

7:00 p.m. Call to Order.

Invocation: Pratima Kotekal with children from the Indo American Cultural Center & Temple - Balvikas Program.

Pledge of Allegiance.

Roll Call.

Proclamations:

A. Consent Agenda:

1. Approval of City Council Meeting Minutes:
 - a. Committee of the Whole of February 27, 2018.
 - b. Regular Meeting of February 27, 2018.
 - c. Pre-Council of March 12, 2018.
2. Approval of the Accounts Payable Register of March 13, 2018 as presented.
3. Award a contract in the amount of \$696,628.32 to Rieth-Riley Construction Company, Inc., for spring mill and fill asphalt repairs to major and local street sections and authorize the City Manager to execute all documents related to this action on behalf of the city.
4. Award a contract in the amount of \$248,533.60 to Michigan Paving & Materials Company for parking lot asphalt overlays and authorize the City Manager to execute all documents related to this action on behalf of the city.
5. Accept the generous donation of 0.50 acres of real property at 9300 Portage Road and authorize the City Manager to execute all documents associated with the transaction.
6. Approve the Final Preliminary Plat (engineering plans) for Oakland Farms No. 2, 9810 Oakland Drive.
7. Virtual Attendance Policy - Information Only.
8. Minutes of Boards & Commissions:
 - a. Portage Public Schools Board of Education of January 22, 2018 and Committee of the Whole of February 12, 2018.
 - b. Human Services Board of February 1, 2018.
 - c. Historic District Commission of February 7, 2018.
 - d. Historic District Study Committee of February 7, 2018.
 - e. Youth Advisory Committee of February 12, 2018.
 - f. Planning Commission of February 15, 2018.
9. Materials Transmitted.
 - a. February 13, 2018.
 - b. February 27, 2018.

B. Petitions and Statements of Citizens:

C. Communications:

1. Calendar of Meetings:

- Wednesday, March 14, 12:00–5:00 p.m. & 6:00–7:30 p.m.; Thursday, March 15, 9:00 a.m.–12:00 p.m. & 1:00–4:00 p.m.; Board of Review, City Hall Rooms #1 & #2.
- Wednesday, March 14, 7:00 p.m., Environmental Board, Department of Public Services Building.
- Thursday, March 15, 7:00 p.m., Planning Commission, Council Chambers.
- Monday, March 19, 8:00 a.m., Local Development Finance Authority, City Hall Room #1.
- Wednesday, March 21, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
- Thursday, March 22, 4:30 p.m., Public Media Network Board of Directors, 359 S. Kalamazoo Mall (3rd floor).

D. Public Hearings:

1. Adopt amendments to Chapter 14, Article 12, Businesses and Chapter 42, Article 4, Zoning, for Medical Marihuana Facilities.

E. Regular Business Agenda:

F. Unfinished Business:

G. Council Committee Reports:

H. New Business:

I. Statements of Citizens:

J. Statements of City Council and City Manager.

Adjournment.

**MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF THE
PORTAGE CITY COUNCIL
OF FEBRUARY 27, 2018**

Mayor Patricia Randall called the meeting to order at 5:30 p.m. The following Councilmembers were present: Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid and Terry Urban and Mayor Patricia Randall. Mayor Pro Tem Jim Pearson was absent with excuse. Also present were City Manager Laurence Shaffer, Deputy City Manager Rob Boulis, Assistant City Attorney Charlie Bear and City Clerk Adam Herringa.

Mayor Randall shared that this Committee of the Whole Meeting was to review plans and share thoughts and ideas regarding a potential new or renovated Senior Center. Mayor Randall then invited the City Manager to begin the discussion. City Manager Shaffer reviewed the current condition and concerns of the existing Senior Center and highlighted recent efforts to design and fund a potential new or renovated Senior Center. Mr. Shaffer then invited the Director of the Portage Senior Center Kim Phillips and Director of Parks, Recreation and Senior Citizen Services Kathleen Hoyle to the podium. Ms. Phillips and Ms. Hoyle provided a detailed presentation regarding the limitations of the current Senior Center, history surrounding the current Senior Center and advantages of a new or renovated facility. In the presentation, Ms. Phillips emphasized that the Senior Center would be focused on senior citizens but not exclusively for the use of senior citizens.

Following the presentation, Councilmember Ford inquired what would happen to the current Senior Center if a new facility is built and Mr. Shaffer and Ms. Phillips provided a series of possibilities and indicated that a final determination has not been made. Councilmember Reid inquired as to where a new Senior Center would be located indicating that city property along Brown Street was originally purchased with an eye toward commercial development and not the Senior Center. Mr. Shaffer reviewed the "Center City" concept and indicated that the City has received little interest by developers for the land, but also indicated that the City has not heavily marketed the property for commercial development. Mr. Shaffer also made the point that even though development is currently rampant in Portage, the City has not been approached regarding the property along Brown Street.

Councilmember Knapp inquired if the proposed design contained space flexible enough to meet demands twenty or thirty years in the future. Ms. Phillips explained the flexible nature of the design and Mr. Shaffer explained how the design concept promotes social interaction and open spaces. Councilmember Knapp inquired if the proposed design includes the provision of dedicated community space in lieu of spaces primarily dedicated to the Senior Center that may hold programming anyone can go to. Mr. Shaffer stated that City Administration is currently looking at this project as a new Senior Center that has broader community attributes and can meet broader community needs.

Councilmember Burns inquired as to the age of the existing Senior Center and the membership trend. He continued by inquiring if the proposed design will be able to meet community needs in 40 years. Ms. Phillips stated that the current building is 40 years old, membership continues to increase and the design should be able to meet needs far into the future.

Councilmember Knapp inquired as to the current hours of operation of the Senior Center and how often the space is used for special events. Ms. Phillips responded and indicated that building use outside of normal business hours is common but varies based on the season of the year. Ms. Hoyle expressed the desire to expand programming for the Parks and Recreation

Department but lamented the limitations of existing facilities and susceptibility of events to inclement weather.

Mayor Randall shared her personal connection with the Senior Center and the importance for seniors to have a place to go and feel a part of the community. She continued by stating that there has been tremendous focus in the community on the schools and she believes, given the aging population, an equal effort should be directed to senior citizens. She continued by stating that she is looking forward to seeing the results of a feasibility study that is planned to gauge philanthropic interest and financial feasibility of building a new facility. She stated that City Council is in support of doing something to address the limitations of the current Senior Center but the debate is on how to get there.

Councilmember Reid stated that there is debate between having a Senior Center versus having a Community Center. She stated her understanding that there are many groups interested in a community center and suggested that, since a new building is constructed only once every 40 years, the City must involve all populations that could benefit from the new structure. Ms. Reid inquired if senior citizens would be opposed to having a facility that also served broader community needs and stated her support for a larger facility if it meant greater opportunities for more residents. Ms. Phillips said that the issue of a community center versus a dedicated Senior Center had been discussed and that she does not believe there is strong opposition to a facility that can accommodate broader community needs. She cited how often younger people are embraced and welcomed at the Senior Center as support for her statement. Mr. Phillips pointed out the value of connecting people of differing generations.

Councilmember Knapp stated that, like Ms. Reid, she is struggling with the community center v. Senior Center issue and supports the idea of a new facility provided it is opened up to the entire community. Ms. Knapp inquired if staff had visited other facilities and conducted best practice research. Ms. Knapp also pointed out the importance of having a clearly defined project when it comes to fundraising. Director Phillips shared that she and others had visited other facilities and conducted research. Ms. Hoyle commented that staff will be working to explore the needs and interests of potential donors.

Mayor Randall emphasized the importance of having a clear vision for the project and that it needs to be goal-specific. She continued by stating that having a dedicated focus, such as a Senior Center, will result in greater fundraising success. Councilmember Knapp commented that a multi-purpose facility would allow a community activity to be occurring in one part of the building while a senior-focused activity could be held in another.

Councilmember Reid stated her support for creating a facility that is reflective of the needs of the broader community and discussed the failure of three separate millage requests related to a new Senior Center. Mayor Randall pointed out that two of the millages also involved a community center. Councilmember Urban shared that he was familiar with the previous millage requests that occurred in 1994, 1995 and 2002. He shared his recollection as to what was being requested and the shortcomings of each effort. Mr. Urban stated that his one disappointment during his tenure on City Council is that the City does not yet have a community center. Councilmember Urban inquired as to the on-going operations of a new facility and how the facility might be funded and cited naming rights, commercial space and public/private partnership as possibilities. City Manager Shaffer stated that, of the items listed by Councilmember Urban, only naming rights has been discussed. Mr. Shaffer stated that there are benefactors in the community that could help fund the facility and the City would be

looking to approach them for support. Mr. Shaffer also reviewed the financial health of the City and indicated that the City is in excellent position to take on a new facility without increasing millage rates or putting the City in a position of excessive debt. Mr. Shaffer questioned if some donors would be willing to offer an endowment to assist with on-going costs. Mr. Shaffer then thanked Ms. Phillips and Ms. Hoyle for their efforts and reviewed the next steps in the process. Councilmember Knapp stated that while she supports a new Senior Center she challenges everyone to think bigger. Mayor Randall opened the floor to public comment.

Andrea Stork, 1515 Dogwood, complimented Ms. Phillips on the presentation and complimented the design of the facility. She shared her opinion that the current Senior Center is in need of improvements and spoke in favor of a facility that supports intergenerational interaction.

Mr. Bill Wieringa, 7735 Angling Road, shared that he works with seniors on a daily basis as part of his profession and that he believes seniors would be happy to share a facility with younger generations. He stated that seniors are most upset when they feel marginalized and would love additional opportunities for intergenerational interaction. He encourage the City to get as great a facility as financially possible.

Mr. Lawrence Smith, 2211 Gray Oak Cove, shared that he has been a resident of Portage and member of the Senior Center for many years. He stated his belief that Kim Phillips is the best Senior Center Director in the State of Michigan and that he strongly supports a new Senior Center that will meet the needs of the growing senior population.

Mr. Art Roberts, 9614 Woodlawn Drive, shared that he was a longtime member of the Portage community and been civically active for many years. He stated that he was honored to be able to give input into the proposed design of the new Senior Center and emphasized that additional space is essential. He concluded by expressing support of a new building instead of renovating the existing one.

Mayor Randall thanked City staff for their efforts and energy and stated that additional discussion and debate on a dedicated Senior Center versus a facility that is more open to the broader community will continue.

ADJOURNMENT: Mayor Randall adjourned the meeting at 6:49 p.m.

Adam Herringa, City Clerk

CITY COUNCIL MEETING MINUTES FROM FEBRUARY 27, 2018

The Regular Meeting was called to order by Mayor Randall at 7:00 p.m. At the request of Mayor Randall, the City Clerk called the roll with the following members present: Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid and Terry Urban and Mayor Patricia Randall. Mayor Pro Tem Jim Pearson was absent with notice and excuse. Also in attendance were City Manager Larry Shaffer, Assistant City Attorney Charlie Bear and City Clerk Adam Herringa.

Mayor Randall provided a synopsis of the Mayor and City Council for the Day Program and asked City Clerk Herringa to swear in the students who were voted Student Councilmember for the Day and Student Mayor for the Day. City Clerk Herringa administered the Oath of Office to Student Councilmembers Riley Burns, Hannah Geerlings, Mikayla Graham, Abby Lawler, Nicholas Johnson and Ashriya Patel. He then administered the Oath of Office to Jaime Sackett as Student Mayor for the Day. The Student Mayor and Student Councilmembers took their seats at the dais.

At the request of Student Mayor Sackett, Pastor Ron Hansen of Pathfinder Church provided the invocation. Afterwards, City Council, the Student Councilmembers and the audience recited the Pledge of Allegiance.

At the request of Mayor Randall, the City Clerk called the roll for the Student Councilmembers with the following members present: Riley Burns, Hannah Geerlings, Mikayla Graham, Abby Lawler, Nicholas Johnson, Ashriya Patel and Student Mayor Jaime Sackett.

CONSENT AGENDA: Mayor Randall shared where the public can access the meeting agenda and asked if any Councilmember or anyone in the audience would like an item removed from the Consent Agenda. Councilmember Reid asked that Item A.4 (Sole Source Purchase of Crack Sealing Material) and Item A.8 (Preliminary Plat of West Lake Estates) be removed from the Consent Agenda.

Motion by Reid, seconded by Ford, to approve the Consent Agenda items as presented. Upon a roll call vote, motion carried 6 to 0.

APPROVAL OF MINUTES: Motion by Reid, seconded by Ford, to approve the Committee of the Whole and Regular Meeting Minutes of February 13 and Pre-Council Meeting Minutes of February 26, 2018. Upon a roll call vote, motion carried 6 to 0.

APPROVAL OF ACCOUNTS PAYABLE REGISTER OF FEBRUARY 27, 2018: Motion by Reid, seconded by Ford, to approve the Accounts Payable Register of February 27, 2018. Upon a roll call vote, motion carried 6 to 0.

ADOPTION OF REFUNDING BOND RESOLUTION: Motion by Reid, seconded by Ford, to adopt a refunding bond resolution authorizing limited tax pledge to payment of the Downtown Development Limited Tax Refunding Bonds, Series 2018. Upon a roll call vote, motion carried 6 to 0. (Resolution recorded on page 439 of Resolution Book #46.)

MICROSOFT OPEN VALUE SUBSCRIPTION AGREEMENT WITH CDW-G: Motion by Reid, seconded by Ford, to approve a three-year extension renewal of the Microsoft Open Value Subscription Agreement with CDW-G in the annual amount of \$63,824.28 and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

PALO ALTO FIREWALLS: Motion by Reid, seconded by Ford, to approve the purchase of two Palo Alto firewalls and associated three-year maintenance and support with Data Strategy at a total cost of \$66,368 and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

FINAL APPROVAL OF WHISPERING MEADOWS 4: Motion by Reid, seconded by Ford, to grant final approval of the Whispering Meadows No. 4 single-family residential subdivision at 6525 Angling Road, subject to finalization of the storm water agreement, finalization of sidewalk easements and installation of sidewalks and street trees by November 2020. Upon a roll call vote, motion carried 6 to 0.

2018 RECREATION AND OPEN SPACE PLAN UPDATE: Motion by Reid, seconded by Ford, to adopt the 2018 Recreation and Open Space Plan Update and authorize the City Manager to submit the approved plan to the Michigan Department of Natural Resources to comply with applicable grant requirement guidelines. Upon a roll call vote, motion carried 6 to 0. (Resolution recorded on page 449 in Resolution Book #46.)

CONTRACT FOR STORM SEWER CLOSED CIRCUIT TELEVISION INSPECTION: Motion by Reid, seconded by Ford, to award a construction contract for Storm Sewer Closed Circuit Television Inspection to Pipetek Infrastructure Services of Plymouth, Michigan, in an amount not to exceed \$63,718 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.

PURCHASE OF TRAFFIC SIGNAL POLES, MAST ARMS AND ASSEMBLIES: Motion by Reid, seconded by Ford, to award a contract for the purchase of traffic signal poles, mast arms and assemblies for the projects on South Westnedge Avenue at J. L. Hudson Drive, Portage Road and Romence Parkway, West Centre Avenue and Oakland Drive to Maico Industries, Inc., in the amount not to exceed \$155,421 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.

JANUARY 2018 ENVIRONMENTAL REPORT: Motion by Reid, seconded by Ford, to receive the January 2018 Environmental Report as information only. Upon a roll call vote, motion carried 6 to 0.

MINUTES OF BOARDS AND COMMISSIONS: Motion by Reid, seconded by Ford, to receive minutes of the Zoning Board of Appeals of January 8, Environmental Board of January 10, Youth Advisory Committee of January 15 and Planning Commission of February 1, 2018. Upon a roll call vote, motion carried 6 to 0.

MATERIALS TRANSMITTED AND MONTHLY REPORTS: Motion by Reid, seconded by Ford, to receive the Materials Transmitted of February 13, 2018 and the Departmental Monthly Reports. Upon a roll call vote, motion carried 6 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: At the request of Mayor Randall, the Student Councilmembers shared their thoughts and experiences related to the Mayor and City Council for the Day Program. Student Councilmember Ms. Ashriya Patel, a Portage Central High School Senior, shared her thoughts on the recent school shooting in Florida and shared that local high school students would be "Walking Toward Change" during an upcoming school day so that students can express and demonstrate support for educating their peers and the community about gun violence in our schools.

Mr. Alan Loveridge, 23965 88th Avenue, Marcellus, MI, shared his thoughts on the need and benefits of more stringent gun control.

Mr. Craig Davis, 8165 Black Forest Drive, shared his concern and frustration with flooding in homes along Black Forest Drive. He shared his belief that a nearby retention pond is part of the problem and asked that the City be more proactive when heavy rains fall in order to help prevent flooding before it happens. City Manager Shaffer stated that he would arrange a time to meet with Mr. Davis to review his concerns and shared what steps the City has taken to mitigate flooding in this area of the City and reviewed the distinction between groundwater and surface water.

COMMUNICATIONS:

ANNUAL UPDATE OF THE SENIOR CITIZEN ADVISORY BOARD: At the invitation of Mayor Randall, Senior Citizen Advisory Board Chairperson Bill Wieringa provided City Council with a detailed update on the goals and objectives of the Senior Citizen Advisory Board and steps they have been taking to meet these goals. Councilmember Reid inquired if the upcoming Kalamazoo County question regarding a dedicated Senior Citizen millage has been discussed and if funding would be available to seniors in Portage if the measure is approved. Mr. Arthur Roberts, member of the Senior Citizen Advisory Board, shared that he recently attended a meeting on the millage in question and shared that the Senior Center in Portage would receive some funding. Student Mayor Sackett asked for a motion to receive the report. Motion by Reid, seconded by Knapp, to receive the Annual Goals and Objectives Update of the Senior Citizen Advisory Board. Upon a roll call vote, motion carried 6 to 0.

CALENDAR OF MEETINGS: Mayor Randall asked the students to read the meeting schedule for the record. Following the reading, Student Mayor Sackett asked for a motion to receive the Calendar of Meetings. Motion by Reid, seconded by Ford, to receive the Calendar of Meetings. Upon a roll call vote, motion carried 6 to 0.

Mayor Randall thanked the students for their participation and expressed optimism for the future leadership of the City of Portage. Mayor Randall encouraged students to register to vote and to utilize that right. The students were excused from the remainder of the meeting.

PUBLIC HEARINGS:

MEDICAL MARIHUANA FACILITIES ORDINANCES: At the invitation of Mayor Randall, City Manager Shaffer reviewed the history of the work of the City on crafting the proposed medical marihuana ordinances and highlighted recent proposed changes. In particular, Mr. Shaffer highlighted the elimination of a proposed 250 foot buffer along the boundary of the City and reviewed concerns that were raised regarding the proximity and setback of medical marihuana facilities from religious institutions. Councilmember Reid asked for clarification of the distance between religious institutions and medical marihuana facilities. Mr. Shaffer stated that under the ordinance presented at the January 23, 2018 City Council Meeting the ordinance requires a 1,000 foot distance requirement between a medical marihuana facility and a church. Given that the medical marihuana license is only good for one year at a time it would prove problematic if a church opened nearby as the medical marihuana facility would no longer be in compliance with the Code of Ordinances. Deputy Director of Planning, Development and Neighborhood Services, Chris Forth, reviewed churches that are currently in I-1, I-2 and B-3 Zoning districts and the ease with which religious institutions can be located in non-residential areas.

Councilmember Reid inquired if new day care facilities could pose the same problem for medical marihuana facilities as churches. Assistant City Attorney Charles Bear replied in the affirmative

but clarified that the setback requirement only applies to state-licensed daycare facilities. Mayor Randall stated that, based on the information being discussed, a medical marijuana facility could go through the steps and expense to create a facility and get licensed only to lose the license a year later if a day care or church opens up nearby. Councilmember Burns stated his support for an exception to prevent this from happening and asked why only churches and no other institutions were included. Mr. Shaffer stated that churches were specified due to their ability to locate in a multitude of zoning districts. Mr. Shaffer continued by suggesting that the ordinance be amended such that the setback requirement between churches, day care facilities and the like only apply during the initial licensing and not during renewal. Councilmember Knapp suggested that City Council formally amend the ordinance and City Manager Shaffer reviewed several ways that this potential problem could be addressed.

Councilmember Urban expressed frustration with the process utilized by City Administration to revise and share modifications to the proposed ordinances with City Council. Mr. Urban singled out as an example the provision of a modified ordinance immediately before the Regular Meeting which was different than had been previously communicated both the day before the Regular Meeting and the Friday before the Regular Meeting. Mr. Urban shared that he was confused by the various versions of the ordinances provided over recent days and that he found the whole process to be unprecedented. Mr. Urban then inquired what was changed between yesterday and today and why. City Manager Shaffer apologized for any confusion and stated that changes were made out of good intentions to address flaws that were noted by City Administration. He continued by stating that City Council can decide how it wishes to proceed. Mr. Shaffer stated that this has been a long process and the City is working hard to create a framework to regulate an industry that has long been considered illegal. Mr. Urban asked for clarification as to what changed between yesterday and today and stated that what was presented to City Council on January 23rd should have been what was on the agenda this evening. Mr. Shaffer reviewed the changes and highlighted changes made to the 125 foot setback requirement from residential areas. Mr. Urban stated that he had serious concerns with the final draft being presented the night of the meeting and asked for a redline/strikeout copy to show what changed between yesterday and today. He concluded by stating that what is being proposed is not what he came prepared to consider and expressed a desire to cancel the public hearing and hold it again at the next City Council Meeting.

Councilmember Reid commented that discussion tonight has revealed there are still some holes with the proposed ordinance and that it can be improved. Ms. Reid also shared her confusion and questioned voting on an ordinance that is different from January 23rd as the public has not had an opportunity for review.

Motion by Urban, seconded by Reid, to postpone the public hearing until the next regularly scheduled meeting and refer this matter back to City Administration to clarify the changes that have been proposed and presented late today and provide us with the appropriate copies so we can understand the changes.

Councilmember Urban questioned whether the information on the proposed ordinance had been adequately shared with the public. Councilmember Burns expressed support for taking additional time to review the most recent proposed ordinance and Mayor Randall expressed support for continuing with the public hearing due to the number of people that are in the audience waiting to be heard. Councilmember Reid inquired if it was appropriate to open and hold a public hearing and Assistant City Attorney Bear stated that City Council could open the public hearing, hear comments and then adjourn the public hearing until the next City Council Meeting.

Councilmember Ford inquired if the ordinance presented this evening included changes other than the 125 foot buffer and proximity to religious institutions. Mr. Shaffer responded in the affirmative and reviewed the changes that were made to the proposed ordinances including the

removal of the 250 foot buffer along the municipal boundary. Councilmember Urban disagreed and stated that multiple changes have been made.

Motion by Knapp, seconded by Ford, to amend the motion to allow for a public hearing this evening to be adjourned to the next scheduled City Council Meeting. Mayor Randall expressed concern that this matter has been under discussion for months, many meetings have been held and that she does not believe that, no matter how much effort is made, City Council will ever achieve a unanimous verdict. Mayor Randall stated that the City was a leader in this effort and that City Administration had been given clear direction. She expressed frustration that despite the number of meetings, documents and time spent the City is still unable to move ahead on this issue. Councilmember Reid spoke in favor of the amendment to the motion and for the public to be heard. She continued by expressing support for Administration presenting City Council with clear documents and that the finished ordinances will be stronger for taking this time. Councilmember Knapp and Councilmember Burns spoke in favor of the amended motion in order to ease any confusion of Councilmembers, have clarity on the proposed ordinance and still hear from the public in the audience. Upon a roll call vote on the amended motion, motion carried 5 to 1 with Mayor Randall voting no.

Following clarification, the now amended motion was “to allow for a public hearing this evening to be adjourned to our next scheduled City Council Meeting and refer this matter back to City Administration to clarify the changes that have been proposed and presented late today and provide us with the appropriate copies so we can understand the changes.” Upon a roll call vote, motion carried 4 to 2 with Mayor Randall and Councilmember Ford voting no. Mayor Randall opened the public hearing on the Medical Marihuana Facilities Ordinances.

Mr. Richard Santek, 7537 Autumn Street, questioned what the setback requirements are based on. Mr. Shaffer reviewed the setback requirements and Mr. Santek expressed concern that marihuana facilities could be located so close to residential areas. He also expressed concern with potential negative impacts on the community and asked that City Council take another look at the distance requirements. Mr. Santek shared his opinion that the use of the term “medical” is the only reason the issue is being discussed and the real reason behind the push for these facilities is financial.

Mr. Tim Earl, 6862 Shallowford Way, complimented City Council on postponing a decision until the next meeting in order to review the final proposed ordinance. Mr. Earl asked City Council to reconsider not capping the number of licenses as, he stated, not doing so could place the desires of a few business owners ahead of residents. Mr. Earl cited the 2017 Community Survey and mentioned that approximately 80% of residents preferred either no facilities or only enough to serve the residents of Portage. As currently proposed, Mr. Earl continued, the ordinances would be in opposition to the results of the Community Survey. Mr. Earl stated that Portage has more to lose than to gain by openly welcoming medical marihuana into the City and referenced the stability and strength of the City. He expressed concern that families moving to the area may be more likely to move to surrounding townships that have lower taxes and do not permit medical marihuana. He expressed concern with the cash-based nature of the business and potential for crime. Mr. Earl concluded by asking City Council to start small and develop the program rather than starting large and trying to scale back.

Ms. Debra Linenger, 3089 Muirfield, shared that she voted in support of medical marihuana in Michigan. She shared that her father experienced severe pain and many hospitalizations and thus empathizes with people seeking medical marihuana for pain relief. She continued by stating that she assumed that medical marihuana would be administered by doctors and existing pharmacies – not special dispensaries. She expressed opposition to multiple dispensaries in the community and cited the City of Denver as a negative example of what can happen to a community if there are too many dispensaries. She expressed support for the existing pharmacy system as being the optimal venue by which medical marihuana should be provided. She referenced that federal, local and banking laws do not agree on how to handle the distribution of money associated with the enterprise and how it presents a likely target for criminal activity. She questioned why people are truly seeking medical

marihuana and how many people are being turned down for medical marihuana prescriptions by the medical marihuana community. She stated that a vote in support of the ordinance is to bring marihuana into the community for personal pleasure, not medicinal.

Jevin Weyenberg, 5817 Cheshire, shared his belief that the provision of medical marihuana in the community is important to the future of Portage as it is a chance for better health for those in need. Mr. Weyenberg reviewed the importance of education on the benefits of medical marihuana and the obstacles that have been faced. He stated his appreciation for City Council reviewing the issue and stated that the proposed ordinances are restrictive and will not result in a multitude of dispensaries opening in the community. Mr. Weyenberg then reviewed the intensive and thorough nature of the application process.

Denise Pollicella of the law firm Pollicella & Associates, PLLC, shared that she was an individual who helped write the Medical Marihuana Facilities Licensing Act (MMFLA). She expressed gratitude that the City of Portage is taking the medical marihuana issue seriously and noted that she heard a lot of concerns expressed from members of the audience. Ms. Pollicella noted that the MMFLA did not impair the existing ability of residents to grow, process and use medical marihuana in their homes but rather provides a method for individuals who don't want to grow their own to obtain a safe product. Ms. Pollicella expressed optimism that fear and concern will dissipate over time as people find that their fears have not come to pass. She offered to host educational events for the public to help alleviate concerns in the community. She pointed out that the 1,000 foot buffer that has been discussed is mandated by State and Federal law.

Kim Willmont, 10028 Harris Drive, thanked City Council for their efforts and shared her belief that medical marihuana facilities will not be a blight in the community because of the limited number of available properties and restrictions in the proposed ordinances. Ms. Willmont encouraged City Council to allow facilities that receive their original license not to be punished if a church or day care locate nearby. With regard to grow facilities, she asked that the 1,000 foot buffer between such facilities be reconsidered.

Motion by Reid, seconded by Ford, to adjourn the public hearing to the March 13th Regular City Council Meeting. Upon a roll call vote, motion carried 6 to 0.

City Manager Shaffer reviewed changes that would be made based on the hearing this evening and said he would get City Council final proposed ordinances in advance of the next City Council Meeting. Councilmember Urban reviewed locations where religious institutions are principle permitted uses and encouraged City Administration to review related exemptions included in the proposed ordinance.

REGULAR BUSINESS AGENDA:

PURCHASE OF CRACK SEALING MATERIAL: Mayor Randall invited Councilmember Reid to speak on this item and Councilmember Reid questioned the "sole source" nature of this purchase. City Manager Shaffer referenced how this particular material is packaged, shipped and utilized by the work crews. He noted that this material is shipped in a much more environmentally friendly manner. Councilmember Reid questioned, despite the comments made by the City Manager, why the contract could not have been put out for bid as it is possible there are other environmentally conscious sources for the product. Councilmember Reid inquired as to the timeline should the contract be put out for bid. Director of Public Services Rod Russell reviewed the timeline and the delay it would cause in getting started on road repairs. Mr. Russell informed City Council that the City did obtain pricing from a variety of vendors and that the proposed company was the lowest and suited the needs of his department the best. Councilmember Reid asked that, in the future, such information be included in the information provided to City Council and that contracts such as this be brought forward earlier.

Motion by Reid, seconded by Burns, to approve the purchase from Maxwell Products, Incorporated, of Salt Lake City, Utah, not to exceed \$69,438.20 for 157,100 pounds of crack sealing material at \$0.442 per pound to be used during the upcoming construction season and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

PRELIMINARY PLAT OF WEST LAKE ESTATES: Mayor Randall invited Councilmember Reid to speak on this item and Councilmember Reid stated that she removed this item to get a better understanding of the proposed development as it relates to the wetland nature of the site. Mr. Forth of the Department of Community Development reviewed a drawing of the proposed development as it relates to the wetland area. Mr. Forth explained the contour of the property and where the houses will be located. Mr. Forth also identified a wetland area 1/6 of an acre in size that is proposed to be filled in and that a permit from the Department of Environmental Quality (MDEQ) is required to do so. Mr. Forth then highlighted efforts such as storm water basins in order to help address water issues on the property and Lakeview Drive in general. He then pointed out that some homes may not have basements or crawl spaces due to water concerns. Councilmember Reid inquired if the City can mandate certain construction techniques to help avoid future water issues that have occurred in areas such as Black Forest Drive. Mr. Forth stated that the design engineer for the proposed development is familiar with the circumstances on Black Forest and that steps will be taken by the developer and the City to help mitigate a similar occurrence for the proposed development. Councilmember Urban and Mr. Forth then reviewed the Black Forest development, questions that arose and that lessons have been learned.

Councilmember Knapp inquired what steps will be taken to preserve the wetlands. Mr. Forth stated that the existing wetlands, with the one noted exception, will be preserved as they can only be touched with permission from the MDEQ. With regard to preservation after the development is complete Mr. Forth noted that residents are prohibited from utilizing the property without permission from the MDEQ. Councilmember Knapp inquired how future homeowners will be notified that they must refrain from entering the wetland area.

Councilmember Knapp next inquired about the proposed intersection with Lakeview Drive and Portage Road. City Manager Shaffer reviewed the recent history of the intersection and proposed enhancements to improve safety at this location. Director of Transportation and Utilities Kendra Gwin reviewed safety enhancements, the inclusion of a pedestrian crossing to improve access to Lakeview Park and the \$400,000 grant by the federal government in support of this project. Ms. Gwin noted that the land needed for the new intersection and design has been donated by the developer. Ms. Knapp expressed concern about the "road diet" and increased traffic and Director Gwin noted the size of the plat would result in minimal traffic impact and City Manager Shaffer noted that the proposed road diet and plan will be brought back to City Council for their review. Mayor Randall questioned the speed limit in this area and City Manager Shaffer noted the volume of traffic and acknowledged that traffic does move fast on this roadway and this matter would be reviewed as part of a traffic management plan and related road diet. In response to a question of Mayor Randall, Ms. Gwin and Mr. Shaffer noted that the design for this intersection had been in planning stages in advance of the developer offering to donate the needed land. Ms. Gwin continued by affirming that approval of the development is not contingent on donating the land nor vice versa.

Mayor Randall noted that some proposed homes are only feet from the wetlands. Ms. Gwin assured City Council that City Administration is more in tune with the need to review and monitor water levels when reviewing proposed developments. Bryan Wood, Allen Edwin Homes, 2186 E. Center Street, stated that wetlands are under the jurisdiction of the MDEQ and his company has been in extensive discussions with the MDEQ on the proposed development. Mr. Wood noted the contour of the property and other plans to address potential water issues on the property such as the

management of storm water and not allowing basements on all of the homes. He concluded by stating that, to inform future homeowners, deed restrictions can be utilized and/or signs installed.

Motion by Reid, seconded by Burns, to approve the Preliminary Plat of West Lake Estates (9300 Portage Road) subject to the conditions outlined in the February 9, 2018 Department of Community Development staff report. Upon a roll call vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

PURCHASE OF PROPERTY AT 9125 PORTAGE ROAD: Mayor Randall invited City Manager Shaffer to inform City Council that City Administration learned that Emily Drive was laid out as part of a plat and, as such, if the road is closed the underlying property is divided and reverts to the adjoining property owners. If the City of Portage is the owner of 9125 Portage Road, the City would receive 50% of Emily Drive. Mr. Shaffer continued by assuring City Council that the proposed Lift Station would be located such that the redevelopment potential of the property will be maximized. In response to a question from Councilmember Reid, Director of Transportation and Utilities Kendra Gwin noted that the exact location has not yet been determined as it is contingent upon items such as actually closing Emily Drive (which would require a resolution by City Council), the location of existing utilities, etc. Mr. Shaffer stated that, should the City acquire the property, the City would work with nearby property owners and involve them in the process of locating the lift station. In response to Ms. Reid, Mr. Shaffer stated that the results of the public information session would be brought back to City Council.

Motion by Ford, seconded by Urban, to approve the purchase of property addressed as 9125 Portage Road in the amount not to exceed \$220,000 and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

COUNCIL COMMITTEE REPORTS: Councilmember Reid shared that she recently attended a meeting of the Environmental Health Advisory Council and that they discussed annual goals, efforts related to combating and studying the Zika virus, special collections by the Household Hazardous Waste Center and the need to be thinking about potential environmental issues that may arise from the medical marijuana industry.

Councilmember Knapp reported that she attended a meeting of the Kalamazoo Public Arts Commission and that they spent time discussing organization by-laws and the possibility of renaming the Commission the Kalamazoo County Public Arts Commission. She also stated that the Commission is looking for additional at-large members.

Councilmember Ford reported that he attended a meeting of Discover Kalamazoo and that the Gilmore Keyboard Fest presented upcoming artists. Mr. Ford stated that attendance at events from patrons residing outside of Southwest Michigan was discussed along with outreach efforts by Discover Kalamazoo.

Mayor Randall shared that she attended a meeting of the Public Media Network Board of Directors and that the Board is working on their by-laws. Legal counsel has been hired to help review procedures and address on-going concerns at Public Media Network and they are working on an Agreement to contract services with Kalamazoo County.

STATEMENTS OF CITIZENS: Andrea Stork, 1515 Dogwood, complimented City Council for having different opinions, raising issues, and discussing matters in public so the public can witness. Ms. Stork was especially pleased with the student participation in the meeting and that students were witness to discussion and debate at the local level. Ms. Stork closed by asking that City Council reconsider not reading the Consent Agenda into the record at the start of City Council Meetings.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Urban expressed discomfort at the temperature of Council Chambers and asked that efforts be made in the future to better control the climate in the room.

Councilmember Reid referenced the recent school shootings in Florida and efforts being undertaken to address mass violence. Ms. Reid was complimentary of the students who participated in the meeting and that they are getting involved in the gun violence discussion.

Councilmember Knapp shared that she participated in Mayor and City Council for the Day and expressed appreciation for the program and learning opportunity it presented.

Councilmember Burns thanked Mr. Tim Earl and City Staff for their contributions to the 2018 Open Space and Recreation Plan. He expressed his support for the Plan and encourage residents to review the document. Mr. Burns then challenged fellow Councilmembers to participate in an upcoming event designed to help fight homelessness in the community. Mr. Burns recognized the partnership between the Department of Public Safety and the Kalamazoo Community Mental Health Department.

Councilmember Ford stated that he enjoyed participating in the Mayor and City Council for the Day Program and that it was an excellent opportunity for students to learn more about local government and how to get involved.

Mayor Randall complimented the recent City event in honor of Black History Month, "The Witness." She expressed a goal that next year's event have twice the attendance. She continued by stating that the Air Zoo has been chosen by the Smithsonian Institution to be the permanent home of a display dedicated to the Tuskegee Airman. Mayor Randall shared that she had the honor of starting the recent "Portage Winter Blast" race and that the Department of Public Safety did an excellent job helping with the event. She concluded by discussing the Mayor and City Council for the Day event and by thanking Councilmembers who attended, sharing that the event resonated for her that change is happening at the local level and complimented City Manager Shaffer and staff for their work in making the experience rewarding and memorable for the students.

ADJOURNMENT: Mayor Randall adjourned the meeting at 10:14 p.m.

Adam Herringa, City Clerk

**MINUTES FROM THE SPECIAL PRE-MEETING
OF THE PORTAGE CITY COUNCIL
OF MARCH 12, 2018**

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

Mayor Pro Tem Pearson opened the meeting and inquired if there were any questions or concerns regarding items on the proposed agenda. With regard to Item D.1., Medical Marihuana Facilities, City Manager Shaffer reviewed his Communication to City Council. Following the review, Mayor Pro Tem Pearson inquired if there were any questions. There being no questions from City Council, Mr. Jay Eichstaedt, 523 Circlewood Drive North, who was present in the audience, stated that he is a realtor by profession and also on the Zoning Board of Appeals. Mr. Eichstaedt shared that he was working with a client on a parcel that may be impacted by the 1,000 foot setback requirements related to religious institutions in the proposed ordinance.

Mr. Eichstaedt asked how a religious institution is defined since it is his understanding that one of the locations identified as a religious institution by the City is actually a thrift store focused on the distribution of religious materials and not a place of worship. Mayor Pro Tem Pearson echoed the question of how church/religious institutions are defined in the ordinance and stated that through the development and revision of the medical marihuana ordinances the City discovered additional religious institutions that do not meet the overall image of a "church." Mayor Pro Tem Pearson referenced three recently noticed religious institutions and inquired if City staff had been inside any of the locations. Mr. Shaffer stated that, to his understanding, staff had not been inside the facilities but his understanding was that at least two of them have a religious alter or setup conducive to a church setting. Mayor Pro Tem Pearson asked that City staff further investigate the facilities in particular the one identified by Mr. Eichstaedt and report the findings back to City Council later in the day.

Councilmember Ford asked that, with regard to any suggested changes, the City Council be provided with recommended language rather than trying to "wordsmith" proposed changes on the dais.

Mayor Pro Tem Pearson referenced a map indicating potential locations for a provisioning center and highlighted Portage Road near the intersection with Zylman Avenue. Mr. Pearson inquired, should a provisioning center locate near that intersection, if the other nearby properties would then be unable to house a provisioning center. Mr. Shaffer responded in the affirmative. Mr. Pearson then inquired, again referencing a map, when an area identified as a restricted space for a medical marihuana facility intersects a property whether the entire property is therefore restricted. Mr. Shaffer stated that the maps provide a general idea of where facilities might locate but actual measurement is difficult until a specific location is identified. Mayor Pro Tem Pearson inquired if there is going to be a final map that identifies potential locations for medical marihuana facilities. City Manager Shaffer responded in the affirmative but stated that the map will not be included as part of the ordinances and would

instead be kept separate and maintained by the Department of Community Development.

PETITIONS AND STATEMENTS OF CITIZENS

Mr. Eichstaedt inquired if the proposed ordinance included a 1,000 foot or 500 foot buffer between medical marihuana facilities. Mr. Shaffer replied that it was 1,000 feet. Mr. Eichstaedt inquired how the existing medical marihuana facility on Portage Road would be treated with regard to the 1,000 foot separation. Mr. Eichstaedt continued by stating that if the 1,000 foot buffer is applied to the existing facility it eliminates numerous potential locations and eliminates potential competition. Mr. Shaffer shared that the ordinance states that any entity currently operating with a temporary permit is able to apply in the first round of applications. If the application is successful, Mr. Shaffer continued, the applicant will be awarded a permit and the buffer applied.

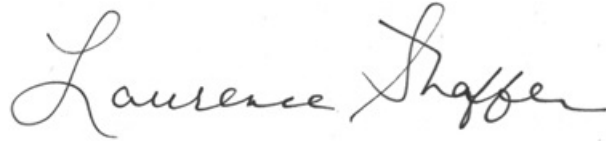
There being no other questions Mayor Pro Tem Pearson summarized the questions raised at the meeting requiring follow-up from City Administration.

ADJOURNMENT: Mayor Pro Team Pearson adjourned the meeting at 8:17 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: Approval of the Accounts Payable Register of March 13, 2018 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 February 18, 2018 through March 4, 2018 and notes \$407,267.11 in automated clearing house payments, \$116,695.87 in paper checks and \$13,217.25 in auto-pay payments for a grand total of \$537,180.23.

