should overlap the Sidewalk to within 2 feet of the Curb.

Arcade: a colonnade supporting habitable space that overlaps the Sidewalk, while the Facade at Sidewalk level remains at or behind the Frontage Line. This type is conventional for Retail use. The Arcade should overlap the Sidewalk to within 2 feet of the Curb.

Source: SmartCode v9.2 Table 7



Section 36.278 SPECIAL PROVISIONS

36.278.01 CANOPIES AND AWNINGS	
Canopies and awnings may be required and may encroach over the build-to line	
<i>Front</i>	8'
<i>Side</i>	8'
<i>Rear</i>	5'
36.278.02 SIDEWALK AMENITIES	
In the Downtown Core District, privately owned and provided sidewalk amenities such as benches, tables, chairs, signs, and plants are permitted to add convenience, charm, and character to the district, pursuant to Section 36- 279 outlining standards for permitting and approval, and appeals.	
36.278.03 LANDSCAPING	
A portion of each site shall be landscaped open space with one evergreen tree or shrub for every 1,000 square feet or portion thereof, plus one small or large deciduous tree for every 2,000 square feet or portion thereof. Plant materials shall be in accordance with Chapter X of the Hillsdale Zoning Code. Bioretention / rain gardens pursuant to 36-152 may also be considered. Parking lot landscaping shall be installed pursuant to 36-150(c), and parking lot screening shall be provided pursuant to 36-629. A 4'6" obscuring wall, fence, or vegetative buffer shall be provided on those sides of the property abutting Residential zoning. Landscaping shall be provided pursuant to Sec. 36-150.	
36.278.04 LIGHTING	
Streetlights shall be of a general type specified by the City	
Wall pack lighting shall be used only on the rear or side of the building to illuminate exits and loading facilities	
Parking lot lighting pole height, including luminaire, shall not exceed the height of the building or 20', whichever is less, and shall be confined within the parking area	
Lighting shall be shielded from residential districts and driver visibility on thoroughfares	
36.278.05 Commercial Dumpsters	
Commercial dumpsters shall be sited in accordance with Section 36-151, Commercial Dumpsters.	

Sec. 36.278.06 Signs

Signage shall be provided pursuant to Chapter 26 of the Hillsdale Municipal Code.

36.278.10 PARKING

36.278.11 Parking Location

Parking shall conform to Article VIII, Off-Street Parking and Loading, except where indicated.

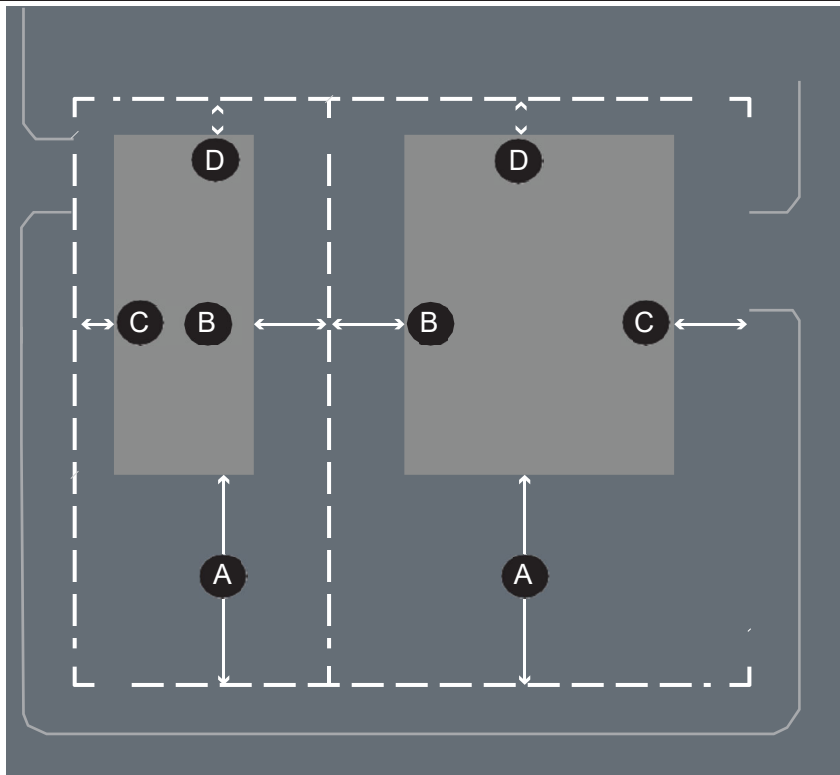
DISTANCE FROM PROPERTY LINE		
Front setback (see below)	A	10'
Adjacent to common property line	B	10'
Side street setback		
- landscape only	C	10'
-when a masonry screen wall is installed	C	5'
Rear setback	D	5'

