



City Council Meeting

December 7, 2020

6:00 p.m.

By Remote Electronic Participation

Cadillac Municipal Complex

200 N. Lake St.

Cadillac, MI 49601



December 7, 2020 City Council Meeting Agenda
6 p.m. 200 N. Lake St. – Cadillac, MI 49601
Meeting held by remote electronic participation.

We trust and assume goodness in intentions

CALL TO ORDER
ROLL CALL

I. APPROVAL OF AGENDA

II. PUBLIC COMMENTS

It is requested that comment time be limited to three (3) minutes.

III. CONSENT AGENDA

A. Minutes from the regular meeting held on November 16, 2020.
Support Document III-A

B. Minutes from the closed session held on November 16, 2020.

IV. PUBLIC HEARINGS

A. Public hearing to consider adoption of Ordinance Amending the City's Zoning Ordinance Regarding Pedestrian Sidewalks and Bike Parking.
Support Document IV-A

V. APPOINTMENTS

A. Recommendation regarding appointment to the Cadillac Housing Commission.
Support Document V-A

VI. CITY MANAGER'S REPORT

A. Recommendation regarding Loan Facilitation Agent and Credit Assessment for Drinking Water Revolving Fund Loan.
Support Document VI-A

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B. Recommendation regarding Easement for Water Transmission Line.

Support Document VI-B

C. Emergency repair of sewer main on Granite Street.

Support Document VI-C

D. COVID-19 Update

VII. ADOPTION OF ORDINANCES AND RESOLUTIONS

A. Adopt Resolution to Appoint City Manager as Emergency Management Coordinator.

Support Document VII-A

B. Adopt Resolution Declaring Local State of Emergency Due to COVID-19 Pandemic.

Support Document VII-B

VIII. MINUTES AND REPORTS OF BOARDS AND COMMISSIONS

A. Zoning Board of Appeals

Support Document VIII-A

B. Planning Commission

Support Document VIII-B

IX. PUBLIC COMMENTS

It is requested that comment time be limited to three (3) minutes.

X. GOOD OF THE ORDER

XI. ADJOURNMENT

Core Values (R.I.T.E.)

Respect

Integrity

Trust

Excellence

Guiding Behaviors

We support each other in serving our community

We communicate openly, honestly, respectfully, and directly

We are fully present

We are all accountable

We trust and assume goodness in intentions

We are continuous learners

CITY COUNCIL MEETING MINUTES

November 16, 2020

Meeting held by remote electronic participation.

200 N. Lake St. - Cadillac, Michigan 49601

CALL TO ORDER

Mayor Filkins called the City Council meeting to order at approximately 6:00 pm.

ROLL CALL

Council Present: Elenbaas, Schippers, King, Mayor Filkins
Council Absent: Engels
Staff Present: Peccia, Roberts, Ottjepka, Wallace, Dietlin, Keway, Homier, Genovich, Wasson

APPROVAL OF AGENDA

2020-174 Approve agenda as amended.

Motion was made by Schippers and supported by Elenbaas to approve the agenda as amended to add the minutes from the regular meeting held on October 19, 2020 under Consent Agenda (were previously on the Special Meeting Agenda)

Motion unanimously approved.

City Homier noted each Council Member needs to state for the purposes of the minutes that they are attending the meeting virtually and from what City they are doing so.

Mayor Filkins stated she is attending the meeting virtually in the City of Cadillac.

Council Member Elenbaas stated he is attending the meeting virtually in the City of Cadillac.

Council Member Schippers stated she is attending the meeting virtually in the City of Cadillac.

Council Member King stated he is attending the meeting virtually in the City of Cadillac.

PUBLIC COMMENTS

There were no public comments.

2020-175 Approve consent agenda as presented.

Motion was made by Schippers and supported by King to approve the consent agenda as presented.

Motion unanimously approved.

PUBLIC HEARINGS

- A. Public hearing to consider adoption of Ordinance to Amend Section 10-2 of Chapter 10 of the Cadillac City Code (Recreational Marihuana Establishments).

City Attorney Homier stated both proposed ordinances would (1) allow the City Manager to periodically open a new receipt period and establish a deadline for applications for any establishment/facility type for which licenses remain available under the limitation imposed by the City and (2) extend the time period for submitting paperwork for the establishment/facility – specific step of the application for a state operating license to LARA to sixty (60) days after receipt of the certificate of occupancy.

Mayor Filkins opened the public hearing.

There were no public comments.

Mayor Filkins closed the public hearing.

2020-176 Adopt Ordinance 2020-09.

Motion was made by Elenbaas and supported by King to approve the resolution to adopt Ordinance to Amend Section 10-2 of Chapter 10 of the Cadillac City Code (Recreational Marihuana Establishments).

Motion unanimously approved.

- B. Public hearing to consider adoption of Ordinance to Amend Section 10-3 of Chapter 10 of the Cadillac City Code (Medical Marihuana Facilities).

Mayor Filkins opened the public hearing.

There were no public comments.

Mayor Filkins closed the public hearing.

2020-177 Adopt Ordinance 2020-10.

Motion was made by Elenbaas and supported by King to approve the resolution to adopt Ordinance to Amend Section 10-3 of Chapter 10 of the Cadillac City Code (Medical Marihuana Facilities).

Motion unanimously approved.

COMMUNICATIONS

- A. Lighted Garland Banner

2020-178 Approve Lighted Garland Banner.

Motion was made by Schippers and supported by Elenbaas to approve the display of the Lighted Garland Banner from November 23, 2020 to January 4, 2021.

Motion unanimously approved.

APPOINTMENTS

- A. Recommendation regarding appointment to the Corridor Improvement Authority/Cadillac West Resort Area.

2020-179 Approve appointment to the Corridor Improvement Authority/Cadillac West Resort Area.

Motion was made by King and supported by Elenbaas to approve the appointment of Shannon Hamner to the Corridor Improvement Authority/Cadillac West Resort Area for a 4-year term to expire on November 16, 2024.

Motion unanimously approved.

- B. Recommendation regarding reappointment to the Planning Commission.

2020-180 Approve reappointment to the Planning Commission.

Motion was made by Schippers and supported by Elenbaas to approve the reappointment of Joseph Baumann to the Planning Commission for a 3-year term to expire on November 16, 2023.

Motion unanimously approved.

CITY MANAGER'S REPORT

- A. Michigan Tax Achievement Award Presentation.

Joe Porterfield, Wexford County Equalization Director and Assessor for the City of Cadillac, presented the Certificate of Achievement to the City of Cadillac from the Michigan Assessors Association.

A copy of the Certificate of Achievement was included in the City Council packet.

- B. Bids and recommendation regarding Inductively Coupled Plasma Mass Spectrometer.

Peccia stated the ICP Mass Spectrometer performs metal analysis for the water and wastewater systems. He noted the recommendation is to award the purchase to the lowest bidder, Agilent Technologies, Inc. in the amount of \$101,550.41 and to add the purchase of an integrated cover kit for an additional \$439.98 resulting in a total cost of \$101,990.39. He noted this purchase was not frozen pursuant to the Cadillac Pandemic Financial Response Plan because of the critical nature of this equipment.

2020-181 Award purchase of ICP Mass Spectrometer.

Motion was made by Elenbaas and supported by Schippers to award the purchase of an Inductively Coupled Plasma Mass Spectrometer to Agilent Technologies, Inc. in the amount of \$101,550.41 and to add the purchase of an integrated cover kit for an additional \$439.98 resulting in a total cost of \$101,990.39.

Motion unanimously approved.

C. Emergency Replacement of Boiler at Cadillac Community Center (Naval Reserve).

Peccia stated the main steam boiler that provides heat for the Cadillac Community Center (Naval Reserve) recently experienced a catastrophic failure. He noted because of the urgency of the need to replace the unit, City staff immediately sought quotes for the replacement. He stated the City contacted four (4) vendors and received two (2) quotes. He noted the lowest quote from Advanced Mechanical in the amount of \$16,224.39 was accepted and the contractor was given approval to order the parts and materials and complete the replacement as quickly as possible. He stated there is no City Council action required at this time but the cost of the replacement will need to be amended into the FY2021 budget for the facility, as well as a transfer from the General Fund to cover the full replacement cost.

D. North Flight & Mobile Medical Response Assignment Agreement.

Peccia stated North Flight, the company that the City has an agreement with for the provision of emergency medical services (EMS) is in the final stages of merging with a non-profit called Mobile Medical Response (MMR), and requires that our current agreement be allowed to be assigned to MMR. He noted pursuant to paragraph 12 of the original agreement, the parties must approve the assignment of the agreement in writing.

2020-182 Approve North Flight & Mobile Medical Response Assignment Agreement.

Motion was made by Schippers and supported by Elenbaas to support directing the City Manager to execute the Assignment Agreement between the City of Cadillac and North Flight, Inc. for Firefighter Staffing Services to Mobile Medical Response.

Motion unanimously approved.

E. Trailhead at Cadillac Commons Project Update.

Peccia stated due to concerns related to the spread of COVID-19, the in-person special meeting scheduled for November 16, 2020 was cancelled. He noted the date, time, and manner in which a rescheduled meeting may be held will be posted in compliance with the Open Meetings Act, accordingly.

F. COVID-19 Update

Peccia summarized the current COVID-19 update provided by District Health Department #10. He noted additional information can be found at www.dhd10.org. He stated the Michigan Department of Health and Human Services (MDHHS) announced an emergency order regarding gatherings and face masks that goes into effect on November 18, 2020 and lasts through December 8, 2020. He noted due to the order, City operations will be adjusted accordingly to limit as much in-person contact as possible, but the public counters will remain open and accessible to the public. He stated many business transactions can be conducted online and he encouraged everyone to visit the City's website www.cadillac-mi.net.

INTRODUCTION OF ORDINANCES

- A. Adopt Resolution to Introduce Ordinance Amending the City's Zoning Ordinance Regarding Pedestrian Sidewalks and Bike Parking and set a public hearing for December 7, 2020.

Peccia noted the Planning Commission recommended approval of this ordinance to the City Council.

John Wallace, Community Development Director, stated the principal reason for this ordinance amendment is to complete our Redevelopment Ready Communities (RRC) certification process with the State of Michigan. He noted the City is 98% complete with the RRC certification process. He stated becoming RRC certified is an essential step in maintaining grant eligibility with the Michigan Economic Development Corporation (MEDC). He noted maintaining our grant eligibility with MEDC will be critical for continuing to undertake redevelopment projects in our downtown.

Wallace stated another reason to bring this ordinance amendment forward is to meet many of the entries in the City's Master Plan which are addressing walkability and non-motorized transportation.

2020-183 Introduce Ordinance 2020-11.

Motion was made by Elenbaas and supported by Schippers to adopt resolution to introduce Ordinance Amending the City's Zoning Ordinance Regarding Pedestrian Sidewalks and Bike Parking and set a public hearing for December 7, 2020.

Motion unanimously approved.

MINUTES AND REPORTS OF BOARDS AND COMMISSIONS

- A. Planning Commission
- B. Downtown Development Authority
- C. Cadillac-Wexford Airport Authority
- D. Zoning Board of Appeals

PUBLIC COMMENTS

There were no public comments.

GOOD OF THE ORDER

Schippers encouraged community members to do what they can to stop the spread of COVID-19.

Elenbaas stated he was saddened to hear that Christmas in the Park has been cancelled this year due to COVID-19.

Schippers suggested using social media and the Cadillac News to let people know the date/time the tree will be lit so everyone can turn on their porch lights and decoration lights so we can still feel like a community coming together without having to gather in the City Park.

Peccia stated he believes the trees will be lit at dusk on Friday, November 27, 2020.

Mayor Filkins thanked Ken Payne and his crew for putting the lights on the trees.

CLOSED SESSION

Adjourn to closed session for strategy and negotiation sessions connected with the negotiation of collective bargaining agreements and to consult with the City Attorney to discuss trial or settlement strategy in connection with pending litigation in the matter of Donald W. Cubitt, as Next Friend of Donald B. Cubitt, v City of Cadillac Police Department, et al, US District Court, Western District of Michigan, Southern Division Case No. 1:20-cv-01084 because the discussion in public would have a detrimental effect on the litigating or settlement position of the City.

2020-184 Adjourn to closed session.

Motion was made by Schippers and supported by Elenbaas to adjourn to closed session for strategy and negotiation sessions connected with the negotiation of collective bargaining agreements and to consult with the City Attorney to discuss trial or settlement strategy in connection with pending litigation in the matter of Donald W. Cubitt, as Next Friend of Donald B. Cubitt, v City of Cadillac Police Department, et al, US District Court, Western District of Michigan, Southern Division Case No. 1:20-cv-01084 because the discussion in public would have a detrimental effect on the litigating or settlement position of the City; invite Todd Keway, Human Resources Generalist, Adam Ottjepka, Director of Public Safety, and Owen Roberts, Director of Finance, accordingly.