FUNDING: N/A

Attachments: 1. Accounts Payable Register of 3-13-18

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/18/2018 To: 3/4/2018

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Check Type: ACH Transaction

Check Date	Check	Vendor Name	Description	Amount
02/23/2018	8314(A)	A NEW LEAF	PLANT CARE	85.00
02/23/2018	8315(A)	ACCESS EMPLOYER STAFFING SERVICES	TEMPORARY EMPLOYEES	13,821.47
02/23/2018	8316(A)	ALL CITY MANAGEMENT SERVICES, INC.	SCHOOL CROSSING GUARDS	2,600.64
02/23/2018	8317(A)	ALRO STEEL CORPORATION	SHOP MAINTENANCE	115.60
02/23/2018	8318(A)	AMERICAN SAFETY & FIRST AID	FIRST AID SERVICES	386.20
02/23/2018	8319(A)	ANIMAL REMOVAL SERVICE, LLC	ANIMAL REMOVAL	2,070.00
02/23/2018	8320(A)	APPROVED PROTECTION SYSTEMS	FIRE EXTINGUISHERS	1,466.00
02/23/2018	8321(A)	B L HARROUN & SON INC.	SPRINKLER REPAIR	880.00
02/23/2018	8322(A)	BLUESTONE PSYCH	EVALUATION	465.00
02/23/2018	8323(A)	BRENNER OIL CO.	FUEL SUPPLIES	22,953.86
02/23/2018	8324(A)	BYHOLT INC.	2 TONS SAND	3,000.86
02/23/2018	8325(A)	CENTRAL INTERCONNECT, INC.	NETWORK SKATE ROOM	413.00
02/23/2018	8326(A)	CHARTER COMMUNICATIONS	CABLE TV	103.01
02/23/2018	8327(A)	CONTINENTAL LINEN SERVICES	MAT SERVICE	92.08
02/23/2018	8328(A)	CROWN TROPHY	RETIREMENT PLAQUE	70.00
02/23/2018	8329(A)	DELTA DENTAL PLAN OF MICHIGAN	DENTAL INSURANCE	17,460.81
02/23/2018	8330(A)	EKLOV, ERICA	MEMBERSHIP	600.00
02/23/2018	8331(A)	ENGINEERED PROTECTION SYSTEMS, INC.	VIDEO SERV AGREEMENT	60.00
02/23/2018	8332(A)	EXTREME POWER EQUIPMENT, INC.	MAINTENANCE SUPPLIES	2,867.46
02/23/2018	8333(A)	GLOBAL TELEMATIC SOLUTIONS LLC	GTS MONTHLY SUBSCRIP	625.00
02/23/2018	8334(A)	GORDON WATER SYSTEMS	WATER COOLER RENTAL	218.75
02/23/2018	8335(A)	GRIFFIN PEST SOLUTIONS, INC.	YEARLY SERVICE	190.00
02/23/2018	8336(A)	INDUSCO SUPPLY CO., INC.	PAPER SUPPLIES	1,102.75
02/23/2018	8337(A)	JAROTH, INC	PAY PHONES	228.00
02/23/2018	8338(A)	KENDALL ELECTRIC, INC.	LIGHT BULBS FOR CITY	39.27
02/23/2018	8339(A)	LAWSON PRODUCTS, INC	MAINTENANCE SUPPLIES	1,898.06
02/23/2018	8340(A)	MEJEUR ELECTRIC LLC	EMERGENCY LIGHTS	1,193.00
02/23/2018	8341(A)	MICHIGAN OFFICE ENVIRONMENTS	DESK INSTALLATION	680.00
02/23/2018	8342(A)	NEW FRESH CLEANING SERVICE	JANITORIAL SERVICES	1,515.00
02/23/2018	8343(A)	ONE WAY PRODUCTS	BULK FLUIDS	425.00
02/23/2018	8344(A)	PCM SALES, INC.	MONTHLY OPERATION	41,207.00

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/18/2018 To: 3/4/2018

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Check Date	Check	Vendor Name	Description	Amount
02/23/2018	8345(A)	PROFESSIONAL BUILDING SERVICES LLC	JANITORIAL SERVICES	3,197.54
02/23/2018	8346(A)	RIDGE AUTO NAPA	MAINTENANCE SUPPLIES	274.76
02/23/2018	8347(A)	ROAD EQUIPMENT PARTS CENTER	MAINTENANCE SUPPLIES	712.19
02/23/2018	8348(A)	SEVERANCE ELECTRIC COMPANY, INC	TRAFFIC SIGNAL REPAIRS	347.25
02/23/2018	8349(A)	SUEZ WATER ENVIRONMENTAL SERVICES	UTILITY SYSTEM OPERATION	167,775.40
02/23/2018	8350(A)	SYNERGISTIC ONLINE SOLUTIONS	HARDWARE MAINTENANCE	1,840.00
02/23/2018	8351(A)	TERMINAL SUPPLY CO.	BEACONS & SAFETY LIGHTS	681.68
02/23/2018	8352(A)	TRI-COUNTY INTERNATIONAL TRUCKS INC	TRUCK CHASSIS	105,485.00
02/23/2018	8353(A)	VANDERVEEN, LAUREN	EMPLOYEE REIMBURSEMENT	171.11
02/23/2018	8354(A)	VIRIDIS DESIGN GROUP	OPEN SPACE PLAN	1,080.00
02/23/2018	8355(A)	WARNER NORCROSS & JUDD LLP	LEGAL FEES & RETAINER	4,221.10
02/23/2018	8356(A)	WEST MICHIGAN INT'L LLC	REPAIR/MAINTENANCE	1,095.33
02/23/2018	8357(A)	WIGHTMAN & ASSOCIATES, INC.	2017 BI-ANNUAL INSPECT	700.00
02/23/2018	8358(A)	XEROX CORPORATION	PHOTOCOPY LEASE	852.93
Total ACH Transactions:				407,267.11

Check Type: Paper Check

02/26/2018	10159	PETTY CASH-ALYSSA MILBECK	REPLENISHMENT CHECK	270.68
02/26/2018	10160	PETTY CASH-HOLLY CERNY	REPLENISHMENT CHECK	414.21
02/23/2018	305269	A T & T	TELEPHONE SERVICES	14,514.52
02/23/2018	305270	ADP, INC.	PAYROLL SERVICES	817.06
02/23/2018	305271	ALLEGRA PRINT & IMAGING	VEHICLE INSPECTION FORMS	248.30
02/23/2018	305272	AMERICAN VILLAGE DEVELOPMENT II	DUPLICATE WTAX17 PAY	10.66
02/23/2018	305273	ARNESON, WILLIAM	PHOTO CONTEST WINNER	100.00
02/23/2018	305274	B S & A SOFTWARE	INVENTORY MGT SYSTEM	2,480.00
02/23/2018	305275	BEATTY, JOHN & GLORIA	TRIP REFUND	100.00
02/23/2018	305276	BEST HOMES TITLE	DUPLICATE WTR BILL	189.26
02/23/2018	305277	BLUE, JOHN	EMPLOYEE REIMBURSEMENT	11.00
02/23/2018	305278	BORGESS MEDICAL CENTER	POLICE PRE EMPLOYMENT	217.00
02/23/2018	305279	BUTCHER, TERRY	PHOTO CONTEST WINNER	100.00
02/23/2018	305280	CAMPBELL AUTO SUPPLY	FIRE APPARATUS MAINT	19.74
02/23/2018	305281	CAVALLI, KRISTINA	DAMAGED MAILBOX REIMB	44.00

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/18/2018 To: 3/4/2018

Check Date	Check	Vendor Name	Description	Amount
02/23/2018	305282	CINTAS CORP.	PANT RENTAL	22.00
02/23/2018	305283	CIVICPLUS	HR PERFORMANCE MGMT	1,500.00
02/23/2018	305284	COLLIER, MICHAEL	TRAINING EXPENSES	277.47
02/23/2018	305285	COMFORT INN & SUITES AND CONFERENCE	HOTEL RESERVATION	382.50
02/23/2018	305286	CONSUMERS ENERGY-BILL PMT CNT	STREETLIGHTS	4,663.30
02/23/2018	305287	DODSON, JOANN	TRIP REFUND	50.00
02/23/2018	305288	FLETCHER ENTERPRISES	PAINTING SERVICES	350.00
02/23/2018	305289	FORD, DAVID	DAMAGED MAILBOX REIMB	44.00
02/23/2018	305290	FOUR WINDS CASINO SHUTTLE	PROGRAM VENDOR PAYMENT	165.00
02/23/2018	305291	GREATER KALAMAZOO COMMUNITY SERVICE	EXHIBITOR TABLE	100.00
02/23/2018	305292	HASSELBRING-CLARK COMPANY	SERVICE CALL MICROFILM	153.08
02/23/2018	305293	HILLIS, JAMES	TRIP REFUND	140.00
02/23/2018	305294	HOME DEPOT	FIRE FACILITY MAINT	670.04
02/23/2018	305295	HOPKINS FUNDRAISING CONSULTING	FEASIBILITY STUDY	7,000.00
02/23/2018	305296	INT'L NARCOTICS INTERDICTION ASSOC	EMPLOYEE TRAINING	425.00
02/23/2018	305297	JOHNSON, JENNIFER	DAMAGED MAILBOX REIMB	44.00
02/23/2018	305298	JORGENSEN, MISTY	PHOTO CONTEST WINNER	75.00
02/23/2018	305299	KALAMAZOO NATURE CENTER, INC.	INVASIVE SPEC DEVELOPMENT	4,500.00
02/23/2018	305300	KENT COUNTY DPW	RED MED/DRUG/WASTE	90.00
02/23/2018	305301	KERR PUMP AND SUPPLY INC.	SEWAGE PUMP - BRAHMS	3,950.58
02/23/2018	305302	KHALED, JOAN	TRIP REFUND	85.00
02/23/2018	305303	KIM CRITZ	WINTER CARNIVAL DESIGN	150.00
02/23/2018	305304	KITCH DRUTCHAS WAGNER VALITUTTI & S	DAS/CELL TOWER NEGOT	90.00
02/23/2018	305305	LATITUDE 42 BREWING COMOPANY	VALENTINE'S SKATE	396.00
02/23/2018	305306	LEGUS, MADISON	PHOTO CONTEST WINNER	75.00
02/23/2018	305307	LKF MARKETING	PARKS ADS DEVELOPMENT	1,500.00
02/23/2018	305308	LUTZ, LIZ	PHOTO CONTEST WINNER	75.00
02/23/2018	305309	MACOMB COMMUNITY COLLEGE	FIRE OPS TRAINING	270.00
02/23/2018	305310	MALL CITY MECHANICAL	FIRE FACILITY MAINT.	219.00
02/23/2018	305311	MCKENNA ASSOCIATES	MASTER PLAN UPDATE	1,890.00
02/23/2018	305312	MED EXPRESS URGENT CARE, PC MICH	DOT PHYSICAL BUS	95.00
02/23/2018	305313	MEDILODGE OF PORTAGE	PROGRAM PRESENTATION	315.00

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/18/2018 To: 3/4/2018

Check Date	Check	Vendor Name	Description	Amount
02/23/2018	305314	MENARDS, INC	OPERATING TOOLS	261.14
02/23/2018	305315	METRO ADVANTAGE TITLE	OVER PAYMENT REFUND	8.02
02/23/2018	305316	MICH MUNICIPAL POLICE & FIRE REPAIR	POLICE VEHICLE REPAIRS	478.30
02/23/2018	305317	MICHIGAN SECURITY & LOCK	REPLACE LOCKS	842.00
02/23/2018	305318	MILLER ROAD TRANSFER STATION	WASTE DISPOSAL	262.00
02/23/2018	305319	MILLS, DANIEL	MEMBERSHIP PAYMENT	100.00
02/23/2018	305320	MILLS, DANIEL	EMPLOYEE REIMBURSENT	62.00
02/23/2018	305321	MLIVE MEDIA GROUP	KZOO GAZETTE ADV	1,424.35
02/23/2018	305322	MMTA	2018 MMTA BASIC INST	550.00
02/23/2018	305323	NATIONAL BUSINESS FURNITURE LLC	CONFERENCE ROOM CHAIRS	13,719.28
02/23/2018	305324	NELSON'S HARDWARE	MAILBOXES	2,560.00
02/23/2018	305325	OAKLAND COMMUNITY COLLEGE	EMPLOYEE TRAINING	210.00
02/23/2018	305326	OFF THE CUFF CATERING	COOKING CLASS INSTRUCTION	240.00
02/23/2018	305327	OFFICE DEPOT, INC.	OFFICE SUPPLIES	2,208.12
02/23/2018	305330	ONCE UPON A PRINCESS, LLC	PRINCESSES TEA	283.00
02/23/2018	305331	OSBORN, MICHAEL	TRIP REFUND	97.00
02/23/2018	305332	PAUL WILSON	PARKS AD CAMPAIGN	1,800.00
02/23/2018	305333	PET VET FAMILY PET CARE CENTER	CANINE CARE	59.83
02/23/2018	305334	PRINTING SERVICES INC	WINTER CARNIVAL PRINTING	120.36
02/23/2018	305335	PROFESSIONAL PAVEMENT PRODUCTS, INC	POST-ALERT SHEETING	334.32
02/23/2018	305336	R W LAPINE INC.	HVAC MAINTENANCE	1,330.00
02/23/2018	305337	RENEWED EARTH, INC.	LEAF AND BRUSH REMOV	9,083.33
02/23/2018	305338	RHOMAR INDUSTRIES INC.	LIQUID DEICER	2,824.74
02/23/2018	305339	ROBERTS, ART	TRIP REFUND	159.00
02/23/2018	305340	SCHMITT, TRACY	EMPLOYEE REIMBURSEMENT	1,095.00
02/23/2018	305341	SHERMAN TOOL / CORNWELL TOOLS	REPLACEMENT TOOLS	112.86
02/23/2018	305342	SHERWIN WILLIAMS	PAINT AND SUPPLIES	329.96
02/23/2018	305343	SHUGARS ENTERPRISES, LLC	OVER PAYMENT REFUND	3,352.22
02/23/2018	305344	SINGLETON INTERNATIONAL	EMPLOYEE TRAINING	775.00
02/23/2018	305345	SPARKS, VERNON	DAMAGED MAILBOX	44.00
02/23/2018	305346	SPRINT PCS	CELL PHONE TRACKING	64.00
02/23/2018	305347	STATE SYSTEMS RADIO, INC	RENEWAL OF FCC LICENSE	867.60

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/18/2018 To: 3/4/2018

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Check Date	Check	Vendor Name	Description	Amount
02/23/2018	305348	SUPERIOR BUSINESS SOLUTIONS	CITY PROMO ITEMS	959.72
02/23/2018	305349	THAYER, GLENNA	TRIP REFUND	60.00
02/23/2018	305350	TRACTOR SUPPLY CORP.	ELIASON PROJECT SUPP	477.81
02/23/2018	305351	ULINE, INC.	SCALE	732.47
02/23/2018	305352	UNIFIRST CORPORATION	RUG DELIVERY	71.70
02/23/2018	305353	UNITED PARCEL SERVICE	WEEKLY DELIVERY	17.30
02/23/2018	305354	VICK, BOB	GRAIN ELV RENTAL FEE	250.00
02/23/2018	305355	VLIETSTRA, ABIGAIL	PHOTO CONTEST WINNER	50.00
02/23/2018	305356	VLIETSTRA, JENNA	PHOTO CONTEST WINNER	25.00
02/23/2018	305357	WADSWORTH NORTHWEST	BATTERY BACKUP	19,071.04
02/23/2018	305358	WORMBRAND, RONALD	PHOTO CONTEST WINNER	25.00
Total Paper Checks:				116,695.87
Check Type: Auto-Pay Payments				
2/20/2018	6142	CONSUMERS ENERGY	GAS-ELECTRIC	8,884.89
2/21/2018	6144	CONSUMERS ENERGY	GAS-ELECTRIC	4,029.14
2/26/2018	6161	CONSUMERS ENERGY	GAS-ELECTRIC	303.22
Total Auto-Pay Payments:				13,217.25
Grand Total:				537,180.23

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Spring Mill and Fill - Bid Tabulation

SUPPORTING PERSONNEL: Rod Russell, Director of Public Services

ACTION RECOMMENDED: Award a contract in the amount of \$696,628.32 to Rieth-Riley Construction Company, Inc., for spring mill and fill asphalt repairs to major and local street sections and authorize the City Manager to execute all documents related to this action on behalf of the city.

The Fiscal Year 2017-2018 Major & Local Streets budget includes funding for spring mill and fill repairs to sections of major and local streets where surface asphalt is in poor condition. Scheduled for repair are 14 streets, totaling just over 6.1 miles in length at the following locations:

- Fleetwood Drive (Angling Road to Swan Creek Drive)
- Swan Creek Drive (Angling Road to Fleetwood Drive)
- Blue Heron Street (Fleetwood Drive to Swan Creek Drive)
- Golden Eye Drive (Swan Creek Drive to Whistling Lane)
- Sandhill Lane (Golden Eye Drive to cul-de-sac)
- Whistling Lane (Golden Eye Drive to Trumpeter Drive)
- Trumpeter Drive (Whistling Lane to Swan Creek Drive)
- Lake Forest Drive (Angling Road to city limit)
- Oakland Drive (West Romence Road to West Milham Avenue)
- East Centre Avenue (South Westnedge Avenue to Portage Road)
- Vanderbilt Avenue (Shaver Road to Oakland Drive)
- Mandigo Avenue (Portage Road to 3505 Mandigo Avenue)
- Ames Drive (Portage Road to dead end)
- First Drive (Ames Drive to Forest Drive)

Invitations to bid were sent to three (3) area contractors with two (2) bids received on March 6, 2018 to perform the work. The low bid was submitted by Rieth-Riley Construction Company, Inc. of Kalamazoo, Michigan in the amount of \$696,628.32. Rieth-Riley has successfully completed several previous street repair projects for the city.

It is recommended that City Council award a contract in the amount of \$696,628.32 to Rieth-Riley Construction Company, Inc. for spring mill and fill asphalt repairs to major and local street sections and authorize the City Manager to execute all documents related to this action on behalf of the city.

FUNDING: Funds are available in the Fiscal Year 2017-2018 Major & Local Street budgets.

Attachments: 1. Bid Tabulation

BID TABULATION
SPRING MILL & FILL

BIDDER

BID

Rieth-Riley Construction Co., Inc.
911 Hatfield Ave.
Kalamazoo, MI 49001

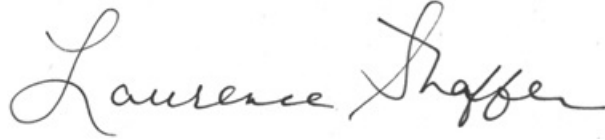
\$696,628.32

Michigan Paving & Materials Co.
2300 Glendenning Road
Kalamazoo, MI 49001

\$748,547.46

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Parking Lot Asphalt Overlays - Bid Tabulation

SUPPORTING PERSONNEL: Rod Russell, Director of Public Services

ACTION RECOMMENDED: Award a contract in the amount of \$248,533.60 to Michigan Paving & Materials Company for parking lot asphalt overlays and authorize the City Manager to execute all documents related to this action on behalf of the city.

The 2017-2018 Capital Improvement Program Budget includes funding to repair the parking lots at the Department of Public Services, the Department of Public Safety and the Celery Flats Visitor's Center. Repairs at Public Safety and Public Services will consist of removal and replacement of existing asphalt and a new expanded parking lot will be constructed at the Celery Flats Visitor's Center.

Invitations to bid were sent to nine (9) contractors with (6) bids received on February 22, 2018 to perform the work. The low bid in the amount of \$248,533.60 was submitted by Michigan Paving & Materials of Kalamazoo, Michigan. Michigan Paving & Materials has successfully completed numerous previous asphalt repair projects for the city.

Therefore, it is recommended that a contract be awarded to Michigan Paving & Materials in the amount of \$248,533.60 to perform asphalt repairs to the Department of Public Services, Department of Public Safety and the Celery Flats Visitor's Center parking lots and that the City Manager be authorized to execute all documents related to this contract on behalf of the city.

FUNDING: Funds are available in the Fiscal Year 2017-2018 Major & Local Street budgets.

Attachments: 1. Bid Tabulation

BID TABULATION
PARKING LOT ASPHALT OVERLAYS

<u>Bidder</u>	<u>Public Services Parking Lot</u>	<u>Public Safety Parking Lot</u>	<u>Celery Flats Visitors Center Parking Lot & Trail</u>	<u>Total</u>
Michigan Paving & Materials Co. 2300 Glendenning Road Kalamazoo, MI 49001	\$75,249.35	\$97,443.25	\$75,861.00	\$248,533.60
A1 Asphalt Inc. 4634 Division Wayland, MI 49348	\$79,201.92	\$105,269.00	\$93,035.16	\$277,506.08
Rieth-Riley Construction Co., Inc. 911 Hatfield Ave. Kalamazoo, MI 49001	\$89,815.00	\$135,957.20	\$100,314.00	\$326,086.20
J. Allen & Company, Inc. 8288 E. Michigan Ave. Galesburg, MI 49053	\$98,409.55	\$126,434.00	\$101,760.00	\$326,603.55
Pavement Management LLC dba Mullins Asphalt 425 E. High Street Jackson, MI 49269	\$115,375.00	\$143,052.00	\$117,522.00	\$375,949.00
Asphalt Solutions Plus LLC PO Box 151 Marshall, MI 49068	\$104,132.15	\$179,876.16	\$111,492.00	\$395,500.31

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Donation of 0.50 acres of Real Property at 9300 Portage Road

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Accept the generous donation of 0.50 acres of real property at 9300 Portage Road and authorize the City Manager to execute all documents associated with the transaction.

In an effort to improve sight distances and approach grades at the Portage Road/Lakeview Drive intersection, City Council awarded a contract to Abonmarche Consultants for preliminary re-design of the intersection on September 22, 2015. Subsequently, the preliminary design was submitted for Federal Transportation Safety funding. On April 18, 2017, the city received a commitment of \$372,000 in federal funds for the intersection improvements, which must be constructed in 2018 to receive the funding.

On May 23, 2017, City Council amended the existing contract with Abonmarche Consultants to perform engineering services for the Portage Road/Lakeview Drive intersection relocation. The design involves relocating the intersection approximately 150 feet south on Portage Road and construction of a small cul-de-sac, to be named West Lake Trail, to accommodate existing driveways on Lakeview Drive. This design requires 0.50 acres of additional right-of-way.

On March 2, 2018, the Allen Edwin Group signed a Letter of Intent to donate the required 0.50 acres of real property at 9300 Portage Road to the City of Portage for the re-design of the Portage Road/Lakeview Drive intersection improvement. The Allen Edwin Group also took this required additional right-of-way into consideration in the subdivision design of the West Lake Estates plat. The city has completed a survey and title search to the satisfaction of the City Attorney. Also included as part of the preliminary design in the submittal for Federal Transportation Safety funding is a pedestrian crossing on Portage Road at the new intersection, which will be completed in 2019 as part of the Portage Road Diet extension.

Therefore, it is recommended that City Council accept the generous donation of 0.50 acres of real property at 9300 Portage Road and authorize the City manager to execute all documents associated with the transaction.

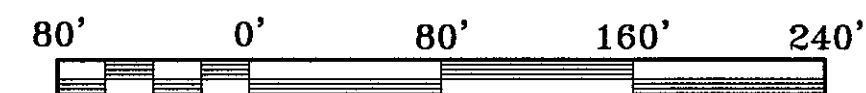
FUNDING: N/A

Attachments:

1. West Lake Estates Preliminary Plat
2. Portage/Lakeview Survey

3. Lakeview Site Plan
4. AEG Donation Letter of Intent - Signed

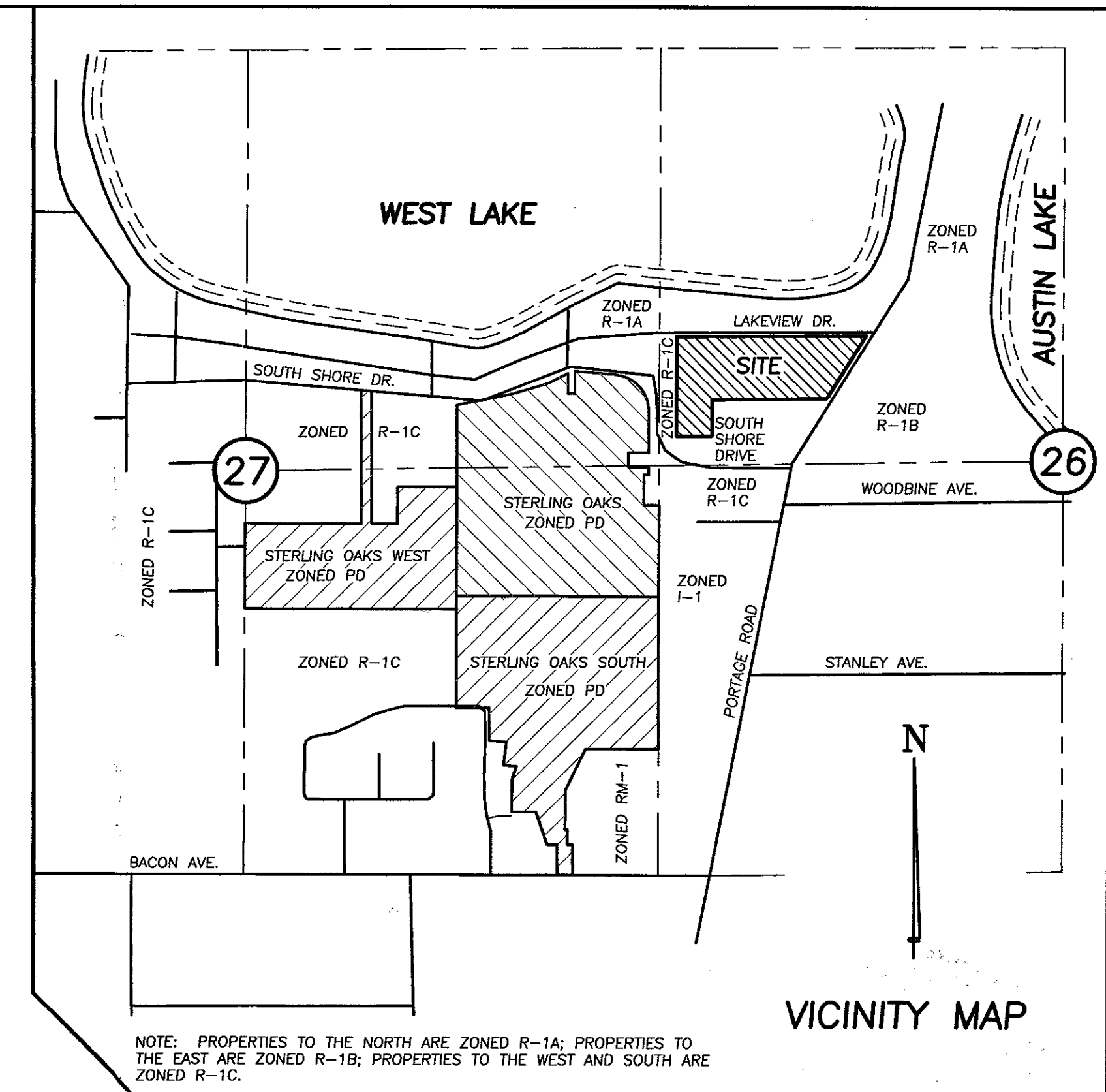
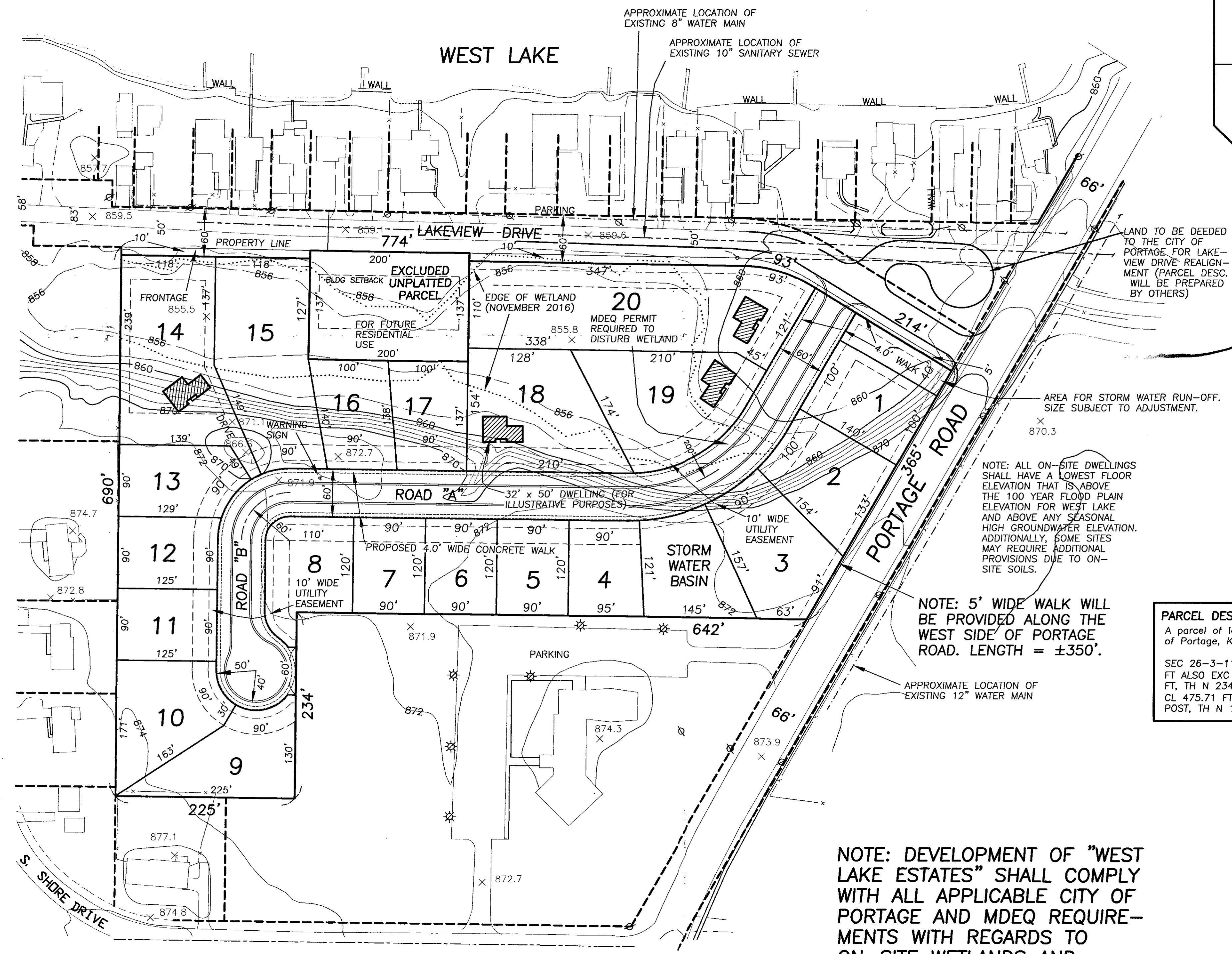
TENTATIVE PRELIMINARY PLAT for PROPOSED 'WEST LAKE ESTATES' in PORTAGE, MICHIGAN



R-1C ZONING INFORMATION:
(SUBJECT PROPERTY IS CURRENTLY ZONED R-1C)
MINIMUM 12,000 SQ. FT. AREA WITH SEWER & WATER
MINIMUM 100' LOT WIDTH WITH SEWER & WATER
MINIMUM 30' FRONT YARD SETBACK
MINIMUM 12' SIDE YARD SETBACK
MINIMUM 40' REAR YARD SETBACK
MAXIMUM BUILDING COVERAGE OF LOT = 25%
(ALSO SEE SEC. 42-551 & 42-552 OF CITY OF
PORTAGE LAND DEVELOPMENT REGULATIONS).

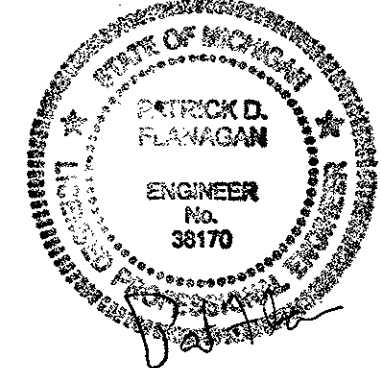
LOT AVERAGING DATA		
LOT #	LOT WIDTH	LOT AREA
1	100'	14000 SF
2	100'	16060 SF
3	90'	18600 SF
4	90'	11030 SF
5	90'	10800 SF
6	90'	10800 SF
7	90'	10800 SF
8	110'	14200 SF
9	90'	16410 SF
10	90'	16960 SF
11	90'	11250 SF
12	90'	11300 SF
13	90'	13280 SF
14	118'	31220 SF
15	90'	29490 SF
16	90'	12860 SF
17	90'	12840 SF
18	194'	26020 SF
19	195'	25010 SF
20	120'	45810 SF
AVERAGE - 105' x 18,000 SF		
SEE COMPARISON PLAN FOR PROPERTY SHOWING 20 LOTS		

FIRE DEPT. NOTES
COMBUSTIBLE BUILDING CONSTRUCTION SHALL NOT COMMENCE UNTIL FIRE HYDRANTS ARE OPERABLE AND AN ALL WEATHER ROAD SURFACE IS IN PLACE.
THE FIRE FLOW FOR EACH BUILDING IS 1000 GPM FROM ONE HYDRANT WITHIN 400' OF ALL PORTIONS OF THE BUILDING. THIS FLOW IS BASED ON THE FLOOR AREA OF ALL FLOORS INCLUDING BASEMENT FOR A BUILDING OF TYPE V-B CONSTRUCTION. SHOULD A BUILDING EXCEED 3600 SQUARE FEET, THE MINIMUM FIRE FLOW WILL BE BASED ON THE SIZE AND TYPE OF CONSTRUCTION FOR THAT BUILDING.
FIRE APPARATUS ACCESS ROADS 26 FEET WIDE OR WIDER SHALL BE POSTED ON ONE SIDE AS A FIRE LANE.
A PDF FORMAT FILE OF THE APPROVED SITE PLAN SHALL BE PROVIDED TO THE FIRE DEPARTMENT.



- NOTES**
- PROPOSED PLAT INCLUDES 20 LOTS SITUATED ON APPROXIMATELY 10 ACRES.
 - LOTS SHALL CONFORM TO CITY OF PORTAGE ZONING REQUIREMENTS.
 - SUBDIVISION SHALL CONFORM TO THE CITY OF PORTAGE REQUIREMENTS.
 - ALL ROADWAYS SHALL HAVE A 60 FOOT WIDE RIGHT OF WAY AND SHALL BE PUBLIC.
 - SITE SHALL BE SERVED BY MUNICIPAL SANITARY SEWER AND WATER MAIN.
 - STORM SEWER SYSTEM SHALL DRAIN TO PROPOSED STORM WATER BASINS. STORM SEWER SHALL BE UNDER CITY OF PORTAGE JURISDICTION.
 - SITE IS PRIMARILY TREE COVERED.
 - ALL LOT DIMENSIONS ARE SUBJECT TO FINAL ADJUSTMENT. DIMENSIONS SHOWN ON CURVES ARE CHORD LENGTHS.
 - SHOWN ELEVATIONS ARE BASED ON USGS DATUM. SHOWN TOPOGRAPHY & ELEVATION CONTOURS BASED ON A 1992 MAP PREPARED BY OTHERS.
 - SIDEWALKS WILL BE PROVIDED ON BOTH SIDES OF ALL STREETS AND AROUND THE BULB OF ANY PERMANENT CUL DE SAC. PAVEMENT WIDTH SHALL BE A MINIMUM OF 26.0 FEET (30.0 FEET BETWEEN BACKS OF CURBS). ALL UTILITIES SHALL BE UNDERGROUND.
 - STREET NAMES ARE PENDING.
 - PROPOSED SUBDIVISION DOES NOT LIE WITHIN A FLOOD HAZARD AREA AS IDENTIFIED BY F.E.M.A.

LEGEND
--- APPROXIMATE LOCATION OF EXISTING WATER MAIN
--- APPROXIMATE LOCATION OF EXISTING SANITARY SEWER



PARCEL DESCRIPTION: (NOTE: NEW METES & BOUNDS PARCEL DESCRIPTION IS PENDING)
A parcel of land situated in the Northwest quarter of Section 26, T. 3 S., R. 11 W., City of Portage, Kalamazoo County, Michigan being more particularly described as follows:
SEC 26-3-11 S 880 FT OF SW 1/4 NW 1/4 SEC 26 LYING W OF PORTAGE RD EXC W 111 FT ALSO EXC BEG AT A PT 111 FT E AND 185 FT N OF W 1/4 POST SD SEC, TH E 225 FT, TH N 234 FT, TH E 680.27 FT TO CL PORTAGE ROAD, TH S 29 DEG 22 MIN W ALG SD CL 475.71 FT TO S LI NW 1/4 SEC 26, TH W LY ALG S LI TO A PT 111 FT E OF W 1/4 POST, TH N 185 FT TO PL OF BEG.

NOTE: DEVELOPMENT OF "WEST LAKE ESTATES" SHALL COMPLY WITH ALL APPLICABLE CITY OF PORTAGE AND MDEQ REQUIREMENTS WITH REGARDS TO ON-SITE WETLANDS AND STORM WATER DISPOSAL.

NOTE: EXISTING ON-SITE TREES AND NATURAL FEATURES SHALL BE PRESERVED AS MUCH AS POSSIBLE. ADDITIONAL INFORMATION SHALL BE INCLUDED ON PENDING PROJECT CONSTRUCTION PLANS.

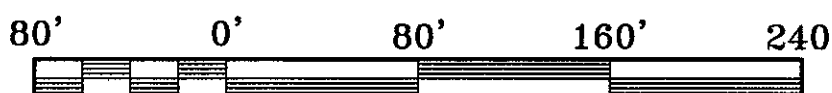
PROPERTY OWNER:
AEG DEVELOPMENT, LLC
2186 EAST CENTRE AVENUE
PORTAGE, MI 49002
(269) 321-2610

TENTATIVE PRELIMINARY PLAT for WEST LAKE ESTATES NW 1/4, SEC. 26, CITY OF PORTAGE, MICHIGAN		DATE: 5/31/2017
Ingersoll, Watson & McMachen, Inc. CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS		SHEET: 1
1133 East Millham Road • Portage, Michigan 49002 • Phone 269 344-6165 • Fax 269 344-0555		JOB No.: 36587

RECEIVED
FEB 14 2018
COMMUNITY DEVELOPMENT

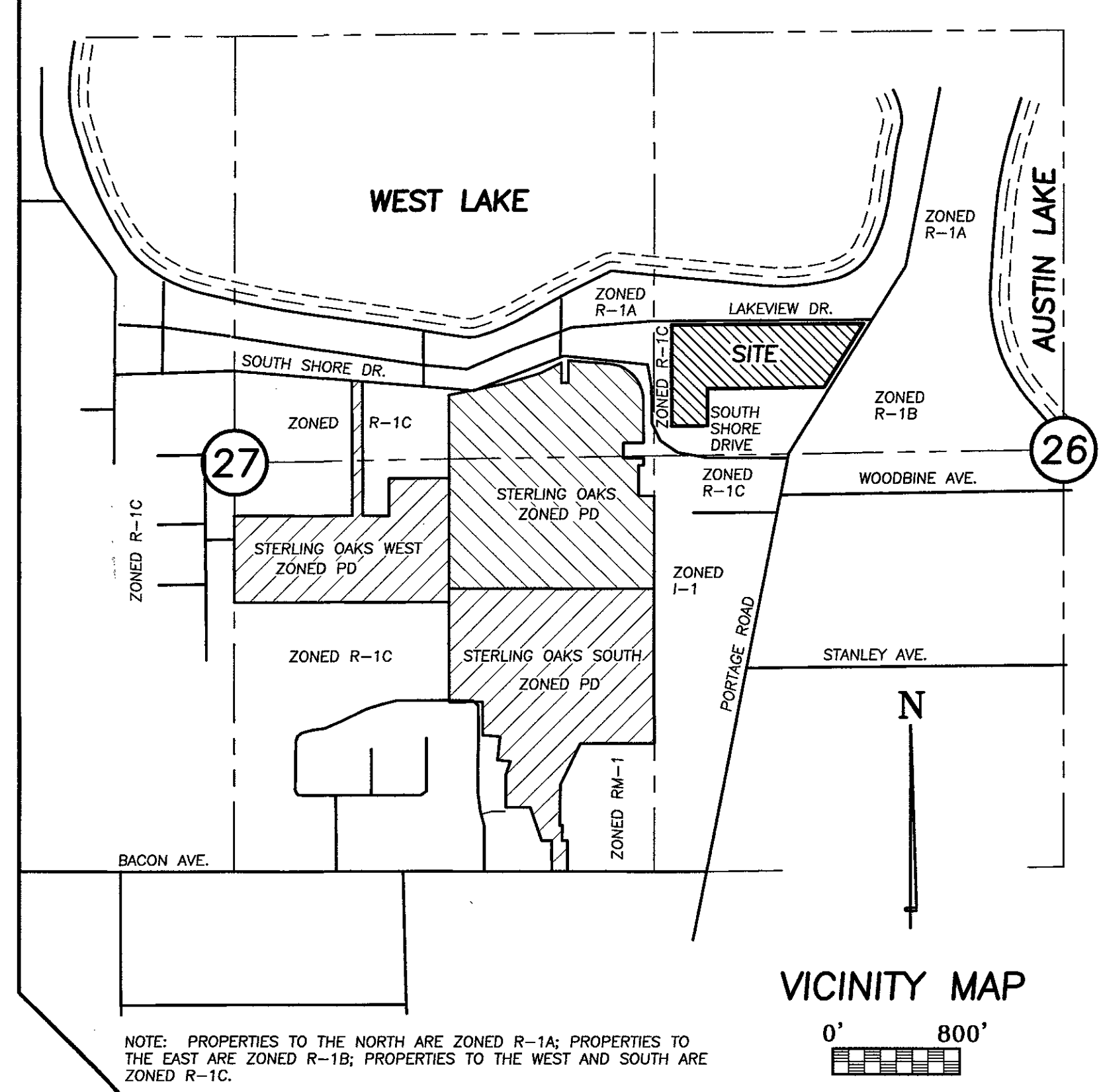
REVISED: 01/25/2018
REVISED: 11/14/2017
REVISED: 10/12/2017
REVISED: 10/3/2017
REVISED: 8/30/2017
REVISED: 7/20/2017
REVISED: 7/14/2017

COMPARISON PLAN for PROPOSED 'WEST LAKE ESTATES' in PORTAGE, MICHIGAN



R-1C ZONING INFORMATION:
(SUBJECT PROPERTY IS CURRENTLY ZONED R-1C)
MINIMUM 12,000 SQ. FT. AREA WITH SEWER & WATER
MINIMUM 100' LOT WIDTH WITH SEWER & WATER
MINIMUM 30' FRONT YARD SETBACK
MINIMUM 12' SIDE YARD SETBACK
MINIMUM 40' REAR YARD SETBACK
MAXIMUM BUILDING COVERAGE OF LOT = 25%
(ALSO SEE SEC. 42-551 & 42-552 OF CITY OF
PORTAGE LAND DEVELOPMENT REGULATIONS).