Parking is not permitted between the right-of-way and the building facade. For parking which is adjacent to the building, the Front Setback is measured from the front of the building, traveling toward the rear of the lot.

Where a parking lot abuts an interior and/or common property line, the property owner shall provide a cross access easement for the purpose of connecting adjacent parking lots.

Parking lot landscaping shall be installed pursuant to 36-150(c). Bioretention / rain gardens pursuant to 36-152 may also be considered.

Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from the off-street parking requirements. Where an alley exists or is provided at the rear of buildings, the rear building setback and loading requirements may be computed from the center of the alley.



- Property Line
- Curb
- Masonry Screen Wall
- Parking Area

36.278.12 Required Parking

Uses specified in this section supersede 36-600.

RESIDENTIAL (PER DWELLING UNIT)		
Single family	2.0	
Duplex	2.0	
Multiple family	1.5	
Live/work unit	2.0	
Residential in Mixed Use buildings	1.5	
LODGING (PER BEDROOM / HOTEL ROOM)		
Bed & breakfast	1.2	
Inn	1.2	
Hotel / Motel	1.0	
OFFICE (PER 1,000 USABLE SQUARE FEET)		
Individual enclosed offices	3.0	
Open office concept	2.0	
COMMERCIAL (PER 1,000 USABLE SQUARE FEET)		
Retail	3.0	
PUBLIC AND PRIVATE INSTITUTIONAL		
SITE AMENITIES		
1 bicycle parking facility shall be provided on site per 10 vehicular parking spaces		
Benches may be required at the discretion of the Planning Commission		

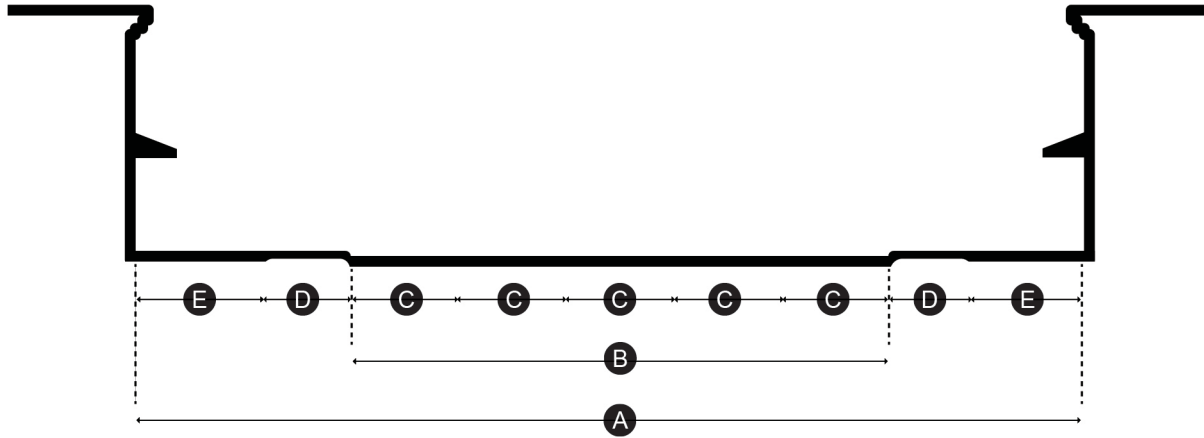
36.278.13 Shared Parking

Parking Calculations: When two functions share parking facilities, the sum of their individual parking requirements is divided by the Shared Parking Factor to determine the Effective Parking Requirement. For example, if 12 spaces are needed for a residential development and 32 spaces are needed for a retail development, this amount would be summed to equal 44. This number would be divided by 1.2, according to the chart below, to produce an Effective Parking Requirement of 36.6, or 37 parking spaces. This section supersedes 36-595.