Motion unanimously approved.

2020-185 Return to open session.

Motion was made by King and supported by Elenbaas to return to open session.

Motion unanimously approved.

Peccia requested a motion of support for the consideration of approving two (2) Collective Bargaining Agreements: Police Officers and Police Command Officers. He noted the Police Officers contract is now with the Fraternal Order of Police Labor Council instead of the Police Officer's Association of Michigan. He stated highlights of both contracts include:

- New hours of work flexibility obtained from management
- Reduction in the number of hours permitted for union association leave
- Additional \$100 per year clothing allowance
- Reduction in personal property reimbursement amounts and the type of items eligible for reimbursement
- Concession by the unions to accept new health premiums equal to non-union personnel
- Annual wage increase of 2.75% for each year of the agreement

Peccia stated it would be appropriate for Council to consider a motion authorizing the Mayor to execute both Collective Bargaining Agreements as presented.

2020-186 Authorize Mayor to execute Collective Bargaining Agreements.

Motion was made by Schippers and supported by Elenbaas to authorize the Mayor to execute both Collective Bargaining Agreements as presented.

Motion unanimously approved.

ADJOURNMENT

Respectfully submitted,

Carla J. Filkins, Mayor

Sandra L. Wasson, City Clerk

December 7, 2020

Council Communication

Re: Approval of an ordinance amending the city's zoning ordinance regarding pedestrian sidewalks and bike parking.

The principal reason for this ordinance amendment is to complete our Redevelopment Ready Communities (RRC) certification process with the State of Michigan. Specifically, the adoption of this ordinance will satisfy Evaluation Criteria 2.1.5, one of three evaluation criteria the city has left to complete. At present we are 98% complete with the RRC certification process. Becoming RRC certified is an essential step in maintaining grant eligibility with the Michigan Economic Development Corporation (MEDC). Maintaining our grant eligibility with MEDC will be critical for continuing to undertake redevelopment projects in our downtown.

Updated September 2020 98% completed

1.1.1	1.1.2	1.1.3 N/A	1.1.4	1.2.1	1.2.2	1.2.3
2.1.1	2.1.2	2.1.3	2.1.4	2.1.5	2.1.6	2.1.7
2.1.8	3.1.1	3.1.2	3.1.3	3.1.4	3.1.5	3.1.6
3.1.7	3.1.8	3.1.9	3.2.1	3.2.2	4.1.1	4.1.2
4.2.1	4.2.2	4.2.3	4.2.4	5.1.1	5.1.2	5.1.3
5.1.4	5.1.5	5.1.6	6.1.1	6.1.2	6.2.1	6.2.2

Evaluation Criteria 2.1.5 requires that a zoning ordinance include standards to improve non-motorized transportation. Such standards may involve bicycle parking, traffic calming, pedestrian scale lighting, and other public realm standards. I chose to satisfy these criteria by addressing bicycle parking and sidewalks because I felt it was least burdensome on developers and allowed us to achieve some of our master plan goals. There are 10 references in our master plan which address improving walkability, adding sidewalks, and improving bicycle

infrastructure. I reviewed how four other communities amended their ordinance to address Evaluation Criteria 2.1.5 and they were more aggressive in their approach to satisfying this criteria. I believe this proposed ordinance amendment achieves Evaluation Criteria 2.1.5 at an appropriate base level. In three of our most recently submitted and approved site plan reviews (Lume Marihuana Retail, Robb Munger's Microbrewery, and the Krist Oil convenience store/gas staton) the developer has submitted a site plan which met the newly proposed sidewalk standard, and in one case met the new bicycle standards as well. The new bicycle parking requirement has the potential to save a developer money as there is an auto parking credit for providing bicycle parking and this may lead to reduced paving.

The Planning Commission recommended approval of this ordinance to the City Council at their meeting held on September 28, 2020 by a vote of 4 to 1.

Recommended Action

To approve the Resolution to Adopt Ordinance Amending the City's Zoning Ordinance Regarding Pedestrian Sidewalks and Bike Parking.

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755



Mayor
Carla J. Filkins

Mayor Pro-Tem
Tiyi Schippers

Councilmembers
Stephen King
Robert J. Engels
Bryan Elenbaas

RESOLUTION NO. ____

**RESOLUTION TO ADOPT ORDINANCE AMENDING THE CITY'S ZONING ORDINANCE
REGARDING PEDESTRIAN SIDEWALKS AND BIKE PARKING**

At a meeting of the City Council of the City of Cadillac, Wexford County, Michigan, held electronically on the 7th day December, 2020, at 6:00 p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution was offered by _____ and seconded by _____.

WHEREAS, pursuant to the Michigan Zoning Enabling Act, 2006 PA 110, the City has the authority to provide by zoning ordinance, for the regulation of land use and development in the City; and

WHEREAS, the City wishes to consider amendments to its zoning ordinance sections 46-658 and 46-674 to add pedestrian sidewalk and motorized and bicycle parking requirements; and

WHEREAS, the Planning Commission held a public hearing on the proposed amendments (the "Ordinance" attached as **Exhibit A**); and

WHEREAS, the City Planning Commission recommended approval of the Ordinance to the City Council; and

WHEREAS, the City held a duly noticed public hearing to consider adopting the

Ordinance on December 7, 2020; and

WHEREAS, following the public hearing, the City concludes that adopting the Ordinance is in the best interest of the public health, safety and welfare.

NOW, THEREFORE, the City Council of the City of Cadillac, Wexford County, Michigan, resolves as follows:

1. Ordinance Amending Zoning Ordinance Regarding Pedestrian Sidewalks and Bike Parking (the "Ordinance," attached as Exhibit A) is hereby adopted.
2. The Ordinance shall be filed with the City Clerk.
3. The City Clerk shall publish notice of adoption in a newspaper of general circulation in the City within 15 days.
4. Any and all resolutions that are in conflict with this Resolution are hereby repealed upon the effective date of the Ordinance but only to the extent necessary to give this Resolution full force and effect.

YEAS: _____

NAYS: _____

STATE OF MICHIGAN)
)
COUNTY OF WEXFORD)

I, Sandra Wasson, City Clerk of the City of Cadillac, hereby certify this to be a true and complete copy of Resolution No. ____, duly adopted at a regular meeting of the City Council held on the 7th day of December, 2020.

Sandra Wasson
Cadillac City Clerk

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755



Mayor
Carla J. Filkins

Mayor Pro-Tem
Tiyi Schippers

Councilmembers
Stephen King
Robert J. Engels
Bryan Elenbaas

ORDINANCE NO. 2020-11

AN ORDINANCE AMENDING THE CITY'S ZONING ORDINANCE REGARDING PEDESTRIAN SIDEWALKS AND BIKE PARKING

THE CITY OF CADILLAC ORDAINS:

Section 1.

The City hereby amends section 46-658 of the City's Zoning Ordinance to add pedestrian sidewalk and motorized and bicycle parking requirements. As amended, the section, in its entirety, shall read as follows:

46-658. Requirements - **Off-Street Parking, Pedestrian Sidewalk, and Motorized and Bicycle Parking.**

There shall be provided in all zoning districts at the time of erection or enlargement of any main building or structure, automobile off-street parking with adequate access to all spaces. However, this shall not apply to the B-2 zone, or commercial uses in any zone which abut off-street public parking located within the B-2 zone, except subsections (4) and (10) shall remain applicable. **For select uses, there shall also be provided facilities for the parking of non-motorized bicycles, including uses in the B-2 zone. Bicycle parking requirements are detailed under Section 46-674 of this Ordinance.** The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of occupancy, as hereinafter prescribed.

(1) Off-street parking spaces may be located within any non-required yard and within the required rear yard setback unless otherwise provided in this Chapter.

(2) Required parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership shall be shown of all lots or parcels intended for use as parking by the applicant.

(3) Parking for single family residential uses shall consist of a parking strip, bay, driveway, garage or combination thereof and required parking shall be located on the premises to be served, and shall be exempt from other provisions of this section, and Section 46-660.

(4) Any area once designated as required off-street parking shall not be changed to any other use or to an amount less than the required for a similar new building or use, unless and until equal facilities are provided elsewhere.

(5) Two or more buildings or uses may collectively provide the required parking, in which case the number of spaces shall not be less than the sum of the requirements for the several individual uses computed separately. In the instance of dual function of off-street parking, where operation hours of buildings do not overlap, the Board of Appeals may grant an exception.

(6) Off-street parking areas shall be provided with a suitable, visually aesthetic buffer. This buffer may be the required setback, or may be a continuous, visually obscuring, 30" high masonry wall that conforms with the City's fence ordinance. Between these extremes, the buffer may consist of berm (Section 46-663(4)) landscape foliage, fences, screens, or green areas as approved by the Zoning Administrator, such that the lesser the distance between the parking area and the property line, the greater the intensity of the buffer. Where a non-residential parking area is developed adjacent to a residential district, it must be provided with a minimum set back of ten feet or an equivalent buffer as described above.

(7) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.

(8) In all cases where a wall extends to an alley which is a means of access to an off-street parking area,, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.

(9) (a) Access to off-street parking areas shall be provided from a collector street only, or by consent of the Planning Commission, may be provided from streets other than collectors (but with immediate access to a collector) when the Board finds a substantial improvement in traffic safety will be achieved by reducing the number of driveways onto a collector street.

(b) However, at no time shall access proceed through a single family zone or be provided by way of a noncollector street to a collector street when the noncollector street is abutted by single family residential zone(s) between the access and the collector site.

(c) Also, at no time shall a curb cut providing access be nearer than twenty-five feet from an abutting single family zone on the same side of the street or directly across the street from a single family zone.

(10) Establishments providing overnight lodging accommodations must provide at least one reserved off-street parking space per bedroom.

(11) The outside storage or parking (except for loading and unloading) of commercial vehicles or equipment is prohibited on City streets or in the front yards of residentially zoned property. An exception are commercial vehicles with a length of 21 feet overall, or less, and a height of 11 feet, or less.

(12) **Sidewalks for Pedestrian Circulation and Access.**

All business, services, and multiple family developments possessing four or more dwelling units, in all zone districts, shall provide a private sidewalk system (pedestrian access and

circulation feature) for the safe and convenient movement of pedestrians from the principal parking area to the primary access door serving customers, clients, patrons, employees, and/or residents; a public sidewalk along any street right-of-way; and, a private sidewalk system from the primary access door to the public sidewalk system. These requirements shall also apply to industrial uses, provided, however, in cases where no adjoining right-of-way contains an existing public sidewalk, industrial uses shall not be required to provide public sidewalks nor a private sidewalk system from the primary access door to the public sidewalk system.

Private sidewalks shall:

(a) Consist of a hard surface composition such as concrete, brick pavers, or asphalt designed to safely accommodate the movement of pedestrians throughout the year.

(b) Maintain a minimum width of five (5) feet throughout their length.

(c) Insofar as feasible and practicable shall be positioned so as to provide for the convenient and prompt movement of pedestrians traveling from vehicular parking areas to the use served by said parking and to the public sidewalks. Unnecessary lengthy and circuitous routing shall be avoided.

(d) Be designed and located to limit potential conflicts between pedestrians using the sidewalks and nearby motorized traffic.

(e) For purposed of public safety, shall be well-lighted throughout their length.

(f) The overall design and construction of the sidewalk system shall harmonize with the design and construction of the use served. In the event the sidewalk system is positioned in the downtown (B-2 District), the design and construction shall harmonize with the planned character of the downtown.

(g) So as to assure its continued readiness for use and the safe movement of pedestrians, sidewalks shall be reasonably maintained throughout the year including removal of snow, ice, and debris and the repair of breaks and other trip hazards.

(h) Shall meet or exceed the Sidewalk Engineering Design Standards of the City of Cadillac.

(i) Abutting properties may share a private sidewalk system, or portion thereof, pursuant to the required connection to a public sidewalk system provided the design and construction standards of this ordinance are met and that a written agreement between the owners of the abutting properties is executed establishing liability, design and construction, and maintenance responsibilities for the shared sidewalk. The agreement shall be subject to review and approval by the City Attorney and shall be recorded with the Wexford County Registrar of Deeds prior to construction of the sidewalk. A copy of the recorded instrument shall be provided to the city at no cost.

Section 2.