FIRE DEPT. NOTES
COMBUSTIBLE BUILDING CONSTRUCTION SHALL NOT
COMMENCE UNTIL FIRE HYDRANTS ARE OPERABLE AND
AN ALL WEATHER ROAD SURFACE IS IN PLACE.
THE FIRE FLOW FOR EACH BUILDING IS 1000 GPM FROM
ONE HYDRANT WITHIN 400' OF ALL PORTIONS OF THE
BUILDING. THIS FLOW IS BASED ON THE FLOOR AREA OF
ALL FLOORS INCLUDING BASEMENT FOR A BUILDING OF TYPE
V-S CONSTRUCTION. SHOULD A BUILDING EXCEED 3600
SQUARE FEET, THE MINIMUM FIRE FLOW WILL BE BASED ON
THE SIZE AND TYPE OF CONSTRUCTION FOR THAT BUILDING.
FIRE APPARATUS ACCESS ROADS 26 FEET WIDE OR WIDER
SHALL BE POSTED ON ONE SIDE AS A FIRE LANE.
A PDF FORMAT FILE OF THE APPROVED SITE PLAN SHALL BE
PROVIDED TO THE FIRE DEPARTMENT.



PARCEL DESCRIPTION:
A parcel of land situated in the Northwest quarter of Section 26, T. 3 S., R. 11 W., City of Portage, Kalamazoo County, Michigan being more particularly described as follows:
SEC 26-3-11 S 880 FT OF SW 1/4 NW 1/4 SEC 26 LYING W OF PORTAGE RD EXC W 111 FT ALSO EXC BEG AT A PT 111 FT E AND 185 FT N OF W 1/4 POST SD SEC, TH E 225 FT, TH N 234 FT, TH E 680.27 FT TO CL PORTAGE ROAD, TH S 29 DEG 22 MIN W ALG SD CL 475.71 FT TO S L NW 1/4 SEC 26, TH W LY ALG S L TO A PT 111 FT E OF W 1/4 POST, TH N 185 FT TO PL OF BEG.

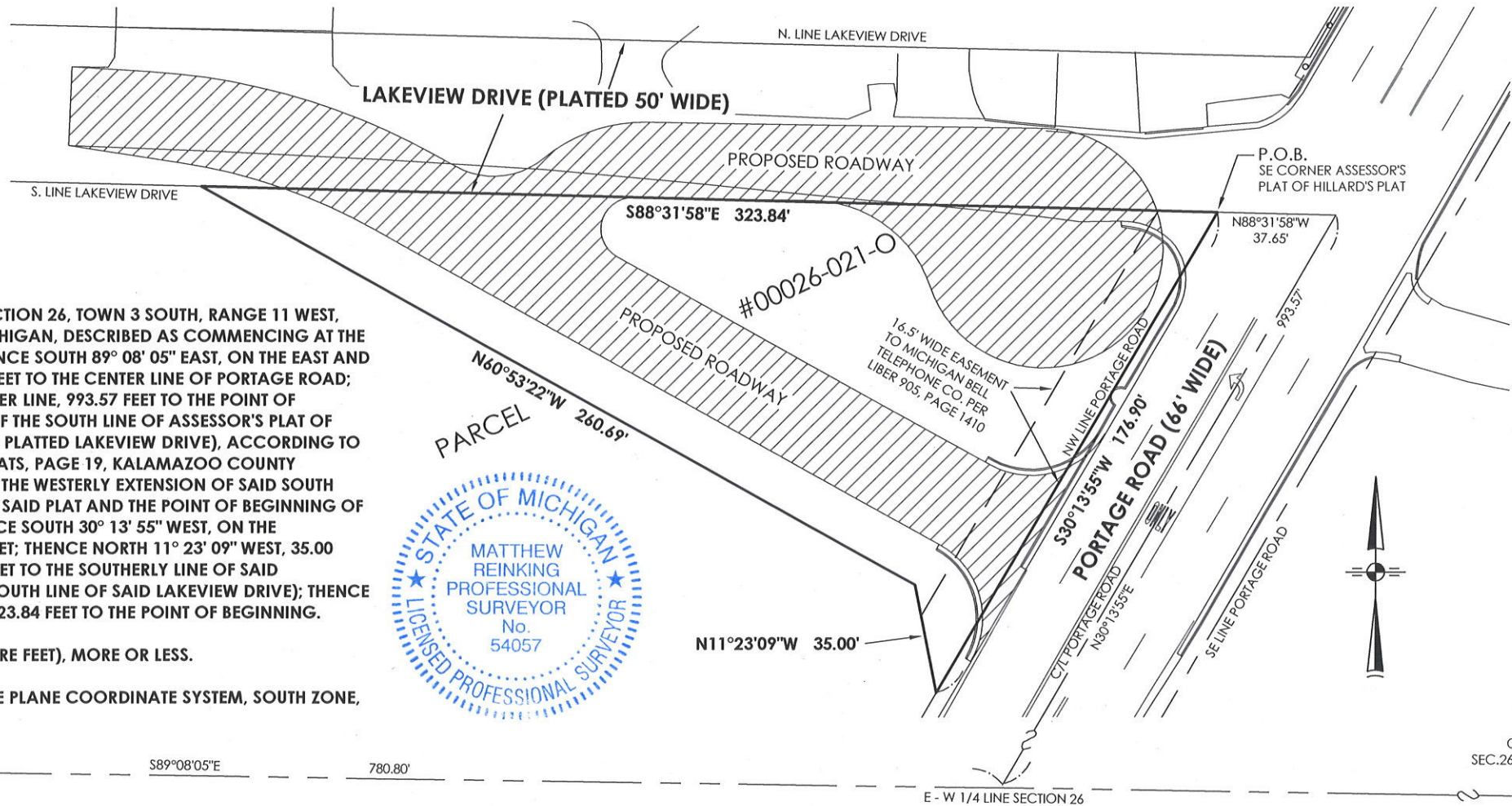
PROPERTY OWNER:
AEG DEVELOPMENT, LLC
2186 EAST CENTRE AVENUE
PORTAGE, MI 49002
(269) 321-2610

NOTE: SHOWN ARE 20 R-1C LOTS.
NOTE: ALL SHOWN LOTS HAVE A WIDTH OF AT LEAST 100 FEET AND AN AREA OF AT LEAST 12,000 SQUARE FEET.



COMPARISON PLAN for WEST LAKE ESTATES NW 1/4 SEC. 26, CITY OF PORTAGE, MICHIGAN		REVISED: 11/14/2017 REVISED: 2/23/2017
Ingersoll, Watson & McMachen, Inc. CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS		DATE: 01/31/2017 SHEET: 1 JOB No.: 36587
1133 East Milham Road • Portage, Michigan 49002 • Phone 269 344-6165 • Fax 269 344-0555		

PROPOSED RIGHT OF WAY



THAT PART OF THE NORTHWEST QUARTER OF SECTION 26, TOWN 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION; THENCE SOUTH 89° 08' 05" EAST, ON THE EAST AND WEST QUARTER LINE OF SAID SECTION, 780.80 FEET TO THE CENTER LINE OF PORTAGE ROAD; THENCE NORTH 30° 13' 55" EAST, ON SAID CENTER LINE, 993.57 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE SOUTH LINE OF ASSESSOR'S PLAT OF HILLARD'S PLAT (BEING ALSO THE SOUTH LINE OF PLATTED LAKEVIEW DRIVE), ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 14 OF PLATS, PAGE 19, KALAMAZOO COUNTY RECORDS; THENCE NORTH 88° 31' 58" WEST, ON THE WESTERLY EXTENSION OF SAID SOUTH LINE, 37.65 FEET TO THE SOUTHEAST CORNER OF SAID PLAT AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE SOUTH 30° 13' 55" WEST, ON THE NORTHWEST LINE OF PORTAGE ROAD, 176.90 FEET; THENCE NORTH 11° 23' 09" WEST, 35.00 FEET; THENCE NORTH 60° 53' 22" WEST, 260.69 FEET TO THE SOUTHERLY LINE OF SAID ASSESSOR'S PLAT OF HILLARD'S PLAT (AND THE SOUTH LINE OF SAID LAKEVIEW DRIVE); THENCE SOUTH 88° 31' 58" EAST, ON SAID SOUTH LINE, 323.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.50 OF AN ACRE (21,640.5 SQUARE FEET), MORE OR LESS.

BEARINGS ARE RELATED TO THE MICHIGAN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83.



Matthew Reinking
MATTHEW REINKING
LICENSED PROFESSIONAL SURVEYOR No. 54057
ABONMARCHE CONSULTANTS, INC.

2/14/2018
DATE OF CERTIFICATE

ABONMARCHE

95 West Main Street
Benton Harbor, MI. 49023
T 269.927.2295
F 269.927.1017
abonmarche.com

Battle Creek
Benton Harbor
Manistee
South Haven
Goshen
Hobart
Lafayette
South Bend
Valparaiso
Engineering · Architecture · Land Surveying

PREPARED FOR:

CITY OF PORTAGE

COPYRIGHT 2017 - ABONMARCHE CONSULTANTS, INC.

DRAWN BY: MGR

APPROVED BY: MAF

DATE: MAY 15, 2017

SCALE: 1" = 50'

PORTAGE/LAKEVIEW INTERSECTION

CITY OF PORTAGE

KALAMAZOO COUNTY

SHEET 1 OF 1

JOB NO. 15-0832

Letter of Intent

March 3, 2018

From: AEG Development LLC
2186 E. Centre Avenue
Portage, Michigan 49002

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

Re: Letter of Intent to Donate Real Property – 9300 Portage Road, Portage Michigan 49002

Dear City Manager Shaffer,

Based upon prior conversations and correspondence 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 9300 Portage Road (“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. Closing will take place at the Office of the Company issuing the title insurance.

5. Donor will execute a Warranty Deed for the Real Property to the City in such form acceptable to the City, and subject to Development Approvals in a manner consistent with the plan design and infrastructure locations as depicted on the attached Construction Plan.

RECEIVED
MAR 02 2018
CITY MANAGER'S OFFICE
PORTAGE, MI

6. Donor is developing property for a single family residential subdivision containing approximately 11 acres located near the intersection of Portage Road and Lakeview Drive. Coincidentally, the City had planned in its Capital Improvement Program to make certain improvements as part of the Portage Road/Lakeview Drive intersection realignment project. Such improvements include:

- a. Extending public utilities outside the paved surface of Lakeview Drive; and
- b. Installing sidewalks in the right of way on the South side of the new section of Lakeview Drive.

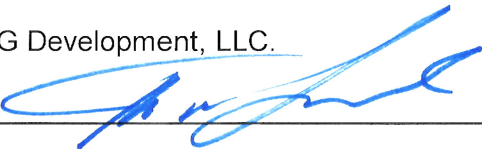
7. The persons executing this document represent that they have the authority on behalf of the respective entity to enter into this Letter of Intent to Donate.

Sincerely,

Donor

City of Portage

AEG Development, LLC.

By: 

Laurence Shaffer, City Manager

Its: VICE PRESIDENT

EXHIBIT "A"

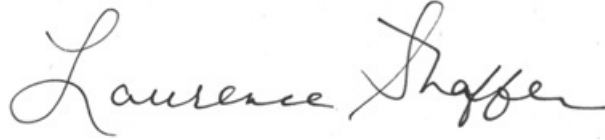
THAT PART OF THE NORTHWEST QUARTER OF SECTION 26, TOWN 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION; THENCE SOUTH $89^{\circ} 08' 05''$ EAST, ON THE EAST AND WEST QUARTER LINE OF SAID SECTION, 780.80 FEET TO THE CENTER LINE OF PORTAGE ROAD; THENCE NORTH $30^{\circ} 13' 55''$ EAST, ON SAID CENTER LINE, 993.57 FEET TO THE POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE SOUTH LINE OF ASSESSOR'S PLAT OF HILLARD'S PLAT (BEING ALSO THE SOUTH LINE OF PLATTED LAKEVIEW DRIVE), ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 14 OF PLATS, PAGE 19, KALAMAZOO COUNTY RECORDS; THENCE NORTH $88^{\circ} 31' 58''$ WEST, ON THE WESTERLY EXTENSION OF SAID SOUTH LINE, 37.65 FEET TO THE SOUTHEAST CORNER OF SAID PLAT AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE SOUTH $30^{\circ} 13' 55''$ WEST, ON THE NORTHWEST LINE OF PORTAGE ROAD, 176.90 FEET; THENCE NORTH $11^{\circ} 23' 09''$ WEST, 35.00 FEET; THENCE NORTH $60^{\circ} 53' 22''$ WEST, 260.69 FEET TO THE SOUTHERLY LINE OF SAID ASSESSOR'S PLAT OF HILLARD'S PLAT (AND THE SOUTH LINE OF SAID LAKEVIEW DRIVE); THENCE SOUTH $88^{\circ} 31' 58''$ EAST, ON SAID SOUTH LINE, 323.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.50 OF AN ACRE (21,640.5 SQUARE FEET), MORE OR LESS.

BEARINGS ARE RELATED TO THE MICHIGAN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83.

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Final Preliminary Plat (engineering plans) for Oakland Farms No. 2, 9810 Oakland Drive

SUPPORTING PERSONNEL: Chris Forth, Deputy Director of Planning, Development & Neighborhood Services

ACTION RECOMMENDED: Approve the Final Preliminary Plat (engineering plans) for Oakland Farms No. 2, 9810 Oakland Drive.

On April 25, 2017, City Council approved the Preliminary Plat of Oakland Farms No. 2, 9810 Oakland Drive, which represents the third phase of the single-family residential subdivision planned along the west side of Oakland Drive. Hyland Associates, LLC, has requested that City Council approve the Final Preliminary Plat (engineering plans) for the 25-lot subdivision that involves the following public improvements:

- Extensions of two existing public streets (Oakland Farms Trail and Ashford Trail) and construction of a new connector public street (Honey Creek Trail). The existing access drive to the city wellfield will be relocated to the south in the area of Lot 40.
- Installation of four-foot-wide concrete sidewalks along both sides of the new public streets. Additionally, a four-foot-wide public walkway will also be constructed along the eastern portion of Lot 44, from Ashford Trail to the north property line, to provide residents access to the abutting Gourdneck State Game Area. The developer will construct this walkway with the subdivision and provide the city an easement prior to final plat approval.
- The sanitary sewer system will consist of 8-inch diameter sewer mains and individual laterals to serve each lot in accordance with City of Portage requirements. The proposed system will connect to the existing sanitary sewer mains located within Oakland Farms Trail and Ashford Trail.
- The water system will consist of 8-inch diameter ductile iron mains and 1¼-inch services to each individual lot. The proposed system will connect to the existing water mains located within Oakland Farms Trail and Ashford Trail.
- Storm water will be collected and conveyed to the existing public storm water basin located along the south side of Oakland Farms Trail. This basin was originally constructed and designed to accept storm water from future phase.

The departments of Community Development, Transportation and Utilities and the Fire Division of

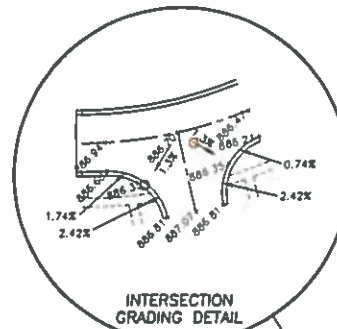
Public Safety have reviewed the construction drawings and have determined that the plans are in conformance with city requirements. Based on administrative review, it is recommended that final preliminary plat approval be granted for Oakland Farms No. 2, 9810 Oakland Drive. This action will allow the developer to proceed with the construction of the infrastructure improvements. When construction is complete, the developer will request final approval from City Council and acceptance of the public improvements (street, water and sanitary sewer mains, storm water facilities) by the city.

FUNDING: Not applicable

Attachments: 1. Final Preliminary Plat (Engineering plans) Oakland Farms No. 2, 9810 Oakland Drive

LEGEND

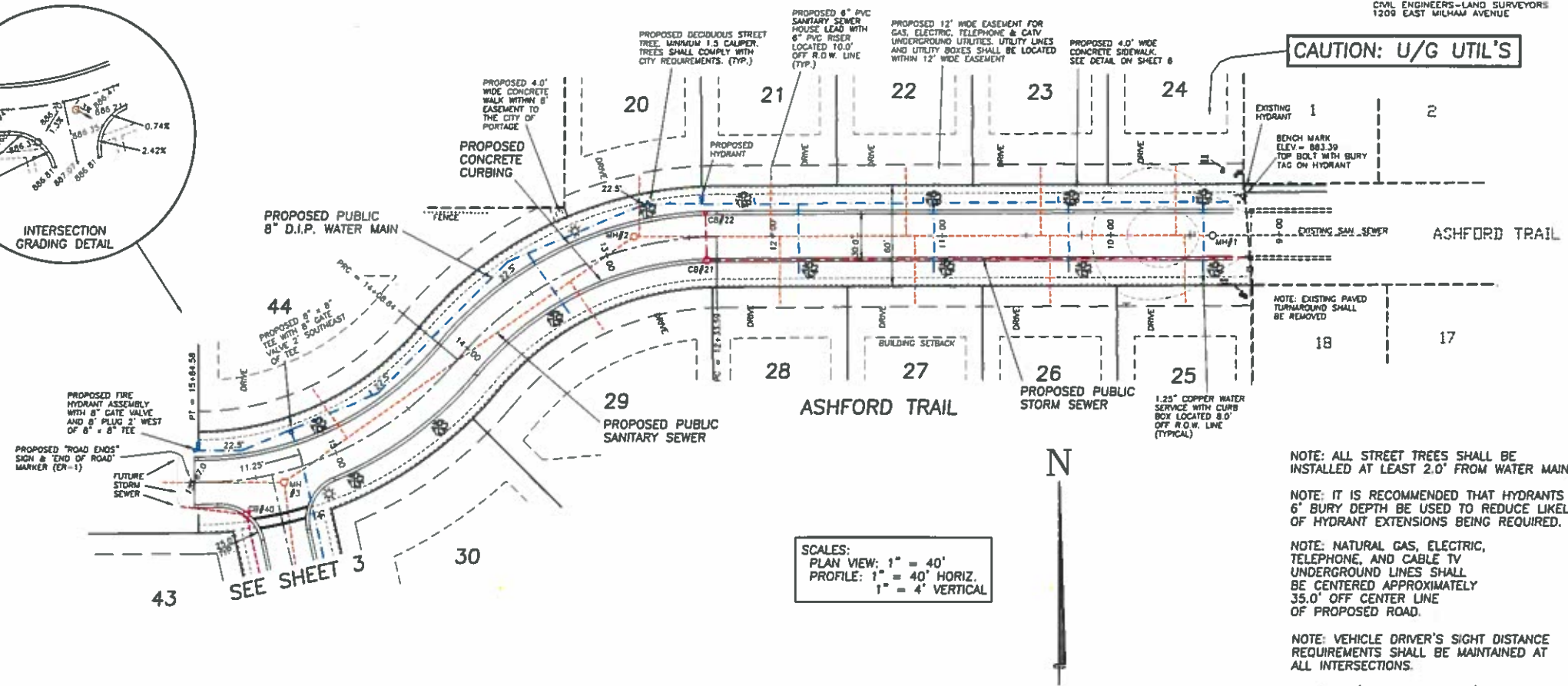
- PROPOSED FIRE HYDRANT ASSEMBLY (8" x 6" TEE, 6" GATE VALVE, & HYD.)
- PROPOSED STOP SIGN/STREET SIGN
- PROPOSED TRAFFIC CONTROL SIGN
- PROPOSED 4.0' WIDE CONCRETE SIDEWALK
- PROPOSED CROSSWALK
- WATER MAIN
- STORM SEWER
- SANITARY SEWER
- SUGGESTED LOCATION OF PROPOSED STREET LIGHT



GENERAL NOTES:

- 1) LIGHT POLES AND ANY UTILITY POLE/BOX SHALL BE LOCATED AT LEAST 5.0 FEET OFF BACK OF CURB.
- 2) STREET NAME SIGNS SHALL BE AT LEAST 8" FROM TOP TO BOTTOM OF ACTUAL SIGN (& PLACED AT STOP SIGNS).
- 3) ALL PAVEMENT MARKINGS AND ALL TRAFFIC SIGNAGE SHALL COMPLY WITH STANDARDS IN THE M.U.L.T.C.D. (CURRENT EDITION).
- 4) U-CURB POSTS REQUIRED FOR ALL SIGNS.
- 5) SOIL EROSION & SEDIMENTATION CONTROL PERMIT SHALL BE OBTAINED AS REQUIRED BY STATE LAW.
- 6) PERMITS SHALL BE OBTAINED FROM THE CITY OF PORTAGE AS REQUIRED.
- 7) M.D.E.O. CONSTRUCTION PERMITS REQUIRED (FOR BOTH PUBLIC WATER MAIN & PUBLIC SANITARY SEWER) PRIOR TO THE COMMENCEMENT OF UTILITY INSTALLATION.
- 8) NO PARKING THIS SIDE OF STREET SIGNS SHALL BE INSTALLED ATOP THE FIRE HYDRANT SIGNS AND MONUMENTS BETWEEN THE FIRE HYDRANTS ON THE HYDRANT SIDE OF THE STREETS.
- 9) FIVE INCH "STORM" FITTINGS SHALL BE USED ON FIRE HYDRANTS.
- 10) FOR ON-SITE DWELLINGS, BASEMENT FOOTINGS AND FOUNDATIONS SHALL COMPLY WITH BUILDING CODE REQUIREMENTS BASED ON TYPE OF SOIL PRESENT AND STABILITY OF SOIL.
- 11) FOR ON-SITE DWELLINGS, REQUIRED RADON VENTING SYSTEM BELOW BASEMENT FLOOR SHALL AS A PRECAUTION, BE PLUMBED TO ALSO BE A DRAINAGE SYSTEM DURING PERIODS OF HIGH GROUNDWATER.
- 12) ALL PROPOSED STREET LIGHTS SHALL COMPLY WITH CITY OF PORTAGE STANDARDS AND CONSUMERS ENERGY STANDARDS WITH REGARDS TO LOCATION AND LIGHT SPECIFICATION.
- 13) ON-SITE SPEED LIMIT SHALL BE 25 MILES PER HOUR.
- 14) UNDERGROUND GAS, ELECTRIC, TELEPHONE AND CABLE TV LINES SHALL BE DESIGNED BY UTILITY OWNERS AND SHALL NOT BE LOCATED IN PROPOSED STREET RIGHT-OF-WAYS UNLESS UTILITY IS CROSSING STREET (SQUARE TO CENTER LINE).
- 15) AS-BUILT CONSTRUCTION PLANS SHALL BE SUBMITTED TO THE CITY UPON COMPLETION OF THE ROADWAY PROJECT.
- 16) PRIOR TO START OF CONSTRUCTION, PRE-CONSTRUCTION MEETING SHALL BE HELD AT CITY OF PORTAGE OFFICES.

CAUTION: U/G UTIL'S



SCALES:
PLAN VIEW: 1" = 40'
PROFILE: 1" = 40' HORIZ.
1" = 4' VERTICAL

NOTE: ALL STREET TREES SHALL BE INSTALLED AT LEAST 2.0' FROM WATER MAIN.

NOTE: IT IS RECOMMENDED THAT HYDRANTS WITH 6" BURY DEPTH BE USED TO REDUCE LIKELIHOOD OF HYDRANT EXTENSIONS BEING REQUIRED.

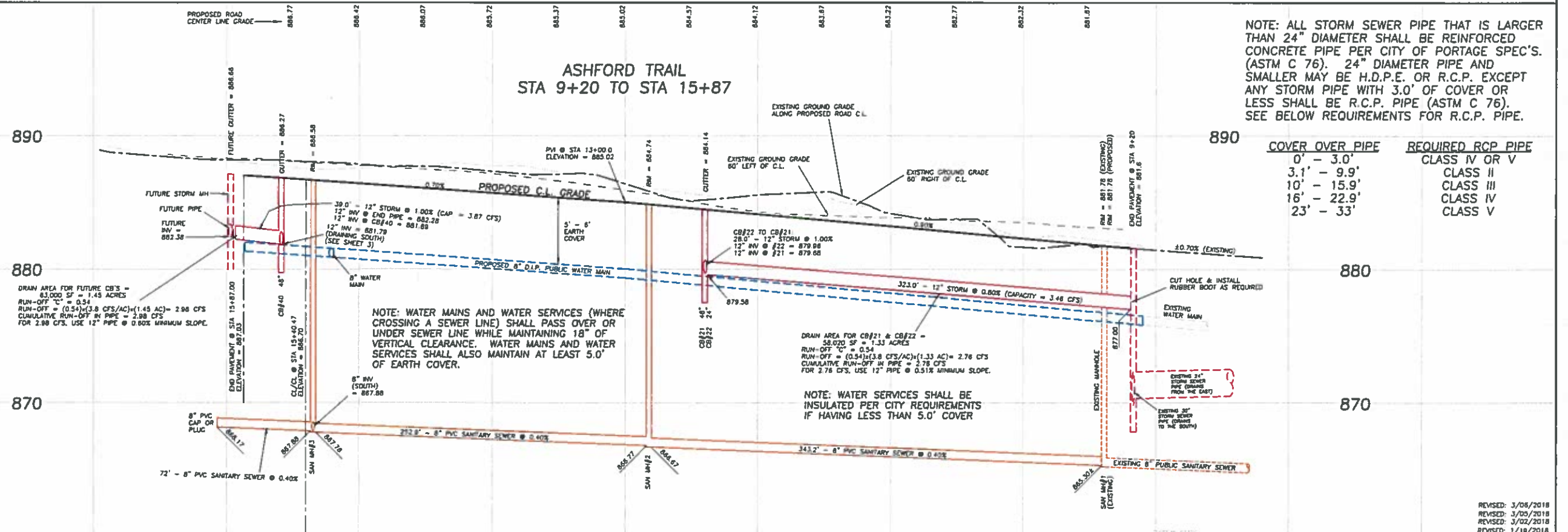
NOTE: NATURAL GAS, ELECTRIC, TELEPHONE, AND CABLE TV UNDERGROUND LINES SHALL BE CENTERED APPROXIMATELY 35.0' OFF CENTER LINE OF PROPOSED ROAD.

NOTE: VEHICLE DRIVER'S SIGHT DISTANCE REQUIREMENTS SHALL BE MAINTAINED AT ALL INTERSECTIONS.

NOTE: 325' LINE OF SIGHT / SIGHT DISTANCE SHALL BE MAINTAINED AT PROPOSED INTERSECTION FOR SAFETY IN ACCORDANCE WITH CITY REQUIREMENTS

17+00 16+00 15+00 14+00 13+00 12+00 11+00 10+00 9+00

ASHFORD TRAIL STA 9+20 TO STA 15+87



NOTE: ALL STORM SEWER PIPE THAT IS LARGER THAN 24" DIAMETER SHALL BE REINFORCED CONCRETE PIPE PER CITY OF PORTAGE SPEC'S. (ASTM C 76). 24" DIAMETER PIPE AND SMALLER MAY BE H.D.P.E. OR R.C.P. EXCEPT ANY STORM PIPE WITH 3.0' OF COVER OR LESS SHALL BE R.C.P. PIPE (ASTM C 76). SEE BELOW REQUIREMENTS FOR R.C.P. PIPE.

COVER OVER PIPE	REQUIRED RCP PIPE
0' - 3.0'	CLASS IV OR V
3.1' - 9.9'	CLASS II
10' - 15.9'	CLASS III
16' - 22.9'	CLASS IV
23' - 33'	CLASS V

DRAIN AREA FOR FUTURE CB'S = 83,000 SF = 1.45 ACRES
RUN-OFF "C" = 0.54
RUN-OFF = (0.54)(3.8 CFS/AC) = 2.08 CFS
CUMULATIVE RUN-OFF IN PIPE = 2.08 CFS
FOR 2.08 CFS, USE 12" PIPE @ 0.00% MINIMUM SLOPE.

NOTE: WATER MAINS AND WATER SERVICES (WHERE CROSSING A SEWER LINE) SHALL PASS OVER OR UNDER SEWER LINE WHILE MAINTAINING 18" OF VERTICAL CLEARANCE. WATER MAINS AND WATER SERVICES SHALL ALSO MAINTAIN AT LEAST 5.0' OF EARTH COVER.

NOTE: WATER SERVICES SHALL BE INSULATED PER CITY REQUIREMENTS IF HAVING LESS THAN 5.0' COVER



N _____

SCALES:
 PLAN VIEW: 1" = 40'
 PROFILE: 1" = 40' HORIZ.
 1" = 4' VERTICAL

INTERSECTION
GRADING DETAIL

LEGEND

-
- PROPOSED FIRE HYDRANT ASSEMBLY (8" x 6" TEE, 6" GATE VALVE, & HYD.)
- +
- PROPOSED STOP SIGN/STREET SIGN
- +
- PROPOSED TRAFFIC CONTROL SIGN
- PROPOSED 4.0' WIDE CONCRETE SIDEWALK
- PROPOSED CROSSWALK
- WATER MAIN
- STORM SEWER
- SANITARY SEWER
- SUGGESTED LOCATION OF PROPOSED STREET LIGHT

GENERAL NOTES:

- 1) LIGHT POLES AND ANY UTILITY POLE/BOX SHALL BE LOCATED @ AT LEAST 5.0 FEET OFF BACK OF CURB.
- 2) STREET NAME SIGNS SHALL BE AT LEAST 1' FROM TOP TO BOTTOM OF ACROSS STREET (PLAN SHALL SHOW LOCATIONS)
- 3) ALL PavEMENT MARKINGS AND ALL TRAFFIC SIGNAGE SHALL COMPLY WITH STANDARDS IN THE M.U.M.T.C.D. (CURRENT EDITION)
- 4) U-CHANNEL POSTS SHALL BE USED FOR ALL SIGNS
- 5) SOIL EROSION OR SEDIMENTATION CONTROL PERMIT SHALL BE OBTAINED AS REQUIRED BY STATE LAW
- 6) PERMIT(S) SHALL BE OBTAINED FROM THE CITY OF PORTAGE AS REQUIRED
- 7) M.D.E.O. CONSTRUCTION PERMITS REQUIRED (FOR BOTH PUBLIC WATER MAIN & PUBLIC SANITARY SEWER) NOT TO THE COMMENCEMENT OF UTILITIES
- 8) "NO PARKING THIS SIDE OF STREET" SIGNS SHALL BE INSTALLED ATOP THE FIRE HYDRANT SIGNS AND MIDWAY BETWEEN THE FIRE HYDRANT AND HYDRANTS ON THE OTHER SIDE OF STREET
- 9) FIVE INCH "STORZ" FITTINGS SHALL BE USED ON FIRE HYDRANTS.
- 10) FOR ON-SITE DWELLINGS, BASEMENT FOOTINGS AND FOUNDATIONS SHALL COMPLY WITH ALL CITY REQUIREMENTS BASED ON TYPE OF SOIL PRESENT AND STABILITY OF SOIL.
- 11) FOR ON-SITE DWELLINGS, REQUIRED RADON VENTILATION SYSTEM BASED ON BASEMENT FINISHES SHALL BE INSTALLED. IT SHALL BE ALSO BE A DRAINAGE SYSTEM DURING PERIODS OF HIGH GROUNDWATER.
- 12) PROPOSED STREET LIGHTS SHALL COMPLY WITH CITY OF PORTAGE STANDARDS AND CONSUMERS ENERGY STANDARDS WITH REGARDS TO LOCATION AND LIGHT SPECIFICATION.
- 13) ON-SITE SPECIFIC LIGHTING SHALL BE AS FOLLOWS:
 - a) UNDERGROUND GAS, ELECTRIC, TELEPHONE, AND CABLE TV LINES SHALL BE DESIGNED BY UTILITY OWNERS AND SHALL NOT BE LOCATED IN PROPOSED STREET RIGHT-OF-WAY UNLESS UTILITY IS CROSSING STREET (EQUIREMENT TO CROSS)
- 14) AS-BUILT CONSTRUCTION PLANS SHALL BE SUBMITTED TO THE CITY UPON COMPLETION OF THE ROADWAY PROJECT.
- 15) PRIOR TO START OF CONSTRUCTION, A CONSTRUCTION MEETING SHALL BE HELD AT CITY OF PORTAGE OFFICES

NOTE: ALL STREET TREES SHALL BE
INSTALLED AT LEAST 2.0' FROM WATER MAIN.

NOTE: IT IS RECOMMENDED THAT HYDRANTS WITH 6' BURY DEPTH BE USED TO REDUCE LIKELIHOOD OF HYDRANT EXTENSIONS BEING REQUIRED.

NOTE: NATURAL GAS, ELECTRIC,
TELEPHONE, AND CABLE TV
UNDERGROUND LINES SHALL
BE CENTERED APPROXIMATELY
35.0' OFF CENTER LINE
OF PROPOSED ROAD.

NOTE: VEHICLE DRIVER'S SIGHT DISTANCE REQUIREMENTS SHALL BE MAINTAINED AT ALL INTERSECTIONS.

NOTE: 325' LINE OF SIGHT / SIGHT
DISTANCE SHALL BE MAINTAINED
AT PROPOSED INTERSECTION
FOR SAFETY IN ACCORDANCE
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NOTE: ALL STORM SEWER PIPE THAT IS LARGER THAN 24" DIAMETER SHALL BE REINFORCED CONCRETE PIPE PER CITY OF PORTAGE SPEC'S. (ASTM C 76). 24" DIAMETER PIPE AND SMALLER MAY BE H.D.P.E. OR R.C.P. EXCEPT ANY STORM PIPE WITH 3.0' OF COVER OR LESS SHALL BE R.C.P. PIPE (ASTM C 76). SEE BELOW REQUIREMENTS FOR R.C.P. PIPE.

<u>COVER OVER PIPE</u>	<u>REQUIRED RCP PIPE</u>
0' - 3.0'	CLASS IV OR V
3.1' - 9.9'	CLASS II
10' - 15.9'	CLASS III
16' - 22.9'	CLASS IV
23' - 33'	CLASS V

WATER MAIN INSULATION NOTE:
EXISTING WATER MAIN TO
BE INSULATED WITH CITY
APPROVED INSULATING
BOARD ('HI-LOAD'
100) WHEREVER FINAL
COVER OVER EXISTING 16"
WATER MAIN IS LESS THAN
5.0'. FOUR FOOT WIDE
INSULATING BOARD SHALL
BE CENTERED ON CENTER
LINE OF EXISTING PIPE
AND SHALL BE PLACED
ON TOP OF COMPACTED
SAND. BOTTOM OF
INSULATING BOARD SHALL
BE 3" ABOVE TOP
OF EXISTING MAIN.

REVISED: 3/06/2018
REVISED: 3/05/2018
REVISED: 3/02/2018
REVISED: 2/15/2018
REVISED: 1/18/2018

LEGEND

- PROPOSED FIRE HYDRANT ASSEMBLY (8" x 6" TEE, 6" GATE VALVE, & HYD)
- PROPOSED STOP SIGN/STREET SIGN
- PROPOSED TRAFFIC CONTROL SIGN
- PROPOSED 4' WIDE CONCRETE SIDEWALK
- PROPOSED CROSSWALK
- WATER MAIN
- STORM SEWER
- SANITARY SEWER
- SUGGESTED LOCATION OF PROPOSED STREET LIGHT

NOTE: ALL STREET TREES SHALL BE INSTALLED AT LEAST 2.0' FROM WATER MAIN.

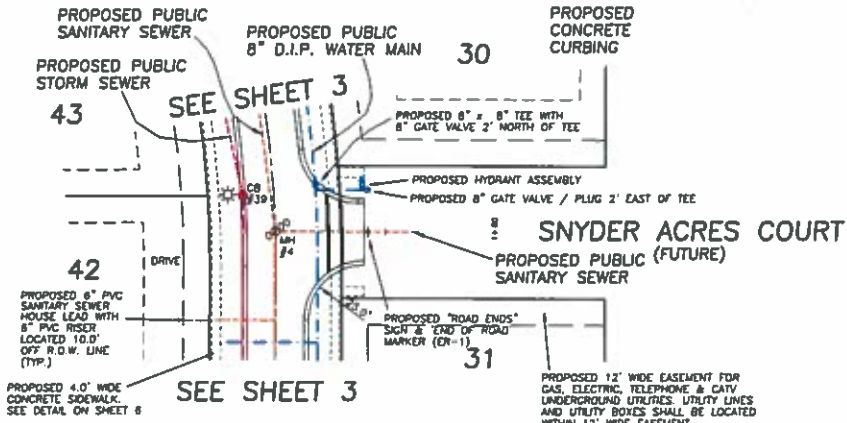
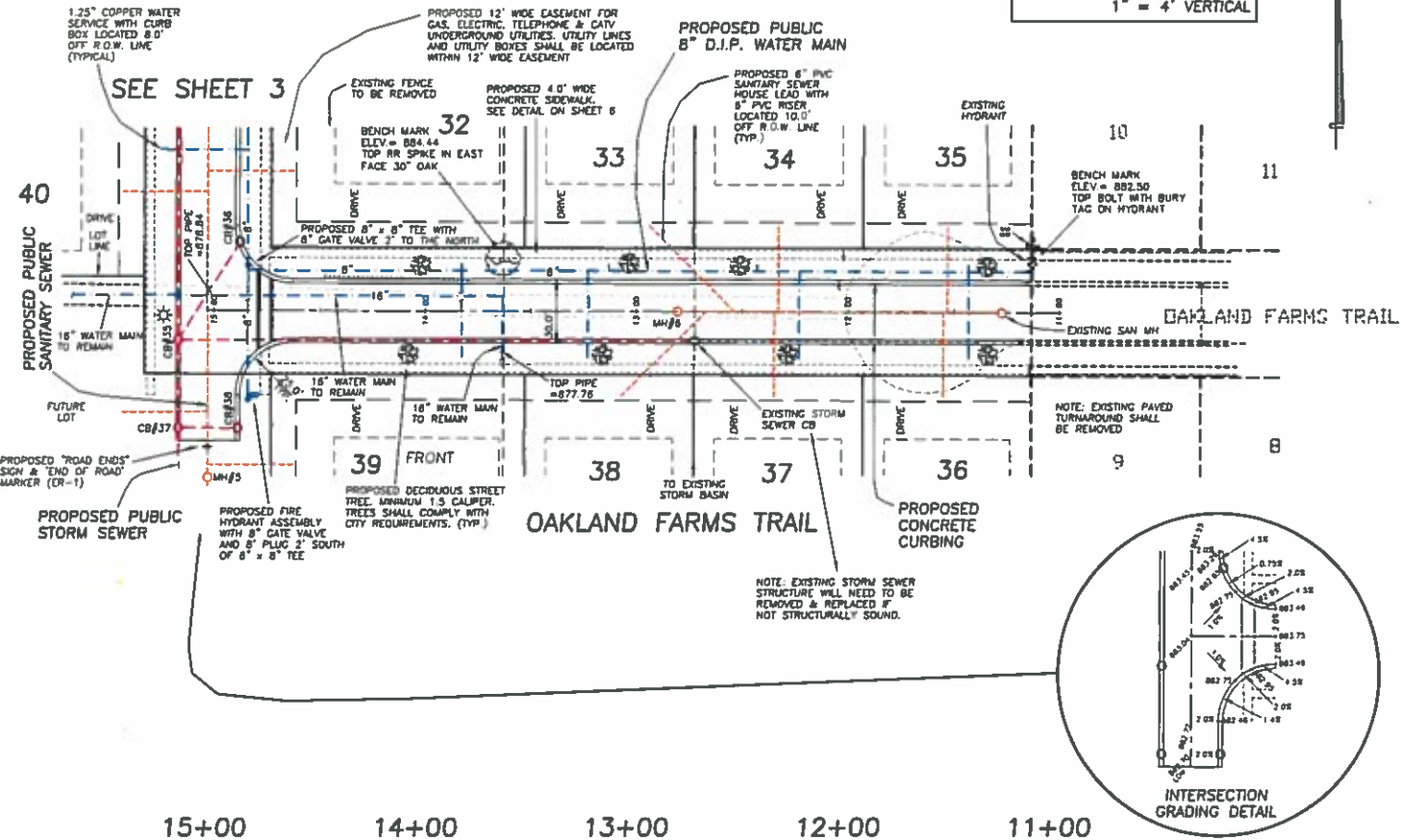
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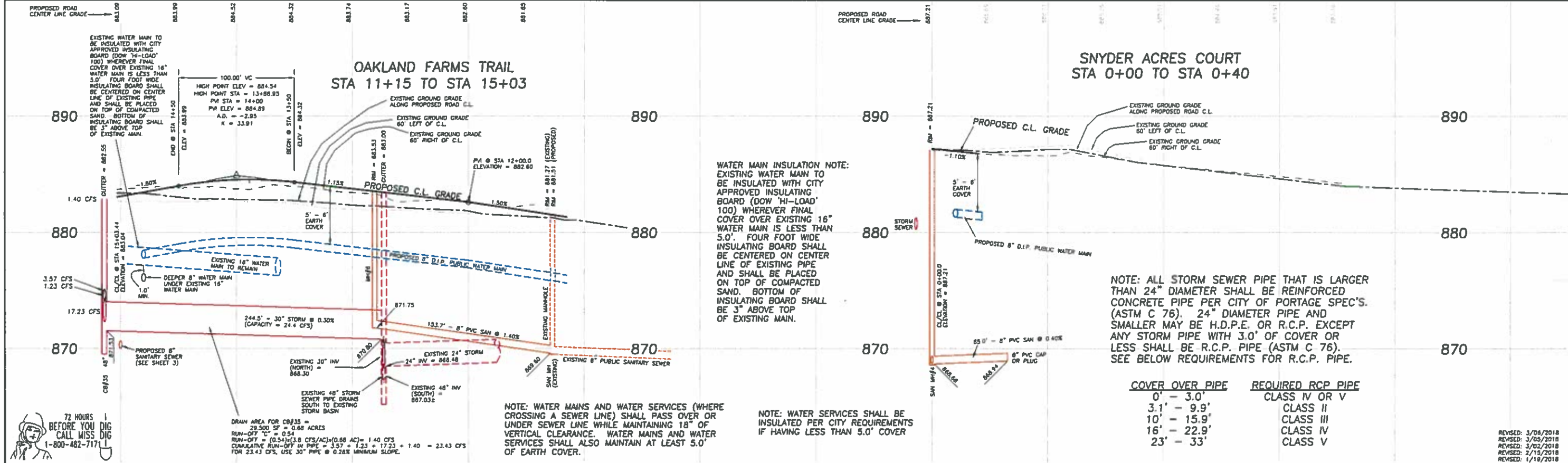
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SCALES:
PLAN VIEW: 1" = 40'
PROFILE: 1" = 40' HORIZ.
1" = 4' VERTICAL



GENERAL NOTES:

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- 16) PRIOR TO START OF CONSTRUCTION, PIPE-CONSTRUCTION MEETING SHALL BE HELD AT CITY OF PORTAGE OFFICES.