FUNCTION	RESIDENTI AL	LODGIN G	OFFIC E	RETAI L
RESIDENTIAL	1.0	1.1	1.4	1.2
LODGING	1.1	1.0	1.7	1.3
OFFICE	1.4	1.7	1.0	1.2
RETAIL	1.2	1.3	1.0	1.0

36.278.20 PUBLIC SPACE STANDARDS

36.278.21 THOROUGHFARE TYPES



STREET TERMINOLOGY

Right-of-Way (ROW) Width **A**

The measurement across a thoroughfare of the area under control or ownership of the Michigan Department of Transportation, Hillsdale County Road Commission, or private property owner.

Curb Face to Curb Face Width **B**

The distance across a thoroughfare between the vertical faces of the curb, typically intended for vehicles, including any on-street parking, planting strips, and gutters.

Traffic and Parking Lanes **C**

The number and width of areas designated for vehicular travel, not including bicycle lanes.

Planting Zone **D**

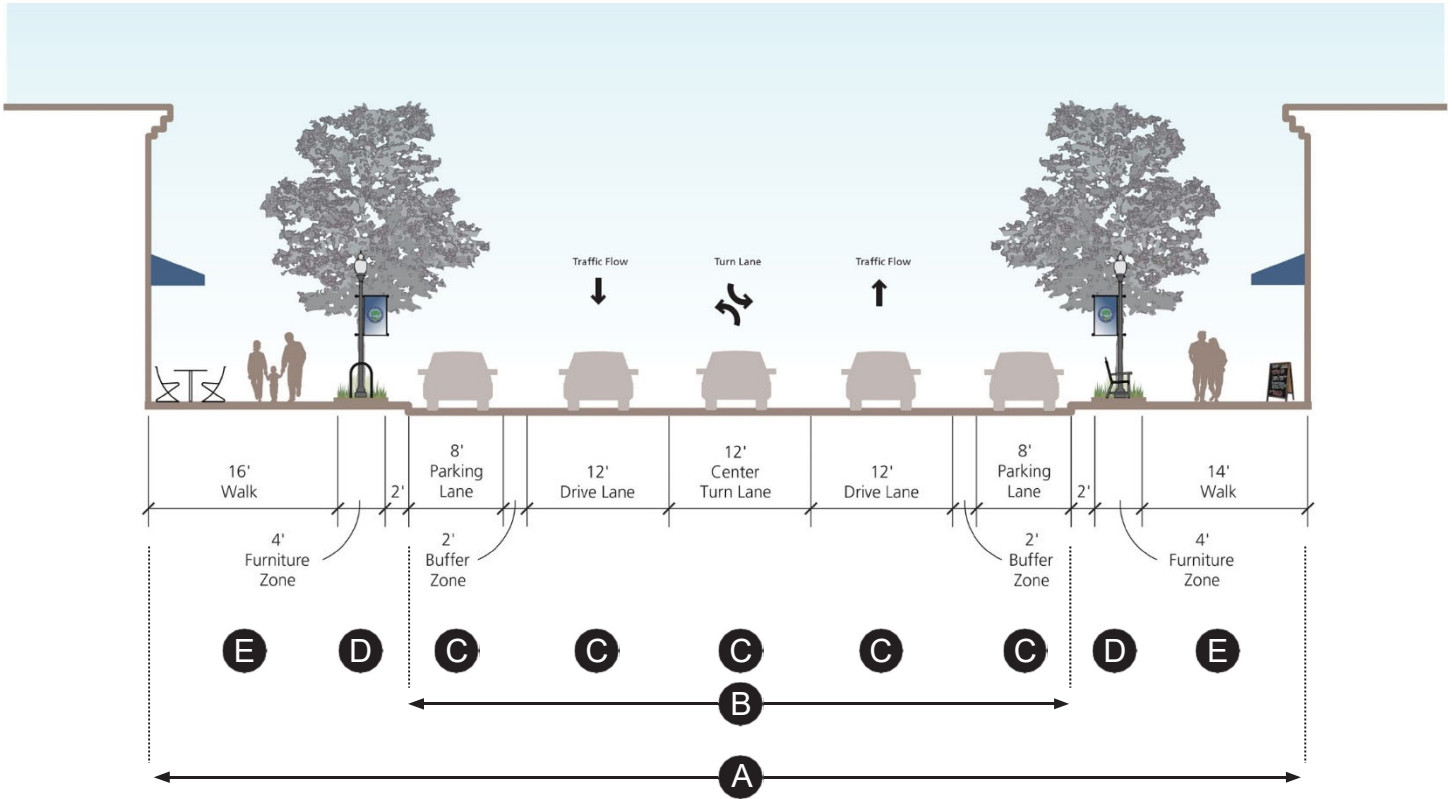
The area of the ROW used for street trees and flowers as well as Low Impact Development stormwater features, such as rain gardens. In some instances, this zone can be used for outdoor dining, depending on surface materials.

