

5:30 p.m. City Council Committee of the Whole.

7:30 p.m. Call to Order.

Invocation: Pastor Paul Naumann of St. Michael Lutheran Church.

Pledge of Allegiance.

Roll Call.

Proclamations:

A. Approval of City Council Meeting Minutes.

1. Regular Meeting Minutes of December 5, 2017.
2. Special Meeting Minutes of December 12, 2017.
3. Pre-Council Meeting Minutes of December 18, 2017.

* B. Approval of Consent Agenda Motions.

* C. Accounts Payable Register:

1. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of December 19, 2017 as presented.

D. Public Hearings:

E. Petitions and Statements of Citizens:

F. Reports from the Administration:

* 1. Communication from the City Manager recommending that City Council adopt the:

1. proposed 2018 Freedom of Information Act Fees;
2. proposed 2018 Recreation and Park Facility Fees; and
3. 2018 Special Assessment Rate Resolution.

* 2. Communication from the City Manager recommending that City Council adopt the revised Rules of Order and Procedure.

* 3. Communication from the City Manager recommending that City Council adopt the Resolution waiving penalty fees for failure to file a Property Transfer Affidavit.

4. Communication from the City Manager recommending that City Council accept the donation of real property at 5223 Woodmont Drive and authorize the City Manager to execute all documents associated with the transaction.

* 5. Communication from the City Manager recommending that City Council approve the Second Amendment to the Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority (KCCDA) and authorize the City Manager to sign the amendment on behalf of the city.

* 6. Communication from the City Manager regarding the Portage Creek at 1983 Katie Court - Information Only.

* 7. Communication from the City Manager regarding the November Environmental Report - Information Only.

G. Communications:

1. Annual presentation by the Environmental Board.

* 2. Letter from Mr. Bill Walkowiak, 3530 Wedgwood Drive, regarding Open Carry gun laws and the holding of a public forum to discuss the topic.

- * a. Communication from the City Manager recommending that City Council refer the communication from Bill Walkowiak to the City Administration for further review and response.

H. Unfinished Business:

* I. Minutes of Boards and Commissions Meetings:

1. Historic District Commission Regular Meeting and Historic District Study Committee Meeting of November 1, 2017.
2. Human Services Board of November 2, 2017.
3. Planning Commission of November 2, 2017.
4. Youth Advisory Committee of November 6, 2017.
5. Zoning Board of Appeals of November 13, 2017.

J. Council Committee Reports:

K. New Business:

L. Bid Tabulations:

- * 1. Communication from the City Manager recommending that City Council award a three-year contract to the low bidder, Carleton Equipment Company, for the rental of four front-end loaders for use during the Leaf Pickup Program in the annual amount of \$20,000 for Fiscal Years 2018-2019, 2019-2020 and 2020-2021, with the option for up to three additional one-year renewals and authorize the City Manager to execute all documents related to this action on behalf of the city.

M. Other City Matters:

1. Statements of Citizens.
2. From City Council and City Manager.

* 3. Reminder of Meetings:

- a. Thursday, December 21, 7:00 p.m., Planning Commission, Council Chambers.
- b. Wednesday, January 3, 8:15 a.m., Historic District Commission, City Hall Room No. 2.
- c. Wednesday, January 3, 6:30 p.m., Park Board, DPS Building.
- d. Thursday, January 4, 6:30 p.m., Human Services Board, City Hall Room No. 1.
- e. Thursday, January 4, 7:00 p.m., Planning Commission, Council Chambers.
- f. Monday, January 8, 7:00 p.m., Zoning Board of Appeals, Council Chambers.
- g. Tuesday, January 9, 5:15 p.m., Board and Commission Interview Session, City Hall Room No. 1.

* N. Materials Transmitted.

1. Materials Transmitted of December 4, 5, and 8, 2017.
2. Department Monthly Reports

Adjournment.

CITY COUNCIL MEETING MINUTES OF DECEMBER 5, 2017

The Regular Meeting was called to order by Mayor Randall at 7:30 p.m.

At the request of Mayor Randall, Councilmember Terry Urban gave the invocation in which he emphasized a common thread throughout various religions which is, he stated, to do unto others as you would have them do to you. Mr. Urban encouraged respect for each other and to reach out to others not just during the holiday season. Mayor Randall invited Boy Scouts from Troop 244 and their Pack Leader, Terry Clare, to lead City Council and the audience in reciting the Pledge of Allegiance.

At the request of Mayor Randall, the City Clerk called the roll with the following members present: Councilmembers Chris Burns, Lori Knapp, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Patricia Randall. Councilmember Richard Ford was absent with excuse. Also in attendance were City Manager Larry Shaffer, City Attorney Randy Brown and City Clerk Adam Herringa.

APPROVAL OF MINUTES: Motion by Reid, seconded by Burns, to approve the Regular Meeting Minutes of November 21, 2017, as presented. Upon a voice vote, motion carried 6 to 0.

Motion by Knapp, seconded by Reid, to approve the Committee of the Whole Meeting Minutes of November 30, 2017, as presented. Upon a voice vote, motion carried 6 to 0.

Motion by Pearson, seconded by Burns, to approve the Pre-Council Meeting Minutes of December 4, 2017, as presented. Upon a voice vote, motion carried 3 to 0 with Councilmembers Burns, Urban and Reid abstaining.

* **CONSENT AGENDA:** Mayor Randall asked Mayor Pro Tem Pearson to read the Consent Agenda. Councilmember Urban asked that Item F.6, Committee of the Whole Work Session, be removed from the Consent Agenda. Motion by Pearson, seconded by Reid, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF DECEMBER 5, 2017:** Motion by Pearson, seconded by Reid, to approve the Accounts Payable Register of December 5, 2017. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS:

Ms. Ashley Bergeon, 219 West Cass Street, Schoolcraft, introduced herself and shared that she is the coordinator of the Kalamazoo County Substance Abuse Task Force (Task Force). Ms. Bergeon stated that last winter the Task Force released their biannual substance use Community Report. She highlighted youth substance use trends in the community and introduced two youth members, Skylar Huber who attends Comstock High School and Paige Berry who attends Portage Central High School. Mr. Huber and Ms. Berry shared statistics related to use and perceptions of marihuana safety in Kalamazoo County. Mr. Huber and Ms. Berry then shared statistics related to youth use of marihuana in Colorado and other states that have legalized medical marihuana. Ms. Bergeon closed by stating that one of the goals of the Task Force is to educate about the possible impacts and unintended consequences of legalized marihuana and medical marihuana facilities in communities.

Mr. Bob Peterson, 716 Grand Marais Avenue, spoke regarding Senate Bill 585 which amends provisions of the handgun licensure law regarding the prohibition against carrying a concealed pistol on certain premises and exemptions to the prohibition. Mr. Peterson asked City Council to include a discussion on the topic at an upcoming City Council Meeting and to invite interested persons,

organizations and state legislators to participate. Mayor Randall thanked Mr. Peterson for his comments and inquired if it was the desire of City Council and Administration to place this topic on the agenda of a January Regular Meeting. Councilmember Urban objected to putting the issue on the agenda and shared that City Council traditionally does not address issues upon which it cannot take action. Mr. Urban pointed out that the concealed weapon legislation is at the State level and prohibits local action. City Attorney Brown stated that City Council has an informal policy/practice of not getting involved as Councilmember Urban pointed out. Attorney Brown continued by stating that there is nothing formally precluding City Council from discussing the matter. Councilmember Reid suggested that the intent of Mr. Peterson is for the City to work with the Portage Public Schools and District Library to try and influence our state legislators. A public forum, she stated, is something that the City could act on and help facilitate.

City Manager Shaffer stated that City Administration could work with other entities to put together a forum on the topic and suggested inviting the Police Department, City Council, state legislators, the schools, the Library and other interested persons or organizations. Mr. Shaffer suggested that such a forum could be held in January or February. Councilmember Urban stated that holding a forum would be appropriate to do and stated his belief that people would be served by educating themselves on the issue – whether for or against the legislation. Motion by Burns, seconded by Knapp, to refer the matter to City Administration for review and report. Upon a roll call vote, motion carried 6 to 0.

REPORTS FROM THE ADMINISTRATION:

- * **ANNUAL BS&A LICENSING AND SOFTWARE:** Motion by Pearson, seconded by Reid, to approve payment of the annual licensing and software maintenance services fees with BS&A, Incorporated, at a total cost of \$51,806 and authorize the City Manager to execute all related documents. Upon a roll call vote, motion carried 6 to 0.
- * **EMPLOYEE HEALTH INSURANCE AND EXEMPTION OF P.A. 152:** Motion by Pearson, seconded by Reid, to approve one-year contracts with Blue Cross Blue Shield of Michigan and Blue Care Network for employee health insurance, maintain current employer/employee cost-sharing practices by taking action to exempt the city from requirements of P.A. 152 for the 2018 medical benefits plan year, and authorize the City Manager to execute all documents related to the contract renewals on behalf of the city. Upon a roll call vote, motion carried 6 to 0.
- * **EYEMED VISION CARE VISION INSURANCE:** Motion by Pearson, seconded by Reid, to approve a four-year contract with EyeMed Vision Care as underwritten by Fidelity Security Life Insurance Company for department head/non-union vision insurance, and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 6 to 0.
- * **BOARD AND COMMISSION INTERVIEW SESSION:** Motion by Pearson, seconded by Reid, to set a Special Meeting on Tuesday, January 9, 2018, beginning at 5:15 p.m., to interview Board and Commission applicants. Upon a roll call vote, motion carried 6 to 0.
- * **ANNUAL CITY COUNCIL GOAL SETTING SESSION:** Motion by Pearson, seconded by Reid, to set a special meeting on Friday, January 12, 2018, at a time and location to be determined for the purpose of conducting the annual City Council Goal Setting Session. Upon a roll call vote, motion carried 6 to 0.

COMMITTEE OF THE WHOLE WORK SESSION: Councilmember Urban stated that he could not make the recommended 5:00 p.m. start time but could likely make a 5:15 p.m. meeting. Councilmember Reid also indicated that the potential 5:00 p.m. or 5:15 p.m. start time would be problematic for her. Mayor Pro Tem Pearson inquired if a 5:30 start time would work and if that would give City Administration enough time for a presentation. City Manager Shaffer replied that City Administration would work to condense any materials provided though there may be much to talk about as the issue is complex. Motion by Pearson, seconded by Reid, to hold a Committee of the Whole Work Session beginning at 5:30 p.m. on Tuesday, December 19, 2017, in Council Chambers to discuss a possible Medical Marihuana Ordinance. Upon a roll call vote, motion carried 6 to 0.

* **2017 PORTAGE COMMUNITY SURVEY:** Motion by Pearson, seconded by Reid, to receive the Communication from the City Manager regarding the 2017 Portage Community Survey as information only. Upon a roll call vote, motion carried 6 to 0.

SPECIAL MEETING REGARDING EMERGENCY ORDINANCE AND RESOLUTION OF INTENT TO ADOPT AN AUTHORIZING MEDICAL MARIHUANA ORDINANCE: Mayor Randall inquired if City Council was amenable to the recommended time, date and place of the proposed Special Meeting. Councilmember Reid stated that she would be out of town but make herself available via telephone but would not be able to vote and pointed out that the ordinance requires at least five votes to be adopted. Councilmember Urban stated that he did not believe it appropriate to vote on an item such as an emergency ordinance when a Councilmember cannot be present and stated his contention that there is no state requirement that City Council take any action. Mayor Randall stated that, should the City wish to permit the continued operation of the medical marihuana dispensary in Portage, City Council must take action by December 15th. In response to a question from Mayor Randall, Councilmember Reid stated that she would be available the evening of Thursday, December 14th. Mayor Randall expressed her belief that a Special Meeting is necessary to avoid the closure of the medical marihuana dispensary and causing undue harm to patients. Mayor Randall then inquired if there was additional discussion. Mayor Pro Tem Pearson inquired if City Council was polled as to potential meeting dates and why the 12th was selected. Mayor Randall replied that City Council was polled and, with the exception of Councilmember Reid who stated that she was willing to participate via telephone, the proposed date and time worked. Mayor Randall stated that Council Chambers was available on Tuesday and not on Thursday due to a meeting of the Planning Commission.

Motion by Pearson, seconded by Burns, to set a Special Meeting on Tuesday, December 12th at 7:00 p.m. at Portage City Hall, Council Chambers, for the purpose of considering an emergency ordinance and resolution of intent concerning Medical Marihuana Facilities. Councilmember Urban inquired why the Mayor would not consider meeting on Thursday, December 14th. Mayor Randall inquired if anyone had a conflict on Thursday and stated that it is her intention for City Council to schedule meetings based on the schedules of the majority of City Council. Councilmember Reid stated that she made her availability known to the City Manager and City Attorney Brown stated that he would need to research the possibility of a Councilmember participating in a Regular or Special Meeting via telephone. Attorney Brown also stated that an act of City Council could allow a Councilmember to participate in such a manner. Councilmember Reid shared her recollection of a discussion City Council had on this topic from several years ago and Mayor Randall expressed her desire that City Council look for and authorize alternative ways for Councilmembers to participate in meetings.

Councilmember Burns inquired if the City Manager knew if Councilmember Ford would be available on Thursday. City Manager Shaffer stated he was unsure as to Mr. Ford's availability for a Thursday meeting but that Tuesday was selected because it is the typical night for City Council to meet. The date of December 12th provides City Administration time to react and respond to any

action taken by City Council and Councilmember Reid was willing to participate via telephone. City Manager Shaffer expressed concern with meeting on Thursday, December 14, as this is cutting it close to the deadline. City Attorney Brown concurred with Mr. Shaffer's comments on the timing of the meeting and his apprehension with waiting until December 14th to meet. Mayor Pro Tem Pearson asked that City Council end debate on the issue and Councilmember Urban pointed out that ending debate requires a motion and a vote. Motion by Pearson, seconded by Knapp, to end debate and Call the Question on the original motion. Councilmembers Burns and Knapp, Mayor Pro Tem Pearson and Mayor Randall voted "yes" and Councilmembers Reid and Urban voted "no." Motion carried 4 to 2. City Attorney Brown reviewed that a two-thirds vote of the City Council is needed to end debate and that this majority was reached. Mayor Randall called the original question which was to set a Special Meeting on Tuesday, December 12th at 7:00 p.m. at Portage City Hall, Council Chambers, for the purpose of considering an emergency ordinance and resolution of intent concerning Medical Marihuana Facilities. Upon a roll call vote, motion carried with Councilmembers Burns and Knapp, Mayor Pro Tem Pearson and Mayor Randall voting "yes" and Councilmembers Reid and Urban voting "no." Motion carried 4 to 2.

Mayor Pro Tem Pearson asked that City Council review methods by which Councilmembers can participate via technological means at the upcoming City Council retreat.

UNFINISHED BUSINESS:

- * **RESPONSE TO CONCERNS REGARDING ½ MILE LIQUOR LICENSE RULE:** Motion by Pearson, seconded by Reid, to receive the Communication from the City Manager regarding the Michigan Liquor Control Commission (MLCC) "Half-Mile" Liquor License rule in response to comments by Gerry Hoffman at the October 24, 2017 Regular City Council Meeting as Information Only. Upon a roll call vote, motion carried 6 to 0.
- * **MINUTES OF BOARDS AND COMMISSIONS MEETINGS:** City Council received the minutes of:
 - Portage Public Schools Board of Education Regular Business Meeting of Monday, October 23, 2017.
 - Portage Public Schools Board of Education Policy Governance Retreat and Committee of the Whole Work Session of Monday, November 13, 2017.

BID TABULATIONS:

- * **SCADA SYSTEM UPGRADES AND BUDGET AMENDMENT:** Motion by Pearson, seconded by Reid, to award a contract to Perceptive Controls, Incorporated, to design, furnish, program, and install program logic controllers and radios for the SCADA system at a not-to-exceed amount of \$567,767 and approve a budget amendment of \$200,000 from the Sewer Fund to the Capital Improvement Fund and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Burns thanked City Staff for their work on the medical marihuana issue especially with the intensiveness of the deadlines and schedules. He then thanked Councilmember Reid for her willingness to participate in the upcoming Special Meeting via telephone.

Mayor Pro Tem Pearson thanked Mayor Randall and City Manager Shaffer for arranging another leaf pickup and let citizens know how they can find out their new leaf pickup date along with the location and ability to use the City of Portage Leaf Compost Facility.

Mayor Randall thanked Councilmembers Burns and Urban for their work with selecting the “Why I Love Portage” essay contest winners and congratulated Christian Garth, 3rd Grade at Haverhill Elementary, Jadon Jones, 6th Grade at North Middle School and Audrey Scanlon, 10th Grade at Central High School. Mayor Randall also invited the public to participate in an upcoming Holiday Market at the Portage Senior Center.

MATERIALS TRANSMITTED:

* **MATERIALS TRANSMITTED:** Motion by Pearson, seconded by Reid, to receive the Materials Transmitted of November 21, 2017. Upon a roll call vote, motion carried 6 to 0.

ADJOURNMENT: Mayor Randall adjourned the meeting at 8:24 p.m.

Adam Herringa, City Clerk

*Indicates items included on the Consent Agenda.

**MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL
OF DECEMBER 12, 2017**

Mayor Patricia Randall called the meeting to order at 7:00 p.m. The following Councilmembers were present at the meeting: Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Patricia Randall. Also present were City Manager Laurence Shaffer, City Attorney Randy Brown and City Clerk Adam Herringa.

AUTHORIZATION TO PARTICIPATE AND VOTE VIA TELECONFERENCE: Mayor Randall opened the meeting and noted that Councilmember Reid would be participating in the meeting via telephone. Motion by Ford, seconded by Knapp, to permit Councilperson Claudette Reid to attend the Special Meeting of the City Council on December 12, 2017 at 7:00 P.M. by teleconference. Councilperson Reid is unable to physically attend the meeting. Councilperson Reid's telephonic participation shall be permitted only if a quorum of Council is physically present at a Special Meeting. While Councilperson Reid is participating in the Special Meeting telephonically, she may vote on all questions properly before the Council at the Special Meeting. Councilperson Reid shall be deemed present at the Special Meeting while participating by teleconference. Upon a roll call vote motion carried 6 to 0. Councilmember Reid was not permitted to participate in this vote as it was related to her participation in the meeting.

EMERGENCY ORDINANCE – TEMPORARY OPERATION OF MEDICAL MARIHUANA FACILITIES: Mayor Randall shared the purpose of the meeting and informed the audience that an emergency ordinance requires a super majority of five affirmative votes to be passed. She continued by stating that the resolution on the agenda requires a simple majority to be approved. City Manager Shaffer reviewed the proposed emergency ordinance, shared the rationale as to why it is being considered as an "emergency" and why City Administration is recommending adoption. City Manager Shaffer then reviewed the various provisions of the ordinance and the criteria a medical marihuana facility would need to meet in order to qualify for temporary operation. Mayor Randall thanked Mr. Shaffer and staff for their work on this ordinance and invited City Council comment.

Councilmember Urban stated that the ordinance appears to only involve one medical marihuana provisioning center in the City and asserted that this facility, Lake Effect, has been and is currently operating illegally under State law and City Ordinance. He stated that the business applied for a variance from the Zoning Board of Appeals (ZBA) and was denied. He continued by stating that Lake Effect litigated the decision of the ZBA and lost and that the case was currently at the Court of Appeals. Mr. Urban continued by saying that both the City and the State have allowed Lake Effect to continue operating illegally. Mr. Urban expressed understanding of the value of medical marihuana and the need for related facilities in the community but that he could not be supportive of a business that knowingly opened despite rules and regulations prohibiting such action. Mr. Urban continued by stating that he

understands a majority of City Council will be supportive of the emergency ordinance and raised concerns as to the reason behind the support.

Mayor Randall took exception to Councilmember Urban's questioning the motives of fellow Councilmembers and Mayor Pro Tem Pearson shared his understanding of the medical value offered by marihuana. Mr. Pearson shared his belief that medical marihuana affords an alternative to opioid medicines and that the closing of any clinic would have unfortunate and unnecessary consequences for medical marihuana patients in the community.

Councilmember Ford stated that when laws are passed and people disagree it is appropriate to challenge them in a court of law. He cited the current case involving the City of Portage and Lake Effect as an example. Mr. Ford stated that the State laws surrounding medical marihuana give local communities the power to regulate and manage medical marihuana in their own community. With regard to Lake Effect, Mr. Ford stated that he is aware of only two minor public safety issues involving the facility over the past year. He continued by sharing that there is a process in place to qualify for medical marihuana and that it involves only a limited set of the population. Mr. Ford concluded by expressing his support for the emergency ordinance.

Councilmember Knapp began by stating that the State of Michigan has kept municipalities busy with the medical marihuana issue but there seems to be increasing clarity in the laws. Councilmember Knapp then read a section of the Finding of Emergency by the Department of Licensing and Regulatory Affairs (LARA) Emergency Rules related to the Medical Marihuana Facilities Licensing Act. She also referenced Rule 19 of LARA which permits the temporary operation of medical marihuana facilities as evidence that the State is overtly recognizing that provisioning and other medical marihuana related facilities are currently operating in the State. She continued by stating that LARA recognized there is a gap between when the State licenses will be available and the present. Councilmember Knapp stated that the approach afforded by LARA and the approach being recommended for the City of Portage is responsible and pragmatic and avoids undue hardship for medical marihuana patients and business owners.

Councilmember Burns stated his belief that potential reasons to deny the continued operation of the medical marihuana business, such as public safety concerns, strong opposition and nuisance reports, are not present. Mr. Burns then shared his support for the emergency ordinance.

Councilmember Reid expressed concern with the emergency ordinance process and with Lake Effect functioning illegally in the community. She stated that the issue is not whether medical marihuana is good or bad but whether we should allow the continued operation of a business that was illegally established. Ms. Reid then expressed frustration with the short amount of time afforded by the State for municipalities to act on this topic. Councilmember Reid questioned the fairness of permitting a business that was illegally established to continue operating while others interested in starting a medical marihuana business and want to play by the rules have refrained from opening. Councilmember Reid stated that she also recognized the need to avoid interrupting medication that many people rely on and stated that there is a fundamental lack of fairness and inequity in this entire situation.

Councilmember Urban reinforced his belief that there are medical benefits associated with marihuana but questioned whether the City should give preferential treatment to a business that has been operating illegally. He continued by stating that, while zoning laws may

change, the City should be working under the existing framework and that this framework does not permit the operation of Lake Effect. Councilmember Urban stated that any hardship experienced by patients would be the burden of the business that chose to operate illegally. Mr. Urban referenced the action taken by the Zoning Board of Appeals which determined that Lake Effect was improperly located. Mr. Urban continued by stating that appeals of decisions made by the ZBA do not go to City Council but rather to the court and that the City has prevailed in the court case involving Lake Effect though the case is currently under appeal. Mr. Urban concluded by stating his desire to support and not overrule the determination of the ZBA and to not permit the continued operation of this medical marihuana facility.

Councilmember Knapp requested clarity from the City Attorney regarding zoning and the Medical Marihuana Licensing Facilities Act. City Attorney Brown stated that there is a different set of rules and circumstances that apply as a result of Rule 19 which is related to the temporary operation of medical marihuana facilities. These rules and circumstances, he stated, are different than the rules under which the ZBA made their determination. Mr. Brown concluded that he did not view the City Council adopting the emergency ordinance as overruling the ZBA.

City Manager Shaffer stated that the City of Portage is still in court regarding violation of the zoning ordinance. Mr. Shaffer informed City Council that the City is working on revised zoning laws that take into account medical marihuana facilities.

Motion by Pearson, seconded by Ford, to adopt an emergency ordinance to take immediate effect to amend the Code of Ordinances of the City of Portage, Michigan, by adding Article 11, Temporary Operation of Medical Marihuana Facilities of Chapter 14 Businesses.

Councilmember Urban commented that, while zoning laws may change, City Council should act based on the rules currently in place.

Upon a roll call vote, motion carried 5 to 2 with Councilmembers Burns, Ford, Knapp, Mayor Pro Tem Pearson and Mayor Randall voting in favor and Councilmembers Reid and Urban opposed.

RESOLUTION OF INTENT REGARDING ADOPTION OF AN AUTHORIZING ORDINANCE UNDER THE MEDIAL MARIHUANA FACILITIES LICENSING ACT: Mayor Randall opened the item for discussion and Councilmember Urban stated that he would like to see a limited number of medical marihuana facilities in Portage and cited support of residents as indicated in the Community Survey. Mr. Urban stated that the State has not followed the usual and extensive rulemaking process as it relates to medical marihuana and expressed concern with acting while final rules are not available. He reiterated his position that the City focus on serving Portage residents and not Southwest Michigan.

Councilmember Reid questioned if passing this Resolution of Intent would require the City of Portage to allow for medical marihuana facilities or could the City still decide not to take any action until a later date. City Attorney Brown stated that the proposed resolution is a statement of intent but leaves the numbers, types and locations of licenses wide open along with the possibility for City Council to decide not to issue any licenses at all. Councilmember Reid stated that, since the Resolution is not binding on the City Council, she would be supporting it but emphasized her desire for a thorough discussion regarding medical marihuana facilities in the community.

City Manager Shaffer stated that the Resolution is intended to be a companion piece to

the Emergency Ordinance and allows City Council to continue the discussion regarding a formal ordinance addressing medical marihuana. Mayor Pro Tem Pearson shared that City Council had a recent Committee of the Whole Meeting regarding medical marihuana and that another meeting is planned for December 19th. At the meeting of the 19th, Mr. Pearson stated, he anticipates a draft ordinance to be presented. He concluded his comments by assuring the audience that City Council is taking a measured and deliberate approach to this process.

Motion by Pearson, seconded by Ford to adopt a Resolution of Intent regarding adoption of an Authorizing Ordinance under the Medical Marihuana Facilities Licensing Act. Upon a roll call vote, motion carried 6 to 1 with Councilmembers Burns, Ford, Knapp, Reid, Mayor Pro Tem Pearson and Mayor Randall voting in favor and Councilmember Urban opposed.

PETITIONS AND STATEMENTS OF CITIZENS

Mr. Jevin Weyenberg, 5817 Cheshire Street, proprietor of Lake Effect, stated that there has been a two-year or longer relationship between himself and the City of Portage and that, during this time, many laws and regulations have changed. Mr. Weyenberg complimented the leadership of the City of Portage and mentioned Mayor Randall in particular. He concluded by emphasizing his belief that medical marihuana patients are people and deserve to be treated with respect and thanked members of City Council for acting with courage. Mr. Weyenberg thanked City Manager Shaffer for his efforts and complimented him on being proactive and cited discussing medical marihuana with potential growers over a year ago as evidence. He continued by emphasizing the importance of focusing on the health and wellness of the community and stated that he is looking forward to the continued process of developing a permanent ordinance. Mr. Weyenberg concluded by complimenting Director of Community Development Vicki Georgeau and her department.

Mike Quinn, County Commissioner and resident of 7025 Rockford Street, thanked City Council and staff for their efforts and vote regarding medical marihuana. Mr. Quinn also commended Lake Effect for their efforts in the community.

Kacie MacLagan, resident of Texas Township and former Portage resident, thanked City Council for their vote and shared that medical marihuana has helped her, as a disabled veteran, improve her quality of life.

Glenn Smith, 10143 Portage Road, stated that he is an attorney representing a client who is currently in litigation with the City regarding the Home Occupation Ordinance. He continued by stating that clients of his have benefitted from medical marihuana. He stated that the emergency ordinance enacted by City Council creates a monopoly in the medical marihuana business arena in Portage and that his client had a medical marihuana facility on Sprinkle Road. Mr. Smith stated that his client, John Rockwood, has tried to follow the law and direction of the City but is harmed by the ordinance enacted this evening. Mr. Smith asked that I-1 zoning be taken into consideration when issuing medical marihuana licenses and that his client be permitted to operate his facility on Sprinkle Road.

Mr. Dave Vandeven, resident of Kalamazoo, thanked City Council for their support of medical marihuana and shared how medical marihuana has been of benefit to him.

Mr. Chris Hoffman, 5813 Stratford, identified himself as "Scorch" and stated that he would not be alive today without the benefits of medical marihuana. Mr. Hoffman expressed his

support for medical marihuana and encouraged City Council to take steps to ensure that local business development be encouraged in Portage and not large corporations.

Mr. Don McCreery, 10319 Woodlawn, expressed his support for medical marihuana and stated his belief that the City of Portage not limit the number of dispensaries in the community.

Ms. Sheila Hodgkinson, owner of Green Earth Hydroponics in Portage, thanked City Council for their support of medical marihuana and expressed support for Lake Effect and medical marihuana patients.

NEXT STEPS: Mayor Randall reviewed next steps and highlighted the upcoming Committee of the Whole Meeting on December 19th and City Manager Shaffer reviewed what material would be provided and covered at the meeting.

ADJOURNMENT: Mayor Randall adjourned the meeting at 8:03 p.m.

Adam Herringa, City Clerk

**MINUTES FROM THE SPECIAL PRE-MEETING
OF THE PORTAGE CITY COUNCIL
OF DECEMBER 18, 2017**

Mayor Randall called the meeting to order at 8:00 a.m. Mayor Patricia Randall and Councilmember Chris Burns were present and Mayor Pro Tem Jim Pearson and Councilmembers Richard Ford and Lori Knapp joined via the conference phone line. Councilmember Reid joined the meeting via conference phone line at 8:16 a.m. Councilmember Terry Urban was absent with excuse. Also in attendance were City Manager Laurence Shaffer, Deputy City Manager Rob Boulis, City Clerk Adam Herringa and Deputy City Clerk Erica Eklov.

Mayor Randall opened the meeting and inquired if there were any questions or concerns regarding items on the proposed agenda. She inquired if parking fees for residents at Ramona Park were being eliminated next summer. City Manager Shaffer confirmed the proposed elimination of Ramona Park entry fees for residents in 2018. He continued by stating there is no plan to reinstate the fees at this time. In response to a question from Mayor Randall about staffing the access gatehouse, Mr. Shaffer replied that summer staff at Ramona Park rotate from job to job and the gatehouse will continue to be staffed to address non-resident entry. He continued by stating that the City is exploring automation to replace the gatehouse and estimated that not collecting entry fees for residents will cost approximately \$33,000. He concluded his comments by stating that not charging residents is the right thing to do given the current financial health of the City.

Councilmember Knapp inquired, as it related to Item C.1, if the City is paying for school crossing guards. Deputy City Manager Boulis stated that the City has provided crossing guards for a significant length of time and three years ago contracted out the service. Mayor Pro Tem Pearson asked that City Administration research whether the City should be paying for this service. Councilmember Knapp then inquired if the City had the law firm Warner Norcross on retainer. Mr. Boulis stated that the City currently uses Warner Norcross for labor related issues.

Councilmember Knapp inquired, as it related to Item F.1, how many special assessment projects are possible given the November 7, 2006 approval of the street millage. City Manager Shaffer stated that the number of unassessed sewer projects is open-ended as many portions of the sewer system were installed years ago and pass in front of vacant lots.

Councilmember Burns inquired, as it relates to the FOIA fees, how the error related to the "Full Copy of Electronic Property Tax File" occurred such that it was changed from \$50 to \$0.38. City Clerk Herringa stated that when the FOIA laws changed in 2015 the fee structure was modified accordingly and this fee was inadvertently changed and should not have been. Councilmember Reid questioned, given that the file is electronic in nature, whether \$50 is an appropriate fee and asked for justification for the amount.

Councilmember Reid inquired, as it relates to the proposed food truck fees, what the estimated cost of the program will be to the City and if this cost was used to calculate the proposed fees. City Manager Shaffer replied that the proposed fees are introductory in nature and designed to encourage food trucks to set up at City parks. He continued by stating that he did not believe the cost of administering the program to be high and that staff will evaluate after this year. With regard to whether

or not to require a permit, City Manager Shaffer stated that the permit program affords the City some control.

Councilmember Reid then inquired as to the proposed change in softball practice periods from 1.5 hours to 1 hour and whether most teams utilize the 1.5 hours for practice. If so, she continued, will teams now be forced to shorten their practice or reserve a full two hours and pay accordingly. Councilmember Reid inquired if softball teams were consulted on the impact of this change. Related to Parks and Recreation, Councilmember Knapp asked that usage/event attendance data be provided to City Council for the upcoming retreat.

With regard to Item F.2, Councilmember Ford inquired if the Consent Agenda could be released earlier than it currently is. Mayor Randall asked that a provision be inserted into the Rules of Order and Procedure asking that Councilmembers notify City Administration by noon the day of a Regular Meeting if they want an item removed from the Consent Agenda. She stated this would allow staff and other persons the ability to know in advance whether their presence at the meeting is necessary.

Councilmember Reid asked that the proposed statement for approving items on the Consent Agenda include a statement identifying which items have been removed from the Consent Agenda prior to the vote. Councilmember Reid identified typographical omissions/edits in Sections 8 and 9 and noted the highlighted section of Robert's Rules of Order inadvertently blocked out the writing of the relevant section.

With regard to Item F.4, Mayor Randall inquired how people will access the donated land. City Manager Shaffer and Deputy City Manager Boulis identified a few possibilities. Mayor Randall commented that the parcel is somewhat landlocked and asked what the City was planning to spend on access, signage, etc. City Manager Shaffer replied that the City was not planning on spending any money on access at this time and discussed the beautiful aspects of the property. Mr. Shaffer also shared some of the downfalls of owning property such as litter and illegal dumping. Mr. Shaffer stated that the City of Kalamazoo has a well field adjacent to the parcel from which it pumps out high quality water. Mayor Randall inquired as to the assessed value of the parcel and the related annual property taxes. Mayor Pro Tem Pearson inquired as to the naming of the parcel and City Manager Shaffer replied that a stipulation of the donation is that it be named after former Mayor Betty Lee Ongley. He continued by stating that the naming of public facilities in Portage has been varied in that some are named after people and some are not.

With regard to Item L.1, Councilmember Ford noted a large disparity among the bids and inquired as to why this might be the case. City Manager Shaffer replied that he would research the matter.

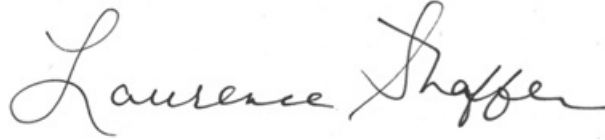
Mayor Pro Tem Pearson asked that, as it relates to the Committee of the Whole Meeting, if the City would provide numbers of potential medical marijuana facilities and related distance requirements. He continued by asking if proposed distance requirements would limit the number of growers. Mr. Pearson concluded by asking that the proposed changes to the Home Occupation Ordinance be highlighted. City Manager Shaffer stated that he would provide the requested information in advance of the Committee of the Whole Meeting.

ADJOURNMENT: Mayor Randall adjourned the meeting at 8:31 a.m.

Adam Herringa, City Clerk

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Accounts Payable Register

SUPPORTING PERSONNEL: William Furry, Director of Finance

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of December 19, 2017 as presented.

The City Council reviews and approves the bi-weekly Accounts Payable Register which includes automated clearing house payments, paper checks and auto-pay payments. The attached Accounts Payable Register covers the period November 19, 2017 through December 3, 2017 and notes \$342,260.53 in automated clearing house payments, \$219,000.28 in paper checks and \$19,363.91 in auto-pay payments for a grand total of \$580,624.72.

FUNDING: N/A

Attachments: 1. Accounts Payable Register

ACCOUNTS PAYABLE REGISTER
Check Dates From: 11/19/2017 To: 12/3/2017

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Check Type: ACH Transaction

Check Date	Check	Vendor Name	Description	Amount
12/01/2017	7892(A)	A NEW LEAF	PLANT CARE FOR CITY	224.47
12/01/2017	7893(A)	A-1 SIGNS	EQUIPMENT NUMBERS	63.00
12/01/2017	7894(A)	ABONMARCHE CONSULTANTS, INC	ENGINEERING SERVICES	84,452.81
12/01/2017	7895(A)	ACCESS EMPLOYER STAFFING SERVICES	TEMPORARY EMPLOYEES	9,390.16
12/01/2017	7896(A)	AIRGAS GREAT LAKES	PROPANE AND SUPPLIES	105.22
12/01/2017	7897(A)	ALL CITY MANAGEMENT SERVICES, INC.	SCHOOL CROSSING GUARDS	3,250.80
12/01/2017	7898(A)	ALL-TRONICS, INC.	FIRE ALARM MONITORING	81.00
12/01/2017	7899(A)	BELL EQUIPMENT COMPANY	SWEEPER BROOMS	3,380.00
12/01/2017	7900(A)	C D W GOVERNMENT, INC.	MOUNTING BRACKET	2,919.39
12/01/2017	7901(A)	C M P DISTRIBUTORS, INC.	VESTS NEW OFFICERS	2,595.00
12/01/2017	7902(A)	CARRIER & GABLE	TRAFFIC SIGNAL SUPPLIES	5,509.40
12/01/2017	7903(A)	CENTRAL INTERCONNECT, INC.	NETWORK CABLING MPIR	427.80
12/01/2017	7904(A)	CLEANIT CORP	CARWASHES	30.00
12/01/2017	7905(A)	CONTINENTAL LINEN SERVICES	MAT SERVICE	62.04
12/01/2017	7906(A)	DEER CONTRACTING & LANDSCAPE	CURB REPAIRS	2,832.00
12/01/2017	7907(A)	FERGUSON WATERWORKS #3386	DRAINAGE FABRIC	1,978.00
12/01/2017	7908(A)	GAIL ANDRUS TRAVEL	TRIP VENDOR PAYMENT	2,544.50
12/01/2017	7909(A)	GORDON WATER SYSTEMS	WATER SERVICE - DPS	396.00
12/01/2017	7910(A)	GORNO FORD	NEW FLEET VEHICLES	107,888.00
12/01/2017	7911(A)	GREATER KALAMAZOO UNITED WAY	UNITED WAY CONTRIBUTIONS	735.84
12/01/2017	7912(A)	GRIFFIN PEST SOLUTIONS, INC.	FIRE FACILITY MAINT	165.00
12/01/2017	7913(A)	J & J LAWN SERVICE, INC.	MOWING AND TRIMMING	13,549.00
12/01/2017	7914(A)	J-AD GRAPHICS, INC	NEWLSETTER PRODUCTION	2,369.00
12/01/2017	7915(A)	KEHOE, EDWARD J	PROGRAM INSTRUCTOR	460.00
12/01/2017	7916(A)	KLOSTERMAN DISTRIBUTING	MPIR CONCESSIONS	653.83
12/01/2017	7917(A)	KNAPP ENERGY, INC.	GASOLINE	13,299.40
12/01/2017	7918(A)	LIBRA INDUSTRIES, INC. OF MICHIGAN	FIRE OPS SUPPLIES	350.77
12/01/2017	7919(A)	MEJEUR ELECTRIC LLC	ELECTRICAL SERVICES	891.00
12/01/2017	7920(A)	NEW FRESH CLEANING SERVICE	JANITORIAL SERVICES	115.00
12/01/2017	7921(A)	OMM ENGINEERING, INC.	ENGINEERING SERVICES	5,960.00

ACCOUNTS PAYABLE REGISTER

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Check Dates From: 11/19/2017 To: 12/3/2017

Check Date	Check	Vendor Name	Description	Amount
12/01/2017	7922(A)	ONE WAY PRODUCTS	CAN LINERS/SUPPLIES	426.63
12/01/2017	7923(A)	PERCEPTIVE CONTROLS, INC.	SCADA MAINTENANCE	1,250.00
12/01/2017	7924(A)	PORTAGE FIREFIGHTERS	UNION DUES	1,726.08
12/01/2017	7925(A)	PORTAGE ON-CALL FIREFIGHTERS	ON CALL DUES	100.00
12/01/2017	7926(A)	PORTAGE POLICE OFFICERS ASSOC	PPOA DUES	714.00
12/01/2017	7927(A)	PREIN & NEWHOF	ENGINEERING SERVICES	16,588.05
12/01/2017	7928(A)	RIDGE AUTO NAPA	FIRE APPARATUS MAINT	1,531.27
12/01/2017	7929(A)	RIDGE AUTO NAPA	MAINTENANCE SUPPLIES	448.07
12/01/2017	7930(A)	RIDGE AUTO NAPA	MAINTENANCE SUPPLIES	93.01
12/01/2017	7931(A)	RIETH-RILEY CONSTRUCTION CO., INC	ASPHALT MATERIALS	69.70
12/01/2017	7932(A)	SEVERANCE ELECTRIC COMPANY,INC	TRAFFIC SIGNAL MAINT	705.00
12/01/2017	7933(A)	SUEZ WATER ENVIRONMENTAL SERVICES	WATER METERS	1,962.75
12/01/2017	7934(A)	SYNERGISTIC ONLINE SOLUTIONS	HARDWARE MAINTENANCE	3,680.00
12/01/2017	7935(A)	TOO CLEAN JANITORIAL	CLEANING MAINTENANCE	1,560.00
12/01/2017	7936(A)	UNITED AUTO. IMPLEMENT WORKERS 2290	UAW DUES	477.00
12/01/2017	7937(A)	WARNER NORCROSS & JUDD LLP	GEN RETAINER	4,075.00
12/01/2017	7938(A)	WEST MICHIGAN INT'L LLC	VEHICLE REPAIRS	804.54
12/01/2017	7939(A)	WEST MICHIGAN STAMP & SEAL,INC	NAMEPLATES	171.00
12/01/2017	7940(A)	WIGHTMAN & ASSOCIATES, INC.	ENGINEERING SERVICES	38,850.00
12/01/2017	7941(A)	WOLVERINE POWER SYSTEMS	CITY HALL GENERATOR	350.00
			Total ACH Transactions:	342,260.53

Check Type: Paper Check

11/21/2017	10139	PETTY CASH-BARB GARLOW	REPLENISHMENT CHECK	306.09
11/28/2017	10140	PETTY CASH-ALYSSA MILBECK	REPLENISHMENT CHECK	497.47
11/29/2017	10141	PETTY CASH-JANET GATES	REPLENISHMENT CHECK	365.29
11/21/2017	304450	A T & T	TELEPHONE SERVICES	5,795.08
12/01/2017	304451	57TH DISTRICT COURT	BAIL BOND	400.00
12/01/2017	304452	7TH DISTRICT COURT	BAIL BOND	250.00
12/01/2017	304453	A PIZZA YEN	TRIP VENDOR PAYMENT	1,633.00
12/01/2017	304454	ADP, INC.	MONTHLY ETIME	2,407.20
12/01/2017	304455	ALLEGRA PRINT & IMAGING	MISC PRINTING SERVICE	839.10

ACCOUNTS PAYABLE REGISTER
Check Dates From: 11/19/2017 To: 12/3/2017

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Check Date	Check	Vendor Name	Description	Amount
12/01/2017	304456	AMRHEIN, JEROME	REFUND OVERPAYMENTE	95.47
12/01/2017	304457	BARBARA P FOLEY	TAX OVER PAYMENT	41.58
12/01/2017	304458	BECKER ARENA PRODUCTS, INC.	RUBBER MATS MPIR	2,149.00
12/01/2017	304459	BINDER PARK ZOOLOGICAL SOCIETY, INC	ZOOMOBILE EDUCATION	200.00
12/01/2017	304460	BORGESS HEALTH ALLIANCE	PHYSICAL EXAMS	868.00
12/01/2017	304461	CABELA'S, INC.	WINTER CAPS	211.75
12/01/2017	304462	CARLISLE, KAIJA	RENTAL DEPOSIT	100.00
12/01/2017	304463	CHICAGO TITLE OF MICHIGAN, INC.	CDBG TITLE SEARCHES	450.00
12/01/2017	304464	CINTAS CORP.	PANT RENTAL FOR INSP	167.44
12/01/2017	304465	CITY OF KALAMAZOO TREASURER	SANITARY SEWER CHARGES	86,839.49
12/01/2017	304466	COFFMAN CONSTRUCTION, LLC	CDBG 502 DORSET	16,800.00
12/01/2017	304467	COMMERCIAL DOOR SERVICES	FIRE FACILITY MAINT	325.00
12/01/2017	304468	DATA CONSTRUCTS LLC	WEBSITE HOSTING SERV	97.95
12/01/2017	304469	DEGRAFF, JOAN	STUART DEPOSIT REFUND	150.00
12/01/2017	304470	DEVON TITLE AGENCY	OVER PAYMENT	120.81
12/01/2017	304471	DEVON TITLE AGENCY	OVER PAYMENT	129.58
12/01/2017	304472	DIRKSEN ROOFING, INC.	FIRE FACILITY MAINT	500.00
12/01/2017	304473	DTN, LLC	WEATHER SERVICE	840.00
12/01/2017	304474	DUNFIELD, LAURA	RENTAL DEPOSIT REFUND	100.00
12/01/2017	304475	EMERGENCY VEHICLE PRODUCTS	POLICE VEHICLE MAINT	635.19
12/01/2017	304476	EXCEL SYSTEMS GROUP, INC.	FILE DIVIDERS	180.00
12/01/2017	304477	FLETCHER ENTERPRISES	FIRE FACILITY IMPROVE	1,270.00
12/01/2017	304478	FORBES CONSTRUCTION & EXCAVATING	REFUND HYDRANT	100.00
12/01/2017	304479	FULTON & SONS INC., JAMES E	STREET SWEEPING	6,270.00
12/01/2017	304480	GREATER KALAMAZOO FOP LODGE 98	PPCOA DUES	549.20
12/01/2017	304481	GREATER KALAMAZOO FOP LODGE 98	FOP PORTION OF PPOA	2,800.92
12/01/2017	304482	HOME DEPOT	FLEET MAINTENANCE	944.42
12/01/2017	304483	HOME DEPOT	FIRE FACILITY MAINT	1,809.88
12/01/2017	304484	HOME DEPOT	MAINTENANCE SUPPLIES	226.40
12/01/2017	304485	KAL CO MEDICAL CONTROL AUTH	FIRE PRINTING	104.30
12/01/2017	304486	KALAMAZOO COUNTY HEALTH	2017-18 HHW PROGRAM	6,620.82
12/01/2017	304487	KIM CRITZ	POSTER/BANNER DESIGN	275.00