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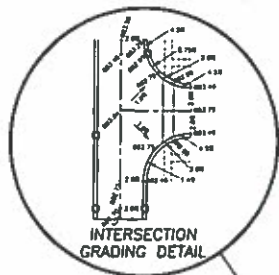


NOTE: GRADING AND EARTH MOVING IN AREAS OUTSIDE OF PROPOSED ROADWAY AREAS SHALL BE DONE IN STAGES SO THAT AN AREA CAN BE STRIPPED, SHAPED, TOPSOILED, AND SEEDED IN A MINIMAL AMOUNT OF TIME. THE AMOUNT OF DISTURBED GROUND SHALL BE KEPT TO A MINIMUM DURING THE CONSTRUCTION PROJECT. DISTURBED AREAS SHALL BE RESTORED BY THE CONTRACTOR AS SOON AS CONVENIENTLY POSSIBLE.

FUTURE DEVELOPMENT AREA

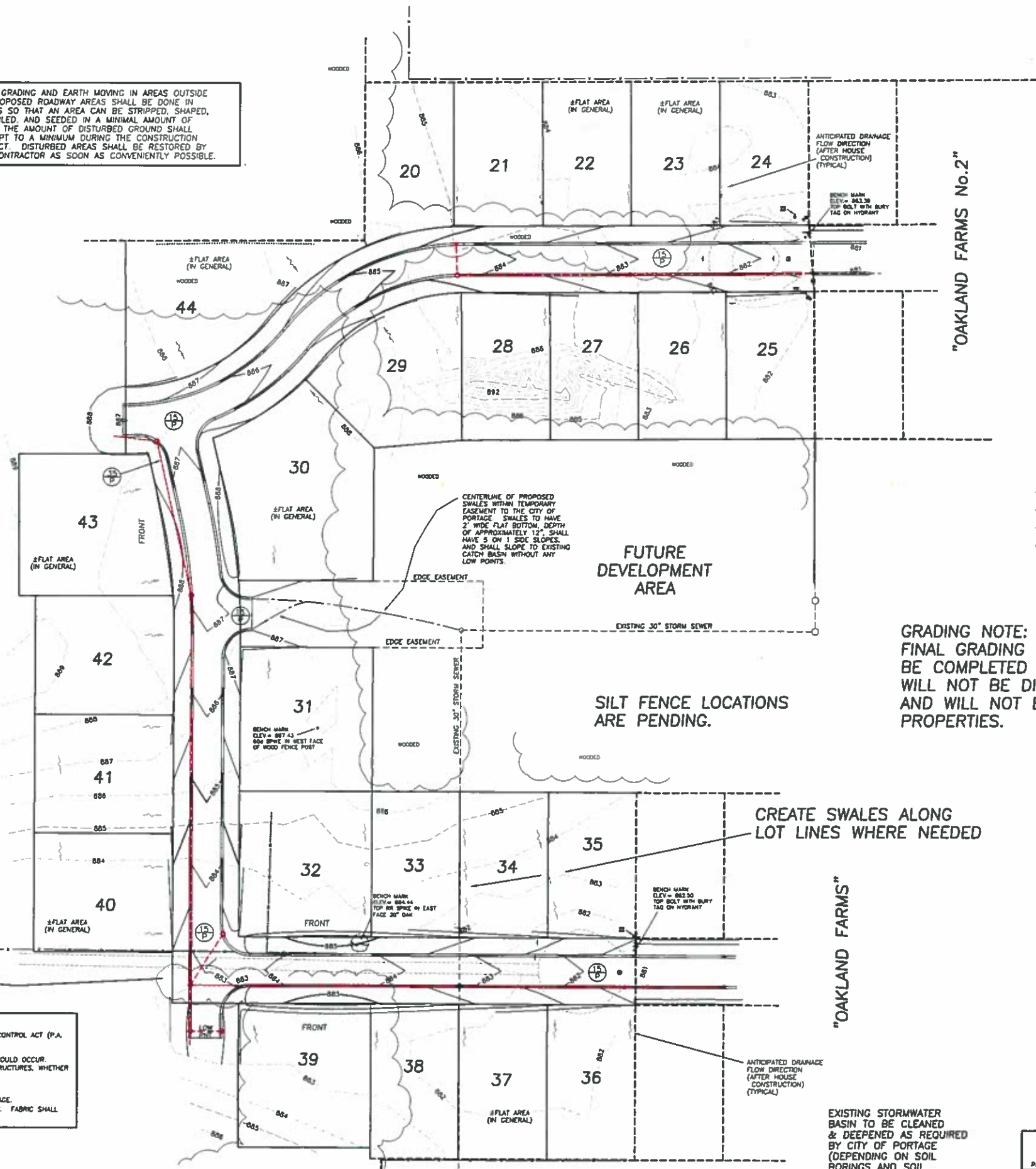
LEGEND
--- 900 --- EXISTING ELEVATION CONTOUR
--- 900 --- PROPOSED ELEVATION CONTOUR

FUTURE DEVELOPMENT AREA



GENERAL SOIL EROSION CONTROL NOTES:
1) ALL CONSTRUCTION SHALL COMPLY WITH THE SOIL EROSION AND SEDIMENTATION CONTROL ACT (P.A. 451 OF 1994, AS AMENDED) AS ADMINISTERED BY THE CITY OF PORTAGE.
2) EARTHWORK CONTRACTORS SHALL BE RESPONSIBLE FOR THE FOLLOWING:
A) BERMING OR FILTERING OF RUNOFF AT PROPERTY LINES WHERE EROSION COULD OCCUR.
B) PROTECTION OF ALL EXISTING AND NEWLY CONSTRUCTED STORM SEWER STRUCTURES, WHETHER ADJACENT TO THE SITE OR ON THE SITE.
C) MINIMIZATION OF TRACKING OF MATERIAL OFF-SITE.
D) SWEEPING AND CLEANING OF ADJACENT STREETS AS NECESSARY.
3) OWNER SHALL OBTAIN "SOIL EROSION CONTROL PERMIT" FROM THE CITY OF PORTAGE.
4) ALL STORM SEWER INLETS/DRAINS SHALL HAVE GRATE WRAPPED IN FILTER FABRIC. FABRIC SHALL REMAIN UNTIL RIGHT-OF-WAY IS SUITABLY STABILIZED.

NOTE: ALL STORM SEWER INLETS/DRAINS SHALL HAVE GRATE WRAPPED IN FILTER FABRIC. FABRIC SHALL REMAIN IN PLACE UNTIL DISTURBED GROUND IS SUITABLY STABILIZED.



MICHIGAN UNIFIED KEYING SYSTEM

⊕	SEEDING
⊗	RIP RAP
⊖	PAVING
⊙	CURB & GUTTER
⊛	STORM SEWER
⊜	CATCH BASIN
⊝	GEOTEXTILE SILT FENCE
⊞	M.U.K.S. DESIGNATION
⊟	TEMPORARY/PERMANENT

NOTE: ALL NECESSARY EASEMENTS FOR STORM SEWER PIPE AND DRAINS SHALL BE GRANTED TO THE CITY OF PORTAGE BY THE DEVELOPER.

GRADING NOTE: DURING HOUSE CONSTRUCTION, FINAL GRADING NEAR HOUSE (& WITHIN LOT) SHALL BE COMPLETED SUCH THAT RUN-OFF WATER WILL NOT BE DIRECTED TOWARDS ANY HOUSE AND WILL NOT BE DIRECTED ONTO ADJOINING PROPERTIES.

ESTIMATED CONSTRUCTION SCHEDULE:

	APRIL '18	MAY '18	JUNE '18	JULY '18
CLEARING				
EARTHWORK				
SANITARY SEWER				
STORM SEWER				
WATER MAIN				
CURBING & PAVING				
PRIVATE UTILITIES				
RESTORATION				

NOTE: CONSTRUCTION SCHEDULE SUBJECT TO CHANGE BASED ON MARKET CONDITIONS AND OTHER FACTORS.

NOTE: ALL STORM SEWER PIPE THAT IS LARGER THAN 24" DIAMETER SHALL BE REINFORCED CONCRETE PIPE PER CITY OF PORTAGE SPEC'S. (ASTM C 76). 24" DIAMETER PIPE AND SMALLER MAY BE H.D.P.E. OR R.C.P. EXCEPT ANY STORM PIPE WITH 3.0' OF COVER OR LESS SHALL BE R.C.P. PIPE (ASTM C 76). SEE BELOW REQUIREMENTS FOR R.C.P. PIPE.

COVER OVER PIPE	REQUIRED RCP PIPE
0' - 3.0'	CLASS IV OR V
3.1' - 9.9'	CLASS II
10' - 15.9'	CLASS III
16' - 22.9'	CLASS IV
23' - 33'	CLASS V

REVISED: 3/06/2018
REVISED: 3/05/2018
REVISED: 3/02/2018
REVISED: 2/15/2018
REVISED: 1/28/2018
REVISED: 1/19/2018

GRADING & SOIL EROSION CONTROL PLAN
OAKLAND FARMS NO.2
PART OF THE SE 1/4 OF SEC. 28, T35, R11W, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN
Ingersoll, Watson & McMachen, Inc.
CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS
1200 East Milham Road Portage, Michigan 49002 Area 269 344-6185 Fax 269 344-0555

DATE: 12/1/2017
SHEET: 5
JOB No.: 35067-2

GENERAL NOTES

- 1) CONTRACTOR SHALL NOTIFY MISS DIG AT 1-800-482-7171 72 HOURS PRIOR TO THE START OF CONSTRUCTION.
- 2) LOCATIONS OF UNDERGROUND UTILITIES SHOWN ON THESE PLANS ARE APPROXIMATE. ADDITIONAL UNDERGROUND UTILITIES MAY EXIST ON THIS SITE WHICH ARE NOT SHOWN ON THESE PLANS. CONTRACTOR SHALL BE RESPONSIBLE TO LOCATE AND PROTECT ALL UTILITIES ON SITE, WHETHER SHOWN ON THESE PLANS OR NOT.
- 3) CONTRACTOR SHALL PROVIDE ALL SIGNS, FENCING, LIGHTS, BARRICADES, ETC. NECESSARY TO PROVIDE FOR PUBLIC SAFETY DURING CONSTRUCTION.
- 4) REQUESTS FOR CONSTRUCTION STAKING SHALL BE DIRECTED TO THE ENGINEER A MINIMUM OF 48 HOURS PRIOR TO THEIR ACTUAL NEED.
- 5) IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO COORDINATE WITH ALL UTILITY COMPANIES FOR THE PROTECTION AND/OR RELOCATION OF EXISTING UTILITIES.
- 6) ALL MATERIALS PLACED DURING CONSTRUCTION SHALL BE IN NEW CONDITION, SHALL BE FREE FROM DEFECTS AND SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE CITY AND THEIR INSPECTOR.
- 7) ALL CONSTRUCTION SHALL BE SUBJECT TO CONSTRUCTION INSPECTION BY OWNER, OWNER'S REPRESENTATIVE, AND THE CITY OF PORTAGE.
- 8) ELEVATIONS SHOWN ON THESE PLANS ARE BASED ON USGS DATUM AS PROMULGATED WITHIN THE CITY OF PORTAGE.
- 9) ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF PORTAGE CONTRACT CONDITIONS AND SPECIFICATIONS.
- 10) A SOIL EROSION CONTROL PERMIT NEEDS TO BE OBTAINED PRIOR TO THE COMMENCEMENT OF ANY GRADING ACTIVITIES.

CONSTRUCTION NOTES

- 1) ALL PIPE LENGTH DISTANCES ARE FROM CENTER TO CENTER OF STRUCTURE.
- 2) ALL TRENCHING AND BACKFILLING FOR UTILITIES SHALL COMPLY WITH REQUIREMENTS OF THE CITY OF PORTAGE STANDARD SPECIFICATIONS AND THE REQUIREMENTS INDICATED ON THE CONSTRUCTION DRAWINGS.
- 3) ALL CONSTRUCTION SHALL COMPLY WITH ALL LOCAL, STATE, AND FEDERAL RULES, REQUIREMENTS, AND LAWS.

WATER MAIN NOTES

- 1) ALL 8" OR 10" WATER MAIN SHALL BE ANWIA C151, CLASS S2 DUCTILE IRON PIPE. ALL 12" WATER MAIN SHALL BE ANWIA C151, CLASS S3 DUCTILE IRON PIPE. ALL PIPE SHALL HAVE CEMENT LINING AND SHALL BE INSTALLED ACCORDING TO THE CITY OF PORTAGE STANDARD SPECIFICATIONS (AVAILABLE AT CITY OFFICES).
- 2) ALL WATER MAIN CONSTRUCTION SHALL BE SUBJECT TO INSPECTION BY A CITY OF PORTAGE APPROVED INSPECTOR.
- 3) MINIMUM 5'0" AND MAXIMUM 8'0" OF COVER OVER NEW WATER MAIN PIPE IS REQUIRED ONCE FINAL SITE GRADING IS COMPLETE.
- 4) WATER SERVICES SHALL BE INSTALLED IN ACCORDANCE WITH CITY OF PORTAGE STANDARD DETAIL SD-153, TYPICAL SERVICE LINE AND METER BOX INSTALLATIONS. PLUMBING PERMIT REQUIRED.
- 5) HYDRANT ASSEMBLIES SHALL BE INSTALLED IN ACCORDANCE WITH CITY OF PORTAGE STANDARD DETAIL SD-144, AUXILIARY VALVE LOCATION.
- 6) HYDRANT SIGNS SHALL BE INSTALLED IN ACCORDANCE WITH CITY OF PORTAGE STANDARD DETAIL SD-145, STANDARD HYDRANT SIGN.

SANITARY SEWER NOTES

- 1) ALL SANITARY SEWER PIPE SHALL BE SD-28 PVC AND SHALL COMPLY WITH ASTM D 3034. PIPE SHALL BE INSTALLED ACCORDING TO MANUFACTURER'S INSTRUCTIONS.
- 2) ALL SANITARY SEWER CONSTRUCTION, INCLUDING LINES, LATERALS, MANHOLES, AND APPURTENANCES, SHALL CONFORM WITH THE CITY OF PORTAGE REQUIREMENTS AND SPECIFICATIONS AND SHALL BE SUBJECT TO THEIR INSPECTION.

PRIVATE UTILITY NOTES

- 1) UNDERGROUND ELECTRIC, NATURAL GAS, TELEPHONE, AND CABLE TV PRIVATE UTILITIES SHALL BE SIZED AND INSTALLED BY UTILITY OWNERS.

STORM SEWER NOTES

- 1) STORM SEWER PIPE SHALL BE EITHER CORRUGATED POLYETHYLENE (H.D.P.E.) OR REINFORCED CONCRETE (R.C.P.). PIPE SHALL BE R.C.P. PIPE IF LARGER THAN 24" DIAMETER.
- 2) CORRUGATED POLYETHYLENE (C.P.E.) PIPE SHALL MEET THE REQUIREMENTS OF AUSTO M 294 TYPE S (DUAL WALL, SMOOTH INSIDE, CORRUGATED OUTSIDE, NO PERFORATIONS). THE JOINTS SHALL BE WATER TIGHT AND COMPLY WITH ASTM D 3212. (HANCOR M-Q, ADS N-12, OR EQUIVALENT)
- 3) REINFORCED CONCRETE PIPE (R.C.P.) SHALL MEET THE REQUIREMENTS OF ASTM C 78. SEE ADDITIONAL SPECIFICATIONS ON SHEETS 2, 3, 4, AND 5. PIPE JOINTS SHALL BE WATER TIGHT AND SHALL COMPLY WITH ASTM C 443.
- 4) NON-REINFORCED CONCRETE PIPE (N.R.C.P.) SHALL MEET THE REQUIREMENTS OF ASTM C 443.
- 5) PRECAST CONCRETE JOINTS (RUBBER OR SLIP SEALS) ARE REQUIRED AT EACH STORM SEWER PIPE JOINT IN ACCORDANCE WITH CITY OF PORTAGE REQUIREMENTS.
- 6) PIPE CONNECTIONS AT ALL SOLID WALLED STRUCTURES SHALL BE MADE WITH A WATER TIGHT RESILIENT CONNECTOR (RUBBER TYPE BOOT WITH STAINLESS STEEL BANDS, OR OTHER TYPE AS APPROVED BY CITY OF PORTAGE).
- 7) STORM SEWER PIPE SHALL HAVE A MINIMUM OF 24 INCHES OF COVER IF R.C.P. PIPE. H.D.P.E. STORM SEWER PIPE SHALL HAVE A MINIMUM 3.1' OF COVER.
- 8) ALL STORM SEWER PIPE AND INSTALLATION SHALL COMPLY WITH CITY OF PORTAGE "CONSTRUCTION SPECIFICATIONS AND STANDARDS"
- 9) ALL STORM SEWER PIPE, JOINTS, AND GASKETS SHALL BE INSPECTED. ANY DEFECTIVE PRODUCTS SHALL NOT BE INSTALLED AND SHALL BE REMOVED FROM THE SITE.
- 10) ALL SOLID WALLED STRUCTURES SHALL HAVE CONCRETE BOTTOMS.
- 11) DEFLECTION TESTS SHALL BE PERFORMED ON ALL FLEXIBLE PIPE. THE TEST SHALL BE CONDUCTED AFTER THE BACKFILL HAS BEEN PLACED AND PRIOR TO INSTALLING ANY ASPHALT OR CONCRETE SURFACE. NO PIPE SHALL EXCEED A DEFLECTION OF FIVE (5) PERCENT. THE DEFLECTION TEST SHALL BE RUN USING A RIGID BALL OR MANORREL, HAVING A DIAMETER EQUAL TO 95% OF THE INSIDE DIAMETER OF THE PIPE.

SOIL EROSION CONTROL NOTES (SEE SHEET 5)

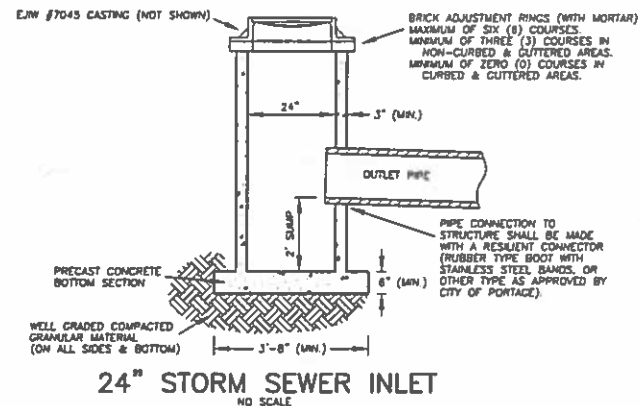
- 1) ALL CONSTRUCTION SHALL COMPLY WITH THE SOIL EROSION AND SEDIMENTATION CONTROL ACT (P.A. 431 OF 1994, AS AMENDED) AS ADMINISTERED BY THE CITY OF PORTAGE.
- 2) EARTHWORK CONTRACTORS SHALL BE RESPONSIBLE FOR THE FOLLOWING:
 - a) BERMING OR FILTERING OF RUNOFF AT PROPERTY LINES WHERE EROSION COULD OCCUR.
 - b) PROTECTION OF ALL EXISTING AND NEWLY CONSTRUCTED STORM SEWER STRUCTURES, WHETHER ADJACENT TO THE SITE OR ON THE SITE.
 - c) MINIMIZATION OF TRACING OF MATERIAL OFF-SITE.
 - d) SWEEPING AND CLEANING OF ADJACENT STREETS AS NECESSARY.
- 3) OWNER SHALL OBTAIN "SOIL EROSION CONTROL PERMIT" FROM THE CITY OF PORTAGE.

RESTORATION NOTES

- 1) ALL DISTURBED AREAS SHALL BE RESTORED WITH MINIMUM 4" TOPSOIL AND GRASS SEED, OR OTHER REQUIRED LANDSCAPING.
- 2) EXISTING STREETS AND YARDS SHALL BE RESTORED TO A CONDITION AT LEAST EQUAL TO THAT WHICH EXISTED PRIOR TO CONSTRUCTION.

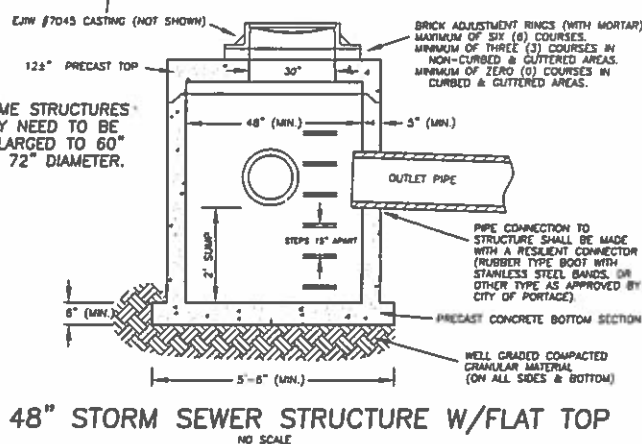
STREET TREES, STREET LIGHTS, & STREET SIGNS NOTES

- 1) DECIDUOUS TREES AT PLANTING SHALL HAVE A MINIMUM CALIPER OF 1.5" AT 6" ABOVE THE ROOT BALL, A CLEAR STEM OF 4 FEET; AND A BURLAP BALL SIZE OF AT LEAST 10 TIMES THE CALIPER. ALLOWED TREES INCLUDE: MAPLES, OAKS, LINDAYS, ASHES, LONDON PLACES, HONEY LOCUST, BEECH AND OTHER TYPES WITH CITY APPROVAL.
- 2) STREET LIGHTS SHALL BE 2500 LUMEN, HIGH PRESSURE SODIUM VAPOR. DECORATIVE LIGHT POLES SHALL HAVE A HEIGHT OF 19 FEET. ALL LIGHT STANDARDS AND UTILITY POLES SHALL BE LOCATED AT LEAST 5 FEET OFF PROPOSED BACK OF CURB.
- 3) ALL PAVEMENT MARKINGS AND TRAFFIC SIGNS MUST CONFORM TO THE STANDARDS SET FORTH IN THE CURRENT EDITION OF THE MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES ("M.U.T.C.D.").
- 4) ALL STREET SIGNS SHALL CONFORM TO CITY OF PORTAGE PUBLISHED REQUIREMENTS. ALL SIGNS SHALL BE INSTALLED ON 3 POUND GALVANIZED U-CHANNEL POSTS AND SHALL HAVE A MINIMUM POST BURY OF 36 INCHES. DISTANCE FROM BOTTOM OF SIGN TO GROUND SHALL BE 7 FEET. ANYTHING NOT SPECIFIED IN THESE PLANS SHALL BE IN ACCORDANCE WITH THE M.U.T.C.D. STREET NAME SIGNS SHALL BE 8 INCHES TALL (VERTICAL DIMENSION OF ACTUAL SIGN).

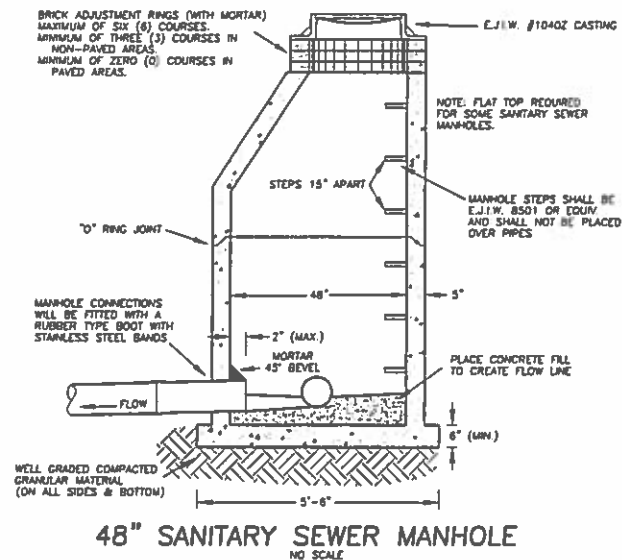


- NOTES:
- 1) STRUCTURE SHALL HAVE A 2 FOOT SLUMP UNLESS SLOPE OF OUTLET PIPE EQUALS OR EXCEEDS THREE (3) PERCENT.
 - 2) HEIGHT OF STRUCTURES WILL VARY BUT SHALL NOT EXCEED FIVE (5.0) FEET.
 - 3) STRUCTURES SHALL BE PRECAST CONCRETE AND CONFORM TO ASTM C-478.
 - 4) SEE RELATED CITY OF PORTAGE STANDARD DETAILS:
 - SD-102, 24" CATCH BASIN
 - SD-103, STANDARD CURB INLET CASTING
 - SD-104, STANDARD DROP CURB INLET CASTING

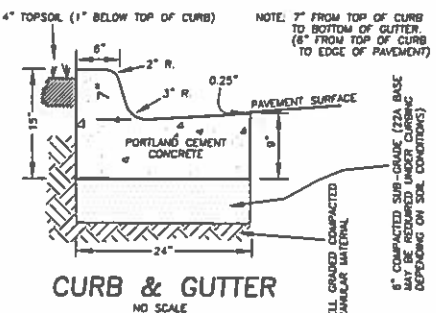
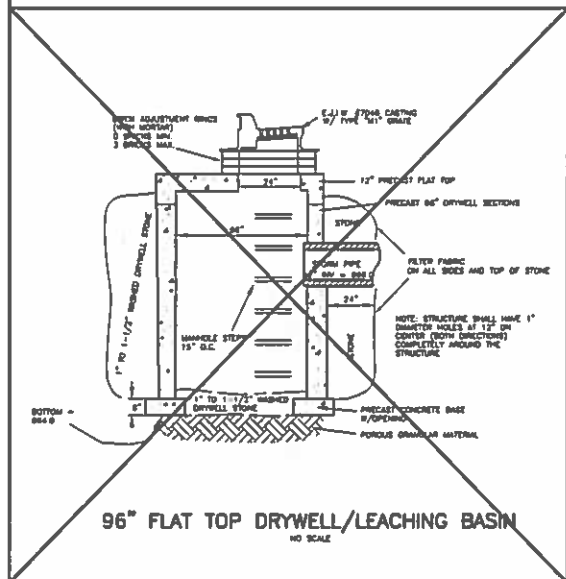
NOTE: CB#36, CB#37, CB#38, AND CB#40 SHALL ALL RECEIVE A E/W #7030 FRAME WITH A "W2" GRATE AND A "T1" ADJUSTABLE BACK TO REDUCE THE POSSIBILITY OF STREET FLOODING. TOP OPENING WITHIN TOP SECTION SHALL BE SIZED ACCORDINGLY.



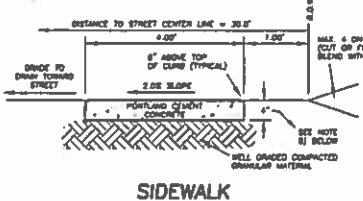
- NOTES:
- 1) MANHOLE STRUCTURES SHALL NOT HAVE A SLUMP AND SHALL REQUIRE E/W #1410 CASTING OR CITY APPROVED EQUIVALENT.
 - 2) HEIGHT OF STRUCTURES WILL VARY.
 - 3) STRUCTURES SHALL BE PRECAST CONCRETE AND CONFORM TO ASTM C-478.
 - 4) SOME STRUCTURES MAY HAVE TO BE ENLARGED TO ACCOMMODATE PIPES AND RESILIENT CONNECTORS. STRUCTURAL DIMENSIONS FOR LARGER DIAMETER STRUCTURES SHALL CONFORM TO ASTM C-478.
 - 5) MANHOLE STEPS SHALL BE E/W #8501 OR EQUIVALENT.
 - 6) INSTALL STEPS AFTER STRUCTURE IS IN PLACE TO INSURE STEPS ARE LOCATED UNDER OPENING. TOP STEP SHALL BE NO MORE THAN 24 INCHES FROM TOP OF CASTING. BOTTOM STEP SHALL BE NO MORE THAN 24 INCHES FROM BENCH/BOTTOM OF STRUCTURE.
 - 7) SEE RELATED CITY OF PORTAGE STANDARD DETAILS:
 - SD-101, STANDARD 48" DRAINAGE STRUCTURE
 - SD-103, STANDARD CURB INLET CASTING
 - SD-104, STANDARD DROP CURB INLET CASTING
 - SD-106, STANDARD MANHOLE STEP
 - SD-130, STORM SEWER HEAVY DUTY MANHOLE CASTING



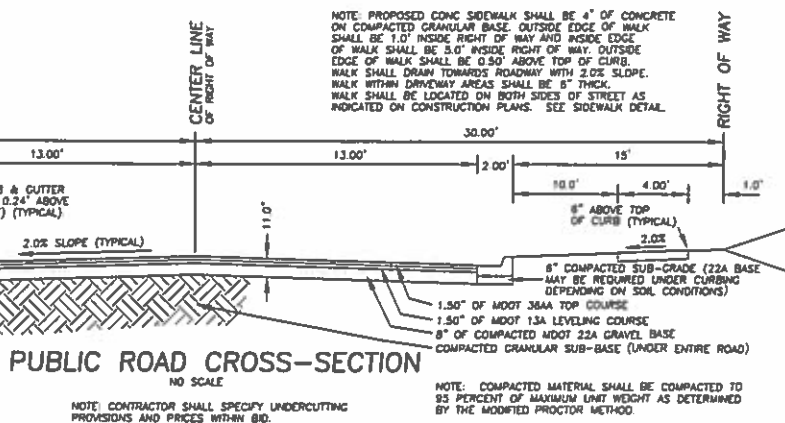
- NOTES:
- 1) HEIGHT OF STRUCTURES WILL VARY.
 - 2) STRUCTURES SHALL BE PRECAST CONCRETE AND CONFORM TO ASTM C-478 WITH O-RING RUBBER GASKET TYPE JOINTS, ASTM C-443. RUBBER GASKETS SHALL NOT BE REMOVED.
 - 3) INSTALL STEPS AFTER STRUCTURE IS IN PLACE. IF NECESSARY, TO INSURE STEPS ARE LOCATED UNDER OPENING. TOP STEP SHALL BE NO MORE THAN 24 INCHES FROM TOP OF CASTING. BOTTOM STEP SHALL BE NO MORE THAN 24 INCHES FROM BENCH.
 - 4) SEE RELATED CITY OF PORTAGE STANDARD DETAILS:
 - SD-105, STANDARD MANHOLE
 - SD-106, SANITARY SEWER STANDARD MANHOLE CASTING
 - SD-107, SANITARY SEWER PRESSURE-TIGHT MANHOLE CASTING
 - SD-108, STANDARD MANHOLE STEP



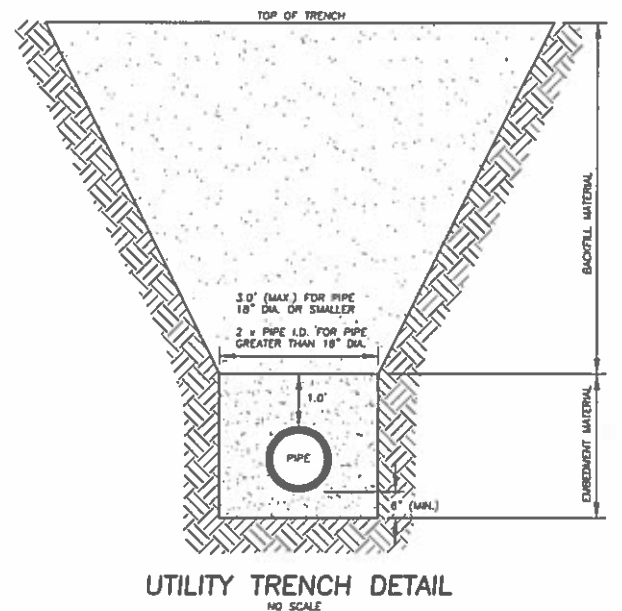
- NOTES:
- 1) CONCRETE SHALL BE MORT GRAD 35P OR 35S, AND MEET THE FOLLOWING REQUIREMENTS:
 - ALL AGGREGATES SHALL BE Limestone OR SLAG MATERIAL
 - ENTRAINED AIR: 8 TO 10 PERCENT
 - COMPRESSIVE STRENGTH AT 28 DAYS = 3500 P.S.I.
 - SLUMP = 1.5 TO 3 INCHES
 - MODULUS OF RUPTURE AT 28 DAYS = 850 P.S.I.
 - MINIMUM PORTLAND CEMENT CONTENT = 3.50 SACKS PER CUBIC YARD
 - 2) EXPANSION JOINTS SHALL BE PLACED AT SPRING POINTS AND UNIFORM INTERVALS OF NOT MORE THAN 100 FEET.
 - 3) PLANE OF WEARNESS JOINTS SHALL BE PLACED AT UNIFORM INTERVALS OF TEN (10) FEET. IRREGULAR SECTIONS SHALL NOT BE LESS THAN EIGHT (8) FEET.
 - 4) CONCRETE SHALL BE CURED IN A MANNER APPROVED BY THE CITY OF PORTAGE.
 - 5) SEE RELATED CITY OF PORTAGE STANDARD DETAIL: SD-113, STANDARD CURB



- NOTES:
- 1) CONCRETE SHALL BE MORT GRAD 35P OR 35S, AND MEET THE FOLLOWING REQUIREMENTS:
 - ALL AGGREGATES SHALL BE Limestone OR SLAG MATERIAL
 - ENTRAINED AIR: 8 TO 10 PERCENT
 - COMPRESSIVE STRENGTH AT 28 DAYS = 3500 P.S.I.
 - SLUMP = 1.5 TO 3 INCHES
 - MODULUS OF RUPTURE AT 28 DAYS = 850 P.S.I.
 - MINIMUM PORTLAND CEMENT CONTENT = 3.50 SACKS PER CUBIC YARD
 - 2) ONE (1) INCH TRANSVERSE EXPANSION JOINTS SHALL BE PLACED AT UNIFORM INTERVALS OF NOT MORE THAN 100 FEET.
 - 3) PLANE OF WEARNESS JOINTS SHALL BE PLACED AT UNIFORM INTERVALS OF FOUR (4) FEET.
 - 4) ALL JOINTS SHALL BE CONSTRUCTED AT RIGHT ANGLES TO THE CENTERLINE OF THE WALK.
 - 5) ALL CURBS AND JOINTS SHALL BE PROPERLY TOoled.
 - 6) THE SURFACE SHALL BE FINISHED WITH A WOOD FLAT OR BRUSH TO PROVIDE A NON-SLIP SURFACE.
 - 7) CONCRETE SHALL BE CURED IN A MANNER APPROVED BY THE CITY OF PORTAGE.
 - 8) WALK WITHIN DRIVEWAY AREAS SHALL BE 8" THICK.
 - 9) SEE RELATED CITY OF PORTAGE STANDARD DETAILS:
 - SD-117, RESIDENTIAL DRIVEWAY APPROACH WITH CURBED LOCAL STREET
 - SD-118, MARKED DRIVEWAY TYPE 1 DETAIL



NOTE: CONTRACTOR SHALL SPECIFY UNDERCUTTING PROVISIONS AND PRICES WITHIN BID.



- NOTES:
- 1) LARGE ROCKS, BOULDERS, AND STONES OVER ONE AND ONE HALF (1.5) INCHES IN DIAMETER SHALL BE REMOVED TO PROVIDE A CLEARANCE OF SIX (6) INCHES (MIN.) FROM ANY PART OF THE PIPE.
 - 2) ALL EMBEDEDMENT AND BACKFILL MATERIALS SHALL BE FREE FROM FROZEN EARTH, ICE, SNOW, TOPSOIL, MUD, CHIPS, CORKS, ASHES, REFUSE, ORGANIC MATTER, BOULDERS, ROCKS, OR OTHER MATERIALS WHICH, IN THE OPINION OF THE ENGINEER, ARE UNSUITABLE.
 - 3) EMBEDEDMENT MATERIAL SHALL BE GRANULAR MATERIAL WITH MAXIMUM PARTICLE SIZE OF 1.5" COMPACTED TO 95% OF MAXIMUM UNIT WEIGHT AS DETERMINED BY THE MODIFIED PROCTOR METHOD.
 - 4) BACKFILL MATERIAL UNDER PAVEMENT AREAS AND AREAS WITHIN THREE (3) FEET OF BACK OF CURB OR EDGE OF PAVEMENT SHALL BE GRANULAR MATERIAL COMPACTED TO 95% OF MAXIMUM UNIT WEIGHT AS DETERMINED BY THE MODIFIED PROCTOR METHOD.
 - 5) BACKFILL MATERIAL FOR PIPE TRENCHES NOT UNDER PAVEMENT AREAS MAY BE NONGRANULAR NATIVE MATERIAL WHICH, IN THE OPINION OF THE ENGINEER, IS ACCEPTABLE MATERIAL AND IS ADEQUATELY COMPACTED TO PREVENT SETTLEMENT.
 - 6) BACKFILL MATERIAL MAY BE PLACED, SPREAD, AND COMPACTED WITH EQUIPMENT OPERATED LONGITUDINALLY ALONG THE PIPE LINE. PUSHING MATERIAL INTO THE TRENCH FROM THE SIDE WITHOUT LONGITUDINAL SPREADING AND COMPACTION SHALL NOT BE ALLOWED.
 - 7) SEE RELATED CITY OF PORTAGE STANDARD DETAIL: SD-122, STANDARD TRENCH DETAIL.

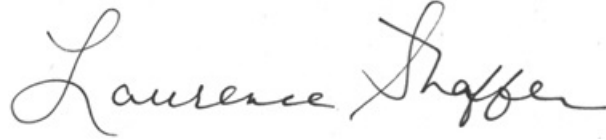


- NOTES:
- 1) 4" x 4" RISER MARKER STAKE REQUIRED AT EACH RISER LOCATION.
 - 2) BEDDING AND COMPACTION SHALL BE PER CITY STANDARD SPECIFICATIONS.
 - 3) SEE RELATED CITY OF PORTAGE STANDARD DETAILS:
 - SD-110, SANITARY SEWER STANDARD HOUSE CONNECTIONS (PROPERTY LINE RISER)

CONSTRUCTION DETAILS AND NOTES OAKLAND FARMS No.2 PART OF THE SE 1/4 OF SEC. 28, T35, R11W, CITY OF PORTAGE, KALAMAZOO CNTY., MICHIGAN	
Ingersoll, Watson & McMachen, Inc. CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS 1209 East William Road • Portage, Michigan 49002 • Phone 269 344-8165 • Fax 269 344-0555	REVISED 3/03/2018 REVISED 2/15/2018 REVISED 1/19/2018 DATE: 12/1/2017 SHEET: 6 JOB No.: 35067-2

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Virtual Attendance Policy - Information Only

SUPPORTING PERSONNEL: Adam Herringa, City Clerk

ACTION RECOMMENDED: Information Only

The City Council conducted a Committee of the Whole (COW) meeting on Tuesday, February 13, 2018, during which the development of a "virtual attendance" policy was discussed. The conversation included topics such as other communities that allow virtual attendance, the number of Councilmembers that may attend virtually at one time, the maximum number of times a Councilmember may attend virtually, the types of meetings (regular, special, closed session, COW) where virtual attendance may be allowed, technology requirements and costs, audio participation vs. audio and video participation, among others.

At the conclusion of the COW meeting, I pledged to continue to research technology options and develop a "virtual attendance" policy within thirty days. Please be advised that the Administration continues to research this matter and will present a draft policy in the near future.

FUNDING: n/a

Attachments: None

Minutes of Boards & Commissions

**PORTAGE PUBLIC SCHOOLS
BOARD OF EDUCATION
REGULAR BUSINESS MEETING MINUTES**

January 22, 2018

The regular business meeting of the Board of Education of Portage Public Schools held on Monday, January 22, 2018, was called to order at 6:31 p.m. by President Van Antwerp in Conference Room 1 at the Administration Building, 8107 Mustang Drive. He welcomed the audience and all in attendance recited the Pledge of Allegiance.

Board Trustees Present: Kurt Droppers, Terri Novaria, Celeste Shelton-Harris, Rusty Rathburn, Bo Snyder, Randy Van Antwerp

Board Members Absent: Joanne Willson

REVISIONS/APPROVAL OF AGENDA

Motion offered by Dr. Shelton-Harris, seconded by Mrs. Novaria, that the Board of Education approve the agenda as printed.

Motion carried unanimously.

REPORTS

Superintendent's Report – Change Order Summary

Superintendent Mark Bielang welcomed a group of teacher interns. Mr. Bielang also acknowledged January as School Board Recognition Month and recognized the Trustees for their important work and dedication. He presented each Trustee with a Certification of Recognition and noted how long each has served on the Board.

The Change Order Report was presented later in the meeting with the Bond Bid Package #3 information.

Financial Report – Monthly Financial Statement

Mrs. Karla Colestock, Director of Finance, shared the financial report for the six month period ending December 31, 2017. Mrs. Colestock also shared updates relative to the three percent retiree health care refund. She indicated the district received the funds and is working through a distribution plan. Communications will be going out to former employees that were impacted and to current employees. Mrs. Colestock also shared information on state funding, adding she will continue to watch this closely. She responded to Trustee questions.

COMMENTS OR COMMUNICATIONS

President Van Antwerp opened the comments and communications portion of the meeting and asked if there were any citizens who would like to speak to the Board.

Mr. Brian Vander Hoff, 5752 Windscape Drive, a community member, shared concerns regarding public access to facilities and referenced his letter to the Board regarding the same matter. Superintendent Bielang indicated a response to the letter would be prepared.

President Van Antwerp thanked Mr. Vander Hoff for his letter and comments and opened the floor for Board comments.

Trustee Rusty Rathburn thanked the Board, the public and staff for the outpouring of care and concern extended to him and his family. President Van Antwerp reminded Trustees of their February meetings and items planned for the agendas. He also reviewed items discussed at a recent Policy Committee meeting. These will be reviewed with Trustees at their work study.