Pedestrian Zone **E**

The area used for pedestrian movement, dedicated to sidewalks and outdoor cafes.

Thoroughfare type: Main Street

Example: Broad Street between Bacon and Carlton

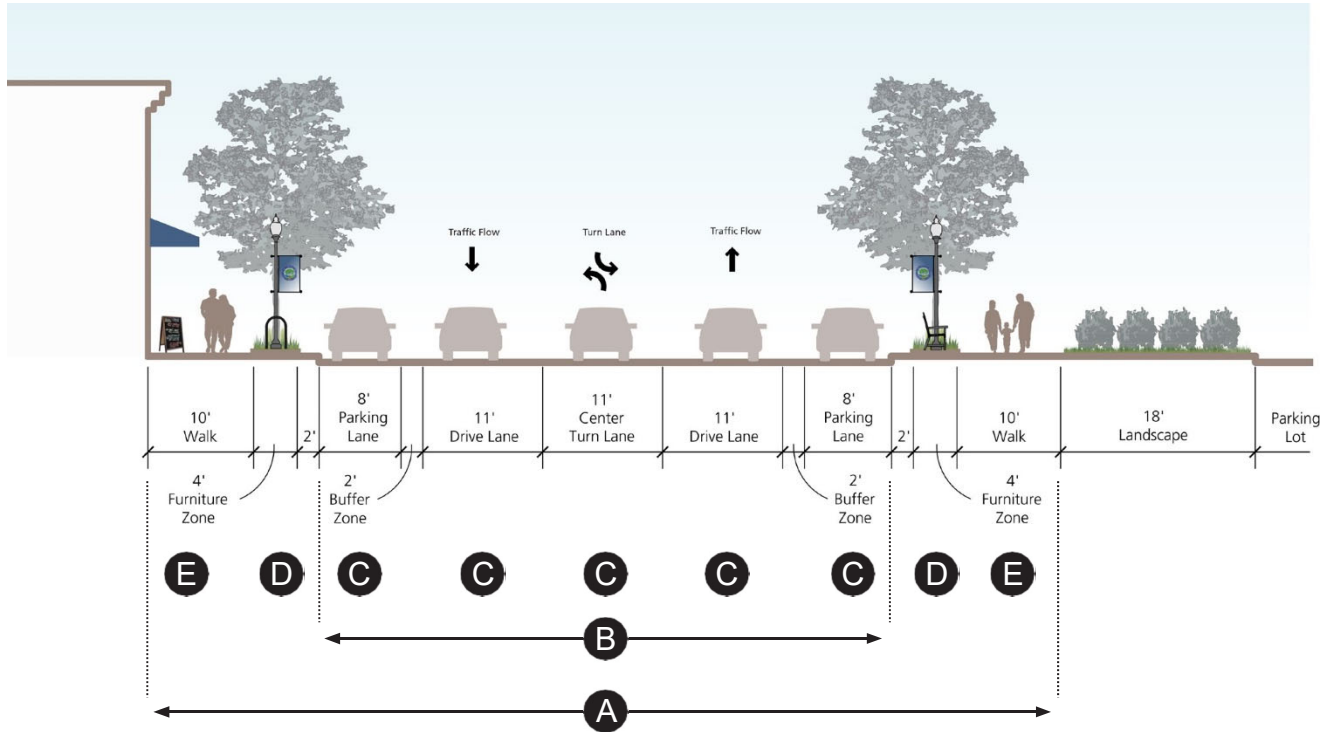


APPLICATION		
Target Speed		
Target Speed		
Overall Widths		
Public Realm (Between BTL)	98'	A
Right of Way (ROW) Width	56'	B
Lanes		
Traffic Lanes	12'	C