ACCOUNTS PAYABLE REGISTER

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Check Dates From: 11/19/2017 To: 12/3/2017

Check Date	Check	Vendor Name	Description	Amount
12/01/2017	304488	KOLAJA, MEGAN	OVERPYMT REFUND	101.50
12/01/2017	304489	LEWIS, RON	OVER PAYMENT	296.02
12/01/2017	304490	LEXISNEXIS RISK SOLUTIONS	ACCURINT CHARGES	300.00
12/01/2017	304491	LIFELOC TECHNOLOGIES, INC.	PBT REPAIR	100.00
12/01/2017	304492	MARLOW WHITE UNIFORMS, INC.	DRESS UNIFORMS	96.25
12/01/2017	304493	MCDONALD'S TOWING & RESCUE, INC.	TOWING SERVICES	51.00
12/01/2017	304494	MED EXPRESS URGENT CARE, PC MICH	DOT PHYSICALS	285.00
12/01/2017	304495	MICH MUNICIPAL POLICE & FIRE REPAIR	POLICE VEHICLE REPAIRS	1,410.08
12/01/2017	304496	MICHIGAN ASSOC OF MUNICIPAL CLERKS	ANNUAL MEMBERSHIPS	120.00
12/01/2017	304497	MICHIGAN MUNICIPAL LEAGUE	AD FOR PLUMB/MECH	85.20
12/01/2017	304498	MIDWEST CUSTOM EMBROIDERY	RANGER UNIFORMS	323.00
12/01/2017	304499	MIDWEST ENERGY & COMMUNICATIONS	STREETLIGHT ENERGY	279.24
12/01/2017	304500	MILLER WELDING SUPPLY	MAINTENANCE SUPPLIES	310.22
12/01/2017	304501	MISASI, VALERIE	KICKBALL REFUND	30.00
12/01/2017	304502	MORRIS PRESS COOKBOOKS	COOK BOOKS FUNDRAISER	431.45
12/01/2017	304503	MULDER'S MOVING AND STORAGE	MOVING SERVICES	1,290.00
12/01/2017	304504	MYERS, JAMES	EMPLOYEE REIMBURSEMENT	11.20
12/01/2017	304505	NATIONAL BUSINESS FURNITURE LLC	GUEST CHAIR	400.00
12/01/2017	304506	NYE UNIFORMS	UNIFORMS/EQUIP	324.50
12/01/2017	304507	OFFICE DEPOT, INC.	OFFICE SUPPLIES	799.44
12/01/2017	304508	OFFICE DEPOT, INC.	OFFICE SUPPLIES	373.67
12/01/2017	304509	ORBIS ENVIRONMENTAL	E. ROOT SAWMILL/PORT	1,369.60
12/01/2017	304510	PAAM	PACC SUBSCRIPTION	100.00
12/01/2017	304511	PARIS CLEANERS	UNIIFORM CLEANING	2,444.17
12/01/2017	304512	PCM SALES, INC.	VMWARE RENEWAL	12,934.30
12/01/2017	304513	PETRULIO, MARY LOU	TRIP REFUND	97.00
12/01/2017	304514	PICKARD, RICHARD & GERRY	CREDIT REFUND	12.00
12/01/2017	304515	PORTAGE MEMORY CARE, LLC	BOND REFUND	4,280.00
12/01/2017	304516	PRUDENTIAL NURSERY	TREE PLANTING SERVICE	2,025.00
12/01/2017	304517	Q3 TECHNOLOGIES LLC	CITY PARK FIBER CABLE	2,697.99
12/01/2017	304518	QUALITY PRECAST, INC.	ELIASON PROJECT SUPP	8,346.60
12/01/2017	304519	R W LAPINE INC.	HVAC ON-CALL SERVICE	408.25

ACCOUNTS PAYABLE REGISTER
Check Dates From: 11/19/2017 To: 12/3/2017

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Check Date	Check	Vendor Name	Description	Amount
12/01/2017	304520	ROE, AUDREY	PROGRAM REFUND	25.00
12/01/2017	304521	RYAN, JOYCE	PROGRAM REIMBURSEMNT	79.50
12/01/2017	304522	SEAMLESSDOCS	SEAMLESSDOCS SOFTWARE	14,000.00
12/01/2017	304523	SECURALARM SYSTEMS, INC.	VIDEO RECORDING -INT	1,986.00
12/01/2017	304524	SMITH, DONNA	TRIP REFUND	120.00
12/01/2017	304525	STATE OF MICHIGAN (MDEQ)	AQUATIC WEED MGT PER	150.00
12/01/2017	304526	STATE SYSTEMS RADIO, INC	MISC RADIO REPAIRS	199.29
12/01/2017	304527	SYNTECH INC.	2018 FUELMaster MAIN	2,650.00
12/01/2017	304528	TRUGREEN PROCESSING	TURF MAINTENANCE	1,288.00
12/01/2017	304529	UNITED PARCEL SERVICE	WEEKLY DELIVERY	25.03
12/01/2017	304530	UNITED PARTY & EVENT SERVICES	ELECTION SUPPORT	395.00
12/01/2017	304531	VALLEY CITY SIGN	CITY SIGN DESIGN PRO	8,997.00
12/01/2017	304532	VERIZON WIRELESS SERVICES, LLC	WIRELESS SERVICES	1,888.77
12/01/2017	304533	VERMEER, JEREMY	EMPLOYEE REIMBURSEMENT	488.55
12/01/2017	304534	WALKER, MIKE	EMPLOYEE REIMBURSEMENT	110.03
Total Paper Checks:				219,000.28

Check Type: Auto-Pay Payments

11/20/2017	5759	CONSUMERS ENERGY	GAS-ELECTRIC	255.65
11/22/2017	5774	CITY OF PORTAGE	WATER-SEWER	6,156.11
11/27/2017	5775	CONSUMERS ENERGY	GAS-ELECTRIC	1,242.29
11/30/2017	5790	CITY OF PORTAGE	WATER-SEWER	11,709.86
Total Auto-Pay Payments:				19,363.91

Grand Total: 580,624.72

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: 2018 Fee Schedules

SUPPORTING PERSONNEL: Adam Herringa, City Clerk
Rod Russell, Director of Public Services
Vicki Georgeau, Director of Community Development
Nicholas Arnold, Director of Public Safety - Police / Fire Chief
Kendra Gwin, Deputy Director of Transportation & Utilities
Kathleen Hoyle, Director of Parks, Recreation & Senior Citizen Services

ACTION RECOMMENDED: That City Council adopt the:

1. proposed 2018 Freedom of Information Act Fees;
2. proposed 2018 Recreation and Park Facility Fees;
and
3. 2018 Special Assessment Rate Resolution.

Service, permit and activity fees have historically been updated and implemented on a calendar year basis, following an annual administrative review of fees for various city services and activities, as well as special assessment rates. Proposed fee modifications for the 2018 calendar year are recommended to facilitate continued service provision and to comply with the Council adopted goal to “*Maintain the financial health of the city.*” Recommended fee modifications for 2018 are based on service cost considerations. Complete details for recommended fee modifications are shown in the attachments.

Freedom of Information Act Fees

Under the Freedom of Information Act 442 of 1976, municipalities are allowed to recover costs incurred in providing certain documents for public purchase. Fees for Freedom of Information Act (FOIA) requests are periodically revised to reflect actual costs for providing materials. *A review of fees has recently been completed, with only one minor change to the document fees proposed. Attachment 1 identifies the proposed fee change, as summarized below:*

- Under the Finance Section, “Full Copy of Electronic Property Tax File” was inadvertently changed from \$50 to \$0.38 in 2016. The proposed change reinstates the original charge.
- References to the Departments of Benefit Services and Employee Development have been removed and consolidated under Human Resources.

Recreation and Park Facility Fee Schedule

Fee schedules for recreation programs and park facilities are reviewed yearly to guarantee that programs offered are able to meet public demand in a cost-effective manner and continue to promote the quality of life within the community. A scholarship program, in cooperation with the Portage Community Center, is in place to provide subsidies for qualified residents to ensure program access for most activities. A limited number of fees were last modified in 2016 and three (3) new fees for new programs were introduced in 2017.

Many recreation programs are offered at no charge; however, those that carry material and/or instructor costs are offered at a fee to offset the costs. The proposed changes to existing fees are primarily due to the implementation of the ActiveNet Registration system, for which the city is charged payment processing fees and to provide consistent fee rates across all facilities. ***Minimal changes to the existing recreation and park facility fees are recommended for 2018 as indicated on the attachment titled Proposed 2018 Recreation and Park Facility Fees. Several NEW fees are also proposed.***

- ***Adult Softball Leagues:*** The proposed fee increases would offset increased charges from USA Softball registration and the costs of softballs. The proposed increase is \$20 per league; \$20 per non-resident team; \$10 for late registration; \$20 for over 50 teams; and \$20 for doubleheader teams.
- ***Ice Skating Lessons:*** The previous \$21 fee for ice skating lessons covered two (2) instructional sessions. In 2018, patrons can register for one (1) instructional session at the rate of \$11, representing a \$.50 increase per instructional session.
- ***Ramona Park Vehicle Permits:*** It is recommended that the fees for Portage resident Ramona Park Daily and Annual passes be eliminated for the 2018 beach season. Portage residents would be permitted into the beach parking area at no charge. Reinstatement of the fee would be considered for the 2019 beach season.
- ***Ice Rink at Millennium Park:*** It is recommended that the fee for skate sharpening services increase by \$2/pair of skates.
- ***Food Truck Permits:*** Due to increased demand for food truck vendors to participate in city events and requests to occupy space in certain parks, a new mobile food vendor permit process is planned for implementation next spring. There would be no charge to register the food truck/cart, however proposed fees are \$50/new event or concert, \$100/established event or concert; \$100/tournament; and \$25 per day in a pre-approved park site.
- ***Football and Soccer Fields:*** Changes are recommended to simplify the fee schedule and provide for hourly fees versus fees for 1-½ hours. These changes represent no fee increases.
- ***Softball Fields:*** The recommended increases result from the new registration system fees and labor to prep fields and with fast pitch, to move bases and mounds. Proposed fees are Slow Pitch and Fast Pitch Non-profit \$ 75/field/day and Profit \$90/field/day; Field prep on slow pitch \$65/field; fast pitch \$80/field; and \$10 per hour for softball field reservations.
- ***Building Rentals:*** Increases to Schrier Park rental fees are recommended due to the reservation system fees. In addition, the damage deposit is recommended to be \$150 for all facilities (except the Celery Flats Gazebo). The proposed rental fee for Schrier Park is \$200.
- ***Open Pavilion (Shelter) Rentals:*** Changes are recommended to simplify the fee schedule by charging the same rate for weekends, weekdays and holidays and to delete the deposit fee.
- ***Special Event Service:*** Elimination of this service is recommended due to low usage as most groups rent facilities.
- ***Rental Fee – Chairs:*** The recommended increase is due to the purchase of new chairs. The rate is still considerably lower than rates provided by a contracted rental company. The

proposed fee is \$120 for the use of all 200 chairs.

- ***Overlander Bandshell:*** Changes are recommended to simplify the fee schedule by elimination of non-profit rate and “past sunset” fees.
- ***Walk-Run Fundraising Events:*** It is recommended that the per participant fee over 200 be eliminated. The addition of a \$50 late fee is recommended to encourage timely submission of required paperwork prior to the event, which is currently a challenge.

Senior Center Class and Facility Fee Schedule

Fee schedules for Senior Center programs and services are reviewed on an annual basis and several revisions were implemented in 2014. The current fee system for classes identifies member and nonmember rates, providing an incentive for older adults to join and become members of the Senior Center. A scholarship program, through the Friends of the Portage Senior Center, is in place to provide assistance to seniors of low income and to ensure program access to all older adults in the community. The Senior Center also has published rental rates, consistent with City of Portage park facilities. ***No changes to the existing Senior Center class and facility fees are recommended at this time for 2018.***

Cemetery Fees and Charges

City cemetery fees are reviewed annually to ensure that the General Fund subsidy for this operation remains at or below \$50,000. Fees were last modified in 2015. **No changes to the existing cemetery fees are recommended for 2018.**

Community Development Fees for Service

The annual review for Community Development service fees (Planning, Development and Neighborhood Services, and Building and Housing Services) has been accomplished to determine whether modifications are necessary for the 2018 calendar year. In 2017, a three percent (3%) increase to planning and zoning fees was accomplished, and the base fee for residential and commercial construction permits was increased by five dollars (\$5.00). **Given the fee increases implemented in 2017, no increase in fees is recommended for 2018.**

Public Safety Department Fees

Fire Division:

- A review of Fire Division fees, including fees for false fire alarms, campfire permits, fireworks permits and follow-up business inspection fees, has been accomplished. Fees were last updated in December 2008, with two new fees implemented in 2015, including a radio amplification system testing fee and a compliance check fire inspection fee. **No changes to the existing Fire Division fees are recommended at this time for 2018.**

Police Division:

- Article 2, Section 78-66 of the Portage Code of Ordinances allows the city to impose emergency response fees upon individuals who have been adjudicated guilty of any state law pertaining to the act of impaired driving. The fees are based on the cost of the response of public safety personnel to these incidents and were last modified in December 2008. **No**

changes to the existing emergency response fees are recommended at this time for 2018.

- Michigan Compiled Laws (MCL) 765.12a gives the Department of Public Safety authority to collect a fee from persons arrested pursuant to a warrant issued by a court. The Arrest Warrant Processing Fee may be collected to defray the expense of receiving, depositing and delivering bail or bond money to the court, which Portage police officers accomplish on a daily basis. **No changes to the existing fees associated with Michigan Compiled Laws are recommended at this time for 2018.**

Right-of-Way and Excavation Permits

Chapter 66 – Streets, Sidewalks and Other Public Places of the Code of Ordinances sets the requirements and procedures for performing excavations and other work in the public rights-of-way of the city. Persons proposing to perform any such work shall first obtain a permit from the Transportation & Utilities Department. The fee, insurance and bonding requirements are to be set by resolution of the City Council and were last modified in 2013. A review of the costs associated with permit processing, plan review and site inspection was recently completed. **No changes to existing right-of-way and excavation permit fees are recommended at this time for 2018.**

Soil Erosion and Sediment Control Permits

Part 91, Soil Erosion and Sediment Control (SESC), of the Natural Resources and Environmental Protection Act, 1994 PA 451 is the State of Michigan law regulating construction activities, including earth changes to ensure that any earth change is accomplished in a manner that will effectively reduce accelerated soil erosion and resulting sedimentation. The City of Portage acts as the local municipal enforcement agency for projects involving earth changes within the city limits. Persons proposing to perform any such work shall first obtain a permit from the Transportation & Utilities Department, the fees for which were last modified in 2013. A review of the costs associated with permit processing, plan review and site inspection was recently completed. **No changes to existing soil erosion and sediment control permit fees are recommended at this time for 2018.**

Special Assessment Rates

On May 21, 1991, City Council adopted a Special Assessment Policy Resolution that established funding rations for utility and street construction projects. The policy also provided for periodic review and amendment of special assessment rates by resolution of the Council. Through the practice of special assessment, a share of project costs is charged to property owners receiving the primary benefit of the improvement. The practice of special assessment is a critical component of Portage city financing and has been a primary factor in the continued excellent financial health of the city.

On November 7, 2006, Portage voters approved a street millage proposal, which eliminated street special assessments on projects initiated by City Council. Street assessments will still be levied on street projects petitioned by affected and benefitting property owners. Approval of the street millage proposal also eliminated the street reconstruction portion of the special assessment rate for installation of new sanitary sewers. Any street improvement project or sanitary sewer project approved prior to November 7, 2006, whether it was a special assessment district or an extension district, was not affected by approval of the street millage proposal.

Special assessment rates are updated using a variety of factors: actual construction cost for comparable city projects; national construction cost indexes and applicable construction cost data from the Kalamazoo Builders Exchange, a local clearing house for public and private construction cost information. Recent improvement in the local economy has resulted in significant price increases for construction projects during 2017. Each special assessment rate was analyzed separately so that the recommended 2018 rates also properly reflect the City Council policy on property owner cost-sharing of needed infrastructure improvements. Due to increasing complexity of city utility projects, the city has experienced not only an increase in material prices, but higher construction labor and engineering design costs as well. Special Assessment rates were calculated based primarily on the actual bid history of 2017 projects. Thus, rates for some construction items such as sanitary sewer increase at a different rate than that of water main. **A Special Assessment Rate Resolution reflecting the proposed rates for 2018 is provided for the consideration of Council.**

Therefore, it is recommended that City Council adopt the 2017 Freedom of Information Act fees, 2018 Recreation and Park Facility Fees and the 2018 Special Assessment Rate Resolution.

FUNDING: N/A

Attachments:

1. 2018 FOIA Fee Schedule
2. 2018 Recreation and Park Facility Fees
3. 2018 Special Assessment Rate Resolution
4. 2018 Special Assessment - Attachment A

**CITY OF PORTAGE - PROPOSED
2018 CHARGES FOR DOCUMENTS**

ORIGINATING DEPARTMENT	DOCUMENT TITLE	CURRENT CHARGES	PROPOSED Changes Indicated	ONLINE AVAILABILITY
City Manager	Advisory Board Minutes	No Charge		Last Twelve Months Online for: Minutes and Agendas for Construction Board of Appeals, Human Services Board, Zoning Board of Appeals, Planning Commission, DDA and EDC/TIFA, L.D.F.A, Historic District Commission, Senior Citizens Advisory Board, Park Board and Environmental Board.
	Advisory Board Agendas	No Charge		See Above
	Advisory Board Agenda Packets	\$.10/pg + *		Available Online
	City Maps	No Charge		GIS Mapping Service Available Online
Finance	Budget (Paper copy)*	\$.10/pg + * Plus Mailing		Available Online
	Budget CD ROM*	\$0.38 Plus Mailing		Available Online
	Comprehensive Audit (Paper Copy)	\$.10/pg + * Plus Mailing		Available Online
	Comprehensive Audit CD ROM* *Upon Availability	\$0.38 Plus Mailing		Available Online
	Full Copy of Electronic Property Tax File	\$0.38	\$50	This was inadvertently changed to \$0.38 in 2016. It was \$50 in prior years.
	Tax Payment Receipts (duplicates requested other than time of payment)	No Charge		Available Online
	Individual Parcel Look-up Online	No Charge		Available Online
	Special Assessment/Tax History on computer (since 2004)	No Charge		Available Online
	Special Assessment/Tax History not on computer (prior to 2004)	No Charge		Not Available Online
	Utility Bill History Information * Upon Availability	No Charge		Not Available Online
Assessor	Property Appraisal Card/Owner of Record	No Charge		Not Available Online
	Property Appraisal Card/Non-Property Owner	\$.10/pg + *		Not Available Online
	Additional Cards	\$.10/pg + *		Not Available Online
	Data Sales Report	\$.10/pg + *		Not Available Online
	Annual Database download for Realtors Association *			Not Available Online

**CITY OF PORTAGE - PROPOSED
2018 CHARGES FOR DOCUMENTS**

CHARGES FOR DOCUMENTS CONT.

ORIGINATING DEPARTMENT	DOCUMENT TITLE	CURRENT CHARGES	ONLINE AVAILABILITY
Purchasing	Bid Specifications (First copy)	No Charge	Available Online
	Contract Conditions & Specifications	No Charge	Available Online
	Additional Copy	\$.10/pg + *	
City Clerk	City Charter	\$2.40	Available Online
	Precinct Maps (Color)	\$6.00	GIS Mapping Service Available Online
	Council Minutes and Agendas	No charge	Prior Year Available Online
	Council Agenda Packets	\$.10/pg + *	Prior Year Available Online
	Qualified Voter Information (plus postage)	*	Not Available Online
	Qualified Voter Information-Electronic Copy	0.38/CD	Not Available Online
	Tax Abatement Application	2% of taxes abated during the term of the tax abatement not to exceed \$1,800.00	Available Online
Human Resources	Employee Records - If Available to employee or designee		Not Available Online
	1st Copy	No Charge	
	2nd copy	\$.10/pg + *	
	To non-employee	\$.10/pg + *	
Fire	EMS Reports	\$.10/pg + *	Not Available Online
	Environmental Impact Statements	\$.10/pg + *	Not Available Online
	NFIRS Reports	\$.10/pg + *	Not Available Online
	Research	*	Not Available Online
	Digital Photos to Disc	*	Not Available Online

**CITY OF PORTAGE - PROPOSED
2018 CHARGES FOR DOCUMENTS**

ORIGINATING DEPARTMENT	DOCUMENT TITLE	CURRENT CHARGES	ONLINE AVAILABILITY
Police	POLICE REPORTS:		Not Available Online
	Minor Incident Report	\$.10/pg + *	
	Up to 20 pages	\$.10/pg + *	
	From 21-40 pages	\$.10/pg + *	
	From 41-60 pages	\$.10/pg + *	
	Accident Reports:		Not Available Online
	UD-10 Form	\$.10/pg + *	Not Available Online
	w/supplemental Info up to 20 pages	\$.10/pg + *	
	From 21-40 pages	\$.10/pg + *	
	From 41-60 pages	\$.10/pg + *	
	Over 60 pages	\$.10/pg + *	
	Police Reports Facsimile Charge	No Charge	Not Applicable
	Photographs		Not Available Online
	Booking Photo	\$.38 + *	Not Available Online
	Booking Room Videos, Lobby Videos,	\$.38 + *	Not Available Online
	Interview Videos, Evidence Videos and	\$.38 + *	
	Mobile Video Digital Recordings	\$.38 + *	
	*Digital Photos to Disc	\$.38 + *	Not Available Online
	Visa Clearance	\$11.00	Not Available Online
	Audio Tapes	\$.38 + *	Not Available Online
	Non-criminal Fingerprints		Not Available Online
	Resident or Portage Business	\$8.00/card	
	Non-resident	\$15.00/card	
	Application to Set Aside Conviction Permit	Through the Court	Not Available Online
	Bond Fee	\$10.00	

**CITY OF PORTAGE - PROPOSED
2018 CHARGES FOR DOCUMENTS**

CHARGES FOR DOCUMENTS CONT.

ORIGINATING DEPARTMENT	DOCUMENT TITLE	CURRENT CHARGES	ONLINE AVAILABILITY
	PAPER FORMAT - IN COLOR:		Available as part of GIS Mapping Service
Community Development (Maps, plans, tracings, plats, etc.)	8 x 11 ("A" size) without Aerial	\$1.00	Available as part of GIS Mapping Service
	11 x 17 ("B" size) without Aerial	\$2.00	Available as part of GIS Mapping Service
	18 x 24 ("C" size) without Aerial	\$3.00	Available as part of GIS Mapping Service
	24 x 36 ("D" size) without Aerial	\$5.00	Available as part of GIS Mapping Service
	30 x 30 ("E" size) without Aerial	\$10.00	Available as part of GIS Mapping Service
	8 x 11 ("A" size) with Aerial	\$2.00	Available as part of GIS Mapping Service
	11 x 17 ("B" size) with Aerial	\$5.00	Available as part of GIS Mapping Service
	18 x 24 ("C" size) with Aerial	\$10.00	Available as part of GIS Mapping Service
	24 x 36 ("D" size) with Aerial	\$20.00	Available as part of GIS Mapping Service
	30 x 30 ("E" size) with Aerial	\$25.00	Available as part of GIS Mapping Service
	Building Plan/Site Plan (24x36)	\$5.00/sheet	Not Available Online
	(copyright restrictions may apply)		
	Planning and Zoning Code with Land Development Regulations	\$.10/pg + *	Available Online
	Zoning Map, Future Land Use Map (11x17)	\$5.00	Available as part of GIS Mapping Service
	Zoning Map, Future Land Use Map (24x36)	\$10.00	Available as part of GIS Mapping Service
	Subdivision and Land Division Regulations	\$.10/pg + *	Available Online
	Comprehensive Master Plan	\$.10/pg + *	Available Online
	Comprehensive Master Plan - CD ROM	\$.38 + *	Available Online
	Major Thoroughfare Plan Status update	\$.10/pg + *	Available Online
	Capital Improvement Program (CIP)	\$.10/pg + *	Available Online
	Capital Improvement Program (CIP) - CD ROM	\$.38 + *	Available Online
	Property Notification Address List	\$.10/pg.	Not Applicable
	CDBG Consolidated Plan	\$.10/pg + *	Available Online
	CDBG Annual Action Plan	\$.10/pg + *	Available Online
	Analysis of Impediments to Fair Housing Study	\$.10/pg + *	Available Online
	DIGITAL FORMAT:		
	Digital Aerial Photo of City (one foot pixel resolution)	\$40/section	Available as part of GIS Mapping Service
	Digital Aerial Photo of Entire City - All Sections	\$750.00	Available as part of GIS Mapping Service

CITY OF PORTAGE - PROPOSED 2018 CHARGES FOR DOCUMENTS

CHARGES FOR DOCUMENTS CONT.

ORIGINATING DEPARTMENT	DOCUMENT TITLE	CURRENT CHARGES	ONLINE AVAILABILITY
Community Development	Digital Topographic Maps	\$25/quarter section	Available as part of GIS Mapping Service
	All 36 Sections	\$1,500.00	Available as part of GIS Mapping Service
	Digital (GIS) Map Layers (streets, hydrology, zoning, etc.)	\$100/layer	Available as part of GIS Mapping Service
	Digital (GIS) Parcel Map Layer	\$.10/parcel \$25 minimum \$750 maximum	Available as part of GIS Mapping Service
	Custom Mapping Building/Site Plan e-mailed (copyright restrictions may apply)	* *	Available as part of GIS Mapping Service Not Available Online
Information Technology	Compact Disk	\$.38 + *	Not Applicable
	DVD Productions (copy of)	\$.38 + *	Not Applicable
	Computer Research	*	Not Applicable

* NOTE: Charge per document is \$.10/page, labor costs and up to 50% of the hourly wage for benefit costs of lowest paid individual capable of performing the work, plus mailing costs.
For requests involving in excess of 15 minutes of staff time, the charge will be based on the nearest quarter-hour increment after the first quarter hour rounded down.

2018 RECREATION PROGRAM FEE RECOMMENDED REVISIONS

(Revisions indicated in bold)

ACTIVITY	2016 FEES	2017 FEES	2018 FEES
Adult Softball Leagues (13 games)	\$540	Same	\$560
Non-resident fee per person	\$20	Same	Same
Non-resident team fee – 2 wks prior to deadline	\$680	Same	\$700
Late registration fee	\$40	Same	\$50
Over 50 teams	\$660	Same	\$680
Doubleheader teams	\$1050	Same	\$1070
Team conduct violation	\$20	Same	Same
Late Summer Softball Leagues (7 games)	\$400	Same	Same
Ice Skating Lessons			
Per person	\$21	Same	\$11 per lesson
Youth Cross Country Ski Lessons			
Per person	\$15	Same	Same
Adult Cross Country Ski Lessons			
Per person	\$20	Same	Same
Downhill Skiing Fee			
Per person	\$60 (Payable to Timber Ridge)	Same	Same
Per person	\$5	Same	Same
Family	\$10	Same	Same
Kids Sampler			
Resident Per Person		\$25	Same
Non-Resident per person		\$35	Delete – Same as Resident Fee.
Ramona Park Vehicle Permits			
Resident Daily pass	\$5	Same	No Fee
Non-resident Daily pass	\$10	Same	Same
Resident Annual pass	\$25	Same	No Fee
Non-resident Annual pass	\$45	Same	Same
Daily Bus pass	\$50	Same	Same
The Ice Rink @ Millennium Park			
Skate fee per person	\$4	Same	Same
Skate Rental	\$3	Same	Same
Skate Sharpening	\$3	Same	\$5
10 Skate Discount Card	\$25	Same	Same
Group Rental – 1 ½ hours	\$110	Same	Same
Food Truck Permit Fee		New	None
Events/Concerts - New		New	\$50
Events/Concerts - Established		New	\$100
Tournaments		New	\$100
Park Site Spot		New	\$25

2018 RECREATION PROGRAM FEE RECOMMENDED REVISIONS

(Revisions indicated in bold)

PARK FACILITIES	2016 FEES	2017 FEES	2018 FEES
FOOTBALL & SOCCER FIELDS			
League Play			
Weeknights (2-3 hours)			
Field/Season non-profit	\$260	Same	Delete – See Team Practice / League Play Reservation Fee below.
Field/Season profit	\$430	Same	
Weekends (4-6 hours)			
Field/Season non-profit	\$405	Same	
Field/Season profit	\$640	Same	
Weekend Tournaments			
Field/Day non-profit	\$210	Same	Same
Field/Day profit	\$325	Same	Same
Deposit	N/A	\$100	Same
Camps and Clinics			
Field per 4 hrs non-profit	\$80	Same	Same
Additional hourly fee non-profit	\$10	Same	Same
Field per 4 hrs profit	\$130	Same	Same
Additional hourly fee profit	\$20	Same	Same
Team Practice/League Play Reservation Fee			
Non-profit 1-½ hour fee	\$15	Same	\$10/hour (same)
Profit 1-½ hour fee	\$30	Same	\$20/hour (same)
SOFTBALL FIELDS			
Youth League Tournaments			
Field/Day non-profit	\$60	Same	Delete – See Slow Pitch and Fast Pitch Tournaments below.
Field/day profit	\$75	Same	
Deposit	\$100	Same	
Youth/Adult Softball Tournaments			
Field/Day non-profit	\$60	Same	Delete – See Slow Pitch and Fast Pitch Tournaments below.
Field/Day profit	\$75	Same	
Deposit	\$100	Same	
Slow Pitch Softball Tournaments			
Field/Day – Non-Profit	N/A	N/A	\$75
Field/Day – Profit			\$90
Field Prep			\$65
Deposit			\$100
Fast Pitch Softball Tournaments			
Field/Day – Non-Profit	N/A	N/A	\$75
Field/Day – Profit			\$90
Field Prep			\$80
Deposit			\$100
Practice Field Reservation			
Per 1-½ hour	\$10	Same	\$10/hour
Softball Tournament Field Preparation			
Fee per day per field	\$60	Same	Delete – See Slow Pitch and Fast Pitch Tournaments above.
Independent Leagues (no prep)			
Field per season	\$380	Same	Delete

2018 RECREATION PROGRAM FEE RECOMMENDED REVISIONS

(Revisions indicated in bold)

PARK FACILITIES	2016 FEES	2017 FEES	2018 FEES
SCHRIER PARK RENTAL			
Weekends/Weekdays/Holidays			
First 3 hours	\$190	Same	\$200
Additional hourly fee	\$50	Same	Same
Daily maximum fee	\$400	Same	Same
Non-Profit Meetings per hour	\$25	Same	Same
Damage deposit	\$100	Same	\$150
OPEN PAVILION RENTAL			
Deposit	N/A	\$100	Delete
Weekends/Weekdays/Holidays	\$110	Same	Same (including weekdays)
	\$70	Same	Delete – same as weekend and holiday rate.
Weekdays (Mon – Fri)			
Central Park			
Lakeview Park #1 & #2			
Ramona Park #1 & #2			
Westfield Park			
SPECIAL EVENT SERVICE			
Daily fee	\$250-\$375	Same	Delete
Damage deposit	\$100	Same	
SOUTH WESTNEDGE SKATEPARK			
Special Event Rental – 4 hrs	\$150	Same	Same
CELERY FLATS RENTAL			
Schoolhouse Classroom daily fee	\$50	Same	Same
Damage deposit	\$50	Same	Same
Gazebo Rental – first 3 hrs	\$65/3 hrs	Same	Same
Additional hourly fee	\$15	Same	Same
Damage deposit	\$50	Same	Same
Grain Elevator			
Group Rental – first 3 hrs	\$125	Same	Same
Additional hourly fee	\$30	Same	Same
Daily Rental	N/A	\$250	Same
Damage deposit	\$100	Same	\$150
Hayloft Theatre *			
Group Rental – first 5 hrs	\$400	Same	Same
Additional hourly fee	\$60	Same	Same
Daily maximum	\$770	Same	Same
Wedding fee	\$770	Same	Same
Friday Rehearsal option	\$100	Same	Same
Outside Performance - evening	\$300	Same	Same
Rental fee – Chairs	\$60	Same	\$120
Damage deposit	\$150	Same	Same

2018 RECREATION PROGRAM FEE RECOMMENDED REVISIONS

(Revisions indicated in bold)

PARK FACILITIES	2016 FEES	2017 FEES	2018 FEES
Stuart Manor *			
Group Rental – first 3 hrs	\$140	Same	Same
Additional hourly fee	\$30	Same	Same
Daily Rental	\$260	Same	Same
Damage deposit	\$150	Same	Same
Amphitheatre *			
Rental – first 3 hrs	\$180	Same	Same
Additional hourly fee	\$30	Same	Same
Daily Rental	N/A	\$300	Same
Damage Deposit	\$100	Same	\$150
OVERLANDER BANDSHELL			
Non-Profit Group – first 3 hrs	\$140	Same	Same
Additional hourly fee	\$40	Same	Same
Profit-Making Group* - first 3 hrs	\$115	Same	Delete
Additional hourly fee	\$40	Same	Delete
15% of gross receipts			
Past Sunset – Additional hourly fee	\$30	Same	Delete
Damage deposit	\$100	Same	\$150
<i>*Extra Fees: 15% of gross receipts plus applicable fees for additional staff, special equipment, rehearsals</i>			
WALK-RUN FUNDRAISING EVENTS			
Base fee	\$450	Same	Same
Over 200 Participants Additional fee per participant	\$0.75	Same	Delete
Early Set-Up	\$100	Same	Same
Additional Staff Charges (per hour)	\$50	Same	Same
Damage/deposit reservation	\$100	Same	\$150
Late Fee	N/A	N/A	\$50

**CITY OF PORTAGE
SPECIAL ASSESSMENT RATE
RESOLUTION**

Minutes of a regular meeting of the City Council of the City of Portage, Michigan held on _____, 20____ at 7:30 p.m. local time at City Hall in the City of Portage, Kalamazoo County, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and supported by:

Councilmember: _____.

WHEREAS, the Portage Charter gives Council the power to make public improvements within the City; and

WHEREAS, MCL 117.4(d) AND Chapter 9 of the Portage City Charter also empower Council to defray the cost of public improvements "which are of such a nature as to benefit especially any property or properties within a district" by special assessment upon such property in proportion to the benefit derived or to be derived; and

WHEREAS, Council is of the opinion that it is fair and equitable to special assess for certain public improvements which specially benefit properties; and

WHEREAS, such special assessment process allows for the continued expansion and preservation of the infrastructure, to the benefit of the residents; and

WHEREAS, Council adopted a "Special Assessment Policy Resolution" as amended at the regular meeting of said Council on the 21st day of May, 1991; and

WHEREAS, said Policies provide for adoption of Special Assessment rates by resolution of Council to maintain a cost sharing balance between abutting property owners and the City at large; and

WHEREAS, increased construction costs make it appropriate to amend the existing special assessment rates to maintain the cost sharing balance between abutting property owners and the City at large.

NOW, THEREFORE BE IT RESOVLED THAT:

1. The City of Portage adopt the special assessment rate as indicated on Attachment "A", attached hereto and incorporated herein, with said rates to become effective for any special assessment district initiated after January 1, 2018 and to remain in effect until modified by subsequent resolution of Council.

2. The City of Portage utilize the special assessment rates as indicated on Attachment "A", with said rates to become effective after January 1, 2018 for connection to any water or sanitary sewer extension district (unassessed water or sanitary sewer main). The fee for connection to an unassessed water main shall consist of the current charge for the water lead (from the water main to the curb shut off), the water meter charge, and the front footage charge based on current special assessment rates. The water lead charge and meter charge must be paid in full at the time of issuance of the water permit but the front footage charge may be spread over twenty years. The fee for an up-sized water lead shall consist of the difference in cost between the 1 ¼ inch service assessed and the selected size current rate at the time of connection.

3. The fee for connection to an unassessed sanitary sewer main shall consist of the current "trunk and branch" fee, a sewer meter charge (if the structure is not connected to public water), the street lead charge (service line from the sanitary sewer main to the property line), and the front footage charge based on the current special assessment rates for unassessed sewers. The sewer trunk and branch fee, street lead charge, and sewer meter charge (when applicable) must be paid in full at the time of issuance of the sewer use permit but the front footage charge may be spread over twenty years.

4. **BE IT FURTHER RESOLVED** that all resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

ADOPTED: _____

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED.

Adam Herringa, City Clerk

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

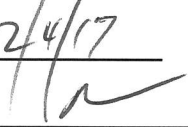
I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the ____ day of _____, 2017, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this ____ day of _____, 2017.

Adam Herringa, City Clerk

Approved as to form:

Date: 12/4/17


City Attorney

Attachment "A"

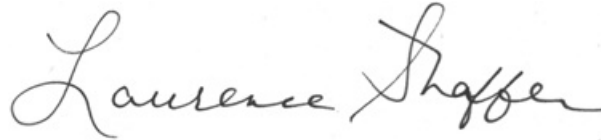
SPECIAL ASSESSMENT RATES 2018

	Residential			Commercial/Industrial		
	2017	Proposed for 2018	% Change	2017	Proposed for 2018	% Change
Water	\$38.77	\$39.93	3%	\$50.64	\$52.16	3%
Sewer	\$43.77	\$45.08	3%	\$47.48	\$48.90	3%
Unassessed Sewer*	\$77.92	\$80.26	3%	\$95.40	\$98.26	3%
Petitioned Street Reconstruction with Curb & Gutter (including new storm sewer)	\$104.65	\$90.85	-13%	\$111.59	\$100.24	-10%
Petitioned Street Reconstruction with Curb & Gutter (existing adequate storm sewer)	\$81.44	\$68.42	-16%	\$88.21	\$73.23	-17%
Petitioned Curb and Gutter (including new storm sewer done in conjunction with either street reconstruction or sanitary sewer installation)	\$56.79	\$49.85	-12%	\$56.79	\$54.43	-4%
Petitioned Curb and Gutter without storm sewer (existing adequate storm sewer done in conjunction with street reconstruction)	--	\$24.17	--		\$27.41	--
Petitioned Street Reconstruction	\$40.02	\$36.64	-8%	\$46.03	\$42.25	-8%
Petitioned Storm Sewer (done separate from street reconstruction)	\$38.18	\$25.68	-32%	\$41.16	\$27.02	-34%
Sidewalk	\$34.76	\$34.76	0%	\$36.49	\$39.14	7%
Drive Approach	\$ 1,144.00 & \$ 1960.00	\$ 1,450.00	--	\$ 1,144.00 & \$ 1960.00	\$ 1,450.00	--
Sewer Lead	\$ 1,536.67	\$ 1,680.95	7.5%	\$ 1,536.67	\$ 1,680.95	7.5%
3/4-in. Water Service	\$ 984.00	\$ 984.00	0%	\$ 984.00	\$ 984.00	0%
1-in. Water Service	\$ 1,160.00	\$ 1,160.00	0%	\$ 1,160.00	\$ 1,160.00	0%
1 1/4-in. Water Service	\$ 1,235.00	\$ 1,235.00	0%	\$ 1,235.00	\$ 1,235.00	0%

* This rate will apply to sewer extension districts initiated prior to 11-7-06.

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: City Council Rules of Order and Procedure Revision

SUPPORTING PERSONNEL: Adam Herringa, City Clerk

ACTION RECOMMENDED: That City Council adopt the revised Rules of Order and Procedure.

Per the City Charter, the City Council Rules of Order and Procedure govern the format and process followed for City Council Meetings (Charter Section 4.6-i and Section 4.6-m). Initially adopted by City Council on October 13, 1964, the Rules of Order and Procedure are traditionally adopted every two years, yet rarely modified in a significant manner. In an effort to improve the efficiency of City Council Meetings, the Office of the City Clerk conducted a review of the current City Council Meeting Agenda format and the related Rules of Order and Procedure. After discussions with the Mayor and Mayor Pro Tempore, and advice from the City Attorney and City Clerk, the following revisions in the Rules of Order and Procedure are recommended. The suggested changes are further informed by processes adopted by various units of local government to include the cities of Kalamazoo, Kentwood and Novi.

Section 2. Order of Business

Consent Agenda - New Section

The most substantial recommended revision to the City Council agenda format is the implementation of a "Consent Agenda" section. Currently, items that are part of the Consent Agenda are denoted with an asterisk (*), read aloud during the City Council meeting and approved in one motion, with the exception of items removed from the Consent Agenda at the request of City Council or a member of the public. It is recommended that a new "Consent Agenda" section be created in the City Council Order of Business that would contain Consent Agenda items, such as approval of City Council meeting minutes, the Accounts Payable Register, commonplace communications from the City Administration, bid tabulations, Materials Transmitted and boards and commissions meeting minutes. Rather than reading the entire Consent Agenda aloud, a statement directing the Council and the public to the items contained within the Consent Agenda can be made. (A suggested statement is provided in the new Section 5 of the proposed Rules of Order and Procedure.) The City Council and the audience would still be given the opportunity to remove an item from the Consent Agenda.

With regard to approval of the minutes of City Council Meetings, staff research indicates that these documents do not require an individual vote. Currently, members of City Council abstain from voting on minutes of meetings in which they were not present. Robert's Rules of Order - 11th edition states: "It should be noted that a member's absence from the meeting for which minutes are being approved does not prevent the member from participating in their correction or approval (p. 354-355)."

Councilmembers can vote to approve minutes, expressing confidence in the accuracy of the meeting recordation/recorder and correctness of the minutes' preparation, without a declaration regarding his/her individual presence at said meeting.

Regular Business Agenda - New Section

Items excluded from the Consent Agenda would be located in a new recommended "Regular Business Agenda" section. Items for which discussion is anticipated or feedback is necessary would be placed in this section by the City Administration during the preparation of the City Council Meeting agenda. Examples of items that might be included under this section would be a contentious ordinance; communications from the City Administration that are expected to produce debate amongst the Council, Administration or public; and adoption of the annual budget. Items removed from the Consent Agenda by the City Council or the public would automatically move from the "Consent Agenda" section to the "Regular Business Agenda" section.

Reminder of Meetings - Delete Section

To simplify the City Council Agenda format further, it is recommended that the "Reminder of Meetings" section be deleted. The City Administration would instead provide a communication including a list of upcoming Board and Commission Meetings as part of the "Communications" section.

No changes are recommended regarding the Public Hearing, Unfinished Business, Council Committee Reports and New Business sections or the two opportunities for Petitions and Statements of Citizens or Statements of City Council and City Manager. However, the first instance for Petitions and Statements of Citizens has been moved ahead of Public Hearings for the convenience of the public.

Section 5. Regular Meetings: Time-Place

Perhaps the most notable recommended alteration to the Rules of Order and Procedure is the change of the start time of Regular City Council Meetings from 7:30 p.m. to 6:30 p.m. The change is recommended to allow the City Council to conclude the business of the meeting at an earlier time in the evening. Special meetings, such as board and commission interview sessions, can be adjusted accordingly. The City Council meeting start time was last adjusted by a vote of City Council on February 22, 1977, which moved the start time from 8:00 p.m. to 7:30 p.m.

Section 8. Statements of Citizens

Another substantive change to the Rules of Order and Procedure is the recommendation that the time allowed for each citizen to speak be reduced from four (4) minutes to three (3) minutes.

The recommended changes to the City Council agenda can be implemented within the confines of the CivicClerk agenda management software. Additionally, CivicClerk representatives indicated that the changes recommended would be significantly more reflective of agenda formats utilized by other communities.

Following discussion at the December 18, 2017 Pre-Council Meeting, additional revisions to the draft Rules of Order and Procedure were added (denoted on the red-line/strikeout version in yellow).

It is recommended that City Council adopt the revised Rules of Order and Procedure as shown in the revised attachment. A red-line/strikeout version of the Rules of Order and Procedure are also attached.

FUNDING: N/A

- Attachments:**
1. City Council Rules of Order & Procedure (red-line/strikeout) - revised 12/19/17
 2. City Council Rules of Order & Procedure (clean) - revised 12/19/17
 3. Revised Agenda Outline (draft)
 4. Robert's Rules of Order excerpt

RULES OF ORDER AND PROCEDURE
FOR THE CITY COUNCIL
PORTAGE, MICHIGAN

Section 1. Convening of Meeting; Quorum:

The Mayor, or in his/~~her~~ absence or at his/~~her~~ direction, the Mayor Pro Tem, shall, at the time fixed for meeting, take the chair for convening the Council. The presence of four (4) members of the meeting shall constitute a quorum for the transacting of business.