CONSENT AGENDA

President Van Antwerp presented the following Consent Agenda items for approval by the Board of Education: approval of the December 11, 2017 regular business meeting minutes and the January 8, 2018 organizational meeting minutes as presented, and approval of the recommended purchase of five 77-passenger buses and one lift bus from Holland Bus for a total of \$521,281.00 with the purchase coming from the 2016 Bond Construction Fund #1 bus purchase allocation.

There being no objection to the items, the motion carried unanimously.

ACTION ITEMS

Approve Recommended Bond Bid Package #3 for Central Middle School and Central High School Athletic Event Facility

Relative to Bond Bid Package #3 for the Central Middle School and the Central High School Athletic Event Facility, Mr. Ron Herron, Assistant Superintendent of Operations, briefly reviewed updates to the information shared with the Board at their January 8th meeting and responded to questions from Trustees.

Bid category sheets were reviewed by Mr. Dan Rathburn, Project Manager from OAK. He also reviewed Bid Summary Sheets and responded to questions from Trustees.

Mr. Rathburn reviewed a Change Order Report – Financial Update for Central Middle School and Central AEF Award (Bond Change Order 5). Mr. Rathburn and Mr. Herron responded to questions from the Trustees.

President Van Antwerp thanked Mr. Herron and Mr. Rathburn for their reports.

Motion offered by Mr. Rathburn, seconded by Mr. Snyder, that the Board of Education authorize Owen-Ames-Kimball Co. to issue Notices of Pending Award, in the amounts indicated for the Central Middle School and the Central High School Athletic Event Facility, to contractors and suppliers listed on the Bid Summary Sheets, pending confirmation that all requirements of the Contract Documents have been met. Furthermore, that upon receipt by Owen-Ames-Kimball Co. of the appropriate documentation, contracts will be awarded to these contractors and suppliers by Portage Public Schools, as presented.

Motion carried unanimously.

Approve Recommended Change to Human Growth and Development Curriculum Materials

Mr. Michael Huber, Director of Curriculum, briefly reviewed the recommendation presented to the Trustees as their January 8th meeting. He added since that time two public hearings were held as required. Feedback has been positive. There were no questions from Trustees.

Motion offered by Mr. Droppers, seconded by Mrs. Novaria, that the Board of Education accept the recommendation from the Human Growth and Development Advisory Committee concerning the update of the Middle School 8th grade Drive curriculum from Prevention Works, as presented.

Motion carried unanimously.

DISCUSSION ITEMS

IPGA Conference Attendance

President Van Antwerp reviewed the proposed agenda for the upcoming International Policy Governance Association (IPGA) conference June 21-23, 2018 in Savannah, Georgia. He asked Trustees to contact him if interested in attending and responded to questions.

There being no further business to come before the Board, the meeting was adjourned at 7:26 p.m.

Respectfully submitted,

Barb Atkinson
Recording Secretary

**PORTAGE PUBLIC SCHOOLS
BOARD OF EDUCATION
COMMITTEE OF THE WHOLE WORK SESSION**

February 12, 2018

The Committee of the Whole Work session of the Board of Education of Portage Public Schools held on Monday, February 12, 2018, was called to order at 6:30 p.m. by President Van Antwerp in Conference Room 1 at the Administration Building, 8107 Mustang Drive. He welcomed the audience and all in attendance recited the Pledge of Allegiance.

Board Trustees Present: Kurt Droppers, Terri Novaria, Rusty Rathburn, Celeste Shelton-Harris, Bo Snyder, Randy Van Antwerp, Joanne Willson

Board Members Absent: None

REVISIONS/APPROVAL OF AGENDA

Motion offered by Mrs. Willson, seconded by Mr. Droppers, that the Board of Education approve the agenda as printed.

Motion carried unanimously.

REPORTS

Superintendent's Report

Superintendent Mark Bielang shared an update on the construction progress at North Middle School, Northern Athletic Event Facility and the Central High School Natatorium; provided an update on the Culture of Excellence efforts for continuous improvement in the district; reviewed a list of upcoming events for February and March; thanked staff/custodians for their cleaning and disinfection efforts to help ward off sickness and added our student attendance rates are about 90 percent district-wide. Mr. Bielang addressed questions from Trustees.

CommuniTEEN Update

District Media Specialists Ms. Jeanna Walker and Ms. Sara Brown and Ms. Laura Wright, Head of Youth Services at the Portage District Library, shared information about the upcoming March 14, 2018 CommuniTeen Read 2018 – an evening with Elizabeth Wein the author of *Code Name Verity* to be held at the Kalamazoo Air Zoo at 6:00 p.m.. High school students will have an opportunity to engage with the author during the day. A copy of the book was provided to the Trustees and questions were addressed. The presenters were thanked for their update.

It was announced that Portage Northern and Portage Central High Schools have received exemplary status as High School Libraries for the 21st Century. The Library of Michigan recognizes and commends performance by K-12 libraries across the state for excellent service, learning environment and leadership for students. Congratulations!

Education for Employment (EFE) Update

Kalamazoo RESA Superintendent, Mr. Dave Campbell and Ms. Karen Robyn, Program Administrator for Education for Employment, presented information on Kalamazoo RESA

Secondary Programming available to 9th-12th grade students in Kalamazoo County. Mr. Campbell and Ms. Robyn addressed questions from Trustees and were thanked for their update.

COMMENTS OR COMMUNICATIONS

President Van Antwerp opened the comments and communications portion of the meeting and asked if there were any citizens who would like to speak to the Board. There were none.

President Van Antwerp opened the floor for Board comments. Mr. Snyder stated he appreciated the work and the information shared in all of the reports this evening. Ms. Novaria commented she attended the high school performances recently; both were great and well attended!

DISCUSSION ITEMS

2017/18 Budget Amendment

Mrs. Karla Colestock, Finance Director, provided details to the General Fund Budget Amendment #1 Resolution for 2017/18 and responded to Trustee questions.

Bylaw and Policy Revisions

President Van Antwerp shared details of the Policy Committee proposed changes to various bylaws and policy as well as the Monitoring Report Evaluation Form. There were no questions from Trustees. Mr. Snyder and Mrs. Willson thanked Mr. Van Antwerp for his work on the changes.

ACTION ITEMS

Acceptance of Monitoring Report 1.4 – Ends Policy 1.4

Motion offered by Mrs. Willson, seconded by Mr. Droppers, that the Board of Education accept the Monitoring Report on Ends Policy 1.4, as a reasonable interpretation and evidence of compliance with policy, as presented.

Superintendent Bielang briefly reviewed the report and responded to Trustee questions.

Motion carried unanimously.

Acceptance of Monitoring Report 2.4 – Executive Limitation Policy 2.4

Motion offered by Mr. Droppers, seconded by Mrs. Willson, that the Board of Education accept the Monitoring Report on Executive Limitation Policy 2.4, as a reasonable interpretation and evidence of compliance with policy, as presented.

Superintendent Bielang reviewed the report. There were no questions from Trustees.

Motion carried unanimously.

There being no further business to come before the Board, the meeting was adjourned at 8:06 p.m.

Respectfully submitted,

Barb Atkinson
Recording Secretary

CITY OF PORTAGE HUMAN SERVICES BOARD

Minutes of Meeting February 1, 2018

CALL TO ORDER: 6:30 p.m.

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

STAFF PRESENT: Tom McCoy, Neighborhood Program Specialist

MOTION TO EXCUSE ABSENT MEMBERS: Maye moved and Kokkinos supported motion to excuse Mirza, Spalvieri and Upshaw. Motion passed 6-0

APPROVAL OF MINUTES: Durian moved and Maye supported approval of the January 18, 2018 minutes. Motion passed 6-0.

NEW BUSINESS:

- 1) **Public Hearing for FY 2018-2019 CDBG Annual Action Plan:** Maye moved and Durian supported motion to open public hearing Motion passed 6-0. Neighborhood specialist McCoy presented overview of proposed FY 2018-2019 Annual Action Plan. No citizens were present and no comments were received. Kokkinos moved and Durian supported motion to close public hearing. Motion passed 6-0.
- 2) **HPS Funding Score Sheets:** Woodin began discussion regarding consensus of Board on completed scoring summary sheet and rankings. Durian expressed disappointment that a previous year grantee (12 Baskets) had failed to apply for funding. LaPoint and other Board members expressed concern that one applicant (Gryphon Place) may be receiving lower ranking due to current scoring criterion and that changes may need to be considered in order to fully recognize the value of an organization which may not provide direct assistance. LaPoint suggested that potential revisions to scoring criterion could be an item of discussion at summer workshops. Mwanda inquired about origin of applicants and outreach efforts that are utilized. Board members responded that applicants this year were all former recipients of funding and McCoy confirmed that written communications are sent each year to all agencies who had applied for funding within the previous 5 years as well as several local human services organizations soliciting applications for grant funding from area agencies. Woodin queried and Board responded that consensus was agreed and that scores and rankings should be presented to the city from the Board as indicated on summary. LaPoint moved and Maye supported motion to present score sheet and rankings to city. Motion passed 6-0.
- 3) **Memo From Director Georgeau:** Wooding began discussion regarding memo received from Director Georgeau describing possible board recommendation to increase percentage of general fund revenue for Human/Public Service funding. A discussion of various possible options presented in the memo included comments from Maye, who expressed a desire to request the option that funding be increased to .75, from Mwanda, who expressed concern

that residents who experience a housing crises such as a no-heat situation were adequately addressed in our community in order to prevent potential dangerous consequences and by LaPoint, who expressed an interest in recommending that the city explore a method of payment for water bills other than the existing quarterly billing method that would make it easier for low income households to budget for this household expense. Maye expressed her opinion that affordable housing should be the first priority, and a general consensus was reached by the Board that additional funding over the current level should be directed primarily toward affordable housing, utility and water/sewer assistance. A general consensus was also reached that the board should make a recommendation to Council that a funding percentage increase be adopted for the 2018-2019 Fiscal Year and beyond and Woodin and LaPoint agreed to work jointly on a communication regarding the Board's recommendation on the proposed funding increase to present to the Board for consideration at the March 1, 2018 meeting.

- 4) **Metro Transit Update:** Woodin advised that she was aware of the upcoming departure of Missy Coulson from Metro Transit.

ADJOURNMENT: Maye moved and LaPoint supported adjournment at 8:00 p.m. Motion passed 6-0.

Respectfully Submitted,

Tom McCoy, Neighborhood Program Specialist

City of Portage
Historic District Commission
Wednesday, February 07, 2018

Meeting Called to Order: 8:23 A.M.

Members Present: Forrest, Duniphin, Barton, Grunert, Vanlonkhuyzen, Henicky, Maytnier.

Members Excused: Nemeth, Lopez.

Staff: Erica Eklov, Deputy City Clerk and Kyle Mucha, Zoning & Codes Administrator.

Guest(s): None.

Approval of Minutes: Grunert moved, seconded by Duniphin, to approve the January 03, 2018 meeting minutes as submitted. Motion approved 5-0-2 (Vanlonkhuyzen and Maytnier abstaining).

Old Business:

- a. 5720 Oakland: Duniphin informed the Commission members that the home appears to have new wooden steps, visible from Oakland Drive. Forrest informed the Commission members that he will do a drive-by of the property once the snow has melted and report back about his findings.
- b. Community Awareness: Duniphin updated the Commission about the annual Historic District Commission event, scheduled for May 12, 2018 (12pm – 4pm). The HDC outreach is featuring tours of 3821 West Milham Avenue, expo of historic preservation vendors and possible presentation and/or child friendly activities. Discussion followed about sponsorships for the event. Duniphin informed the HDC that finalization of information is proceeding in order to promote the May event in the Parks & Recreation Summer Brochure.

New Business:

- a. Rules of Order & Procedure: Grunert moved, seconded by Barton, to approve the adoption of the Rules of Order & Procedure. Upon voice vote, motion passed 7-0.
- b. Election of officers: Postponed until the next regularly scheduled meeting (March 2018) due to two members being absent.

Adjournment: with no further commissioner comments, nor citizen comments, meeting was adjourned at 9:20 A.M.

Respectfully submitted,

Kyle Mucha
Zoning & Codes Administrator

City of Portage
Historic District Commission – Study Committee
SPECIAL MEETING/PUBLIC HEARING
Wednesday, February 07, 2018

Meeting Called to Order: 9:20 A.M.

Members Present: Forrest, Duniphin, Barton, Grunert, Vanlonkhuyzen, Maytnier.

Members Excused: Nemeth, Lopez, Henicky.

Staff: Erica Eklov, Deputy City Clerk and Kyle Mucha, Zoning & Codes Administrator.

Guest(s): Debbie & Randy Newsome

2663 Mandigo Avenue:

The public hearing was opened by Chair Vanlonkhuyzen. Debbie & Randy Newsome were in attendance and informed the committee that they are scheduled to close on 2663 Mandigo Avenue in the coming weeks. The Newsomes indicated their plan is to refurbish and restore the farm house and ranch, and to save the outbuildings, except for the burned corncrib. Further discussion followed about potential plans for the property. Vanlonkhuyzen asked when an application would need to be submitted from the new property owners to be on the next regularly scheduled meeting. Mucha informed the Committee that staff needs time to review an application and provide feedback, however, per the approved Rules & Procedures, an application may be placed on the agenda for the meeting not later than 12:00 P.M. on Friday three (3) working days preceding the meeting. Mucha also informed the committee that preferably, an application would be submitted no later than one week prior to the agenda deadline. The public hearing was then closed.

Grunert motioned, seconded by Forrest, to have staff prepare a final report of the findings of the Study Committee, to be voted on at the March 07, 2018 meeting. Motion passed 6-0.

Adjournment: with no further commissioner comments, nor citizen comments, meeting was adjourned at 9:45 A.M.

Respectfully submitted,

Kyle Mucha
Zoning & Codes Administrator

Youth Advisory Committee Minutes

February 12, 2018, 6:30 p.m.

- I. Introductions and Attendance
- II. Report from Liaisons
 - a. Environmental board - New app for reporting problems within city limits , wants more youth involvement
- III. Snow Party-Review
 - a. Big factor was weather
 - b. More publicity
 - c. Plan non-winter activities
- IV. MLK, Jr. Event
 - a. Friday, February 16 at PNHS Auditorium
 - b. 7:00 – 9:00 p.m., arrive at 6:30 p.m.
 - c. The Witness will be performed
 - d. Handout programs, assist patrons as needed
 - e. Pizza provided
- V. Green-a-Thon 2018
 - a. Saturday, April 28th from 11:00 a.m. until 3:00 p.m.
 - b. Vendors- Smokedown BBQ, Indian Cuisine, Coffee Rescue
 - c. Music: Ask people in bands, or who play instruments
 - d. Trees: Eastern Redbud(2 sets of 50), Spicebush(50), White Flowering Dogwood(50)
- VI. Park Board Event Invite
 - a. Park Board is hosting “Summer Campout at Ramona Park”
 - b. Saturday, June 23rd at 5:00 p.m.
 - c. Games, entertainment, pig roast, bonfire, movie(Wonder Woman) and scavenger hunt
 - d. Replacement to the summer event at the library
 - e. Invite Teen Library Board to the actual event
- VII. YAC Appointment to Boards and Commissions
 - a. Maybe elect several members instead of one liaisons
 - b. Hold liaisons more accountable
 - c. Type of short write ups from meetings
- VIII. Spreading the Word about YAC
 - a. Reach out to history classes
 - b. Informational meetings
- IX. CSI Demo from Police

- a. March, after school
- X. Social Host Ordinance – Final Review from Police
- XI. Summer Movie Selection
 - a. Decided Movie: Wonder
- XII. Next Meeting: March 5, 2018
 - a. YAC Presentation to City Council February 13th at 7:00 p.m.
 - b. MLK, Jr. Event – Friday, February 16 from 6:30 to 9:00 p.m. at NHS Auditorium

PLANNING COMMISSION

February 15, 2018

The City of Portage Planning Commission meeting of February 15, 2018 was called to order by Chairman Stoffer at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 18 citizens were in attendance.

PLEDGE OF ALLEGIANCE:

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

IN ATTENDANCE:

Christopher Forth, Acting Director of Community Development; Michael West, Senior City Planner; and Randy Brown, City Attorney.

ROLL CALL:

Mr. Forth called the role: Patterson (yes), Shoup (yes), Stoffer (yes), Schimmel (yes); Harrell-Page (yes); Place (yes), and Corradini (yes). A motion was made by Commissioner Patterson, seconded by Commissioner Schimmel, to approve the role excusing Commissioners Bosch and Joshi. The motion was unanimously approved 7-0.

APPROVAL OF MINUTES:

Chairman Stoffer referred the Commission to the February 1, 2018 regular meeting minutes contained in the agenda packet. A motion was made by Commissioner Harrell-Page, seconded by Commissioner Place, to approve the minutes as submitted. The motion was unanimously approved 7-0.

PUBLIC HEARINGS:

1. Preliminary Plat of West Lake Estates, 9300 Portage Road. Mr. West summarized the staff report dated February 9, 2018 regarding the request by AEG Development, LLC to construct West Lake Estates single family residential subdivision. Mr. West stated the plat of West Lake Estates proposes 20 single family residential lots on approximately 11 acres. Mr. West discussed the Lakeview Drive/Portage Road realignment project planned for Summer 2018 and the Lakeview Drive, South Shore Drive to Portage Road, reconstruction project planned for FY 2019-2020. Mr. West then reviewed other aspects of the proposed subdivision including preliminary plans to address storm water runoff, designated wetland area defined within the northern portion of the property, sidewalks and proposed access to the plat. Mr. West stated the proposed preliminary plat meets applicable ordinance requirements and was recommended for approval subject to the conditions regarding public streets, utilities and storm water as outlined in the February 9, 2018 Department of Community Development report.

Brian Wood of AEG Development, LLC was present to support the proposed plat. The Commission, Mr. West and Mr. Wood next discussed various aspects of the proposed subdivision including the wetland area, the unplatted "exempted" parcel along the south side of Lakeview Drive, construction schedules for the Lakeview Drive/Portage Road realignment and proposed plat, and planned sidewalks.

Chairman Stoffer opened the public hearing. Four citizens spoke regarding the preliminary plat: 1) Ron Vandermeer, 1803 Lakeview Drive; 2) Dave Thomas, 1811 Lakeview Drive; 3) Christy Ohlmann, 1807 Lakeview Drive; and 4) Doug Slager, 9310 Portage Road. Mr. Vandermeer expressed concerns about the existing condition of Lakeview Drive, additional traffic generation, storm water drainage from the plat and impacts along Lakeview Drive and the buildability of certain lots within the plat. Mr. Thomas presented photographs of his property taken in October 2017 following the large rain event and indicated that storm water runoff and the fluctuating groundwater table along Lakeview Drive was a major concern. Mr. Thomas indicated that he had spoken with the city engineer regarding this matter and made suggestions for consideration when Lakeview Drive is reconstructed in FY 2019-2020. Mr. Thomas also questioned if the "unplatted parcel" along Lakeview Drive can be built upon and suggested this parcel, along with the northern portions of Lots 14, 15 and

20, be placed into a wetlands/land conservancy to better protect the wetland area. Ms. Ohlmann expressed concerns about increased traffic on Lakeview Drive, environmental impacts and the quality of the home construction. Mr. Slager stated that he was not opposed to the development, but did have concerns about storm water runoff, wetland impacts, loss of trees and construction schedules for the plat and the Lakeview Drive/Portage Road realignment project. No additional citizens spoke regarding the proposed subdivision. A motion was made by Commissioner Schimmel, supported by Commissioner Harrell-Page, to close the public hearing. The motion was unanimously approved 7-0.

The Commission, staff and Mr. Wood discussed various aspects of the proposed plat and the proposed roadway projects planned by the city. Mr. West summarized the three step review/approval process for the proposed plat and indicated that the preliminary plat was the first step where the developer presents existing and proposed conditions pertaining to the development of the subdivision. Mr. West stated the second step in the process (final preliminary plat) involved submittal and review of the detailed engineering plans for the project. Mr. West indicated that staff and the developer have been discussing preliminary engineering design issues for the past several months and staff would closely review the engineering plans for conformance with city standards and requirements once they are submitted. Mr. Wood indicated that discussions with the Michigan Department of Environmental Quality (MDEQ) regarding wetlands and storm water issues were ongoing and indicated another follow-up meeting was scheduled for February 20th. Mr. Wood discussed the long working relationship between AEG Development, the MDEQ and the city and referenced construction of the Copperleaf Subdivision near West Milham Avenue and US-131. Mr. Wood indicated that AEG Development has been constructing residential homes throughout the State of Michigan and northern Indiana for many years. Commissioner Harrell-Page asked Mr. Wood to elaborate on the appearance and value of the proposed homes. Mr. Wood indicated the homes in West Lake Estates will include a variety of material types and be in the \$200,000 - \$300,000 price range. Finally, Mr. Wood stated that AEG Development would work closely with the city on construction schedules to minimize impacts and inconveniences to the Lakeview Drive residents. Attorney Brown discussed legal issues that the Planning Commission should consider when reviewing the preliminary plat. Attorney Brown stated that questions regarding the appearance or price range of homes could be asked, however, should not be utilized to formulate a decision/recommendation. Attorney Brown also stated that if the preliminary plat satisfies the requirements of city ordinances and the State, it must be approved.

After additional discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Corradini, to recommend to City Council that the Preliminary Plat for West Lake Estates, 9300 Portage Road, be approved subject to the conditions described in the February 9, 2018 Department of Community Development staff report involving finalization of public street and utility design, including storm water, that will be reviewed upon submission of the detailed engineering plans. The motion was unanimously approved 7-0.

PUBLIC HEARINGS:

1. Special Land Use Permits: Blain's Farm & Fleet, 751 and 879 Mall Drive, 6500 Ring Road and 980 Martin Luther King Jr. Drive. Mr. Forth summarized the amended staff report dated February 15, 2018 regarding the request from Blain's Farm & Fleet to obtain special land use permits to establish a retail store with 1) An open air business (outdoor sales area) along the north side of the site, and 2) An auto repair facility along the south side of the site. Mr. Forth stated that the Zoning Board of Appeals (ZBA) on February 12th approved two variances related to the special land use permits: 1) A variance to operate an open air sales business on the street side of the building (Mall Drive), and 2) A variance to allow the auto repair bay doors to face a public street (MLK Drive). Prior to further Planning Commission consideration, the owner of the property, Josh Weiner of the Meyer C. Weiner Company, spoke regarding the proposed special land use permits.

Mr. Weiner stated that recent conversations with Blain's representatives have resulted in some changes to the development plan that will require additional ZBA consideration and revisions to the site plan. After meeting on-site with Blain's representatives on Tuesday, Mr. Weiner indicated that Blain's requires additional outdoor sales/storage along the west side of the building. The Commission, Mr. Forth, Attorney Brown and Mr. Weiner discussed various aspects of the proposed changes, the need for additional ZBA consideration and site plan

modifications, Zoning Code provisions and requirements and whether Planning Commission could move forward with consideration at tonight's meeting.

After additional discussion, a motion was made by Commissioner Place, seconded by Commissioner Corradini, to adjourn the Special Land Use Permits and Site Plan for Blain's Farm & Fleet, 751 and 879 Mall Drive, 6500 Ring Road and 980 Martin Luther King Jr. Drive, to the March 1, 2018 meeting. The motion was unanimously approved 7-0

OLD BUSINESS:

1. FY 2018-2028 Capital Improvement Program (follow-up). Mr. Forth referred the Commission to the February 9, 2018 Department of Community Development staff report that addressed several questions from Commissioner Corradini regarding the proposed Capital Improvement Program (CIP). Commissioner Corradini thanked staff for the thorough responses. The Commission did not have any further questions or comments regarding the FY 2018-2028 CIP. Mr. Forth stated that a bounded copy of the full FY 2018-2028 CIP document will be provided to the Planning Commission prior to the formal review at the March 1, 2018 meeting.

2. Kalamazoo County Master Plan – distribution for public review/comment. Mr. Forth reviewed the staff report dated February 9, 2018 that summarized the process that representatives from Kalamazoo County began back in December 2017 to update the Kalamazoo County Master Plan and solicit comments from various communities. Mr. Forth stated that the 2018 Kalamazoo County Master Plan has been approved for distribution to intergovernmental agencies and the public comment period would remain open until March 27, 2018. Mr. Forth advised the Commission to review the document through the county web site and provide any comments by the March 15, 2018 meeting.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS/COMMISSIONERS:

Commissioners Bosch and Joshi indicated they would not be present at the February 15, 2018 meeting. Commissioners Patterson and Corradini stated they would not be present at the February 22, 2018 meeting.

ADJOURNMENT:

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 8:47 p.m.

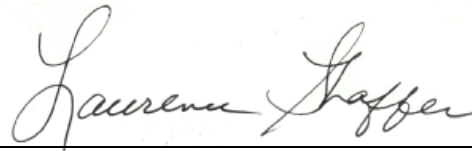
Respectfully submitted,

Christopher Forth, AICP
Acting Director of Community Development

MATERIALS TRANSMITTED

Tuesday, February 13, 2018

1. 2018 City Council Retreat – **Information Only.**

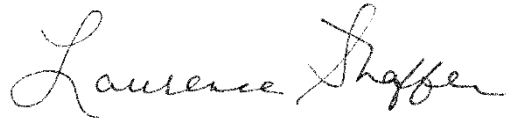


Laurence Shaffer, City Manager

cc: Rob Boulis, Deputy City Manager

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: 2018 City Council Retreat - Notes, Explanations and Priorities

On January 12, 2018, the Portage City Council, led by Mayor Patricia M. Randall, conducted its annual retreat. In attendance at Heritage Hall, Board of Trustees Room, Western Michigan University were Mayor Randall, Mayor Pro Tem Jim Pearson and Council members Claudette Reid, Terry Urban, Richard Ford, Lori Knapp and Chris Burns. City Manager Laurence Shaffer and Deputy City Manager Rob Boulis also attended. The presenter, James Officer discussed the power of relationships and communication to drive productive organizations. Each member of the City Council was asked to state the issues and challenges that lay before the City for the upcoming year. The attached notes attempt to list the issues identified by each member of the City Council in a summary format.

This document will attempt to achieve two things. First, it will assign to the various department heads those issues raised by City Council members that appropriately deserve a response from the administration. Second, this document will collate and array the various topics the City Council identified as issues that should be prioritize over the next year. The City Council identified three (3) topics that it wished to conduct Committee of the Whole Meetings (COW) to examine, receive information and recommendations relative to how to proceed. Those three topics, including the date for which a COW shall be held, are as follows:

- Electronic Participation By Council Members at Meetings February 13, 2018
- Senior Center Expansion – Community Center; Funding February 27, 2018
- Social Media – Use of electronic communication to forge community April 24, 2018

Additional topics were offered by City Council members at the retreat. Below is a summary.

Citizen Survey – Need to perform a professional analysis of Citizen Survey; establish survey guidelines. (Reid, Knapp)

Social Media – Evaluate social media; Citizen Committee; address fractured social media profile; need communication committee; website challenges; Facebook and Twitter presence; Manager Facebook Page (Reid, Knapp; Ford; Burns)

Parks and Recreation Program – Measure the effectiveness of Parks and Recreation Program (Reid)

Senior Center – Citizen input; need a Committee to move forward; create a Task Force; Community Center attributes; (Randall, Burns, Knapp, Reid)

Paper Records – Focus upon sustainability; don't save unnecessary paper; paperless agendas for Boards; automated dictation system; closed caption for hearing impaired for meetings. (Ford, Burns)

Property Committee – Need committee to review potential city property acquisitions. (Urban)

Property Code Enforcement – Address citizen dissatisfaction with code enforcement. (Knapp)

Sewer Extension Beyond City of Portage Boundaries – What are the various costs, benefits and impacts for allowing the extension of the Portage sewage collection system to adjacent communities? (Ford)

Process for Calling Outstanding Bonds – What is the process for the evaluation when to call bonds? (Ford)

PMN Policy – Should the city consider options beyond PMN and its services? (Randall, Burns, Pearson)

Improve Public Facilities (Farmers Market and separate bike lanes) (Burns)

Retail Apocalypse – (Burns)

Single Trash Hauler for the City – (Pearson)

Succession Planning – (Randall, Pearson)

Social Programs – City support of Outside Agencies; Poverty in Portage (Reid, Burns, Knapp, Randall)

Road Safety around Schools – (Burns)

Open Space Plan – Public Input (Reid)

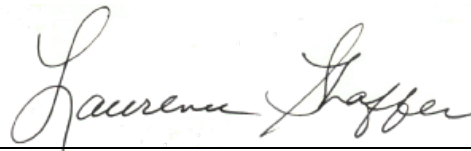
The city department heads shall provide reports to the City Council on the following topics:

1. *A Report from the Public Safety Department that identifies the departmental policy for video retention and pursuit should be forwarded to the City Council – **Public Safety Director Arnold***
2. *A Report from the Director of Information Technology on the progress of the Web Page – **Devin Mackinder, Director.***
3. *What are the poverty statistics in Portage and how have those numbers changed over time. **Victoria Georgeau, Community Development Director.***
4. *How many tickets have been issued by the Public Safety Department for on street parking? – **Public Safety Director Arnold.***
5. *How many additional surveys are conducted by the City of Portage? **Mary Beth Block, Assistant to the City Manager.***

MATERIALS TRANSMITTED

Tuesday, February 27, 2018

1. Communication from the City Manager regarding the Senior Center Committee of the Whole Meeting.
2. **TO BE REPLACE IN ITEM A.6. OF THE FEBRUARY 27, 2018 CITY COUNCIL AGENDA:** Corrected purchase of firewalls from one to two firewalls (purchase cost remains the same).
3. **SUPPLEMENTAL INFORMATION FOR AGENDA ITEM D.1. – MEDICAL MARIHUANA FACILITIES**– Communication from the City Manager regarding the updated ordinances from the changes discussed at the January 23rd City Council meeting.
4. **SUPPLEMENTAL INFORMATION FOR AGENDA ITEM D.1. – MEDICAL MARIHUANA FACILITIES** – Communication from the City Manager regarding updated Ordinance to Amend Chapter 42 **new version**.



Laurence Shaffer, City Manager

cc: Rob Boulis, Deputy City Manager

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager

SUBJECT: Senior Center Committee of the Whole

SUPPORTING PERSONNEL: Kathleen Hoyle, Director of Parks, Recreation and Senior Services

Attached are materials for the February 27, 2018 Senior Center Committee of the Whole Meeting.

Attachments: Senior Center PowerPoint Presentation
Case for Support – March 2018



Portage City Council Committee of the Whole

Portage Senior Center Expansion

February 27, 2018



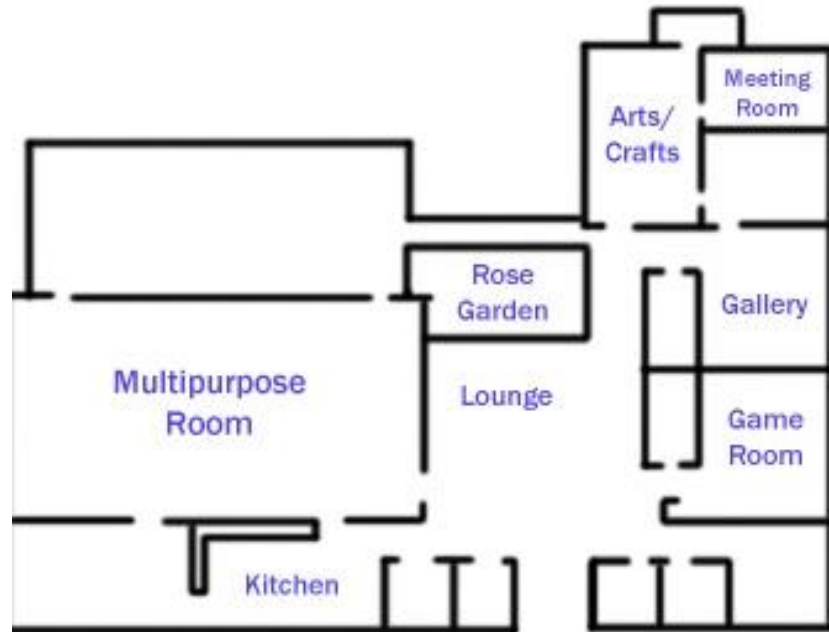
Accredited by 
National Institute of
Senior Centers

Our Mission

Provides information, a range of services, activities, and volunteer opportunities which promote personal growth, health, friendship and independence for adults aged 50 years and over.



PSC of Today



PSC of Today



PSC of Today



PSC of Tomorrow

ENTRANCE VIEW

CENTER AVE.



PSC of Tomorrow

FIRST FLOOR PLAN: OPTION - B

NEW SITE & NEW CONSTRUCTION



24 320 LIBRARY LANE, PORTAGE, MI

B/A#16100242



SECOND FLOOR PLAN: OPTION - B

NEW SITE & NEW CONSTRUCTION



25 320 LIBRARY LANE, PORTAGE, MI

B/A#16100242



Comparison

Current Center <i>(7,300 Square Feet)</i>	Proposed Center <i>(20,000 Square Feet)</i>
3 Programmable Spaces	10 Programmable Spaces
Limited Parking	Expanded Parking
Limited Fitness Space On-Site	Expanded & Dedicated Fitness Space
Limited Space for Performing Arts	Addition of Stage Performance Space
Limited Opportunities for Rentals	Expanded Rental Options

Missed Opportunities

- Limited fitness class offerings
- Programs are offered off-site
- Inability to add new programs
- Limited community partnership opportunities
- Inability to meet requests for multi-room meetings and/or conferences



Program Enhancements

- Expand fitness and athletic offerings
- Host educational conferences
- Lease space for community partner services
- Expand partnership with Portage Public Schools and Portage Community Center
- Expand kitchen for cooking & nutrition classes
- Host larger events (*Valentine's Lunch had 90 people with 20 waitlisted*)
- Hold concerts and community entertainment

Partnerships



Area Agency on Aging IIIA



Senior Services



**FERRIS STATE
UNIVERSITY**



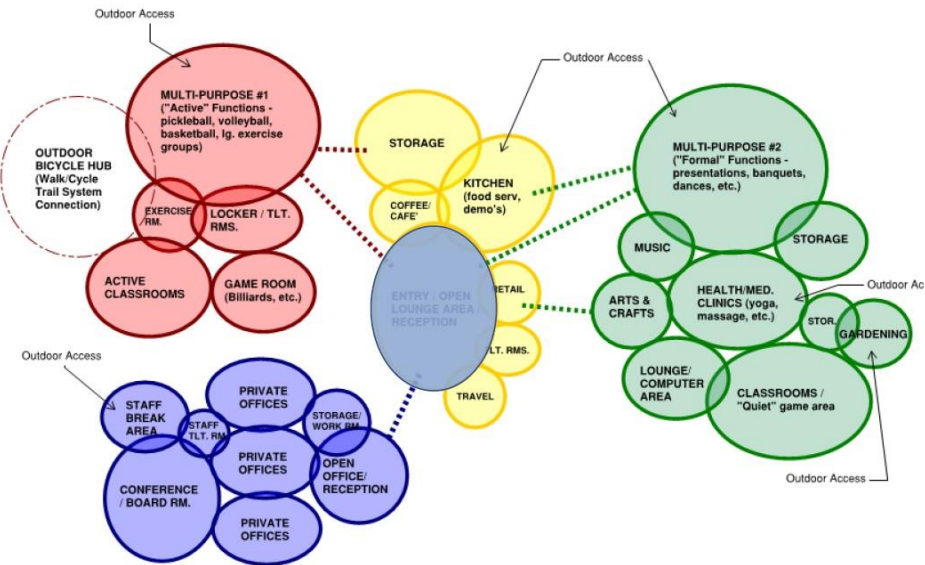
**WESTERN MICHIGAN
UNIVERSITY**



Community Input & Engagement

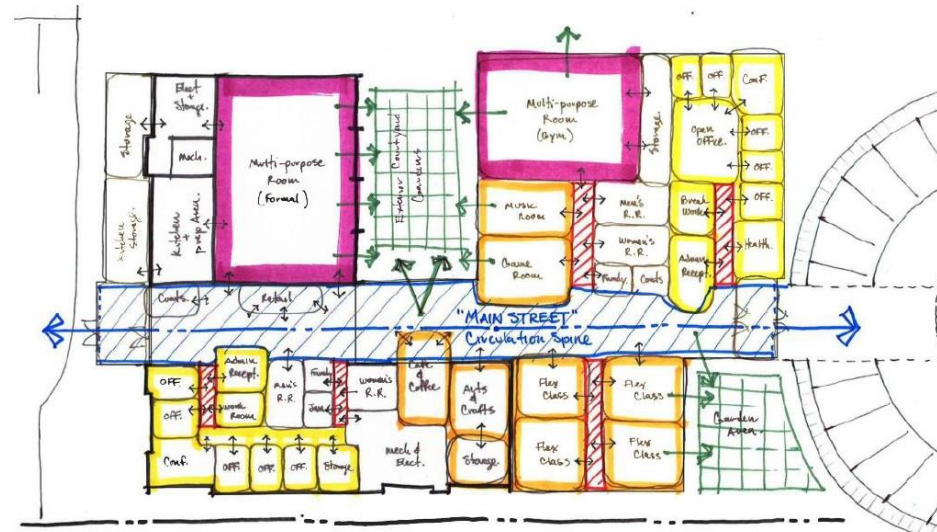
- Stakeholder Input – Representatives from various activities such as cards, fitness, garden club, board members, etc.
- Plans reviewed by Senior Citizen Advisory Board and the Friends of the Portage Senior Center and unanimously endorsed.
- Concepts available for member review/input
- Response has been positive & enthusiastic

- Lack of space
- Parking issues
- Limited programs due to space
- Dedicated recreation space (billiards)
- No significant entrance/presence



Stakeholder Input

- Conflict of quiet vs. active areas
- Limited storage of program supplies
- More programs focusing on wellness and cultural enrichment
- Outdoor space is nice but not necessarily accessible
- HVAC control issue/complaints in many rooms
- Furnishings are dated



Funding for feasibility study approved in **16/17** CIP Projects

- **October 2016** Contracted with Byce & Associates
- **December 21, 2016** Met with PSC stakeholders including PSC Members and City staff
- **January 24, 2017** Held second meeting with stakeholders
- **March 22, 2017** Presented initial building concept to stakeholders for feedback
- **May 2017** Plans and concepts presented to the Senior Center Advisory Board and the Friends of the Portage Senior Center Boards
- **July 5, 2017** City staff reviewed stakeholder input and feedback with Byce & Associates
- **August 18, 2017** Final concepts presented

Referendum History

November 8, 1994

One-half mill to “expand, operate and maintain the City of [Portage Senior Center](#).”

Yes: 6,684

No: 7,176

November 7, 1995.

One mill for the “purchase and operation of a building for a [new community and senior center](#) and related programs.” Involved purchase and expansion of facility at 7895 Currier Drive.

Yes: 2,977

No: 4,803

August 6, 2002. Two questions. Approval of both necessary.

- One-fifteenth mill for “the expansion of the Portage [Senior Center Building](#) for additional Senior Center space, [general community use space](#) and leasable space for the [Portage Community Outreach Center](#).”

Yes: 4,582

No: 5,076

- One-tenth mill for the “operation and maintenance of the building and related facilities containing the expanded [Senior Center space](#), [general community space](#) and [Portage Community Outreach Center space](#).”

Yes: 4,551

No: 5,068

Hired Keith Hopkins, Fundraising Consultant in January 2018

Focus will be on fundraising feasibility with private donors/partnerships

NEXT STEPS:

- **Finalize Case for Support**
- **Mail Donor Engagement Brochure**
- **Schedule and Conduct Donor Interviews**

Additional Benefits

- **Increased visibility in community**
- **Access off Centre Avenue**
- **Increased programs and partnerships with other City of Portage departments**



A Typical Day for Jane



- Jane enters the lobby and is greeted by name
- Strolls over to the cafe and has coffee with friends
- Attends a fitness class
- Has time for a quick card game
- A light lunch in the cafe
- Rents a bike and joins a trail ride assembling at the courtyard
- Chats with friends in the lounge before starting the next cooking demonstration
- Heads home to browse the travel brochure and get ready for the concert on the main stage tonight

Our Vision



We envision a community that understands and embraces the power of healthy aging to positively transform lives.

- PSC Vision Statement

PSC of Tomorrow: A Destination for Older Adults in Portage!

ENTRANCE VIEW

CENTER AVE.



PORTAGE SENIOR CENTER OF TOMORROW

A Destination for Older Adults



PORTAGE
SENIOR CENTER

PORTAGE SENIOR CENTER (PSC)
PORTAGE, MI

A Case for Support: March 2018



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Jane Smith, member since 2018

“Lorem ipsum dolor amet swag snackwave organic adaptogen fashion axe. VHS tousled bushwick lyft. Keffiyeh biodiesel roof party viral organic woke. Photo booth trade, kale chips.”

SERVING THE SENIORS OF PORTAGE

The Portage Senior Center (PSC) provides joy, companionship, and love to Portage and Kalamazoo County citizens over the age of 50. The PCS has operated from its dedicated facility, located at 320 Library Lane in Portage, since 1979. The PCS provides services to more than 2,000 seniors each year.

Programs focus on five major categories:

1. Education

3. Socialization

5. Transportation

2. Health

4. Recreation

The City of Portage funds the Portage Senior Center (PSC) facility and supports the programs. The PSC operates on a budget of \$612,000 and is funded through several revenue streams. Senior users of the PSC provide up to 75 percent of the annual operating cost through user fees. The remaining 25 percent of operational support (\$153,000) is provided by the city.

The PSC receives no federal funding or county funds.

Staff, Friends of the PSC, and members raised the additional 75 percent of the annual budget last year. Additional funds are raised through membership fees, special fundraising events, trips, occasional grants, participant fees, donations, and memorial gifts.

In 1995 an Endowment Fund was established by the Friends of the Portage Senior Center with the Kalamazoo Community Foundation to ensure future funding of the PSC programming. There is no dedicated funding stream for the PSC facility renovations and improvements.

In addition to providing recreational, social, and educational opportunities for older adults, the PSC provides year-round resources to seniors struggling to meet basic, critical needs. These services include:

- Promoting health and wellness by offering an array of monthly health screenings.
- Promoting mobility and independence by offering specialized recreational programs.
- Offering transportation services to those unable to drive.
- Partnering with other local social service providers to connect area seniors to critical assistance around housing, food security, legal, accounting and other financial assistance, and utility assistance.