The City hereby adds a section 46-674 to the City's Zoning Ordinance to read, in its entirety, as follows:

Sec. 46-674. - Bicycle Parking Requirements

(a) **Purpose** - The purpose of these regulations is to require secure and adequate parking for bicycles thereby promoting alternative transportation opportunities as desired by the city's residents and guests, reducing motorized vehicular traffic congestion and air pollution, and serving to implement the non-motorized transportation elements of the Cadillac Master Plan and the Cadillac City/Cadillac Area Public Schools Recreation Plan. Bicycle parking shall be provided for new facilities and additions to existing facilities. Bicycle parking as prescribed hereafter shall be provided for land uses occupying buildings, or portions thereof, which are constructed, established, wholly reconstructed, or moved onto a new lot or parcel after the effective date of the bicycle parking requirements, or of a subsequent rezoning or other amendment thereto establishing or increasing bicycle parking for such land uses, except to the extent that existing bicycle parking exceeds such requirements for any existing buildings. The required amount of new bicycle parking shall be based on the cumulative increase in floor area, or other applicable unit of measurement prescribed hereafter, after said effective date.

(b) **Multiple uses on a single lot or parcel** - Whenever a single lot or parcel contains different activities with the same bicycle requirement, the overall requirement shall be based on the sum of all such activities, and the minimum size prescribed hereafter for which any bicycle parking is required shall be deemed to be exceeded for all such activities if it is exceeded by their sum. Whenever a single lot or parcel contains activities with different bicycle parking requirements, the overall requirement shall be the sum of the requirements for each activity calculated separately; provided, however, that the minimum size prescribed hereafter for which any bicycle parking is required shall be deemed to be exceeded on said lot or parcel for all activities for which the same or a smaller minimum size, expressed in the same unit of measurement, is prescribed, if said minimum size is exceeded by the sum of all such activities on the lot or parcel.

(c) **Standards for Required Bicycle Parking**

(1) **Bicycle Parking.** Bicycle parking shall consist of a bicycle rack or racks and is meant to accommodate visitors, customers, messengers, and others using bicycles for transportation purposes.

(2) **Specific Use** - All bicycle parking facilities shall be dedicated for the exclusive use of bicycle parking.

(3) **Area Compatibility** - The location and design of required bicycle parking shall be of a quality, character and color that harmonize with adjoining land uses. Required bicycle parking shall be incorporated whenever possible into building design or street furniture.

(4) **Location** - Bicycle parking shall be placed within fifty (50) feet of a public entrance to the building or commercial use being served by said parking and should be in a well trafficked location visible from the entrance. Where applicable and possible bicycle

parking should be placed within view of storefront windows. When a public entrance fronts a public sidewalk, public alley, or public parking lot on which bicycle parking is proposed for placement, the installer shall obtain an encroachment permit from the City to install the bicycle parking in the public right-of-way. In the event the right-of-way falls under the jurisdiction of the Michigan Department of Transportation (MDOT), the installer shall obtain an encroachment permit from the MDOT to install the bicycle parking in said right-of-way and submit copy to the city.

(5) **Locking Device and Supports** - All required bicycle parking spaces shall be designed to provide a stable position for the bicycle with an ability to easily lock the frame of the bicycle to the rack with either a u-lock or cable lock.

(6) **Anchoring** - Bicycle parking facilities shall be securely anchored so they cannot be easily removed and shall be of sufficient strength and design to resist vandalism and theft.

(7) **Parking Space Size** - A bicycle parking space shall be at least two and a half (2.5) feet in width by six (6) feet in length to allow sufficient space between parked bicycles.

(8) **Vertical Obstructions** - Racks shall be located with at least thirty (30) inches in all directions from any vertical obstruction, including but not limited to, other racks, walls, light poles, and landscaping.

(9) **Maneuvering Space** - A minimum four (4) foot wide aisle of unobstructed space behind all required bicycle parking shall be provided to allow for adequate bicycle maneuvering.

(10) **Circulation Impact** - Bicycle parking facilities shall not impede pedestrian or vehicular circulation. Bicycle parking racks located on sidewalks shall maintain a minimum of five (5.0) feet of unobstructed pedestrian right-of-way outside the bicycle parking space.

(11) **Protection from Damage by Motorized Vehicles** - Bicycle parking facilities within auto parking facilities shall be protected from damage by cars by a physical barrier such as curbs, wheel stops, poles, bollards, or other similar features capable of preventing automobiles from entering the bicycle facility.

(12) **Lighting** - Bicycle parking facilities shall be located in highly visible well-lighted areas

(d) **Joint Parking Agreements** - Joint bicycle agreements are permitted and encouraged. Bicycle parking falling under a joint parking agreement shall be designed and constructed according to the standards of this ordinance. Whenever any required bicycle parking is proposed to be provided on a lot other than the lot containing the activity served, the owners of both lots shall prepare and execute to the satisfaction of the City Attorney, and file with the Wexford County Registrar of Deeds, an agreement guaranteeing that such facilities will be maintained and reserved for the activity served, for the duration of said activity.

(e) Minimum Number of Required Bicycle Parking Spaces

(1) Calculation Rules

a. Fractional Counts - If after calculating the number of required bicycle parking spaces a quotient is obtained containing a fraction of one-half ($\frac{1}{2}$) or more, an additional space shall be required; if such fraction is less than one-half ($\frac{1}{2}$), it may be disregarded.

b. Employees - When the bicycle parking requirement is based on number of employees, the number of spaces shall be based on the average number of working persons on the lot or parcel during the largest shift of the peak season.

c. Seats/Pews - When the bicycle parking requirement is based on the number of seats, as in the case of pews or similar facilities, each twenty (20) inches shall be counted as one seat.

(f) Required Bicycle Parking

The following minimum amounts of bicycle parking are required and shall be developed and maintained pursuant to the provisions of this Chapter:

Activity/Use	Bicycle Parking Requirement
Residential Activities	
One-Family Dwelling	No spaces required.
Two-Family Dwelling/Duplex	No spaces required.
Multiple-Family Dwelling (Three or More Units)	One space per each 10 dwelling units evenly spaced among the apartment buildings.
Rooming/Boarding House	No spaces required.
Other	Zoning Administrator Determination Sec. 46-674,(i)
Civic Activities	
Churches, temples, and synagogues.	1 space for each 60 fixed seats, or one space for each 5,000 square feet of floor area, whichever is greater. Minimum requirement is 2 spaces.
Administrative/Municipal Offices/Libraries/Museums	1 space for each 20,000 square feet of floor area. Minimum requirement is 4 spaces.
Hospitals	1 space for each 40,000 square feet of floor area. Minimum requirement is 4 spaces.
Public parochial and private elementary, junior high and high schools.	1 space per each 20 students of planned capacity. Minimum requirement is 4 spaces.
Other	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.
Commercial Activities	
Retail	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
Offices	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
Restaurants/Bars	1 space for each 5,000 square feet of floor area.

	Minimum requirement is 2 spaces.
Other	1 space for each 5,000 square feet of floor area. Minimum requirement is 2 spaces.
Industrial Activities	
Any industrial activity as specified as a permitted or special use in the Industrial Districts employing 10 or more people on any shift.	1 space for each 20,000 square feet of floor area. Minimum requirement is 2 spaces.

(g) **Automobile Parking Credit.** The total number of required off-street automobile parking spaces may be reduced at the ratio of one automobile space for each four (4) bicycle spaces provided. The total number of required off-street automobile parking spaces cannot be reduced by more than five percent (5%).

(h) **Credit for Bicycle Racks in Public Locations** - The calculation of bicycle parking may include existing racks owned and maintained by the city that are in the public right-of-way and are within fifty (50) feet of the main entrance of the use seeking credit provided the Zoning Administrator determines that the location and number of racks in the public right-of-way are sufficient to meet the needs of said use without harm to the public in general.

(i) **Zoning Administrator Determination** - In the case of activities for which the Zoning Administrator is required to prescribe a number of bicycle parking spaces or for which this section is not clear or does not prescribe a number of spaces, the Zoning Administrator shall base his/her determination on factors such as the proposed use of the lot or parcel, the number of customers or employees, the nature of operation of the site, and the availability of bicycle parking spaces under public ownership. Any such determination shall be subject to appeal pursuant to the administrative appeal procedures of this ordinance.

Section 3.

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 4.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

Section 5.

This Ordinance shall take effect twenty (20) days after its adoption.

Approved this ___ day of _____, 2020.

Sandra Wasson, Clerk

Carla J. Filkins, Mayor

December 7, 2020

COUNCIL COMMUNICATION

Re: Appointment of Troy Knight to a Five-Year Term on the Cadillac Housing Commission.

Troy Knight has expressed his interest in being appointed to serve as a member on the Cadillac Housing Commission for a five-year term.

Requested Council Action:

Motion to appoint Troy Knight to a five-year term on the Cadillac Housing Commission which will end on 12/7/2025.



Application for Appointment to Standing and Special Committees, Boards & Commissions

The information provided on this form is for the use of the Cadillac City Council in its deliberation to fill vacancies on standing and special committees, boards and commissions. Applications may be submitted at any time and will be kept on file for a period of one (1) year. In most cases, you must be a resident of the City of Cadillac to serve on its committees, boards and commissions. Exceptions include the DDA, CBOA, LDFA, Clam River Greenway Committee and Brownfield Redevelopment Authority. Applicants may be required to interview with the City Manager for appointment consideration.

To which committee, board or commission are you seeking appointment? Please check all that apply.

- | | |
|--|---|
| ☐ Airport Authority | ☐ Economic Development Corporation |
| ☐ Board of Review | ☐ Elected Officials Compensation Commission |
| ☐ Brownfield Redevelopment Authority | ☐ Election Commission |
| ☐ Cadillac Area Council for the Arts | ☒ Housing Commission |
| ☐ Cadillac-Wexford Transit Authority | ☐ Local Development Finance Authority |
| ☐ Cadillac West Corridor Improvement Authority | ☐ Planning Commission |
| ☐ Cemetery Board | ☐ Retirement Board to Administer Act 345 |
| ☐ Civil Service Commission | ☐ Zoning Board of Appeals |
| ☐ Clam River Greenway Committee | ☐ Construction Board of Appeals |
| ☐ Historic Districts Commission | ☐ City of Cadillac/Clam Lake Joint Planning Commission |
| ☐ Diggins Hill Tennis Court Fundraising Committee | |
| ☐ Downtown Development Authority | ☐ Other _____ |

Please print or type:

Name Troy Knight Address [REDACTED]

Telephone: Home [REDACTED] Business/cell [REDACTED]

E-mail [REDACTED] Date available for appointment Open

Please complete the following. You may use additional sheets as needed.

Community Service

List boards, commissions, committees or community service organizations that you are currently serving or have served upon, offices held, and in what municipality or county.

I'm currently serving on the Zoning Board of Appeals in Cadillac.

Employment and Education

List any employment experience or education that, in your opinion, best qualifies you for this appointment. List job titles, duties (current and past), level of education and any certificates or degrees you have obtained.

I owned and operated 10 restaurants from 1991 to 2016. I previously served in the Marine Corps after High School. I served on two national boards. The first one was with Subway national headquarters and Coke Cola Company. I was the liaison that dealt with issues between the two companies and came up with solutions to many issues that came up.

The second board was NAASF. It was the franchises board that bridged the store owners with the Headquarter, and the many issues that came up. We represented 26,000 store owners.

Have you ever worked for the City of Cadillac? ☐ Yes ☒ No

If yes, please list dates and names of departments.

Why do you have interest in serving on this board/commission/committee?

Now that I am retired, I'm looking to get more involved in the community.

Personal

Rules of law and ethics prohibit appointees from participating in and voting on matters in which they may have a direct or indirect financial interest. Are you aware of any potential conflicts of interest? ☐ Yes ☒ No

If yes, please indicate potential conflicts.

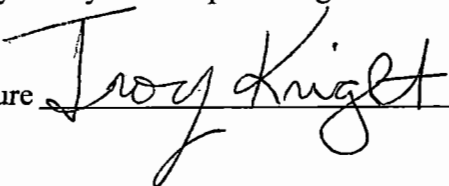
Are you aware of the time commitment necessary to serve on the committee, board and/or commission to which you seek appointment, and will you have such time? ☒ Yes ☐ No

Please provide information about specific training, education, experience or interests you possess that qualify you as an appointee to the position you seek.

After running a company for 26 years, and taking care of 150 employees and their needs, along with sitting on two national boards, I have a lot of hands on, life's lessons to guide me.

I hereby certify that the preceding information is correct to the best of my knowledge.

Signature



Date

11-16-2020

You are invited to attach additional pages, enclose a copy of your résumé or submit supplemental information that you feel may assist in the evaluation of your application.