Section 2. Order of Business:

The Business of all regular meetings shall be transacted as far as possible in the following order:

- | | |
|---|---|
| CALL TO ORDER | G. Communications Council Committee |
| | Reports |
| Invocation s | H. Unfinished New Business |
| Pledge of Allegiance | I. Minutes of Boards & |
| | Commissions Statements of Citizens |
| Roll Call | J. Council Committee Reports Statements |
| | of City Council & City Manager |
| Proclamations | K. New Business |
| A. Approval of Minutes Consent | L. Tabulation of Bids |
| Agenda | |
| B. Approval of the Consent | M. Other City Matters & Statements of |
| Agenda Petitions & Statements | Citizens |
| of Citizens | |

- C. ~~Approval of Check Register &~~ ~~N. — Materials Transmitted~~
~~Payrolls~~ **Communications**
- D. Public Hearings ADJOURNMENT
- E. ~~Petitions & Statements of~~
~~Citizens~~ **Regular Business**

Agenda
- F. ~~Reports from the City~~
~~Administration~~ **Unfinished**

Business

Section 3. Reading of Minutes:

Unless a reading of the minutes of a meeting is requested by a member of the Council, such minutes may be approved or corrected without reading if the City Clerk has previously furnished each member with a true copy thereof.

Section 4. Agenda for Meeting:

Any Councilmember, Mayor or City Manager may prepare items for consideration on the agenda of Council meetings. The Clerk shall prepare copies of the agenda of the business to be considered at each regular council meeting. No business shall be placed on the agenda by the Clerk unless received not later than 12:00 o'clock noon on the Friday preceding the meeting, except upon the approval of four (4) or more members of the Council.

Section 5. Consent Agenda:

The Consent Agenda motions shall be provided to City Council. The Consent Agenda and related motions shall not be read into the record unless a motion to do so is passed by Council. Items may be removed from the Consent Agenda by a member of City Council or the audience. If an item is removed from the Consent Agenda, the item automatically moves from the Consent Agenda to the end of the Regular Business Agenda section.

11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

Councilmembers shall make every effort to request removal of items from the Consent Agenda prior to 12 noon on the day of the meeting. This does not preclude members of Council from requesting removal of an item during the meeting itself.

The Consent Agenda items will then be enacted by the following motion: “The Consent Agenda is available for review by visiting the City of Portage website, obtaining a hard copy at Regular Meetings of the City Council or by visiting the Office of the City Clerk the day before or the day of a Regular Meeting. Does any Councilmember wish to remove an item from the Consent Agenda for individual consideration? Does anyone in the audience wish to remove an items from the Consent Agenda for individual consideration? I would consider a motion to approve the Consent Agenda as presented by City Council (– or – with the exception of Item(s)).”

Section 65. Regular Meetings; Time-Place:

The Council shall meet regularly every other Tuesday at 7:30 o'clock p.m. in the Council Chambers of the Portage City Hall, 7900 S. Westnedge Ave., Portage, Michigan; however, the Council may cancel all but two Tuesday meetings in each month by giving notice of said cancellation as required by Act 267 of the Public Acts of 1976. When the day fixed for any regular meeting falls upon a national holiday, or the eve of a national holiday, or upon any regular or special election day, the council may determine to hold such meeting at the same hour within a week preceding or succeeding the regular day or cancel the meeting as provided above. Notice of the time and place of the changed meeting date or cancellation shall be given in accordance with Act 267 of Public Acts of 1976. Meetings may be held in other locations provided notice is given pursuant to Act 267 of Public Acts of 1976.

The Council shall hold an organizational meeting, which may be combined with, but in no event shall be later than its first regular meeting in November immediately following the regular City election. At such meeting, or within one week thereafter, Council shall elect from its membership a

11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

Mayor Pro-Tempore who shall serve for a period of two years and thereafter until a successor is appointed. Nominations for Mayor Pro Tem shall be entertained by the presiding officer and after all nominations desired are made, the nominations shall be closed by motion. Voting by the Council shall be by a signed ballot. The City Clerk shall announce and record in the record each Councilmember's vote. A majority of Councilmembers present shall be required to elect the Mayor Pro Tem. If the first vote does not result in a majority, voting shall continue until a majority is achieved.

Section 76. Meetings: Notice Required:

The City Clerk shall call a special meeting on the written request of the Mayor, or any three members of the Council. Notice required for the special meeting will be given in accordance with Section 5 of Act 267 of the Public Acts of 1976, and the business to be transacted at such meeting will be limited to that stated or given in the notice.

Section 87. Presiding Officer; Powers and Duties:

- (a) The Mayor shall be the presiding officer of the Council. He/she shall state every question coming before the Council, announce the decision of the Council on all matters, and decide all questions of order; provided, however, that upon an appeal to the Council, a majority vote of the Council shall conclusively determine such question of order. He/she shall vote on all questions. He/she shall at the request of a Council member divide any question, if such question in his/her opinion is subject to division, and he/she shall submit it as divided.
- (b) The Mayor may refer any communication, question or petition to the City Manager of the City for action, reply or procedure to dispose of such matter.

Section 98. Statements of Citizens:

All citizens shall have an opportunity to be heard during the course of each meeting after standing and being recognized by the presiding officer, and stating their name, street address and city. No citizen shall speak for longer than ~~four~~ **three** (34) minutes unless the rules are suspended in accordance with Section ~~1211~~ **1211**(a).

11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

Section 109. Rules of Debate:

- (a) There shall be no debate or discussion of any issue prior to the proper introduction of said issue.
- (b) When a motion is under debate, only the following motions shall be in order:
 - 1. Motion to adjourn.
 - 2. Motion to take a recess.
 - 3. Motion to lay on the table.
 - 4. Motion for the previous question.
 - 5. Motion to postpone to a day certain.
 - 6. Motion to refer to a committee of the council.
 - 7. Motion to amend or substitute.
 - 8. Motion to postpone indefinitely.
- (c) A motion to adjourn and a motion to lay on the table shall always be in order and without debate.
- (d) After a motion is made to close debate, the presiding officer shall poll the Council on the question of closing the debate. If the yes's prevail, the presiding officer shall immediately poll the Council on the principal question, or questions, without further debate.
- (e) All votes shall be taken by yes and no, and be entered upon the journal to show the names of those voting in the affirmative and in the negative, except if the vote is unanimous, the record need merely so state.
- (f) When a question has once been decided, it shall be in order for any member who voted on the prevailing side of the question or a member who did not vote by reason of absence to move reconsideration thereof.

Section 1110. Ordinances, Resolution, Motions, Contracts:

- (a) All ordinances, resolution and contract documents shall, before presentation to the Council, have been approved as to form and legality by the City Attorney.
- (b) Ordinances, resolutions and other matters that are subjects requiring action by the Council, 11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

shall be introduced and sponsored by the Mayor or a member of the Council; otherwise, they shall not be considered.

- (c) Each proposed ordinance shall be introduced in written form. Reading of the title shall be sufficient for the introduction of an ordinance unless a member of the Council requests that the proposed ordinance be read in full. The Council may also request that the introducer give an explanation of the proposed ordinance. Upon the introduction of an ordinance, the Council may:

1. Postpone the proposed ordinance for consideration at the next regular meeting of the Council or at a later regular Council meeting specified in the motion to postpone; or
2. Refer the proposed ordinance to an ad hoc committee of three (3) Councilmembers named by the Mayor for study and recommendation to the Council. When such committee reports back to the Council, the ordinance may then be adopted or postponed as above. Any proposed ordinance may be amended by the Council at any time prior to its adoption by the vote of four (4) or more of its members.
3. When an emergency ordinance is introduced for adoption at any meeting, it shall be read in full before the Council and may be passed at such meeting in accordance with the provisions of Section 5.3 (b) of the City Charter.

Section 12~~11~~12. Suspending; Amending Rules:

- (a) These rules may be suspended by a vote of five (5) members of the City Council present and voting.
- (b) These rules may be amended by a vote of five (5) members of the City Council present and voting.

Section 13~~12~~13. Roll Call Votes:

All roll call votes are to rotate in staggered alphabetical order, such that no member of the City Council, including the presiding officer, votes in the same position for consecutive roll call votes.

Section 14~~13~~14. Attendance:

Councilmembers who will be absent shall, if possible, notify the City Clerk prior to meeting.

11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

Section 15~~14~~. Governing Rules of Order:

Roberts Rules of Order may apply to all other items not provided for in these rules, except where they may be inconsistent with said rules.

Section 16~~15~~. Vacancies

If a vacancy occurs on the City Council, except in the case of recall, the Council shall fill the vacancy by appointment within 60 days thereafter. In making its appointment Council may consider appointing any eligible person.

RULES OF ORDER AND PROCEDURE
FOR THE CITY COUNCIL
PORTAGE, MICHIGAN

Section 1. Convening of Meeting; Quorum:

The Mayor, or in his/her absence or at his/her direction, the Mayor Pro Tem, shall, at the time fixed for meeting, take the chair for convening the Council. The presence of four (4) members of the meeting shall constitute a quorum for the transacting of business.

Section 2. Order of Business:

The Business of all regular meetings shall be transacted as far as possible in the following order:

- | | |
|---------------------------------------|--|
| CALL TO ORDER | D. Public Hearings |
| Invocation | E. Regular Business Agenda |
| Pledge of Allegiance | F. Unfinished Business |
| Roll Call | G. Council Committee Reports |
| Proclamations | H. New Business |
| A. Consent Agenda | I. Statements of Citizens |
| B. Petitions & Statements of Citizens | J. Statements of City Council & City Manager |
| C. Communications | ADJOURNMENT |

Section 3. Reading of Minutes:

Unless a reading of the minutes of a meeting is requested by a member of the Council, such minutes may be approved or corrected without reading if the City Clerk has previously furnished each member with a true copy thereof.

Section 4. Agenda for Meeting:

Any Councilmember, Mayor or City Manager may prepare items for consideration on the

11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

agenda of Council meetings. The Clerk shall prepare copies of the agenda of the business to be considered at each regular council meeting. No business shall be placed on the agenda by the Clerk unless received not later than 12:00 o'clock noon on the Friday preceding the meeting, except upon the approval of four (4) or more members of the Council.

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The Consent Agenda items will then be enacted by the following motion: “The Consent Agenda is available for review by visiting the City of Portage website, obtaining a hard copy at Regular Meetings of the City Council or by visiting the Office of the City Clerk the day before or the day of a Regular Meeting. Does any Councilmember wish to remove an item from the Consent Agenda for individual consideration? Does anyone in the audience wish to remove an items from the Consent Agenda for individual consideration? I would consider a motion to approve the Consent Agenda as presented by City Council (– or – with the exception of Item(s) ____).”

Section 6. Regular Meetings; Time-Place:

The Council shall meet regularly every other Tuesday at 7:30 o'clock p.m. in the Council Chambers of the Portage City Hall, 7900 S. Westnedge Ave., Portage, Michigan; however, the Council may cancel all but two Tuesday meetings in each month by giving notice of said cancellation as required by Act 267 of the Public Acts of 1976. When the day fixed for any regular meeting falls upon a national holiday, or the eve of a national holiday, or upon any regular or special election day, the council may determine to hold such meeting at the same hour within a

11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

week preceding or succeeding the regular day or cancel the meeting as provided above. Notice of the time and place of the changed meeting date or cancellation shall be given in accordance with Act 267 of Public Acts of 1976. Meetings may be held in other locations provided notice is given pursuant to Act 267 of Public Acts of 1976.

The Council shall hold an organizational meeting, which may be combined with, but in no event shall be later than its first regular meeting in November immediately following the regular City election. At such meeting, or within one week thereafter, Council shall elect from its membership a Mayor Pro-Tempore who shall serve for a period of two years and thereafter until a successor is appointed. Nominations for Mayor Pro Tem shall be entertained by the presiding officer and after all nominations desired are made, the nominations shall be closed by motion. Voting by the Council shall be by a signed ballot. The City Clerk shall announce and record in the record each Councilmember's vote. A majority of Councilmembers present shall be required to elect the Mayor Pro Tem. If the first vote does not result in a majority, voting shall continue until a majority is achieved.

Section 7. Meetings: Notice Required:

The City Clerk shall call a special meeting on the written request of the Mayor, or any three members of the Council. Notice required for the special meeting will be given in accordance with Section 5 of Act 267 of the Public Acts of 1976, and the business to be transacted at such meeting will be limited to that stated or given in the notice.

Section 8. Presiding Officer; Powers and Duties:

- (a) The Mayor shall be the presiding officer of the Council. He/she shall state every question coming before the Council, announce the decision of the Council on all matters, and decide all questions of order; provided, however, that upon an appeal to the Council, a majority vote of the Council shall conclusively determine such question of order. He/she shall vote on all

questions. He/she shall at the request of a Council member divide any question, if such question in his/her opinion is subject to division, and he/she shall submit it as divided.

- (b) The Mayor may refer any communication, question or petition to the City Manager of the City for action, reply or procedure to dispose of such matter.

Section 9. Statements of Citizens:

All citizens shall have an opportunity to be heard during the course of each meeting after standing and being recognized by the presiding officer, and stating their name, street address and city. No citizen shall speak for longer than three (3) minutes unless the rules are suspended in accordance with Section 12(a).

Section 10. Rules of Debate:

- (a) There shall be no debate or discussion of any issue prior to the proper introduction of said issue.
 - (b) When a motion is under debate, only the following motions shall be in order:
 - 1. Motion to adjourn.
 - 2. Motion to take a recess.
 - 3. Motion to lay on the table.
 - 4. Motion for the previous question.
 - 5. Motion to postpone to a day certain.
 - 6. Motion to refer to a committee of the council.
 - 7. Motion to amend or substitute.
 - 8. Motion to postpone indefinitely.
 - (c) A motion to adjourn and a motion to lay on the table shall always be in order and without debate.
 - (d) After a motion is made to close debate, the presiding officer shall poll the Council on the question of closing the debate. If the yes's prevail, the presiding officer shall immediately poll the Council on the principal question, or questions, without further debate.
 - (e) All votes shall be taken by yes and no, and be entered upon the journal to show the names of
- 11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

those voting in the affirmative and in the negative, except if the vote is unanimous, the record need merely so state.

- (f) When a question has once been decided, it shall be in order for any member who voted on the prevailing side of the question or a member who did not vote by reason of absence to move reconsideration thereof.

Section 11. Ordinances, Resolution, Motions, Contracts:

- (a) All ordinances, resolution and contract documents shall, before presentation to the Council, have been approved as to form and legality by the City Attorney.
- (b) Ordinances, resolutions and other matters that are subjects requiring action by the Council, shall be introduced and sponsored by the Mayor or a member of the Council; otherwise, they shall not be considered.
- (c) Each proposed ordinance shall be introduced in written form. Reading of the title shall be sufficient for the introduction of an ordinance unless a member of the Council requests that the proposed ordinance be read in full. The Council may also request that the introducer give an explanation of the proposed ordinance. Upon the introduction of an ordinance, the Council may:
 1. Postpone the proposed ordinance for consideration at the next regular meeting of the Council or at a later regular Council meeting specified in the motion to postpone; or
 2. Refer the proposed ordinance to an ad hoc committee of three (3) Councilmembers named by the Mayor for study and recommendation to the Council. When such committee reports back to the Council, the ordinance may then be adopted or postponed as above. Any proposed ordinance may be amended by the Council at any time prior to its adoption by the vote of four (4) or more of its members.
 3. When an emergency ordinance is introduced for adoption at any meeting, it shall be read in full before the Council and may be passed at such meeting in accordance with the provisions of Section 5.3 (b) of the City Charter.

Section 12. Suspending; Amending Rules:

11/13/91, 11/9/93, 11/14/95, 11/18/97, 1/06/03, 11/06/07, 11/17/09, 11/15/11, 7/23/13, 11/19/13, 11/17/15, 11/21/17

- (a) These rules may be suspended by a vote of five (5) members of the City Council present and voting.
- (b) These rules may be amended by a vote of five (5) members of the City Council present and voting.

Section 13. Roll Call Votes:

All roll call votes are to rotate in staggered alphabetical order, such that no member of the City Council, including the presiding officer, votes in the same position for consecutive roll call votes.

Section 14. Attendance:

Councilmembers who will be absent shall, if possible, notify the City Clerk prior to meeting.

Section 15. Governing Rules of Order:

Roberts Rules of Order may apply to all other items not provided for in these rules, except where they may be inconsistent with said rules.

Section 16. Vacancies

If a vacancy occurs on the City Council, except in the case of recall, the Council shall fill the vacancy by appointment within 60 days thereafter. In making its appointment Council may consider appointing any eligible person.

6:30 p.m. Call to Order.

Invocation: Bob Miller of Portage Methodist Church.

Pledge of Allegiance.

Roll Call.

Proclamations:

A. Consent Agenda:

1. Approval of City Council Meeting Minutes:
 - a. Regular Meeting of November 21, 2017.
2. Approval of the Accounts Payable Register of December 19, 2017 as presented.
3. Approval of a contract for legal services provided by Stan Stek of Miller, Canfield, Paddock and Stone P.L.C., for the Austin Lake Connection (East Portage Trail) project in the amount of \$145,700 and authorize the City Manager to execute all documents related to this action on behalf of the city.
4. Adoption of the proposed 2018 Recreation and Park Facility Fees.
5. Department Monthly Reports.
6. Materials Transmitted.

B. Petitions and Statements of Citizens:

C. Communications:

1. Annual presentation by the Environmental Board.
2. Calendar of Meetings.

D. Public Hearings:

E. Regular Business Agenda:

1. Adoption of an emergency ordinance to take immediate effect to amend the code of ordinances of the city of Portage, Michigan by adding Article 11, Temporary Operation of Medical Marihuana Facilities of Chapter 14 Businesses; and, a Resolution of Intent regarding adoption of an Authorizing Ordinance under the Medical Marihuana Facilities Licensing Act.

F. Unfinished Business:

G. Council Committee Reports:

H. New Business:

I. Statements of Citizens.

J. Statements of City Council and City Manager.

Adjournment.

1 practice in some societies or assemblies of providing each member with a copy of the expected agenda in advance of a meeting, see page 372.

5 After the presiding officer has called the meeting to order as described on page 25, and after any customary opening ceremonies (see *Optional Headings*, pp. 360–61), the meeting proceeds through the different headings in the order of business:

10 *1. Reading and Approval of Minutes.* The chair says, “The Secretary will read the minutes.” However, in organizations where copies of the minutes of each previous meeting as prepared by the secretary are sent to all members in advance, the chair announces that this has been done, and the actual reading of them aloud is omitted unless any member
15 then requests that they be read. (For “dispensing” with the reading of the minutes—that is, not reading them for approval *at the regular time*—see p. 474.) If for any reason there are minutes of other meetings in addition to the last meeting that have not been read previously, they are each read and
20 approved first, in order of date from earliest to latest. In all but the smallest meetings, the secretary stands while reading the minutes.

A formal motion to approve the minutes is not necessary, although such a motion is not out of order. After the minutes
25 have been read (or after their reading has been omitted by unanimous consent as described in the previous paragraph), and whether or not a motion for approval has been offered, the chair asks, “Are there any corrections to the minutes?” and pauses. Corrections, when proposed, are usually handled
30 by unanimous consent (pp. 54–56), but if any member objects to a proposed correction—which is, in effect, a subsidiary motion to *Amend*—the usual rules governing consideration of amendments to a main motion are applicable (see 12).

35 After any proposed corrections have been disposed of, and when there is no response to the chair’s inquiry, “Are

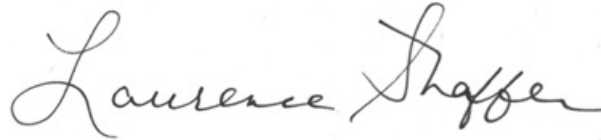
there any corrections [or “further corrections”] to the minutes?” the chair says, “There being no corrections [or “no further corrections”] to the minutes, the minutes stand [or “are”] approved [or “approved as read,” or “approved as corrected”].” The minutes are thus approved without any formal vote, even if a motion for their approval has been made. The only proper way to object to the approval of the secretary’s draft of the minutes is to offer a correction to it. It should be noted that a member’s absence from the meeting for which minutes are being approved does not prevent the member from participating in their correction or approval.

The practice of sending to all members advance copies of the minutes as drafted by the secretary has both advantages and disadvantages. It is natural for the members to prefer to study the minutes beforehand to be better prepared to offer corrections; and this procedure generally saves time when the minutes come up for approval. On the other hand, the minutes do not become *the* minutes and assume their essential status as the official record of the proceedings of the society until they have been approved; and before this happens, the secretary’s draft may be materially modified in the correction process. Members may miss some of the corrections or neglect to mark them on their copies—or may not get them right unless the chair repeats them very carefully—with the result that many inaccurate copies of the true minutes as finally approved are likely to remain in existence. Only the secretary’s corrected copy or a retyping of it is official in such a case.

2. Reports of Officers, Boards, and Standing Committees. In most societies it is customary to hear reports from all officers (47, 48), boards (49), and standing committees (50) only at annual meetings. At other meetings the chair calls only on those who have reports to make, as by saying (in calling upon the secretary), “Is there any correspondence?” Or, “May we have the Treasurer’s report.” Or, “The chair recognizes Mr. Downey, Chairman of the Membership Committee,

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Property Transfer Affidavit Waiver Resolution

SUPPORTING PERSONNEL: Meshia Rose, Deputy City Assessor

ACTION RECOMMENDED: That City Council adopt the Resolution Waiving Penalty Fees for Failure to File a Property Transfer Affidavit.

MCL 211.27b (1)(c) and (d) allows for penalties imposed for failure on part of a buyer, grantee or other transferee of real property to timely file a Property Transfer Affidavit, Form 2766, within 45 days of a transfer of ownership. The original intention of these penalties was to ensure that the City Assessor is being properly notified of a transfer of ownership. This issue no longer exists as the City Assessor is also notified of transfer of ownerships through other forms that are also required to be filed following a transfer of ownership. For these reasons, these penalties have not historically been enforced nor does the city have any record of ever imposing the penalties.

MCL 211.27b (5) allows the governing body of the local tax collecting unit to waive, by resolution, the penalties which are limited to \$5.00 per day up to \$200.00 for residential real property and \$20 per day up to \$1,000 for commercial and industrial real property. Waiving the penalties will ensure that the city remains compliant with the General Property Tax Act as well as protects the taxpayers from unnecessary penalties.

Therefore, it is recommended that the Resolution Waiving Penalty Fees for Failure to File a Property Transfer Affidavit be adopted by the City Council.

FUNDING: N/A

Attachments: 1. Resolution

**RESOLUTION
CITY OF PORTAGE, MICHIGAN
RESOLUTION WAIVING PENALTY FEES FOR FAILURE
TO FILE A PROPERTY TRANSFER AFFIDAVIT**

Minutes of a regular meeting of the City Council of the City of Portage, Michigan held on _____, 20____ at 7:30 p.m. local time at City Hall in the City of Portage, Kalamazoo County, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

COUNCILMEMBER: _____ and supported by

COUNCILMEMBER: _____.

WHEREAS, MCL 211.27a (10) of the General Property Tax Act requires the buyer, grantee, or other transferee of real property to notify the appropriate assessing office in the local unit of government in which the real property is located of the transfer of ownership of such property within 45 days of the transfer of ownership, on a form ("Property Transfer Affidavit") prescribed by the state tax commission; and

WHEREAS, MCL 211.27b (1)(c) and (d) imposes certain additional penalties for the failure to file a Property Transfer Affidavit after the 45 day period has elapsed; and

WHEREAS, MCL 211.27b (5) allows the governing body of the local tax collecting unit to waive, by resolution, these additional penalties levied under Section 211.27b (1)(c) and (d); and

NOW, THEREFORE, BE IT RESOLVED that the City of Portage hereby waives the penalties levied under Section 211.27b (1)(c) and (d) of the General Property Tax Act.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

ADOPTED: _____

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

Adam Herringa, City Clerk

CERTIFICATION

I, Adam Herringa, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage, Michigan, and that the foregoing resolution was adopted by the City of Portage on the ____ day of _____, 20____.

Adam Herringa, City Clerk

Approved as to form:

Date: 12/22/2017
[Signature]
City Attorney

z:\jody\portage\res\resolution for Waiving PenaltiesPTA11617.doc

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Donation of Real Property at 5223 Woodmont Drive

SUPPORTING PERSONNEL: Vicki Georgeau, Director of Community Development

ACTION RECOMMENDED: That City Council accept the donation of real property at 5223 Woodmont Drive and authorize the City Manager to execute all documents associated with the transaction.

On August 18, 2017, Claudette Reid and Richard Kraas signed a Letter of Intent to donate real property at 5223 Woodmont Drive to the City of Portage for a nature preserve to be named after and dedicated to Betty Lee Ongley.

As shown on the attached vicinity map and survey drawing, 5223 Woodmont Drive is an 11.1-acre vacant, wooded parcel of land bounded by Portage Creek on the south and west, the Grand Elk Railroad on the east, and city owned property addressed as 350 East Kilgore Road to the north. The property at 5223 Woodmont Drive was purchased by the property owners in conjunction with their acquisition of 727 Circlewood Drive, an adjacent vacant lot on the south side of Portage Creek (Lot 174 of Ridgebrook No. 2 plat). A prior property owner constructed a foot bridge that crosses Portage Creek, connecting 5223 Woodmont Drive and 727 Circlewood Drive. Claudette Reid and Richard Kraas intend to construct a new house at 727 Circlewood Drive and generously propose to donate the land at 5223 Woodmont Drive for the purpose of preserving it in a natural state. As part of this offer, the property owners will retain ownership of the foot bridge and an approximate 0.3-acre area on the south side of 5223 Woodmont Drive for the bridge landing. This land area and the bridge will be fenced and signs will be erected indicating the area and bridge are privately owned and not for public use.

Subsequent to signing the Letter of Intent, the city has completed due diligence, which included an appraisal, environmental study, survey and title search. The environmental study indicated no significant concerns and the survey and title search have been completed to the satisfaction of the City Attorney. The estimated value of the land to be donated to the city is \$112,000. The future development of the property as a nature preserve with walking trails and off-street parking can be accomplished in conjunction with the city-owned adjacent property to the north, as well as the Portage Creek Bicentennial Trailhead Park at the southwest corner of Lovers Lane and East Kilgore Road.

Therefore, it is recommended that City Council accept the generous donation of real property at 5223 Woodmont Drive and authorize the City Manager to execute all documents associated with the transaction.

FUNDING: N/A

- Attachments:**
1. Letter of Intent
 2. Vicinity Map
 3. Survey Drawing

Letter of Intent
August 18, 2017

From: Claudette Reid and Richard Kraas
5419 Woodmont Drive
Portage, Michigan 49002

To: Larry Shaffer, City Manager
7900 South Westnedge Avenue
Portage, Michigan 49002

Re: Letter of Intent to Donate Real Property – 5223 Woodmont Drive, Portage Michigan
49002

Dear City Manager Shaffer,

Based upon prior conversations with you and city staff, this Letter of Intent sets forth the intention of the undersigned ("Donor") to make a donation of real property to the City of Portage ("City"). The following sets forth an entire outline of the terms and conditions upon which Donor proposes to make such donations to City:

1. The Real Property to be donated is commonly known as 5223 Woodmont Drive ("Property"). The Property is described as follows:

(See attached "Exhibit A").
2. The Donor understands that City's acceptance of this donation is subject to City's approval of customary due diligence assessments, and inspections concerning the Property. Therefore, before final acceptance, the City and/or its Agents will be permitted to enter the Property to perform all tests, evaluations, and inspections the City and/or its Agents deem necessary.
3. Donor understands that the donation is subject to the review and acceptance of the Portage City Council and that no representation by any City employee or officer has been made concerning that decision.
4. The City will pay all of the closing fees, title insurance premiums, and transfer fees. However, Donor and City shall each be responsible for their own professional fees such as attorneys, accountants, and/or CPAs.
5. The donation will not include a segment of land to be carved out from the Property surrounding the bridge footing. The size of such segment will be determined and agreed to by Donor and City. The legal description attached as Exhibit A describes the entire Property. City will prepare at its own cost and expense, a new legal description amending Exhibit A to reflect the area of the segment surrounding the bridge footing Donors are retaining.

6. Donor will, at their own expense, provide fencing/barrier made of materials mutually agreeable to the parties to deter entry upon Donor's retained land and the bridge.

To encourage the generous gift of the Property by Donor, the City understands that the donation will be subject to the following conditions:

1. The Property will be retained in a relatively natural state, keeping, to the extent practical, the Property in its present condition as a preserve.
2. The City may, but is not required to develop walking trails through or on the property. Should the City decide to develop walking trails on the Property, improved trail accessibility will be addressed in a manner consistent with other such trails the City has developed within City limits. It is understood that these accessibility modifications may not rise to the extent necessary to make said trails fully compliant with ADA Acceptability Guidelines for Parks.
3. The Property will be named after and dedicated to Betty Lee Ongley, first, and only woman mayor of the City of Portage to date, member of City Portage Council, Board Member of the Portage District Library, Past President of the Michigan Conservancy, and a strong advocate for preserving natural lands for the benefit of the community now and in the future.
4. Any water or other natural resource found in or on the Property may be used for the benefit of the City, and its citizens provided that access to and removal of such natural resources does not interfere with the use of the Property as a natural preserve.

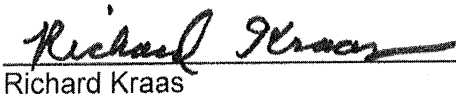
Until the Portage City Council has formally accepted the donation, neither Donor nor City shall be bound hereby nor have any liability of any kind hereunder.

Sincerely,

Donor

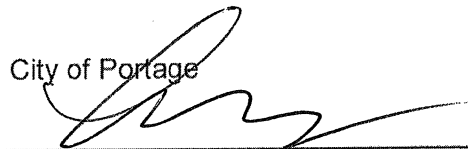


Claudette Reid



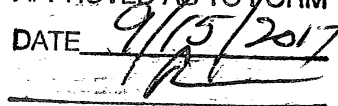
Richard Kraas

City of Portage

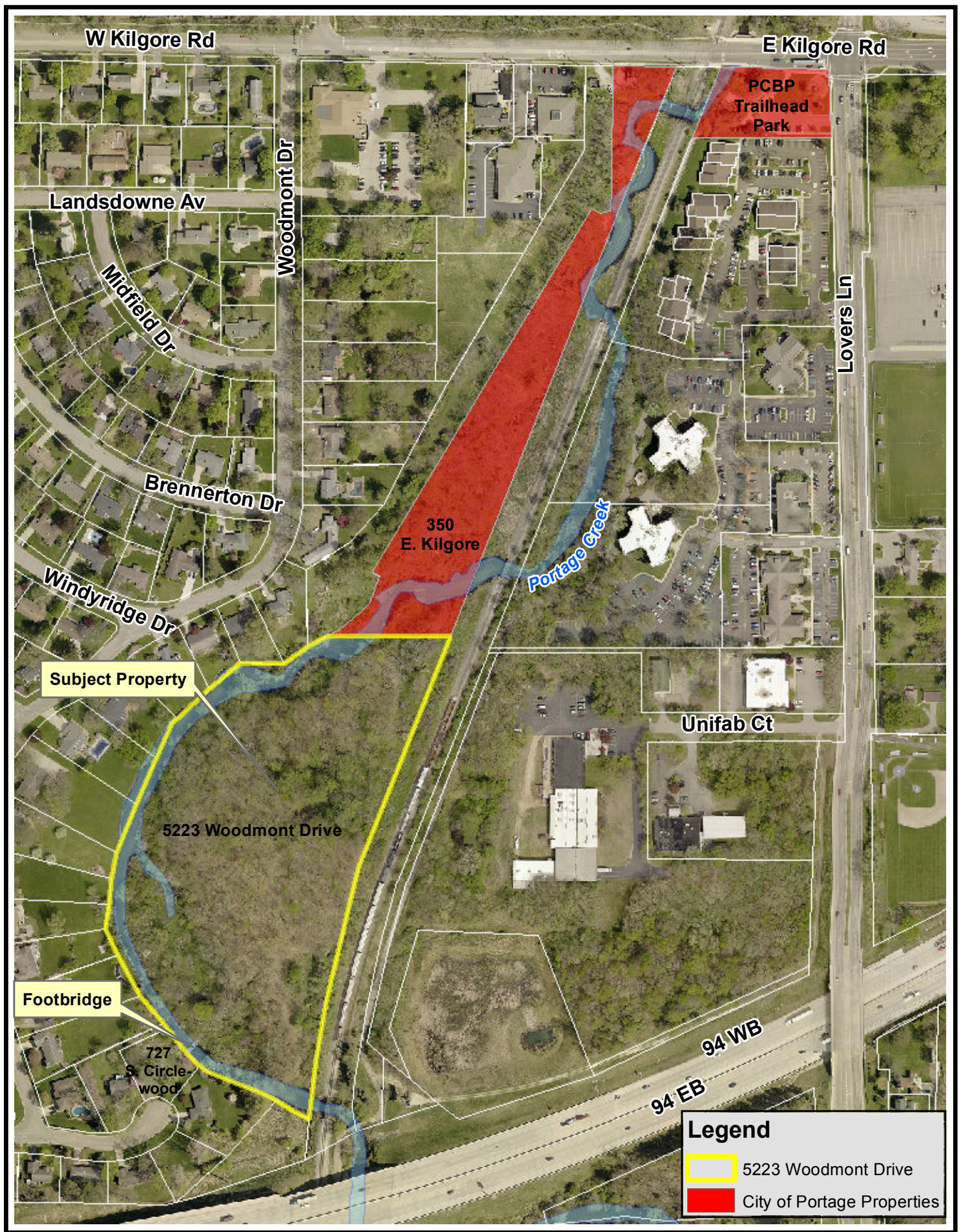


Laurence Shaffer, City Manager

Z:\Jody\PORTAGEMISC\1Letter of Intent Reid17.9-6.wpd

APPROVED AS TO FORM
DATE 9/15/2017


CITY ATTORNEY



**BOUNDARY SURVEY IN THE NORTH FRACTIONAL HALF OF SECTION
3, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE,
KALAMAZOO COUNTY, MICHIGAN**

LEGAL DESCRIPTION OF REMAINDER OF 5223 WOODMONT DRIVE:

THAT PART OF THE NORTH HALF OF FRACTIONAL SECTION 3, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 3; THENCE SOUTH 00° 37' 29" WEST ON THE NORTH LINE AND SOUTH QUARTER LINE OF SAID SECTION 3 A DISTANCE OF 1456.32 FEET TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 3; THENCE SOUTH 89° 27' 50" EAST ON SAID NORTH LINE 107.73 FEET TO A MEANDER CORNER ON THE EAST SIDE OF PORTAGE CREEK AND THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE CONTINUING SOUTH 89° 27' 50" EAST ON SAID NORTH LINE 198.15 FEET TO THE WEST RIGHT OF WAY LINE OF THE GRAND ELK RAILROAD (FORMERLY NEW YORK CENTRAL RAILROAD); THENCE SOUTH 21° 39' 13" WEST ON SAID WEST RIGHT OF WAY LINE 506.41 FEET; THENCE SOUTHWESTERLY 603.03 FEET ON SAID WEST RIGHT OF WAY LINE AND ON A 2650.00 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS SOUTH 15° 08' 05" WEST 601.73 FEET TO A MEANDER CORNER ON THE EASTERLY SIDE OF SAID PORTAGE CREEK; THENCE NORTH 68° 15' 42" WEST ON AN INTERMEDIATE TRAVERSE LINE 144.59 FEET TO A MEANDER CORNER; THENCE NORTH 71° 46' 07" WEST ON AN INTERMEDIATE TRAVERSE LINE 116.99 FEET TO A MEANDER CORNER; THENCE NORTH 37° 21' 18" EAST 140.08 FEET; THENCE NORTH 44° 45' 15" WEST 51.25 FEET; THENCE SOUTH 63° 21' 48" WEST 141.77 FEET TO A MEANDER CORNER; THENCE NORTH 25° 14' 46" WEST ON AN INTERMEDIATE TRAVERSE LINE 276.34 FEET; THENCE NORTH 17° 51' 45" EAST ON AN INTERMEDIATE TRAVERSE LINE 403.91 FEET TO A MEANDER CORNER; THENCE NORTH 46° 35' 42" EAST ON AN INTERMEDIATE TRAVERSE LINE 201.27 FEET TO A MEANDER CORNER; THENCE SOUTH 80° 40' 56" EAST ON AN INTERMEDIATE TRAVERSE LINE 168.07 FEET TO A MEANDER CORNER; THENCE NORTH 48° 29' 32" EAST ON AN INTERMEDIATE TRAVERSE LINE 201.57 FEET TO THE POINT OF BEGINNING. ALSO, ALL THAT LAND LYING BETWEEN SAID INTERMEDIATE TRAVERSE LINES AND THE EASTERLY EDGE OF PORTAGE CREEK, SOUTH OF SAID NORTH LINE AND WEST OF SAID RAILROAD RIGHT OF WAY LINE.

CONTAINING 10.8 ACRES MORE OR LESS.

LEGAL DESCRIPTION OF DIVISION PARCEL FROM 5223 WOODMONT DRIVE:

THAT PART OF THE NORTHWEST QUARTER OF FRACTIONAL SECTION 3, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 3; THENCE SOUTH 00° 37' 29" WEST ON THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION 3 A DISTANCE OF 2423.60 FEET; THENCE NORTH 89° 22' 31" WEST PERPENDICULAR TO SAID QUARTER LINE 273.00 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE NORTH 37° 21' 18" EAST 140.08 FEET; THENCE NORTH 44° 45' 15" WEST 51.25 FEET; THENCE SOUTH 63° 21' 48" WEST 141.77 FEET TO MEANDER CORNER "A"; THENCE SOUTH 42° 44' 50" EAST ON AN INTERMEDIATE TRAVERSE LINE 114.63 FEET TO MEANDER CORNER "B" AND THE POINT OF BEGINNING. ALSO, ALL THAT LAND LYING BETWEEN SAID INTERMEDIATE TRAVERSE LINE, THE EASTERLY EDGE OF PORTAGE CREEK, A LINE EXTENDING SOUTH 63° 21' 48" WEST FROM SAID MEANDER CORNER "A" AND A LINE EXTENDING SOUTH 37° 21' 18" WEST FROM SAID MEANDER CORNER "B".

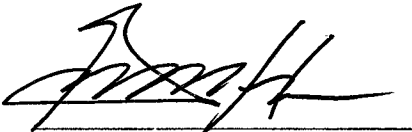
CONTAINING 0.3 OF AN ACRE MORE OR LESS.

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

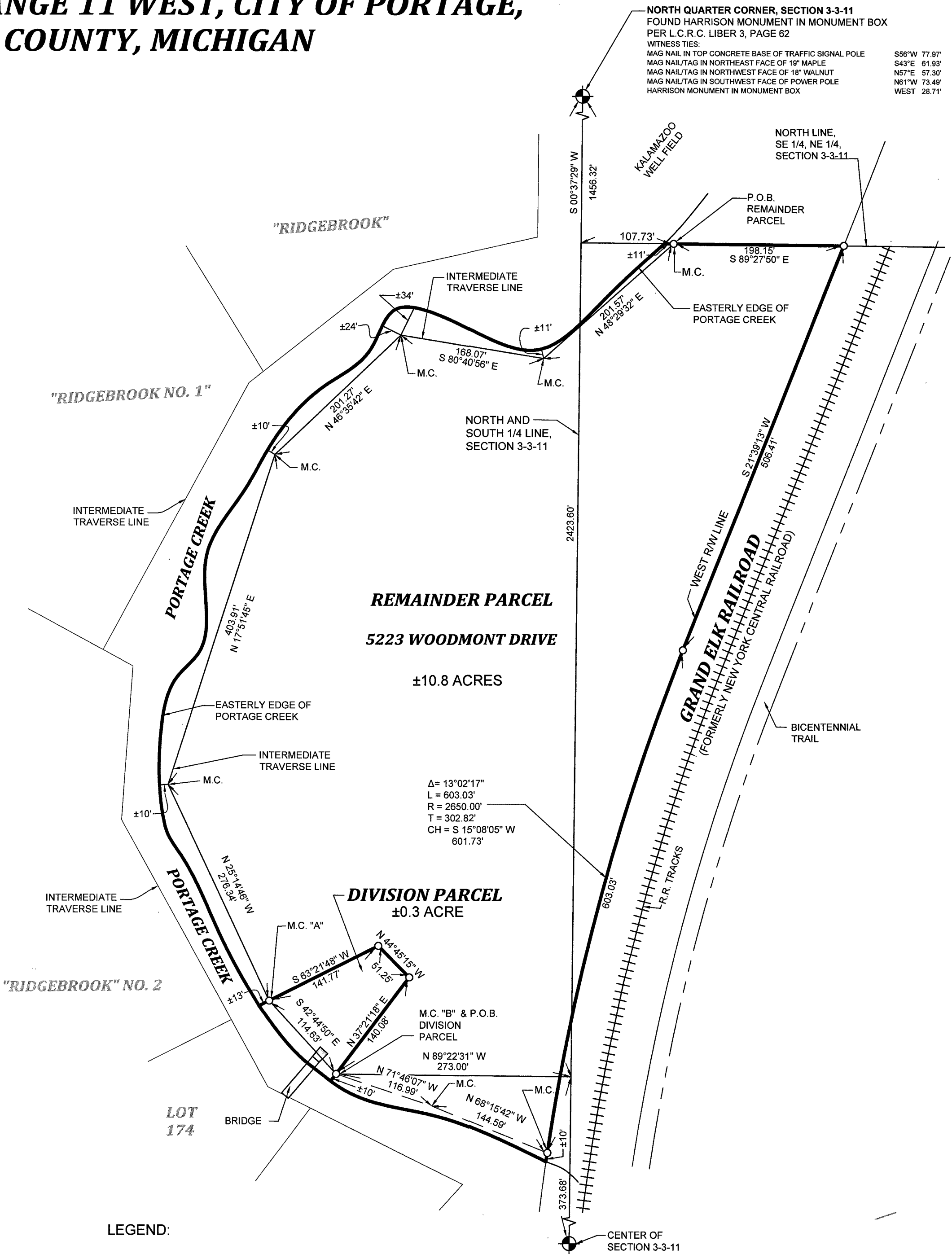
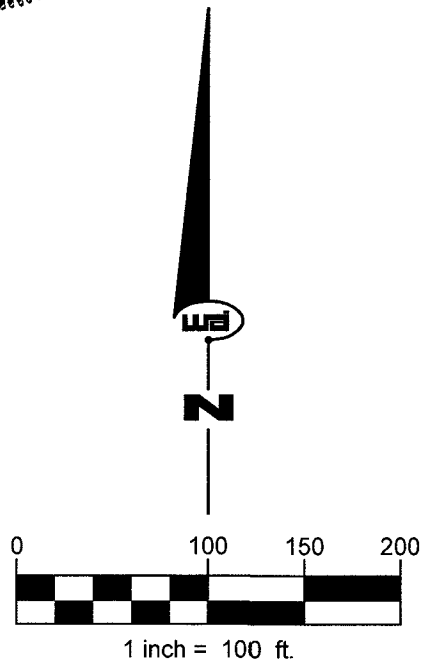
SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD, OR OTHERWISE.

THIS SURVEY WAS PERFORMED WITH AN ERROR OF CLOSURE NO GREATER THAN 1 IN 5000.

BEARINGS ARE RELATED TO THE MICHIGAN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE.


GARY D. HAHN PS-38116

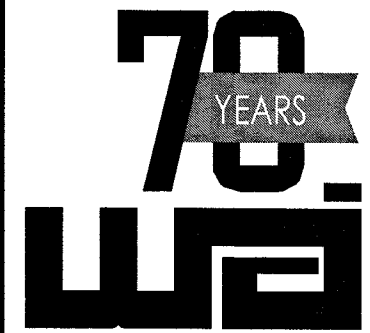
10/25/17
DATE



LEGEND:

- = SET 1/2" REBAR W/ ID CAP "38816"
- P.O.B. = POINT OF BEGINNING
- M.C. = MEANDER CORNER
- L.C.R.C. = LAND CORNER RECORDATION CERTIFICATE

NORTH QUARTER CORNER, SECTION 3-3-11
FOUND HARRISON MONUMENT IN MONUMENT BOX
PER L.C.R.C. LIBER 3, PAGE 62
WITNESSES:
MAG NAIL IN TOP CONCRETE BASE OF TRAFFIC SIGNAL POLE
MAG NAIL/TAG IN NORTHEAST FACE OF 19" MAPLE
MAG NAIL/TAG IN NORTHWEST FACE OF 18" WALNUT
MAG NAIL/TAG IN SOUTHWEST FACE OF POWER POLE
HARRISON MONUMENT IN MONUMENT BOX
S56°W 77.97'
S43°E 61.93'
N57°E 57.30'
N61°W 73.49'
WEST 28.71'



**WIGHTMAN &
ASSOCIATES, INC.**
AMERICAN COUNCIL OF ENGINEERING COMPANIES
★ **FIRM OF THE YEAR** ★

2303 Pipestone Road
Benton Harbor, MI 49022
Phone: (269) 927-0100

9835 Portage Road
Portage, MI 49002
Phone: (269) 327-3532

264 Western Avenue
Allegan, MI 49010
Phone: (269) 673-8465

www.wightman-assoc.com

PROJECT ADDRESS:
**5223 WOODMONT
DRIVE, PORTAGE
MI, 49002**

CLIENT NAME:
**CITY OF PORTAGE
7900 S.
WESTNEDGE
AVENUE, PORTAGE
MI, 49002**

REVISIONS

P:\Portage\174256 COP - Bndy 5223 Woodmont\B550 AutoCAD\174256
Boundary.dwg 1 of 1 10/25/2017 3:24:21 PM

THE REPRODUCTION, COPYING OR OTHER
USE OF THIS DRAWING WITHOUT WRITTEN
CONSENT IS PROHIBITED.
© 2016 WIGHTMAN & ASSOCIATES, INC.