Turn Lane	12'	C
Parking Lanes	10'	C

Edges		
Curbs	2'	D
Planters and Tree Grates	4'	D
Walkways	14'-16'	E

Thoroughfare type: Urban Center

Example: Howell Street

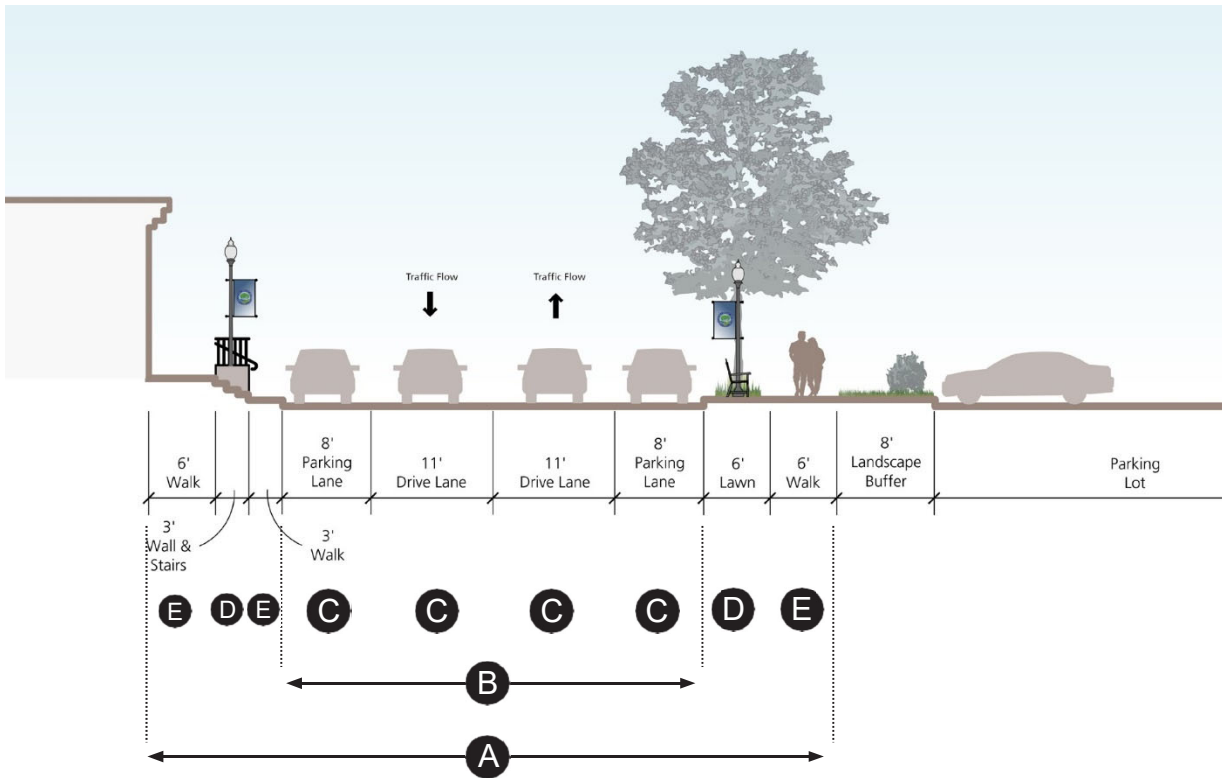


APPLICATION		
TARGET SPEED		
Target Speed		
OVERALL WIDTHS		
Public Realm (Between BTL)	94'	A
Right of Way (ROW) Width	53'	B
LANES		
Traffic Lanes	11'	C
Turn Lane	12'	C
Parking Lanes	10'	C