Mail or return your completed application to:

Marcus Peccia, City Manager
City of Cadillac
200 N. Lake St.
Cadillac MI 49601

Thank you for giving us the opportunity to consider you for appointment.

December 7, 2020

Council Communication

Re: Credit Assessment/Loan Facilitating Agent for Drinking Water Revolving Fund Loan

As part of the City's loan process to secure funding through the Drinking Water Revolving Fund loan program from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for Phase II of the well field relocation project, the City needs to engage a Loan Facilitation Agent as well as have a thorough credit assessment performed by a rating agency.

As part of the fee evaluation process, the City reached out to EGLE staff for examples of typical fees charged for similar loans in their programs. The following comparative information was provided by EGLE:

- 2019 DW issue- \$2,000,000 loan/bond, \$14,850 FA (S&P fee excluded), provider=Baird
- 2019 DW issue- \$5,000,000 loan/bond, \$19,000 FA (S&P fee excluded), provider=Bendzinski
- 2020 DW issue- \$6,000,000 loan/bond, \$42,500 FA (S&P included), provider=Baird
- 2020 WW issue-\$4,675,000 loan/bond, \$39,500 FA (S&P included), provider=Baird
- 2020 WW issue-\$4,715,000 loan/bond, \$24,140 FA (S&P excluded), provider=Baird
- 2020 DW issue-\$4,225,000 loan/bond, \$22,525 FA (S&P excluded), provider=Baird
- 2018 WW issue-\$6,000,000 loan/bond, \$15,000 FA (S&P excluded), provider=PFM

*** DW = Drinking Water; WW = Wastewater*

Standard and Poor's (S&P) provides the majority of ratings and assessments for public financing through the State's revolving loan programs. Moody's also provides these ratings but are typically more expensive. S&P provides better turnaround for assessment and rating projects and has a better understanding of the State's revolving loan programs and requirements. Therefore, it has been recommended to the City that S&P should provide the credit assessment required for the current DWRF loan.

Warren Creamer from RW Baird in Traverse City, Michigan served as the City's financial advisor or loan facilitation agent for the City's prior loans through EGLE and has advised the City on several other issues through the years. Based on the history of using RW Baird for this professional service, it is recommended to utilize the firm again for this loan.

Recommended Action

It is recommended that the City Council waive competitive bidding and authorize the engagement of RW Baird as Loan Facilitation Agent for \$19,500 and Standard and Poor's for a required credit assessment. This fee is estimated to be \$16,875 at the current 2020 rates but is expected to change slightly by the time the City goes through this process in early 2021. Proceeds from the DWRF loan will be available to fund these services.



November 24, 2020

Mr. Owen Roberts
Finance Director
City of Cadillac
200 N. Lake Street
Cadillac, Michigan 49601

Re. Loan Facilitation Agent Engagement Letter

Dear Mr. Roberts,

On behalf of Robert W. Baird & Co. Incorporated ("Baird" or "we"), we wish to thank you for the opportunity to serve as loan facilitation agent for to the City of Cadillac (the "City" or "you") on its proposed \$10,265,000 Water Supply and Wastewater System Junior Lien Revenue Bonds, Series 2021 from the Michigan Finance Authority's Drinking Water State Revolving Fund (the "Loan"). The City understands and agrees that the Loan does not constitute an issuance of municipal securities.

1. Services to be Provided by Baird. The City hereby engages Baird to serve as loan facilitation agent for the proposed placement of the Loan, and in such capacity Baird agrees to provide the following services:

- Review and evaluate the proposed terms of the Loan
- Assist in the preparation of the Loan Application and/or other documents
- Consult with counsel and other service providers about the placement and the terms of the Loan
- Plan and arrange for the closing, settlement and the delivery of the Loan
- Such other usual and customary loan facilitation agent services as may be requested by the City

In addition, at the City's request, Baird may provide incidental financial advisory services, including advice as to the structure, timing, terms and other matters concerning the issuance of the Loan. As loan facilitation agent, Baird's primary role is to arrange for the placement of the Loan.

As loan facilitation agent, Baird will not be required to provide the Loan, purchase any bonds or other securities from the buyer or to find one or more lenders or buyers of any securities, but rather to use its reasonable best efforts to assist you in applying for the Loan.

2. Information to be Furnished by City. If the City is obligated under a current continuing disclosure agreement, the City will submit information about the transaction through EMMA's continuing disclosure service, if material, and provide details regarding the amount of debt being issued and its impact on the debt position, the purpose of the debt and use of proceeds, source of repayment, payment dates, interest rate, maturity and amortization of the debt, covenants, prepayment terms, events of default and remedies, acceleration events, other material terms, evidence of compliance with additional debt test, ratings, CUSIP number, transfer and redistribution rights and financial reporting requirements. If the City is not obligated under a current continuing disclosure agreement, the City may voluntarily submit information about the transaction through EMMA's continuing disclosure service located in the voluntary continuing disclosure category of "Financial/Operating Data – Investment/Debt/Financial Policy."

3. Fees and Expenses. Baird's loan facilitation agent fee shall be **\$19,500**. In addition to the loan facilitation agent fee, the City shall be responsible for paying or reimbursing Baird for all other expenses incident to the performance of the City's obligations under the proposed Loan.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the Loan. Notwithstanding the forgoing, either party may terminate Baird's engagement at any time without liability of penalty upon at least 30 days' prior written notice to the other party.

5. Limitation of Liability. The City agrees that neither Baird nor its employees, officers, agents or affiliates shall have any liability to the City for the services provided hereunder except to the extent it is judicially determined that Baird engaged in gross negligence or willful misconduct.

6. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of Michigan. This Engagement Letter may not be amended or modified except by means of a written instrument executed by both parties hereto. This Engagement Letter may not be assigned by either party without the prior written consent of the other party.

Baird is registered with the Municipal Securities Rulemaking Board ("MSRB") and the SEC. The MSRB website is www.msrb.org. Two investor brochures, Information for Municipal Securities Investors and Information for Municipal Advisory Clients, describe the protections that may be provided by the MSRB's rules. The brochures are available on the MSRB website. The MSRB website also contains information about how to file a complaint with an appropriate regulatory authority.

If there is any aspect of this Engagement Letter that you believe requires further clarification, please do not hesitate to contact us. If the foregoing is consistent with your understanding of our engagement, please sign and return the enclosed copy of this letter.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in us.

Very truly yours,

ROBERT W. BAIRD & CO. INCORPORATED

By: 

Title: Managing Director

Accepted this 7th day of December, 2020

CITY OF CADILLAC

By: _____

Carla J. Filkins

Its: Mayor

December 7, 2020

Council Communication

Re: Easement Regarding Water Transmission Line

In order to accommodate the installation of a new water transmission line (“main”) as it relates to the 44th Street Well Field Project, the City needs the White Pine Village Development to grant an easement.

After discussing the overall project with representatives from White Pine Village, they are willing to grant the City an easement in exchange for the City reimbursing them their costs in preparing the necessary documentation that includes review from Fannie Mae, their lender and legal. The estimated expense for the professional services is between ten to fifteen thousand dollars. Additionally, the White Pine Village Development has requested that a small portion of our property, which is shown on the following map that their sidewalk extends over, be exchanged or vacated as a part of us acquiring the easement.

Due to the requirement for the installation of our water main, and because the granting of the requested property to the White Pine Development may ultimately reduce our liability given the overlap with their sidewalk, it is recommended that the City proceed.

Recommended Action

Authorize the City to reimburse the White Pine Village Development for their costs as estimated for the City to acquire the easement, and proceed with the steps necessary to transfer the desired property to the Development. Funds are available in the Water and Sewer Fund.





WHITE PINE VILLAGE DR

SLINE#0587

WHITE PINE VILLAGE DR

SLINE#0588

WHITE PINE VILLAGE DR

SLINE#0589

SLINE#1431

December 7, 2020

Council Communication

Re: Emergency Repair of a Private sewer main on Granite Street

The homeowner of 339 Granite Street was experiencing some problems with their sewer at this residence. The homeowner contacted the City, and it was initially diagnosed as a problem in the private sewer line. There was evidence that someone may have placed stones down the sewer cleanout access point, and so it was assumed that this was causing the problems in the line. The homeowner contracted Pete's Contracting, Inc. to repair the sewer line.

While Pete's Contracting was excavating the sewer line to determine the cause of the problem, they discovered that a City-owned water line had been directionally bored through the private sewer line sometime in the late 1980s. This line was bored (installed) by the City from the water main to the home at 344 Granite. Because the City had caused the damage in the line, it became the City's responsibility to pay for the repair.

Since this part of Granite Street is still under Michigan Department of Transportation (MDOT) control the repair had to follow MDOT regulations for rerouting traffic and guidelines for the actual repair of the street. These regulations influenced the price of this project immensely. The quote the homeowner had for this work was \$22,500. The repair was completed on November 20, 2020.

December 7, 2020

Council Communication

Re: Resolution to Appoint the City Manager as the City's Emergency Management Coordinator, and a Resolution Declaring a Local State of Emergency

The following Council Communication was prepared by the City Attorney:

Tonight's agenda includes a proposed resolution to appoint the City Manager as the City's Emergency Management Coordinator and a resolution to declare a local state of emergency.

The purpose of these resolutions is to facilitate the continuation of electronic meetings, which is important due to the ongoing risks posed by the COVID-19 pandemic. In-person public meetings are particularly a concern for the City because of the configuration of the City Council's meeting room, which does not easily allow for social distancing.

Under the recent amendments to the Open Meetings Act, PA 267 of 1976, a public body may only hold a meeting electronically after January 1, 2021, if the public body usually holds its meetings in an area affected by a "local state of emergency or state of disaster." MCL 15.263a(1)(b). To declare a local state of emergency, the City must first appoint an emergency management coordinator under the Emergency Management Act, Act 390 of 1976. A copy of Act 390 follows for reference.

Consequently, to hold electronic meetings after January 1, the City must appoint an emergency management coordinator so that it has the authority to declare a local state of emergency, and appointing the City Manager as coordinator is a natural extension of the City Manager's existing duties. Note, this appointment will not divest any department heads of their duties or powers, and will not change the way the City responds to emergencies; the City Manager will continue to coordinate with the Director of Public Safety and others within the City's departments.

Once an emergency management coordinator is appointed, the City may declare a local state of emergency, which will allow for electronic meetings to be held so long as the local state of emergency remains in effect.

Recommended Action

Adopt the resolution appointing the City Manager as the City's Emergency Management Coordinator, and subsequently, adopt the Resolution Declaring a Local State of Emergency through January 31, 2021.

EMERGENCY MANAGEMENT ACT

Act 390 of 1976

AN ACT to provide for planning, mitigation, response, and recovery from natural and human-made disaster within and outside this state; to create the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; and to repeal acts and parts of acts.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2006, Act 267, Imd. Eff. July 7, 2006.

The People of the State of Michigan enact:

30.401 Short title.

Sec. 1. This act shall be known and may be cited as the “emergency management act”.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Michigan Emergency Management Advisory Council from the Department of State Police to the Director of State Police, as head of the Department of State Police, and the abolishment of the Michigan Emergency Management Advisory Council, see E.R.O. No. 1993-15, compiled at MCL 28.702 of the Michigan Compiled Laws.

30.402 Definitions.

Sec. 2. As used in this act:

- (a) “Chief executive official” means:
 - (i) In the case of a county with an elected county executive, the county executive.
 - (ii) In the case of a county without an elected county executive, the chairperson of the county board of commissioners, or the appointed administrator designated by appropriate enabling legislation.
 - (iii) In the case of a city, the mayor or the individual specifically identified in the municipal charter.
 - (iv) In the case of a township, the township supervisor.
 - (v) In the case of a village, the village president or the individual specifically identified in the village charter.
- (b) “Council” means the Michigan emergency management advisory council.
- (c) “Department” means the department of state police.
- (d) “Director” or “state director of emergency management” means the director of the department of state police or his or her designee.
- (e) “Disaster” means an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders.
- (f) “Disaster relief forces” means all agencies of state, county, and municipal government, private and volunteer personnel, public officers and employees, and all other persons or groups of persons having duties or responsibilities under this act or pursuant to a lawful order or directive authorized by this act.
- (g) “District coordinator” means the state police emergency management division district coordinator.
- (h) “Emergency” means any occasion or instance in which the governor determines state assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state.
- (i) “Emergency management coordinator” means a person appointed pursuant to section 9 to coordinate emergency management within the county or municipality. Emergency management coordinator includes a civil defense director, civil defense coordinator, emergency services coordinator, emergency program manager, or other person with a similar title and duties.
- (j) “Local state of emergency” means a proclamation or declaration that activates the response and recovery aspects of any and all applicable local or interjurisdictional emergency operations plans and authorizes the furnishing of aid, assistance, and directives under those plans.
- (k) “Michigan emergency management plan” means the plan prepared and maintained by the emergency management division of the department and signed by the governor.
- (l) “Municipality” means a city, village, or township.