DATE: 10/17/2017

SCALE: 1" = 100'

BOUNDARY SURVEY

174256

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Second Amendment - Interlocal Agreement Creating the KCCDA

SUPPORTING PERSONNEL: Nicholas Arnold, Director of Public Safety - Police / Fire Chief

ACTION RECOMMENDED: That City Council approve the Second Amendment to the Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority (KCCDA) and authorize the City Manager to sign the amendment on behalf of the city.

On September 24, 2014, City Council approved an Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority, which was also approved by the other four public safety answering points (PSAPs) including City of Kalamazoo, Kalamazoo County, Kalamazoo Township and Western Michigan University. The resulting Kalamazoo County Consolidated Dispatch Authority (KCCDA) has been working toward final completion under the KCCDA Board of Directors since that time.

The consolidated dispatch model is presently supported and recommended for the following reasons:

1. Standardized hardware, software and procedures improve the efficiency and effectiveness of communication between the individuals requiring public safety assistance and the first responder.
2. Interoperability allows first responders to effectively and efficiently communicate amongst themselves, thereby providing a higher quality public safety service.
3. Consolidated dispatch allows for the addition of text messaging, photos, video and other data to be received by the consolidated dispatch center and relayed to the first responder.

The original KCCDA agreement anticipated a voter-approved surcharge on all devices capable of accessing the 9-1-1 system located in Kalamazoo County of up to \$2.30 per month for a period of five (5) years, July 1, 2017 through June 30, 2022, to be used exclusively for the funding of 9-1-1 emergency telephone call answering and dispatch services within Kalamazoo County, including facilities, equipment and maintenance and operating costs. As the proposed surcharge proposal did not pass, the KCCDA Board of Directors drafted a new 5-year funding strategy. As a result, the First Amendment to the KCCDA Agreement, approved by Portage City Council on September 12, 2017, was needed to implement an alternate funding method. The First Amendment (attached) provides short-term funding for the first five years of the authority, including facilities, equipment maintenance and operating costs.

The KCCDA has presented, and the City Administration agrees and recommends, that the exact payments required and previously agreed to by the City of Portage (see attached First Amendment), be

advanced so that the first payment to the KCCDA be made in January 2018 and the last payment identified in the First Amendment be eliminated. The pay forward allows the KCCDA to fund capital investments within the five-year term of the amortization schedule.

As such, it is recommended that City Council approve the Second Amendment to the Interlocal Agreement, which will allow Consolidated Dispatch operations to move forward for the benefit of all residents for the City of Portage.

FUNDING: The City of Portage will be responsible for an annual payment of \$756,793 to the KCCDA for five (5) consecutive years or until a fair and equitable long-term funding model is implemented; whichever is first. The funds are available and budgeted as part of the city's General Fund, to be reallocated from the current Police Division funding.

Attachments:

1. Second Amendment to the Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority
2. First Amendment of the Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority

SECOND AMENDMENT TO INTERLOCAL AGREEMENT CREATING THE KALAMAZOO COUNTY CONSOLIDATED DISPATCH AUTHORITY

THIS SECOND AMENDMENT (the "Amendment") to the Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority (the "Agreement") is entered into by and between the City of Kalamazoo, the City of Portage, the County of Kalamazoo, the Charter Township of Kalamazoo, and Western Michigan University (the Parties).

RECITALS

WHEREAS, the City of Kalamazoo, the City of Portage, the County of Kalamazoo, the Charter Township of Kalamazoo, and Western Michigan University previously entered into an Agreement creating the Kalamazoo County Consolidated Dispatch Authority, a Michigan Public Body Corporation, in October 2014; and

WHEREAS, the parties previously entered into the First Amendment to Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority in September 2017 modifying Section 7B; the Alternative Funding Plan;

WHEREAS, the First Amendment provided short-term funding for Kalamazoo County Consolidated Dispatch Authority's first five years of operation which included facilities, equipment and maintenance, and operating costs; and

WHEREAS, the Kalamazoo County Consolidated Dispatch Authority is unable to obtain independent financing for the capital investment costs associated to consolidating 9-1-1 and public safety dispatch services; and

WHEREAS, the Parties have determined the Agreement remains viable and have negotiated a short-term funding solution, which includes the capital investment costs associated to the consolidation.

TERMS OF AMENDMENT

NOW, THEREFORE, in mutual consideration of the terms and conditions hereinafter set forth, it is hereby agreed as follows:

1. The Recitals set forth above are part of this Amendment.
2. Section 7B, subsection "i" of the First Amendment is repealed and replaced with the following:

i. Short-Term Funding

In addition to state and local surcharge funding, the Parties agree to make financial contributions to the Authority according to the schedule below:

	2018		2019		2020		2021		2022		2023	% of Total
	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	
Kalamazoo County	\$1,514,025	\$757,013	\$757,012	\$757,013	\$757,012	\$757,013	\$757,012	\$757,013	\$757,012	\$0	\$0	35.21%
City of Portage	\$756,793	\$378,397	\$378,396	\$378,397	\$378,396	\$378,397	\$378,396	\$378,397	\$378,397	\$0	\$0	17.60%
Western Michigan University	\$374,578	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$0	\$0	8.71%
City of Kalamazoo		\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	30.00%
Kalamazoo Township		\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	8.48%
Total Contributions:	\$4,795,396		\$4,300,000		\$4,300,000		\$4,300,000		\$2,977,302		\$827,302	100%

The Authority shall invoice the Parties on a semi-annual basis; approximately thirty (30) days preceding, the due date identified in the table above.

Capital Build-Out Funding

During the first six months of short-term funding, the City of Kalamazoo agrees to sell bonds payable over fifteen (15) years and contribute \$960,000 to the Authority to assist with financing capital build-out costs. These bond funds shall be repaid by the Authority to the City of Kalamazoo inclusive of all municipal bond cost and interest in accordance with the bond's fifteen-year amortization schedule.

3. Other than as amended herein and in the First Amendment, the Agreement creating the Kalamazoo County Consolidated Dispatch Authority executed in October 2014 shall remain in full force and with full effect.
4. This Amendment is contingent upon execution by all parties.

SECOND AMENDMENT – December 2017

IN WITNESS WHEREOF, the parties have executed this Agreement at Kalamazoo, Michigan.

COUNTY OF KALAMAZOO

Dale Shugars, Chairperson Date: _____
Kalamazoo County Board of Commissioners

Timothy A. Snow Date: _____
County Clerk/Register

CITY OF KALAMAZOO

James Ritsema Date: _____
City Manager

CHARTER TOWNSHIP OF KALAMAZOO

Donald Martin Date: _____
Township Supervisor

CITY OF PORTAGE

Laurence Shaffer Date: _____
City Manager

WESTERN MICHIGAN UNIVERSITY

Jan Van Der Kley Date: _____
Treasurer

APPROVED AS TO FORM

DATE 12/14/2017


CITY ATTORNEY

SECOND AMENDMENT TO INTERLOCAL AGREEMENT CREATING THE KALAMAZOO COUNTY CONSOLIDATED DISPATCH AUTHORITY

THIS SECOND AMENDMENT (the "Amendment") to the Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority (the "Agreement") is entered into by and between the City of Kalamazoo, the City of Portage, the County of Kalamazoo, the Charter Township of Kalamazoo, and Western Michigan University (the Parties).

RECITALS

WHEREAS, the City of Kalamazoo, the City of Portage, the County of Kalamazoo, the Charter Township of Kalamazoo, and Western Michigan University previously entered into an Agreement creating the Kalamazoo County Consolidated Dispatch Authority, a Michigan Public Body Corporation, in October 2014; and

WHEREAS, the parties previously entered into the First Amendment to Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority in September 2017 modifying Section 7B; the Alternative Funding Plan;

WHEREAS, the First Amendment provided short-term funding for Kalamazoo County Consolidated Dispatch Authority's first five years of operation which included facilities, equipment and maintenance, and operating costs; and

WHEREAS, the Kalamazoo County Consolidated Dispatch Authority is unable to obtain independent financing for the capital investment costs associated to consolidating 9-1-1 and public safety dispatch services; and

WHEREAS, the Parties have determined the Agreement remains viable and have negotiated a short-term funding solution, which includes the capital investment costs associated to the consolidation.

TERMS OF AMENDMENT

NOW, THEREFORE, in mutual consideration of the terms and conditions hereinafter set forth, it is hereby agreed as follows:

1. The Recitals set forth above are part of this Amendment.
2. Section 7B, subsection "i" of the First Amendment is repealed and replaced with the following:

i. Short-Term Funding

In addition to state and local surcharge funding, the Parties agree to make financial contributions to the Authority according to the schedule below:

	2018		2019		2020		2021		2022		2023	% of Total
	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	July 1st	Jan 1st	
Kalamazoo County	\$1,514,025	\$757,013	\$757,012	\$757,013	\$757,012	\$757,013	\$757,012	\$757,013	\$757,012	\$0	\$0	35.21%
City of Portage	\$756,793	\$378,397	\$378,396	\$378,397	\$378,396	\$378,397	\$378,396	\$378,397	\$378,397	\$0	\$0	17.60%
Western Michigan University	\$374,578	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$187,289	\$0	\$0	8.71%
City of Kalamazoo		\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	\$644,913	30.00%
Kalamazoo Township		\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	\$182,389	8.48%
<i>Total Contributions:</i>	\$4,795,396		\$4,300,000		\$4,300,000		\$4,300,000		\$2,977,302		\$827,302	100%

The Authority shall invoice the Parties on a semi-annual basis; approximately thirty (30) days preceding, the due date identified in the table above.

Capital Build-Out Funding

During the first six months of short-term funding, the City of Kalamazoo agrees to sell bonds **payable over fifteen (15) years** and contribute \$960,000 to the Authority to assist with financing capital build-out costs. These bond funds shall be repaid **by the Authority** to the City of Kalamazoo inclusive of all municipal bond cost and interest in accordance with the bond's ~~ten~~**fifteen**-year amortization schedule.

- Other than as amended herein and in the First Amendment, the Agreement creating the Kalamazoo County Consolidated Dispatch Authority executed in October 2014 shall remain in full force and with full effect.
- This Amendment is contingent upon execution by all parties.

IN WITNESS WHEREOF, the parties have executed this Agreement at Kalamazoo, Michigan.

COUNTY OF KALAMAZOO

Dale Shugars, Chairperson Date: _____
Kalamazoo County Board of Commissioners

Timothy A. Snow Date: _____
County Clerk/Register

CITY OF KALAMAZOO

James Ritsema Date: _____
City Manager

CHARTER TOWNSHIP OF KALAMAZOO

Donald Martin Date: _____
Township Supervisor

CITY OF PORTAGE

Laurence Shaffer Date: _____
City Manager

WESTERN MICHIGAN UNIVERSITY

Jan Van Der Kley Date: _____
Treasurer

FIRST AMENDMENT TO INTERLOCAL AGREEMENT CREATING THE KALAMAZOO COUNTY CONSOLIDATED DISPATCH AUTHORITY

THIS FIRST AMENDMENT (the “Amendment”) to the Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority (the “Agreement”) is entered into by and between the City of Kalamazoo, the City of Portage, the County of Kalamazoo, the Charter Township of Kalamazoo, and Western Michigan University (the Parties).

RECITALS

WHEREAS, the City of Kalamazoo, the City of Portage, the County of Kalamazoo, the Charter Township of Kalamazoo, and Western Michigan University previously entered into an Agreement creating the Kalamazoo County Consolidated Dispatch Authority, a Michigan Public Body Corporation, in October 2014; and

WHEREAS, the Authority is charged with the responsibility of operating a central communications system for participating Local Governmental Units and the County and other supporting agencies or entities as determined by the Governing Board of Directors; and

WHEREAS, on May 2, 2017 the voters did not approve a request to increase the 9-1-1 surcharge to be used exclusively for the funding of 9-1-1 emergency telephone call answering and dispatch services within Kalamazoo County, including facilities, equipment and maintenance, and operating costs; and

WHEREAS, in accordance with Section 7B (Alternative Funding Plan) of the Agreement, in the event the county-wide surcharge does not provide sufficient revenue for the operating costs and capital improvements of the Authority, the Parties executing the Agreement will immediately meet to determine if this Agreement remains viable, and if it remains viable, the most appropriate, equitable, and beneficial way in which to continue financing the consolidated dispatch; and

WHEREAS, the Parties have determined the Agreement remains viable and have negotiated an Alternative Funding Plan for the Authority.

TERMS OF AMENDMENT

NOW, THEREFORE, in mutual consideration of the terms and conditions hereinafter set forth, it is hereby agreed as follows:

1. The Recitals set forth above are part of this Amendment.

2. Section 7B is repealed and replaced with the following:

B. Alternative Funding Plan

In accordance with Section 7A (Initial Funding Plan) and throughout the life of this Agreement, the Kalamazoo County Board of Commissioners, while it is a Party to the Agreement, agrees to adopt a Resolution pursuant to the Emergency Telephone Service Enabling Act establishing the local surcharge at the maximum permissible level that does not require approval at a general or special election.

i. Short-Term Funding

In addition to state and local surcharge funding, the Parties agree to make the following *annual* contributions to the Authority totaling \$4,300,000 for five (5) consecutive years or until a fair and equitable long-term funding model is implemented; whichever is first. If a long term funding model is not implemented at the time required, the parties shall meet to determine if this agreement remains viable, and if it remains viable, the most appropriate, equitable and beneficial way in which to continue financing the consolidated Dispatch.

	ANNUAL CONTRIBUTION	% OF TOTAL
Charter Township Kalamazoo	\$364,778	8.48%
City of Kalamazoo	\$1,289,826	30.00%
City of Portage	\$756,793	17.60%
County of Kalamazoo	\$1,514,025	35.21%
Western Michigan University	\$374,578	8.71%
<i>TOTALS:</i>	<i>\$4,300,000</i>	<i>100.00%</i>

The contributions shall begin upon commencement of the Authority's dispatch center operation. The Authority shall invoice the Parties on a quarterly basis; approximately thirty (30) days preceding the start of each quarter. Invoices shall be due to the Authority on the first day of the start of each quarter. The Parties' contribution shall be limited to the percentage of the year that the Authority assumes operational control of Dispatch.

During short-term funding, if the Authority experiences unanticipated or new revenues of \$50,000 or more in excess of the currently projected \$5,828,500 annual revenue in the first five (5) years of operations, as a result of operations, increased local or state 9-1-1 surcharge, or millage receipts, the total annual

contributions shall be reduced (or refunded if already paid) for each Party of this agreement proportionate to the Party's percent of total contribution.

ii. Long-Term Funding

The short-term funding identified above is not a permanent nor equitable solution. Therefore, the Authority's Governing Board of Directors shall begin working with partner agencies and municipalities to develop long-term equitable funding solutions no later than one (1) year after the Authority commences operations.

The fiscal considerations contained in this Alternative Funding Plan shall be incorporated into Kalamazoo County's Final 9-1-1 Service Plan when it is opened for the impending public safety answering point consolidation.

3. Other than as amended herein the Agreement creating the Kalamazoo County Consolidated Dispatch Authority executed in October 2014 shall remain in full force and with full effect.

IN WITNESS WHEREOF, the parties have executed this Agreement at Kalamazoo, Michigan.

COUNTY OF KALAMAZOO

Dale Shugars, Chairperson
Kalamazoo County Board of Commissioners

Timothy A. Snow
County Clerk/Register

CITY OF KALAMAZOO

James Ritsema
City Manager

CHARTER TOWNSHIP OF KALAMAZOO

Donald Martin
Township Supervisor

FIRST AMENDMENT – August 2017

CITY OF PORTAGE

WESTERN MICHIGAN UNIVERSITY

Laurence Shaffer
City Manager

Jan Van Der Kley
Treasurer

APPROVED AS TO FORM

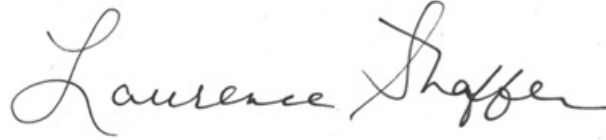
DATE

9/8/2017
[Signature]

CITY ATTORNEY

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Portage Creek at 1983 Katie Court

SUPPORTING PERSONNEL: Kendra Gwin, Deputy Director of Transportation & Utilities

ACTION RECOMMENDED: Information Only

On November 7, 2017, at the Portage City Council's regularly scheduled meeting, Mrs. Shea Wetzler appeared before the Portage City Council during the Citizens' Comment section of the meeting agenda. Mrs. Wetzler, 1983 Katie Court, told the City Council that the backyard of her single family residential property, suffers regularly from the Portage Creek overrunning its channel. Mrs. Wetzler stated that she believed the condition was exacerbated by development that has transpired upstream from her property. The Portage City Council directed the City Manager to review the conditions described by Mrs. Wetzler and report back to the City Council.

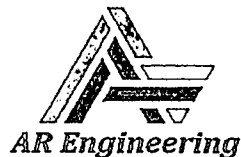
On November 27, 2017, Andrew Rossell, Principal Civil Engineer from AR Engineering, LLC visited the subject property along with Kendra Gwin, Acting Director of Transportation & Utilities. Mr. Rossell has previously provided engineering services to the City of Portage. He was assigned the task of inspecting the property and recommending corrective interventions. A copy of his report is attached for your consideration.

Fundamentally, Mr. Rossell does not believe that any activities upstream have caused or contributed to the conditions reported at 1983 Katie Court. Mr. Rossell also notes that the subject property is in the regulated floodway and the 100 year floodplain. As a result, flooding such as described by Mrs. Wetzler can be expected. Although unwelcomed, other than inspecting for beaver dams downstream that may lead to backups of water upon the subject property, I don't believe that anything can be done to prevent the conditions described.

Mrs. Wetzler has been contacted.

FUNDING: N/A

Attachments: 1. Report from AR Engineering, LLC dated December 1, 2017



December 1, 2017

Ms. Kendra Gwin
Deputy Director
City of Portage Transportation & Utilities
7719 South Westnedge Avenue
Portage, MI 49002

RE: 1983 Katie Court Flooding Concern

Dear Kendra:

In reference to the flooding concerns at 1983 Katie Court, we have briefly summarized our findings below. We had visited the site and surrounding areas on November 27th, 2017 to review the complaint of Ms. Shea Wetzler and her property at 1983 Katie Court.

During the site inspection, it was noted that Portage Creek was controlled within the banks and in the defined channel. There was no evidence of flooding in the lawn areas, although we had observed that the lawn near the creek in certain areas was soft and saturated. The creek appeared to have some debris and obstructions just downstream from the subject property. It was observed that the parcel owner's seawall and rock appeared to encroach within the natural confines of the stream banks. We are uncertain when this was constructed or whether it had been permitted.

We also inspected Oakland Hills Condos and the realignment of the creek on that property. The creek was free flowing in this segment and no site discharge was observed. It should be noted our inspection was completed during a dry period. Our opinion of the creek realignment is that it does not have an impact to the subject parcel, as the realignment should slow the flow downstream.

The culvert under Oakland Drive was additionally examined. The submerged culvert appeared to be free flowing, of what could be noted from above. Area immediately downstream of the culvert was unobstructed, with little debris and deadfall up to the Wetzler property.

In further investigation of the GIS and Flood maps, the subject property in particular, shows that this portion of the lawn areas experiencing flooding are located in the regulated floodway and 100-yr floodplain. There are also areas extending close to the structure in the 500-year floodplain. Given the seasonably high-water table all around our region this year, and given the

3-4 significant rain events experienced this year, we certainly understand the flooding occurring in this area.

Please review our findings and feel free to contact me at (269) 217-8725 to discuss further, or if additional information is required.

Sincerely,

AR ENGINEERING, LLC

A handwritten signature in black ink, appearing to read 'A. Rossell', with a long horizontal flourish extending to the right.

Andrew S. Rossell, P.E.
Principal Civil Engineer

Enclosure:
Site photos
GIS Flood Map



Subject Parcel – downstream property corner, looking downstream



Subject Parcel – downstream property corner looking upstream across subject parcel



Subject Parcel – upstream property corner looking downstream



Subject Parcel – looking east across subject parcel's lawn



Oakland Hills – East end of development looking upstream



Oakland Hills – West end of development looking downstream



Oakland Drive – West side of culvert



Oakland Drive – East side of culvert, looking downstream

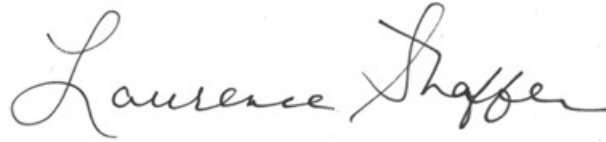


Oakland Drive – West side of culvert



TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: November Environmental Report

SUPPORTING PERSONNEL: Kendra Gwin, Deputy Director of Transportation & Utilities

ACTION RECOMMENDED: Information Only

Attached please find the November 2017 Summary Environmental Activity Report from Department of Transportation & Utilities Acting Director, Kendra Gwin. New material or material of specific interest to City Council is presented in italics.

City Council has a quality of environment goal to “enhance environmental quality and protect natural resources.” The summary report is intended for informational purposes and to keep the Council, Planning Commission and Environmental Board apprised of current environmental issues.

FUNDING: N/A

Attachments: 1. November Environmental Report

SUMMARY ENVIRONMENTAL ACTIVITY REPORT
November 2017 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	Beginning in 1991, South Westnedge Park (landfill) has been monitored for on-site and off-site contamination. On July 23, 2013, City Council approved a three-year contract with American Hydrogeologic Corporation (AHC) to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. Initial groundwater and methane results indicate no off-site impact. AHC has completed their contract. <i>The City is working with Attorney Brown to obtain a Hold Harmless Agreement for three properties in the influence area to have connected to municipal water.</i>
Site Inspection / Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	Coordination with property owners and City or State agencies ongoing. <i>Review of 5 site/building plans and/or plats completed in November 2017.</i>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<i>Sanitary sewer hookup permits issued in November 2017: 14 residential; 0 commercial.</i>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions. Special emphasis on weed control and non-point source pollution reduction.	Five Year Lake Management Assessment District process was approved by City Council. The West Lake Improvement association has completed a five year plan for a new special assessment district in 2014. Special assessment process for 2015-2019 began on August 26, 2014. Resolution No. 5 completing the assessment was adopted October 21, 2014. The Association elected to use Restorative Lake Sciences, LLC for consulting services in 2015 and to renew the contract with Restorative Lake Sciences for 2017.

Retention Basin Sampling Program (Groundwater Elevation)	Investigation regarding potential impact of retention basins on groundwater levels.	Nova Consultants was awarded a four-year contract by City Council on April 29, 2014 for a four year program to monitor groundwater levels in the city. Monthly sampling at two retention basins continues.
Wellhead Protection Program (WHPP)	Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.	Current Wellhead Protection was originally approved in 2001. Update of the program has been initiated as part of the Water Reliability Study in conjunction with Fishbeck, Thompson, Carr & Huber update work is complete. Final report preparation was submitted to the Michigan Department of Environmental Quality for review and approval. Letter of approval received from MDEQ on June 15, 2015. Program implementation is ongoing.
Leaf Compost Monitoring Program	Monitoring and analysis of groundwater at the new Oakland Drive Leaf Compost site.	City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the Oakland Drive compost site. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. Semi-annual sampling was performed from 2002 to 2008 in June and January. Sampling and analysis results continue to show negligible groundwater impacts from the leaf composting. Sampling schedule was reduced to annual sampling in 2009 with results showing continued minor impact on groundwater quality. No significant change in groundwater impacts. Sampling was completed in June 2017.
National Pollution Discharge Elimination System (NPDES) Permit Implementation	Five year plan to implement the current NPDES stormwater permit.	Received NPDES general permit on August 15, 2001. City staff completed the submission of a Storm Water Pollution Prevention Initiative (SWPPI) as required by NPDES permit. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year timeframe with first work item (updating the Public Participation Plan) completed December 11, 2009. New permit application process announced in November 2014. New permit application was submitted in March 2015. Semi-annual report submitted to MDEQ on December 21, 2015. Program implementation is ongoing.
	Kalamazoo River Mainstream Watershed Management Plan	Draft of watershed plan submitted to MDEQ on December 30, 2005. Public participation plan update submitted to MDEQ on November 24, 2009. Kalamazoo River Watershed council completed a watershed update in November, 2011. No new developments.

	Portage River Watershed Management Plan	Draft watershed plan submitted to MDEQ on December 30, 2005. Interest has been raised by local conservation groups to update the Watershed Plan using grant funds. Grant for watershed update was awarded to Calhoun County Conversation District. No new developments.
	Plan to implement and maintain an Illicit Discharge Elimination Program (IDEP) Storm Sewer Outfall Testing.	On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled “Storm Water Illicit Discharges and Connections.” Continued outfall sampling is required by permit and will be budgeted accordingly. On April 29, 2014 City Council awarded a contract to Nova Consultants, Inc., to perform annual investigations of storm outfalls and investigate all outfalls on a four-year cycle. Report submitted to MDEQ as part of the annual report. Follow-up reporting on IDEP procedures submitted on August 25, 2016. Program implementation is ongoing.
Garden Lane Water Treatment Plant	Native Prairie Restoration	Native prairie burn completed in March 2016. Staff assisting the Environmental Board with invasive species control. City staff are working together to implement a management program for future burns. Procedures are being implemented and resources identified so that the fire department will have the ability to administer and control native prairie burns.
Environmental Incident/Spill Clean Up Notification	Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.	Emergency spill response contract for 2017-18 with Terra Contracting is in process.
Deer Management	Assist the Environmental Board with the impact of the native deer population in the city.	The city has contracted with the Kalamazoo Nature Center to install and monitor deer exclosures. The exclosures were constructed as a local boy scout project and will help assess damage from deer in the areas they are placed. The agreement concerning deer exclosures between the city and the Kalamazoo Nature Centre expiring March 1, 2017 was extended through October 1, 2017. The Kalamazoo Nature Center provided an update in September 2017. Investigation work in conjunction with the board is ongoing.

Internal Environmental Efforts	Summarize internal city environmental efforts including recycling, building improvements, and hybrid vehicle inclusion.	Environmental efforts in the City of Portage are ongoing. <i>During the month of November, two new 96% efficient furnaces were installed for the Public Services building's front office area, equipped with Wi-Fi to better regulate temperatures. Efforts also continued to update all 32-watt, 4-foot fluorescent bulbs with 15-watt LED replacements.</i>
Environmental Board	Summarize efforts of the Environmental Board projects.	The Environmental Board is currently providing assistance and expertise, as needed, to the Parks Department on their Land Management Plan. The Board is also looking into opportunities to educate the community on environmental topics.

Submitted by: Jamie Harmon, Assistant City Engineer

CITY OF PORTAGE

Environmental Board
7900 SOUTH WESTNEDGE AVENUE, PORTAGE, MI 49002

December 12, 2017

The Honorable Mayor and City Council
City of Portage
City Hall
7900 S. Westnedge Ave.
Portage, MI 49002

RE: Environmental Board Projects Update

Dear Mayor and Council:

Consistent with a results-oriented focus, and a collaborative partnership with City Administration, the members of the Portage Environmental Board have prioritized the following few key projects during calendar year 2017:

- **Invasive Species Identification and Control Project.**
- **Preserving Natural Spaces Project.**

The above-mentioned projects have evolved into the current collaborative efforts with City Administration:

- **(City Parks) Land Management Plan Development Support Project** (under direction of Kathleen Hoyle, Director, Parks, Recreation, and Senior Citizen Services). The EB will provide advice and perspective as well as logistical support to this effort as requested by Dir. Hoyle and the contracted agency (Kalamazoo Nature Center) to help to ensure a comprehensive, actionable plan is presented to City Council.
- **Resident/Stakeholder Environmental Education Plan Project.** The objective of this project is to develop a plan to educate all stakeholders* residing/doing business in the City of Portage, about the behaviors needed to preserve the optimal physical environment while enhancing the economic growth and prosperity of those stakeholders. (** Stakeholders include: residents (especially students), businesses, governmental agencies, and a variety of special interest organizations.*)

The above two projects are currently underway with completion (presentation to City Council for consideration) slated for mid-2018. The following projects are being developed with a timeline for presentation to City Council in late 2018:

1. **Natural Shoreline/Stream Management Guidelines.** The objective of this project is to develop a set of recommended practices to guide decision makers (both public and private) in maintaining healthy surface and subterranean water assets.

2. **Develop Incentives for Businesses to Make Sound Environmental Decisions.**

The objective of this project is to develop an ecologically-balanced "business case" to present to Portage business interests as they consider options to operational challenges and growth opportunities. Maintaining a good physical environment does not necessarily compromise a good fiscal environment if prohibitive regulations are balanced with incentives for good environmental behaviors.

While most of the EB efforts are channeled into the above projects, we will continue to support ongoing City programs such as the Green-A-Thon, volunteer recruitment, recycling opportunities, as well as activities mandated by the original EB Charter or as requested by City Council.

Respectfully,

William L. Beck

William L. Beck, Chair
Environmental Board

✓

OPEN AND CARRY

Dear board members,

I have been asked to share my view of Open Carry and liberal view of reducing the potential of serious injury or possible death in the community and public places.

The recent tragedy in Texas at the local Baptist Church would have been quite different if the parishioner's practiced open carry and were prepared for the uninhibited terror and murder of 26 of the people in the church representing a total of 4% of the residents in the community. The deaths would be reduced if a good number of the church goer's loaded and focused on the church door after the first dozen shots were fired through the Front door.

It is a fact that killers will get guns without legal authority and commit these terrible acts. Our challenge is to distract and deter anyone who wishes to do harm to innocent people.

I have guns and they are collecting dust.

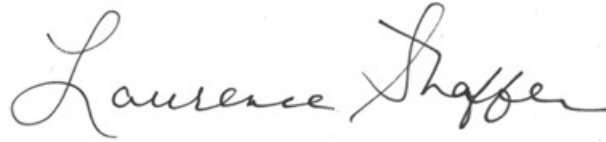
I would be happy to participate in an open discussion on this subject with an equal number of participants for and against Open and Carry.

Thank you for your time.

BILL WALKOWIAK
3530 WEDGWOOD DR

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Bill Walkowiak Communication

SUPPORTING PERSONNEL: Nicholas Arnold, Director of Public Safety - Police / Fire Chief

ACTION RECOMMENDED: That City Council refer the communication from Bill Walkowiak to the City Administration for further review and response.

During the regular City Council meeting of December 5, 2017, Mr. Bob Peterson spoke regarding Senate Bill 585 which is designed to amend provisions of the State of Michigan's handgun licensure law. Specifically, the prohibition against carrying a concealed pistol on certain premises and exemptions to the prohibition. Mr. Peterson asked City Council to facilitate discussion on the topic at an upcoming City Council Meeting, as well as invite interested persons, organizations and elected officials to participate. While the concealed weapon legislation is a state level matter that prohibits local action, the City Attorney has stated that nothing formally precludes City Council from discussing the matter. The City Manager has offered that such a forum could be held in January or February.

In line with this discussion topic, another citizen - Mr. Bill Walkowiak - provided a written communication addressed to Council expressing an opposing view on the matter.

Therefore, it is recommended that City Council receive Mr. Bill Walkowiak's communication and refer it to the City Administration for further review and response.

FUNDING: N/A

Attachments: 1. N/A

City of Portage
Historic District Commission

Portage City Hall
Conference Room #1
Wednesday November 1, 2017

Meeting called to order: 8:20 AM

Present: F. Grunert, S. Nemeth, C. Forrest, J. Duniphin, E. Eklov, M. Maytnier, M. Barton

Absent: K. VanLonkhuyzen (excused)

Announcement: New Commission Members: Becky Lopez and Robert El Henicky

Announcement: Erica has been promoted to Deputy City Clerk for the City of Portage.

Minutes from October 4, 2017 Regular Meeting and October 18, 2017 Special Meeting approved.

Old Business:

Current member property inspections and open case updates

Open cases:

922 W. Osterhout

- Suzanne reported it seemed there was some work being done on the exterior.
- Erica will send the homeowners a letter.

5134 Oakland

- Collin reported that the home is no longer listed for sale.

1521 E. Center Avenue

- Selinon Park development proposal being revised to qualify for MSHDA funding.

10234 East Shore Drive

- City noted the property across the street has been designated as a separate parcel – will need to correct with any future actions.
- Parks and Recreation would like to relocate the historic barn on this property and extend trails to include the barn.

8009 Cox's Drive

- Owner would like to have someone purchase the school building and move it to another location.

2112 Vanderbilt

- Property has a “sale pending” sign.
- Erica has forwarded materials pertaining to properties with historic designation to the realtor.

5720 Oakland

- Erica will take site photos of the barn to record original state before the barn is taken down and materials stored.

Community Awareness:

Outreach Sub-Committee:

HDC Events:

- Jessie gave an overview of events involving the HDC for new members.
- Green-A-Thon
- May Event for 2018 at VanRiper home on Milham
- All Hallows Event:
 - The event was a success largely due to the perfect weather.
 - If the HDC is to be part of the event next year it is important that there be more coordination among event sponsors.
- Jessie asked for volunteers from the HDC to participate in the annual Portage Tree Lighting celebration on Friday, December 2nd.

New Business:

- The Beacon Club has a new owner.

Meeting adjourned at 9:05 AM.

Next meeting will be on Wednesday, December 6, 2017.

Respectfully submitted: Martha Deming Maytnier/Recording Secretary

**Portage Historic District Commission
Historic District Study Committee**

Special Meeting
Conference Room #1
Wednesday, November 1, 2017

Present: C. Forrest, J. Duniphin, F. Grunert, E. Eklov, S. Nemeth, M. Barton, R. El Henicky, Rebecca Lopez

Absent: K. VanLonkhuyzen (excused)

Meeting called to order: 9:05 AM

At issue: 2663 Mandigo

Minutes from October 4th Special Meeting approved.

- County's professional architect study report will not be available until December 6, 2017.
- Discussion will be held as part of a formal hearing following Regular Meeting on December 6, 2017.

Meeting adjourned 9:20 AM.

Respectfully submitted: Martha Deming Maytnier/Recording Secretary

Next Special Meeting set for December 6, 2017 9:00 AM.

CITY OF PORTAGE HUMAN SERVICES BOARD

Minutes of Meeting November 2, 2017

CALL TO ORDER: 6:30 p.m.

MEMBERS PRESENT: Ray LaPoint, Amanda Woodin, Elma (Pat) Maye, Diane Durian, Alice Mwanda, Fiorella Spalvieri, Effie Kokkinos

MEMBERS EXCUSED: Stephanie Upshaw; Nadeem Mirza

STAFF PRESENT: Tom McCoy, Neighborhood Program Specialist

MOTION TO EXCUSE ABSENT MEMBERS: Durian moved and Spalvieri supported motion to excuse Upshaw and Mirza. Motion passed 7-0

APPROVAL OF MINUTES: Durian requested correction to the October 2017 meeting minutes regarding a motion when she was not in attendance. Staff agreed to make correction to reflect alternate board member having made said motion. Spalvieri moved and LaPoint supported approval of the October, 2017 minutes as corrected. Motion passed 7-0.

OLD BUSINESS – Red Ribbon Week activities recap: Woodin noted that Maye had attended the October 24th council meeting with representatives from Kalamazoo Country Day School. Maye reported that youth representatives assisted the Mayor with reading and accepting the proclamation and were enthusiastic about the experience.

NEW BUSINESS:

1. **Presentation by Portage Community Center:** Chris Buckley and Jeremy Zonts of the Portage Community Center were present to provide an overview of the programs supported by the agency and to discuss fundraising activities intended to remain in compliance with established contract guidelines for a maximum of 30% of total agency funding coming from the City of Portage. The board expressed their gratitude for having received financial reports from PCC prior to the meeting and Woodin complimented PCC staff regarding the content and quality of their financial reports. For clarification purposes, Mr. Buckley explained that there were special circumstances regarding timing of funding received from United Way that made it somewhat confusing and offered an explanation of funding cycle and deviations for this agency. PCC also furnished documents to the board detailing statistical information regarding services provided and fundraising activities currently in effect. Mr. Buckley also provided background information regarding cost saving measures initiated by PCC that have reduced their operating expenses and increased the percentage of direct assistance vs. administrative expenses. Mr. Buckley went on to explain additional fundraising activities that are being undertaken including increased grant applications from local foundations, one of which (Stryker/Johnson) has agreed to provide funding. LaPoint inquired about which of the PCC services were the costliest to provide and Mr. Buckley responded with information regarding bus tokens and utility bill assistance, specifically water and sewer bills that, as noted by LaPoint, are received quarterly and can be problematic for individuals and families who may be more used to monthly billing for most other expenses. Mr. Buckley also reported that by inserting information regarding assistance programs along with water/sewer bills has effectively reduced the number of shut offs conducted requiring a reconnect fee. Mr. Buckley raised a question regarding whether any other agencies who receive

funding are held to a maximum percentage of funding criteria similar to the PCC. The Board responded that there were no other agencies who were, however all other agencies who receive funding from the city have substantially lower than 30% of their total budgets received from the city and that the PCC receives a vast majority of the total amount of funds allocated from the city. LaPoint made a suggestion that the 30% ratio could be an item that may be revisited in the future to adjust for changing circumstances. Mr. Buckley indicated that he will be making more of an effort to interact with the Board and attend meetings more frequently. Woodin inquired regarding the biggest challenges faced by PCC and Mr. Buckley responded that fundraising and relationship building were top priorities. He indicated that they had reestablished a fund development committee and were focusing on exposure to local businesses as potential donors as opposed to larger corporate prospects. Mr. Buckley also noted that Family Health Center and KRESA were expected to renew leases for space currently occupied at the PCC on an ongoing basis. LaPoint inquired about the ability for individuals to make private donations and Mr. Buckley responded that donations are accepted on line and in person.

2. Kalamazoo Transit Authority LAC update: Woodin indicated there had not been a meeting since the last HSB meeting.

STATEMENT OF CITIZENS: No citizens were present. LaPoint commented that the article in the November Portager regarding help available for citizens in need was well written and informative.

ADJOURNMENT: Maye moved and Durian supported adjournment at 7:15 p.m. Motion passed 7-0.

Respectfully Submitted,

Tom McCoy, Neighborhood Program Specialist

PLANNING COMMISSION

November 2, 2017

The City of Portage Planning Commission meeting of November 2, 2017 was called to order by Chairman Stoffer at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. No citizens were in attendance.

PLEDGE OF ALLEGIANCE:

Chairman Stoffer led the Commission, staff and citizens in the Pledge of Allegiance.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning, Development and Neighborhood Services; Michael West, Senior City Planner; and Bryan Beech, Assistant City Attorney.

ROLL CALL:

Mr. Forth called the roll: Patterson (yes), Bosch (yes), Stoffer (yes), Harrell-Page (yes), Place (yes) and Corradini (yes). A motion was made by Commissioner Patterson, seconded by Commissioner Bosch, to approve the roll excusing Commissioners Shoup, Schimmel and Joshi. The motion was unanimously approved 6-0.

APPROVAL OF MINUTES:

Chairman Stoffer referred the Commission to the October 19, 2017 meeting minutes contained in the agenda packet. A motion was made by Commissioner Patterson, seconded by Commissioner Bosch, to approve the minutes as submitted. The motion was unanimously approved 6-0.

SITE/FINAL PLANS:

None

PUBLIC HEARING:

1. Final Report: Rezoning Application #17/18-1, 9444 South Sprinkle Road and 4691 Branch Avenue. Chairman Stoffer referred the Commission to the November 2, 2017 email communication from Mr. Andrew Rossell contained in the final agenda requesting that the rezoning consideration be withdrawn from further consideration. After a brief conversation, a motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to accept the applicant's request and withdraw Rezoning Application #17/18-1, 9444 South Sprinkle Road and 4691 Branch Avenue, from further consideration. The motion was unanimously approved 6-0.

OLD BUSINESS:

None.

STATEMENT OF CITIZENS/COMMISSIONERS:

None.

NEW BUSINESS:

1. Planning Commission Training – Site Plan Review and Storm Water Management. Given the absence of three Commissioners, Chairman Stoffer suggested that the Planning Commission training be postponed to the November 16th meeting. Mr. Forth indicated that there were no pending applications scheduled for the November 16th meeting. After a brief discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Harrell-Page, to postpone the Site Plan Review and Storm Water Management training session to the November 16, 2017 meeting. The motion was unanimously approved 6-0.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 7:05 p.m.

Respectfully submitted,

Christopher T. Forth, AICP
Deputy Director of Planning, Development and Neighborhood Services

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Monday, November 6, 2017 6:30 p.m.

Youth Advisory Committee Minutes

- I. Call to order
- II. Introductions and Attendance
 - a. Favorite Thanksgiving food
 - b. BEN BRING FOOD
- III. Reports from Liaisons
 - a. None
- IV. Keep Michigan Beautiful Update
 - a. Received award
 - b. Bought fondue set
- V. Snow Party
 - a. Saturday, February 5th
 - b. Oakland Drive Park
 - c. Cardboard sled, snowman, building and bonfire
 - d. Looking for vendors to provide sweets
- VI. Social Host Ordinance Update/Discussion
 - a. Add definition of disturbing the peace
 - b. Define drug paraphernalia
 - c. Does not mention legal guardian in definition of immediate family (include aunts, uncles, grandparents)
 - d. Landlord will be punished for reoccurring problems
 - e. To move forward, make revisions and review again
- VII. Parks and Recreation Five Year Plan
 - a. Recommendations with new innovative park amenities or programs
 - b. Long term goals city should consider for park system
 - c. Historical or cultural facilities or events
- VIII. Volunteering at Portage Community Center
 - a. Dates to come (usually 2-3 days around Thanksgiving and Holiday season)
 - b. Probably 3-5 pm
 - c. Ensure you follow through with your commitment
 - i. Signup sheet
- IX. Next Meeting: Monday, December 4 6:30 pm
 - a. FUNDUE

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – November 13, 2017

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Schau at 7:00 p.m. in the Council Chambers. Two people were in the audience.

MEMBERS PRESENT: Randall Schau, Veronica Demaio, John Byrnes, Jay Eichstaedt, Linda Finch, Alexander Philipp, Natalie Rowe, Jeff Wettig (alt), Linda Fry (alt)

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator, Bryan Beach, Assistant City Attorney.

MEMBERS EXCUSED: None

APPROVAL OF THE MINUTES: Eichstaedt moved and Rowe seconded a motion to approve the October 9, 2017 minutes as submitted. Upon voice vote, the motion was approved 7-0.

OLD BUSINESS:

ZBA #17-13; 9244 Chapel Street: Linda Fry advised she had a conflict of interest and left the chambers. Mais summarized the request to construct a 30-foot by 30-foot accessory building that: a) exceeds the ground floor living area by 178 square feet; and b) is 18.3 feet high where a maximum 14-foot height is permitted. John Fry and Edna Fry were present to answer questions. John Fry stated an additional lot was purchased at the corner of Vanderbilt and Chapel and combined with the lot at 9244 Chapel for the purpose of building a garage for extra tool storage and vehicle repairs. He stated the extra building size and height was necessary to ensure no items would be stored outside, and the proposed covered porch area was intended to be a porch, and not used for vehicle parking. Schau inquired where Mr. Fry currently worked on cars and stored tools. Mr. Fry responded in his garage at 7430 Rockford Street. Schau asked staff if it was permissible that Mr. Fry was requesting a variance to use a garage where he did not reside. Mais responded the code does not prohibit family members from making arrangements to park or repair cars at other family members' property, but could become an enforcement issue if it were a business activity in a residential zone. Mr. Fry stated no business activities would occur. Attorney Beach stated the applicant had standing to make the request with the property owner's consent.

A public hearing was opened. Edna Fry, co-owner of 9244 Chapel Street and 7430 Rockford Street, spoke in favor of the requested variance. The public hearing was closed.

A motion was made by Eichstaedt, seconded by Rowe, to grant a variance to construct a 30-foot by 30-foot accessory building that a) exceeds the ground floor living area by 178 square feet for the following reasons; there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include the need to build a larger building for one's hobby; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to an adequate sized building; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and; the variance will not materially impair the intent and purpose of the zoning ordinance. Upon a roll call vote: Schau-No, Demaio-No, Byrnes-Yes, Finch-No, Philipp-No, Eichstaedt-Yes, Rowe-Yes. Motion failed 3-4. Eichstaedt inquired if the applicant would be willing to accept a lesser variance. Mr. Fry stated yes. Discussion of various alternate building dimensions ensued. Rowe stated she was not comfortable with granting a lesser variance for specific dimensions or heights without the applicant having the opportunity to speak to the builder first. Rowe moved, Eichstaedt seconded a motion to postpone the item until the December 11, 2017 meeting. Upon roll call vote: Eichstaedt-Yes, Demaio-Yes, Finch-Yes, Byrnes-Yes, Rowe-Yes, Philipp-No, Schau-No. Motion passed 5-2.

NEW BUSINESS:

None

STATEMENT OF CITIZENS:

None

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Jeff Mais

Zoning & Codes Administrator

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TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Fall Leaf Pickup Program Front-End Loader Rental - Bid Tabulation

SUPPORTING PERSONNEL: Rod Russell, Director of Public Services

ACTION RECOMMENDED: That City Council award a three-year contract to the low bidder, Carleton Equipment Company, for the rental of four front-end loaders for use during the Leaf Pickup Program in the annual amount of \$20,000 for Fiscal Years 2018-2019, 2019-2020 and 2020-2021, with the option for up to three additional one-year renewals and authorize the City Manager to execute all documents related to this action on behalf of the city.