EDGES		
Curbs	2'	D
Planters and Tree Grates	4'	D
Landscape buffer	18'	
Walkways	10'	E

Thoroughfare type: Urban Residential

Example: Bacon Street between Manning and alley



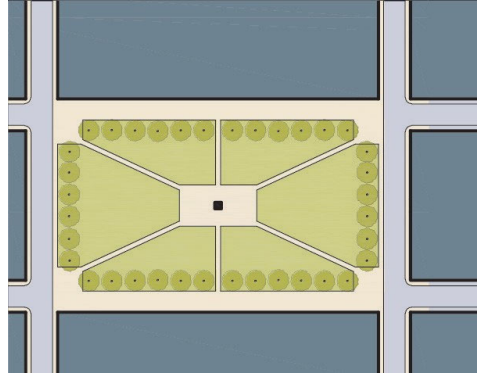
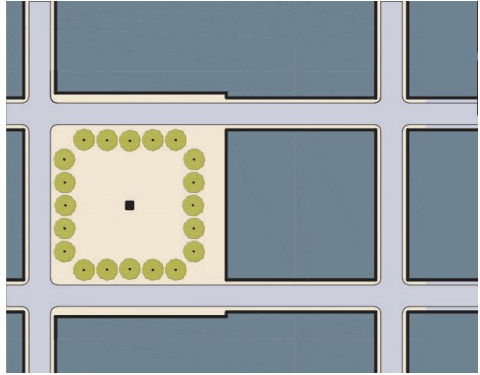
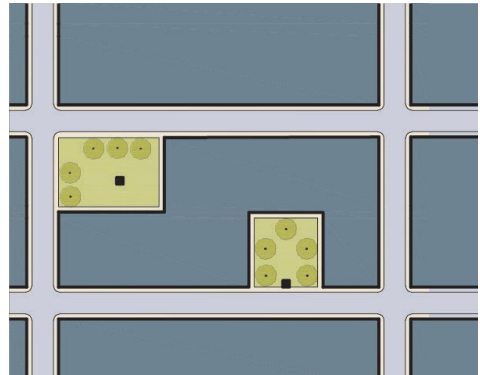
APPLICATION		
Target Speed		
Target Speed		
Overall Widths		
Public Realm (Between BTL)	62'	A
Right of Way (ROW) Width	38'	B
Lanes		
Traffic Lanes	11'	C
Turn Lane	12'	C
Parking Lanes	10'	C

Edges		
Curbs	2'	D
Planters and Tree Grates	4'	D
Landscape buffer	18'	
Walkways	10'	E

36.278.22 Civic Spaces

TYPE	CLASSIFICATION		
<p>PARK</p> <p>A natural preserve available for unstructured recreation. A park may be independent of surrounding building Frontages. Its landscape shall consist of Paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors. The minimum size shall be 8 acres. Larger parks may be approved by Warrant as Special Districts in all zones.</p>	<p>BC CC CN</p>		
<p>GREEN</p> <p>An Open Space, available for unstructured recreation. A Green may be spatially defined by landscaping rather than building Frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be 1/2 acre and the maximum shall be 8 acres.</p>	<p>BC CC CN</p>		