"Senior citizens turn to speed dating to find love."

by Rheana Murray | Nov.08.2017 | Today.com

As the baby boomers age, our nation is preparing for a tidal wave of senior citizens. The following statistics demonstrate how radically American society and our community will change over the next several decades:

- 50 percent of baby boomers currently reside in nine states (Michigan is one of those states).
- Only 1 percent of baby boomers plan to relocate as seniors.
- In 2016, Portage's senior population numbered 7,226. Seniors make up nearly 14 percent of the Portage population.
- Similarly, Kalamazoo County's senior population now exceeds 260,000 residents and makes up 19.5 percent of the overall population. By 2035, Kalamazoo County's older population (75 and older) is expected to grow by 104 percent.

As America's older adult population is increasing, demographers expect the next generation of senior citizens to be more:

- Active.
- Likely to be employed part time.
- Mobile.
- Likely to volunteer.
- Likely to enjoy better health.

As local communities look ahead, it is clear that they must begin planning now for a larger and more dynamic senior population that has different needs and expectations than today's seniors.

"Speed dating isn't just for millennials."

"I think people forget that when you get older, and especially if you lose a spouse or partner, you're by yourself a lot," Kim Phillips, the senior citizens services manager at the Portage Senior Center in Portage, Michigan, told TODAY. "Isolation can be a physical killer."

"This is definitely out-of-the-box thinking for us, and for a lot of senior centers," she said. "But with the influx of baby boomers, and as more people are aging ... I think they're looking for those out-of-the-box opportunities."

Read the full story online

<https://www.today.com/health/senior-citizens-turn-speed-dating-find-love-t118342>



TRANSFORMING THE PORTAGE SENIOR CENTER

The current PSC is too small, lacks the amenities that today's seniors desire, and is in need of significant renovation. Recently, the PSC completed several years of community surveys and planning, including visits to senior centers in other communities. This investigation indicated the need for an expanded and updated senior center in the City of Portage.

In its current conception, this plan would result in the construction of a new senior center at 203 E. Centre Avenue with frontage on Centre Street and an entrance on Brown Avenue. The City of Portage has already acquired this property and proposes a new facility that would include:

- A multi-purpose room (with a stage) that could accommodate up to 330 people.
- A courtyard for socializing and an outdoor fireplace.
- An outdoor terrace for spring and summer activities.
- Multi-purpose activity and fitness space that could accommodate basketball, pickle ball, and other uses.
- Fitness space.
- A health clinic.
- A center promenade for indoor walking during the winter season.
- A computer lounge.
- A commercial kitchen to accommodate cooking classes and catered events.
- ADA accessible restrooms.
- A coffee shop.
- Gaming including billiards, ping pong, and other activities.
- Dedicated space for quiet reading and reflection.



John Smith, member since 2018

"Lorem ipsum dolor amet swag snackwave organic adaptogen fashion axe. VHS tousled bushwick lyft. Keffiyeh biodiesel roof party viral organic woke. Photo booth trade, kale chips."

TRANSFORMING THE PORTAGE SENIOR CENTER

It is anticipated that it will cost approximately \$760,000 each year to operate the new senior center. The operational cost will be paid for through increased membership, enhanced program revenue, expanded fundraising, and rental revenues.

The proposed improvements will accomplish two key objectives:

- Offer more space for seniors to accommodate expanded programming.
- Reconfigure the existing space to accommodate the coming wave of more active baby boomer seniors who will demand different programming and more flexible space.

It is anticipated that the construction of a new PSC will cost approximately \$5.5 million. The City of Portage would like to fund these improvements without a new millage request—instead seeking philanthropic support from local community donors, area businesses, and known regional philanthropists.

This project has been endorsed by the Friends of the Portage Senior Center and the City of Portage Senior Citizen Advisory Board and is viewed by many in the leadership community as a first step in a larger, regional approach to proactively planning for and addressing the anticipated needs of the next generation of older adults.

A Key Question Remains:

Accomplishing this ambitious plan will take the cooperation and financial commitment of many Portage and Kalamazoo area citizens concerned about the future needs of local senior residents. Before initiating a capital campaign on behalf of the new PSC and the residents it serves, the City of Portage is seeking your participation in a study to determine the practicality and viability of this plan.

Your input is greatly appreciated.



Mary Smith, member since 2018

"Lorem ipsum dolor amet swag snackwave organic adaptogen fashion axe. VHS tousled bushwick lyft. Keffiyeh biodiesel roof party viral organic woke. Photo booth trade, kale chips."

PSC OF TOMORROW

STREET VIEW

BROWN AVE.



FIRST FLOOR PLAN

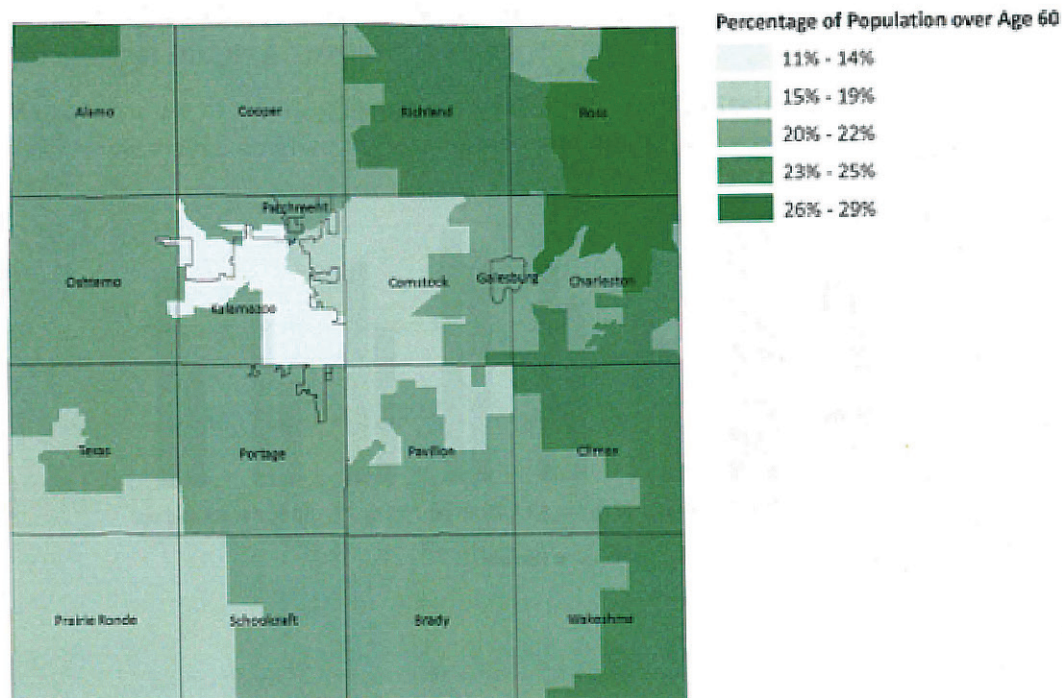
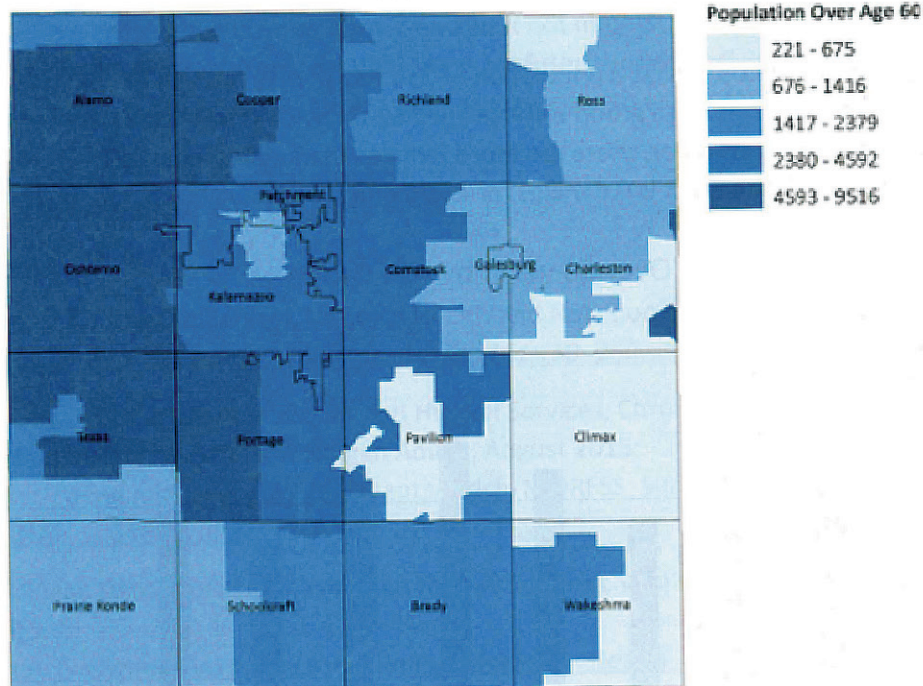
NEW SITE & NEW CONSTRUCTION



Designed by Byce Engineers and Architects

COUNTY POPULATION

The largest populations of those over age 60 live in the western half of the county, in zip codes 49009 and 49024. Proportionally, the areas in the eastern sides of the county have the largest proportion of their population over age 60.



SUPPORT THE SENIORS OF PORTAGE

Please join the City of Portage in reimagining the Portage Senior Center for the good of the community and the individual seniors a new center and expanded offerings will impact. A project of this magnitude will benefit the greater Portage and Kalamazoo communities for decades to come. We welcome your support and input!

Laurence Shaffer
City Manager, City of Portage



Mary Jones, member since 2018

"Lorem ipsum dolor amet swag snackwave organic adaptogen fashion axe. VHS tousled bushwick lyft. Keffiyeh biodiesel roof party viral organic woke. Photo booth trade, kale chips."

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Palo Alto Network **Firewalls** Purchase

SUPPORTING PERSONNEL: Devin Mackinder, Director of Technology Services

ACTION RECOMMENDED: Approve the purchase of **two** Palo Alto firewalls and associated three-year maintenance and support with Data Strategy at a total cost of \$66,368 and authorize the City Manager to execute all documents related to this action on behalf of the city.

Due to an increase of cyber attack attempts against the city technology network, the Director of Technology Services initiated a network security audit in late 2017, which was conducted under contract by PCM. One of the audit recommendations was to the replace the seven-year old primary network firewall in order to better manage modern cyber threats.

After a trial of several "next-generation" firewalls, the Technology Services Department has chosen the Palo Alto Networks PA 3020 firewall as the best option for the city in terms of affordability, capability and compatibility. Primary features include: advanced visibility and control of applications, users, and content at higher throughput speeds, dedicated computing and programmable hardware resources assigned to networking, security, signature matching, and management functions.

As the firewall is a commodity item, bids were sought from qualified vendors. Four bids were acquired, but only two vendors were able to bid on all the equipment and support requirements. The lowest and best bid was acquired by Data Strategy of Grand Rapids, Michigan in the amount of \$66,368. The total cost includes three years of maintenance and support.

Therefore, it is recommended that City Council approve the purchase of **two** Palo Alto firewalls, including three-year maintenance and support with Data Strategy, at a total cost of \$66,368 and authorize the City Manager to execute all documents related to this action on behalf of the city.

FUNDING: The \$66,368 will be funded by the 2017-2018 Cable Access Fund.

Attachments: 1. Bid Tab

The following pages include information provided to City Council by City Administration on Tuesday, February 27th. To view the current medical marihuana proposed ordinances that will be reviewed and potentially acted upon at the Tuesday, March 13th Regular City Council Meeting please view Item D.1 which begins on page 216 of the Agenda Packet.

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager

SUBJECT: Supplemental Information for Agenda Item D.1. – Medical Marihuana Facilities

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

Attached for the information of council are the two new ordinances to reflect the changes discussed by the City Council at the January 23rd meeting. The new ordinance includes the elimination of the 250 feet buffer on the municipal boundaries, the 1,000 feet separation from schools, churches and daycare facilities regardless of whether those facilities exist outside of the City and the 125 feet separation from residential property regardless of the contiguous with a residential zone, thereby eliminating the use of a strip transfer to avoid the impact of the original language.

This information was previously transmitted electronically on Monday, February 26, 2018.

Attachments: Ordinance to Amend Chapter 14 – Redline/Strikeout
Ordinance to Amend Chapter 42 – Redline/Strikeout
Ordinance to Amend Chapter 14 – Clean Copy
Ordinance to Amend Chapter 42 – Clean Copy
Maps (4)

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY ADDING ARTICLE 11, MEDICAL MARIHUANA
FACILITIES, OF CHAPTER 14, BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

That Chapter 14 shall be amended to add Article 12, Medical Marihuana Facilities, as follows:

CHAPTER 14. BUSINESSES.

ARTICLE 12. MEDICAL MARIHUANA FACILITIES.

Sec. 14-245. Purpose.

(a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, to: authorize the establishment of certain types of medical marihuana facilities in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such facilities; and establish fees for such permits.

(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, licensees, or the owners or occupants 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.

Sec. 14-246. Definitions.

As used in this article, the following terms shall have the meanings indicated:

(a) "Act" means the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, as amended.

(b) "Board" means the medical marihuana licensing board created in section 301 of the Act.

(c) "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 of 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, or a greenhouse.

(d) “Grower” means a licensee and permittee that is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

(e) “LARA” means the Michigan Department of Licensing and Regulatory Affairs.

(f) “Licensee” means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

(g) “Marihuana” means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(h) “Marihuana facility” means a location at which a licensee and permittee is licensed and permitted to operate as a grower, processor, provisioning center, safety compliance facility, or secure transporter under the Act and this article.

(i) “Marihuana plant” means any plant of the species *Cannabis sativa* L.

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

(k) “Marihuana-infused product” means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 *et seq.*

(l) “Paraphernalia” means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

(m) “Permittee” means a person who has been issued a medical marihuana facilities permit pursuant to this article.

(n) “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity, as well as those persons defined as “true party of interest”.

(o) “Proposed marihuana facility” means a location at which an applicant plans to operate under the Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

(p) “Provisioning center” means a licensee and permittee that is a commercial entity located in this city that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver

through the Michigan Department of Licensing and Regulatory Affairs' (LARA) marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this article.

(q) "Rules" mean the emergency and general rules of the Michigan Department of Licensing and Regulatory Affairs adopted pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, and the Marihuana Tracking Act, MCL 333.27901 *et seq.*, as may be amended from time to time.

(r) "Safety compliance facility" means a licensee and permittee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(s) "Secure transporter" means a licensee and permittee that is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee.

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

(tu) "State operating license" or "license" means a license that is issued the Act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

(uv) "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (i) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (ii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act.

(vw) "Tracking Act" means the Marihuana Tracking Act, MCL 333.27901 *et seq.*

(wx) "True party of interest" means the following:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.

- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.
- (5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

“True party of interest” does not mean:

- (1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.
- (2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(~~xy~~) Unless the context requires a different meaning, any term used in this article that is defined by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.* shall have the definition given in that act.

(~~yz~~) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, shall have the definition given in that act.

(~~zaa~~) Unless the context requires a different meaning, any term used in this article that is defined by the Marihuana Tracking Act, MCL 333.27901 *et seq.* shall have the definition given in that act.

Sec.14-247. Adoption of state rules and regulations.

All activities related to medical marihuana shall be in compliance with 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.

Sec. 14-248 Marihuana facilities allowed.

(a) Pursuant to Section 205(1) of the Act the city authorizes the following types of marihuana facilities to be permitted in the city without limitation as to the number of facilities: class A, B, and C growers, processors, secure transporters, provisioning centers, and safety compliance facilities.

(b) Operation of provisioning centers, processors and growers at the same location is not authorized.

Sec.14-249. Permit required.

No person shall own or operate a marihuana facility in the city without first applying for and receiving a permit from the city clerk and state operating license. **No person who has received a city permit and state license to operate a class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional class C license the person desires to stack with its original state operating license, and a stacked class C state operating license or licenses.**

Sec. 14-250. Application for permit.

(a) Permit applications for medical marihuana facilities **and applications for stacked class C grower licenses at an existing class C grower facility**, shall be received by the city annually during a period specifically designated by the city manager for that purpose, and at no other time. The city will initially begin receiving permit applications for marihuana facilities on a date determined by the city manager as soon after the effective date of this article as the city manager deems practicable.

(b) Except as provided in this article, the city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits, establishing the beginning and ending dates during which permits will initially be received, establishing the beginning and ending dates during which permits may be received each year, and providing public notice regarding the permitting process and of the time period within which the city will receive permits.

(c) Any person desiring to secure a permit shall make application to the city clerk upon a form provided by the city clerk. All permit applicants, **except applicants with regard to a stacked class C grower license or licenses**, must be prequalified for a medical marihuana facilities license by the Michigan Department of Licensing and Regulatory Affairs (LARA) before submitting an application. A copy of all applications received shall be distributed by the city clerk to the office of the city manager, department of public safety and department of community development for review to determine that the application is complete. If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided by the applicant in the application or notification. The applicant shall have 10 days of the date of mailing of the written notice to provide the incomplete or missing information to the city clerk.

(d) Information requested in the application shall be provided for each true party of interest in the applicant; any other person who controls, directly or indirectly, the applicant; any other person who is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant; and each stockholder or other person having a 1% or greater beneficial interest in the proposed marihuana facility. The application for a permit shall include at a minimum the information and documentation listed below under oath:

- (1) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.
- (2) All residential addresses of the applicant for the past 3 years.

- (3) The business, occupation or employment of the applicant for 5 years immediately preceding the date of application.
- (4) Documentation evidencing that the applicant has been prequalified for a medical marihuana facilities license by LARA.
- (5) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a felony under the laws of this state, any other state, or the United States, or a controlled substance-related felony, within the past 10 years preceding the date of the application.
- (6) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past five years.
- (7) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
- (8) A comprehensive operating plan for the marihuana facility for which the application is being submitted that includes all of the information required for the Marihuana Facilities Plan to be submitted in connection with a state license pursuant to the rules, the operational standards in sections 14-261 through 14-266 of this article, as applicable, and the following at a minimum:
 - a) A description of the type of marihuana facility applied for.
 - b) A security plan for the marihuana facility that addresses all required security measures of the rules and addresses at a minimum the ability to meet the security measures of the rules. The security plan must contain the specification details of each piece of security equipment to be utilized by the marihuana facility and comply with the provisions of article 2 and article 3 of chapter 26 of this code, sections 14-261(c) and (d), as well as any other applicable provisions of this code and the rules.
 - c) An HVAC plan for the marihuana facility describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.
 - d) A staffing plan that addresses the number of persons estimated to be employed at the facility, estimated

employee salaries, and employee hiring, and 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, where appropriate, marihuana product information, dosage and daily limits, or educational materials.

- (e) A marketing plan that at a minimum:
 - i. details how the marihuana facility will comply with all municipal ordinances and state law regulating signs and advertising;
 - ii. provides that marihuana products must be marketed or advertised as “medical marihuana” for use only by registered qualifying patients or registered primary caregivers;
 - iii. provides that marihuana products must not be marketed or advertised to minors aged 17 years or younger.
- (f) An inventory and record keeping plan.
- (g) A technology plan.
- (h) A scaled conceptual plan.
- (i) Written policies and procedures to timely address any concerns or complaints expressed by residents and businesses within the neighborhood surrounding the proposed location of the medical marihuana facility.
- (j) For growers, the operational plan shall also include a cultivation plan that includes but is not limited to:
 - i. the cultivation process or processes that will be used including a description of the grow medium, the equipment, and the fertilizer to be used;
 - ii. the estimated electrical and water usage and a statement of the projected daily average and peak electrical load anticipated to be used by the marihuana facility, a certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility, and a certification from the electrical utility supplying electricity to the facility that the anticipated electrical loads required for the

facility will not exceed the capacity of the electrical supply system;

- iii. a waste water plan that details how wastewater generated during the cultivation of marihuana shall be disposed of in compliance with applicable state and local laws and regulation;
- iv. a plant waste disposal plan that at a minimum:
 - (a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:
 - 1) a manned and permitted solid waste landfill;
 - 2) a manned compostable materials operation or facility;
 - 3) an in-vessel digester; and
 - 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- v. a mold, mildew and pest prevention plan;
- vi. an air quality plan addressing monitoring, clearance, temperate and humidity control, Co2, ozone, fumigation, and odor mitigation;
- vii. a pesticide and chemical safety plan which shall include a detailed description of all toxic, hazardous, or flammable materials, chemicals and pesticides, that will be kept or used at the marihuana facility, and a detailed plan describing

where and how such materials, chemicals and pesticides will be stored in the marihuana facility, and the means of disposing of unused toxic or flammable materials, chemicals, and pesticides.

(k) For a provisioning center, the operational plan shall also include:

i. a detailed description of the products and services to be provided;

ii. a plant waste disposal plan that at a minimum:

(a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;

(b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;

(c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

1) a manned and permitted solid waste landfill;

2) a manned compostable materials operation or facility;

3) an in-vessel digester; and

4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.

(l) For a processor, the operational plan shall also include:

i. a detailed description of the products to be produced;

- ii. a waste water plan that details how wastewater generated during the processing of marihuana products shall be disposed of in compliance with applicable state and local laws and regulation;
 - iii. a plant waste disposal plan that at a minimum:
 - (a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:
 - 1) a manned and permitted solid waste landfill;
 - 2) a manned compostable materials operation or facility;
 - 3) an in-vessel digester; and
 - 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- (9) The address of the proposed marihuana facility to be operated by the applicant.
- (10) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana facility for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.

- (11) Whether the applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state or the federal government; or is employed by a governmental unit of this state.
- (12) The mailing address and electronic address at which the applicant desires to receive notification under the article, and phone numbers at which the applicant desires to be contacted.
- (13) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by LARA or any other jurisdiction concerning medical marihuana or marihuana that has been denied, restricted, suspended, revoked or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (14) Whether the applicant has an interest in any other marihuana facility under the Act, and if so the type of facility, name, and location of the facility the applicant has an interest in.
- (15) A statement that the applicant will not violate any of the laws of the State of Michigan or the ordinances of the City of Portage in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
- (16) A statement that the applicant understands that the issuance of a permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for 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, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
- (17) All marijuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city of Portage, its officials, and employees.

- 18) Whether the applicant has filed, or been served with a complaint or other notice filed with any public body regarding the delinquency in the payment of or dispute over the filings concerning the payment of any tax required under federal, state, or local law, including the amount of any tax, taxing agency and time periods involved.
- (19) Applicants have a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.
- (20) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.

Sec. 14-251. Fees.

A nonrefundable permit fee set by resolution of city council, but not to exceed \$5,000.00, shall be submitted with the application for a permit. This fee shall be in addition to, and not in lieu of, any other fees for licensing or permitting requirements including but not limited to site plan review, zoning, or building permits.

Sec. 14-252. Acceptance or Denial of application.

(a) Applications received may be denied by the city manager if the applicant, upon written notice, fails to provide missing or incomplete information within the time specified in section 14-250(c) of this article. The city manager shall deny an application for any of the following reasons:

- (1) The applicant has not been prequalified for a marihuana facility state license by LARA.
- (2) The applicant did not pay the required application fee at the time of submission of the application.
- (3) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the marihuana facility for the period during which the permit will be issued.
- (4) The applicant's proposed location does not comply with the zoning regulations in article 4 of chapter 42 of this code. That a proposed facility is located less than the minimum spacing required by article 4 of chapter 42 of this code from another proposed facility however, will not alone be grounds for denial of an application. ~~Where two or more~~ **Any** applications **that** meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 24 of this code between **the medical marihuana facility proposed by that applicant and** the ~~facilities-medical marihuana facility~~ proposed by ~~the any other applications applicant, the applications will be accepted, but only one such application will be issued a provisional permit entered in a lottery~~ **as provided in section 14-253(b)(3) to determine which of**

those applications will be accepted and issued a provisional permit and which applications will not. After the initial application period,
An application for a proposed facility that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 42 from an existing medical marihuana facility will be denied.

- (5) The city manager determines that the applicant has not satisfactorily complied with all of the permit requirements in section 14-250 of this article.
- (6) The applicant has been granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that has been denied or not renewed, or is currently restricted suspended or revoked.
- (7) The city manager determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or who has intentionally omitted pertinent information on the application for a medical marihuana facilities permit.
- (8) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (9) The comprehensive operating plan submitted by the applicant with the application pursuant to section 14-250(d)(8) does not comply with the requirements for a marihuana facilities plan as required by the rules, the requirements of section 14-250(d)(8), or the act.
- (10) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(b) All applications that are not denied as provided in subsection (a) above, and comply with all of the requirements for an application in section 14-250 of this article and the zoning provisions of article 4 of chapter 42 of this code shall be accepted by the city clerk. **All applications that meet the application requirements of section 14-250 and the zoning requirements of article 4 of chapter 42 of this code except the minimum spacing requirements from another proposed medical marihuana facility will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit.**

Sec. 14-253. Provisional permit.

(a) Provisional permits will be issued by the city manager to applicants whose applications are accepted as provided in this section.

(b) The city manager, in connection with the initial permit application period, shall issue provisional permits ~~to applicants whose application has been accepted applications~~ in three phases:

- (1) In the first phase, the city manager shall issue a provisional permit to applicants whose permit has been accepted and who were issued a temporary operating permit pursuant to chapter 14, article 11 of this code entitled Temporary Operation of Medical Marihuana Facilities.
- (2) In the second phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this code;
- (3) The third phase will determine which applicants will receive a provisional permit from among those applicants whose ~~applications were accepted consistent with sections 14-252(a)(5) and 14-252(b) because their applications meet all of the requirements for acceptance of the application except for the spacing between the facilities proposed by the applications~~ **proposed medical marihuana facility** is less than the minimum spacing distance required by article 4 of chapter 42 of this code **from another proposed medical marihuana facility. All such applicants** ~~The applicants whose proposed facilities are less than the required minimum spacing from each other~~ will be entered in a lottery ~~with each other~~ to determine which applicant will receive a provisional permit. **The name of each such applicant will be drawn individually in sequence, with each applicant being assigned a number corresponding to the order in which their name was drawn. The lottery will continue until the names of all such applicants are drawn and assigned a number. The location of the medical marihuana facility proposed by the applicant whose name** ~~that~~ **is drawn first in the lottery shall then be reviewed to determine if the proposed location of the applicant will comply with the applicable spacing requirements of article 4 of chapter 42 for the proposed facility with respect to any proposed facility** ~~be issued for which it has previously been determined will be issued~~ a provisional permit by the city manager. **If the proposed facility will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, the applicant will be issued a provisional permit. Otherwise, the applicant will be denied a provisional permit. The location of the facility proposed by each of the other applicants will then be evaluated in the same manner and in the order their name was drawn to determine compliance with the applicable spacing requirements of article 4 of chapter 42, and will be issued a provisional permit if the location will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, and denied a provisional permit if it will not. and the other applicant or applicants will be denied a provisional permit.** All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and

time of the lottery and afforded the opportunity to attend and witness the drawing. ~~Applicants whose proposed facility is less than the minimum spacing distance from as required by article 4 of chapter 42 from an applicant issued a provisional permit in the first phase will be denied a provisional permit.~~

(c) The city manager, in connection with any permit application period after the initial permit application period, shall issue provisional permits to applicants whose application has been accepted in two phases:

- (1) In the first phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this code. **Applicants whose proposed facility is less than the minimum spacing distance required by article 4, chapter 42 of this code from an existing medical marihuana facility shall be denied a provisional permit;**
- ~~(2)~~ **(32)** The second phase shall determine which applicants will receive a provisional permit **if the applicant's proposed medical marihuana facility complies with the minimum spacing distance required by article 4 of chapter 42 of this code from an existing facility, but is less than the minimum spacing distance required by article 4, chapter 42 from another proposed medical marihuana facility. Such applicants will be entered in a lottery conducted in the same manner as in phase 3 in section 14-253(b), above to determine which of them will receive a provisional permit.** ~~from among those applicants whose applications were accepted consistent with sections 14-252(a)(5) and 14-252(b) because their applications meet all of the requirements for acceptance of the application except for the spacing between the facilities proposed by the applications is less than the minimum spacing distance required by article 4 of chapter 24 of this code. The applicants whose proposed facilities are less than the required minimum spacing from each other will be entered in a lottery with each other to determine which applicant will receive a provisional permit. The applicant that is drawn in the lottery shall be issued a provisional permit by the city manager, and the other applicant or applicants will be denied a provisional permit. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing. Applicants whose proposed facility is less than the minimum spacing distance from as required by article 4 of chapter 42 from an applicant issued a provisional permit in the first phase will be denied a provisional permit.~~ **All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.**

(d) A provisional permit does not authorize the applicant to operate a marihuana facility without first obtaining a state operating license for the facility, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this

code. Upon issuance of a provisional permit the city clerk will be authorized to execute an affirmation to accompany an application for a facilities license that discloses that the city has adopted an ordinance under section 205 of the act, the limitations on the number and type of each facility if any imposed by the ordinance, a description of the city zoning regulations that apply, and any other information that may be required by the act or the rules for such an attestation.

(e) A provisional permit will lapse and be void 6 months from the date it has been issued if a state operating license, or all inspections and other permits and approvals required by city ordinance are not obtained, or if an applicant is denied a state operating license. The city manager or his or her designee shall notify LARA of all persons whose provisional permit has lapsed or become void. A provisional permit may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed 6 months.

(f) A provisional permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the provisional permittee provides to the city.

Sec. 14-254 Termination, revocation, suspension, or restriction of provisional permit.

(a) A provisional permit may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:

- (1) The provisional permittee is denied a state operating license;
- (2) The marihuana facility is substantially different from the comprehensive operating plan, marihuana facility plan, conceptual plan or other representations;
- (3) Officers of the city are unable to access the proposed facility for permit inspections or are denied access by the provisional permittee;
- (4) The provisional permittee fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city.
- (5) Any violation of the act, rules, or this article.

(b) If a provisional permit is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the permit holder, at the last known address on file with the city for notification of the applicant, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing.

(c) The holder of a provisional permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-255. Medical marihuana facilities permit.

(a) Medical marihuana facilities permits will be issued by the city manager. In order to be issued a marihuana facilities permit an applicant who holds a valid provisional permit shall: successfully complete the inspection required by subsection (c) of this section; ~~and submit proof to the city manager of obtaining a state operating license;~~ all ~~other~~ permits and approvals required by all applicable ordinances of the city including but not limited to an approved site plan and occupancy permit; and, proof of insurance required by this article in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the city of Portage, its officials, and employees. An applicant who holds a provisional permit for a secure transporter permit shall additionally 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 in order to be issued a marihuana facilities permit by the city manager.

(b) The site plan required for issuance of a marihuana facilities permit shall be consistent with the requirements of section 42-482(A) of this code. The site plan will be reviewed administratively consistent with section 42-482(B) and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether or not to reverse an order of the director.

(c) Before issuance of a marihuana facilities permit the city shall conduct an inspection of the proposed marihuana facility to verify that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this code and any other applicable law, rule, or regulation. No marihuana facilities permit may be issued and no marihuana facility may conduct any business or operations until the inspection is completed and it is determined that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application, marihuana facilities plan, and comprehensive operating plan submitted with the application as well as the approved site plan, and the facility is in compliance with the requirements of this code and any other applicable law, rule, or regulation.

(d) The marihuana facilities permit shall be issued only in the name of the true party of interest.

(e) A marihuana facilities permit issued under this article is a revocable privilege granted by the city and is not a property right. Granting the permit does not create or vest any right, title, franchise or other property interest.

(f) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred, sold, or purchased.

(g) The marihuana facilities permit and state operating license shall be displayed in a conspicuous public place in the business establishment.

(h) Acceptance of a marihuana facilities permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this code under which such permit was granted, to enter upon and inspect the premises of the marihuana facility at all reasonable times.

(i) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

Sec. 14-256. Renewal of permit.

(a) A marihuana facilities permit shall run concurrent with the state operating license issued for the facility and shall be renewed annually unless revoked as provided by law.

(b) Renewal of marihuana facilities permit shall be made by application to the city clerk. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the expiration of the permit. The application for renewal shall be upon a form provided by the city clerk and shall contain the same information required for an application for a new permit, be given under oath or affirmation, and shall be reviewed and approved in the same manner. **Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.**

(c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.

(d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the expiration date of the permit to be renewed. The city manager shall deny a permit renewal application if any of the following occur:

- (1) The permit to be renewed has been terminated or revoked.
- (2) The permit is suspended or restricted.
- (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
- (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the act or the rules.

- (6) The applicant failed to correct any deficiencies in the renewal application.
- (9) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.
- (10) The applicant fails to provide evidence of insurance as required by section 14-250(17).
- (11) An inspection conducted by the city reveals that the medical marihuana facility to which the renewal application pertains is not in compliance with this article, this code of ordinances, the act and rules.

(e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(f) The city manager or his or her designee shall inform in writing by mail or electronic mail the Michigan Department of Licensing and Regulatory Affairs of all permittees whose permit is renewed and if a permittee fails to renew a permit, or the permittee's renewal application is denied.

(g) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause .

Sec. 14-257. Revocation, termination or suspension of permit.

(a) Any marihuana facilities permit shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.

(b) Any marihuana facilities permit may be revoked upon the occurrence of any of the following:

- (1) Operation of the permitted use is not commenced within 1 year of the date of issuance of the marihuana facilities permit.
- (2) If the permitted use ceases or is discontinued for 90 days or more.

(c) Any marihuana facilities permit may be revoked or suspended in the discretion of the city manager upon the occurrence of any of the following:

- (1) Any violation of the provisions of this article, this code of ordinances, the act, the tracking act, and the rules.
- (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or negatively impacts the health, safety, or general welfare of surrounding property or city residents.

(d) A medical marihuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.

(e) Any marihuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.

(f) Any medical marihuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.

(g) If a medical marihuana facilities permit is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for notification of the permittee, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing by mail or electronic mail.

(h) The holder of a marihuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-258. Transfer, sale or purchase of permits or licenses.

(a) No marihuana facilities permit may be transferred, sold, or purchased without making application to and obtaining approval of the city manager.

(b) Any transferee, buyer or purchaser of a permit must meet all requirements and conditions for the issuance of a permit under this article for the type of facility the permit was issued for before the transfer, sale or purchase of the permit will be finally approved. The transfer, sale, or purchase will be conditioned upon the transferee, buyer or purchaser obtaining a state license for the type of facility the permit was issued for within 180 days of the approval of the transfer, sale, or purchase.

(c) Transfer or attempted transfer of a medical marihuana facilities permit or any interest in such permit without first obtaining approval of the city manager to do so will be grounds for suspension of the permit pursuant to section 14-257(c) and a violation of this article.

Sec. 14-259. Changes to marihuana facilities.

(a) Any change or modification of a marihuana facility after it receives a state license, and a permit under this article is governed by the standards and procedures of the act and rules, and the standards, and standards and procedures of this code including but not limited to standards and procedures relating to site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. **Changes or modifications to a marihuana facility may, however, be made at any time**, but must be approved by LARA and the city prior to any changes or modifications to a marihuana facility being made. The permittee must provide evidence of the approval of LARA for any change or modification to a medical marihuana facility to the city, and obtain all required city permits before the change or modification is commenced.

(b) Change of location of a marihuana facility requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee. The change of location permit will be submitted and approved or denied in the same manner as an application for a medical marihuana facility permit, and provisional and full permits for the change of location will be issued in the same manner as for a medical marihuana facilities permit application. Applications for a change of location may be made at any time.

(c) Failure to obtain prior approval of a change or modification of a marihuana facility from LARA and the city or to obtain all necessary permits for the change or modification, and, failure to obtain approval of a change of location of a medical marihuana facility are violations of the provisions of this article for which a medical marihuana facilities permit may be revoked or suspended pursuant to section 14-257 of this article.

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana facilities permit or permit renewal required under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

Sec. 14-261. Minimum operational standards for all marihuana facilities.

All marihuana facilities shall at a minimum comply with the following operational standards:

(a) Marihuana facilities shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the facility premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a marihuana facilities permit or leasing property to a marihuana facility constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the act, or applicable state administrative rules.

(b) Marihuana facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view.

(c) Marihuana facilities shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed twenty-four hours a day, seven days a week.

(d) Marihuana facilities shall have a video surveillance system that complies with the rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in the rules.

(e) Surveillance recordings of marihuana facilities shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.

(f) Marihuana facilities shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the facility at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the facility and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this code.

(g) Marihuana facilities shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.

(h) Subject to the laws of this state, before hiring a prospective employee, a permittee shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, the permittee shall not hire the prospective employee without written permission of the board.

(i) Access to the marihuana facility is restricted to the permittee, employees of the permittee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, LARA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.

(j) All marihuana facilities must be at a fixed location. Mobile marihuana facilities and drive through operations are prohibited. Sale or transfer of marihuana product by internet or mail order, consignment, or wholesale is prohibited.

(k) All marihuana facilities shall comply with all provisions of this code, state law and administrative rules regulating signs and advertising.

(l) The business, operations, marketing and advertising of all marihuana facilities and marihuana product shall comply at all times with applicable state law and regulations, and this code.

(m) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the act, the tracking act, and the rules are prohibited from being on the premises of any marihuana facility, and shall not be sold or transferred by any licensee.

(n) Any marihuana product without a batch number or identification tag pursuant to the rules is prohibited from being at or on the premises of any medical marihuana facility.

(o) Marihuana facilities shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of facility at all times.

(p) Marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form in a manner that prevents its acquisition by any person who may not lawfully possess it, and recorded in the statewide monitoring system. Marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

- (1) a manned and permitted solid waste landfill;
- (2) a manned compostable materials operation or facility;
- (3) an in-vessel digester.

(q) All marihuana product waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106.

(r) All marihuana product waste or marihuana products that are to be destroyed, or that LARA orders to be destroyed, shall not be sold.

(s) All inventory of marihuana products must be stored in a secured limited access area or restricted access area, and identified and tracked consistent with the statewide monitoring system under the act, the tracking act, and the rules.

(t) All containers used to store marihuana products for transfer or sale between marihuana facilities shall meet the requirements of the rules for such containers.

(u) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.

(v) Marihuana-infused products or materials used in direct contact with such products must have separate storage areas from toxic or flammable materials.

Sec. 14-262. Minimum Operational standards applicable to provisioning centers.

All provisioning centers shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) Provisioning centers shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m.

(b) No alcohol or tobacco products may be sold, used, or consumed on the premises. No marihuana or marihuana-infused products may be used or consumed on the premises.

(c) No marihuana plants shall be allowed on the premises.

(d) During times when the provisioning center is not open to the public, processed marihuana, marihuana products, cash and currency shall be stored in a safe or security vault that is incorporated into the building structure or securely attached to the building structure or a safe room with a security vault or other secure door.

(e) A provisioning center shall purchase marihuana only from a grower or processor.

(f) All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(g) A provisioning center shall sell or transfer marihuana only to a registered qualifying patient or registered primary caregiver.

(h) A provisioning center shall transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(i) The sale or transfer marihuana to a registered qualifying patient or registered primary caregiver shall only occur after it has been tested and bears the label required for retail sale by the act and the rules.

(j) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, a provisioning center shall inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the board under the act.

(k) All transactions, current inventory, and other information of the provisioning center shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.

(l) A provisioning center shall not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

(m) Marijuana and marihuana paraphernalia shall not be sold, given away, or dispensed from any outdoor location.

(n) A provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana products.

(o) All marihuana products shall be kept 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.

(p) A provisioning center shall comply with all packaging and labeling requirements of the rules before selling or transferring marihuana products.

Sec. 14-263. Minimum Operational standards applicable to grow facilities.

All grow facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

- (a) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.
- (b) While holding a permit for grower facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.
- (c) All transactions, current inventory, and other information of the grow facility shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.
- (d) All activities and operations of the grow facility, including cultivation, shall take place indoors within a building.
- (e) The use of compressed gases such as carbon dioxide in multiple processes in the cultivation of marihuana shall meet the requirements of the rules for such processes.
- (f) A grow facility shall not use any pesticides in the cultivation of marihuana that has not been approved by LARA for such purpose.

Section 14-264. Minimum Operational standards applicable to processor facilities.

All processor facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

- (a) A processor shall purchase marihuana only from a grower and shall sell marihuana-infused products or marihuana only to a provisioning center.
- (b) A processor shall transfer marihuana only by means of a secure transporter.
- (c) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.
- (d) While holding a permit for processor facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.
- (e) All transactions, current inventory, and other information of the processor facility shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.
- (f) Processes that extract oil from marihuana plants and marihuana products using flammable gas, flammable liquid, or compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide shall meet the requirements of the rules for such processes.

Sec. 14-265. Minimum standards applicable to secure transporters.

All secure transporter facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) May take physical custody of marihuana or money but legal custody belongs to the transferor or transferee.

(b) May not sell or purchase marihuana products.

(c) May store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee.

(d) Marihuana may not be transported to a registered qualifying patient or registered primary caregiver.

(e) Marihuana product may only be transported in a locked, secured, sealed container that is not accessible while in transit. Money associated with the purchase or sale of marihuana product between facilities shall be locked in a sealed container kept separate from the marihuana product and only accessible to the secure transporter licensee/permittee and its employees.

(f) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(g) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(h) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(i) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(j) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(k) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the act and this article.

(l) All transactions, current inventory, and other information of the secure transporter shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.

Sec. 14-266. Minimum standards applicable to safety compliance facilities.

All safety compliance facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) A safety compliance facility is authorized to only receive marihuana from, test marihuana for, and return marihuana to a marihuana facility.

(b) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services unless a variance from this requirement is granted by the board as provided by the act.

(c) A safety compliance facility shall:

- (1) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.
- (2) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.
- (3) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.
- (4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.
- (5) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.
- (6) Have a secured laboratory space that cannot be accessed by the general public.
- (7) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.
- (8) Comply with all provisions of the rules regarding the testing, retesting, and sampling of marihuana and marihuana products.
- (9) Establish an adequate chain of custody and instructions for sample and storage requirements.

Sec. 14-267. Conflicts, Future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the act or the rules, the conflicting provisions of this article will be preempted and the provisions of the act or the rules will control. Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana facility in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

Sec. 14-268. Penalty and remedies.

(a) Any violation of this article is a municipal civil infraction subject to penalties imposed on municipal civil infractions by section 1-7(e) of this code and state law.