(m) "Person" means an individual, partnership, corporation, association, governmental entity, or any other entity.

(n) "Political subdivision" means a county, municipality, school district, or any other governmental unit, agency, body, board, or commission which is not a state department, board, commission, or agency of state government.

(o) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(p) "State of disaster" means an executive order or proclamation that activates the disaster response and recovery aspects of the state, local, and interjurisdictional emergency operations plans applicable to the counties or municipalities affected.

(q) "State of emergency" means an executive order or proclamation that activates the emergency response and recovery aspects of the state, local, and interjurisdictional emergency operations plans applicable to the counties or municipalities affected.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.403 Responsibility of governor; executive orders, proclamations, and directives; declaration, duration, and termination of state of disaster or state of emergency; contents and dissemination of executive order or proclamation.

Sec. 3. (1) The governor is responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency.

(2) The governor may issue executive orders, proclamations, and directives having the force and effect of law to implement this act. Except as provided in section 7(2), an executive order, proclamation, or directive may be amended or rescinded by the governor.

(3) The governor shall, by executive order or proclamation, declare a state of disaster if he or she finds a disaster has occurred or the threat of a disaster exists. The state of disaster shall continue until the governor finds that the threat or danger has passed, the disaster has been dealt with to the extent that disaster conditions no longer exist, or until the declared state of disaster has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of disaster terminated, unless a request by the governor for an extension of the state of disaster for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the disaster, the area or areas threatened, the conditions causing the disaster, and the conditions permitting the termination of the state of disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(4) The governor shall, by executive order or proclamation, declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists. The state of emergency shall continue until the governor finds that the threat or danger has passed, the emergency has been dealt with to the extent that emergency conditions no longer exist, or until the declared state of emergency has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of emergency terminated, unless a request by the governor for an extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the emergency, the area or areas threatened, the conditions causing the emergency, and the conditions permitting the termination of the state of emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the emergency prevent or impede its prompt filing.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

30.404 Effect of executive order or proclamation of state of disaster or state of emergency; federal assistance; reciprocal aid agreement or compact; appropriation.

Sec. 4. (1) An executive order or proclamation of a state of disaster or a state of emergency shall serve to authorize the deployment and use of any forces to which the plan or plans apply and the use or distribution of supplies, equipment, materials, or facilities assembled or stockpiled pursuant to this act.

(2) Upon declaring a state of disaster or a state of emergency, the governor may seek and accept assistance, either financial or otherwise, from the federal government, pursuant to federal law or regulation.

(3) The governor may, with the approval of the state administrative board, enter into a reciprocal aid agreement or compact with another state, the federal government, or a neighboring state or province of a foreign country. A reciprocal aid agreement shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; the services of the national guard when not mobilized for federal service or state defense force as authorized by the Michigan military act, Act No. 150 of the Public Acts of 1967, as amended, being sections 32.501 to 32.851 of the Michigan Compiled Laws, and subject to federal limitations on the crossing of national boundaries by organized military forces; health, medical, and related services; fire fighting, rescue, transportation, and construction services and equipment; personnel necessary to provide or conduct these services; and other necessary equipment, facilities, and services. A reciprocal aid agreement shall specify terms for the reimbursement of costs and expenses and conditions necessary for activating the agreement. The legislature shall appropriate funds to implement a reciprocal aid agreement.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.405 Additional powers of governor; prohibition; disobeying or interfering with rule, order, or directive as misdemeanor.

Sec. 5. (1) In addition to the general authority granted to the governor by this act, the governor may, upon the declaration of a state of disaster or a state of emergency do 1 or more of the following:

(a) Suspend a regulatory statute, order, or rule prescribing the procedures for conduct of state business, when strict compliance with the statute, order, or rule would prevent, hinder, or delay necessary action in coping with the disaster or emergency. This power does not extend to the suspension of criminal process and procedures.

(b) Utilize the available resources of the state and its political subdivisions, and those of the federal government made available to the state, as are reasonably necessary to cope with the disaster or emergency.

(c) Transfer the direction, personnel, or functions of state departments, agencies, or units thereof for the purpose of performing or facilitating emergency management.

(d) Subject to appropriate compensation, as authorized by the legislature, commandeer or utilize private property necessary to cope with the disaster or emergency.

(e) Direct and compel the evacuation of all or part of the population from a stricken or threatened area within the state if necessary for the preservation of life or other mitigation, response, or recovery activities.

(f) Prescribe routes, modes, and destination of transportation in connection with an evacuation.

(g) Control ingress and egress to and from a stricken or threatened area, removal of persons within the area, and the occupancy of premises within the area.

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles.

(i) Provide for the availability and use of temporary emergency housing.

(j) Direct all other actions which are necessary and appropriate under the circumstances.

(2) Subsection (1) does not authorize the seizure, taking, or confiscation of lawfully possessed firearms or ammunition.

(3) A person who willfully disobeys or interferes with the implementation of a rule, order, or directive issued by the governor pursuant to this section is guilty of a misdemeanor.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2006, Act 545, Imd. Eff. Dec. 29, 2006.

30.406 Obligation of person within state; compensation for services or property; record; claims; exceptions.

Sec. 6. (1) All persons within this state shall conduct themselves and manage their affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to cope with the effects of a disaster or an emergency. This obligation includes appropriate personal service and the use or restriction of the use of property in time of a disaster or an emergency. This act neither increases nor decreases these obligations but recognizes their existence under the state constitution of 1963, the statutes, and the common law. Compensation for services or for the taking or use of property shall be paid only if obligations recognized herein are exceeded in a particular case and only if the claimant has not volunteered his or her services or property without compensation.

(2) Personal services may not be compensated by the state, or a subdivision or agency of the state, except pursuant to statute, local law, or ordinance.

(3) Compensation for property shall be paid only if the property is taken or otherwise used in coping with a disaster or emergency and its use or destruction is ordered by the governor or the director. A record of all

property taken or otherwise used under this act shall be made and promptly transmitted to the office of the governor.

(4) A person claiming compensation for the use, damage, loss, or destruction of property under this act shall file a claim with the emergency management division of the department in the form and manner prescribed by the division.

(5) If a claimant refuses to accept the amount of compensation offered by the state, a claim may be filed in the state court of claims which court shall have exclusive jurisdiction to determine the amount of compensation due the owner.

(6) This section does not apply to or authorize compensation for either of the following:

(a) The destruction or damaging of standing timber or other property to provide a firebreak.

(b) The release of waters or the breach of impoundments to reduce pressure or other danger from actual or threatened flood.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.407 Powers and duties of director.

Sec. 7. (1) The director shall implement the orders and directives of the governor in the event of a disaster or an emergency and shall coordinate all federal, state, county, and municipal disaster prevention, mitigation, relief, and recovery operations within this state. At the specific direction of the governor, the director shall assume complete command of all disaster relief, mitigation, and recovery forces, except the national guard or state defense force, if it appears that this action is absolutely necessary for an effective effort.

(2) If the governor has issued a proclamation, executive order, or directive under section 3 regarding state of disaster or state of emergency declarations, section 5 regarding actions directed by the governor, or section 21 regarding heightened state of alert, the director may, with the concurrence of the governor, amend the proclamation or directive by adding additional counties or municipalities or terminating the orders and restrictions as considered necessary.

(3) The director shall comply with the applicable provisions of the Michigan emergency management plan in the performance of the director's duties under this act.

(4) The director's powers and duties shall include the administration of state and federal disaster relief funds and money; the mobilization and direction of state disaster relief forces; the assignment of general missions to the national guard or state defense force activated for active state duty to assist the disaster relief operations; the receipt, screening, and investigation of requests for assistance from county and municipal governmental entities; making recommendations to the governor; and other appropriate actions within the general authority of the director.

(5) In carrying out the director's responsibilities under this act, the director may plan for and utilize the assistance of any volunteer group or person having a pertinent service to render.

(6) The director may issue a directive relieving the donor or supplier of voluntary or private assistance from liability for other than gross negligence in the performance of the assistance.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002.

30.407a Emergency management division; establishment; purpose; employees; emergency management plan; grants; powers of division; definition.

Sec. 7a. (1) The department shall establish an emergency management division for the purpose of coordinating within this state the emergency management activities of county, municipal, state, and federal governments. The department shall provide the division with professional and support employees as necessary for the performance of its functions.

(2) The division shall prepare and maintain a Michigan emergency management plan that is a comprehensive plan that encompasses mitigation, preparedness, response, and recovery for this state.

(3) The division shall receive available state and federal emergency management and disaster related grants-in-aid and shall administer and apportion the grants according to appropriately established guidelines to the agencies of this state and local political subdivisions.

(4) The division may do 1 or more of the following:

(a) Promulgate rules that establish standards and requirements for the appointment, training, and professional development of emergency management coordinators.

(b) Promulgate rules that establish standards and requirements for local and interjurisdictional emergency management programs.

(c) Periodically review local and interjurisdictional emergency operations plans.

(d) Promulgate rules that establish standards and requirements for emergency training and exercising

programs and public information programs.

(e) Make surveys of industries, resources, and facilities within this state, both public and private, necessary to carry out the purposes of this act.

(f) Prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters and emergencies.

(g) Provide for 1 or more state emergency operations centers to provide for the coordination of emergency response and disaster recovery in this state.

(h) Provide for the coordination and cooperation of state agencies and departments with federal and local government agencies and departments in emergency management activities.

(i) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster mitigation, preparation, response, and recovery.

(j) Propose and administer statewide mutual aid compacts and agreements.

(k) Do other activities necessary, incidental, or appropriate for the implementation of this act.

(5) For purposes of this section, the judicial branch of this state is considered a department of state government.

(6) As used in this section, "division" means the emergency management division of the department.

History: Add. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002.

30.408 Emergency management coordinator; employment or appointment; duties; annexes to emergency management plan; cooperation of state agencies.

Sec. 8. (1) The director of each department of state government, and those agencies of state government required by the Michigan emergency management plan to provide an annex to that plan, shall serve as emergency management coordinator for their respective departments or agencies. Each director may appoint or employ a designated representative as emergency management coordinator, provided that the representative shall act for and at the direction of that director while functioning in the capacity of emergency management coordinator upon the activation of the state emergency operations center, or the declaration of a state of disaster or emergency. Each department or agency emergency management coordinator shall act as liaison between his or her department or agency and the emergency management division of the department in all matters of emergency management, including the activation of the Michigan emergency management plan. Each department or agency of state government specified in the Michigan emergency management plan shall prepare and continuously update an annex to the plan providing for the delivery of emergency management activities by that agency or the department. The annexes shall be in a form prescribed by the director. The emergency management coordinator shall represent the agency or department head in the drafting and updating of the respective agency's or the department's emergency management annex and in coordinating the agency's or department's emergency management efforts with those of the other state agencies as well as with county and municipal governments.

(2) Upon the declaration of a state of disaster or a state of emergency by the governor, each state agency shall cooperate to the fullest possible extent with the director in the performance of the services that it is suited to perform, and as described in the Michigan emergency management plan, in the prevention, mitigation, response to, or recovery from the disaster or emergency. For purposes of this section, the judicial branch of this state is considered a department of state government and the chief justice of the Michigan supreme court is considered the director of that department.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002.

30.409 Emergency management coordinator; appointment; duties; eligibility.

Sec. 9. (1) The county board of commissioners of each county shall appoint an emergency management coordinator. In the absence of an appointed person, the emergency management coordinator shall be the chairperson of the county board of commissioners. The emergency management coordinator shall act for, and at the direction of, the chairperson of the county board of commissioners in the coordination of all matters pertaining to emergency management in the county, including mitigation, preparedness, response, and recovery. In counties with an elected county executive, the county emergency management coordinator may act for and at the direction of the county executive. Pursuant to a resolution adopted by a county, the county boards of commissioners of not more than 3 adjoining counties may agree upon and appoint a coordinator to act for the multicounty area.