<p>SQUARE</p> <p>An Open Space available for unstructured recreation and Civic purposes. A Square is spatially defined by building Frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important Thoroughfares. The minimum size shall be 1/2 acre and the maximum shall be 5 acres.</p>	<p>DC DN</p> 
<p>PLAZA</p> <p>An Open Space available for Civic purposes and Commercial activities. A Plaza shall be spatially defined by building Frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets. The minimum size shall be 1/2 acre and the maximum shall be 2 acres.</p>	<p>DC BC CC</p> 
<p>PLAYGROUND</p> <p>An Open Space designed and equipped for the recreation of children. A playground should be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a Block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.</p>	<p>DC DN CN</p> 

Source: SmartCode 9.2, Table 13

Section 36.279 APPLICATION PROCESS and APPEAL

36.279.01 Application Process

A. An application for a permit pursuant to this article must be submitted to the zoning administrator for approval and contain the following information:

- (1) The name, address, and contact information of both the applicant and the business.
- (2) The name, address and contact information of the property owner if other than the applicant.
- (3) A site plan showing the proposed location of outdoor sale items, the proposed location and number of benches, tables, chairs, desks, signs, plants, artworks, waste receptacles or other similar amenities, and the location and number of all related equipment, such as, by way of example, outdoor electrical outlets, umbrellas, and railings.
- (4) The proposed area of occupancy including square feet and dimensions, and the location of existing grates, hydrants, trees, shrubs, and other public items.
- (5) The proposed clear path to accommodate pedestrian traffic and circulation through and within the use area by customers and members of the general public.
- (6) If the sale of alcohol is proposed, a copy of approval from the Michigan State Liquor Control Commission.
- (7) A signed agreement committing and requiring the applicant:
 - a. To provide proof of public liability and property damage insurance with coverage that is satisfactory to Hillsdale and limits of liability of not less than a single limit of \$300,000.00, with the city designated therein as a named insured, to be and remain in force for the duration of the permitted use of Hillsdale's sidewalk and right-of-way, such proof to be provided at the time of execution of the agreement.
 - b. To agree that it will defend, indemnify, and hold the city harmless from all damages, claims, demands, causes of action, lawsuits, attorney fees and related expenses, as a result of actual or claimed personal injury, including death, property damage or other damage or loss of any kind or nature which is or is claimed to arise out of or because of the use of the city's sidewalk or right-of-way by the negligence, gross negligence, or intentional act of applicant or any of its agents, servants, employees, guests, vendors, invitees, and members of the public, and whether caused in part by negligence of the city, its employees, agents, servants, or representatives.
 - c. To agree to repair any damage caused to the sidewalk or right-of-way as a result of the placement of any permitted item or the operation of a permitted business or other activity on a sidewalk or within any other part of the right-of-way at the applicant's expense.
 - d. To represent and covenant that it does not discriminate against any employee, applicant for employment, and shall not discriminate against any general public that will participate in the event it is staging under this agreement or any other member of the public because of race, color, religion, national origin, age, height, weight, marital status or other legally protected class.

B. The zoning administrator shall review the application for compliance with the ordinance for approval/disapproval. If determined to be in compliance, the zoning administrator or his designee shall approve the issuance of the permit; if determined to be in substantial but not complete compliance, approve the issuance of the permit subject to restrictions; or if determined to be substantially non-compliant, disapprove and deny the issuance of the permit, as the circumstance requires.

C. Permits must be applied for annually and all activities or other actions taken under them shall adhere

to all specifications of the City of Hillsdale CBD Sidewalk Use Ordinance and the terms and restrictions contained within the permit. Failure to do so will result in the Zoning Administrator notifying the permit holder of a violation, either in writing or verbally. If the violation is designated as a safety hazard, it shall be corrected and rectified within the 24-hour period next following notification. All violations that are not designated as safety violations shall be corrected and rectified within the 72-hour period next following notification. If any violation is not corrected and rectified within the time specified, the permit in question shall automatically become void and of no further force or effect, and all items placed on the sidewalk and all business or other activities taken pursuant to it shall be immediately removed and terminated.

36-279.02 - Appeals.

Appeals involving the interpretation or application of these rules, the imposition of restrictions and the denial of a permit may be taken to the zoning board of appeals under such provisions and process as prescribed in section 36- 84 of the Hillsdale Municipal Code.