The six-week Fall Leaf Pickup Program requires the rental of specialized equipment, including compactor trucks and front-end loaders, to ensure successful and timely completion of the program. A five-year contract for the rental of compactor trucks was approved by the City Council on October 20, 2015. The current contract for the rental of four front-end loaders is set to expire on December 31, 2017. As such, bids were recently solicited for rental of the required equipment for a period of three years, with the option to renew for three additional one-year periods.

Three bids were received from area equipment rental firms, with Carleton Equipment Company of Kalamazoo submitting the low bid in the amount of \$20,000 per year. Carleton Equipment has provided this equipment to the city in the past and has proven to be a capable vendor.

It is recommended that City Council award a three-year contract to Carleton Equipment Company to provide four front-end loaders for the annual Fall Leaf Pickup Program in the annual amount of \$20,000, with the option for three additional one-year renewals and authorize the City Manager to execute all documents related to this action on behalf of the city.

FUNDING: Funds will be made available through the Fall Leaf Pickup millage for each of the respective years.

Attachments: 1. Bid Tabulation

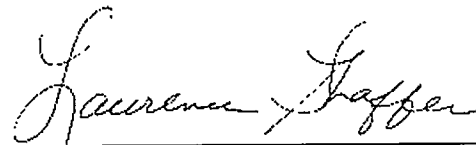
BID TABULATION
 BUCKET LOADER RENTAL
 (Rental Period 6 Weeks per Year)

<u>Contract Year</u>	<u>Quantity</u>	Carleton Equipment Co. 4704 S. 29th Street Kalamazoo, MI 49048		United Rentals (North America) 2122 Turner Ave. NW Grand Rapids, MI 49544		Herc Rentals, Inc. 5500 36th Street Grand Rapids, MI 49512	
		<u>Per Loader</u>	<u>Total</u>	<u>Per Loader</u>	<u>Total</u>	<u>Per Loader</u>	<u>Total</u>
FY 2018-19	4 Loaders	\$5,000.00	\$20,000.00	\$9,054.00	\$36,216.00	\$10,300.00	\$41,200.00
FY 2019-20	4 Loaders	\$5,000.00	\$20,000.00	\$9,054.00	\$36,216.00	\$10,816.00	\$43,264.00
FY 2020-21	4 Loaders	\$5,000.00	<u>\$20,000.00</u>	\$9,054.00	<u>\$36,216.00</u>	\$11,356.00	<u>\$45,424.00</u>
3 Year Total			\$60,000.00		\$108,648.00		\$129,888.00

MATERIALS TRANSMITTED

Monday, December 4, 2017

1. Communication from the City Manager regarding Medical Marihuana – **To Be Added to the December 5, 2017 City Council Agenda as Item F.8.**



Laurence Shaffer, City Manager

cc: Rob Boulis, Deputy City Manager

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



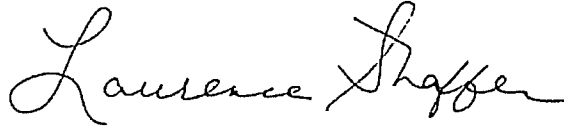
SUBJECT: Medical Marihuana – **To Be Added to the December 5, 2017 City Council Agenda as Item F.8.**

Attached is a communication from the City Manager concerning Medical Marihuana that is to be added to the December 5, 2017 City Council as Item F.8.

Attachments: Communication from the City Manager dated December 5, 2017 regarding medical marihuana.

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Medical Marihuana

SUPPORTING PERSONNEL: Vicki Georgeau, Director of Community Development
Randy Brown, City Attorney

ACTION RECOMMENDED: That City Council:

1. adopt an emergency ordinance to take immediate effect to amend the code of ordinances of the city of Portage, Michigan by adding Article 11, Temporary Operation of Medical Marihuana Facilities of Chapter 14 Businesses and
2. adopt a Resolution of Intent regarding adoption of an Authorizing Ordinance under the Medical Marihuana Facilities Licensing Act.

The City Administration recommends that City Council take two separate but related actions pertaining to medical marihuana facilities in the City of Portage.

First, the City Administration recommends that the City Council adopt an emergency ordinance, consistent with the requirements of the City Charter, Section 5.3 (b), which would allow for the continuation of existing marihuana facility(s) in Portage until June 15, 2018. The continuation of such a facility under the authority of this ordinance would occur after a number of conditions have been satisfied by an applicant. Those conditions are as follows:

1. Facility has been in operation in Portage for a year or more.
2. Marihuana sold at said facility has been tested by an independent laboratory.
3. Typical markings as a business have been observed over the previous year.
4. Temporary operating permit has been attained from the City of Portage.
5. The parcel upon which the facility is located is not within or contiguous to a residential zone.
6. An affidavit has been executed by the applicant affirming that all conditions have been met.

The State of Michigan, Licensing and Regulatory Affairs (LARA) Commission has issued an Advisory Bulletin, dated November 2, 2017 titled, "Medical Marihuana Facilities: Temporary Operation," a copy of which is attached. LARA has been statutorily assigned with the task of regulating medical marihuana facilities in Michigan. The Advisory lists the various conditions required that allow a medical marihuana facility to remain open during the pre-application and application period. The emergency ordinance will allow for the medical marihuana facility(s) to operate during the application period beginning on December 15, 2017 through June 15, 2018. The emergency ordinance allowing

for a medical marihuana facility to operate will sunset on June 15, 2018. As a result, any medical marihuana facility allowed to operate under this ordinance would lose its permit to operate under a temporary permit, regardless of any other condition. In accordance with the City of Portage Code of Ordinances, Sec. 5.3., an emergency ordinance must be adopted by a vote of not less than five (5) members of the Council.

Second, adoption of the Resolution of Intent Regarding Adoption of an Authorizing Ordinance under the Medical Marihuana Facilities Licensing Act allows the City Council to explicitly make its intention known to an interested public that it intends to pursue an authorizing ordinance(s) relative to medical marihuana.

FUNDING: N/A

- Attachments:**
1. Emergency Ordinance to Amend the Code of Ordinances by Adding Article 11, Temporary Operation of Medical Marihuana Facilities of Chapter 14 Businesses
 2. Resolution of Intent Regarding Adoption of an Authorizing Ordinance Under the Medical Marihuana Facilities Licensing Act
 3. LARA Advisory Bulletin - Medical Marihuana Facilities
 4. Portage Code of Ordinances, Sec. 5.3

**AN EMERGENCY ORDINANCE TO TAKE IMMEDIATE EFFECT TO
AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY ADDING ARTICLE 11, TEMPORARY OPERATION OF MEDICAL MARIHUANA
FACILITIES OF CHAPTER 14 BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

That Chapter 14 shall be amended to add Article 11, Temporary Operation of Medical Marihuana Facilities of Chapter 14 Businesses.

ARTICLE 11. TEMPORARY OPERATION OF MEDICAL MARIHUANA FACILITIES.

Sec. 14-237. Intent.

A. The purpose of this Article is pursuant to the Medical Marihuana Facilities Licensing Act, MCL 223.27101, et seq., (Act) to authorize the establishment of a certain type of Medical Marihuana Facility in the City of Portage.

B. Nothing in this Article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., and all other applicable rules promulgated by the State of Michigan.

C. Because federal law is not affected by state law or rules, nothing in this Article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall any provision of this Article or this code, be construed as granting immunity from criminal prosecution under federal law. The Act does not protect patients, users, care givers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

D. The City, as stated in its Resolution of Intent adopted concurrently with this Emergency Ordinance, is in the process of developing, reviewing and thereafter adopting an authorizing ordinance and zoning ordinance allowed for the location, facility type, and number of medical marihuana facilities under the MMFLA.

E. That such ordinance will not be adopted before December 15, 2017, which is the date the Act has established for allowing applications for a state operating license.

F. If this Emergency Ordinance is not adopted, any proposed marihuana facility that may currently be in operation within the City of Portage will be required to close its operation before making application to the state for an operating license.

G. To promote the continued operation of medical marihuana facilities that may be currently operating, LARA has issued an advisory bulletin dated November 2, 2017 that sets

forth certain requirements, which if satisfied, to allow the temporary operation of a proposed marihuana facility until such time it obtains a state operating license.

H. To enable and insure the continued protection of medical marihuana patients and their access to clean and tested marihuana without disruption, Council deems this an emergency ordinance.

Sec. 14-238. Marihuana Facilities Allowed.

Pursuant to Section 205 (1) of the Act and Advisory Bulletin dated November 2, 2017, and in addition to any other emergency or permanent rule passed by LARA covering the temporary operation of a proposed Medical Marihuana Facility, the City authorizes that only provisioning centers meeting the conditions in this Emergency Ordinance under the Act to be permitted in the City.

Sec. 14-239. Conditions.

A proposed Medical Marihuana Facility is allowed to temporarily operate in the City only under the following conditions:

A. The Medical Marihuana Facility has been in operation within the City on a continuous basis for at least one year previous to the date of adoption of this Emergency Ordinance, being December 5, 2017.

B. The proposed Marihuana Facility tests the medical marihuana sold to its customers by using an independent third party accredited laboratory.

C. The proposed Medical Marihuana Facility has been in continuous operation at the same location in a permanent building for at least the previous year before the date of adoption of this Emergency Ordinance.

D. The proposed Medical Marihuana Facility has been a commercial enterprise recognized as an ongoing business by factors such as signage, website, posted hours of operation, informational written materials and other similar items, located in the B-3 Business District continuously for the previous year before the adoption of this Emergency Ordinance.

E. The proposed Medical Marihuana Facility has received a temporary operating permit from the City.

F. The parcel on which the proposed Medical Marihuana Facility is located is not contiguous to any residential zoning district.

G. During the past six (6) months, at least one person in the City Administration has performed an official tour and/or inspection supervised and consented to by one or more principals of the Facility.

H. An owner or principal of a proposed Medical Marihuana Facility has signed an Affidavit verifying that the above conditions are satisfied.

Sec. 14-240.

Any purposed Medical Marihuana Facility that does not comply with the LARA Advisory Bulletin of November 2, 2017 shall no longer operate temporarily.

Sec. 14-241.

This Emergency Ordinance shall automatically be repealed on June 15, 2018 and any temporary operation of a proposed Medical Marihuana Facility under this Emergency Ordinance will no longer be permitted.

Sec. 14-242.

A proposed Medical Marihuana Facility temporarily operating under this Emergency Ordinance shall be subject to all conditions and requirements contained under any subsequent Medical Marihuana Facility Ordinance adopted by the City. Further, nothing in this Emergency Ordinance shall be construed as guaranteeing any license, permit, zoning approval or any other benefit conferred upon a Medical Marihuana Facility under a subsequently adopted City Licensing Ordinance.

Sec. 14-243. Savings Clause.

This Emergency Ordinance is intended to allow the temporary operation of proposed Medical Marihuana Facility under the requirements of the Advisory Bulletin dated November 2, 2017 requiring a municipality to adopt an authorizing ordinance pursuant to Section 205 of the MMFLA prior to December 15, 2017. If any section or part of this Emergency Ordinance is found by any state board or agency to deprive a particular proposed Medical Marihuana Facility from obtaining temporary operation under the Advisory Bulletin, the City may at its option, choose to amend such Emergency Ordinance to correct such deficiency. Such amendment shall be retroactive to the date of adoption of this original Emergency Ordinance so as to comply with the Advisory Bulletin.

Sec. 14-244. Immediate Effect.

Pursuant to Section 5.3(b) of the Portage City Charter, this Article was introduced and adopted at a regular meeting of the City Council by a vote of not less than five (5) members of the Council as an emergency ordinance and, as such, pursuant to Section 5.5(a) of the Portage City Charter shall take immediate effect upon its adoption.

Dated: _____, 2017

Patricia Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #

EFFECTIVE DATE: December ____, 2017

CERTIFICATION

I, Adam Herringa, City Clerk, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the _____ day of _____, 2017.

Adam Herringa

PREPARED BY:
Randall L. Brown (P 34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: 12/4/17

City Attorney

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**CITY OF PORTAGE
RESOLUTION OF INTENT
REGARDING ADOPTION OF AN AUTHORIZING ORDINANCE
UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT**

Minutes of a regular meeting of the City Council of the City of Portage, Michigan held on _____, 20__ at 7:30 p.m. local time at City Hall in the City of Portage, Kalamazoo County, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and supported by:

Councilmember: _____.

WHEREAS, Governor Snyder signed the Medical Marihuana Facilities Licensing Act (Licensing Act), an amendment to the MMMA and the Marihuana Tracking Act which all became effective December 20, 2016;

WHEREAS, The Licensing Act exempts those holding a state operating license from marihuana-related criminal or civil prosecution and penalties, and other sanctions, for performing activities within the scope of their license;

WHEREAS, The Licensing Act establishes a Medical Marihuana Licensing Board, a Marihuana Advisory Panel and requires the Department of Licensing and Regulatory Affairs to promulgate rules, including emergency rules as necessary, to implement, administer and enforce the Act;

WHEREAS, the Licensing Act further prohibits operation of a medical marihuana facility without an authorizing ordinance adopted by the municipality;

WHEREAS, if the City chose not to pass an authority ordinance, those licensed through the Act would not be allowed to operate within the City limits;

WHEREAS, The Licensing Act provides that beginning 360 days from its effective date (December 15, 2017), a person may apply for and the Department will hear a request for a state operating license;

WHEREAS, LARA has indicated its intent to initiate a pre-qualification process for all applicants for more efficient and effective processing of licensing requests;

WHEREAS, The Licensing Act requires LARA to promulgate rules as necessary to implement, administer and enforce the Licensing Act;

WHEREAS, as of the effective date of this Resolution, LARA has not promulgated the rules as required by the Licensing Act;

WHEREAS, adopting an authorizing ordinance during the period of time in which the Medical Marihuana Licensing Board and LARA are researching, investigating and considering new rules and regulations with regard to medical marihuana facilities would be counter-productive and undermine the City's efforts to maintain consistency with State law and to protect the health, safety and welfare of its citizens;

WHEREAS, in any event, applications cannot be taken under an authorizing ordinance until such time as LARA promulgates rules, accepts and reviews applications, and pre-qualifies applicants;

WHEREAS, a Committee of the Whole meeting was held on November 30, 2017 and another is scheduled for December 19, 2017 for the purpose of advising Council of the substance of the Act, possible ordinance provisions and other issues and concerns regarding the adoption of an authorizing ordinance and zoning ordinance;

WHEREAS, the Council has also been advised regarding the numerous benefits of the adoption of an authorizing ordinance and zoning ordinance under the Act;

NOW, THEREFORE, BE IT RESOLVED, the Portage City Council intends to move forward in the development of an authorizing ordinance and zoning ordinance allowing for the location(s), type(s), and number of Medical Marihuana Facilities within the City under the Act with appropriate conditions, restrictions and limitations after the City Administration has the opportunity to review the rules which are required to be promulgated by LARA and after adequate input and investigation is conducted with regard to a proposed Ordinance.

IT IS FURTHER RESOLVED that all resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

ADOPTED: _____

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED.

Adam Herringa, City Clerk

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the ____ day of _____, 2017, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this ____ day of _____, 2017.

Adam Herringa, City Clerk

Approved as to form:

Date: 12/7/17

City Attorney

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November 2, 2017

Medical Marihuana Facilities: Temporary Operation

The purpose of this bulletin is to advise the public and potential applicants of the Bureau of Medical Marihuana Regulation's intention as to how to address proposed marihuana facilities that may currently be in operation under local municipal authority. This bulletin is only for advisory purposes and is subject to change.

To help ensure the continued protection of medical marihuana patients the department intends to address in emergency rules that an applicant currently operating a proposed marihuana facility that would otherwise require a state operating license will not automatically impede the applicant's eligibility for state licensure if either of the following conditions are met:

1. The applicant's proposed marihuana facility is in a municipality that has adopted an authorizing ordinance prior to December 15, 2017 and the municipality is pending adoption of an ordinance under Section 205 of the MMFLA; or
2. The applicant's proposed marihuana facility is in a municipality that has adopted an authorizing ordinance pursuant to Section 205 of the MMFLA prior to December 15, 2017.

An applicant that is temporarily operating under local authority is not guaranteed a state operating license.

Additionally, the following requirements must be adhered to:

- The adoption of the ordinance must be (1) attested to by the clerk of the municipality and (2) the municipality must authorize the temporary operation of the applicant.
- The applicant must apply for a state operating license no later than February 15, 2018 --otherwise any operation may be considered as an impediment to state licensure.
- Noncompliance with temporary operation may be grounds for disciplinary action and could be referred to law enforcement for unlicensed activity.
- The applicant must be issued or denied a license on or before June 15, 2018.
- The municipality must have adopted or amended an ordinance in compliance with section 205 no later than June 15, 2018.
- An applicant denied a license must cease and desist any operation if they have not been issued a license by June 15, 2018.
- Any temporary operation after June 15, 2018 will be considered unlicensed activity.
- Unlicensed activity may result in a referral to law enforcement for unlicensed activity. The Department may forward any or all unlicensed activity to the Departments of the State Police and Attorney General.
- If a state operating license is issued, an applicant is no longer operating temporarily and must comply with all rules and regulations that apply to licensees.

This bulletin does not constitute legal advice and is subject to change. It is intended to be advisory only, in anticipation of the Department of Licensing and Regulatory Affairs' promulgation of emergency rules consistent with statutory requirements. Potential licensees are encouraged to seek legal counsel to ensure



ADVISORY BULLETIN

November 2, 2017

their licensure applications and operations comply with the Medical Marihuana Facilities Licensing Act and associated administrative rules.

More information on the BMMR can be found at the bureau's website: www.michigan.gov/bmmr.

For more information about LARA, please visit www.michigan.gov/lara

Follow us on Twitter [www.twitter.com/michiganLARA](https://twitter.com/michiganLARA)

"Like" us on Facebook or find us on YouTube www.youtube.com/michiganLARA

Sec. 5.3. - Introduction, Consideration, Style, and Recording of Ordinances.

- (a) Each proposed ordinance shall be introduced in written form. The style of all ordinances adopted by the Council shall be, "The City of Portage Ordains:[....]"
- (b) Unless declared to be an emergency ordinance by a vote of not less than five members of the Council, no ordinance shall be adopted by the Council except at a regular Council meeting held not less than one week subsequent to its introduction. An emergency ordinance may be introduced and adopted at any regular or special meeting of the Council.
- (c) Each proposed ordinance which is properly introduced as herein required shall be acted upon by the Council within six months after its introduction. If any proposed ordinance be not so acted upon, the Clerk shall present it to the Council for adoption or rejection at the first meeting of the Council following the expiration of the six months period.
- (d) Each ordinance shall be recorded by the Clerk in the Ordinance Book and such recording shall be prima-facie evidence of the due and proper adoption thereof.
- (e) All ordinances, resolutions, and official proceedings of the City may be placed in evidence in all courts and tribunals by a copy thereof certified as true by the Clerk, under the seal of the City, as an alternate to other methods of proving the same which may be provided or permitted by law.

State Law reference— Mandatory that charter provide for ordinance adoption and publication procedures, MCL 117.3(k), MSA 5.2073, (k).



MATERIALS TRANSMITTED

Tuesday, December 5, 2017

1. Communication from the City Manager regarding setting a Special Meeting concerning Medical Marihuana – **To Be Added to the December 5, 2017 City Council Agenda as Item F.8.**
2. Communication from the City Manager regarding Michigan Senate Bill No. 585 – Information Only.

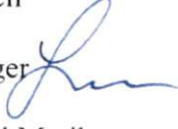
Laurence Shaffer, City Manager

cc: Rob Boulis, Deputy City Manager



MATERIALS TRANSMITTED
DECEMBER 5, 2017

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager 

SUBJECT: Special Meeting – Medical Marihuana – **To Be Added to the December 5, 2017 City Council Agenda as Item F.8.**

Attached is a communication from the City Manager concerning a Special Meeting that is to be added to the December 5, 2017 City Council as Item F.8.

Attachments: Communication from the City Manager dated December 5, 2017 regarding a Special Meeting.



CITY COUNCIL AGENDA ITEM F.8.
DECEMBER 5, 2017

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager

A handwritten signature in black ink that reads "Laurence Shaffer". The signature is written in a cursive style with a large, looped "L" and a trailing "er" at the end.

SUBJECT: Special Meeting - Medical Marihuana

SUPPORTING PERSONNEL:

ACTION RECOMMENDED: That City Council set a Special Meeting on Tuesday, December 12 at 7 p.m. at Portage City Hall, Council Chambers, for the purpose of considering an emergency ordinance and resolution of intent concerning Medical Marihuana Facilities.

It is recommended that City Council set a Special Meeting on Tuesday, December 12 at 7 p.m. at Portage City Hall, Council Chambers, for the purpose of considering an emergency ordinance and resolution of intent concerning Medical Marihuana Facilities.

FUNDING: N/A

Attachments:

TO: Honorable Mayor and City Council



FROM: Laurence Shaffer, City Manager

SUBJECT: Michigan Senate Bill No. 585 – Information Only

This communication is to advise the City Council that Portage resident, Robert Peterson, and a group of interested individuals may attend the December 5, 2017 City Council Meeting to express their opposition to Senate Bill No. 585 (attached).

Attachments: Senate Bill No. 585



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 584 and 585 (as introduced 9-20-17)
Sponsor: Senator Arlan Meekhof (S.B. 584)
Senator Phil Pavlov (S.B. 585)
Committee: Government Operations

Date Completed: 11-7-17

CONTENT

Senate Bill 584 would amend provisions of the handgun licensure law regarding the prohibition against carrying a concealed pistol on certain premises (commonly called no-carry zones) and exemptions to the prohibition, to do the following:

- Add an exemption an individual who held a concealed pistol license (CPL), or was applying for an initial or renewal CPL or an exemption, if he or she requested the exemption on his or her license application and met certain educational requirements.
- Require the individual either to certify that he or she had completed at least eight hours of training that met specified conditions, or to be certified as a firearms instructor.
- Require at least three hours of review, instead of eight hours of training, if the individual had been granted an exemption and were applying for a renewal license with an exemption, or if he or she were an firearms instructor.
- Require the county clerk to issue or deny the exemption within 10 days after receiving the application.
- Provide that an individual who was granted an exemption at the time he or she applied for an original or renewal license would not be required to pay an additional fee.
- Provide that an individual could be required to pay up to \$20 if he or she applied for an exemption at any time other than when he or she applied for an original or renewal license.
- Require the application for a CPL to allow the applicant to designate whether he or she was seeking an exemption from the no-carry zone prohibition.
- Require a no-carry zone exemption to appear as an indorsement on the face of a license.
- Allow an applicant for an exemption to appeal to the circuit court if a clerk failed to provide an exemption, and require the court to order the clerk to pay the applicant's costs and attorney fees if the court found that the failure was arbitrary and capricious.

Senate Bill 585 would amend the sentencing guidelines in the Code of Criminal Procedure to change a Michigan Compiled Laws citation to a section of the handgun licensure law that Senate Bill 584 would amend.

Senate Bill 585 is tie-barred to Senate Bill 584.

A more detailed description of Senate Bill 584 follows.

No-Carry Zone Exemption; Educational Requirements; Issuance or Denial

Section 50 of the law prohibits a person who is licensed to carry a concealed pistol, or who is exempt from licensure, from carrying a concealed pistol or a taser on the premises (excluding the parking areas) of any of the following (commonly called weapon-free or no-carry zones):

- A school or school property, except for a student's parent or legal guardian while in a vehicle on school property, if he or she is dropping off or picking up the student.
- A public or private child care center or day care center, child caring institution, or child placing agency.
- A sports arena or stadium.
- A licensed bar or tavern whose primary source of income is the sale of liquor by the glass for on-premises consumption.
- Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless its presiding official or officials permit the carrying of a concealed pistol on the property or facility.
- An entertainment facility with a seating capacity of 2,500 or more that the person knows or should know has such a seating capacity or that has a sign stating that capacity.
- A hospital.
- A dormitory or classroom of a community college, college, or university.

A violation is a State civil infraction punishable by a maximum fine of \$500, and a mandatory six-month suspension of the individual's license to carry a concealed pistol. A second violation is a misdemeanor punishable by a maximum fine of \$1,000, and revocation of the individual's CPL. A third or subsequent violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000, and license revocation.

Section 50 lists categories of individuals to whom the no-carry zone prohibition does not apply. These include, among others, individuals who are licensed under the law and are peace officers, court officers, corrections officers, or State court judges; retired law enforcement officers, retired judges, and retired corrections officers who are licensed under the law; and individuals who are licensed as private investigators.

Under the bill, the prohibition also would not apply to a person who applied for and was granted an exemption by the county clerk. A person would be eligible for an exemption only if he or she requested an exemption on his or her license application and one or more of the following applied:

- Except as provided below for someone who would be required to complete at least three hours of review, the individual was a licensee or was applying for an initial or renewal license or an exemption under these provisions, who provided a certificate indicating on its face that he or she had completed at least eight hours of training in addition to the pistol safety training otherwise required by the handgun licensure law.
- The individual was certified as a firearms instructor by the State or by a national or State firearms training organization, and was eligible under the law to provide pistol safety training to applicants for a CPL.

The eight hours of training would have to satisfy all of the following conditions:

- Include both classroom and range time.
- Include the firing of at least an additional 94 rounds.

- Focus on the pistol safety training principles as they apply to public places and premises listed as no-carry zones, subject to the exclusion of parking areas.
- Be provided by an agency of the State or by a national or State firearms training organization.
- Be completed within five years immediately before the date of the application for an original or renewal license or an exemption.

In addition, the training instructor would have to be certified as a firearms instructor by the State or by a national or State firearms training organization and be eligible to provide the pistol safety training required by the law.

Regarding an individual who was certified as a firearms instructor, it would be prima facie evidence that the individual was eligible for an exemption if he or she possessed a certificate as a firearms instructor issued by the State or by a national or State firearms training organization that met the law's requirements. ("Prima facie" is sufficient to establish a given fact or raise a presumption unless disproved or rebutted.)

The requirement for eight-hours of training would be waived for an individual who had been granted an exemption from the no-carry zone prohibition and was applying for a renewal license with an exemption, but the individual would have to certify that he or she had completed at least three hours of review of that training. The requirement for eight hours of training also would be waived for an individual who was a firearms instructor eligible to provide pistol safety training, but the individual would have to certify that he or she had completed at least three hours of review of the training required to become a firearms instructor. These educational requirements would be met if the applicant certified on the renewal application form that he or she had complied with the training review requirements. The county clerk could not otherwise require verification of the statements made under these provisions and could not require an applicant to obtain a certificate or undergo training other than as required by the bill.

Within 10 days after receiving an application for an exemption, the county clerk would have to issue or deny the exemption and send to the applicant by first-class mail in a sealed envelope either a replacement license with the exemption indorsement or, if the exemption were denied, a notice of denial. A notice of denial would have to specifically state the statutory authority for the denial. The bill specifies that nothing in these provisions would prohibit the clerk from making a determination regarding the exemption at the time the application was submitted and immediately either issuing a replacement license that contained the exemption indorsement or denying the exemption and immediately providing the written notice of denial, including the statement of statutory authority.

If an individual were licensed to carry a concealed pistol at the time he or she was granted an exemption under the bill, the applicant would have to surrender his or her CPL to the county clerk by mail or in person immediately upon receiving his or her replacement license containing the exemption indorsement.

License Application; Indorsement

Under the handgun licensure law, to obtain a license to carry a concealed pistol, an individual must apply to the clerk of the county where the applicant resides. The application must allow the individual to designate whether he or she is seeking an emergency license. Under the bill, the application also would have to allow the individual to designate whether he or she was seeking an exemption from the prohibition against carrying a concealed pistol in a no-carry zone.

Currently, the county clerk must include an indication on a license of an individual who is exempt from the prohibition, if the individual provides acceptable proof that he or she qualifies for the exemption. The bill also would require the county clerk to include an indication on the license if the applicant requested the exemption indorsement on his or her application form and were eligible for the exemption proposed by the bill.

The bill specifies that an individual who applied for and was granted an exemption from Section 5o at the time he or she applied for an original or renewal license would not be required to pay any additional fee. An individual who held a valid license and who applied for an exemption at a time other than when he or she applied for an original or renewal license could be required to pay a fee of not more than \$20 for the receipt and processing of the exemption application and for the issuance of a replacement license. The county clerk would have to deposit the fee in the concealed pistol licensing fund of that county.

Failure to Provide Exemption; Appeal

Under the law, if the county clerk issues a notice of statutory disqualification for a CPL, fails to provide a required receipt, or fails to issue a CPL, the applicant may appeal to the circuit court. If the court determines that the notice or failure was clearly erroneous or was arbitrary or capricious, the court must order the clerk to issue a license or receipt as required by the law. If the court determines that the notice or failure was clearly erroneous, the court may order the clerk to refund any filing fees the applicant incurred in filing the appeal. If the court determines that the notice or failure was arbitrary and capricious, the court must order the county clerk to pay the applicant's actual costs and actual attorney fees in appealing the notice or failure.

Under the bill, these provisions also would apply to a county clerk's failure to provide an exemption from the no-carry zone prohibition.

MCL 28.425a et al. (S.B. 584)
777.11b (S.B. 585)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 584

The bill would increase the responsibilities of county clerks related to concealed weapons licenses and would provide an option for additional revenue to pay for those costs. It would increase State costs by a minimal amount.

County clerks would be authorized to charge a fee of not more than \$20 that would cover both processing an application for a no-carry zone license indorsement and issuing a replacement license within 10 days if the application were submitted except with an application for an original or renewal concealed pistol license. Any additional revenue collected due to the new fee would have to be deposited in the county's concealed pistol licensing fund, which may be used only for costs related to the administration of the handgun licensure law. The cost and revenue associated with the proposal would depend on the volume of applications, the local decision to charge a fee of up to \$20 per application, and the level of the fee established.

The bill also would allow appeals to the circuit court based on denial of an application for an exemption from the no-carry zone prohibition. If a county lost the appeal because the court found an error by the county, the court could order the refund of the appellant's filing fees. If the court found that the denial of the exemption was arbitrary and capricious, the court would

have to order the county to pay costs and attorney fees for the appellant. This provision could increase the costs of courts and counties by an indeterminate but likely minimal amount, depending on the number and outcome of appeals.

The bill also would increase the costs of the Department of State Police, which would be required to change forms for applications for concealed pistol licenses to include the request for an exemption from the prohibition against carrying concealed pistols in no-carry zones. This one-time minimal cost likely would be absorbed within the Department's existing appropriations.

Senate Bill 585

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

S1718\sb584sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

SENATE BILL No. 585

September 20, 2017, Introduced by Senators PAVLOV, MEEKHOF and SHIRKEY and referred to the Committee on Government Operations.

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 11b of chapter XVII (MCL 777.11b), as amended
by 2016 PA 234.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

2 Sec. 11b. This chapter applies to the following felonies
3 enumerated in chapter 28 of the Michigan Compiled Laws:

4	M.C.L.	Category	Class	Description	Stat Max
5	28.214(6)(b)	Pub trst	F	Unauthorized disclosure of information from LEIN - subsequent offense	4

SENATE BILL No. 585

1	28.293 (1)	Pub ord	E	False information when applying for state ID	5
2	28.293 (2)	Pub ord	D	False information when applying for state ID - second offense	7
3	28.293 (3)	Pub ord	C	False information when applying for state ID - third or subsequent offense	15
4	28.295 (1) (a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
5	28.295 (1) (b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
6	28.295 (2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
7	28.295 (5)	Property	H	Using stolen state ID card to commit felony	Variable

1	28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
2	28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information - second offense	7
3	28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information - third or subsequent offense	15
4	28.308	Pub saf	E	False certification or statement in application for enhanced driver license or enhanced official state personal identification card	5
5	28.422(14)	Pub saf	F	Forgery on pistol license application	4
6	28.422a(5)	Pub saf	F	False statement on pistol sales record	4
7	28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
8	28.425j(3)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
9	28.425o(6)(c) 28.4250(9)(C)	Pub saf	F	Carrying concealed pistol or electro-muscular disruption device in prohibited place - third or subsequent offense	4
10	28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container - third or subsequent offense	2

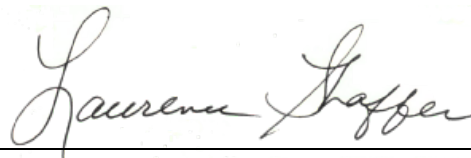
1	28.454 (1)	Pub saf	G	Consumer fireworks certificate violation	2
2	28.468 (1) (c)	Pub saf	E	Michigan fireworks safety act violation causing serious impairment	5
3	28.468 (1) (d)	Pub saf	C	Michigan fireworks safety act violation causing death	15
4	28.516 (2)	Pub saf	F	False statement on concealed firearm certificate application	4
5	28.674	Pub saf	F	False report of a public threat	4
6	28.729 (1) (a)	Pub ord	F	Failure to register as a sex offender, first offense	4
7	28.729 (1) (b)	Pub ord	D	Failure to register as a sex offender, second offense	7
8	28.729 (1) (c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
9	28.729 (2)	Pub ord	F	Failure to update sex offender registration information	2
10	28.734 (2) (b)	Pub trst	G	Student safety zone violation involving work or loitering - subsequent offense	2
11	28.735 (2) (b)	Pub trst	G	Student safety zone violation involving residency - subsequent offense	2
12	28.754 (1)	Pub ord	F	False report of a child abduction	4

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. 584
3 of the 99th Legislature is enacted into law.

MATERIALS TRANSMITTED

Friday, December 8, 2017

1. Communication from the City Manager regarding Medical Marihuana Emergency Ordinance and Resolution of Intent, **Tuesday, December 12, 2017 Special Meeting Agenda Item A.1.** – Information only.



Laurence Shaffer, City Manager

cc: Rob Boulis, Deputy City Manager

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Medical Marihuana Emergency Ordinance and Resolution of Intent –
December 12, 2017 Agenda Item A.1.

On December 4, 2017, the Michigan Department of Licensing and Regulatory Affairs (LARA) issued Emergency Rules pertaining to Medical Marihuana Facilities Licensing Act (attached) that sets forth in Emergency Rule 19 certain requirements for the continuing temporary operation of an existing marihuana facility, until such time it obtains a state operating license. Also on December 4, 2017, the Council received an Emergency Ordinance to amend the code of ordinances by adding Article 11, Temporary Operation of Medical Marihuana Facilities and a Resolution of Intent regarding adoption of an authorizing ordinance under the Medical Marihuana Facilities Licensing Act. Given this, City Attorney Brown revised the ordinance and resolution to reflect the change from referencing the LARA advisory bulletin dated November 2, 2017 to the Emergency Rule 19, issued December 4, 2017, among other minor changes. The revised Emergency Ordinance and Resolution are attached and included in the December 12, 2017 Special Meeting agenda. The changes are summarized below:

Emergency Ordinance	Original Ordinance	New Ordinance
Sec. 14-237.D	...zoning ordinance allowed for the location, facility type, and number of medical ...	...zoning ordinance <i>allowing</i> for the location(s), facility type(s), and number of medical ...
Sec. 14-237.G	...that may be currently operating, LARA has issued an advisory bulletin dated November 2, 2017 that sets forth certain requirements, which if satisfied, to allow the temporary ...	...that may be currently operating, the <i>Department of Licensing and Regulatory Affairs</i> (" <i>LARA</i> ") has issued <i>Emergency Rule 19, issued December 4, 2017</i> that sets forth certain requirements, which if satisfied, <i>will</i> allow the temporary ...
Sec. 14-238	Pursuant to Section 205(1) of the Act and Advisory Bulletin dated November 2, 2017, and in addition...	Pursuant to Section 205(1) of the Act and <i>Emergency Rule 19</i> , and in addition...
Sec. 14-238	...under the Act to be permitted in the City.	...under the Act to be permitted <i>to temporarily operate</i> in the City.
Sec. 14-239.A	...of this Emergency Ordinance, being December 5, 2017.	...of this Emergency Ordinance being December 12, 2017.
Sec. 14-239.E	...a temporary operating permit from the City.	...a temporary operating permit from the City, <i>if required by LARA, the City Clerk is authorized to sign a LARA form attesting that a proposed Medical Marihuana Facility meets the requirements of this Emergency Ordinance.</i>

Sec. 14-240	... that does not comply with the LARA Advisory Bulletin of November 2, 2017 shall no longer operate temporarily.	... that does not comply with <i>Emergency Rule 19</i> shall <i>not</i> operate temporarily <i>under this Emergency Ordinance</i> .
Sec. 14-242	...shall be construed as guaranteeing for any license...	... shall be construed as a guarantee for any license...
Sec. 14-243	...under the requirements of the Advisory Bulletin dated November 2, 2017, requiring a municipality...	...under the requirements of the <i>Emergency Rule 19, dated December 4, 2017 permitting</i> a municipality...
Sec. 14-244	...was introduced and adopted at a regular meeting of the ...	...was introduced and adopted at a <i>special</i> meeting of the ...

Resolution of Intent	Original Resolution	New Resolution
Page 1	WHEREAS, if the City chose not to pass an authorizing ordinance, those licensed through the Act would not ...	WHEREAS, if the City chose not to pass an authorizing ordinance, <i>Medical Marihuana Facilities</i> would not ...
Page 1	WHEREAS, LARA has indicated its intent to initiate a pre-qualification process...	WHEREAS, LARA has <i>initiated</i> a pre-qualification process...
Page 2	WHEREAS, as of the effective date of this Resolution, LARA has not promulgated the rules as required by the Licensing act. WHEREAS, adopting an authorizing ordinance ... and to protect the health, safety and welfare of its citizens;	<i>WHEREAS, before adopting an authorizing ordinance with regard to Medical Marihuana Facilities, the City Council desires to maintain consistency with State Law and the Emergency Rules for the protection of the health, safety and welfare of its citizens;</i>
Page 2	WHEREAS, a Committee of the Whole meeting was held on November 30, 2017 and another is scheduled for ...	WHEREAS, a Committee of the Whole meeting was held on November 30, 2017 (<i>before the emergency rules were issued</i>) and another <i>Committee of the Whole meeting</i> is scheduled for ...
Page 2	NOW, THEREFORE, BE IT RESOLVED ...after the City Administration has the opportunity to review the rules which are required to be promulgated by LARA ...	NOW, THEREFORE, BE IT RESOLVED ...after the City Administration has the opportunity to review the <i>emergency</i> rules which are required to be promulgated by LARA ...

Attachments:

1. Department of Licensing and Regulatory Affairs Medical Marihuana Facilities Licensing Act Emergency Rules
2. REVISED Emergency Ordinance to amend the code of ordinances by adding Article 11, Temporary Operation of Medical Marihuana Facilities
3. REVISED Resolution of Intent regarding adoption of an authorizing ordinance under the Medical Marihuana Facilities Licensing Act.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF MEDICAL MARIHUANA REGULATION

MEDICAL MARIHUANA FACILITIES LICENSING ACT

EMERGENCY RULES

Filed with the Secretary of State on December 4, 2017

These rules take effect upon filing with the Secretary of State and shall remain in effect for 6 months.

(By authority conferred on the department of licensing and regulatory affairs by section 206 of 2016 PA 281, MCL 333.27206, enacting section 2 of Act 281 of 2016, by section 3 of 2016 PA 282, MCL 333.27903, and by section 6 of MCL 333.26426, 2008, Initiated Law 1.)

FINDING OF EMERGENCY

These rules are promulgated by the department of Licensing and Regulatory Affairs (department) to establish emergency rules for the purpose of implementing the Medical Marihuana Facilities Licensing Act (act), 2016 PA 281, MCL 333.27101 et seq., which took effect December 20, 2016. The act provides for a state regulatory structure to license and regulate medical marihuana growers, processors, provisioning centers, secure transporters, and safety compliance facilities that interacts with the statewide monitoring system for commercial marihuana transactions; establishes a medical marihuana licensing board (Board) created within the department and appointed by the governor; and prescribes civil fines and sanctions and provides remedies.

The act includes an enacting section specifying that the legislature found it necessary for the promulgation of emergency rules to preserve the public health, safety, or welfare for access to safe sources of marihuana for medical use and the immediate need for growers, processors, secure transporters, provisioning centers, and safety compliance facilities to operate under clear requirements. In addition, section 206 of the act requires the department, in consultation with the Board, to promulgate administrative rules and emergency rules as necessary to implement, administer, and enforce the act. Furthermore, section 206 specifies that the rules shall ensure the safety, security, and integrity of the operation of marihuana facilities.

To date, no administrative rules have been promulgated under the authority granted to the department, in consultation with the Board that has been created within the department. Specifically, there are no current administrative rules to ensure the safety, security, and integrity of the operation of marihuana facilities. Pursuant to section 401 of the act, beginning December 15, 2017, persons may apply to the Board created within the department for state operating licenses in the categories of class A, B, or C grower, processor, provisioning center, secure transporter, and safety compliance facility. The Board is required to review all applications for licensure, issue or deny issuance of a license, and inform each applicant of the Board's decision. If issuance is

December 1, 2017

denied, the Board is required, upon request, to provide a public investigative hearing. In addition, any party aggrieved by an action of the Board suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing before the Board upon request. There are no administrative rules currently in place that will provide for the implementation of these requirements as specified in the act.

In addition, the act requires the promulgation of administrative rules to prescribe the use of the statewide monitoring system to track all marihuana transfers, as provided in the Marihuana Tracking Act, 2016 PA 282, MCL 333.27901 et seq. To date, these administrative rules have not been promulgated. The statewide monitoring system is used to track and inventory marihuana and is a key component to preserving the integrity of the operation of marihuana facilities, monitoring the industry, investigating, and supporting compliance with the act to promote the public health, safety, or welfare.

The lack of administrative rules to implement the act will have a detrimental effect on the necessity for access to a safe source of marihuana for medical use and the immediate need for growers, processors, secure transporters, provision centers, and safety compliance facilities to operate under clear requirements. Furthermore, the use of the statewide monitoring system to track all marihuana transfers is integral to the safety and compliance requirements of the act. The emergency administrative rules are needed to enable the department, through its Bureau of Medical Marihuana Regulation, to implement the act to provide a safe environment for the state operating licensees and Michigan communities, as well as access to medical marihuana that has been tested for safety for sale to registered qualifying patients and registered primary caregivers.

If the complete process specified in the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 et seq. for the promulgation of rules were followed, the process would not be completed in time for the department to comply with the act's requirements to process applications according to the timelines specified in the act, provide administrative hearing procedures, or implement the tracking requirements. Furthermore, the administrative rules would not be promulgated prior to the issuance of state operating licenses, thus causing uncertainty and financial hardship to individuals or businesses that plan to apply for commercial state operating licenses.

The department, in consultation with the Board, therefore, finds that the preservation of the public health, safety, and welfare requires the promulgation of emergency rules as provided in section 48 without following the notice and participation procedure required by sections 41 and 42 of 1969 PA 306, as amended, being MCL 24.241, and MCL 24.242 of the Michigan Compiled Laws.

Rule 1. Definitions.

- (1) "Act" means the medical marihuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.
- (2) "Batch" means all the plants of the same variety of medical marihuana that have been grown, harvested, and processed together and exposed to substantially similar conditions throughout cultivation and processing.
- (3) "Building" means a combination of materials forming a structure affording a facility or shelter for use or occupancy by individuals or property. Building includes a part or parts of the building

and all equipment in the building. A building shall not be construed to mean a building incidental to the use for agricultural purposes of the land on which the building is located.

(4) “Bureau” means the department of licensing and regulatory affairs’ bureau of medical marihuana regulation.

(5) “Bureau of fire safety” or “BFS” means the department of licensing and regulatory affairs’ bureau of fire safety.

(6) “Department” means the department of licensing and regulatory affairs.

(7) “Director” means the director of the department of licensing and regulatory affairs or his or her designee.

(8) “Employee” means a person performing work or service for compensation.

(9) “Harvest batch” means marihuana that has been harvested.

(10) “Immature plant” means a nonflowering marihuana plant that is no taller than 8 inches and no wider than 8 inches produced from a cutting, clipping, tissue culture, or seedling that is in a growing/cultivating medium or in a growing/cultivating container that is no larger than 2 inches wide and no more than 2 inches tall that is sealed on the sides and bottom.

(11) “Limited access area” means a building, room, or other contiguous area of a marihuana facility where marihuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the licensee.

(12) “Marihuana facility” means a location at which a licensee is licensed to operate under the act and these rules.

(13) “Marihuana product” means marihuana or marihuana-infused product, or both, as those terms are defined in the act unless otherwise provided for in these rules.

(14) “Marihuana tracking act” means the marihuana tracking act, 2016 PA 282, MCL 333.27901 to 333.27904.

(15) “Michigan medical marihuana act” means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(16) “Package tag” means an RFID tag supplied through the statewide monitoring system for the purpose of identifying a package containing marihuana product.

(17) “Plant tag” means an RFID tag supplied through the statewide monitoring system for the purpose of identifying an individual marihuana plant.

(18) “Proposed marihuana facility” means a location at which an applicant plans to operate under the act and these rules if the applicant is issued a state operating license.

(19) “Restricted access area” means a designated and secure area at a marihuana facility where marihuana products are sold, possessed for sale, and displayed for sale.

(20) “Same location” means separate state operating licenses that are issued to multiple marihuana facilities that are authorized to operate at a single property but with separate business addresses.