(2) A municipality with a population of 25,000 or more shall either appoint a municipal emergency management coordinator or appoint the coordinator of the county as the municipal emergency management coordinator pursuant to subsection (7). In the absence of an appointed person, the emergency management

coordinator shall be the chief executive official of that municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 25,000 or more shall act for and at the direction of the chief executive official of the municipality or the official designated in the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(3) A municipality with a population of 10,000 or more may appoint an emergency management coordinator for the municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 10,000 or more shall act for and at the direction of the chief executive official or the official designated by the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(4) A municipality having a population of less than 10,000 may appoint an emergency management coordinator who shall serve at the direction of the county emergency management coordinator.

(5) A public college or university with a combined average population of faculty, students, and staff of 25,000 or more, including its satellite campuses within this state, shall appoint an emergency management coordinator for the public college or university. Public colleges or universities with a combined average population of faculty, students, and staff of 10,000 or more, including its satellite campuses within this state, may appoint an emergency management coordinator for the public college or university.

(6) A person is not ineligible for appointment as an emergency management coordinator, or as a member of a county or municipal emergency services or emergency management agency or organization, because that person holds another public office or trust, and that person shall not forfeit the right to a public office or trust by reason of his or her appointment as an emergency management coordinator.

(7) A county coordinator may be appointed a municipal coordinator for any municipality within the county and a municipal coordinator may be appointed a county coordinator.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

30.410 Powers of county and municipality; mutual aid or reciprocal aid agreements or compacts; assistance of emergency management coordinator.

Sec. 10. (1) Each county and municipality that has appointed an emergency management coordinator under section 9 may do 1 or more of the following:

(a) Direct and coordinate the development of emergency operations plans and programs in accordance with the policies and plans established by the appropriate federal and state agencies. Each department or agency of a county or municipality specified in the emergency operations plan to provide an annex to the plan shall prepare and continuously update the annex providing for emergency management activities, including mitigation, preparedness, response, and recovery, by the department or agency and those other emergency activities the department or agency is specified to coordinate. Emergency operations plans and programs developed under this subsection shall include provisions for the dissemination of public information and local broadcasters shall be consulted in developing such provisions. Emergency operations plans and programs developed under this subdivision shall include local courts.

(b) Declare a local state of emergency if circumstances within the county or municipality indicate that the occurrence or threat of widespread or severe damage, injury, or loss of life or property from a natural or human-made cause exists and, under a declaration of a local state of emergency, issue directives as to travel restrictions on county or local roads. This power shall be vested in the chief executive official of the county or municipality or the official designated by charter and shall not be continued or renewed for a period in excess of 7 days except with the consent of the governing body of the county or municipality. The declaration of a local state of emergency shall be promptly filed with the emergency management division of the department, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(c) Appropriate and expend funds, make contracts, and obtain and distribute equipment, materials, and supplies for disaster purposes.

(d) Provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster.

(e) Direct and coordinate local multi-agency response to emergencies within the county or municipality.

(f) Appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other disaster workers.

(g) Appoint a local emergency management advisory council.

(h) If a state of disaster or emergency is declared by the governor, assign and make available for duty the employees, property, or equipment of the county or municipality relating to fire fighting; engineering; rescue;

health, medical, and related services; police; transportation; construction; and similar items or service for disaster relief purposes within or without the physical limits of the county or municipality as ordered by the governor or the director.

(i) In the event of a foreign attack upon this state, waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution with or without compensation of supplies, materials, and facilities, and the appropriation and expenditure of public funds.

(2) For the purpose of providing assistance during a disaster or emergency, municipalities and counties may enter into mutual aid or reciprocal aid agreements or compacts with other counties, municipalities, public agencies, federally recognized tribal nations, or private sector agencies, or all of these entities. A compact entered into pursuant to this subsection is limited to the exchange of personnel, equipment, and other resources in times of emergency, disaster, or other serious threats to public health and safety. The arrangements shall be consistent with the Michigan emergency management plan.

(3) The emergency management coordinator may assist in the development or negotiation, or both, of a mutual aid or reciprocal aid agreement or compact made pursuant to section 4(3) and shall carry out the agreement or compact.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002

30.411 Powers and duties of personnel of disaster relief forces; liability for personal injury or property damage; right to benefits or compensation; disaster relief workers; immunity; liability and legal obligation of persons owning or controlling real estate or other premises used for shelter; "gross negligence" defined.

Sec. 11. (1) Personnel of disaster relief forces while on duty are subject to all of the following provisions:

(a) If they are employees of this state, they have the powers, duties, rights, privileges, and immunities of and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of this state, regardless of where serving, they have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment.

(c) If they are not employees of this state or a political subdivision of this state, they are entitled to the same rights and immunities as provided by law for the employees of this state. All personnel of disaster relief forces shall, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(2) This state, any political subdivision of this state, or the employees, agents, or representatives of this state or any political subdivision of this state are not liable for personal injury or property damage sustained by any person appointed or acting as a member of disaster relief forces. This act does not affect the right of a person to receive benefits or compensation to which he or she may otherwise be entitled to under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, any pension law, or any act of congress.

(3) This state or a political subdivision of this state engaged in disaster relief activity is not liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of this state or a political subdivision of this state and nongovernmental disaster relief force workers or private or volunteer personnel engaged in disaster relief activity are immune from tort liability to the extent provided under section 7 of 1964 PA 170, MCL 691.1407. As used in this section, "disaster relief activity" includes training for or responding to an actual, impending, mock, or practice disaster or emergency.

(4) A person licensed to practice medicine or osteopathic medicine and surgery or a licensed hospital, whether licensed in this or another state or by the federal government or a branch of the armed forces of the United States, or an individual listed in subsection (6), who renders services during a state of disaster declared by the governor and at the express or implied request of a state official or agency or county or local coordinator or executive body, is considered an authorized disaster relief worker or facility and is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained. The immunity granted by this subsection does not apply in the event of an act or omission that is willful or gross negligence. If a civil action for malpractice is filed alleging an act or omission that is willful or gross negligence resulting in injuries, the services rendered that resulted in those injuries shall be judged according to the standards required of persons licensed in this state to perform

those services.

(5) An individual listed in subsection (6), during a state of disaster declared by the governor, may practice, in addition to the authority granted by other statutes of this state, the administration of anesthetics; minor surgery; intravenous, subcutaneous, or intramuscular procedure; or oral and topical medication; or a combination of these under the supervision of a member of the medical staff of a licensed hospital of this state, and may assist the staff member in other medical and surgical proceedings.

(6) Subsections (4) and (5) apply to all of the following individuals:

(a) Any of the following, if licensed in this or another state or by the federal government or a branch of the armed forces of the United States:

(i) A registered nurse.

(ii) A practical nurse.

(iii) A nursing student acting under the supervision of a licensed nurse.

(iv) A dentist.

(v) A veterinarian.

(vi) A pharmacist.

(vii) A pharmacist intern acting under the supervision of a licensed pharmacist.

(viii) A paramedic.

(b) A medical resident undergoing training in a licensed hospital in this or another state.

(7) A person owning or controlling real estate or other premises who voluntarily and without compensation grants to this state or a political subdivision of this state a license or privilege, or otherwise permits this state or a political subdivision of this state to inspect, designate, and use the whole or any part or parts of the real estate or other premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster, together with his or her successors in interest, if any, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises under the license, privilege, or permission or for loss or damage to the property of the person.

(8) A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in this section is legally obligated to make known to the licensee any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

(9) As used in this section, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2002, Act 132, Eff. May 1, 2002;—Am. 2005, Act 321, Imd. Eff. Dec. 27, 2005.

Administrative rules: R 30.1 et seq. of the Michigan Administrative Code.

30.411a Disaster or emergency relief assistance provided by state employee; unpaid leave of absence; leave of absence with pay; conditions; limitation.

Sec. 11a. (1) A state employee who is not in the state classified civil service and who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted an unpaid leave of absence from his or her state employment to provide disaster or emergency relief assistance in this state.

(2) A state employee in the state classified civil service who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted a leave of absence from his or her classified employment to provide disaster or emergency relief assistance in this state as authorized by the civil service commission.

(3) In addition to unpaid leave under subsection (1) or (2), an employee of an agency in any branch of state government who is skilled in emergency relief assistance and certified as a disaster services volunteer by the American Red Cross may be granted leave from work with pay for not more than 10 days in any 12-month period to participate in specialized disaster relief services within or outside of this state if all of the following circumstances are present:

(a) The governor or the president of the United States has declared the disaster.

(b) The American Red Cross has requested the services of the employee.

(c) The employee's department head has approved the leave.

(d) If the services are rendered outside the state by an employee in the executive branch, the governor has approved the leave.

(e) If the employee is in the state classified civil service, the civil service commission has approved the leave.

(4) Not more than 50 state employees shall be granted paid leave under subsection (3) during the fiscal year. The governor may increase the limit on the number of state employees who may be granted paid disaster leave during the fiscal year by executive order.

(5) This state shall not penalize or otherwise take adverse employment action against a state employee because the employee takes a leave of absence authorized under this section to provide disaster or emergency relief assistance. However, the state shall recover payment for paid disaster leave from an employee who is granted paid leave under subsection (3) if the employee does not use the leave time for the approved purpose.

History: Add. 2006, Act 267, Imd. Eff. July 7, 2006.

30.412 Disaster or emergency occurring in county or municipality; procedure; ordinances or rules.

Sec. 12. (1) If a disaster or an emergency occurs in a county or municipality and is beyond the control of local public or private agencies, the chief executive official of the county or municipality may request the governor to declare that a state of disaster or state of emergency exists in the county or municipality, utilizing the procedure set forth in section 14. The director may order the disaster relief forces of a county or municipality to aid the community. The chief executive official of the municipality or the governing body of the county shall comply with the order of the director and cooperate with the director in matters of emergency management.

(2) A county, municipality, or other agency designated or appointed by the governor may make, amend, and rescind ordinances or rules necessary for emergency management purposes and supplementary to a rule, order, or directive issued by the governor or a state agency exercising a power delegated to it by the governor. The ordinance or rule shall be temporary and, upon the governor's declaration that a state of disaster or state of emergency is terminated, shall no longer be in effect.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.413 Repealed. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

Compiler's note: The repealed section pertained to foreign attack on state.

30.414 Assessment of disaster or emergency; findings and recommendations; notice; temporary assistance; action by governor.

Sec. 14. (1) In the event a disaster or emergency occurs that has not yet been declared to be a state of disaster or a state of emergency by the governor, and the disaster or emergency is considered by the chief executive official of the municipality or the governing body or the county in which it occurs to be beyond the control of the county or municipality, the emergency management coordinator shall immediately contact the district coordinator. The chief executive official of a county shall not request state assistance or a declaration of a state of disaster or a state of emergency for an emergency which has occurred or is occurring solely within the confines of a township, city, or village within the county unless requested to do so by the chief executive official of the affected township, city, or village. The district coordinator, in conjunction with the county or municipal coordinator, shall assess the nature and scope of the disaster or emergency, and they shall recommend the personnel, services, and equipment that will be required for its prevention, mitigation, or relief.

(2) Upon completing the assessment, the district coordinator shall forthwith notify the director of the findings and recommendations. The director shall immediately notify the governor. If the director determines that immediate action is essential to the preservation of life and property, the director may initiate temporary assistance to the affected area as necessary and compatible with the policies and procedures of the Michigan emergency management plan.

(3) The director shall advise the governor of the magnitude of the disaster or emergency. The governor may take the necessary action he or she considers appropriate to mitigate the disaster or emergency. This act shall not be construed to restrain the governor from exercising on his own initiative any of the powers set forth in this act.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.415 Repealed. 2002, Act 132, Eff. May 1, 2002.

Compiler's note: The repealed section pertained to Michigan emergency management advisory council.

30.416 Declaration of emergency or major disaster by president; federal grants; agreement pledging state's share.

Sec. 16. After the president of the United States declares an emergency or a major disaster, as defined in

the disaster relief act of 1974, Public Law 93-288, 88 Stat. 143, to exist in this state, the governor may apply for, accept, and disburse grants from the federal government pursuant to the disaster relief act of 1974. To implement and administer the grant program and to make financial grants, the governor may enter into an agreement with the federal government or any officer, or agency of the federal government, pledging the state's share for the financial grants.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.417 Construction of act.

Sec. 17. This act shall not be construed to do any of the following:

(a) Interfere with the course or conduct of a labor dispute. However, actions otherwise authorized by this act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.

(b) Interfere with the dissemination of news or comment on public affairs. However, any communications facility or organization, including radio and television stations, wire services, and newspapers, may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster or emergency.

(c) Affect the jurisdiction or responsibilities of law enforcement agencies, fire fighting forces, and units or personnel of the armed forces of the United States when on active duty. However, state, local, and interjurisdictional emergency operations plans shall place reliance upon the forces available for performance of functions related to disasters or emergencies.