(21) “Stacked license” means more than 1 state operating license issued to a single licensee to operate as a grower of class C-1,500 marihuana plants as specified in each license at a marihuana facility.

(22) “Tag” or “RFID tag” means the unique identification number or Radio Frequency Identification (RFID) issued to a licensee by the department for tracking, identifying and verifying marihuana plants, marihuana products, and packages in the statewide monitoring system.

Rule 2. Terms; meanings.

Terms defined in the act have the same meanings when used in these rules unless otherwise indicated.

Rule 3. Adoption by reference.

- (1) National fire protection association (NFPA) standard 1, 2018 edition, entitled “Fire Code” is adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02169, telephone number 1-800-344-3555, for the price of \$99.50.
- (2) Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph published by the American Herbal Pharmacopoeia. A copy of that publication may be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address <http://www.herbal-ahp.org/>, for the price of \$44.95.
- (3) Safe Quality Food (SQF), 7.2 edition available at http://www.sqfi.com/wp-content/uploads/SQF-Code_Ed-7.2-July.pdf.
- (4) The International Organization for Standardization (ISO), ISO 22000 / ISO/TS 22002-1 - food safety bundle, available for purchase at: <https://webstore.ansi.org/RecordDetail.aspx?sku=ISO+22000+%2f+ISO%2fTS+22002-1+-+Food+Safety+Bundle>, for the price of \$275.00.
- (5) International Organization for Standardization (ISO), ISO/IEC 17025:2005, general requirements for the competence of testing and calibration laboratories available at: <https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2005>, for the price of \$162.00.

Rule 4. Application procedure; requirements.

- (1) A person may apply for a state operating license on the form created by the department accompanied by the application fee as prescribed in these rules. Each question on the application must be answered in its entirety and all information requested and required by the act and these rules must be submitted in the application. Failure to comply with these rules and the application requirements in the act is grounds for denial of the application.
- (2) A person may submit a partial application under Rule 5 on the condition that it is to prequalify to complete the remaining application requirements. This is a pending status until all application requirements in Rule 6 are completed. The department shall not issue a license at this stage of the application.
- (3) The department may delay an application while additional information is requested including, but not limited to, requests for additional disclosures and documentation to be furnished to the department.
- (4) For purposes of this rule and Rules 5 and 6 the term “applicant” includes the officers, directors, and managerial employees of the applicant and any persons who hold any direct or indirect ownership interest in the applicant.

Rule 5. Application requirements; financial and criminal background.

- (1) The first part of the application is a financial background and full criminal history background check of the applicant. For purposes of this rule an applicant includes the officers, directors, and managerial employees of the applicant and any persons who hold any direct or indirect ownership interest in the applicant.

(2) An applicant shall disclose the identity of every person having any ownership interest in the applicant with respect to which the license is sought including, but not limited to, date of birth, government issued identification, or any other documents required by the act.

(3) An applicant and any persons who have a direct or indirect interest in the applicant, as well as any officers, directors, and managerial employees of the applicant shall disclose all the financial information required in the act and these rules in a format created by the department including, but not limited to, the following:

(a) Financial statements, pecuniary interest, any deposit of value of the applicant or made directly or indirectly to the applicant, or both, and financial account information including but not limited to, funds, savings, checking, or other accounts including any or all financial institutions information, such as names, account type, amounts of the foregoing, and a list of all loans, amounts, securities, or lender information.

(b) Property ownership information, deeds, leases, rent, real estate trusts, purchase agreements or institutional investors.

(c) Tax information, W-2 and 1099 forms, and any other information required by the department.

(d) For in-state and out-state applicants, the applicant's business organizational documents filed with this state, local county, or foreign entity, if applicable, including proof of registration to do business in this state and certificate of good standing from this state or foreign entity, if applicable.

(e) Disclosure by the applicant of the identity of any other person who meets either of the following:

(i) Controls, directly or indirectly, the applicant.

(ii) Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.

(f) Written consent by the applicant to a financial background investigation as authorized under the act and these rules.

(g) Disclosure by the applicant of any true parties of interest as required in section 404 of the act.

(h) Disclosure by the applicant of the stockholders or other persons having a 1% or greater beneficial interest in the proposed marihuana facility as required in section 303 of the act.

(i) The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility in compliance with Rule 11.

(j) A CPA-attested financial statement including foreign attested CPA statement, or its equivalent, if applicable, on capitalization pursuant to Rule 11.

(k) Information on the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance in compliance with Rule 10.

(l) Any other documents, disclosures, or attestations created or requested by the department that are not inconsistent with the act or these rules.

(4) An applicant and each person having any ownership interest in the proposed marihuana facility and each person who is an officer, director, or managerial employee of the applicant shall disclose criminal history background information and regulatory compliance as provided under the act and these rules in a format created by the department, including, but not limited to, all the following:

(a) Attestation, in writing, that the person consents to inspections, examinations, searches, and seizures that are permitted under the act and these rules.

(b) Written consent to a criminal history check, submission of a passport quality photograph to the department and 1 set of fingerprints to the department of state police in accordance with section

402 of the act and these rules for the applicant, each person having any ownership interest in the proposed marihuana facility, and each person who is an officer, director, or managerial employee of the applicant.

(c) Submission of a handwriting exemplar, fingerprints, photographs, and information authorized by the act and by these rules.

(d) Attestation affirming a continuing duty to provide information requested by the department and to cooperate in any investigation, inquiry, or hearing.

(e) Attestation acknowledging that sanctions may be imposed for violations on a licensee while licensed or after the license has expired as provided in the act and these rules.

(f) Disclosure of any noncompliance with any regulatory requirements in this state or any other jurisdiction.

(g) Disclosure of an application or issuance of any commercial license or certificate issued in this state or any other jurisdiction and the requirements under section 401(1)(e) of the act.

(h) Any other documents, disclosures, or attestations created or requested by the department that are not inconsistent with the act or these rules.

(5) An applicant shall submit in the application any information requested and required by the act and these rules.

Rule 6. Application requirements; complete application.

(1) A complete application for a state operating license must include all the information in Rule 5 and all the following:

(a) A description of the type of marihuana facility, anticipated or actual number of employees, projected or actual gross receipts, a business plan, proposed marihuana facility location, and security plan as required under the act and these rules.

(b) A copy of the proposed marihuana facility plan under Rule 8.

(c) An applicant shall pass the pre-licensure inspection as provided in Rule 9.

(d) An applicant shall submit confirmation of compliance with the municipal ordinance as required in section 205 of the act and these rules. For purposes of these rules, confirmation of compliance must be on an attestation form prepared by the department that contains all of the following information:

(i) Written affirmation that the municipality has adopted an ordinance under section 205 of the act, including, if applicable, the disclosure of any limitations on the number of each type of marihuana facility.

(ii) Description of any zoning regulations that apply to the proposed marihuana facility within the municipality.

(iii) The signature of the clerk of the municipality or his or her designee attesting that the information stated in the document is correct.

(e) The disclosure of the true party of interest as required in section 404 of the act and these rules.

(f) The disclosure of the beneficial interest as required in section 303(1)(g) of the act.

(g) Additional information and documents requested by the department not inconsistent with the act and these rules.

(h) Any other documents, disclosures, or attestations created or requested by the department that are not inconsistent with the act and these rules.

Rule 7. Application; fees; assessment.

- (1) An application for a state operating license must be accompanied by the nonrefundable application fee of \$6,000.00 upon initial application under Rule 5.
- (2) If the costs of the investigation and processing the application exceed the application fee, the applicant shall pay the additional amount.
- (3) The regulatory assessment must be paid on or before the date a licensee begins operating and annually thereafter pursuant to section 603 of the act and these rules.
- (4) A license will not be issued until a complete application is submitted, the fees required under these rules are paid, and it is determined that the applicant is qualified to receive a license under the act and these rules.

Rule 8. Marihuana facility plan.

- (1) To ensure the safety, security, and integrity of marihuana facility operations, an applicant shall submit a marihuana facility plan for the proposed marihuana facility as required in Rule 6 and thereafter upon request by the department. Upon the request of the department an applicant or licensee may be required to submit a revised marihuana facility plan.
- (2) The marihuana facility plan shall include, but not be limited to, the following:
 - (a) The type of proposed marihuana facility, location, description of the municipality, and any of the following if applicable:
 - (i) Operation at the same location under Rule 24.
 - (ii) Proof of common ownership interest under Rule 24.
 - (iii) Stacked license under Rule 22.
 - (iv) Temporary operation under Rule 19.
 - (b) Diagram of the marihuana facility including, but not limited to, its size and dimensions; specifications; physical address; location of common entryways, doorways, or passageways; means of public entry or exit; limited-access areas within the marihuana facility; and indication of the distinct areas or structures at a same location as provided for in Rule 24.
 - (c) Floor plan and layout, including dimensions, maximum storage capabilities, number of rooms, dividing structures, fire walls, and entrances and exits.
 - (d) Means of egress, including, but not limited to, delivery and transfer points.
 - (e) Construction details for structures and fire-rated construction for required walls.
 - (f) Building structure information, including but not limited to, new, pre-existing, free-standing, or fixed. Building type information, including but not limited to, commercial, warehouse, industrial, retail, converted property, house, building, mercantile building, pole barn, greenhouse, laboratory, or center.
 - (g) Zoning classification and zoning information.
 - (h) If the proposed marihuana facility is in a location that contains multiple tenants and any applicable occupancy restrictions.
 - (i) A proposed security plan that demonstrates the proposed marihuana facility must meet the security requirements under Rule 27.
 - (j) Any other information required by the department as long as it is not inconsistent with the act and these rules.
- (3) Any changes or modifications to the marihuana facility plan under this rule must be reported to the department and may require preapproval by the department.
- (4) The department may provide a copy of the marihuana facility plan to the state fire official, local fire department, and local law enforcement for use in pre-incident review and planning.

(5) The department may reinspect the marihuana facility to verify the plan at any time and may require that the plan is resubmitted upon renewal.

Rule 9. Pre-licensure investigation and proposed marihuana facility inspection.

- (1) An applicant for a state operating license shall submit to a pre-licensure physical inspection to ensure the safety, security, and integrity of the operation of a proposed marihuana facility.
- (2) The department shall establish an inspection process to confirm that the applicants and proposed marihuana facilities meet the requirements of the act and these rules.
- (3) The department shall investigate applicants in accordance with the act and these rules.
- (4) The department, through its investigators, agents, auditors, or the state police, shall conduct inspections and examinations of applicants and proposed marihuana facilities in accordance with the act and these rules.
- (5) An applicant shall submit proof to the department of the following:
 - (a) A certificate of use and occupancy as required pursuant to section 13 of 1972 PA 230, MCL 125.1513 and these rules.
 - (b) A final inspection completed by the department notwithstanding any local ordinance or building permit inspection.
 - (c) Proof of a fire safety inspection as provided for in Rule 26.

Rule 10. Proof of financial responsibility; insurance.

- (1) Before a license is issued or renewed, the licensee or renewal applicant shall file a proof of financial responsibility for liability for bodily injury on the form prescribed in section 408 of the act for an amount not less than \$100,000.00. If the proof under this subrule is a bond, the bond must be in a format acceptable to the department.
- (2) A renewal applicant or licensee shall carry premise liability and casualty insurance for an amount not less than \$100,000.00. An applicant shall provide proof of premises liability insurance to the department no later than 60 days after a state operating license is issued or renewed.
- (3) A secure transporter shall show proof of auto insurance, vehicle registration, and registration as a commercial motor vehicle as applicable for any transporting vehicles used to transport marihuana product as required by the act and these rules.

Rule 11. Capitalization requirements.

- (1) An applicant shall disclose the sources and total amount of capitalization to operate and maintain a proposed marihuana facility.
- (2) The total amounts of capitalization based on the type of marihuana facility specified in the application for a state operating license are as follows:
 - (a) Grower: Class A - \$150,000.00.
 - (b) Grower: Class B - \$300,000.00.
 - (c) Grower: Class C - \$500,000.00.
 - (d) Processor: \$300,000.00.
 - (e) Provisioning Center: \$300,000.00.
 - (f) Secure Transporter: \$200,000.00.
 - (g) Safety Compliance Facility: \$200,000.00.
- (3) An applicant shall provide proof to the department of the capitalization amounts in subrule (2) of this rule from sources as follows:

(a) Not less than 25% is in liquid assets to cover the initial expenses of operating and maintaining the proposed marihuana facility as specified in the application. For purposes of this subdivision liquid assets include assets easily convertible to cash, including, but not limited to, cash, CDs, 401(k), stocks and bonds, and marihuana inventory that meet the all the following conditions:

(i) The marihuana inventory is possessed by an applicant who is a registered qualifying patient or registered primary caregiver or by an applicant who applies for a state operating license and possesses marihuana inventory in compliance with the Michigan medical marihuana act.

(ii) No more than 15 ounces of usable marihuana or 72 marihuana plants may be utilized as marihuana inventory in this subdivision or utilized towards the capitalization requirement under this subrule.

(b) Proof of the remaining capitalization to cover the initial expenses of operating and maintaining the proposed marihuana facility may include but is not limited to additional liquid assets as described in subdivision (a) of this subrule or equity in real property, supplies, equipment, fixtures or any other nonliquid asset.

(4) The applicant shall provide proof that there is no lien or encumbrance on the asset provided as a source of capitalization.

(5) The capitalization amounts and sources must be validated by CPA-attested financial statements. The applicant shall disclose any of the capitalization sources that are foreign and a foreign CPA or its equivalent shall attest to the validation and a domestic CPA shall attest that foreign validation.

Rule 12. Denial of the issuance of a license; additional reasons.

(1) If an applicant fails to comply with the act or these rules, a license may be denied as provided under the act and these rules.

(2) In addition to the reasons for denial in the act, a license may be denied as provided in the act and these rules for the following reasons:

(a) The applicant's marihuana facility plan does not fully comply with the act or these rules.

(b) The applicant's proposed marihuana facility or marihuana facility is substantially different from the marihuana facility plan pursuant to Rule 8 and these rules.

(c) The department is unable to access the proposed marihuana facility for pre-licensure physical inspection or the applicant denied the department access to the proposed marihuana facility.

(d) The applicant made a material misrepresentation on the application.

(e) The applicant failed to correct any deficiencies within the application in accordance with section 403 of the act and these rules.

(f) The applicant has failed to satisfy the confirmation of compliance by a municipality in accordance with section 205 of the act and these rules.

(g) The applicant is operating a proposed marihuana facility or a marihuana facility without a license after December 15, 2017, except for as provided in Rule 19, that would otherwise require an application for a state operating license as required under the act and these rules.

Rule 13. Renewal of license.

(1) A license is issued for a 1-year period and is renewable annually. A licensee may apply to renew a license on a form established by the department.

(2) Failure to comply with any of the provisions in the act and these rules may result in the nonrenewal of a license.

(3) The licensee shall meet the requirements of the act and any other renewal requirements set forth in these rules or laws to be promulgated or enacted.

Rule 14. Notification and reporting.

(1) Applicants and licensees have a continuing duty to provide the department with up-to-date contact information and shall notify the department in writing of any changes to its mailing address, phone numbers, electronic mail address, and other contact information it provides the department.

(2) Applicants and licensees shall report any material and nonmaterial changes to the department.

(3) Applicants and licensees shall report nonmaterial changes to the department within 7 business days.

(4) Applicants and licensees shall report material changes to the department prior to the change, within 1 business day, and may need prior authorization by the department. Material changes, include, but are not limited to, the following:

(a) Change in owners, officers, members, or managers.

(b) Change of location. A change of location of a marihuana facility may trigger a new license and new inspection.

(c) The addition or removal of named people.

(d) Change in entity name.

(e) Any attempted transfer, sale, or other conveyance of an interest in a license.

(5) An applicant or licensee shall notify the department within 1 business day of all the following:

(a) Adverse reactions to marihuana product sold or transferred by any licensee.

(b) Criminal convictions, charges, or civil judgements in this state or any other state.

(c) Regulatory disciplinary action taken or determined against an applicant or licensee by this state or any other states, including any pending action.

(6) Failure to report material changes pursuant to subrule (4) of this rule or notifications under subrule (5) of this rule may result in sanctions or fines, or both.

Rule 15. Notifications of diversion, theft, loss, or criminal activity pertaining to any marihuana product.

(1) Licensees and applicants shall notify the department, state police, and local law enforcement authorities within 24 hours of theft or loss of any marihuana product or criminal activity.

(2) Failure to notify or report under subrule (1) of this rule may result in sanctions or fines, or both.

Rule 16. Inspection; investigation.

(1) The department shall do all of the following with respect to inspections and investigations of applicants, licensees, proposed marihuana facilities, and marihuana facility operations:

(a) Oversee and conduct inspections through its investigators, agents, auditors, or the state police of proposed marihuana facilities and marihuana facilities as provided in section 303 of the act to ensure compliance with the act and these rules.

(b) Investigate individuals employed by marihuana facilities.

(c) Inspect and examine marihuana facilities and proposed marihuana facilities.

(d) Inspect, examine, and audit records of the licensee.

(2) The department may at any time, through its investigators, agents, auditors, or the state police, without a warrant and without notice to the licensee, enter the proposed marihuana facility or

marihuana facility, offices, or other places of business of a licensee, if evidence of compliance or noncompliance is likely to be found in accordance with the act and these rules.

(3) To ensure the safety, security, and integrity of marihuana facility operations, the department, through its investigators, agents, auditors, or the state police may place an administrative hold on marihuana product and order that no sales or transfers occur during an investigation for an alleged violation or violation of the act or these rules.

(4) The department, through its investigators, agents, auditors, or the state police may inspect, examine, and audit relevant records of the licensee. If a licensee fails to cooperate with an investigation, the department through its investigators, agents, auditors, or the state police may impound, seize, assume physical control of, or summarily remove records from a proposed marihuana facility or marihuana facility.

(5) The department through its investigators, agents, auditors or the state police may eject, or exclude or authorize the ejection or exclusion of, an individual from a proposed marihuana facility or marihuana facility if that individual violates the act, a final order, or these rules.

(6) The department through its investigators, agents, auditors, or the state police may take any reasonable or appropriate action to enforce the act and rules.

(7) This rule does not limit the application of any other remedies or sanctions that are available through local, state, and federal laws, the act, and these rules.

(8) For purposes of this rule, the term “record” means books, ledgers, documents, writings, photocopies, correspondence, electronic records, videotapes, surveillance footage, electronic storage mediums, electronically stored records, money receptacles, equipment in which records are stored, including data or information in the statewide monitoring system, or any other document that is used for recording information.

Rule 17. Persons subject to penalty; violations.

(1) If the department through its investigators, agents, auditors, or the state police during the physical site inspection determine violations of the act or these rules exist, the department shall notify the person, applicant, or licensee of the violation during the physical site inspection or thereafter and the person, applicant or licensee may be responsible for sanctions or fines, or both.

(2) The department may issue a notice of a violation or fine, or both, for any violations of the act and applicable rules, including those observed by the department through its investigators, agents, auditors, or the state police while in the performance of their duties.

(3) Where the department through its investigators, agents, auditors, or the state police determine a violation of the act or these rules exists, such violations must be cited in a format established by the department. After a notice of violation or fine or both is issued to a person, applicant, or licensee, the department may hold a compliance conference or a hearing if applicable as prescribed in the act and these rules.

(4) The department may forward information regarding violations of the act or these rules or any other state or federal law to the state police, department of attorney general, and the prosecutor for the jurisdiction in which the alleged violation of the act or rules has occurred.

(5) The department may take action for failure to pay any fine within the time written on the violation notice pursuant to the act or these rules.

Rule 18. Sanctions; fines.

- (1) A person, applicant, or licensee found in violation of these rules or the act may be subject to sanctions, including, but not limited to, license denial, limitation, fines, revocation, suspension, nonrenewal, administrative holds, and orders to cease operations.
- (2) A violation of these rules, the act, the marihuana tracking act, or any ordinance adopted under section 205 of the act may result in 1 or more of the following:
 - (a) A license may be denied, limited, revoked, or restricted.
 - (b) A licensee or an employee of a licensee may be removed.
 - (c) Civil fines of up to \$5,000.00 may be imposed against an individual.
 - (d) Civil fines up to \$10,000.00 or an amount equal to the daily gross receipts, whichever is greater, against a licensee for each violation of the act, these rules, or an order.
 - (e) Civil fines may be assessed for each day the licensee is not in compliance with the act or these rules. Assessment of a civil fine is not a bar to the investigation, arrest, charging, or prosecution of an individual for any other violation of the act or these rules.
- (3) A license may be suspended without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation as provided in the act or these rules.
- (4) The attempted transfer, sale, or other conveyance of an interest in a license without prior approval is grounds for suspension or revocation of the license or for other sanction as provided in sections 406 and 409 of the act or these rules.
- (5) The department may impose any other remedies, sanctions, or penalties not inconsistent with the act or these rules.

Rule 19. Temporary operation; limited circumstances; conditional.

- (1) An applicant for a state operating license may temporarily operate a proposed marihuana facility that would otherwise require a state operating license if either of the following applies:
 - (a) The applicant's proposed marihuana facility is within a municipality that adopted an ordinance before December 15, 2017 but is pending the adoption of an ordinance pursuant to section 205 of the act. The applicant shall submit an attestation on a form established by the department that includes the signature of the clerk of the municipality or his or her designee attesting to all of the following:
 - (i) The municipality has adopted an ordinance before December 15, 2017.
 - (ii) The municipality authorizes the temporary operation of the applicant.
 - (b) The applicant's proposed marihuana facility is within a municipality that has adopted an ordinance pursuant to section 205 of the act before December 15, 2017. The applicant shall submit an attestation on a form established by the department that includes the signature of the clerk of the municipality or his or her designee attesting to all the following:
 - (i) The municipality has adopted an ordinance pursuant to section 205 of the act, including, if applicable, the disclosure of any limitations on the number or type of marihuana facilities, or both.
 - (ii) The municipality authorizes the temporary operation of the applicant. A resolution may be adopted by a municipality that authorizes the clerk of the municipality or his or her designee to sign the attestation form in subdivision (b) of this subrule.
- (2) A person that does not comply with this rule shall cease and desist operation of a proposed marihuana facility and may be subject to all the penalties, sanctions, and remedies under state and federal law, the act, or these rules.
- (3) An applicant that is temporarily operating under this rule is not guaranteed a state operating license.

(4) For purposes of this rule only, an applicant shall apply for a state operating license as prescribed by the act and these rules no later than February 15, 2018. If the applicant does not apply for a state operating license as prescribed by the act and these rules no later than Feb 15, 2018 then the temporary operation may be used as a reason for denial of a license as prescribed in Rule 12.

(5) The department shall issue or deny a state operating license on or before June 15, 2018. A municipality with an authorizing ordinance under subrule (1)(a) of this rule shall have adopted a new or amended ordinance pursuant to section 205 of the act and these rules no later than June 15, 2018.

(6) An applicant under this rule that has been denied licensure, or has not been issued a license by June 15, 2018, is operating without a license and shall cease any operation. Any temporary operation after June 15, 2018 is considered unlicensed activity. Unlicensed activity may result in a referral to law enforcement for unlicensed activity. The department may notify the state police and department of attorney general of any unlicensed activity.

(7) Notwithstanding the provisions of this rule, if a state operating license is issued, an applicant is no longer operating temporarily and shall comply with all the provisions of the act and these rules.

Rule 20. Transition period.

(1) To ensure the safety, security, and integrity of the operation of marihuana facilities, there is a transition period consisting of 30 calendar days during which marihuana product can be entered into the statewide monitoring system to ensure statewide tracking beginning on the day a state operating license is issued to a licensee for the first time except for additional licenses issued to the same license holder for a stacked license after a first license is issued.

(2) Within the 30-calendar-day period, a licensee shall do all of the following:

(a) Record all marihuana product in the statewide monitoring system during this 30-calendar-day period as prescribed by the act and these rules.

(b) Tag or package all inventory that has been identified in the statewide monitoring system as prescribed by the act and these rules.

(c) Comply with all testing requirements as prescribed by the act and these rules.

(3) After the 30-calendar-day period, any marihuana product that has not been identified in the statewide monitoring system under these rules and the act is prohibited from being onsite at a marihuana facility.

(4) A violation of this rule may result in sanctions or fines, or both.

(5) At any time during this 30-calendar-day period and thereafter, a marihuana facility is subject to an inspection under Rule 16.

Rule 21. State operating licenses; licensees; operations; general.

(1) A state operating license and a stacked license as described in Rule 22 are limited to the scope of the state operating license issued for that type of marihuana facility that is located within the municipal boundaries connected with the license.

(2) In order to ensure the safety, security, and integrity of the operation of marihuana facilities, a licensee shall comply with all of the following:

(a) Marihuana facilities shall be partitioned from any other marihuana facility, activity, business, or dwelling.

- (b) Access to the marihuana facility is restricted to the licensee, employees of the licensee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, and the department, through its investigators, agents, auditors, or the state police. A separate waiting area may be created for visitors not authorized to enter the marihuana facility. The licensee shall maintain a log tracking all visitors to a marihuana facility. The visitor log must be available at all times for inspection by the department, through its investigators, agents, auditors, or the state police to determine compliance with the act and these rules.
- (c) Licensee records must be maintained and made available to the department upon request.
- (d) The marihuana facility must be at a fixed location. Mobile marihuana facilities and drive through operations are prohibited. Any sales or transfers of marihuana product by internet or mail order, consignment, or at wholesale are prohibited.
- (e) A state operating license issued under the act must be framed under a transparent material and prominently displayed in the marihuana facility.
- (f) Any other operational measures requested by the department that are not inconsistent with the act and these rules.

Rule 22. Stacked license.

A grower that has already been issued a state operating license specified as a class C-1,500 marihuana plants may apply to stack a license at a marihuana facility specified in the state operating license subject to payment of a separate regulatory assessment for each state operating license stacked and may be subject to any additional fees under Rule 7 and is subject to all requirements of the act and these rules.

Rule 23. Changes to licensed marihuana facility.

- (1) Any change or modification to the marihuana facility after licensure is governed by the standards and procedures set forth in the act and these rules and any regulations adopted pursuant thereto, and requires the approval of the department before any changes or modification.
- (2) Any change of a location of a marihuana facility after licensure requires a new license application under Rules 5 and 6 and may include, but is not limited to, regulatory assessment or application fees or both. A licensee shall produce written documentation from the municipality approving the proposed new marihuana facility location as indicated on the application provided to the department and be in compliance with section 205 of the act.

Rule 24. Operation at a same location—grower, processor, and provisioning center.

- (1) Any combination of the following types of state operating licenses may operate as separate marihuana facilities at the same location:
 - (a) A grower.
 - (b) A processor.
 - (c) A provisioning center.
- (2) To operate at a same location subject to subrule (1) of this rule all the following apply:
 - (a) The department has authorized the proposed operation at the same location.
 - (b) The operation at a same location shall not be in violation of any local ordinances or regulations.
 - (c) The municipality shall not limit the type or number of marihuana facilities under section 205 of the act or prohibit the operation at the same location by local ordinance or zoning regulations.
 - (d) Each marihuana facility subject to subrule (1) of this rule shall do all the following:

- (i) Apply for and be granted separate state operating licenses and pay a separate regulatory assessment for each state operating license.
- (ii) Have distinct and identifiable areas with designated structures that are contiguous and specific to the state operating license.
- (iii) Have separate entrances and exits, inventory, record keeping, and point of sale operations, if applicable.
- (iv) Post the state operating license on the wall in its distinct area and as provided in these rules.
- (e) Additional inspections and permits may be required for local or state building inspection, fire safety, and public health standards.
- (3) Operation of a state operating license at the same location that includes a licensed provisioning center shall have the entrance and exit to the licensed provisioning center marihuana facility and entire inventory physically separated from any of the other licensed marihuana facility or facilities so that persons can clearly identify the retail entrance and exit.
- (4) For purposes of this rule, a marihuana facility operating at a same location under this rule with multiple state operating licenses may transfer marihuana product or money between marihuana facilities authorized to operate at a same location under the following circumstances:
 - (a) Each state operating license operating at a same location has common ownership.
 - (b) An employee is designated by each licensee of a marihuana facility to monitor the transfer and execute the transfer or a licensed secure transporter executes the transfer in accordance with the act and these rules.
 - (c) A manifest in the statewide monitoring system is created documenting the transfer as provided in the act and these rules.
 - (d) Receipt of the transfer is recorded in the statewide monitoring system as provided in these rules.

Rule 25. Marihuana facilities; requirements.

- (1) To ensure the safety, security, and integrity of the operation of marihuana facilities a grower shall operate at a marihuana facility under either of the following conditions:
 - (a) The marihuana facility operations are within a building that meets the security requirements and passes the inspections in these rules and has a building permit pursuant to Rule 26 and these rules.
 - (b) The marihuana facility operations are within a building except for cultivation may occur in an outdoor area that must meet all the following conditions:
 - (i) The outdoor area containing the cultivation of marihuana plants is contiguous with the building, fully enclosed by fences or barriers that block outside visibility of the marihuana plants from the public view, with no marihuana plants growing above the fence or barrier that is visible to the public eye and the fences are secured and comply with the applicable security measures in these rules, including but not limited to, locked entries only accessible to authorized persons or emergency personnel.
 - (ii) After the marihuana is harvested, all drying, trimming, curing, or packaging of marihuana occur inside the building meeting all the requirements under these rules.
 - (iii) The building meets the security requirements and passes the inspections in these rules and has a building permit pursuant to Rule 26 and these rules.
- (2) To ensure the safety, security, and integrity of the operation of marihuana facilities, a secure transporter shall have a primary place of business as its marihuana facility that is operating in a municipality that has adopted an ordinance that meets the requirements of section 205 of the act

and these rules and its marihuana facility must comply with the requirements prescribed by the act and these rules. A secure transporter may travel through any municipality to transport marihuana product. All the following apply:

(a) The secure transporter may take physical custody of the marihuana or money but legal custody belongs to the transferor or transferee.

(b) A secure transporter is prohibited from selling or purchasing marihuana products.

(c) A secure transporter must transport any marihuana product in a locked, secured, sealed container that is not accessible while in transit. If the licensee transports money associated with the purchase or sale of marihuana product between facilities, the licensee shall lock the money in a sealed container kept separate from the marihuana product and only accessible to the licensee and its employees.

(d) All transactions including, but not limited to, current inventory must be entered in the statewide monitoring system. These records must be maintained and made available to the department upon request.

(e) All handling of money associated with the purchase or sale of marihuana between facilities must be logged and tracked. These records must be maintained and made available to the department upon request.

(f) A secure transporter shall have a route plan and manifest available for inspection by the department, through its investigators, agents, auditors, or the state police to determine compliance with the act and these rules. A copy of the route plan and manifest must be carried with the secure transporter during transport between marihuana facilities. A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana product pursuant to the act or these rules. A copy of a route plan and manifest must be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(g) A secure transporter shall follow the manifest. In cases of emergencies the secure transporter shall notify the transferor and transferee, update the statewide monitoring system and revise the manifest to reflect the unexpected change to the original manifest.

(h) The reasonable timeframe for the secure transporter to maintain custody of the marihuana is not more than 48 hours or by permission of the department on a case-by-case basis.

(i) A secure transporter shall identify and record all vehicles with the department and have the required registration with the secretary of state as required under state law. Secure transporter vehicles may be subject to inspection at any time by the department, through its investigators, agents, auditors, or the state police to determine compliance with act or these rules.

(3) To ensure the safety, security, and integrity of the operation of marihuana facilities, a provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana product as provided in the act and these rules. The provisioning center shall keep marihuana products behind a counter or other barrier to ensure a registered qualifying patient or registered primary caregiver does not have direct access to the marihuana products.

Rule 26. Building and fire safety.

(1) An applicant's proposed marihuana facility or a licensee's marihuana facility may be subject to inspection by a state building code official, state fire official, or code enforcement official to confirm that no health or safety concerns are present.

(2) The department or its authorized agents, state building code official, or his or her authorized designee may conduct pre-licensure and post-licensure inspections to ensure that applicants and

licensees comply with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(3) An applicant or licensee shall not operate a marihuana facility unless a permanent certificate of occupancy has been issued by the appropriate enforcing agency. Prior to a certificate of occupancy being issued work must be completed in accordance with the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. All of the following apply:

(a) An applicant or licensee shall obtain a building permit for any building utilized as a proposed marihuana facility or marihuana facility as provided in the act and these rules. The issuance, enforcement, and inspection of building permits under this act may remain with the governmental entity having jurisdiction under 1972 PA 230, MCL 125.1501 to 125.1531.

(b) An applicant or licensee shall obtain a building permit for a change of occupancy for an existing building to be utilized as a proposed marihuana facility or marihuana facility as provided in the act and these rules.

(4) An applicant or licensee shall not operate a marihuana facility unless the proposed marihuana facility or marihuana facility has passed preclosure fire safety inspection by the Bureau of Fire Services (BFS). The department or its authorized agents, or state fire marshal or his or her authorized designee, may conduct pre-licensure and post-licensure inspections of a marihuana facility. An applicant or licensee shall comply with the following:

(a) A BFS inspection may be conducted at any reasonable time to ensure fire safety compliance as provided in this rule and subrule (5) of this rule. A BFS inspection may be annual or biannual and result in the required installation of fire suppression devices or other means necessary for adequate fire safety pursuant to state standards.

(b) BFS may require marihuana facilities to obtain operational permits, including but not limited to, carbon dioxide systems used in beverage dispensing applications, amended for cultivation use and extraction, compressed gases, combustible fibers, flammable and combustible liquids, fumigation and insecticidal fogging, hazardous materials, high piled storage (high rack system cultivation), and liquefied petroleum (LP) gas.

(c) For specific installation or systems, BFS may require facilities to obtain construction permits, including but not limited to, building construction, electrical, mechanical, compressed gases, flammable and combustible liquids, hazardous materials, LP gas, automatic fire extinguishing/suppression systems, fire alarm and detections systems, and related equipment found during fire safety inspections.

(5) The department or its authorized agents, or state fire marshal or his or her authorized designee, may conduct a BFS fire safety inspection of marihuana facility, at any reasonable time to ensure compliance with the national fire protection association (NFPA) standard 1, 2018 edition, entitled "fire code," which is adopted by reference as part of these rules. A licensee shall comply with the NFPA 1, 2018 fire code as adopted and the following additional requirements:

(a) Ductwork must be installed with accordance with the manufacturer and NFPA 90A.

(b) Suppression systems outlined in NFPA 12, NFPA 13, NFPA 17, NFPA 2001 may be required to meet the suppression needs within a marihuana facility.

(c) Processors, growers, and safety compliance facilities shall implement appropriate exhaust ventilation systems to mitigate noxious gasses or other fumes used or created as part of any production process or operations. Exhaust ventilation equipment must be appropriate for the hazard involved and must comply with local fire code and Michigan mechanical codes.

(6) In addition to meeting all the requirements in subrules (1) to (4) of this rule, growers and processors shall also comply with the following:

(a) The department or its authorized agents, or state fire marshal or his or her authorized designee, may enter and inspect a grower and processor marihuana facility at any reasonable time.

(b) In addition to any inspections required under the act and these rules, fire safety inspections are required if any of the following occur:

(i) Modifications to the grow areas, rooms and storage, extraction equipment and process rooms, or marihuana-infused product processing equipment within a marihuana facility.

(ii) Changes in occupancy.

(iii) Material changes to a new or existing grower or processor facility including changes made pre-licensure and post-licensure.

(iv) Changes in extraction methods and processing or grow areas and building structures may trigger a new inspection.

(c) For extractions using compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide that are used in multiple processes in cultivation or extraction the following must be met:

(i) Flammable gases of varying materials may be used in multiple processes in cultivation or extraction and must meet the requirements in NFPA 90 A, NFPA 58, Appendix B of NFPA 58, NFPA 70 and the applicable parts of the international fuel gas code.

(ii) Processes that extract oil from marihuana plants and marihuana products using flammable gas or flammable liquid must have leak and/or gas detection measures. All equipment used in the detection of flammable and/or toxic gases must be approved by the BFS and may require construction and mechanical permits.

(iii) Marihuana facilities that have exhaust systems are regulated by NFPA 45, NFPA 91 and the applicable parts of the Michigan mechanical code.

Rule 27. Security measures; required plan; video surveillance system.

(1) An applicant for a license to operate a proposed marihuana facility shall submit a security plan that demonstrates, at a minimum, the ability to meet the requirements of this rule.

(2) Licensees shall ensure that any person at the marihuana facility, except for employees of the licensee, are escorted at all times by the licensee or at least 1 employee of the licensee when in the limited-access areas at the marihuana facility.

(3) A licensee shall securely lock the marihuana facility, including all interior rooms, windows, and points of entry and exits with commercial-grade, nonresidential door locks.

(4) A licensee shall maintain an alarm system at the marihuana facility. Upon request, a licensee shall make available to the department all information related to the alarm system, monitoring, and alarm activity.

(5) A licensee shall have a video surveillance system that, at a minimum, consists of digital or network video recorders, cameras capable of meeting the recording requirements in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

(6) The licensee shall ensure the video surveillance system does all the following:

(a) Records at a minimum the following areas:

(i) Any areas where marihuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana facility.

(ii) Limited-access areas and security rooms. Transfers between rooms must be recorded.

- (iii) Areas storing a surveillance system storage device with at least 1 camera recording the access points to the secured surveillance recording area.
- (iv) The entrances and exists to the building must be recorded from both indoor and outdoor vantage points. The areas of entrance and exit between marihuana facilities at the same location if applicable, including any transfers between marihuana facilities.
- (v) Point of sale areas where marihuana products are sold and displayed for sale.
- (b) Records at all times images effectively and efficiently of the area under surveillance with sufficient resolution.
- (7) A licensee shall install each camera so that it is permanently mounted and in a fixed location. Each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the marihuana facility, and allows for the clear and certain identification of any person, including facial features, and activities, including sales or transfers, in all areas required to be recorded under these rules.
- (8) A licensee shall have cameras that record continuously 24 hours per day and recorded images must clearly and accurately display the time and date.
- (9) A licensee must secure the physical media or storage device on which surveillance recordings are stored in a manner to protect the recording from tampering or theft.
- (10) A licensee shall keep surveillance recordings for a minimum of 14 days, except for in instances of investigation or inspection by the department, through its investigators, agents, auditors, or the state police, in which case the licensee shall retain the recordings until such time as the department notifies the licensee that the recordings may be destroyed.
- (11) Surveillance recordings of the licensee are subject to inspection by the department, through its investigators, agents, auditors, or the state police, and must be kept in a manner that allows the department to view and obtain copies of the recordings at the marihuana facility immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the department upon request within the time specified by the department.
- (12) A licensee shall maintain a video surveillance system equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance system storage device.
- (13) A licensee shall maintain a log of the recordings, which includes all of the following:
 - (a) The identities of the employee or employees responsible for monitoring the video surveillance system.
 - (b) The identity of the employee who removed the recording from the video surveillance system storage device and the time and date removed.
 - (c) The identity of the employee who destroyed any recording.

Rule 28. Prohibitions.

- (1) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the act, the marihuana tracking act, or these rules are prohibited from being on or at a marihuana facility. A licensee is prohibited from transferring or selling marihuana product that is not identified in the statewide monitoring system pursuant to the act or these rules.
- (2) Any marihuana product without a batch number or identification tag or label pursuant to these rules is prohibited from being on or at a marihuana facility. Marihuana product must be immediately tagged or identified into the statewide monitoring system or recorded as part of a batch as defined in these rules.

(3) A violation of these rules may result in sanctions or fines, or both, in accordance with the act or these rules.

Rule 29. Plant batches, testing procedures.

(1) A grower shall uniquely identify each immature plant batch in the statewide monitoring system. Each immature plant batch must not consist of more than 100 immature plants.

(2) A grower shall tag each plant that is greater than 8 inches in height or more than 8 inches in width with an individual plant tag and record the identification information in the statewide monitoring system.

(3) A grower shall delineate or separate the plants as the plants go through different growth stages and ensure that the plant tag is always identified with the plant throughout the growth span so that all plants can be easily identified and inspected pursuant to the act and these rules. A grower shall ensure that identification information is recorded in the statewide monitoring system in accordance with the act, the marihuana tracking act, and these rules.

(4) After a tagged plant is harvested, it is part of a harvest batch so that a sample of the harvest batch can be tested by a safety compliance facility. A grower shall isolate a harvest batch from other plants or batches that has test results pending. A harvest batch must be easily distinguishable from other harvest batches until the batch is broken down into packages.

(5) Before the marihuana product can leave the grower facility, a sample of the harvest batch must be tested by a licensed safety compliance facility as provided in Rule 32, and test results must indicate a passed test result in the statewide monitoring system before the marihuana can be packaged. Marihuana product from harvest batches must not be transferred or sold until tested, packaged, and tagged as required under subrule (4) of this rule.

(6) After test results show a passed test, the grower shall destroy the individual plant tags and the harvest batch is packaged. Each package must have a package tag attached. A grower shall ensure this information is placed in the statewide monitoring system in accordance with the act, the marihuana tracking act, and these rules.

(7) A grower shall not transfer or sell any marihuana product that has not been packaged with a package tag attached and recorded in the statewide monitoring system in accordance with the act, the marihuana tracking act, and these rules.

(8) After a processor receives or purchases a package in the statewide monitoring system, and the processor proceeds to process the marihuana product in accordance with the scope of a processor license, the act, and these rules, the processor must give the marihuana product a new package tag anytime it changes state or is incorporated into something else.

(9) Once a package is created by a processor of the marihuana product in its final state, the processor shall have the sample tested pursuant to Rule 32. The processor shall not transfer or sell a final package until after test results indicate a passed test.

(10) After a provisioning center receives or purchases marihuana product in the statewide monitoring system, a licensee may sell or transfer marihuana product only to a registered qualifying patient or registered primary caregiver under all of the following conditions:

(a) The marihuana product has received passing test results in the statewide monitoring system. If the information cannot be confirmed, the marihuana product must be tested by a safety compliance facility and receive passing test results prior to sale or transfer.

(b) The marihuana product bears the label required for retail sale under the act and these rules.

Rule 30. Retesting.

- (1) A safety compliance facility may test or retest a sample to validate the results of a failed quality assurance test except as indicated under subrule (2) of this rule. The marihuana facility that provided the sample is responsible for all costs involved in a retest.
- (2) A failed test sample must pass 2 separate retests consecutively in order to be eligible to proceed to sale or transfer. If both retests pass, then the batch is out of quarantine and eligible for sale or transfer. If 1 or both retests fail, then the marihuana product must be destroyed as provided in these rules.
- (3) Marihuana product is prohibited from being retested in all the following:
 - (a) The marihuana product is in a final package.
 - (b) An original test for pesticides failed pursuant to these rules. If the amount of pesticides is not permissible by the department, the marihuana product is ineligible for retesting and the product must be destroyed.
 - (c) An original failed test for microbials on marihuana-infused product is ineligible for retesting and the product must be destroyed.

Rule 31. Testing; safety compliance facility.

- (1) A safety compliance facility shall use analytical testing methodologies for the required quality assurance tests in subrule (2) of this rule that are validated and may be monitored on an ongoing basis by the department or a third party which shall include either of the following:
 - (a) Following the most current version of the Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph published by the American Herbal Pharmacopoeia.
 - (b) Following the alternative testing methodology approved by the department and validated by an independent third party that the methodology followed by the laboratory produces scientifically accurate results as quality assurance for each test it conducts.
- (2) A safety compliance facility shall conduct the required quality assurance tests that include all of the following:
 - (a) Moisture content.
 - (b) Potency analysis.
 - (c) Tetrahydrocannabinol level.
 - (d) Tetrahydrocannabinol acid level.
 - (e) Cannabidiol and cannabidiol acid levels.
 - (f) Foreign matter inspection.
 - (g) Microbial and mycotoxin screening.
 - (h) Pesticides.
 - (i) Chemical residue.
 - (j) Fungicides.
 - (k) Insecticides.
 - (l) Metals screening.
 - (m) Residual solvents levels.
 - (n) Terpene analysis.
 - (o) Water activity content.
- (3) Except as otherwise provided, if a sample collected pursuant to Rule 32 or provided to a safety compliance facility pursuant to these rules does not pass the microbial, mycotoxin, heavy metal, pesticide chemical residue, or residual solvents levels test based on these rules, the marihuana facility that provided the sample shall dispose of the entire batch from which the sample was taken

and document the disposal of the sample using the statewide monitoring system pursuant to the act, marihuana tracking act, and these rules.

(4) For the purposes of the microbial test, a sample provided to a safety compliance facility pursuant to this rule is deemed to have passed if it satisfies the standards set forth in Table 9 of the Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph adopted by reference pursuant to these rules.

(5) For the purposes of the mycotoxin test, a sample provided to a safety compliance facility pursuant to this rule is deemed to have passed if it meets the following standards:

Test	Specification
The total of aflatoxin B1, aflatoxin B2, aflatoxin G1 and aflatoxin G2.....	<20 uG/KG of Substance
Ochratoxin A.....	<20 uG/KG of Substance

(6) For the purposes of the heavy metal test, a sample of marihuana is deemed to have passed if it meets the following standards:

Metal	Natural Health Products Acceptable Limits uG/KG
Arsenic.....	<0.14
Cadmium.....	<0.09
Lead.....	<0.29
Mercury.....	<0.29

(7) A safety compliance facility shall do the following:

(a) Become fully accredited by the International Organization for Standardization (ISO), ISO/IEC 17025:2005, or by an entity approved by the department within 1 year after the date the license is issued and agree to have the inspections and reports of the International Organization for Standardization made available to the department.