(d) Limit, modify, or abridge the authority of the governor to proclaim a state of emergency pursuant to Act No. 302 of the Public Acts of 1945, being sections 10.31 to 10.33 of the Michigan Compiled Laws, or exercise any other powers vested in him or her under the state constitution of 1963, statutes, or common law of this state independent of, or in conjunction with, this act.

(e) Relieve any state or local official, department head, or agency of its normal responsibilities.

(f) Limit or abridge the power, duty, or responsibility of the chief executive official of a county or municipality to act in the event of a disaster or emergency except as expressly set forth in this act.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990.

30.418 Disaster and emergency contingency fund; creation; administration; accounting; appropriation; carrying forward unexpended and unencumbered funds; expenditures; reimbursement; declaration; investment.

Sec. 18. (1) A disaster and emergency contingency fund is created and shall be administered by the director. An annual accounting of expenditures under this act shall be made to the legislature and the legislature shall annually appropriate sufficient funds to maintain the fund at a level not to exceed \$10,000,000.00 and not less than \$2,500,000.00. Unexpended and unencumbered funds remaining in the disaster and emergency contingency fund at the end of the fiscal year shall not lapse to the general fund and shall be carried forward and be available for expenditure in subsequent fiscal years.

(2) The director may expend money from the disaster and emergency contingency fund upon appropriation for the purpose of paying necessary and reasonable overtime, travel, and subsistence expenses incurred by an employee of an agency of this state acting at the direction of the director in a disaster or emergency related operation, and, with the concurrence of the governor or the governor's designated representative, for other needs required for the mitigation of the effects of, or in response to, a disaster or emergency.

(3) The director may place directly in the disaster and emergency contingency fund a reimbursement for expenditures out of the fund received from the federal government, or another source.

(4) If a state of major disaster or emergency is declared by the President of the United States, and when authorized by the governor, an expenditure from the fund may be made by the director upon appropriation to pay the state's matching share of grants as provided by the disaster relief act of 1974, Public Law 93-288, 88 Stat 143.

(5) The state treasurer shall direct the investment of the disaster and emergency contingency fund. The state treasurer shall credit to the disaster and emergency contingency fund interest and earnings from fund investments.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2013, Act 109, Imd. Eff. Sept. 24, 2013;—Am. 2016, Act 220, Imd. Eff. June 23, 2016;—Am. 2018, Act 263, Imd. Eff. June 28, 2018.

30.419 Disaster and emergency contingency fund; expenditures when federal assistance unavailable; application for grant; resolution; rules.

Sec. 19. (1) Under extraordinary circumstances, upon the declaration of a state of disaster or a state of

emergency by the governor and subject to the requirements of this subsection, the governor may authorize an expenditure from the disaster and emergency contingency fund to provide state assistance to counties and municipalities when federal assistance is not available. If the governor proclaims a state of disaster or a state of emergency, the first recourse for disaster related expenses shall be to funds of the county or municipality. If the demands placed upon the funds of a county or municipality in coping with a particular disaster or emergency are unreasonably great, the governing body of the county or municipality may apply, by resolution of the local governing body, for a grant from the disaster and emergency contingency fund. The resolution shall certify that the affected county or municipality emergency operations plan was implemented in a timely manner. The resolution shall set forth the purpose for which the assistance is sought, the extent of damages sustained, and certify an exhaustion of local efforts. The assistance under this subsection is to provide grants, excluding reimbursement for capital outlay expenditures, in mitigation of the extraordinary burden of a county or municipality in relation to its available resources. Assistance grants under this section shall not exceed the following amounts or 10% of the total annual operating budget for the preceding fiscal year of the county or municipality, whichever is less:

(a) For a county or municipality with a population under 25,000 according to the most recent federal decennial census, \$250,000.00.

(b) For a county or municipality with a population of 25,000 or more and less than 75,000 according to the most recent federal decennial census, \$500,000.00.

(c) For a county or municipality with a population of 75,000 or more according to the most recent federal decennial census, \$1,000,000.00.

(2) The director shall promulgate rules governing the application and eligibility for the use of the state disaster and emergency contingency fund. Rules that have been promulgated prior to December 31, 1988 to implement this section shall remain in effect until revised or replaced. The rules shall include, but not be limited to, all of the following:

(a) Demonstration of exhaustion of local effort.

(b) Evidence that the applicant is a county that actively maintains an emergency management program, reviewed by and determined to be current and adequate by the emergency management division of the department, before the disaster or emergency for which assistance is being requested occurs. If the applicant is a municipality with a population of 10,000 or more, evidence that the municipality either maintains a separate emergency management program, reviewed by and determined to be current and adequate by the emergency management division of the department, before the disaster or emergency for which assistance is being requested or occurs, or the municipality is incorporated in the county emergency management program.

(c) Evidence that the applicable county or municipal emergency operations plan was implemented in a timely manner at the beginning of the disaster or emergency.

(d) Reimbursement for expenditures shall be limited to public damage and direct loss as a result of the disaster or emergency, or expenses incurred by the applicant for reimbursing employees for disaster or emergency related activities which were not performed as a part of their normal duties, or for other needs required specifically for the mitigation of the effects, or in response to the disaster or emergency.

(e) A disaster assessment team established by the emergency management division of the department has substantiated the damages claimed by the applicant. Damage estimates submitted by the applicant shall be based upon a disaster assessment carried out by the applicant according to standard procedures recommended by the emergency management division.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976;—Am. 1990, Act 50, Imd. Eff. Apr. 6, 1990;—Am. 2013, Act 110, Imd. Eff. Sept. 24, 2013;—Am. 2018, Act 264, Imd. Eff. June 28, 2018.

Administrative rules: R 30.1 et seq. of the Michigan Administrative Code.

30.420 Repeal of MCL 30.221 to 30.233.

Sec. 20. Act No. 154 of the Public Acts of 1953, as amended, being sections 30.221 to 30.233 of the Compiled Laws of 1970, and Act No. 14 of the Public Acts of 1973, are repealed.

History: 1976, Act 390, Imd. Eff. Dec. 30, 1976.

30.421 Heightened state of alert; cause; powers of governor; violation as misdemeanor; penalty; civil action; definitions.

Sec. 21. (1) If good cause exists to believe that terrorists or members of a terrorist organization are within this state or that acts of terrorism may be committed in this state or against a vital resource, the governor may by executive order or proclamation declare a heightened state of alert and subsequently exercise the authority provided in section 3(2) and section 5(1)(b), (c), (e), (f), (g), (h), (i), and (j) in an effort to safeguard the interests of this state or a vital resource, to prevent or respond to acts of terrorism, or to facilitate the

apprehension of terrorists or members of a terrorist organization and those acting in concert with them. However, in exercising the authority under section 5(1)(h), the governor shall not suspend or limit the sale, dispensing, or transportation of alcoholic beverages under this section. Within 7 days after declaring a heightened state of alert, the governor shall notify the majority leader and minority leader of the senate and the speaker and minority leader of the house of representatives of the declaration. The governor may utilize the services, facilities, and resources available under this act under a declared state of disaster or emergency. The exercise of those powers shall be consistent with the provisions of the state constitution of 1963 and the federal constitution and may continue until the heightened state of alert is no longer in effect. The heightened state of alert shall continue until the governor finds that the threat or danger has passed, the heightened state of alert has been dealt with to the extent that the heightened state of alert conditions no longer exist, or until the heightened state of alert has been in effect for 60 days. After 60 days, the governor shall terminate the heightened state of alert, unless a request by the governor for an extension of the heightened state of alert for a specific number of days is approved by resolution of both houses of the legislature.

(2) A person shall not willfully disobey or interfere with the implementation of a rule, order, or directive issued by the governor under this section. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both. Notwithstanding any provision in this section, a prosecuting agency shall not prosecute any person or seize any property for conduct presumptively protected by the first amendment to the constitution of the United States in a manner that violates any constitutional provision.

(3) The attorney general or a prosecuting attorney may bring a civil action for damages or equitable relief to enforce the provisions of this act and the orders, rules, or regulations made in conformity with this act.

(4) As used in this section:

(a) "Act of terrorism" and "terrorist" mean those terms as defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(b) "Terrorist organization" means that term as defined in section 543c of the Michigan penal code, 1931 PA 328, MCL 750.543c.

(c) "Vital resource" means a public or private building, facility, property, function, or location, the protection of which is considered necessary to the public health, safety, and welfare and which the governor has designated, in writing, as a vital resource of this state.

History: Add. 2002, Act 132, Eff. May 1, 2002.

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755



Mayor
Carla J. Filkins

Mayor Pro-Tem
Tiyi Schippers

Councilmembers
Robert J. Engels
Stephen King
Bryan Elenbaas

RESOLUTION NO. 2020-_____

**RESOLUTION TO APPOINT CITY MANAGER AS EMERGENCY MANAGEMENT
COORDINATOR**

At a meeting of the City Council of the City of Cadillac, Wexford County, Michigan, held electronically on the 7th day of December, 2020, at 6:00 p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution was offered by _____ and
seconded by _____ .

WHEREAS, Michigan is continuing to experience illnesses and deaths due to the
COVID-19 pandemic; and

WHEREAS, in Wexford County as of December 1, 2020, state officials have
confirmed 649 cases of COVID-19, 30 suspected cases of COVID-19, and 15 deaths related
to COVID-19; and

WHEREAS, pursuant to Section 9 of the Emergency Management Act, Act 390 of
1976, the City is authorized to appoint an emergency management coordinator to
coordinate all matters pertaining to emergency management, disaster preparedness, and
recovery assistance within the City; and

WHEREAS, the City wishes to appoint an emergency management coordinator to coordinate any necessary City response to the COVID-19 pandemic and to exercise any other emergency management, disaster preparedness, and recover assistance powers conferred by applicable law.

NOW, THEREFORE, the City Council of the City of Cadillac, Wexford County, Michigan, resolves as follows:

1. The City appoints the City Manager to serve as the Emergency Management Coordinator for the City in accordance with the Emergency Management Act.
2. As Emergency Management Coordinator, the City Manager is vested with all authority conferred by the Emergency Management Act and may exercise such authority without further approval.
3. The City Manager's appointment in this role will continue perpetually until it is rescinded by a resolution approved by City Council.
4. Any and all resolutions that are in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

YEAS: _____

NAYS: _____

STATE OF MICHIGAN)
)
COUNTY OF WEXFORD)

I, Sandra Wasson, City Clerk of the City of Cadillac, hereby certify this to be a true and complete copy of Resolution No. 2020-____, duly adopted at a meeting of the City Council held on the 7th day of December, 2020.

Sandra Wasson
Cadillac City Clerk

City Council

200 North Lake Street
Cadillac, Michigan 49601
Phone (231) 775-0181
Fax (231) 775-8755



Mayor
Carla J. Filkins

Mayor Pro-Tem
Tiyi Schippers

Councilmembers
Robert J. Engels
Stephen King
Bryan Elenbaas

RESOLUTION NO. 2020-_____

**RESOLUTION DECLARING LOCAL STATE OF EMERGENCY
DUE TO COVID-19 PANDEMIC**

At a meeting of the City Council of the City of Cadillac, Wexford County, Michigan, held electronically on the 7th day of December, 2020, at 6:00 p.m.

PRESENT: _____

ABSENT: _____

The following preamble and resolution was offered by _____ and
seconded by _____ .

WHEREAS, Michigan is continuing to experience illnesses and deaths due to the
COVID-19 pandemic; and

WHEREAS, in Wexford County as of December 1, 2020, state officials have
confirmed 649 cases of COVID-19, 30 suspected cases of COVID-19, and 15 deaths related
to COVID-19; and

WHEREAS, pursuant to Section 10 of the Emergency Management Act, Act 390 of
1976, a municipality that has appointed an emergency management coordinator may
declare a local state of emergency if circumstances within the municipality indicate that the
occurrence or threat of widespread or severe damage, injury, or loss of life or property
from a natural or human-made cause exists; and

WHEREAS, the City has appointed the City Manager as the City's Emergency Management Coordinator; and

WHEREAS, the City finds that it is in the best interest of the public health, safety, and welfare to declare a local state of emergency.

NOW, THEREFORE, the City Council of the City of Cadillac, Wexford County, Michigan, resolves as follows:

1. Pursuant to Section 10 of the Emergency Management Act, MCL 30.410, the City Council declares that a local state of emergency exists in the City due to the COVID-19 pandemic.

2. This declaration of local state of emergency will remain in effect until 11:59 P.M. on January 31, 2021, unless it is terminated sooner by resolution of the City Council.