(b) Become provisionally accredited under subdivision (a) of this subrule within 6 months from the issuance of a license. A safety compliance facility may be ordered to cease operations if provisional accreditation is not received within 6 months.

(c) Maintain internal standard operating procedures.

(d) Maintain a quality control and quality assurance program.

(8) The department shall establish a proficiency testing program and designate safety compliance facility participation. A safety compliance facility shall analyze proficiency test samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used for marihuana product testing.

(9) The department shall publish a list of approved pesticides for use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the act or these rules. For the purposes of the pesticide chemical residue test, a sample provided to a safety compliance facility pursuant to this rule is deemed to have passed as to that chemical if the sample satisfies the most stringent acceptable standard for an approved pesticide chemical residue as set forth in Subpart C of 40 C.F.R. Part 180. 40 C.F.R., § 180, et seq. or FIFRA section 25(b), whichever is more stringent.

(10) If a sample provided to a safety compliance facility pursuant to this rule and Rule 32 passes the tests required under subrule (2) of this rule, the safety compliance facility shall enter the information in the statewide monitoring system of passed test results. Passed test results must be in the statewide monitoring system for a batch to be released for immediate processing, packaging, and labeling for transfer or sale in accordance with the act and these rules.

(11) A safety compliance facility shall enter the results into the statewide monitoring system and file with the department an electronic copy of each safety compliance facility test result for any batch that does not pass the required tests while it transmits those results to the facility that provided the sample. In addition, a safety compliance facility shall maintain the test results and make them available to the department upon request.

(12) The department shall take immediate disciplinary action against any safety compliance facility that fails to comply with the provisions of this rule or falsifies records related to this rule, including any sanctions or fine, or both.

(13) A safety compliance facility is prohibited from doing the following:

- (a) Desiccating samples.
- (b) Dry labeling samples.
- (c) Pre-testing samples.

(14) A safety compliance facility shall comply with random quality assurance compliance checks upon the request of the department. The department or its authorized agents may collect a random sample of marihuana product from a safety compliance facility or designate another safety compliance facility to collect a random sample of marihuana product in a secure manner to test that sample for quality assurance compliance pursuant to this rule.

Rule 32. Sampling.

(1) A safety compliance facility shall test samples as provided in the act, the Michigan medical marihuana act, and these rules.

(2) To ensure the safety, security, and integrity of the operation of marihuana facilities, a safety compliance facility shall collect the samples of marihuana product from another marihuana facility as follows:

(a) The safety compliance facility shall physically collect samples of marihuana product from another marihuana facility to be tested at the safety compliance facility. The safety compliance facility shall ensure the samples of marihuana product are placed in secured, sealed containers that bear the labeling information as required under these rules.

(b) The safety compliance facility shall enter in the statewide monitoring system the marihuana product sample that was collected from a grower, processor, or provisioning center, including the date and time the marihuana product is collected, transferred, tested, and returned.

(c) When a testing sample is collected from a marihuana facility for testing in the statewide monitoring system, that marihuana facility must quarantine the marihuana product that is undergoing the testing from any other marihuana product at the marihuana facility. The marihuana facility shall indicate the sample being tested in the statewide monitoring system. The quarantined marihuana product must not be transferred or sold until testing results pass as provided under these rules.

(d) Any marihuana product that a safety compliance facility collects for testing from a licensee under this rule must not be transferred or sold to any other marihuana facility other than the licensee from whom the sample was collected.

(e) A safety compliance facility may request additional sample material from the same licensee where the sample was collected from for the purposes of completing the required quality assurance tests as long as the requirements of this rule are met.

(f) A safety compliance facility or its authorized employee shall be physically present when collecting the samples of marihuana product for testing.

Rule 33. Requirements and restrictions on marihuana-infused products; edible marijuana product.

(1) A processor shall prepackage and properly label marihuana-infused products before sale or transfer.

(2) A processor of marihuana-infused products shall list and record the THC level of marihuana-infused products, as provided in Rule 34, in the statewide monitoring system and indicate the THC level on the label along with the tag identification as required under these rules. Items that are part of a product recall issued in the statewide monitoring system, the department, or other state agency if applicable must be immediately pulled from production and not sold or transferred.

(3) Marihuana-infused products must be stored and secured as prescribed under these rules.

(4) At a minimum, a processor shall label any marihuana-infused product it produces or packages with all the following:

(a) The name and address of the marihuana facility that processes or packages the marihuana-infused product.

(b) The name of the marihuana-infused product.

(c) The ingredients of the marihuana-infused product, in descending order of predominance by weight.

(d) The net weight or net volume of the product.

(e) For an edible marihuana product, the processor shall comply with subdivisions (a) to (d) of this subrule and all of the following:

(i) Allergen labeling as specified by federal labeling requirements.

(ii) If any nutritional claim is made, appropriate labeling as specified by federal labeling requirements and these rules.

(iii) A statement printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background: "Made in a marihuana facility."

(5) A processor of edible marihuana product shall comply with all the following to ensure safe preparation:

(a) 21 CFR part 110, except that refrigerated potentially hazardous marihuana product must be stored at 4.4 degrees Celsius (40 degrees Fahrenheit) or below.

(b) The licensee shall provide employee training on safe food handling by providing any of the following:

(i) Proof of ServSafe certification.

(ii) Documentation of employee training on food handling, including, but not limited to, allergens and proper sanitation and safe food handling techniques.

(c) A licensee, to ensure the safe preparation standards under this subrule, shall comply with 1 or more of the following:

(i) FDA Food Safety Modernization Act (FSMA), 21 U.S.C. section 2201 et seq.

(ii) Safe Quality Food (SQF), 7.2 edition.

(iii) The International Organization for Standardization (ISO), ISO 22000/ISO/TS 22002-1.

(d) The department may request in writing documentation to verify certifications and compliance with these rules.

- (6) A processor edible marihuana product must comply with all the following:
- (a) No edible marihuana product can be in a shape, color, package, or labeled in a manner that it would appeal to minors aged 17 years or younger. No edible marihuana product can be associated with or have cartoons, caricatures, toys, colors, designs, shapes, labels, or package that would appeal to minors.
 - (b) No edible marihuana product can be easily confused with commercially sold candy. The use of the word candy or candies on the packaging or labeling is prohibited.
 - (c) An edible marihuana product must be in child resistant packages or containers.
- (7) A processor is prohibited from producing an edible marihuana product that requires time or temperature control for safety. The end-product must be a stable shelf-life edible marihuana product.
- (8) For purposes of this rule, the term “edible marihuana product” means any marihuana-infused product containing marihuana that is intended for human consumption in a manner other than smoke inhalation.
- (9) This rule does not affect the application of any applicable local, state, or federal laws or regulations.

Rule 34. Maximum THC levels for marihuana-infused products.
Marihuana-infused products processed, sold, or transferred through provisioning centers must not exceed the maximum THC levels as shown in table 1 as follows:

TABLE 1
Maximum THC Levels for Marihuana-Infused Products

MEDICAL MARIHUANA THC CONCENTRATION AND SERVING SIZE LIMITS		
Type of Marihuana-Infused Product	Maximum Concentration or Amount of THC Per Serving*	Maximum Concentration or Amount of THC in Container*
Topical formulation (examples – lotions, balms, rubs, etc.)	N/A	6% by volume
Tincture	N/A	1,000mg
Beverage	50mg	500mg
Edible Substance (examples – candy bars, cookies, popcorn, honey, gummies, butter, etc.)	50mg	500mg
Other similar high-potency infused product (examples – capsules, suppositories, transdermal patches, etc.)	N/A	1,000mg

**All limits allow for a variance of + or – 10%.*

Rule 35. Storage of marihuana product.

- (1) All inventory of marihuana products must be stored at a marihuana facility in a secured limited access area or restricted access area, and identified and tracked consistently with the statewide monitoring system under the act, the marihuana tracking act, or these rules.
- (2) All containers used to store marihuana products for transfer or sale between marihuana facilities must be clearly marked, labeled, or tagged, if applicable, and enclosed on all sides in secured containers. The secured containers must be latched or locked in a manner to keep all contents secured within. Each secured container must be identified and tracked in accordance with the act, the marihuana tracking act, and these rules.
- (3) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.
- (4) Marihuana-infused products or materials used in direct contact with such products must have separate storage areas from toxic or flammable materials.
- (5) A provisioning center shall store all marihuana products for transfer or sale behind a counter or other barrier separated from stock rooms.
- (6) A safety compliance facility shall establish an adequate chain of custody and instructions for sample and storage requirements.
- (7) A licensee shall ensure that any stock or storage room meets the security requirements of these rules and any other applicable requirements in the act and these rules.

Rule 36. Marihuana product destruction and waste management.

- (1) Marihuana product that is to be destroyed or is considered waste must be rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system.
- (2) A licensee shall not sell marihuana waste or marihuana products that are to be destroyed, or that the department orders destroyed.
- (3) A licensee shall manage all waste that is hazardous waste pursuant to part 111 of 1994 PA 451, MCL 324.11101 to 324.90106.
- (4) A licensee shall dispose of marihuana product waste in a secured waste receptacle using 1 or more of the following:
 - (a) A manned and permitted solid waste landfill.
 - (b) A manned compostable materials operation or facility.
 - (c) An in-vessel digester.
 - (d) In a manner in compliance with applicable state and local laws and regulations.
- (5) Wastewater generated during the cultivation of marihuana and processing of marihuana products shall be disposed of in compliance with applicable state and local laws and regulations.

Rule 37. Tracking identification; labeling requirements; general.

- (1) All marihuana product sold or transferred between marihuana facilities must have the tracking identification number that is assigned by the statewide monitoring system affixed, tagged, or labeled and recorded, and any other information required by the department, the act, and these rules.
- (2) To ensure access to safe sources of marihuana product the department if alerted in the statewide monitoring system may recall any marihuana products, issue safety warnings, and require a marihuana facility to provide information material or notifications to a registered qualifying patient or registered primary caregiver at the point of sale.

Rule 38. Marihuana plant; tracking requirements.

Prior to a marihuana plant being sold or transferred, a package tag must be affixed to the plant or plant container and enclosed with a tamper proof seal that has the following information:

- (a) Business or trade name, licensee number, and RFID package tag assigned by the statewide monitoring system that is visible.
- (b) Name of the strain.
- (c) Date of harvest if applicable.
- (d) Seed strain if applicable.
- (e) Universal symbol if applicable.

Rule 39. Marihuana product sale or transfer; labeling requirements.

Prior to marihuana product being sold or transferred to or by a provisioning center, the container, bag, or product holding the marihuana product must have a label and be sealed with all the following information:

- (a) The name of the licensee and license number that is the producer, including business or trade name, and tag or source number as assigned by the statewide monitoring system.
- (b) The name of the licensee and license number including business or trade name of licensee that packaged the product, if different from the processor of the marihuana product.
- (c) The unique identification number for the package or the harvest if applicable.
- (d) Date of harvest.
- (e) Name of strain.
- (f) Net weight in United States customary and metric units.
- (g) Concentration of THC or CBD.
- (h) Activation time expressed in words or through a pictogram.
- (i) Name of the safety compliance facility that performed any test, any associated test batch number, and any test analysis date.
- (j) Universal symbol published by the department.
- (k) A warning that states all the following:
 - (i) "For use by registered qualifying patients only. Keep out of reach of children."
 - (ii) "It is illegal to drive a motor vehicle while under the influence of marihuana."

Rule 40. Sale or transfer; provisioning centers.

(1) A provisioning center may sell or transfer marihuana product to a registered qualifying patient or a registered primary caregiver if the following are met:

- (a) The licensee verifies with the statewide monitoring system that the registered qualifying patient or a registered primary caregiver holds a valid, current, unexpired, and unrevoked registry identification card.
- (b) The licensee confirms that the registered qualifying patient or the registered primary caregiver presented his or her valid driver license or government-issued identification card that bears a photographic image of the qualifying patient or primary caregiver.
- (c) The licensee determines, if completed, any transfer or sale will not exceed the daily purchasing limit prescribed in Rule 41.
- (d) Any marihuana product that is sold or transferred under this rule has been tested and bears the label required for sale or transfer in accordance with Rule 39.

(2) A provisioning center may sell or transfer marihuana product to a visiting qualifying patient if all the following are met:

- (a) The licensee verifies that the visiting qualifying patient has a valid unexpired medical marihuana registry card or its equivalent issued in another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana.
 - (b) The licensee confirms that the visiting qualifying patient presented his or her valid driver license or government-issued identification card that bears a photographic image of the visiting qualifying patient.
 - (c) The licensee determines, if completed, any transfer or sale will not exceed the daily purchasing limit prescribed in Rule 41.
 - (d) Any marihuana product that is sold or transferred under this rule has been tested and bears the label required for sale or transfer in accordance with Rule 39.
 - (e) For purposes of this subrule, the term “visiting qualifying patient” means that term as defined in section 3 of the Michigan medical marihuana act.
- (3) The provisioning center shall enter all transactions, current inventory, and other information required by these rules in the statewide monitoring system in compliance with the act, marihuana tracking act, and these rules. The provisioning center shall maintain appropriate records of all sales or transfers under the act and these rules and make them available to the department through its investigators, agents, auditors, or the state police upon request.

Rule 41. Daily purchasing limits; provisioning center.

The licensee shall verify in the statewide monitoring system before a sale or transfer of marihuana product to a registered qualifying patient or registered primary caregiver that the sale or transfer will not exceed the daily purchasing limit as follows:

- (a) For a registered qualifying patient, an amount of marihuana product that does not, in total, exceed 2.5 ounces per day.
- (b) For a registered primary caregiver, an amount of marihuana product that does not, in total, exceed 2.5 ounces per day for each registered qualifying patient with whom he or she is connected through the department’s registration process.

Rule 42. Marketing and advertising restrictions.

- (1) Marihuana facilities shall comply with all municipal ordinances, state law, and these rules regulating signs and advertising.
- (2) A licensee shall not advertise marihuana product where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place.
- (3) Marihuana products must be marketed or advertised as “medical marihuana” for use only by registered qualifying patients or registered primary caregivers.
- (4) Marihuana products must not be marketed or advertised to minors aged 17 years or younger. Sponsorships targeted to members aged 17 years or younger are prohibited.

Rule 43. Employees; requirements.

- (1) A licensee shall conduct a criminal history background check on any prospective employee prior to hiring that individual pursuant to section 405 of the act. The licensee shall keep records of the results of the criminal history background checks. A licensee shall record confirmation of criminal history background checks and make the confirmation of criminal history background checks available for inspection upon request by the department or authorized persons.
- (2) To ensure the safety, security, and integrity of marihuana facility operations, a licensee shall comply with all of the following:

- (a) A licensee shall have a policy in place that requires employees to report any new or pending charges or convictions. If an employee is charged or convicted for a controlled substance-related felony or any other felony, the licensee shall report it immediately to the department.
- (b) A licensee shall enter any employee of the licensee at the time of hire in the statewide monitoring system for an identification number that will be assigned by the department in the statewide monitoring system. The licensee shall immediately update in the statewide monitoring system employee information and status.
- (c) If an employee is no longer employed by a licensee, the licensee shall remove access and permissions to the marihuana facility and the statewide monitoring system.
- (d) A licensee shall train employees and have an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marihuana product information, dosage and daily limits, or educational materials.
- (e) A licensee shall establish point of sale or transfer procedures for employees at provisioning centers performing any transfers or sales to registered qualifying patients and registered primary caregivers. The qualifications and restrictions must include, but are not limited to, training in dosage, marihuana product information, health or educational materials, point of sale training, daily purchasing limits, CBD and THC information, serving size, and consumption information including any warnings.
- (f) A licensee shall screen prospective employees against a list of excluded employees based on a report or investigation maintained by the department in the statewide monitoring system.
- (g) At the time a registered primary caregiver is hired as an employee of a grower, processor, or secure transporter, the licensee or the individual shall withdraw registration as a registered primary caregiver in a manner established by the department.
- (h) If an individual is present at a marihuana facility or in a secure transporter vehicle who is not identified as a licensee or an employee of the licensee in the statewide monitoring system or is in violation of the act or these rules, the department, through its investigators, agents, auditors, or the state police may take any action permitted under the act and these rules.
- (3) Employee records are subject to inspection or examination by the department, through its investigators, agents, auditors, or the state police to determine compliance with the act or these rules.
- (4) For purposes of this rule “employee” includes, but is not limited to, hourly employees, contract employees, trainees, or any other person given any type of employee credentials or authorized access to the marihuana facility.

Rule 44. Definitions.

These rules use terms as defined in Rule 1, sections 101 to 102 of the act, and sections 1 to 3 of the APA. In addition, as used in these rules:

- (a) “Agency” means the department, bureau, board, authority, or officer created by the constitution, statute, or agency action.
- (b) “APA” means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (c) “Contested case hearing” means an administrative hearing conducted by an administrative law judge within MAHS on behalf of the agency in accordance with MCL 333.27407(4) and 333.27302(i).
- (d) “MAHS” means the Michigan administrative hearing system within the Michigan department of licensing and regulatory affairs.

(e) “MAHS general hearing rules” means the administrative hearing rules promulgated by the Michigan administrative hearing system set forth in R 792.10101 to R 792.10137 of the Michigan administrative code.

(f) “Public investigative hearing” means a proceeding before the medical marihuana licensing agency to provide an applicant an opportunity to present testimony and evidence to establish suitability for a license, in accordance with MCL 333.27407(3).

Rule 45. Hearing procedures; scope and construction of rules.

(1) These rules apply to hearings under the jurisdiction of the agency involving the denial of a license or other licensing action pursuant to section 407 of the act, marihuana tracking act, or involving complaints brought by licensees pursuant to section 302 of the act.

(2) These rules are construed to secure a fair, efficient, and impartial determination of the issues presented in a manner consistent with due process.

(3) If the rules do not address a specific procedure, the MAHS general hearing rules, the currently effective Michigan court rules, and the contested case provisions of sections 71 to 87 of the APA apply.

Rule 46. Hearing on license denial.

(1) An applicant denied a license by the agency may request a public investigative hearing in writing within 21 days of service of notice of the denial.

(2) After the agency receives notice of an applicant’s request for a public investigative hearing, the agency shall provide an opportunity for such hearing at which the applicant may present testimony and evidence to establish suitability for a license.

(3) The agency shall provide the applicant with not less than 2 weeks written notice of the public investigative hearing. The notice must include all of the following information:

(a) A statement of the date, hour, place, and nature of the hearing.

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(c) A short and plain statement of the issues involved, and reference to the pertinent sections of the act and rules involved.

(d) A short description of the order and manner of presentation for the hearing.

(4) Not less than 2 weeks before the hearing, the agency shall post notice of the public investigative hearing at its business office in a prominent place that is open and visible to the public.

(5) The agency, or 1 or more administrative law judges designated and authorized by the agency, may conduct and preside over the public investigative hearing and may do all of the following:

(a) Administer oaths or affirmations to witnesses called to testify at the hearing.

(b) Receive evidence in the form of testimony and exhibits.

(c) Establish and regulate the order of presentation and course of the public investigative hearing; set the time and place for continued hearings; and fix the time for filing written arguments, legal briefs, and other legal documents.

(d) Accept and consider relevant written and oral stipulations of fact and law that are made part of the hearing record.

(6) Upon timely request of the applicant or the agency in accordance with the Michigan court rules currently in effect, the agency or the agency’s designated administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties under the act.

(7) During the public investigative hearing, the applicant and the agency must be given a full opportunity to present witnesses and questions or cross-examine the opposing party's witnesses, and to present all relevant information to the agency regarding the applicant's eligibility and suitability for licensure.

(8) The applicant shall at all times have the burden of establishing, by clear and convincing evidence, its eligibility and suitability for licensure under the act and these rules.

(9) The agency shall record the public investigative hearing at its direction, stenographically or by other means, to adequately ensure preservation of an accurate record of the hearing.

(10) Following the public investigative hearing, the matter must be considered by a quorum of the agency at a regular or emergency meeting properly noticed, at which the agency shall decide whether to affirm, reverse, or modify in whole or in part the denial of license.

(11) The agency's decision to affirm, reverse, or modify in whole or in part the denial of license must be based on the whole record before the agency and not be limited to testimony and evidence submitted at the public investigative hearing, in accordance with section 407(3) of the act.

(12) The agency's decision to affirm, reverse, or modify in whole or in part the denial of license must be reduced to writing and served upon the applicant and agency within a reasonable time.

Rule 47. Review of licensing action.

(1) A licensee notified of a license violation, or of the agency's intent to suspend, revoke, restrict, or refuse to renew a license or impose a fine, may be given an opportunity to show compliance with the requirements before the agency taking action as prescribed by the act or these rules.

(2) A licensee aggrieved by an action of the agency to suspend, revoke, restrict, or refuse to renew a license, or to impose a fine, may request a contested case hearing in writing within 21 days of service of notice of the intended action.

(3) Upon receipt of a timely request, the agency shall provide the licensee an opportunity for a contested case hearing in accordance with sections 71 to 87 of the APA and the MAHS general hearing rules.

(4) The contested case hearing must be conducted by an administrative law judge or judges within the MAHS.

(5) Upon timely request of the licensee or the agency in accordance with the Michigan court rules currently in effect, an assigned administrative law judge may issue subpoenas duces tecum for the production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent documents, and administer oaths and affirmations to witnesses as appropriate to exercise and discharge the powers and duties under the act.

(6) A written request for admission may be served upon a designated party in a contested case pursuant to the Michigan court rules. Each of the matters for which an admission has been requested must be deemed admitted, unless the designated party responds to the request in the manner set forth in the currently effective Michigan court rules.

(7) The agency has the burden of proving, by a preponderance of the evidence, that sufficient grounds exist for the intended action to suspend, revoke, restrict, or refuse to renew a license, or to impose a fine, or for the summary suspension of a license.

Rule 48. Summary suspension.

(1) If the agency summarily suspends a license under section 407(2) of the act without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation, a post-suspension hearing must be held promptly to

determine if the suspension should remain in effect, in accordance with section 92 of the APA and the MAHS general hearing rules.

(2) At the post-suspension hearing, the agency has the burden of proving by a preponderance of the evidence that the summary suspension should remain in effect because the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation.

(3) Immediately after the post-suspension hearing, the administrative law judge assigned to hear the matter shall issue a written order granting or denying dissolution of the summary suspension.

(4) If the licensee fails to appear at the post-suspension hearing, the administrative law judge shall find that the safety or health of patrons or employees is jeopardized by continuing a marihuana facility's operation, and continue the order of summary suspension.

(5) The record created at the post-suspension hearing becomes a part of the record at any subsequent hearing in the contested case.

Rule 49. Complaint by licensee.

(1) A licensee may file a written complaint with the agency regarding any investigative procedures of this state that are believed to be unnecessarily disruptive of marihuana facility operations, as provided in MCL 333.27302(i).

(2) The agency may delegate to a subcommittee of the agency the authority to hear, review, or rule on a licensee complaint.

(3) The agency or its subcommittee may delegate authority to an administrative law judge to hear a licensee complaint as a contested case in accordance with sections 71 to 79 of the APA and the MAHS general hearing rules.

(4) As the complaining party, a licensee has the burden of proving by a preponderance of the evidence that the investigative procedures of this state unreasonably disrupted its marihuana facility operations.

Rule 50. Proposal for decision, exceptions, and replies.

Following an opportunity for contested case hearing and closure of the record after submission of briefs, if any, the administrative law judge shall prepare and serve upon the parties a proposal for decision containing proposed findings of fact and conclusions of law, in accordance with section 81 of the APA.

Rule 51. Final order.

(1) The agency shall consider the entire contested case record and may affirm, reverse, or modify all or part of the proposal for decision.

(2) The agency's decision must be reduced to writing and served upon the licensee within a reasonable time.

(3) The review decision or order of the agency following an opportunity for hearing is deemed to be the final agency decision or order for purposes of judicial review under sections 101 to 106 of the APA.

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS



Shelly Edgerton, Director
Department of Licensing and Regulatory Affairs

Pursuant to Section 48(1) of 1969 PA 306, as amended, MCL 24.248(1), I hereby concur in the finding of the Department of Licensing and Regulatory Affairs that the circumstances creating an emergency have occurred and the promulgation of the above rules is required for the preservation of the public health, safety, and welfare.



Rick Snyder, Governor

12/4/2017

Date

**AN EMERGENCY ORDINANCE TO TAKE IMMEDIATE EFFECT TO
AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY ADDING ARTICLE 11, TEMPORARY OPERATION OF MEDICAL MARIHUANA
FACILITIES OF CHAPTER 14 BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

That Chapter 14 shall be amended to add Article 11, Temporary Operation of Medical Marihuana Facilities of Chapter 14 Businesses.

ARTICLE 11. TEMPORARY OPERATION OF MEDICAL MARIHUANA FACILITIES.

Sec. 14-237. Intent.

A. The purpose of this Article is pursuant to the Medical Marihuana Facilities Licensing Act, MCL 223.27101, et seq., ("Act") to authorize the establishment of a certain type of Medical Marihuana Facility in the City of Portage for temporary operation.

B. Nothing in this Article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq., the Marihuana Tracking Act, MCL 333.27901 et seq., and all other applicable rules promulgated by the State of Michigan.

C. Because federal law is not affected by state law or rules, nothing in this Article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall any provision of this Article or this code, be construed as granting immunity from criminal prosecution under federal law. The Act does not protect patients, users, care givers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

D. The City, as stated in its Resolution of Intent adopted concurrently with this Emergency Ordinance, is in the process of developing, reviewing and thereafter adopting an authorizing ordinance and zoning ordinance allowing for the location(s), type(s), and number of medical marihuana facilities under the Act.

E. That such ordinance will not be adopted before December 15, 2017, which is the date the Act has established for allowing applications for a state operating license.

F. If this Emergency Ordinance is not adopted, any proposed marihuana facility that may currently be in operation within the City of Portage will be required to close its operation before making application to the state for an operating license.

G. To promote the continued operation of medical marihuana facilities that may be currently operating, the Department of Licensing and Regulatory Affairs ("LARA") has issued

Emergency Rule 19, effective December 4, 2017 that sets forth certain requirements, which if satisfied, will allow the temporary operation of a proposed marihuana facility until such time it obtains a state operating license.

H. To enable and ensure the continued protection of medical marihuana patients and their access to clean and tested marihuana without disruption, Council deems this an emergency ordinance.

Sec. 14-238. Marihuana Facilities Allowed.

Pursuant to Section 205 (1) of the Act and Emergency Rule 19, and in addition to any other emergency or permanent rule passed by LARA covering the temporary operation of a proposed Medical Marihuana Facility, the City authorizes that only provisioning centers meeting the conditions in this Emergency Ordinance under the Act be permitted to temporarily operate in the City.

Sec. 14-239. Conditions.

A proposed Medical Marihuana Facility is allowed to temporarily operate in the City only under the following conditions:

A. The Medical Marihuana Facility has been in operation within the City on a continuous basis for at least one year previous to the date of adoption of this Emergency Ordinance, being December 12, 2017.

B. The proposed Marihuana Facility tests the medical marihuana sold to its customers by using an independent third party accredited laboratory.

C. The proposed Medical Marihuana Facility has been in continuous operation at the same location in a permanent building for at least the previous year before the date of adoption of this Emergency Ordinance.

D. The proposed Medical Marihuana Facility has been a commercial enterprise recognized as an ongoing business by factors such as signage, website, posted hours of operation, informational written materials and other similar items, and located in the B-3 Business District continuously for the previous year before the adoption of this Emergency Ordinance.

E. The proposed Medical Marihuana Facility has received a temporary operating permit from the City, or if required by LARA, the City Clerk is authorized to sign a LARA form attesting that a proposed Medical Marihuana Facility meets the requirements of this Emergency Ordinance.

F. The parcel on which the proposed Medical Marihuana Facility is located is not contiguous to any residential zoning district.

G. During the past six (6) months, at least one person in the City Administration has performed an official tour and/or inspection supervised and consented to by one or more principals of the Facility.

H. An owner or principal of a proposed Medical Marihuana Facility has signed an Affidavit verifying that the above conditions are satisfied.

Sec. 14-240.

Any proposed Medical Marihuana Facility that does not comply with Emergency Rule 19 shall not operate temporarily under this Emergency Ordinance.

Sec. 14-241.

This Emergency Ordinance shall automatically be repealed on June 15, 2018 and any temporary operation of a proposed Medical Marihuana Facility under this Emergency Ordinance will no longer be permitted.

Sec. 14-242.

A proposed Medical Marihuana Facility temporarily operating under this Emergency Ordinance shall be subject to all conditions and requirements contained under any subsequent Medical Marihuana Facility Ordinance adopted by the City. Further, nothing in this Emergency Ordinance shall be construed as a guarantee for any license, permit, zoning approval or any other benefit conferred upon a Medical Marihuana Facility under a subsequently adopted City Licensing Ordinance.

Sec. 14-243. Savings Clause.

This Emergency Ordinance is intended to allow the temporary operation of proposed Medical Marihuana Facility under the requirements of Emergency Rule 19, dated December 4, 2017 permitting a municipality to adopt an authorizing ordinance pursuant to Section 205 of the MMFLA prior to December 15, 2017. If any section or part of this Emergency Ordinance is found by any state board or agency to deprive a particular proposed Medical Marihuana Facility from obtaining temporary operation under the Emergency Rule, the City may at its option, choose to amend such Emergency Ordinance to correct such deficiency. Such amendment shall be retroactive to the date of adoption of this original Emergency Ordinance so as to comply with the Emergency Rule.

Sec. 14-244. Immediate Effect.

Pursuant to Section 5.3(b) of the Portage City Charter, this Article was introduced and adopted at a special meeting of the City Council by a vote of not less than five (5) members of the Council as an emergency ordinance and, as such, pursuant to Section 5.5(a) of the Portage City Charter shall take immediate effect upon its adoption.

Dated: _____, 2017

Patricia Randall, Mayor

ORDINANCE #

EFFECTIVE DATE: December ____, 2017

CERTIFICATION

I, Adam Herringa, City Clerk, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the _____ day of _____, 2017.

Adam Herringa

PREPARED BY:
Randall L. Brown (P 34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: 12/7/2017

City Attorney

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**CITY OF PORTAGE
RESOLUTION OF INTENT
REGARDING ADOPTION OF AN AUTHORIZING ORDINANCE
UNDER THE MEDICAL MARIHUANA FACILITIES LICENSING ACT**

Minutes of a special meeting of the Council for the City of Portage, Michigan, held on _____, 2017 at 7:30 p.m. local time at the City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by

Councilmember: _____, and supported by:

Councilmember: _____.

WHEREAS, Governor Snyder signed the Medical Marihuana Facilities Licensing Act (Act), an amendment to the MMMA and the Marihuana Tracking Act which all became effective December 20, 2016;

WHEREAS, The Act exempts those holding a state operating license from marihuana-related criminal or civil prosecution and penalties, and other sanctions, for performing activities within the scope of their license;

WHEREAS, The Act establishes a Medical Marihuana Licensing Board, a Marihuana Advisory Panel and requires the Department of Licensing and Regulatory Affairs (LARA) to promulgate rules, including emergency rules as necessary, to implement, administer and enforce the Act;

WHEREAS, the Act further prohibits operation of a medical marihuana facility without an authorizing ordinance adopted by the municipality;

WHEREAS, if the City chose not to pass an authorizing ordinance, Medical Marihuana Facilities would not be allowed to operate within the City limits;

WHEREAS, The Act provides that beginning 360 days from its effective date (December 15, 2017), a person may apply for and LARA will hear a request for a state operating license;

WHEREAS, LARA has initiated a pre-qualification process for all applicants for more efficient and effective processing of licensing requests;

WHEREAS, The Act requires LARA to promulgate rules as necessary to implement, administer and enforce the Act;

WHEREAS, LARA has promulgated the Emergency Rules on December 4, 2017 as required by the Act;

WHEREAS, before adopting an authorizing ordinance with regard to Medical Marihuana Facilities, the City Council desires to maintain consistency with State Law and the Emergency Rules for the protection of the health, safety and welfare of the citizens.

WHEREAS, in any event, applications cannot be taken under an authorizing ordinance until such time as LARA promulgates rules, accepts and reviews applications, and pre-qualifies applicants;

WHEREAS, a Committee of the Whole meeting was held on November 30, 2017 (before the Emergency Rules were issued) and another Committee of the Whole meeting is scheduled for December 19, 2017 for the purpose of advising Council of the substance of the Act and Emergency Rules, possible ordinance provisions and other issues and concerns regarding the adoption of an authorizing ordinance and zoning ordinance;

WHEREAS, the Council has also been advised regarding the numerous benefits of the adoption of an authorizing ordinance and zoning ordinance under the Act;

NOW, THEREFORE, BE IT RESOLVED, the Portage City Council intends to move forward in the development of an authorizing ordinance and zoning ordinance allowing for the location(s), type(s), and number of Medical Marihuana Facilities within the City under the Act with appropriate conditions, restrictions and limitations after the City Administration has the opportunity to review the Emergency Rules promulgated by LARA and after adequate input and investigation is conducted with regard to a proposed ordinance.

IT IS FURTHER RESOLVED that all resolutions or parts of resolutions are, to the extent of any conflict with this resolution, rescinded.

ADOPTED:

YEAS: Councilmember _____

NAYS: Councilmember _____

ABSENT: _____

RESOLUTION DECLARED ADOPTED.

Adam Herringa, City Clerk

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a special meeting of the City Council of said City, held on the ____ day of _____, 2017, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this ____ day of _____, 2017.

Adam Herringa, City Clerk

Approved as to form:

Date: 12/7/2017
RSB

City Attorney

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CITY OF PORTAGE

COMMUNICATION

TO: Laurence Shaffer, City Manager

DATE: December 1, 2017

FROM: Meshia Rose, Deputy City Assessor

Meshia Rose

SUBJECT: November 2017 Department Operations Report

The following information summarizes the operations of the City Assessor's Office during November 2017:

- **Preparation of 2018 Assessment Roll:** The Assessor's office are continuing their studies of residential neighborhoods to determine the appropriate economic condition factors or ECF to bring the total valuation of all residential properties to the state mandated 50% of estimated market value. Tentative valuation is also underway with analysis of commercial and industrial values close to completion. Field work for new construction to be added to the 2018 assessment roll is typically completed in mid-January. Additionally, staff completed the following continuous activities during the month of November:
 - 105 property inspections initiated by the issuance of building permits.
 - 123 property reviews completed as part of the reappraisal or sales verification process.
 - 275 deed transactions processed along with any accompanying Property Transfer Affidavit and Principal Residence Exemption Forms
- **Federal Poverty Guidelines for 2018 Assessments:** Following are the federal poverty qualification guidelines for use in setting poverty exemptions for the 2018 assessments.

Size of Family Unit	Poverty Guidelines
1	\$12,060
2	\$16,240
3	\$20,420
4	\$24,600
5	\$28,780
6	\$32,960
7	\$37,140
8	\$41,320
For each additional person, add	\$ 4,180

- **Customer Service:** The staff of the City Assessor's Office provided a high level of customer service during the month of November. Prompt and courteous service was provided in response to the numerous telephone calls and personal visits from realtors, private appraisers, title companies, and citizens.

Please contact me if you have any questions concerning the information presented above.

CITY OF PORTAGE

COMMUNICATION

TO: Laurence Shaffer, City Manager

DATE: December 5, 2017

FROM: Adam Herringa, City Clerk *DA*

SUBJECT: November Monthly Report

ELECTIONS

Conducted the November 7, 2017 City General Election where 7,928 voters cast ballots for a turnout of 21.91%. Issued absentee ballots, delivered election materials to precincts, fielded questions and worked with Election Systems on ensuring the functionality of voting equipment throughout Election Day. Processed 3,150 absentee ballots utilizing a new high-speed ballot counting machine. Checked in precincts at the end of Election Day, verified materials for accuracy and transmitted poll books and related materials to the County Clerk on election night. Prepared and issued election notification letters to candidates.

Attended a post-election review meeting with various Kalamazoo County election officials. Reviewed and discussed the recent election and lessons learned regarding the implementation of the new voting machines.

Reviewed the City Charter and Rules of Order and Procedure regarding the requirements for installing City Councilmembers. Arranged for a reception, city documents and various other materials for use by incoming City Councilmembers. Met with and reviewed various ceremonial procedures with new Councilmembers.

Swore in the new Mayor and four City Councilmembers.

Met with an office furniture representative to strategize moving the election materials out of a rental storage unit and to a city location within the Department of Public Safety.

Continued processing additions, changes and deletions from the Qualified Voter File.

BOARDS AND COMMISSIONS

Held a Youth Advisory Committee (YAC) Meeting in which the youth reviewed a potential "Social Host" ordinance, participated in the Parks and Recreation 5-Year Planning effort, made plans for the February Snow Party and discussed volunteering at the Portage Community Center.

Followed up on the October appointment of 28 applicants to 28 vacancies on nine Boards and Commissions.

Prepared materials and attended the Historic District Commission monthly meeting and Historic District Study Committee special meeting regarding 2663 Mandigo on November 1. Advised several district property owners and area realtors on property matters.

Prepared for and provided a presentation to the Breakfast Optimist Club of Kalamazoo regarding the Youth Advisory Committee.

Met with representatives of the United Way and their Kalamazoo Youth Development Network regarding getting the Portage Youth Advisory Committee more involved with their organization.

PUBLIC INFORMATION AND CITIZEN ASSISTANCE

Provided Notary Public Service to citizens upon request. Provided help to citizens for phone and over-the-counter requests including voter information, guidance to appropriate departments and miscellaneous assistance.

Coordinated Freedom of Information Act (FOIA) requests, published legal notices and posted meeting notices.

CEMETERIES

Processed five (5) grave openings/closings, including the preparation of invoices and Burial Rights Certificates. Worked with monument companies and the Department of Public Services on foundation orders. Updated cemetery maps, researched availability of lots for citizens in cooperation with the Department of Public Services and assisted with burials.

CITY COUNCIL AGENDAS

Developed the ceremonial agenda and related documents for the November 21, 2017, City Council Meeting.

Developed the agenda and supported the November 28 City Council Committee of the Whole Meeting.

Staffed and assisted in the execution of two Pre-Council Meetings, two Regular City Council Meetings and one Committee of the Whole Meeting. Provided notices, follow-up communications, filed Resolutions and took actions related to items passed by City Council at the November City Council Meetings.

Prepared the Minutes for the November City Council Meetings and assisted the City Manager's Office in preparation of the City Council Agendas.

OTHER

Welcomed Erica Eklov to the Office of the City Clerk.

Chaired the monthly meeting of the Kalamazoo County Substance Abuse Task Force and attended a meeting regarding the opioid situation in Kalamazoo County with a representative of the Portage Department of Public Safety.

Organized and held a meeting of the employee Customer Service Task Force. Worked with the Task Force and the IT Department to trial "Cisco Spark," a chat communication tool.

Swore in Police Officer Sydnie Cooper and members of various Boards and Commissions.

Attended a presentation by Southwest Michigan First along with staff from the Office of the Assessor and Department of Community Development regarding tax abatements, personal property taxes and medical marihuana.

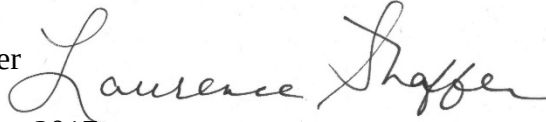
CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: December 13, 2017

FROM: Laurence Shaffer, City Manager



SUBJECT: Monthly Report – November 2017

The following summarizes some of the activities in which staff of the Office of the City Manager were involved during the month of November 2017.

1. City Council:

- Coordinated and/or prepared agenda and other materials for the following meetings:
 - City Council Regular Meetings on November 7 and 21.
 - Pre-Council meetings on November 6 and 20.
 - Special City Council Meeting on November 7.
 - Committee of the Whole Meeting November 30.

2. Represented the City of Portage in the following activities, among others:

- Presented at the Portage Senior Center's "Mastering Aging Seminar" on November 2.
- Met with citizen Susan Kubicek on November 3.
- Met with the Foxwood Hills Association President Lori Lamb on November 3.
- Met with Nasim Ansari on November 3.
- Attended a Bicycle Safety Open house on November 6.
- Met with Joe Gesmundo and Craig DeNooyer of AVB on November 7.
- Met with citizens Diane Stewart and Lori Tulgetske on November 10.
- Met with Representative Vern Johnson, Kalamazoo County Environmental Health Director on November 14.
- Met Jane Blain Gilbertson, President and CEO of Blain's Farm and Fleet on November 15.
- Met with Senator O'Brien and Representative Iden on November 16.
- Participated in a local cable access roundtable discussion with Karen Woodworth on November 17.
- Met with Councilmember Ford on November 17.
- Visited the former Train Barn location regarding a City Hall display on November 20.

- Met with Kalamazoo County Administrator Tracie Moored on November 21.
- Met with Jevon Weyenberg on November 27.
- Met with Jeff Troyer, KCCDA Executive Director, to discuss capital build-out financing options on November 28.
- Met with Ron Coleman on November 28.
- Met with Wayne Stoffer from the Planning Commission on November 28.
- Met with Kalamazoo County Drain Commissioner Pat Crowley on November 30.

3. Projects - Completed and Ongoing:

- Continued the transition and design of the new city website through CivicPlus.
- Prepared for 312 arbitration with the PPOA to replace the labor agreement that expired June 30, 2016.
- Continued review of medical marijuana related matters with city legal counsel.
- Continued oversight of planning, design and construction for various city construction projects and developments.
- Consulted with city staff regarding Information Technology projects, as well as current Community Development, Finance, Transportation & Utility and Assessing matters.

4. Public Information and Citizen Assistance:

- Mailed the November *Portager* and coordinated production of the December *Portager* newsletter.
- Continued oversight of the *PortageAlert* system and notifications for those who registered through the portal for updates.
- Coordinated responses to citizen concerns/requests regarding a variety of matters, including brush collections, leaf collections and blight concerns, etc.
- Updated and approved changes to the city website and city publications.
- Provided informational packets on Portage to citizens, realtors and businesses, as requested.
- Continued to collect and monitor Citizen Comment Card responses and submissions to the Online Customer Service Survey.
- Continued to collect and monitor SeeClickFix.com citizen concerns and questions, as well as ensure timely responses.

CITY OF PORTAGE

COMMUNICATION

TO: Laurence Shaffer, City Manager

DATE: December 6, 2017

FROM: Vicki Georgeau, ¹⁶Director of Community Development

SUBJECT: Monthly Customer Service Report for November 2017

Staff performed research, conducted reviews, and developed recommendations and information necessary for the efficient and effective delivery of community planning and development services, construction permitting and neighborhood programs. All areas involved considerable commitment of staff resources necessary to ensure appropriate customer service, the protection of the public health, safety and welfare and the provision of community development programs. These services were provided together with processing and responding to citizen information requests performed on a continuous basis.

PLANNING, DEVELOPMENT AND NEIGHBORHOOD SERVICES

Planning Commission

November 2, 2017 meeting:

1. Accepted the applicant's request to withdraw Rezoning Application #17/18-1, 9444 South Sprinkle Road and 4691 Branch Avenue, from further consideration.

November 16, 2017 workshop meeting:

1. Department of Community Development staff provided Planning Commission training regarding Site Plan Review and Access Management.

Zoning Board of Appeals

November 13, 2017 meeting:

1. Postponed variance requests to construct an accessory building that exceeds the ground floor living area and maximum height requirement at 9244 Chapel Street to the December 11, 2017 meeting.

Human Services Board:

November 2, 2017 meeting:

1. Received presentation from Portage Community Center regarding programs supported by the agency and fundraising activities intended to remain in compliance with established contract guidelines.

OTHER BOARD ACTIVITIES

- Downtown Development Authority - The Authority did not meet in November 2017.
- Local Development Finance Authority - The Authority did not meet in November 2017.
- Economic Development Corporation/Tax Increment Finance Authority/Brownfield Redevelopment Authority – The Authority did not meet in November 2017.

Citizen Information Requests:

During the month of November 2017, a total of 124 cases/violations were inspected in response to citizen service requests or staff field observations and include: 29 parking; 24 debris/refuse; 24 inoperable vehicles; 15 property maintenance; 14 zoning; 12 signs; 3 housing maintenance; 1 building maintenance; 1 tall grass/weeds; and 1 safety, sanitation and health.

BUILDING AND HOUSING SERVICES

Construction Board of Appeals:

The Board met on November 8, 2017 in regard to a code interpretation and fire suppression variance request for Lighthouse Autism Center, 2314 Helen Avenue.