3. Any and all resolutions that are in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

YEAS: _____

NAYS: _____

STATE OF MICHIGAN)
)
COUNTY OF WEXFORD)

I, Sandra Wasson, City Clerk of the City of Cadillac, hereby certify this to be a true and complete copy of Resolution No. 2020-____, duly adopted at a meeting of the City Council held on the 7th day of December, 2020.

Sandra Wasson
Cadillac City Clerk



**MEETING MINUTES
Cadillac Zoning Board of Appeals
5:30 P.M.**

October 15, 2020 Virtual Meeting on GoToMeeting.com

CONVENE MEETING

Chairperson Nichols called to order a meeting of the Cadillac Zoning Board of Appeals at 5:30 p.m. on October 15, 2020.

ROLL CALL

MEMBERS PRESENT: Nichols, Ault, Knight, Paveglio, and Bontrager

MEMBER ABSENT: Genzink & Walkley

STAFF PRESENT: Coy, Zoning Administrator

Applicant's Judith and David Porter participated remotely as did their neighbor John Saari.

APPROVAL OF MEETING AGENDA

Motion by Knight to approve the October 15, 2020 agenda. Support by Paveglio. The motion was unanimously approved on a roll call vote.

APPROVE THE AUGUST 20, 2020 MEETING MINUTES

Motion by Knight to approve the August 20, 2020 meeting minutes as presented. Support by Ault. The motion was unanimously approved on a roll call vote.

Nichols turned the meeting over to Coy. Coy used a power point presentation while describing the Variance Application.

PUBLIC HEARINGS

A variance application from David and Judith Porter who live at 211 Iroquois Place asking that the administrative decision by Mr. Coy to not allow them to construct an accessory structure on the lot they own at 208 Iroquois Place be overturned by the Zoning Board of Appeals.

Coy mentioned the letters dated June 16th, June 30th, and July 16th that Mr. Porter sent to his office. These letters were included in the meeting packets the Zoning Board of Appeals received. He said that there is now a fourth letter he received via email at 5:07 pm today (23 minutes before this meeting started) from Mr. Porter. Mr. Porter left a voice message on Coy's office phone at 4:47 pm telling him he would like this fourth letter given to the ZBA to read.

Coy said that the request from the Porter's to construct a 1,280 square foot structure on a vacant lot in a residential zoned district is not unique in that our office often receive inquiries from people who ask about vacant lots. A common question is can we build a pole barn or accessory building on the vacant lot if we purchase it? We first check the zoning and if the lot is in a residential zoned district the answer is no. If the lot is in a commercial district such as light-industrial, then the

answer is yes. The Porter's home at 211 Iroquois Place and the vacant lot at 208 Iroquois Place are both in a R-3 one-family residential zoned district. My decision to deny their request to build the accessory structure on the vacant lot was based on Sections 46-656(2) and Section 46-69(2) from the zoning ordinance. I do not feel there is an exceptional practical difficulty or hardship for the Porter's because they can right now build up to an 855 square foot accessory structure in the rear yard of their home and not need a variance. Coy added he believes a wood shop may also be disruptive to neighbors because of noise. Coy then read the first sentence from the Zoning Ordinance in Section 46-162(a) which reads, "The R-1 through R-4 one-family residential districts are designed to be the most protective of the residential districts."

The standard in Section 46-656(2) from the City Code of Ordinances reads, "Buildings accessory to a residential building shall not be erected in any required yard, except a rear yard."

The standard in Section 46-69(2) from the City Code of Ordinances reads, "To authorize, upon an appeal, a variance from the strict application of the provisions of this chapter where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this chapter or by reason of exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon the owner of such property, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter."

PUBLIC NOTICES

Coy said that notification of the public hearing on this application was published in the local newspaper and sent via first-class mail to all property owners and residents within 300 feet of the subject site not less than 15 prior to the meeting. One neighbor contacted his office with a general question and did not express an opinion either for or against the project.

Coy concluded his presentation with "based on a finding of compliance or non-compliance with the standards of the ordinance, the Board shall approve, approve with conditions, or deny the variance application." Reasonable conditions may be attached to an approval in-order to achieve compliance with the standards of the ordinance.

Nichols opened the meeting to public comments.

Knight asked who owned the shaded portion (vacated ROW) on the aerial GIS. Coy answered the Porters. Knight also asked who owned the property east of the vacant lot. Coy answered it is not the Porters and the lot east of the Porters is for sale.

Mr Saari spoke and talked about the definition of a Zoning Lot. He feels that the vacant lot across from the Porter's home is a part of their front yard. He added that a Zoning Lot can be an odd shape and feels the Porter's should be able to build on the lot as long as the 18 foot front yard setback is met. Coy mentioned that the Porter's have adequate room to build an accessory structure behind their home in the rear yard. Saari added that an accessory structure can be in any required yard. Coy said he feels its common sense that a person's rear yard is in the area behind their home. Coy added that the R-1 through R-4 residential districts are the most protective of all the districts.

Mr. Porter spoke and asked for his letter sent to the ZBA (at 5:07 pm today) be brought up on the screen. He specifically wanted to talk about the definition of “*Zoning/Lot*”. Coy said he looks at lots at the end of Iroquois as he would a cul-de-sac. Porter asked Coy to read the definition of a Zoning Lot. Coy did and said he doesn’t see what it has to do with an accessory structure in a residential district. Coy again mentioned that the residential districts are to be the most protected.

Mrs. Porter spoke and said there are six to seven properties in their area that have accessory structures not in the rear yard. She added that she believes their neighbors could build a structure on the lot at 208 Iroquois Place if they purchased it and feels this makes it an exceptional condition.

Saari spoke and said he feels Coy’s interpretation is wrong. He added a structure can be built in any required yard and the Porter’s property should be treated as one lot.

There being no other public comments or questions from this Board of Appeals.

A motion was made by Knight to deny the Porter’s application requesting they overturn the Zoning Administrators decision. Knight added that he does not want this board to set a precedent that could negatively affect the future this neighborhood. Support from Ault. On roll call vote all five attending members of the Zoning Board of Appeals voted unanimously to up-hold the Zoning Administrator’s ruling.

Nichols spoke and let the Porter’s know that appeals to a Zoning Board of Appeals decision are to be taken to Circuit Court.

BOARD MEMBER COMMENTS –None

ADJOURN

Chairperson Nichols adjourned the meeting at 6:09 pm.



Cadillac Planning Commission
October 26, 2020 Meeting Minutes

Call to Order

Chairman Putvin called the meeting to order at 6:03 PM

Roll Call

Members Present: Filkins, Gregg, Baumann, Putvin, Bosscher, Schultz

Staff Present: Wallace, Coy, Pluger

Also Present: Ruth Ann French, Dean Vivian, Rich Videan (Beneteau), Brent Burch (Beneteau), Nick Piedmonte (Fresh Coast), Dusty Christensen (Fresh Coast), John Kolarevic (Fresh Coast), Eric Piedmonte (Fresh Coast), John Abbo (Lume), Chris Enright(Lume)

Approval of Agenda for September 28, 2020

- Motion by Baumann, supported by Filkins. Approved unanimously

Public Comments – None

Approval of July 27, 2020 Meeting Minutes

- Motion by Filkins. Supported by Baumann. Approved unanimously.
- Motion to Approve the change in Agenda to move New Business before the Public Hearings as requested by Mike Coy.
- Motion by Putvin. Supported by Filkins. Supported unanimously.

New Business

- A property line adjustment from Groupe Beneteau
 - o Coy: To make this location in conformity we need to vote for the lot changes. The adjustments create conforming size lots. Normally city staff would approve however, needs to be approved by PC per the industrial park bylaws.
 - o MOTION: Motion to approve the recommended lot changes as outlined by Coy
 - Motion by Baumann
 - Supported by Filkins
 - Approved by unanimous vote

Public Hearings – Opened by Chairman Putvin

- An application submitted by Fresh Coast Provisioning, LLC of ECEK Holding LLC requesting a special land use permit to operate an Adult-use marihuana establishment on property in the City located at 115 North Mitchell Street, Cadillac, MI
 - o A brief description of the location and the recreational type of marijuana sales was given by Wallace. Included power point with pictures and description of the B-2 zoning. Wallace recommended approving the special use with the requirements of approval by the city of the rear handicapped ramp that encroaches into Elk Avenue and the City granting an encroachment license for the ramp.

- Comments from Nick Piedmonte from Fresh Coast: Piedmonte gave brief description of their locations and business.
- Christensen gave update on the site plan for the project. Explained they have followed City regulations and zoning ordinances. Explained they will make everything handicap accessible, with façade updates.
- Kolarevic: Owner of the building, gave an update on building changes per the plans submitted.
 - Putvin questioned if the front of the business would be empty. Kolarevic stated that a business would be applying to move in.
- Bosscher question what exactly the vote was for, the approval of the entrance location? Wallace explained this vote would be to approve the special use to use the building, but the Planning Commission can put continuances on it. Coy commented that if the ramp extends into right-of-way for pedestrians then City Council would need to approve it.
- Christensen – commented that the handicap plans would encroach onto City property. Plan is for it to extend 5 feet off back of the property. Only extends as far as the fire exit adjacent to it.
 - Putvin – questioned if this would impact plowing. Christensen assured it should not, as it is the same as the other objects and that the grading is such that would not affect the plows. Wallace confirmed that the City Street Supervisor Payne consulted and agreed this should not impact if built correctly.
- PUBLIC HEARING FRESH COAST:
 - None.
- MOTION—Motion to approve the special use permit with the continuances set for by the City of Cadillac Staff.
 - Motion by Baumann
 - Supported by Gregg
 - Approved by unanimous vote

B. An application submitted by Christopher Enright of Visio Clara LLC requesting a special land use permit to operate an Adult-use marihuana establishment on property in the City located at 1250 South Mitchell Street, Cadillac, MI 49601

- A brief description/power point was presented by John Wallace. Explanation was given that this will be a site built from the ground up. This is recreational “adult use” location. Explanation was given that easements will be given so that there will not be excessive curb cuts on the road, the site will be cleaned up and have new pavement. Explained that the City Administrative Site Plan Review did approve with specific issues detailed below.
- Wallace recommends supporting this Special Land Use with noted changes and recommendations by the City of Cadillac and the Engineer.
 - Relocation bicycle rack to a location near the primary entrance
 - Submittal and approval of a lighting plan by City
 - Provide access easements to Sharp Dressed Properties LLC so that he has legal access to his retained parking bay at the northeast part of the site and remaining property to the west of the site.
 - Resolve the issue of a portion of the building being over a vacated alley
 - Remove all materials and signs on the property being retained by Sharp Dressed Properties LLC
 - Compliance with all of the city Engineer’s recommendations

- Final review and approval of all public utility plans by the city's Utility Department.
- QUESTION:
 - Putvin – How many feet over the alley is the building?
 1. Discussion followed about shrinking building as needed by moving building forward or making the back of the building smaller.
- Enright – description of Lume company in Michigan and the Midwest. Explained that all products are packages and delivered from Evart and are completely sealed with security on staff.
 - QUESTIONS:
 1. Shutlz – abstaining from voting because he works for the Evart location
- PUBLIC HEARING LUME:
 - Dean Vivian – Concerns about retaining wall on north side of the property.
 1. Enright – intentions is to replace that wall so that it won't cave in. The entire side of the property will receive an overhaul. Discussion about where the retaining wall will go. Coy shared that the retaining wall should be under ownership of current owner and is not up to Lume to change.
 2. Wallace explained that only part of the property will belong to Lume. Vivian requested more information about the retaining wall.
 - Dean Vivian – questioned if the stairwell that leads up to the property will be addressed?
 1. Enright – there will be grading. However, there will be no accommodation to enter the parking from the residential properties. There will be stairs leading to the commercial property to the north.
 2. Coy – if stairwell is on somebody else's property then they will be spoken to before construction takes place.
 3. Enright stated they are willing to remove the stairs from French's property if she wishes to give them permission to do that for her.
 - Dean Vivian – Discussion about the alleyway that runs through the property. The alley runs from Robertson through to Marble. Dean and the neighbors were invited to City Hall to view all diagrams as they were calling by phone and could not see the plans on the power point.
- CLOSE PUBLIC HEARING
- MOTION: Motion to approve Lume's Special Land Use per the recommendations made by John Wallace and the City Engineer
 - Motion by Baumann
 - Supported by Gregg
 - Approved with one opposition - Per conversation in minutes, Schultz abstained from vote

Old Business – None

Board Members Comments – None

Communications – None

Public Comments – None

Other Business – None

Adjourn

- Adjourned at 7:32 PM.