Issued permits and conducted required building, electrical, plumbing and mechanical inspections to ensure compliance with local codes/ordinances. The following list shows major permits:

Type of Permit/Application	Number of Permits	Project Valuations
Single-family Detached	13	\$3,244,433
Single-family Attached	3	\$576,662
Residential Additions, Interior Remodels, Garages, Sheds, etc.	10	\$279,104
Commercial Additions, Interior Remodels, etc.	26	\$66,809,626
Permits Not on Report (i.e., demolition, electrical, plumbing, mechanical, driveway, sign, water use/sewer use, etc.).	244	N/A
Totals	296	\$70,909,825

CDBG Housing Assistance Programs

CDBG PROGRAMS				
Activity	Housing Rehabilitation	Water / Sewer	Emergency Repair	Down Payment Assistance
New Applications	1	0	0	1
Applications Approved	0	0	0	2
Loan Closings	1	0	N/A	0
Monthly Projects Completed	1	0	0	0
Projects Underway	3	0	0	0
FY YTD Projects Completed	5	0	1	1

CITY OF PORTAGE

COMMUNICATION

TO: Laurence Shaffer, City Manager

DATE: December 12, 2017

FROM: William Furry, Director of Finance *wfg*

SUBJECT: Monthly Report-November 2017

ACCOUNTING /PAYROLL

- Began collection and assimilation of data related to annual reports for the State: The Act 51 Street Financial Report and the F-65 (State annual report), to be submitted to the State as soon as the CAFR has been filed with Michigan Treasury.
- Gathered and entered data for the Citizen's Guide and Performance Dashboard.
- Accounts Payable processed 784 invoices which produced 380 vendor payments totaling \$3,181,032.01. Payments were comprised of 256 paper checks totaling \$1,365,720.28 and 124 automated clearinghouse payments totaling \$1,815,311.73.
- Processed 2 payrolls, creating 587 checks and deposit advices for 338 employees, with a total gross monthly payroll of \$1,018,991.19. The increase in number of employees paid and checks/vouchers created, reflects the election workers added temporarily for the local November election.
- Updated the Finance intranet page with schedules for calendar year 2018 for important Payroll and AP processing dates.
- Sent Budget 18/19 Form B documents to Department Heads for review and updating with proposed changes. Also posted all other budget information, schedule and forms to the Finance intranet page.
- Accounting Specialist II attended training provided by CivicPlus for new city website administration. Training focused on how to update departmental information. Began updating Finance department information on the new website.

TREASURY

- Received and processed escrow request lists for winter 2017 tax season, a total of 7,463 parcels.
- Generated 2017 winter tax-billing file on November 14, 2017 and sent to printer. Mailed 17,982 winter tax statements on November 22, 2017.
- Processed and mailed 21 miscellaneous receivable statements.
- Prepared and issued the following utility billing statements:
 - 5,438 regular quarterly bills (cycle 3)
 - Emailed 483 regular quarterly bills (cycle 3) – more than double from last year's number of 204.
 - 116 final bills (all cycles)
 - Emailed 18 final bills (all cycles)
- Prepared and issued the following utility billing reminders:
 - 782 delinquent notices (cycle 1 and 4), representing a decrease of 7% from the prior year
 - 398 disconnect notices (cycle 1), a decrease of 23% from the prior year

- Shut-off water service for 49 customers due to non-payment on November 29, 2017 (cycle 1), an increase of 13% from last year.
- Processed 171 requests to initiate or terminate water/sewer services to residences and businesses. Since July 1, 2016, a total of 1,333 setups have been processed, averaging 11 per business day.
- Staff handled 991 phone calls during November 2017. Since July 1, 2017, a total of 5,564 phone calls have been handled, averaging 54 per business day.
- During November 2017, staff worked with 69 non-cash customers at the Treasury counter. Since July 1, 2017, a total of 521 non-receipt customers have come to the Treasury counter, averaging 5 per business day.
- Treasury Clerk attended meeting at Kalamazoo County Animal Control regarding the 2018 dog license sales.
- Treasury Specialist attended SPARK user meetings.
- Treasury Specialist attended website training.
- Treasury Supervisor worked with Finance Staff on bank reference calls related to request for proposal for banking services.
- Treasury Supervisor attended quarterly Kalamazoo County Treasurer's Association meeting held at Schoolcraft Township.

FINANCE/BUDGET

- Received and evaluated banking services proposals, made reference conference calls, and communicated with banks on questions and setup for onsite presentations.
- Prepared debt service requirements for the 2018-2028 Capital Improvement Program budget.
- Prepared and emailed 2018/2019 budget instructions, calendar, revenue and expenditure reports, and forms to departments. Also updated budget preparation forms on the intranet and on SHARECOP.
- Attended the Parks Open Space Plan meeting.
- Held a department meeting regarding changes to the Accounts Payable process.
- Prepared additional documents and answered various questions received from external auditors, Yeo & Yeo, for audit wrap-up purposes.
- Reviewed the draft of the CAFR and provided necessary changes to Yeo & Yeo.
- Cashed in maturing investments, analyzed cash position and reinvested called bonds.
- Prepared monthly investment scorecard, input investment activity into SymPro software, generated monthly SymPro reports, and performed the JPMorgan Chase monthly risk analysis for the investment committee report.
- Prepared and reviewed monthly bank reconciliations.
- Completed automated clearing house, wire, and transfer banking transactions and related journal entries, as needed and requested.
- Communicated with departments regarding discrepancies between purchase orders that have been received but not paid to discover and clear up any potential unpaid invoices.
- Worked with software provider, BS&A, on various issues.
- Prepared and posted several budget amendments.
- Prepared and approved various journal entries as needed to reconcile and maintain the general ledger.
- Reviewed and approved all invoices prior to payment.

- Responded to questions from various departments regarding purchase orders, invoices, general ledger, or budget status.

BENEFITS/COMPENSATION

- Continued to monitor, research, and implement requirements of the Affordable Care Act (ACA).
- Continued preparations to comply with Employer-Provided Health Insurance Offer and Coverage reporting as required under the ACA.
- Continued to track city share of health insurance premium limits as provided for by PA-152.
- Calculated health insurance taxes and fees required under the ACA.
- Continued compilation of data to submit to BASIC for handling ACA reporting and year-end filing requirements.
- Calculated and approved monthly payments for employee fringe benefit plans (medical, vision, dental, life and long-term disability insurance, flexible spending accounts, pension contributions, etc.).
- Continued to administer Defined Benefit Plan, including locating and coordinating benefit payments for terminated vested participants.
- Continued process for IRS required restatement of Defined Benefit Plan.
- Conducted meeting with United Auto Workers Local 2290, Unit 4 regarding potential new health insurance plan for 2018.
- Continued 2018 health insurance renewal process for Blue Cross Blue Shield of Michigan and Blue Care Network.
- Evaluated new EyeMed contract for Department Head and Non-Union employees.
- Began preparations for 2018 Benefit Open Enrollment Period.
- Prepared and submitted census for upcoming life and long-term disability renewal with The Hartford.
- Administered contractual wage adjustments per applicable labor agreements.
- Administered contractual bonus payments per applicable labor agreements.
- Responded to various employment verifications for employees.

WORKERS' COMPENSATION

- Continued with aggressive case management on a number of work related injury claims. Special attention continues to be directed toward high reserve cases. Focus also directed toward lost-time cases with emphasis placed on returning employees to restricted duty assignments.
- Continued to assist supervisory personnel with employees in restricted duty assignments.
- Provided information to the city third party administrator for the processing of workers' compensation claims.
- Provided direction to third party administrator in regard to workers' compensation claims.
- Began preparation of wage data for workers' compensation excess insurance carrier, Midwest Employers Casualty Company, to fulfill contract obligation.
- Submitted 2016 OSHA 300 summary data in compliance with new OSHA Electronic Recordkeeping Reporting.
- Updated the OSHA 300 Log.

12/6/2017

BUDGET REPORT FOR CITY OF PORTAGE

FUND	DESCRIPTION	2017-18 ORIGINAL BUDGET	2017-18 AMENDED BUDGET	2017-18 ACTIVITY	Percent of Amended Used
	Totals for dept 1001-City Council	122,320	123,520	18,004	15%
	Totals for dept 1085-City Council-Human Services	139,330	139,380	35,563	26%
	Totals for dept 1501-District Court	68,250	68,250	30,486	45%
	Totals for dept 1720-City Manager	600,300	600,300	197,309	33%
	Totals for dept 2001-Finance Accounting	437,716	437,716	139,917	32%
	Totals for dept 2002-Finance & Budget	307,283	303,333	103,764	34%
	Totals for dept 2053-Finance Treasury	154,207	154,207	58,728	38%
	Totals for dept 2110-MIS	847,110	847,110	289,090	34%
	Totals for dept 2133-MIS Public Information	55,142	55,142	20,356	37%
	Totals for dept 2209-Assessor	444,076	444,076	120,617	27%
	Totals for dept 2247-Assessor Board Of Review	35,403	35,403	6,348	18%
	Totals for dept 2310-Attorney	226,728	226,728	94,050	41%
	Totals for dept 2415-City Clerk	140,666	140,666	51,179	36%
	Totals for dept 2416-City Clerk Records Management	75,170	75,170	24,378	32%
	Totals for dept 2491-City Clerk Elections	175,582	175,582	64,166	37%
	Totals for dept 2610-Human Resources	475,442	475,442	155,096	33%
	Totals for dept 2733-Purchasing	83,845	83,845	28,095	34%
	Totals for dept 2734-Purchasing Risk Management	29,302	29,302	7,322	25%
	Totals for dept 2865-Parks Maintenance	1,252,864	1,252,864	514,700	41%
	Totals for dept 2876-Cemeteries	74,326	74,326	22,340	30%
	Totals for dept 2877-Parks & Rec - Parks	617,260	623,750	209,169	34%
	Totals for dept 2878-Parks & Rec - Kalamazoo In Bloom	10,000	10,000	0	0%
	Totals for dept 2879-Parks & Rec - Board Activities	0	0	38	-
	Totals for dept 2880-Parks & Rec Rec - Admin	174,720	173,720	65,985	38%
	Totals for dept 2882-Parks & Rec Rec - Team Sports	64,540	64,540	27,983	43%
	Totals for dept 2885-Parks & Rec - Programs	4,000	5,000	5,045	101%
	Totals for dept 2886-Parks & Rec Rec - Ramona Park	93,891	93,891	42,509	45%
	Totals for dept 2887-Parks & Rec Rec - Special Events	41,000	41,000	25,381	62%
	Totals for dept 2888-Parks & Rec - Ice Rink	106,893	106,893	16,236	15%
	Totals for dept 3005-Police Administration	837,053	874,053	248,536	28%
	Totals for dept 3006-Police Youth Services	502,931	502,931	169,752	34%
	Totals for dept 3007-Police Investigation	785,060	785,060	307,609	39%
	Totals for dept 3010-Police Patrol	5,323,698	5,308,698	1,755,284	33%

FUND	DESCRIPTION	2017-18 ORIGINAL BUDGET	2017-18 AMENDED BUDGET	2017-18 ACTIVITY	Percent of Amended Used
	Totals for dept 3020-Police Training	117,735	117,735	54,028	46%
	Totals for dept 3021-Police Training-Grant Funded	8,000	8,000	0	0%
	Totals for dept 3030-Police Public Safety Dispatch/ts	1,015,221	1,015,221	433,639	43%
	Totals for dept 3031-Police Emergency Sirens	23,676	17,676	6,687	38%
	Totals for dept 3035-Police 911 Cmrs PSAP	204,919	204,919	64,180	31%
	Totals for dept 3040-Police Records & PST	468,370	468,370	158,038	34%
	Totals for dept 3050-Police Drug Law Enforcement	319,101	319,101	126,449	40%
	Totals for dept 3065-Police Facility Management	101,400	101,400	29,875	29%
	Totals for dept 3310-Fire Admin	681,621	681,621	209,311	31%
	Totals for dept 3320-Fire Operations	3,994,823	3,980,691	1,606,007	40%
	Totals for dept 3330-Fire On Call Firefighters	120,037	120,037	28,091	23%
	Totals for dept 3331-Fire Emergency Operations	3,700	3,700	619	17%
	Totals for dept 3340-Fire Prevention	152,488	152,488	56,127	37%
	Totals for dept 3350-Fire Training	192,041	192,041	48,040	25%
	Totals for dept 3365-Fire Facility Management	98,400	98,400	10,390	11%
	Totals for dept 3710-Comm Dev Building Services	483,592	483,592	169,854	35%
	Totals for dept 3720-Comm Dev Planning & Development	311,937	315,887	118,220	37%
	Totals for dept 3730-Comm Dev Neighborhood Services	226,687	226,637	87,174	38%
	Totals for dept 3765-Comm Dev Building Maintenance	243,164	243,164	86,327	36%
	Totals for dept 4210-General Public Services	506,415	506,415	166,130	33%
	Totals for dept 6720-Senior Center	333,045	334,145	122,009	37%
	Totals for dept 6721-Senior Center Trips	284,777	284,777	137,162	48%
	Totals for dept 6725-Aging Mastery Program	0	0	14	0%
	Totals for dept 8050-Contingencies	50,000	50,000	0	0%
	Totals for dept 9610-Transfers Out	1,234,327	1,309,327	75,000	6%
	TOTAL - GENERAL FUND	25,481,584	25,567,242	8,648,406	34%

FUND	DESCRIPTION	2017-18 ORIGINAL BUDGET	2017-18 AMENDED BUDGET	2017-18 ACTIVITY	Percent of Amended Used
202	Major Street Fund	3,914,345	5,834,344	999,819	17%
203	Local Streets Fund	1,356,319	1,506,319	429,458	29%
204	Municipal Streets Fund	1,675,990	1,675,990	0	0%
223	Curbside Recycling Fund	691,859	691,859	208,149	30%
226	Leaf Pickup / Spring Cleanup Fund	781,801	781,801	155,282	20%
230	CDBG Program Income Fund	110,000	110,000	19,475	18%
252	West Lake Weed Mgt	32,120	32,120	3,000	9%
296	Community Development Block Grant	223,000	216,112	109,724	51%
298	Cable Television Fund	911,600	936,350	100,202	11%
400	Capital Improvement General *	11,766,000	17,578,122	2,397,769	14%
490	Capital Improvement Sewer *	710,000	2,829,317	1,034,290	37%
491	Capital Improvement Water *	2,260,000	6,185,869	1,018,899	16%
590	Sewer Fund	8,078,430	8,305,187	2,499,382	30%
591	Water Fund	6,029,920	6,070,941	3,366,544	55%
TOTAL - ALL FUNDS		64,022,968	78,321,573	20,990,399	27%

* The Capital Improvement Program uses project-length budgets, original is current fiscal year, amended includes budgets of prior year projects continued.

TO: Laurence Shaffer, City Manager

DATE: December 11, 2017

FROM: Shannon Hertz, Director Human Resources 

SUBJECT: Human Resources Department Monthly Report – November 2017

RECRUITING

The following positions were filled in November:
Deputy City Clerk

The following positions have candidates identified:
Administrative Assistant for CMO
City Engineer
On- Call Firefighter
Police Officer (PT)
Radio Operators/Dispatch (January)
Seasonal Recreation Attendants (4)
Senior Center Building Coordinator (1)

The following positions are open and/or recruitment efforts are ongoing:
Administrative Assistant for Human Resources
Plumber and/or Mechanical Inspector
Police Officers
Senior Center Building Coordinator (1)

Employment applications, assessments and recruitment activities:

212	Applications received, processed and screened
9	Number of passive candidates (have signed up for Job Alerts)
110	Number of un-submitted applications (partially completed by potential candidates)
51	In-person and phone interviews conducted
26	Individuals tested with lengthy and/or multiple assessments conducted
0	Career fairs attended

SAFETY, TRAINING AND DEVELOPMENT

November activities to promote the education, development, training and safety of employees included the following:

- Randomly tested 3 participants for the drug testing program
- Conducted on-boarding for **0 new**/returning employees
- Attended 1 department-specific Safety meeting
- Fire Stations 1, 2, 3 and the DPS building moved onto the EPS system. Issued key fobs for all Police officers.

HEALTH MANAGEMENT PROGRAM

- Continued to administer Health Management Program (HMP) for Department Head, Non-Union, PPCOA, PPOA and UAW employee groups.
- Second planned activity “Drink More Water” began November 27.

BENEFITS

- Provided benefit consultation to employees terminating, retiring and beginning employment.
- Assisted employees and retirees with various benefit matters, including claim resolution and dependent eligibility.
- Processed benefit changes as necessary, including calculation and submission of payroll deductions.
- Issued retiree health insurance invoices to 6 retirees and 2 unions.
- Monitored Flexible Spending Account (FSA) reimbursements processed by Kushner & Company for 29 participants for the 2017-2018 plan year.
- Performed administrative requirements to meet legal compliance in regard to the Family Medical Leave Act (FMLA). Processed 30 notifications for employees.
- Performed administrative requirements to meet legal compliance in regards to the Consolidated Omnibus Budget Reconciliation Act (COBRA) for 1 COBRA participants.
- Documented and monitored sick leave usage.

ELECTIONS

- Final Status and payroll processed for Election Workers.
- Created survey with Survey Monkey to solicit feedback from workers as well as chairpersons. In process of receiving feedback and compiling it for the Clerk’s Office.

CITY OF PORTAGE**COMMUNICATION****TO:** Laurence Shaffer, City Manager**DATE:** November 3, 2017**FROM:** Kathleen Hoyle, Director of Parks, Recreation and Senior Citizen Services**SUBJECT:** Monthly Operations Report for October 2017**PARKS & RECREATION:****PARK RESERVATIONS**

Amphitheatre	0	\$0
Central Park	0	\$0
Gazebo	0	\$0
Grain Elevator	2	\$505
Hayloft	1	\$890
Lakeview #1	0	\$0
Lakeview #2	0	\$0
Lakeview Softball	0	\$0
Ramona #1	0	\$0
Ramona #2	0	\$0
Ramona Softball #1	0	\$0
Ramona Softball #2	0	\$0
Ramona Soccer North	0	\$0
Ramona Soccer #5	0	\$0
Ramona Soccer #6	0	\$0
Ramona Football #1	0	\$0
Ramona Football #2	0	\$0
Ramona Football #3	0	\$0
Ramona Football #4	0	\$0
Schrier Park	1	\$500
Schrier Park Pavilion	0	\$0
Schoolhouse	0	\$0
Stuart Manor	1	\$140
South Westnedge #1	0	\$0
South Westnedge #2	0	\$0
South Westnedge #3	0	\$0
South Westnedge #4	0	\$0
South Westnedge #5	0	\$0
South Westnedge #6	0	\$0
Westfield	0	\$0
Westfield Softball	0	\$0
TOTAL	5	\$2,035

EVENTS

Family Camp	40 Participants
Magic Show	69 Participants
Reading Rangers	4 Participants
Animal Adaptations	45 Participants
Painting in the Parks	5 Participants
MPIR Opening Day	Due to weather didn't open

Active Net Software

Online Activity Registration	79
Walk In Activity Registration	6

SENIOR CITIZEN SERVICES:

ATTENDANCE AND ACTIVITIES

Activity Type	Duplicated	Unduplicated
Events	2,244	629
Rides	72	13
Volunteers	397	161
Trips	204	169
Total Seniors Served	2,917	752
Average served per day	107	

MEMBERSHIP STATISTICS

Total Active Memberships	Membership Renewals	New Memberships
1,432	42	20

Age Range	Count	Percent
Ages 55-59	19	2.5
Ages 60-64	36	4.8
Ages 65-69	106	14.1
Ages 70-74	147	19.5
Ages 75-79	146	19.4
Ages 80-84	124	16.5
Ages Below 55	11	1.5
Age Unknown	163	21.7
Totals	752	100

City/Town	Count	Percent
In Town	469	62.4
Out of Town	283	37.6
Totals	752	100

Ethnicity	Count	Percent
African American	9	1.2

Asian American	4	.5
Caucasian	596	79.3
Hispanic	2	.3
Native American	6	.8
Unknown	135	18.0
Totals	752	100

Gender	Count	Percent
Female	553	73.5
Male	199	26.5
Totals	752	100

VOLUNTEERISM

Volunteer Service Type	Hours	Pay Equivalent	Duplicated	Unduplicated
Admin. Support	5	108.95	2	2
Board Member	3	65.37	3	3
Club/Group Support	1983.42	43,218.61	275	119
Events/Programs	139.50	3,039.69	54	34
Health Services	2	43.58	2	2
Instructor	4	487.16	1	1
Kitchen	40.95	872.65	15	5
Training	6	130.74	2	1
Transportation	76.08	1,657	17	5
Travel	143.50	3,126.87	25	11
Totals	2,402.55	\$52,351.48	396	183

TRAVEL PROGRAM

Category	Duplicated	Unduplicated
Day Trips	180	151
Extended Trips	24	24
Totals	204	169

FUNDRAISING

Income for the month of November was \$8,279 and includes transportation donations, newsletter advertisements, fund raising and memberships.

OTHER SENIOR CENTER HIGHLIGHTS

- The PSC “Speed Dating” program was featuring on the Today Show’s website, as well as their Facebook page. <https://www.today.com/health/senior-citizens-turn-speed-dating-find-love-t118342>.
- The Holiday Bazaar was held on Saturday, November 4. Over 600 people attended, and the Bake Sale generated over \$1,600 in sales, while the entire day (vendor fees, food, etc.) generated over \$3,000 in revenue.
- The special Thanksgiving Lunch, held in partnership with Medilodge of Portage, was held on Thursday, November 16 with 95 in attendance.
- The second WMU Prof Talks was held on November 20 featuring the topic “Buddhist Roots of the American Mindfulness Movement.” Over 40 attended.
- “Coffee with a Cop” was held on November 30 with 20 attending.

- Another Speed Dating event was held on Tuesday, November 19 with 30 individuals participating.
- Two Aging Mastery Program series concluded – one taking place at the Portage Senior Center and another taking place in Vicksburg in partnership with South County Community Services. A total of 23 individuals graduated between the two classes.
- A “murder mystery” dinner was held at the Center, with over 40 individuals participating.
- Four day trips were held, with a total of 145 participants. One extended trip to Branson was held with 24 participants.

CITY OF PORTAGE

COMMUNICATION

TO: Laurence Shaffer, City Manager

DATE: December 19, 2017

FROM: Nicholas J. Arnold, Public Safety Director – Police/Fire Chief 

SUBJECT: Monthly Report for November 2017

NOVEMBER STATISTICS

Police Incidents Dispatched	2,713
Fire Incidents Dispatched	444

SIGNIFICANT EVENTS

Police and fire units responded to the area of Oakland Drive and Rosewood regarding a single-vehicle, personal-injury accident. A 29-year-old female was driving her vehicle when she lost control and struck a tree, resulting in severe damage to the front driver's door. The driver sustained moderate injuries and was transported to the hospital. A one-year-old child, seated in the rear of the vehicle, had to be extricated by fire/rescue personnel. The child, who was secured in a car seat, was unharmed.

Fire units responded to 432 Tudor Circle on a reported structure fire and, upon arrival, encountered light smoke conditions at the entrance to the building. Upon entering the building, a fire was discovered in the bathroom and closet area of the apartment. The fire extended to the apartment above and adjacent to the fire unit. Firefighters contained the fire within 15 minutes of arrival, however, were on scene for approximately three hours ventilating the residence, ensuring the fire would not reignite, and investigating its cause. The estimated loss was \$50,000 to the contents and \$40,000 to the structure. No one was injured in the incident.

A detective investigated nine incidents, all involving the same suspect. The suspect had been stalking two females in the community, broke into their homes, stole their property and damaged their vehicles. One of the females obtained a personal protection order (PPO) to try to protect herself from the suspect. Soon after the suspect was served the PPO, he went to the victim's apartment complex and drove through the parking lot. The suspect was then arrested by Portage officers and detectives for violating the PPO. When the suspect was arrested, he was in possession of a BB gun, designed to look like a real handgun, black gloves and illegal drugs.

Police and fire units were dispatched to the 1500 block of West Centre on a two-car injury accident. Once on scene, fire personnel extricated a male patient from a vehicle, who was subsequently transported to the hospital with serious injuries. Evidence at the scene indicates that the male driver was turning left into a local business when he was struck broadside by an

eastbound SUV. Traffic was reduced to one lane in each direction near the crash, which remains under investigation.

On November 30, at 1:15 a.m., officers and fire rescue units responded to a shooting at 2627 Woodbine. Two unknown male subjects walked up to the front bedroom window of the duplex and fired several rounds into the window. According to a neighbor/witness, the two suspects then ran east and fled in a vehicle that was parked nearby. The victim, a 69-year-old female, was hit by three rounds and transported to the hospital with non-life-threatening injuries. The investigation has been turned over to the detective bureau.

NJA:JMH;jh

TO: Laurence Shaffer, City Manager**DATE:** December 8, 2017**FROM:** Rod Russell, Director of Public Services**SUBJECT:** Monthly Operations Report for November 2017**STREET MAINTENANCE ACTIVITIES**

- Removed 11,162.5 cubic yards of leaves during the Fall Leaf Pickup Program
- Removed leaves from the parks system and other city properties
- Installed storm drainage system at Eliason Trail Head Park
- Conducted site prep at Eliason Trail Head Park in preparation for construction of pavilion foundation
- Removed limbs from major and local streets that could damage snow removal equipment
- Prepared snow plowing fleet for snow removal operations
- Conducted training on new sidewalk snow removal machine
- Conducted snow plan training with all snow removal operators on 11/3
- Conducted sweeper training for new operators
- Installed boulevard delineators on all major streets
- Removed tree limbs from city owned sidewalks that could impede safe operation of snow removal equipment
- Installed and removed American flags from South Westnedge Avenue for Veteran's Day on 11/11
- Prepared a new construction trailer that will be used to house tools and equipment
- Added millings to low spots on major streets
- Recycled metal from the DPS yard
- Replaced or repaired damaged and faded traffic control signs
- Removed chunk of concrete debris from East Shore Drive
- Supported City Clerk by installing and removing "Vote Here" signs and flags on 11/7
- Supported Fleet & Facilities Division by installing electrical wiring for DPS security gate
- Supported Department of Public Safety by moving office furniture
- Supported Department of Transportation & Utilities by moving office furniture

Weekly Curbside Recycling Program - The following summarizes total weights of recyclable materials collected during the month of November 2017 as well as Fiscal Year-to-Date totals:

**WEEKLY CURBSIDE RECYCLING PROGRAM COLLECTION SUMMARY
 TOTAL WEIGHT OF RECYCLABLE MATERIALS COLLECTED**

		Tier I	Total	Tier II	Dumpster	Dumpster	Dumpster
Date	Total (tons)	Carts	Carts	Carts	2 Cyd	4 Cyd	6 Cyd
Nov-17	229.86	40	13,497	5	5	6	23
YTD Total	1,099.85	277	13,542	1,800	5	6	23

PARKS MAINTENANCE ACTIVITIES

- Removed trash from parks and city owned properties
- Prepared facilities for upcoming rentals
- Removed debris from trail system
- Repaired lighting issues in park facilities
- Removed leaves from parks and city owned properties
- Winterized irrigation systems and restrooms
- Prepared Millennium Park Ice Rink for winter operations
- Conducted training on new sidewalk snow removal machine
- Conducted snow plan training with all snow removal operators on 11/3
- Removed all pond fountains from parks
- Removed windscreens from Ramona Park pickleball court
- Hired contractor to remove a damaged light pole at intersection of West Centre Avenue and Algonquin Street
- Hired contractor to prepare Millennium Park Ice Rink chiller for winter operations
- Supported six burials in city cemeteries
- Supported Parks & Recreation Department with modifications to the ice rink's warming building
- Supported Rotary Club with removal of American flags from city cemeteries
- Supported Parks & Recreation Department with Traditional Holiday event set up

FLEET & FACILITIES DIVISION

The Fleet & Facilities Division generated 63 work orders for the month of November 2017. A total of \$12,089.79 was spent on billable labor hours while the parts costs were \$10,170.63. Outside contracted work was \$804.54.

November 2017	November 2016	
93	130	Work Orders
\$10,170.63	\$10,327.28	Parts Cost
\$12,089.79	\$12,566.27	Labor Cost
40	30	Preventative Maintenance (P.M.) Work Orders Completed
\$99.05	\$65.35	Average Cost per P.M
\$3,961.86	\$1,960.37	Total P.M. Cost
\$804.54	\$485.80	Contracted Repairs-Body & Painting
0	\$711.04	Contracted Repairs (Not Including Body & Paint)
\$16,800	\$4,735.87	Building Renovations

- Received and put into service three new Ford Escape vehicles
- Received four new Ford F-250 pickups, currently being prepped to be put in service
- Prepared the snow fleet for winter operations

BUILDING MAINTENANCE

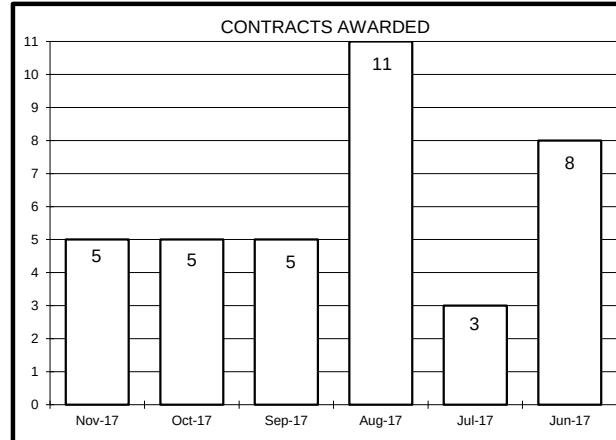
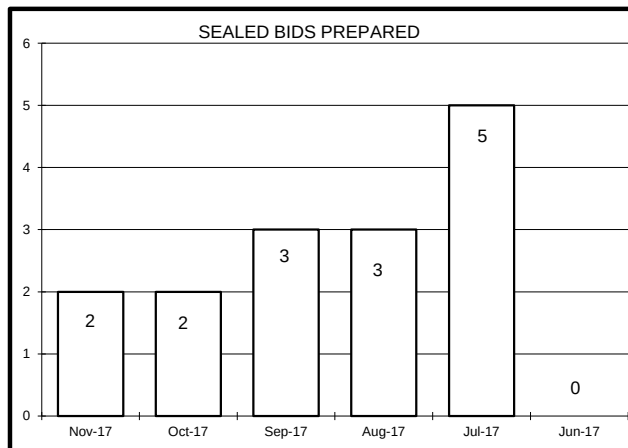
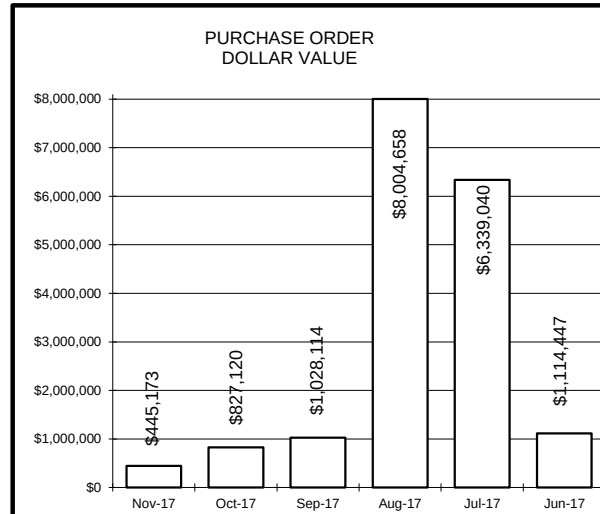
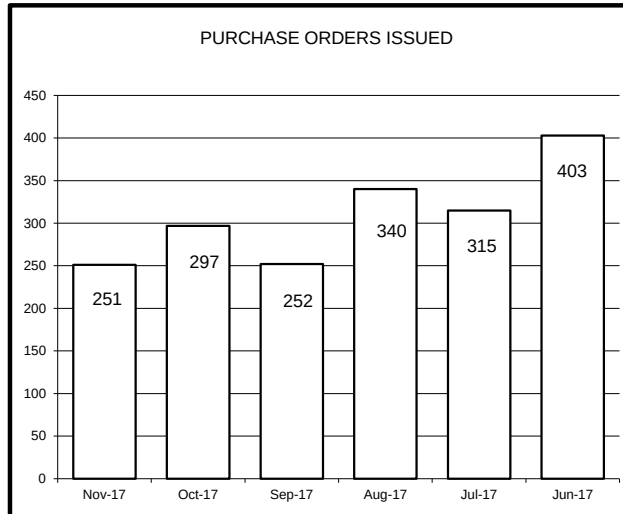
- Custodial Operations
- City Hall, Police and Senior Center facility support services
- Energy efficiency upgrades to the DPS facility continued. During the month of November, two new 96% efficient furnaces were installed for the front office area, equipped with wifi to better regulate temperatures. Efforts also continued to update all 32 watt, 4-foot fluorescent bulbs with 15 watt LED replacements.
- Received quotes and made recommendation for replacement of DPS facility overhead doors.

TO: Laurence Shaffer, City Manager

DATE: December 4, 2017

FROM: Rob Boulis, Deputy City Manager

SUBJECT: Purchasing Monthly Report - November 2017

SEALED BIDS OPENED / CONTRACTS AWARDED

Panasonic Toughbook Lease
Banking Services
SCADA Upgrade
Loader Rental

SEALED BIDS PREPARED

Stryker Way @ Portage Road Intersection
Improvements
Fire Station No. 2 Construction Management

- Three new claims were filed with MMRMA, two claims were settled.
- Purchasing staff added 6 new vendors to the purchasing software vendor file.

CITY OF PORTAGE

COMMUNICATION

TO: Laurence Shaffer, City Manager

DATE: December 14, 2017

FROM: Devin Mackinder, Director of Technology Services & Community Marketing



SUBJECT: Department Monthly Report – November, 2017

The following summarizes some of the public information and technology activities for the month of November.

Cable Access

Continued administration of the Cable Communications Franchise Agreement with Charter Communications, AT&T, Comcast and the Cable Television Access Agreement with Public Media Network:

Significant Activities:

- Continued taping various special programs (HMP, PSI, Lunch & Learn, etc.)
- Emergency broadcast protocols – on hold until new PMN director is in place
- Continued working on new city marketing video materials

Internet/Intranet Web Site

Continued with daily updates to city Internet and Intranet web sites as well as preparing for future updates and upgrades and compiling monthly statistics.

Significant Activities:

- Continued working on the city website rebuild.

Telecommunications

- Continued working on the Mobilitie DAS permit process.
- Continued working on the AT&T DAS permit process.
- Continued utilizing services of special council, Mike Watza to assist with developing a modified METRO Act and new Franchise Permit to address the DAS permit requests.
- Continued working on the AT&T Video Franchise Agreement renewal

Contract Administration

- In Process: AT&T phone services contract renewal
- In Process: Nomad Multi-media podium for Council Chambers
- Completed: VEEM software renewal
- Completed: BS&A software renewal
- In Process: ADP software renewal

Information Technology

Continued with several technology projects, supervising Technology Services Department staff and researching new technology opportunities that work toward city goals of providing efficient and cost-effective services.

Significant Activities:

- On Hold: working with the City of Kalamazoo IT director on connecting fiber
- Continued PortageAlert mass notification system for emergency initiatives
- Continued development of new city website
- Continued investigating options for upgrading the decades-old multi-mode fiber ring
- Continued working on a Soofa Sign pilot program application
- Continued researching various new technologies
- Continued implementation of the citywide keyless entry and camera system project
- Completed working on process and certifications for operating a city drone
- Continued working on consolidated dispatch
- Continued working on migrating old AS400 data to new platforms and consolidating data
- Continued migrating paper forms to the new electronic Seamlessgov system
- Continued working with departments on electronic document management
- Continued working with departments on energy conservation options
- Continued new computer replacements
- Continued demo of Spark instant messaging system
- Continued review of department procedures
- Continued working on GPS snow plow tracking mobile application
- Completed the annual tech plan, online initiatives plan
- Continued working with Assessor on new AssessApp for more efficient and complete data capture

Marketing Activities

- Continued oversight and management of all city marketing activities
- Continued Branding support initiatives
- Continued working on Soofa Sign branding
- Continued working on new city signage

TO: Laurence Shaffer, City Manager

DATE: December 10, 2017

FROM: Kendra Gwin, Interim Director of Transportation & Utilities

SUBJECT: Transportation & Utilities Department Monthly Report for November 2017

The month of November 2017 was busy for both Transportation & Utilities staff and the Suez Environmental staff. In regards to the Suez Environmental operations, emphasis during the month continued to be directed at ensuring the various activities related to the utility operation were being completed professionally and in a manner to ensure that service levels committed under the Suez Environmental contract with the city are completed in a timely manner.

Major accomplishments involving the Suez operations during the month include:

1. Inspections continued on sewer lift stations and water wells. During the month of November 532 inspections were made by Suez personnel.
2. Suez personnel received 42 customer service calls throughout November.
3. Suez personnel responded to 40 after-hour panel alarms as indicated on the SCADA control panel monitoring the city's water and sanitary sewer facilities.
4. Approximately 93 million gallons of water were produced/pumped during the month of November. Production averaged around 3.1 million gallons of water per day during the month. Four hundred ninety-six water quality analyses were completed during the month.
5. Six new meters were installed and fourteen water taps were required during the month of November.
6. Miss Dig stakings were completed at 378 locations.
7. There was one main break during the month at 5915 Meredith Street.
8. Suez personnel cleaned a total of 54,748 feet of sanitary sewer and inspected and cleaned 203 manholes.
9. Suez swept 554 miles of streets in conjunction with the annual Leaf Pickup Program.

In the transportation and utility areas, the following activities in November were either completed or ongoing at month's end.

1. Review of new development plans from a transportation and utility standpoint continued during the month. Five development and building plans were reviewed.
2. The Utility Contract Administrator was very busy overseeing the Suez Environmental operations, addressing customer concerns, inspecting public and private utility construction and inspecting city-owned stormwater and utility facilities.
3. The Traffic Engineering section was active during the month of November investigating complaints/concerns regarding operation of traffic signals, performing traffic volume/accident analyses and reviewing new streetlight installations.
4. Nova Consultants was awarded a four-year contract by City Council on April 29, 2014 for a four year program to monitor groundwater levels in the city. Monthly sampling at two retention basins continues. Groundwater levels continue to decrease from spring's high levels.
5. City traffic signal maintenance is performed under contract to a specialized electrical traffic signal contractor. City staff initiated a bid package for traffic maintenance with bids received July 23, 2015 with the sole bid in the amount of \$176,300 submitted by Severance Electric. City Council approved on August 11, 2015 and renewed on September 1, 2016. Recent work continues to focus on LED sign upgrades, illuminated sign replacements, and controller cleaning.

Implementation of the Capital Improvement Construction Program was also an ongoing activity as the construction season was completed. Accomplishments during the month of November included the following:

1. Local Street Calming Program

The 2015-16 Capital Improvement Program includes a project for a Local Street Neighborhood Calming Program. A budget of \$10,000 was established for professional services and the remaining \$15,000 to be used for implementation of the program. OHM was selected based on experience and their proposed approach to developing a project plan that will best meet the City's needs. Draft Program complete with final program documents forthcoming. The first program to follow the program is Meredith Street, which is currently underway. A request was also received for Lakeview Drive and is being reviewed.

2. West Centre Avenue Intersections Improvements

The 2015-16 Capital Improvement Program includes the design and construction of new traffic signals and associated street improvements on West Centre Avenue at the intersections of Old Centre Road and Cooley Drive. Included in the project are modifications to the existing driveways on West Centre Avenue within the influence of the Greenspire Retail Drive/Cooley Drive intersection to promote use of the new protected left-turn phase at the traffic signal and limit left turns out of driveways close to the intersection. City Council awarded contracts to Severance Electric Company on

August 23, 2016 for \$446,967.80 (Cooley Drive) and \$294,965.33 (Old Centre). Old Centre was activated on June 23, 2017 and Cooley Drive was activated August 28th, 2017. Construction is 100% complete.

3. South Westnedge Avenue and Kilgore Road Intersection

The 2015-16 Capital Improvement Program includes the design and construction of new traffic signal equipment at South Westnedge Avenue and Kilgore Road and preliminary design work for the intersection of Portage Road and Lakeview Road. City Council awarded a contract to Severance Electric Company on August 23, 2016 in the amount of \$316,307.20 for the intersection improvements at South Westnedge Avenue and Kilgore Road. Construction is approximately 100% complete.

4. South Westnedge Avenue and Romence Road Intersection Improvements MDOT CMAQ Funding

The 2015 - 2016 Capital Improvement Program includes the traffic signal replacement at South Westnedge Avenue and Romence Road. As part of a federal safety program, \$261,000 of federal grant monies was secured for the project. On September 22, 2015, City Council awarded a contract to Abonmarche consultants in the amount of \$47,840 for engineering design and construction administration. Low bid of \$356,695.06 was submitted by Severance Electric Company. Construction is 100% complete.

5. US-131 Crossing Forcemain Replacement

The 2014 – 2015 Capital Improvement Program includes a project to replace the 20” force main under US-131 from 12th Street to east of Angling Road. The force main has suffered several breakages and is nearing the end of its effective life. On March 30, 2016, an engineering contract was awarded to Prein & Newhof for design of the force main project. Under agreement with Texas Township, the township is responsible for approximately 94% of the project cost. On March 28, 2017, City Council awarded a contract to Kamminga & Roodvoets, Incorporated in the amount of \$567,323. Construction is 100% complete. Plans are still pending for installation of the meter at the lift station.

6. Shaver Road Reconstruction and Watermain Improvements

The 2016-2017 Capital Improvement Program includes a project for reconstruction of Shaver Road from Vanderbilt Avenue to West Centre Avenue. The project also includes the replacement of existing cast iron water main. Low bid was submitted by Millbocker Construction in the amount of \$2,460,199.82 through a March 2017 bid letting by MDOT. Paving is complete on both the northbound and southbound lanes and the road is open to traffic. Project is 100% complete. Currently awaiting file review with MDOT.

7. The 2016-2017 Capital Improvement Program includes projects in the Major Street Reconstruction Programs. These streets include:

Rockford Street, Schuring Road to Romence Road

A preliminary design has been completed for Rockford Street, but due to limited funds needed for Portage Road, will be delayed until the 2017-2018 Capital Improvement Program. Evaluation underway for compliance with Complete Streets Policy and Traffic Calming. On September 26, 2017, City Council approved a budget transfer from the Major Street fund to the Capital Improvement fund.

Angling Road, Squire Heath Lane to Romence Road

On September 20, 2016 City Council awarded an engineering contract to Abonmarche Consultants in the amount of \$260,600. Design engineering is complete. Angling Road includes the construction of sanitary sewer and reconstruction of the roadway. Bidding on Angling Road by MDOT was held April 7, 2017 with Hoffman Brothers submitting the low bid in the amount of \$1,301,757.95. Project is complete. Currently awaiting file review with MDOT.

Portage Road, Mandigo Avenue to Osterhout Avenue

Final design has been completed with bids opened May 11, 2017. Construction scheduled for summer of 2017 with complete road closure of Portage Road to facilitate construction. City Council awarded a contract to Lakeland Asphalt in the amount of \$759,181.86 on May 23, 2017. Project is 100% complete, with the exception of one driveway that will be completed in spring 2018.

Portage Road – Osterhout to Wetherbee Road Diet

On August 8, 2017, a contract was awarded to Michigan Paving & Materials to perform milling/resurfacing services and lane reconfiguration on Portage Road from Osterhout to Wetherbee in the amount of \$59,000. Project is 100% complete.

Portage Road/Lakeview Drive Intersection Realignment

Preliminary design services for the intersection improvements at Portage Road and Lakeview Drive have been completed by Abonmarche Consultants. On May 23, 2017 City Council awarded an engineering contract to Abonmarche Consultants in the amount of \$48,450. Design engineering is underway and will be submitted to MDOT in December 2017 for a May 2018 bid letting.

8. The 2016-2017 Capital Improvement Program includes a project for construction of utilities at the following locations:

Chopin Avenue and Mozart Street Watermain

On September 20, 2016 City Council awarded an engineering contract to Midwest Civil Engineers in the amount of \$63,800. On January 10, 2017 City Council approved Resolution No. 5 (Final) for the Chopin Avenue and Mozart Avenue Water Main Special

Assessment District. City Council awarded a contract to Balkema Excavating in the amount of \$220,644 on May 23, 2017. Project is 100% complete.

Archwood/Cliffwood (water and sewer)

On December 13, 2016 City Council elected to cancel the Cliffwood/Archwood Special Assessment process and the project was terminated.

East Milham Water Services

On September 12, 2017 City Council awarded a change order to Balkema Excavating in the amount of \$84,390 for improvements to water service connections on East Milham Avenue. All services have been tied over to the newer water main and construction is 100% complete.

9. The 2017-2018 Capital Improvement Program includes Major Street Reconstruction Programs. These streets include:

South Westnedge Avenue Reconstruction – Romence Road to Mall Drive

On August 8, 2017 City Council awarded an engineering contract to Abonmarche Consultants in the amount of \$182,000. Design engineering underway. Construction is scheduled for summer 2018. Project includes \$700,000 in federal funding.

West Centre Avenue Reconstruction – 12th Street to Oakland Drive

On August 22, 2017 City Council awarded an engineering contract to Wightman & Associates, Incorporated in the amount of \$246,400. Design engineering underway. Construction is scheduled for summer 2018. Project includes \$1,300,000 in federal funding.

Oakland Drive Reconstruction – Milham to I-94

On August 22, 2017 City Council awarded an engineering contract to Wightman & Associates, Incorporated in the amount of \$246,400. Design engineering underway. Construction is scheduled for spring/summer of 2018.

Oakland Drive/Vanderbilt Flashing Beacon

On May 23, 2017 City Council awarded an engineering contract to Abonmarche Consultants in the amount of \$13,350. Design engineering underway. Project has been awarded federal safety funding.

2017 Local Streets

The 2017-2018 Capital Improvement Project includes the reconstruction of local streets to include the milling and resurfacing of these streets, as well as implementing complete streets enhancements. On January 24, 2017 City Council awarded an engineering contract to Abonmarche Consultants in the amount of \$131,118. Design is complete. On August 8, 2017 City Council awarded construction to Michigan Paving and Materials in the amount of \$1,038,360.35. Construction for 2017 is wrapping up with construction on 4 neighborhoods remaining for spring of 2018.