(b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

(c) In addition to the penalties in this section, any violation of this article, the act, or the rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.

(d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

Sec. 14-269. Effect tie-barred.

This amendment to Chapter 14 to add Article 12, "Medical Marihuana Facilities" shall only take effect if Chapter 42 is amended to add section 42-262(B)(16), section 42-280(B)(21), section 42-280(B)(22), section 42-281(B)(7), and section 42-821(B)(8).

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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 _____, 201__.

Adam Herringa, City Clerk

PREPARED BY:

Charles R. Bear (P34107)
Portage Assistant City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: _____

City Attorney

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**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-262, 42-280, and 42-
281 OF ARTICLE 4, DIVISION 4, AND SECTION 42-129 ARTICLE 4, DIVISION 3, OF
CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended to add Section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 6. Business Districts.

Section 42-262. B-3 general business district.

A. No change.

B. Principal permitted uses.

1 through 15 no change.

16. Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The provisioning center shall not be located:

- i. ~~Adjacent to or abutting~~ **Within 125 feet of** a residential zoning district; and
- ii. Within 1000 feet from the real property, **located either in the city of Portage or an adjacent municipality**, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a **public** library, child **day** care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution **(with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district)** or housing facility owned by a public housing authority; and
- iii. Within ~~1000~~**500** feet of any other medical marihuana provisioning center located within the city of Portage.
- iv. ~~Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

- b. **Measurements for the purposes of subsection (B)(16)(a)(i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point on the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects.** Measurements for purposes of subsections (B)(16)(a)(ii) and (iii) above shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point of the zoning lot occupied by any of the uses listed in (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another provisioning center using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(16)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the zoning lot to be occupied by a provisioning center using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined in Section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities permitted in this section as well as the protected areas identified in subsections (B)(16)(a)(i), (ii), (iii) and (iv), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the distribution, and sale of medical marihuana and medical marihuana infused products shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for provisioning center facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a provisioning center.
- g. The activities and operations of the provisioning center shall be indoors within a building and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot **or at the same location**, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the provisioning center shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

- j. This amendment to Chapter 42 to add section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations shall only take if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."
- C. No change.
- D. No change.

That Chapter 42 shall be amended to add Section 42-280(B)(21), and Section 42-280(B)(22) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-280. I-1 light industrial district.

- A. No change.
- B. Principal permitted uses.
 - 1 through 20 No change.

- 21. Medical marihuana class A, B, and C grower facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The grower or processing facility shall not be located:

- i. ~~Adjacent to or abutting~~ **Within 125 feet of** a residential zoning district; and
- ii. Within 1000 feet from the real property, **located either in the city of Portage or an adjacent municipality**, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a **public** library, a child **day** care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution **(with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district)** or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.
- ~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

- b. **Measurements for purposes of subsection (B)(21)(a)(i) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects.** Measurements for purposes of subsection (B)(21)(a)(ii) and (iii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(21)(a)(ii), or to the nearest point on the zoning lot occupied by another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(21)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the the zoning lot to be occupied by a grower or processor facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(21)(a)(i), (ii), **and (iii),** ~~and (iv),~~ is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. Medical marihuana grow and processor facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot **or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section),** and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance,

and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

- i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- j. This amendment to add section 42-280(B)(21) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

22. Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility site shall not be located:

- i. ~~Adjacent to or abutting~~ **Within 125 feet of** a residential zoning district; and
- ii. Within 1000 feet from the real property, **located either in the city of Portage or an adjacent municipality,** comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a **public** library, a child **day** care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution **(with the exception of a religious institution in a B-3, I-1, or I-2 zoning district)** or housing facility owned by a public housing authority; and
- iii. ~~Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

b. **Measurements for purposes of subsection (B)(22)(a)(i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point on the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects.** Measurements for purposes of ~~this section~~ **subsection (B)(22)(a)(ii) above** shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the~~

~~purposes of subsection (B)(22)(a)(iii) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.

- c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(22)(a)(i), **and** (ii), ~~and (iii)~~, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot **or at the same location**, and no more than one medical marihuana shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to add section 42-280(B)(22) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-281(B)(7), and Section 42-281(B)(8) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-281. I-2 heavy industrial district.

A. No change.

B. Principal permitted uses.

1 through 6 No change.

7. Medical marihuana class A, B, and C growers, and medical marihuana processors as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility shall not be located:

- i. ~~Adjacent to or abutting~~ **Within 125 feet of** a residential zoning district; and
- ii. Within 1000 feet from the real property, **located either in the city of Portage or an adjacent municipality**, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a **public** library, a child **day** care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution **(with the exception of a religious institution in a B-3, I-1, or I-2 zoning district)** or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.
- ~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

b. **Measurements for purposes of subsection (B)(7)(a)(i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects.** Measurements for purposes of subsection (B)(7)(a) (ii) and

(iii) above shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana grow or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by a another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(7)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by a grower or processor facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.

- c. A map showing the uses and facilities listed in subsection (B)(7)(a) above, as well as the protected areas identified by subsections (B)(7)(a)(i), (ii), (iii), ~~and (iv)~~ above, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. Medical marihuana grow and processing facilities shall conduct the activities of the facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot **or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section)**, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- i. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

- j. This amendment to add section 42-281(B)(7) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."
8. Medical Marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*
- a. The facility site shall not be located:
- i. ~~Adjacent to or abutting~~ **Within 125 feet of** a residential zoning district; and
- ii. Within 1000 feet from the real property, **located either in the city of Portage or an adjacent municipality**, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a **public** library, a child **day** care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution **(with the exception of a religious institution in a B-3, I-1, or I-2 zoning district)** or housing facility owned by a public housing authority; ~~and~~
- iii. ~~Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~
- b. **Measurements for purposes of subsection (B)(8)(a) (i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects.** Measurements for purposes of subsection (B)(8)(a) (ii) above shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(8)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(8)(a)(iii) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities listed in subsection (B)(8)(a) above, as well as the protected areas identified in subsections (B)(8)(a)(i); **and** (ii); ~~and (iii);~~ is available for review in the department of community

development at the Portage City Hall and on the city's website under the department of community development.

- d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot **or at the same location**, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to add section 42-281(B)(8) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended as follows to amend Section 42-129(C), Article 4, Division 3, General Provisions, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Division 3. General Provisions.

Section 42-129. Home occupations.

A. No change.

B. No change.

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the general rules of the department as they may be amended from time to time.
2. The home occupation may be conducted in a dwelling unit (as defined by the Zoning Code), **in an accessory building, or outdoors**, where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient);
 - b. Possesses up to the maximum amount of marihuana or marihuana-infused products permitted by the Act;
 - c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of five) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited;
 - d. Does not separate marihuana resin from marihuana plants by butane extraction on the premises of the medical marihuana home occupation; and
 - e. Does not store any chemicals such as herbicides, pesticides, and fertilizers inconsistent with the provisions of the Portage Code of Ordinances including but not limited to the International Fire Code as adopted by the code.
 - f. Does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property.

3. The following shall apply to a primary caregiver conducting a home occupation under this section:
 - a. Considering the federal "Drug Free School Zone" requirements, the medical marihuana home occupation shall not be located:
 - i. Within 500 feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a childcare center, a playground, a housing facility owned by a public housing authority; or
 - ii. Within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.
 - b. Measurements for purposes of subsection (C)(3)(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined by article 42, section 42-112, definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in subsection (C)(3)(a) above, as well as the protected areas, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
 - c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.
4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.
5. All medical marihuana plants and medical marihuana-infused products shall be contained in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. **Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either a registered qualifying patient or the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located.**
6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring,

lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with article 4, chapter 24, noise, article 5, chapter 24, safety, sanitation and health, as well as article 14, chapter 42, Housing/Property Maintenance Code. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.

7. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than five qualifying patients may visit the site at any one time.
8. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of article 5, section 24-111, definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
9. There shall be no sign of any nature identifying the home occupation and the use of window displays is not permitted.
10. The location and operation of a marihuana facility pursuant to the provisions of the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as a home occupation is prohibited.
11. Nothing in this section, 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 growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the general rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the general rules, nothing in this section, 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 under federal law. Neither this section nor the Michigan Medical Marihuana Act protects users, caregivers 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.
12. Definitions. As used in this section:
 - a. *Marihuana*. This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
 - b. *Marihuana-infused product*. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation
 - c. *Primary caregiver*. A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted

of a felony involving illegal drugs and who has been issued and possesses a registry identification card.

- d. *Qualifying patient.* A person who has been diagnosed by a physician as having a debilitating medical condition.
- e. *Registry identification card.* A document issued by the department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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, City Clerk

PREPARED BY:
Charles R. Bear (P34106)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:
Date: _____

City Attorney

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**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY ADDING ARTICLE 11, MEDICAL MARIHUANA
FACILITIES, OF CHAPTER 14, BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

That Chapter 14 shall be amended to add Article 12, Medical Marihuana Facilities, as follows:

CHAPTER 14. BUSINESSES.

ARTICLE 12. MEDICAL MARIHUANA FACILITIES.

Sec. 14-245. Purpose.

(a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, to: authorize the establishment of certain types of medical marihuana facilities in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such facilities; and establish fees for such permits.

(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, licensees, or the owners or occupants 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.

Sec. 14-246. Definitions.

As used in this article, the following terms shall have the meanings indicated:

(a) "Act" means the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, as amended.

(b) "Board" means the medical marihuana licensing board created in section 301 of the Act.

(c) "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 of 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, or a greenhouse.

(d) "Grower" means a licensee and permittee that is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

(e) "LARA" means the Michigan Department of Licensing and Regulatory Affairs.

(f) "Licensee" means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

(g) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(h) "Marihuana facility" means a location at which a licensee and permittee is licensed and permitted to operate as a grower, processor, provisioning center, safety compliance facility, or secure transporter under the Act and this article.

(i) "Marihuana plant" means any plant of the species *Cannabis sativa* L.

(j) "Marihuana product" means marihuana or marihuana-infused product, or both, as those terms are defined in the act unless otherwise provided for in the rules and this article.

(k) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 *et seq.*

(l) "Paraphernalia" means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

(m) "Permittee" means a person who has been issued a medical marihuana facilities permit pursuant to this article.

(n) "Person" means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity, as well as those persons defined as "true party of interest".

(o) "Proposed marihuana facility" means a location at which an applicant plans to operate under the Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

(p) "Provisioning center" means a licensee and permittee that is a commercial entity located in this city that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is

sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the Michigan Department of Licensing and Regulatory Affairs' (LARA) marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this article.

(q) "Rules" mean the emergency and general rules of the Michigan Department of Licensing and Regulatory Affairs adopted pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, and the Marihuana Tracking Act, MCL 333.27901 *et seq.*, as may be amended from time to time.

(r) "Safety compliance facility" means a licensee and permittee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(s) "Secure transporter" means a licensee and permittee that is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee.

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

(u) "State operating license" or "license" means a license that is issued the Act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

(v) "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (i) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (ii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act.

(w) "Tracking Act" means the Marihuana Tracking Act, MCL 333.27901 *et seq.*

(x) "True party of interest" means the following:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all

general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.

(3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.

(4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.

(5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.

(6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

“True party of interest” does not mean:

(1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(y) Unless the context requires a different meaning, any term used in this article that is defined by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.* shall have the definition given in that act.

(z) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, shall have the definition given in that act.

(aa) Unless the context requires a different meaning, any term used in this article that is defined by the Marihuana Tracking Act, MCL 333.27901 *et seq.* shall have the definition given in that act.

Sec.14-247. Adoption of state rules and regulations.

All activities related to medical marihuana shall be in compliance with 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.

Sec. 14-248 Marihuana facilities allowed.

(a) Pursuant to Section 205(1) of the Act the city authorizes the following types of marihuana facilities to be permitted in the city without limitation as to the number of facilities: class A, B, and C growers, processors, secure transporters, provisioning centers, and safety compliance facilities.

(b) Operation of provisioning centers, processors and growers at the same location is not authorized.

Sec.14-249. Permit required.

No person shall own or operate a marihuana facility in the city without first applying for and receiving a permit from the city clerk and state operating license. No person who has received a city permit and state license to operate a class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional class C license the person desires to stack with its original state operating license, and a stacked class C state operating license or licenses.

Sec. 14-250. Application for permit.

(a) Permit applications for medical marihuana facilities and applications for stacked class C grower licenses at an existing class C grower facility, shall be received by the city annually during a period specifically designated by the city manager for that purpose, and at no other time. The city will initially begin receiving permit applications for marihuana facilities on a date determined by the city manager as soon after the effective date of this article as the city manager deems practicable.

(b) Except as provided in this article, the city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits, establishing the beginning and ending dates during which permits will initially be received, establishing the beginning and ending dates during which permits may be received each year, and providing public notice regarding the permitting process and of the time period within which the city will receive permits.

(c) Any person desiring to secure a permit shall make application to the city clerk upon a form provided by the city clerk. All permit applicants, except applicants with regard to a stacked class C grower license or licenses, must be prequalified for a medical marihuana facilities license by the Michigan Department of Licensing and Regulatory Affairs (LARA) before submitting an application. A copy of all applications received shall be distributed by the city clerk to the office of the city manager, department of public safety and department of community development for review to determine that the application is complete. If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided by the applicant in the application or notification. The applicant shall have 10 days of the date of mailing of the written notice to provide the incomplete or missing information to the city clerk.

(d) Information requested in the application shall be provided for each true party of interest in the applicant; any other person who controls, directly or indirectly, the applicant; any other person who is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant; and each stockholder or other person having a 1% or greater beneficial interest in the proposed marihuana facility. The application for a permit shall include at a minimum the information and documentation listed below under oath:

- (1) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.

- (2) All residential addresses of the applicant for the past 3 years.
- (3) The business, occupation or employment of the applicant for 5 years immediately preceding the date of application.
- (4) Documentation evidencing that the applicant has been prequalified for a medical marihuana facilities license by LARA.
- (5) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a felony under the laws of this state, any other state, or the United States, or a controlled substance-related felony, within the past 10 years preceding the date of the application.
- (6) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past five years.
- (7) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
- (8) A comprehensive operating plan for the marihuana facility for which the application is being submitted that includes all of the information required for the Marihuana Facilities Plan to be submitted in connection with a state license pursuant to the rules, the operational standards in sections 14-261 through 14-266 of this article, as applicable, and the following at a minimum:
 - a) A description of the type of marihuana facility applied for.
 - b) A security plan for the marihuana facility that addresses all required security measures of the rules and addresses at a minimum the ability to meet the security measures of the rules. The security plan must contain the specification details of each piece of security equipment to be utilized by the marihuana facility and comply with the provisions of article 2 and article 3 of chapter 26 of this code, sections 14-261(c) and (d), as well as any other applicable provisions of this code and the rules.
 - c) An HVAC plan for the marihuana facility describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.

- d) A staffing plan that addresses the number of persons estimated to be employed at the facility, estimated employee salaries, and employee hiring, and 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, where appropriate, marihuana product information, dosage and daily limits, or educational materials.
- (e) A marketing plan that at a minimum:
 - i. details how the marihuana facility will comply with all municipal ordinances and state law regulating signs and advertising;
 - ii. provides that marihuana products must be marketed or advertised as “medical marihuana” for use only by registered qualifying patients or registered primary caregivers;
 - iii. provides that marihuana products must not be marketed or advertised to minors aged 17 years or younger.
- (f) An inventory and record keeping plan.
- (g) A technology plan.
- (h) A scaled conceptual plan.
- (i) Written policies and procedures to timely address any concerns or complaints expressed by residents and businesses within the neighborhood surrounding the proposed location of the medical marihuana facility.
- (j) For growers, the operational plan shall also include a cultivation plan that includes but is not limited to:
 - i. the cultivation process or processes that will be used including a description of the grow medium, the equipment, and the fertilizer to be used;
 - ii. the estimated electrical and water usage and a statement of the projected daily average and peak electrical load anticipated to be used by the marihuana facility, a certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated

electric load for the facility, and a certification from the electrical utility supplying electricity to the facility that the anticipated electrical loads required for the facility will not exceed the capacity of the electrical supply system;

iii. a waste water plan that details how wastewater generated during the cultivation of marihuana shall be disposed of in compliance with applicable state and local laws and regulation;

iv. a plant waste disposal plan that at a minimum:

(a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;

(b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;

(c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

1) a manned and permitted solid waste landfill;

2) a manned compostable materials operation or facility;

3) an in-vessel digester; and

4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.

v. a mold, mildew and pest prevention plan;

vi. an air quality plan addressing monitoring, clearance, temperate and humidity control, Co2, ozone, fumigation, and odor mitigation;

vii. a pesticide and chemical safety plan which shall

include a detailed description of all toxic, hazardous, or flammable materials, chemicals and pesticides, that will be kept or used at the marihuana facility, and a detailed plan describing where and how such materials, chemicals and pesticides will be stored in the marihuana facility, and the means of disposing of unused toxic or flammable materials, chemicals, and pesticides.

(k) For a provisioning center, the operational plan shall also include:

- i. a detailed description of the products and services to be provided;
- ii. a plant waste disposal plan that at a minimum:

(a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;

(b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;

(c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

- 1) a manned and permitted solid waste landfill;
- 2) a manned compostable materials operation or facility;
- 3) an in-vessel digester; and
- 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.

(l) For a processor, the operational plan shall also include:

- i. a detailed description of the products to be produced;
 - ii. a waste water plan that details how wastewater generated during the processing of marihuana products shall be disposed of in compliance with applicable state and local laws and regulation;
 - iii. a plant waste disposal plan that at a minimum:
 - (a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:
 - 1) a manned and permitted solid waste landfill;
 - 2) a manned compostable materials operation or facility;
 - 3) an in-vessel digester; and
 - 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- (9) The address of the proposed marihuana facility to be operated by the applicant.
- (10) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana facility for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the

applicant contingent upon the applicant successfully obtaining a state operating license and local permit.

- (11) Whether the applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state or the federal government; or is employed by a governmental unit of this state.
- (12) The mailing address and electronic address at which the applicant desires to receive notification under the article, and phone numbers at which the applicant desires to be contacted.
- (13) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by LARA or any other jurisdiction concerning medical marihuana or marihuana that has been denied, restricted, suspended, revoked or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (14) Whether the applicant has an interest in any other marihuana facility under the Act, and if so the type of facility, name, and location of the facility the applicant has an interest in.
- (15) A statement that the applicant will not violate any of the laws of the State of Michigan or the ordinances of the City of Portage in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
- (16) A statement that the applicant understands that the issuance of a permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for 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, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
- (17) All marijuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is

able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city of Portage, its officials, and employees.

- 18) Whether the applicant has filed, or been served with a complaint or other notice filed with any public body regarding the delinquency in the payment of or dispute over the filings concerning the payment of any tax required under federal, state, or local law, including the amount of any tax, taxing agency and time periods involved.
- 19) Applicants have a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.
- 20) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.

Sec. 14-251. Fees.

A nonrefundable permit fee set by resolution of city council, but not to exceed \$5,000.00, shall be submitted with the application for a permit. This fee shall be in addition to, and not in lieu of, any other fees for licensing or permitting requirements including but not limited to site plan review, zoning, or building permits.

Sec. 14-252. Acceptance or Denial of application.

(a) Applications received may be denied by the city manager if the applicant, upon written notice, fails to provide missing or incomplete information within the time specified in section 14-250(c) of this article. The city manager shall deny an application for any of the following reasons:

- (1) The applicant has not been prequalified for a marihuana facility state license by LARA.
- (2) The applicant did not pay the required application fee at the time of submission of the application.
- (3) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the marihuana facility for the period during which the permit will be issued.
- (4) The applicant's proposed location does not comply with the zoning regulations in article 4 of chapter 42 of this code. That a proposed facility is located less than the minimum spacing required by article 4 of chapter 42 of this code from another proposed facility however, will not alone be grounds for denial of an application. Any application that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 24 of this code between

the medical marihuana facility proposed by that applicant and the medical marihuana facility proposed by any other applicant, will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit and which applications will not. After the initial application period, an application for a proposed facility that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 42 from an existing medical marihuana facility will be denied.(5) The city manager determines that the applicant has not satisfactorily complied with all of the permit requirements in section 14-250 of this article.

- (6) The applicant has been granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that has been denied or not renewed, or is currently restricted suspended or revoked.
- (7) The city manager determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or who has intentionally omitted pertinent information on the application for a medical marihuana facilities permit.
- (8) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (9) The comprehensive operating plan submitted by the applicant with the application pursuant to section 14-250(d)(8) does not comply with the requirements for a marihuana facilities plan as required by the rules, the requirements of section 14-250(d)(8), or the act.
- (10) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(b) All applications that are not denied as provided in subsection (a) above, and comply with all of the requirements for an application in section 14-250 of this article and the zoning provisions of article 4 of chapter 42 of this code shall be accepted by the city clerk. All applications that meet the application requirements of section 14-250 and the zoning requirements of article 4 of chapter 42 of this code except the minimum spacing requirements from another proposed medical marihuana facility will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit.

Sec. 14-253. Provisional permit.

(a) Provisional permits will be issued by the city manager to applicants whose applications are accepted as provided in this section.

(b) The city manager, in connection with the initial permit application period, shall issue provisional permits in three phases:

- (1) In the first phase, the city manager shall issue a provisional permit to applicants whose permit has been accepted and who were issued a temporary operating permit pursuant to chapter 14, article 11 of this code entitled Temporary Operation of Medical Marihuana Facilities.
- (2) In the second phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this code;
- (3) The third phase will determine which applicants will receive a provisional permit from among those applicants whose proposed medical marihuana facility is less than the minimum spacing distance required by article 4 of chapter 42 of this code from another proposed medical marihuana facility. All such applicants will be entered in a lottery to determine which applicant will receive a provisional permit. The name of each such applicant will be drawn individually in sequence, with each applicant being assigned a number corresponding to the order in which their name was drawn. The lottery will continue until the names of all such applicants are drawn and assigned a number. The location of the medical marihuana facility proposed by the applicant whose name is drawn first in the lottery shall then be reviewed to determine if the proposed location of the applicant will comply with the applicable spacing requirements of article 4 of chapter 42 for the proposed facility with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager. If the proposed facility will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, the applicant will be issued a provisional permit. Otherwise, the applicant will be denied a provisional permit. The location of the facility proposed by each of the other applicants will then be evaluated in the same manner and in the order their name was drawn to determine compliance with the applicable spacing requirements of article 4 of chapter 42, and will be issued a provisional permit if the location will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, and denied a provisional permit if it will not. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.

(c) The city manager, in connection with any permit application period after the initial permit application period, shall issue provisional permits to applicants whose application has been accepted in two phases:

- (1) In the first phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility

complies fully with the zoning regulations in article 4 of chapter 42 of this code. Applicants whose proposed facility is less than the minimum spacing distance required by article 4, chapter 42 of this code from an existing medical marihuana facility shall be denied a provisional permit;

- (2) The second phase shall determine which applicants will receive a provisional permit if the applicant's proposed medical marihuana facility complies with the minimum spacing distance required by article 4 of chapter 42 of this code from an existing facility, but is less than the minimum spacing distance required by article 4, chapter 42 from another proposed medical marihuana facility. Such applicants will be entered in a lottery conducted in the same manner as in phase 3 in section 14-253(b), above to determine which of them will receive a provisional permit. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.

(d) A provisional permit does not authorize the applicant to operate a marihuana facility without first obtaining a state operating license for the facility, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this code. Upon issuance of a provisional permit the city clerk will be authorized to execute an affirmation to accompany an application for a facilities license that discloses that the city has adopted an ordinance under section 205 of the act, the limitations on the number and type of each facility if any imposed by the ordinance, a description of the city zoning regulations that apply, and any other information that may be required by the act or the rules for such an attestation.

(e) A provisional permit will lapse and be void 6 months from the date it has been issued if a state operating license, or all inspections and other permits and approvals required by city ordinance are not obtained, or if an applicant is denied a state operating license. The city manager or his or her designee shall notify LARA of all persons whose provisional permit has lapsed or become void. A provisional permit may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed 6 months.

(f) A provisional permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the provisional permittee provides to the city.

Sec. 14-254 Termination, revocation, suspension, or restriction of provisional permit.

(a) A provisional permit may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:

- (1) The provisional permittee is denied a state operating license;

- (2) The marihuana facility is substantially different from the comprehensive operating plan, marihuana facility plan, conceptual plan or other representations;
- (3) Officers of the city are unable to access the proposed facility for permit inspections or are denied access by the provisional permittee;
- (4) The provisional permittee fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city.
- (5) Any violation of the act, rules, or this article.

(b) If a provisional permit is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the permit holder, at the last known address on file with the city for notification of the applicant, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing.

(c) The holder of a provisional permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-255. Medical marihuana facilities permit.

(a) Medical marihuana facilities permits will be issued by the city manager. In order to be issued a marihuana facilities permit an applicant who holds a valid provisional permit shall: successfully complete the inspection required by subsection (c) of this section; submit proof to the city manager of obtaining all permits and approvals required by all applicable ordinances of the city including but not limited to an approved site plan and occupancy permit; and, proof of insurance required by this article in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the city of Portage, its officials, and employees. An applicant who holds a provisional permit for a secure transporter permit shall additionally 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 in order to be issued a marihuana facilities permit by the city manager.

(b) The site plan required for issuance of a marihuana facilities permit shall be consistent with the requirements of section 42-482(A) of this code. The site plan will be reviewed administratively consistent with section 42-482(B) and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether or not to reverse an order of the director.

(c) Before issuance of a marihuana facilities permit the city shall conduct an inspection of the proposed marihuana facility to verify that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the

application submitted, the approved site plan, the requirements of this code and any other applicable law, rule, or regulation. No marihuana facilities permit may be issued and no marihuana facility may conduct any business or operations until the inspection is completed and it is determined that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application, marihuana facilities plan, and comprehensive operating plan submitted with the application as well as the approved site plan, and the facility is in compliance with the requirements of this code and any other applicable law, rule, or regulation.

(d) The marihuana facilities permit shall be issued only in the name of the true party of interest.

(e) A marihuana facilities permit issued under this article is a revocable privilege granted by the city and is not a property right. Granting the permit does not create or vest any right, title, franchise or other property interest.

(f) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred, sold, or purchased.

(g) The marihuana facilities permit and state operating license shall be displayed in a conspicuous public place in the business establishment.

(h) Acceptance of a marihuana facilities permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this code under which such permit was granted, to enter upon and inspect the premises of the marihuana facility at all reasonable times.

(i) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

Sec. 14-256. Renewal of permit.

(a) A marihuana facilities permit shall run concurrent with the state operating license issued for the facility and shall be renewed annually unless revoked as provided by law.

(b) Renewal of marihuana facilities permit shall be made by application to the city clerk. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the expiration of the permit. The application for renewal shall be upon a form provided by the city clerk and shall contain the same information required for an application for a new permit, be given under oath or affirmation, and shall be reviewed and approved in the same manner. Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.

(c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.

(d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the expiration date of the permit to be renewed. The city manager shall deny a permit renewal application if any of the following occur:

- (1) The permit to be renewed has been terminated or revoked.
- (2) The permit is suspended or restricted.
- (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
- (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the act or the rules.
- (6) The applicant failed to correct any deficiencies in the renewal application.
- (9) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.
- (10) The applicant fails to provide evidence of insurance as required by section 14-250(17).
- (11) An inspection conducted by the city reveals that the medical marihuana facility to which the renewal application pertains is not in compliance with this article, this code of ordinances, the act and rules.

(e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(f) The city manager or his or her designee shall inform in writing by mail or electronic mail the Michigan Department of Licensing and Regulatory Affairs of all permittees whose permit is renewed and if a permittee fails to renew a permit, or the permittee's renewal application is denied.

(g) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause .

Sec. 14-257. Revocation, termination or suspension of permit.

(a) Any marihuana facilities permit shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.

(b) Any marihuana facilities permit may be revoked upon the occurrence of any of the following:

- (1) Operation of the permitted use is not commenced within 1 year of the date of issuance of the marihuana facilities permit.
- (2) If the permitted use ceases or is discontinued for 90 days or more.

(c) Any marihuana facilities permit may be revoked or suspended in the discretion of the city manager upon the occurrence of any of the following:

- (1) Any violation of the provisions of this article, this code of ordinances, the act, the tracking act, and the rules.
- (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or negatively impacts the health, safety, or general welfare of surrounding property or city residents.

(d) A medical marihuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.

(e) Any marihuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.

(f) Any medical marihuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.

(g) If a medical marihuana facilities permit is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for notification of the permittee, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing by mail or electronic mail.

(h) The holder of a marihuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-258. Transfer, sale or purchase of permits or licenses.

(a) No marihuana facilities permit may be transferred, sold, or purchased without making application to and obtaining approval of the city manager.

(b) Any transferee, buyer or purchaser of a permit must meet all requirements and conditions for the issuance of a permit under this article for the type of facility the permit was issued for before the transfer, sale or purchase of the permit will be finally approved. The transfer, sale, or purchase will be conditioned upon the transferee, buyer or purchaser obtaining a state license for the type of facility the permit was issued for within 180 days of the approval of the transfer, sale, or purchase.

(c) Transfer or attempted transfer of a medical marihuana facilities permit or any interest in such permit without first obtaining approval of the city manager to do so will be grounds for suspension of the permit pursuant to section 14-257(c) and a violation of this article.

Sec. 14-259. Changes to marihuana facilities.

(a) Any change or modification of a marihuana facility after it receives a state license, and a permit under this article is governed by the standards and procedures of the act and rules, and the standards, and standards and procedures of this code including but not limited to standards and procedures relating to site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. Changes or modifications to a marihuana facility may, however, be made at any time, but must be approved by LARA and the city prior to any changes or modifications to a marihuana facility being made. The permittee must provide evidence of the approval of LARA for any change or modification to a medical marihuana facility to the city, and obtain all required city permits before the change or modification is commenced.

(b) Change of location of a marihuana facility requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee. The change of location permit will be submitted and approved or denied in the same manner as an application for a medical marihuana facility permit, and provisional and full permits for the change of location will be issued in the same manner as for a medical marihuana facilities permit application. Applications for a change of location may be made at any time.

(c) Failure to obtain prior approval of a change or modification of a marihuana facility from LARA and the city or to obtain all necessary permits for the change or modification, and, failure to obtain approval of a change of location of a medical marihuana facility are violations of the provisions of this article for which a medical marihuana facilities permit may be revoked or suspended pursuant to section 14-257 of this article.

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana facilities permit or permit renewal required under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

Sec. 14-261. Minimum operational standards for all marihuana facilities.

All marihuana facilities shall at a minimum comply with the following operational standards:

(a) Marihuana facilities shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the facility premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a marihuana facilities permit or leasing property to a marihuana facility constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the act, or applicable state administrative rules.

(b) Marihuana facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view.

(c) Marihuana facilities shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed twenty-four hours a day, seven days a week.

(d) Marihuana facilities shall have a video surveillance system that complies with the rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in the rules.

(e) Surveillance recordings of marihuana facilities shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.

(f) Marihuana facilities shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the facility at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the facility and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this code.

(g) Marihuana facilities shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and

enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.

(h) Subject to the laws of this state, before hiring a prospective employee, a permittee shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, the permittee shall not hire the prospective employee without written permission of the board.

(i) Access to the marihuana facility is restricted to the permittee, employees of the permittee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, LARA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.

(j) All marihuana facilities must be at a fixed location. Mobile marihuana facilities and drive through operations are prohibited. Sale or transfer of marihuana product by internet or mail order, consignment, or wholesale is prohibited.

(k) All marihuana facilities shall comply with all provisions of this code, state law and administrative rules regulating signs and advertising.

(l) The business, operations, marketing and advertising of all marihuana facilities and marihuana product shall comply at all times with applicable state law and regulations, and this code.

(m) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the act, the tracking act, and the rules are prohibited from being on the premises of any marihuana facility, and shall not be sold or transferred by any licensee.

(n) Any marihuana product without a batch number or identification tag pursuant to the rules is prohibited from being at or on the premises of any medical marihuana facility.

(o) Marihuana facilities shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of facility at all times.

(p) Marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form in a manner that prevents its acquisition by any person who may not lawfully possess it, and recorded in the statewide monitoring system. Marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

- (1) a manned and permitted solid waste landfill;
- (2) a manned compostable materials operation or facility;
- (3) an in-vessel digester.

(q) All marihuana product waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106.

(r) All marihuana product waste or marihuana products that are to be destroyed, or that LARA orders to be destroyed, shall not be sold.

(s) All inventory of marihuana products must be stored in a secured limited access area or restricted access area, and identified and tracked consistent with the statewide monitoring system under the act, the tracking act, and the rules.

(t) All containers used to store marihuana products for transfer or sale between marihuana facilities shall meet the requirements of the rules for such containers.

(u) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.

(v) Marihuana-infused products or materials used in direct contact with such products must have separate storage areas from toxic or flammable materials.

Sec. 14-262. Minimum Operational standards applicable to provisioning centers.

All provisioning centers shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) Provisioning centers shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m.

(b) No alcohol or tobacco products may be sold, used, or consumed on the premises. No marihuana or marihuana-infused products may be used or consumed on the premises.

(c) No marihuana plants shall be allowed on the premises.

(d) During times when the provisioning center is not open to the public, processed marihuana, marihuana products, cash and currency shall be stored in a safe or security vault that is incorporated into the building structure or securely attached to the building structure or a safe room with a security vault or other secure door.

(e) A provisioning center shall purchase marihuana only from a grower or processor.

(f) All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(g) A provisioning center shall sell or transfer marihuana only to a registered qualifying patient or registered primary caregiver.

(h) A provisioning center shall transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(i) The sale or transfer marihuana to a registered qualifying patient or registered primary caregiver shall only occur after it has been tested and bears the label required for retail sale by the act and the rules.

(j) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, a provisioning center shall inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the board under the act.

(k) All transactions, current inventory, and other information of the provisioning center shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.

(l) A provisioning center shall not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

(m) Marijuana and marihuana paraphernalia shall not be sold, given away, or dispensed from any outdoor location.

(n) A provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana products.

(o) All marihuana products shall be kept 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.

(p) A provisioning center shall comply with all packaging and labeling requirements of the rules before selling or transferring marihuana products.

Sec. 14-263. Minimum Operational standards applicable to grow facilities.

All grow facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a permit for grower facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.

(c) All transactions, current inventory, and other information of the grow facility shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.

(d) All activities and operations of the grow facility, including cultivation, shall take place indoors within a building.

(e) The use of compressed gases such as carbon dioxide in multiple processes in the cultivation of marihuana shall meet the requirements of the rules for such processes.

(f) A grow facility shall not use any pesticides in the cultivation of marihuana that has not been approved by LARA for such purpose.

Section 14-264. Minimum Operational standards applicable to processor facilities.

All processor facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) A processor shall purchase marihuana only from a grower and shall sell marihuana-infused products or marihuana only to a provisioning center.

(b) A processor shall transfer marihuana only by means of a secure transporter.

(c) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.

(d) While holding a permit for processor facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.

(e) All transactions, current inventory, and other information of the processor facility shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.

(f) Processes that extract oil from marihuana plants and marihuana products using flammable gas, flammable liquid, or compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide shall meet the requirements of the rules for such processes.

Sec. 14-265. Minimum standards applicable to secure transporters.

All secure transporter facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) May take physical custody of marihuana or money but legal custody belongs to the transferor or transferee.

(b) May not sell or purchase marihuana products.

(c) May store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee.

(d) Marihuana may not be transported to a registered qualifying patient or registered primary caregiver.

(e) Marihuana product may only be transported in a locked, secured, sealed container that is not accessible while in transit. Money associated with the purchase or sale of marihuana product between facilities shall be locked in a sealed container kept separate from the marihuana product and only accessible to the secure transporter licensee/permittee and its employees.

(f) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(g) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(h) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(i) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(j) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(k) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the act and this article.

(l) All transactions, current inventory, and other information of the secure transporter shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.

Sec. 14-266. Minimum standards applicable to safety compliance facilities.

All safety compliance facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) A safety compliance facility is authorized to only receive marihuana from, test marihuana for, and return marihuana to a marihuana facility.

(b) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services unless a variance from this requirement is granted by the board as provided by the act.

(c) A safety compliance facility shall:

- (1) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.
- (2) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.

- (3) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.
- (4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.
- (5) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.
- (6) Have a secured laboratory space that cannot be accessed by the general public.
- (7) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.
- (8) Comply with all provisions of the rules regarding the testing, retesting, and sampling of marihuana and marihuana products.
- (9) Establish an adequate chain of custody and instructions for sample and storage requirements.

Sec. 14-267. Conflicts, Future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the act or the rules, the conflicting provisions of this article will be preempted and the provisions of the act or the rules will control. Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana facility in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

Sec. 14-268. Penalty and remedies.

(a) Any violation of this article is a municipal civil infraction subject to penalties imposed on municipal civil infractions by section 1-7(e) of this code and state law.

(b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

(c) In addition to the penalties in this section, any violation of this article, the act, or the rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.

(d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

Sec. 14-269. Effect tie-barred.

This amendment to Chapter 14 to add Article 12, "Medical Marihuana Facilities" shall only take effect if Chapter 42 is amended to add section 42-262(B)(16), section 42-280(B)(21), section 42-280(B)(22), section 42-281(B)(7), and section 42-821(B)(8).

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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 _____, 201__.

Adam Herringa, City Clerk

PREPARED BY:

Charles R. Bear (P34107)

Portage Assistant City Attorney

1662 East Centre Avenue

Portage, MI 49002

(269) 323-8812

Approved as to Form:

Date: _____

City Attorney

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**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-262, 42-280, and 42-
281 OF ARTICLE 4, DIVISION 4, AND SECTION 42-129 ARTICLE 4, DIVISION 3, OF
CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended to add Section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 6. Business Districts.

Section 42-262. B-3 general business district.

A. No change.

B. Principal permitted uses.

1 through 15 no change.

16. Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The provisioning center shall not be located:

- i. Within 125 feet of a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution (with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and
- iii. Within 500 feet of any other medical marihuana provisioning center located within the city of Portage.

b. Measurements for the purposes of subsection (B)(16)(a)(i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point on the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects. Measurements for purposes of

subsections (B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point of the zoning lot occupied by any of the uses listed in (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another provisioning center using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined in Section 42-112 of this code of ordinances.

- c. A map showing the uses and facilities permitted in this section as well as the protected areas identified in subsections (B)(16)(a)(i), (ii), (iii) and (iv), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the distribution, and sale of medical marihuana and medical marihuana infused products shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for provisioning center facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a provisioning center.
- g. The activities and operations of the provisioning center shall be indoors within a building and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the provisioning center shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- j. This amendment to Chapter 42 to add section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations shall only take if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-280(B)(21), and Section 42-280(B)(22) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-280. I-1 light industrial district.

A. No change.

B. Principal permitted uses.

1 through 20 No change.

21. Medical marihuana class A, B, and C grower facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The grower or processing facility shall not be located:

- i. Within 125 feet of a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

b. Measurements for purposes of subsection (B)(21)(a)(i) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects. Measurements for purposes of subsection (B)(21)(a)(ii) and (iii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(21)(a)(ii), or to the nearest point on the zoning lot occupied by another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances. c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(21)(a)(i), (ii), and (iii), is available for review in the department of

community development at the Portage City Hall and on the city's website under the department of community development.

- d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
 - e. No drive-through facilities are permitted for medical marihuana facilities.
 - f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
 - g. Medical marihuana grow and processor facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
 - h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
 - i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
 - j. This amendment to add section 42-280(B)(21) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."
22. Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*
- a. The facility site shall not be located:
 - i. Within 125 feet of a residential zoning district; and
 - ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or

university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and

- b. Measurements for purposes of subsection (B)(22)(a)(i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point on the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects. Measurements for purposes of subsection (B)(22)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(22)(a)(i), and (ii), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate

entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to add section 42-280(B)(22) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-281(B)(7), and Section 42-281(B)(8) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-281. I-2 heavy industrial district.

A. No change.

B. Principal permitted uses.

1 through 6 No change.

7. Medical marihuana class A, B, and C growers, and medical marihuana processors as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility shall not be located:

- i. Within 125 feet of a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and

- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.
- b. Measurements for purposes of subsection (B)(7)(a)(i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects. Measurements for purposes of subsection (B)(7)(a) (ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined in section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities listed in subsection (B)(7)(a) above, as well as the protected areas identified by subsections (B)(7)(a)(i), (ii), (iii), above, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. Medical marihuana grow and processing facilities shall conduct the activities of the facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

- i. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
 - j. This amendment to add section 42-281(B)(7) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."
- 8. Medical Marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*
 - a. The facility site shall not be located:
 - i. Within 125 feet of a residential zoning district; and
 - ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority;
 - b. Measurements for purposes of subsection (B)(8)(a) (i) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the boundary of the residential zoning district using an uninterrupted straight line without regard to intervening structures or objects. Measurements for purposes of subsection (B)(8)(a) (ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(8)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances.
 - c. A map showing the uses and facilities listed in subsection (B)(8)(a) above, as well as the protected areas identified in subsections (B)(8)(a)(i) and (ii) is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
 - d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to

occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to add section 42-281(B)(8) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended as follows to amend Section 42-129(C), Article 4, Division 3, General Provisions, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Division 3. General Provisions.

Section 42-129. Home occupations.

A. No change.

B. No change.

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"),

the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the general rules of the department as they may be amended from time to time.
2. The home occupation may be conducted in a dwelling unit (as defined by the Zoning Code), in an accessory building, or outdoors, where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient);
 - b. Possesses up to the maximum amount of marihuana or marihuana-infused products permitted by the Act;
 - c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of five) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited;
 - d. Does not separate marihuana resin from marihuana plants by butane extraction on the premises of the medical marihuana home occupation; and
 - e. Does not store any chemicals such as herbicides, pesticides, and fertilizers inconsistent with the provisions of the Portage Code of Ordinances including but not limited to the International Fire Code as adopted by the code.
 - f. Does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property.
3. The following shall apply to a primary caregiver conducting a home occupation under this section:
 - a. Considering the federal "Drug Free School Zone" requirements, the medical marihuana home occupation shall not be located:
 - i. Within 500 feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college,

- junior college or university, a childcare center, a playground, a housing facility owned by a public housing authority; or
- ii. Within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.
 - b. Measurements for purposes of subsection (C)(3)(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined by article 42, section 42-112, definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in subsection (C)(3)(a) above, as well as the protected areas, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
 - c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.
4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.
 5. All medical marihuana plants and medical marihuana-infused products shall be contained in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either a registered qualifying patient or the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located.
 6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with article 4, chapter 24, noise, article 5, chapter 24, safety, sanitation and health, as well as article 14, chapter 42, Housing/Property Maintenance Code. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.

7. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than five qualifying patients may visit the site at any one time.
8. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of article 5, section 24-111, definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
9. There shall be no sign of any nature identifying the home occupation and the use of window displays is not permitted.
10. The location and operation of a marihuana facility pursuant to the provisions of the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as a home occupation is prohibited.
11. Nothing in this section, 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 growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the general rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the general rules, nothing in this section, 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 under federal law. Neither this section nor the Michigan Medical Marihuana Act protects users, caregivers 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.
12. Definitions. As used in this section:
 - a. *Marihuana*. This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
 - b. *Marihuana-infused product*. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation
 - c. *Primary caregiver*. A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.
 - d. *Qualifying patient*. A person who has been diagnosed by a physician as having a debilitating medical condition.
 - e. *Registry identification card*. A document issued by the department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows

the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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, City Clerk

PREPARED BY:
Charles R. Bear (P34106)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:
Date: _____

City Attorney

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Proposed Medical Marihuana Provisioning Centers in B-3 1000' Distance Provisions 125' Distance from Residential Zoning 9 Potential Locations with 1000' Separation

51 Potential Properties

NAME	ADDRESS	CLASS	USE
DEALS UNLIMITED, INC	8715 PORTAGE RD	202	RETAIL-01
POUCHER, DAVID TRUST	8720 SHAVER RD	201	RETAIL-01
PRESTON PROPERTIES, LLC	8650 SHAVER RD	201	AUTO SERVICE
TEAGUE, HELEN I	8542 SHAVER RD	202	VACANT
KENDALL AUTO REPAIR, INC	8441 PORTAGE RD	201	AUTO SERVICE
CONSUMERS ENERGY CO	8434 PORTAGE RD	301	CONSUMERS
BAKER, CHRISTINE M	8435 PORTAGE RD	201	RETAIL-01
COMPLETE DRYWALL COMPANY	8415 PORTAGE RD	202	VACANT
COMPLETE DRYWALL COMPANY	8405 PORTAGE RD	201	WAREHOUSE
SPEEDWAY LLC	8379 PORTAGE RD	201	GAS STATION
CRYSTAL CAR WASH 2, LLC	8387 PORTAGE RD	201	CAR WASH
LEGC, LLC	8314 PORTAGE RD	201	RETAIL-02
ADAMS OUTDOOR ADV LTD PTNSP	8229 PORTAGE RD	201	VACANT
CAIN RESTAURANT CO	8211 PORTAGE RD	201	RESTAURANT
8131 PORTAGE PROPERTIES, LLC	8131 PORTAGE RD	401	RESIDENTIAL
RKW HOLDINGS LLC	8139 PORTAGE RD	201	RETAIL-01
JOHNSON REAL ESTATE COMPANY LLC	8127 PORTAGE RD	201	RETAIL-01
WINTERBURN, JOHN K & S M	8119 PORTAGE RD	202	VACANT
WINTERBURN, JOHN K & S M	8111 PORTAGE RD	201	LAUNDRY
TREYSTAR HOLDINGS, LLC	8043 PORTAGE RD	202	VACANT
TREYSTAR HOLDINGS, LLC	8061 PORTAGE RD	202	VACANT
VCA ANIMAL HOSPITALS, INC.	8037 PORTAGE RD	201	OFFICE-01
TREYSTAR HOLDINGS, LLC	2700 E CENTRE AVE	202	VACANT
FIFTH THIRD BANK	2610 E CENTRE AVE	202	VACANT
TREYSTAR HOLDINGS, LLC	8071 PORTAGE RD	001	VACANT
TREYSTAR HOLDINGS, LLC	8015 PORTAGE RD	202	VACANT
MURPHY, JAMES L & D A	7940 S SPRINKLE RD	201	AUTO SALES
PORTAGE BREWING COMPANY, LLC	7842 PORTAGE RD	201	RESTAURANT
THE DEEP WATERS LLC	7840 PORTAGE RD	201	RETAIL-WINDOWS
WAGNER, SHARON	7812 PORTAGE RD	201	OFFICE
RCL HOLDINGS, LLC	7262 S WESTNEDGE AVE	201	RESTAURANT
BAKER 7206 REALTY LLC	7206 S WESTNEDGE AVE	201	ARCADE/MINI GOL
WEDEL, JAMES C & V A	5977 PORTAGE RD	201	RETAIL-01/STORA
EMRO MARKETING CO	5974 PORTAGE RD	201	GAS STATION
ROSSI, THOMAS E & CONSTANCE N TRUS	5929 PORTAGE RD	201	OFFICE-01
K & L PARTNERSHIP	2401 E MILHAM AVE	201	OFFICE-01
ELZINGA PROPERTIES, LLC	2229 E MILHAM AVE	201	AUTO SERVICE
GIMMLER, NORBERT & UTE	2603 E MILHAM AVE	202	VACANT
HENDERSON, G & D & WREGE, R & L	5919 PORTAGE RD	201	RETAIL-01
KAL COUNTY FARM BUREAU INC	5950 PORTAGE RD	201	OFFICE-01
STEWART, CHARLES D	5911 PORTAGE RD	401	RESIDENTIAL
BIBLES FOR MISSIONS THRIFT CENTERS	2375 E MILHAM AVE	701	RETAIL
RANDLES, ESTHER M	5905 PORTAGE RD	401	RESIDENTIAL
ROGA	5900 PORTAGE RD	201	OFFICE-01
RANDLES, ESTHER MARIE	5845 PORTAGE RD	401	RESIDENTIAL
DLC PROPERTIES LLC	5730 S WESTNEDGE AVE	201	RETAIL-01
TEMPEST VENTURES, INC	5342 S WESTNEDGE AVE	201	GAS/REST DDA
ESAN LLC	5230 S WESTNEDGE AVE	201	RETAIL-01 DDA
DEJAMS LLC	5050 S SPRINKLE RD	201	FLEX-02
HOVENKAMP, BERT - TRUST	5000 S SPRINKLE RD	201	RESTAURANT
LIFE CHANGING MINISTRIES	3932 E KILGORE RD	701	FLEX - 02

- Exclusion Areas (1000' & 125' distance provisions)
- B-3 Zoning
- Eligible Properties
- State Game Area
- City Boundary
- Potential locations (1000' separation radius)



1 inch = 3,200 feet

Date: 2/26/2018

Potential locations must be B-3 zoned, and not within 125' of a residential zone and more than 1000' from churches, day cares, libraries, parks and public and/or private recreation areas. This listing is considered approximate and all properties must be individually evaluated.

Proposed Medical Marihuana
Provisioning Centers in B-3
1000' Distance Provisions
125' Distance from Residential Zoning
10 Potential Locations with 750' Separation

51 Potential Properties

NAME	ADDRESS	CLASS	USE
DEALS UNLIMITED, INC	8715 PORTAGE RD	202	RETAIL-01
POUCHER, DAVID TRUST	8720 SHAVER RD	201	RETAIL-01
PRESTON PROPERTIES, LLC	8650 SHAVER RD	201	AUTO SERVICE
TEAGUE, HELEN I	8542 SHAVER RD	202	VACANT
KENDALL AUTO REPAIR, INC	8441 PORTAGE RD	201	AUTO SERVICE
CONSUMERS ENERGY CO	8434 PORTAGE RD	301	CONSUMERS
BAKER, CHRISTINE M	8435 PORTAGE RD	201	RETAIL-01
COMPLETE DRYWALL COMPANY	8415 PORTAGE RD	202	VACANT
COMPLETE DRYWALL COMPANY	8405 PORTAGE RD	201	WAREHOUSE
SPEEDWAY LLC	8379 PORTAGE RD	201	GAS STATION
CRYSTAL CAR WASH 2, LLC	8387 PORTAGE RD	201	CAR WASH
LEGC, LLC	8314 PORTAGE RD	201	RETAIL-02
ADAMS OUTDOOR ADV LTD PTNSP	8229 PORTAGE RD	201	VACANT
CAIN RESTAURANT CO	8211 PORTAGE RD	201	RESTAURANT
8131 PORTAGE PROPERTIES, LLC	8131 PORTAGE RD	401	RESIDENTIAL
RKW HOLDINGS LLC	8139 PORTAGE RD	201	RETAIL-01
JOHNSON REAL ESTATE COMPANY LLC	8127 PORTAGE RD	201	RETAIL-01
WINTERBURN, JOHN K & S M	8119 PORTAGE RD	202	VACANT
WINTERBURN, JOHN K & S M	8111 PORTAGE RD	201	LAUNDRY
TREYSTAR HOLDINGS, LLC	8043 PORTAGE RD	202	VACANT
TREYSTAR HOLDINGS, LLC	8061 PORTAGE RD	202	VACANT
VCA ANIMAL HOSPITALS, INC.	8037 PORTAGE RD	201	OFFICE-01
TREYSTAR HOLDINGS, LLC	2700 E CENTRE AVE	202	VACANT
FIFTH THIRD BANK	2610 E CENTRE AVE	202	VACANT
TREYSTAR HOLDINGS, LLC	8071 PORTAGE RD	001	VACANT
TREYSTAR HOLDINGS, LLC	8015 PORTAGE RD	202	VACANT
MURPHY, JAMES L & D A	7940 S SPRINKLE RD	201	AUTO SALES
PORTAGE BREWING COMPANY, LLC	7842 PORTAGE RD	201	RESTAURANT
THE DEEP WATERS LLC	7840 PORTAGE RD	201	RETAIL-WINDOWS
WAGNER, SHARON	7812 PORTAGE RD	201	OFFICE
RCL HOLDINGS, LLC	7262 S WESTNEDGE AVE	201	RESTAURANT
BAKER 7206 REALTY LLC	7206 S WESTNEDGE AVE	201	ARCADE/MINI GOL
WEDEL, JAMES C & V A	5977 PORTAGE RD	201	RETAIL-01/STORA
EMRO MARKETING CO	5974 PORTAGE RD	201	GAS STATION
ROSSI, THOMAS E & CONSTANCE N TRUS	5929 PORTAGE RD	201	OFFICE-01
K & L PARTNERSHIP	2401 E MILHAM AVE	201	OFFICE-01
ELZINGA PROPERTIES, LLC	2229 E MILHAM AVE	201	AUTO SERVICE
GIMMLER, NORBERT & UTE	2603 E MILHAM AVE	202	VACANT
HENDERSON, G & D & WREGE, R & L	5919 PORTAGE RD	201	RETAIL-01
KAL COUNTY FARM BUREAU INC	5950 PORTAGE RD	201	OFFICE-01
STEWART, CHARLES D	5911 PORTAGE RD	401	RESIDENTIAL
BIBLES FOR MISSIONS THRIFT CENTERS	2375 E MILHAM AVE	701	RETAIL
RANDLES, ESTHER M	5905 PORTAGE RD	401	RESIDENTIAL
ROGA	5900 PORTAGE RD	201	OFFICE-01
RANDLES, ESTHER MARIE	5845 PORTAGE RD	401	RESIDENTIAL
DLC PROPERTIES LLC	5730 S WESTNEDGE AVE	201	RETAIL-01
TEMPEST VENTURES, INC	5342 S WESTNEDGE AVE	201	GAS/REST DDA
ESAN LLC	5230 S WESTNEDGE AVE	201	RETAIL-01 DDA
DEJAMS LLC	5050 S SPRINKLE RD	201	FLEX-02
HOVENKAMP, BERT - TRUST	5000 S SPRINKLE RD	201	RESTAURANT
LIFE CHANGING MINISTRIES	3932 E KILGORE RD	701	FLEX -02

 B-3 Zoning
 Eligible Properties
 Exclusion Areas (1000' & 125' distance provisions)
 State Game Area
 City Boundary
 Potential locations
(750' separation radius)



1 inch = 3,200 feet

Date: 2/26/2018

Potential locations must be B-3 zoned, and not within 125' of a residential zone and more than 1000' from churches, day cares, libraries, parks and public and/or private recreation areas. This listing is considered approximate and all properties must be individually evaluated.

Proposed Medical Marihuana Provisioning Centers in B-3 1000' Distance Provisions 125' Distance from Residential Zoning 11 Potential Locations with 500' Separation

51 Potential Properties

NAME	ADDRESS	CLASS	USE
DEALS UNLIMITED, INC	8715 PORTAGE RD	202	RETAIL-01
POUCHER, DAVID TRUST	8720 SHAVER RD	201	RETAIL-01
PRESTON PROPERTIES, LLC	8650 SHAVER RD	201	AUTO SERVICE
TEAGUE, HELEN I	8542 SHAVER RD	202	VACANT
KENDALL AUTO REPAIR, INC	8441 PORTAGE RD	201	AUTO SERVICE
CONSUMERS ENERGY CO	8434 PORTAGE RD	301	CONSUMERS
BAKER, CHRISTINE M	8435 PORTAGE RD	201	RETAIL-01
COMPLETE DRYWALL COMPANY	8415 PORTAGE RD	202	VACANT
COMPLETE DRYWALL COMPANY	8405 PORTAGE RD	201	WAREHOUSE
SPEEDWAY LLC	8379 PORTAGE RD	201	GAS STATION
CRYSTAL CAR WASH 2, LLC	8387 PORTAGE RD	201	CAR WASH
LEGC, LLC	8314 PORTAGE RD	201	RETAIL-02
ADAMS OUTDOOR ADV LTD PTNSP	8229 PORTAGE RD	201	VACANT
CAIN RESTAURANT CO	8211 PORTAGE RD	201	RESTAURANT
8131 PORTAGE PROPERTIES, LLC	8131 PORTAGE RD	401	RESIDENTIAL
RKW HOLDINGS LLC	8139 PORTAGE RD	201	RETAIL-01
JOHNSON REAL ESTATE COMPANY LLC	8127 PORTAGE RD	201	RETAIL-01
WINTERBURN, JOHN K & S M	8119 PORTAGE RD	202	VACANT
WINTERBURN, JOHN K & S M	8111 PORTAGE RD	201	LAUNDRY
TREYSTAR HOLDINGS, LLC	8043 PORTAGE RD	202	VACANT
TREYSTAR HOLDINGS, LLC	8061 PORTAGE RD	202	VACANT
VCA ANIMAL HOSPITALS, INC.	8037 PORTAGE RD	201	OFFICE-01
TREYSTAR HOLDINGS, LLC	2700 E CENTRE AVE	202	VACANT
FIFTH THIRD BANK	2610 E CENTRE AVE	202	VACANT
TREYSTAR HOLDINGS, LLC	8071 PORTAGE RD	001	VACANT
TREYSTAR HOLDINGS, LLC	8015 PORTAGE RD	202	VACANT
MURPHY, JAMES L & D A	7940 S SPRINKLE RD	201	AUTO SALES
PORTAGE BREWING COMPANY, LLC	7842 PORTAGE RD	201	RESTAURANT
THE DEEP WATERS LLC	7840 PORTAGE RD	201	RETAIL-WINDOWS
WAGNER, SHARON	7812 PORTAGE RD	201	OFFICE
RCL HOLDINGS, LLC	7262 S WESTNEDGE AVE	201	RESTAURANT
BAKER 7206 REALTY LLC	7206 S WESTNEDGE AVE	201	ARCADE/MINI GOL
WEDEL, JAMES C & V A	5977 PORTAGE RD	201	RETAIL-01/STORA
EMRO MARKETING CO	5974 PORTAGE RD	201	GAS STATION
ROSSI, THOMAS E & CONSTANCE N TRUS	5929 PORTAGE RD	201	OFFICE-01
K & L PARTNERSHIP	2401 E MILHAM AVE	201	OFFICE-01
ELZINGA PROPERTIES, LLC	2229 E MILHAM AVE	201	AUTO SERVICE
GIMMLER, NORBERT & UTE	2603 E MILHAM AVE	202	VACANT
HENDERSON, G & D & WREGE, R & L	5919 PORTAGE RD	201	RETAIL-01
KAL COUNTY FARM BUREAU INC	5950 PORTAGE RD	201	OFFICE-01
STEWART, CHARLES D	5911 PORTAGE RD	401	RESIDENTIAL
BIBLES FOR MISSIONS THRIFT CENTERS	2375 E MILHAM AVE	701	RETAIL
RANDLES, ESTHER M	5905 PORTAGE RD	401	RESIDENTIAL
ROGA	5900 PORTAGE RD	201	OFFICE-01
RANDLES, ESTHER MARIE	5845 PORTAGE RD	401	RESIDENTIAL
DLC PROPERTIES LLC	5730 S WESTNEDGE AVE	201	RETAIL-01
TEMPEST VENTURES, INC	5342 S WESTNEDGE AVE	201	GAS/REST DDA
ESAN LLC	5230 S WESTNEDGE AVE	201	RETAIL-01 DDA
DEJAMS LLC	5050 S SPRINKLE RD	201	FLEX-02
HOVENKAMP, BERT - TRUST	5000 S SPRINKLE RD	201	RESTAURANT
LIFE CHANGING MINISTRIES	3932 E KILGORE RD	701	FLEX - 02

- Exclusion Areas (1000' & 125' distance provisions)
- B-3 Zoning
- Eligible Properties
- State Game Area
- City Boundary
- Potential locations (500' separation radius)



1 inch = 3,200 feet

Date: 2/26/2018

Potential locations must be B-3 zoned, and not within 125' of a residential zone and more than 1000' from churches, day cares, libraries, parks and public and/or private recreation areas. This listing is considered approximate and all properties must be individually evaluated.



Proposed Medical Marihuana Grow Operations and Processors Safety Compliance & Secure Transporters 1000' & 125' Exclusion Areas for I-1, I-2

94 Available properties available.

OWNERNAME1	PCOMBINED	PRTYCLASS	UHAINDEX1
JACKSON, ROGEE	5065 S SPRINKLE RD	201	FLEX-02
9090 SPRINKLE, LLC	5000 S SPRINKLE RD	201	FLEX-02
5110 SPRINKLE RD, LLC	5110 S SPRINKLE RD	201	FLEX-02
PISIPATI, BHASKAR	5120 S SPRINKLE RD	201	FLEX-04
ROBBINS, WILLIAM C & E A	5240 S SPRINKLE RD	202	VACANT
ROBBINS, WILLIAM C & E A	5220 S SPRINKLE RD	202	VACANT
ROBBINS, WILLIAM C & E A	5160 S SPRINKLE RD	201	FLEX-04
HUMPHREY PRODUCTS COMPANY	5079 S SPRINKLE RD	302	VACANT LAND
KENDALL ELECTRIC, INC	5101 S SPRINKLE RD	302	VACANT LAND
SYHAN, LLC	3750 E KILGORE RD	201	NIGHT CLUB
MAIN STREET ASSOCIATES	5113 MEREDITH ST	201	TRUCK TERMINAL
KC REAL ESTATE, LLC	5041 MEREDITH ST	302	VACANT LAND
BEA-UNREAL, LLC	3700 KILGORE RD	301	MANUFACTURING
KC REAL ESTATE, LLC	3620 E KILGORE RD	201	SVC GAR/OFFICE
VANTUNEN, JAMES L & MARY J TRUST	3602 E KILGORE RD	401	SINGLE FAMILY
VANTUNEN, JAMES L & MARY J TRUST	5035 MEREDITH ST	201	OFFICE/STG
CALLAN, GERALD G & GENEVA A	5040 MEREDITH ST	201	RETAIL-01
PRESSURE WASHING SPECIALISTS	3550 E KILGORE RD	201	WAREHOUSE
SUMMIT POLYMERS INC	3000 E KILGORE RD	302	VACANT LAND
DOMESTIQUE REALTY, LLC	3737 E MILHAM AVE	201	RETAIL
COUNTY OF KALAMAZOO	3100 E MILHAM AVE	702	COUNTY
KALAMAZOO AVIATION HISTORY MUSEUM	6551 PORTAGE RD	701	NON-PROFIT/MUSEUM
NORMAN/PORTAGE, LLC	6901 PORTAGE RD	201	OFFICE-01
PHARMACIA & UPJOHN COMPANY	3101 ROMENCE RD EAST	302	VACANT LAND
JKI REAL ESTATE, LLC	6501 PORTAGE RD	301	MANUFACTURING
COUNTY OF KALAMAZOO	6555 PORTAGE RD	702	VACANT LAND
SCANNELL PROPERTIES #192, LLC	6701 PORTAGE RD	302	VACANT LAND
STRYKER CORPORATION	6000 PORTAGE RD	302	VACANT LAND
STRYKER CORPORATION	6100 PORTAGE RD	302	VACANT LAND
CITY OF PORTAGE	6401 CORPORATE AVE	702	CITY SEWER
COLONIAL ENGINEERING INC	6400 CORPORATE AVE	301	WAREHOUSE
MDOT	6345 AMERICAN AVE	701	WAREHOUSE
SUMMIT POLYMERS PROPERTIES LTD	4750 EXECUTIVE DR	301	PLASTIC INJECTION MOLDING
3700 MILHAM, LLC	3700 E MILHAM AVE	301	MANUFACTURING
SUPERIOR BUSINESS FORMS INC	6500 S SPRINKLE RD	302	VACANT LAND
CITY OF PORTAGE	6600 S SPRINKLE RD	702	CITY VACANT
MANN-HUMMEL USA, INC	6700 S SPRINKLE RD	301	REFRIGERATION MFG
MANN-HUMMEL USA, INC	6400 S SPRINKLE RD	301	PLASTIC INJECTION MOLDING
SUPERIOR BUSINESS FORMS	6490 S SPRINKLE RD	201	OFFICE
CONSUMERS ENERGY CO	6210 S SPRINKLE RD	301	CONSUMERS-SUB STATION
HUSKER HOLDINGS LLC	6700 QUALITY WAY	301	TOOL & DIE MFG
KC EAGER LLC	6710 QUALITY WAY	301	MANUFACTURING
DSL ENTERPRISES INC	4550 QUALITY CT	302	VACANT LAND
SPRINKLE ENGINEERING BUILDING, LLC	6515 S SPRINKLE RD	301	PLASTIC INJECTION MOLDING
BOWERS MANUFACTURING CO	6565 S SPRINKLE RD	301	ALUMINUM EXTRUSION
STEPHENS PROPERTIES LLC	6701 QUALITY WAY	201	MANUFACTURING
PIENTA, ANTHONY & BONITA	3901 E CENTRE AVE	302	VACANT LAND
PIENTA, ANTHONY J & BONITA J TRUST	7926 S SPRINKLE RD	201	RETAIL-01
K PAUL PROPERTIES, LLC	3921 E CENTRE AVE	301	MANUFACTURING
PIENTA, ANTHONY J & BONITA J TRUST	7910 S SPRINKLE RD	201	AUTO SERVICE
PIENTA, ANTHONY J & BONITA J TRUST	7881 S SPRINKLE RD	201	RETAIL-01
ZOTIS, LLC	7725 PORTAGE RD	301	MANUFACTURING
PHARMACIA & UPJOHN COMPANY	7000 PORTAGE RD	301	VACANT LAND
PHARMACIA & UPJOHN COMPANY	7726 PORTAGE RD	302	VACANT LAND
CONSUMERS ENERGY CO	2915 E CENTRE AVE	302	CONSUMERS
CUBIC, MICHAEL	516 SCHURING RD	401	SINGLE FAMILY
JOHN SCHURING JR, COMPANY	510 SCHURING RD	401	SINGLE FAMILY
TULLMA, JAY H & ROVERLY	428 SCHURING RD	401	SINGLE FAMILY
CROPPER, ROBERT D	408 SCHURING RD	401	SINGLE FAMILY
D & D VENTURES, LLC	8722 PORTAGE INDUSTRIAL	081	OFFICE-01
PIP PARTNERS, LLC	8750 PORTAGE INDUSTRIAL	081	OFFICE
WINTERBURN, JOHN K & S M	8119 PORTAGE RD	202	VACANT
CORNELL JR, WILLIAM D & SHELLY L	8145 PORTAGE RD	302	VACANT LAND
RKW HOLDINGS LLC	8141 PORTAGE RD	302	VACANT LAND
ITANI, OUSSAMA	8209 PORTAGE RD	302	VACANT LAND
ADAMS OUTDOOR ADV LTD PTNSP	8229 PORTAGE RD	201	VACANT
DEJAMS, LLC	9702 PORTAGE RD	201	REST/MANUF
NICHOLS, ANDREW D	9741 PORTAGE RD	401	SINGLE FAMILY
CITY OF PORTAGE	9102 SHAVER RD	702	CITY HOUSE
KUIPER BROTHERS LAND, LLC	9040 SHAVER RD	201	VACANT LAND
FEMA CORPORATION	1728 VANDERBILT AVE	302	VACANT LAND
CC 10 LLC	4176 COMMERCIAL AVE	201	OFFICE-01/WARE
COMMERCIAL PROPERTIES PARTNERS, LLC	4169 COMMERCIAL AVE	301	MANUFACTURING
4311 COMMERCIAL AVE, LLC	4311 COMMERCIAL AVE	201	DISTRIBUTOR
M R S REALTY CORP	4385 COMMERCIAL AVE	201	TRUCK TERMINAL
TODD UNIFORM INC	4384 COMMERCIAL AVE	201	MANUFACTURING
IPTV-B-C-31, LLC	4250 COMMERCIAL AVE	201	WAREHOUSE
RF HOLDING LLC	4460 COMMERCIAL AVE	301	WAREHOUSE
SAMEO LAND KALAMAZOO, LLC	4510 COMMERCIAL AVE	201	WAREHOUSE
4570 COMMERCIAL AVE, LLC	4570 COMMERCIAL AVE	201	WAREHOUSE-M
BICKINGS, TIMOTHY P & D A	4481 COMMERCIAL AVE	301	MANUFACTURING
ST PROPERTIES, LLC	6292 AMERICAN AVE	301	MANUFACTURING
ST PROPERTIES, LLC	6256 AMERICAN AVE	301	MANUFACTURING
CONFORMANCE FASTENERS INC	6239 AMERICAN AVE	301	WAREHOUSE
ST PROPERTIES, LLC &	6287 AMERICAN AVE	201	LAB/SHOP
PHARMACIA & UPJOHN COMPANY	7238 PORTAGE RD	301	WELL SITES
PHARMACIA & UPJOHN COMPANY	7400 PORTAGE RD	302	VACANT LAND
RAI AZO, LLC	5825 WILLOUGHBY DR	201	BRWNFLD WILLOUGHBY
RAI AZO, LLC	5901 WILLOUGHBY DR	202	BRWNFLD WILLOUGHBY
TELL LEASING CO	5909 WILLOUGHBY DR	201	GARAGE
SHORT, ANGELA	5913 WILLOUGHBY DR	401	SINGLE FAMILY
FRAZIER, HARLIE & GRIMM, CORA	5921 WILLOUGHBY DR	401	SINGLE FAMILY
ISAACS, LAURA	2711 E MILHAM AVE	401	SINGLE FAMILY
MUNNS CORP	2725 E MILHAM AVE	201	OFFICE-01

- I-1 or I-2 Zoning
- Exclusion Areas (1000' and residential 125')
- Eligible Properties (94)
- City Boundary



1 inch = 3,200 feet
Date: 2/26/2018

Potential locations must be I-1 or I-2 zoned, and not within 125' of a residential zone and more than 1000' from churches, schools, day cares, libraries, treatment facilities, parks and public and/or private. This listing is considered approximate and all properties must be individually evaluated. (185)

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager

SUBJECT: Supplemental Information for Agenda Item D.2. - Medical Marihuana Facilities

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

For Council consideration is the zoning ordinance revised on February 27, 2018, which the following changes from the zoning ordinance sent to City Councilmembers on Monday, February 26, 2016:

- The 125 separation from a medical marihuana facility and a residential zoning district has been removed. The requirement that location of a medical marihuana facility not abut or be adjacent to a residential district has been put back into the ordinance.
- The separation distance between medical marihuana facilities is 1000 feet, consistent with the ordinance presented to City Council on January 23, 2018.

Also attached are maps reflecting the above changes.

Attachments:

1. Ordinance to Amend Chapter 42 – Redline / Strikeout
2. Ordinance to Amend Chapter 42 – Clean Copy
3. Maps (2)

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-262, 42-280, and 42-
281 OF ARTICLE 4, DIVISION 4, AND SECTION 42-129 ARTICLE 4, DIVISION 3, OF
CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended to add Section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 6. Business Districts.

Section 42-262. B-3 general business district.

A. No change.

B. Principal permitted uses.

1 through 15 no change.

16. Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The provisioning center shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution (with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana provisioning center located within the city of Portage.
- ~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

- b. Measurements for purposes of subsections (B)(16)(a)(ii) and (iii) above shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point of the zoning lot occupied by any of the uses listed in (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another provisioning center using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(16)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the zoning lot to be occupied by a provisioning center using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined in Section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities permitted in this section as well as the protected areas identified in subsections (B)(16)(a)(i), (ii), (iii) and (iv), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the distribution, and sale of medical marihuana and medical marihuana infused products shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for provisioning center facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a provisioning center.
- g. The activities and operations of the provisioning center shall be indoors within a building and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the provisioning center shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- j. This amendment to Chapter 42 to add section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations shall only take if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-280(B)(21), and Section 42-280(B)(22) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-280. I-1 light industrial district.

A. No change.

B. Principal permitted uses.

1 through 20 No change.

21. Medical marihuana class A, B, and C grower facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The grower or processing facility shall not be located:

i. Adjacent to or abutting a residential zoning district; and

ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and

iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo-Battle Creek International Airport.~~

b. Measurements for purposes of subsection (B)(21)(a)(ii) and (iii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(21)(a)(ii), or to

the nearest point on the zoning lot occupied by another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(21)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the the zoning lot to be occupied by a grower or processor facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.

- c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(21)(a)(i), (ii), and (iii), ~~and (iv),~~ is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. Medical marihuana grow and processor facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- j. This amendment to add section 42-280(B)(21) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

22. Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility site shall not be located:

i. Adjacent to or abutting a residential zoning district; and

ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and

~~iii. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo-Battle Creek International Airport.~~

b. Measurements for purposes of ~~this section~~subsection (B)(22)(a)(ii) above shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(22)(a)(iii) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.

c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(22)(a)(i), and (ii), ~~and (iii)~~, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.

d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical,

plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to add section 42-280(B)(22) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-281(B)(7), and Section 42-281(B)(8) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-281. I-2 heavy industrial district.

A. No change.

B. Principal permitted uses.

1 through 6 No change.

7. Medical marihuana class A, B, and C growers, and medical marihuana processors as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq*.

a. The facility shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

b. Measurements for purposes of subsection (B)(7)(a) (ii) and (iii) above shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana grow or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by a another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(7)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by a grower or processor facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.

c. A map showing the uses and facilities listed in subsection (B)(7)(a) above, as well as the protected areas identified by subsections (B)(7)(a)(i), (ii), (iii), ~~and (iv)~~ above, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.

d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire

suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

- e. No drive-through facilities are permitted for medical marihuana facilities.
 - f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
 - g. Medical marihuana grow and processing facilities shall conduct the activities of the facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
 - h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
 - i. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
 - j. This amendment to add section 42-281(B)(7) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."
8. Medical Marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*
- a. The facility site shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; ~~and~~

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~~iii. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

- b. Measurements for purposes of subsection (B)(8)(a) (ii) above shall be made from the ~~property~~ boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(8)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. ~~Measurements for the purposes of subsection (B)(8)(a)(iii) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility using an uninterrupted straight line without regard to intervening structures or objects.~~ "Zoning lot" is defined section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities listed in subsection (B)(8)(a) above, as well as the protected areas identified in subsections (B)(8)(a)(i), ~~and (ii), and (iii)~~, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

- i. This amendment to add section 42-281(B)(8) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended as follows to amend Section 42-129(C), Article 4, Division 3, General Provisions, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Division 3. General Provisions.

Section 42-129. Home occupations.

A. No change.

B. No change.

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the general rules of the department as they may be amended from time to time.

2. The home occupation may be conducted in a dwelling unit (as defined by the Zoning Code), in an accessory building, or outdoors, where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient);
 - b. Possesses up to the maximum amount of marihuana or marihuana-infused products permitted by the Act;
 - c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of five) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited;
 - d. Does not separate marihuana resin from marihuana plants by butane extraction on the premises of the medical marihuana home occupation; and
 - e. Does not store any chemicals such as herbicides, pesticides, and fertilizers inconsistent with the provisions of the Portage Code of Ordinances including but not limited to the International Fire Code as adopted by the code.
 - f. Does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property.
3. The following shall apply to a primary caregiver conducting a home occupation under this section:
 - a. Considering the federal "Drug Free School Zone" requirements, the medical marihuana home occupation shall not be located:
 - i. Within 500 feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a childcare center, a playground, a housing facility owned by a public housing authority; or
 - ii. Within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.
 - b. Measurements for purposes of subsection (C)(3)(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined by article 42, section 42-112, definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in subsection (C)(3)(a) above, as well as the protected areas, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
 - c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.

4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.
5. All medical marihuana plants and medical marihuana-infused products shall be contained in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either a registered qualifying patient or the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located.
6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with article 4, chapter 24, noise, article 5, chapter 24, safety, sanitation and health, as well as article 14, chapter 42, Housing/Property Maintenance Code. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
7. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than five qualifying patients may visit the site at any one time.
8. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of article 5, section 24-111, definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
9. There shall be no sign of any nature identifying the home occupation and the use of window displays is not permitted.
10. The location and operation of a marihuana facility pursuant to the provisions of the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as a home occupation is prohibited.
11. Nothing in this section, 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 growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the general rules

and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the general rules, nothing in this section, 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 under federal law. Neither this section nor the Michigan Medical Marihuana Act protects users, caregivers 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.

12. Definitions. As used in this section:

- a. *Marihuana*. This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
- b. *Marihuana-infused product*. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation
- c. *Primary caregiver*. A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.
- d. *Qualifying patient*. A person who has been diagnosed by a physician as having a debilitating medical condition.
- e. *Registry identification card*. A document issued by the department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

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I, Adam Herringa, 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, City Clerk

PREPARED BY:
Charles R. Bear (P34106)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:
Date: _____

City Attorney

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**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-262, 42-280, and 42-
281 OF ARTICLE 4, DIVISION 4, AND SECTION 42-129 ARTICLE 4, DIVISION 3, OF
CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended to add Section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 6. Business Districts.

Section 42-262. B-3 general business district.

A. No change.

B. Principal permitted uses.

1 through 15 no change.

16. Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The provisioning center shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution (with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana provisioning center located within the city of Portage.

b. Measurements for purposes of subsections (B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point of the zoning lot occupied by any of the uses listed in (B)(16)(a)(ii), or to the nearest

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point of the zoning lot occupied by another provisioning center using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined in Section 42-112 of this code of ordinances.

- c. A map showing the uses and facilities permitted in this section as well as the protected areas identified in subsections (B)(16)(a)(i), (ii), (iii) and (iv), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the distribution, and sale of medical marihuana and medical marihuana infused products shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for provisioning center facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a provisioning center.
- g. The activities and operations of the provisioning center shall be indoors within a building and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the provisioning center shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- j. This amendment to Chapter 42 to add section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations shall only take if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-280(B)(21), and Section 42-280(B)(22) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

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ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-280. I-1 light industrial district.

A. No change.

B. Principal permitted uses.

1 through 20 No change.

21. Medical marihuana class A, B, and C grower facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The grower or processing facility shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of religious institutions located in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

b. Measurements for purposes of subsection (B)(21)(a)(ii) and (iii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(21)(a)(ii), or to the nearest point on the zoning lot occupied by another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances. c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(21)(a)(i), (ii), and (iii), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.

d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction

Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

- e. No drive-through facilities are permitted for medical marihuana facilities.
 - f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
 - g. Medical marihuana grow and processor facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
 - h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
 - i. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
 - j. This amendment to add section 42-280(B)(21) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."
22. Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*
- a. The facility site shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution

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(with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and

- b. Measurements for purposes of subsection (B)(22)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances.
- c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(22)(a)(i), and (ii), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to add section 42-280(B)(22) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall

only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-281(B)(7), and Section 42-281(B)(8) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-281. I-2 heavy industrial district.

A. No change.

B. Principal permitted uses.

1 through 6 No change.

7. Medical marihuana class A, B, and C growers, and medical marihuana processors as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

b. Measurements for purposes of subsection (B)(7)(a) (ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the

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medical marihuana grow or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by a another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances.

- c. A map showing the uses and facilities listed in subsection (B)(7)(a) above, as well as the protected areas identified by subsections (B)(7)(a)(i), (ii), (iii), above, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
- d. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- e. No drive-through facilities are permitted for medical marihuana facilities.
- f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- g. Medical marihuana grow and processing facilities shall conduct the activities of the facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
- h. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- i. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- j. This amendment to add section 42-281(B)(7) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

8. Medical Marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*
- a. The facility site shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution (with the exception of a religious institution in a B-3, I-1, or I-2 zoning district) or housing facility owned by a public housing authority;
 - b. Measurements for purposes of subsection (B)(8)(a) (ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(8)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances.
 - c. A map showing the uses and facilities listed in subsection (B)(8)(a) above, as well as the protected areas identified in subsections (B)(8)(a)(i), and (ii) is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
 - d. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
 - e. No drive-through facilities are permitted for medical marihuana facilities.
 - f. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
 - g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other

activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

- h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to add section 42-281(B)(8) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended as follows to amend Section 42-129(C), Article 4, Division 3, General Provisions, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Division 3. General Provisions.

Section 42-129. Home occupations.

A. No change.

B. No change.

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements

contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the general rules of the department as they may be amended from time to time.
2. The home occupation may be conducted in a dwelling unit (as defined by the Zoning Code), in an accessory building, or outdoors, where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient);
 - b. Possesses up to the maximum amount of marihuana or marihuana-infused products permitted by the Act;
 - c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of five) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited;
 - d. Does not separate marihuana resin from marihuana plants by butane extraction on the premises of the medical marihuana home occupation; and
 - e. Does not store any chemicals such as herbicides, pesticides, and fertilizers inconsistent with the provisions of the Portage Code of Ordinances including but not limited to the International Fire Code as adopted by the code.
 - f. Does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property.
3. The following shall apply to a primary caregiver conducting a home occupation under this section:
 - a. Considering the federal "Drug Free School Zone" requirements, the medical marihuana home occupation shall not be located:
 - i. Within 500 feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a childcare center, a playground, a housing facility owned by a public housing authority; or
 - ii. Within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.
 - b. Measurements for purposes of subsection (C)(3)(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined by article 42, section 42-112, definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in

subsection (C)(3)(a) above, as well as the protected areas, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.

- c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.
4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.
5. All medical marihuana plants and medical marihuana-infused products shall be contained in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either a registered qualifying patient or the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located.
6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with article 4, chapter 24, noise, article 5, chapter 24, safety, sanitation and health, as well as article 14, chapter 42, Housing/Property Maintenance Code. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
7. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than five qualifying patients may visit the site at any one time.
8. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of article 5, section 24-111, definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
9. There shall be no sign of any nature identifying the home occupation and the use of window displays is not permitted.

10. The location and operation of a marihuana facility pursuant to the provisions of the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as a home occupation is prohibited.
11. Nothing in this section, 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 growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the general rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the general rules, nothing in this section, 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 under federal law. Neither this section nor the Michigan Medical Marihuana Act protects users, caregivers 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.
12. Definitions. As used in this section:
 - a. *Marihuana*. This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
 - b. *Marihuana-infused product*. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation
 - c. *Primary caregiver*. A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.
 - d. *Qualifying patient*. A person who has been diagnosed by a physician as having a debilitating medical condition.
 - e. *Registry identification card*. A document issued by the department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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, City Clerk

PREPARED BY:
Charles R. Bear (P34106)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:
Date: _____

City Attorney

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Proposed Medical Marihuana Provisioning Centers in B-3
1000' Exclusion Areas and Not Adjacent to Residential
500' Separation - 14 Potential Locations

ADDRESS	CLASS	USE
9017 S SPRINKLE RD	201	RETAIL-01
4017 WELLS ST	201	RESTAURANT
8969 PORTAGE RD	201	VACANT
8715 PORTAGE RD	202	RETAIL-01
8724 PORTAGE RD	201	AUTO SERVICE
8720 SHAVER RD	201	RETAIL-01
8650 SHAVER RD	201	AUTO SERVICE
8542 SHAVER RD	202	VACANT
8444 PORTAGE RD	202	VACANT
8441 PORTAGE RD	201	AUTO SERVICE
8434 PORTAGE RD	301	CONSUMERS
8435 PORTAGE RD	201	RETAIL-01
8415 PORTAGE RD	202	VACANT
8405 PORTAGE RD	201	WAREHOUSE
8379 PORTAGE RD	201	GAS STATION
8387 PORTAGE RD	201	CAR WASH
8314 PORTAGE RD	201	RETAIL-02
8312 PORTAGE RD	201	RETAIL-01
8211 PORTAGE RD	201	RESTAURANT
8204 PORTAGE RD	201	RESTAURANT
8131 PORTAGE RD	401	RESIDENTIAL
8136 PORTAGE RD	201	RESTAURANT
8139 PORTAGE RD	201	RETAIL-01
8127 PORTAGE RD	201	RETAIL-01
8111 PORTAGE RD	201	LAUNDRY
8043 PORTAGE RD	202	VACANT
8061 PORTAGE RD	202	VACANT
8037 PORTAGE RD	201	OFFICE-01
2700 E CENTRE AVE	202	VACANT
2610 E CENTRE AVE	202	VACANT
8071 PORTAGE RD	001	VACANT
8015 PORTAGE RD	202	VACANT
4203 E CENTRE AVE	201	RETAIL STORE
4123 E CENTRE AVE	201	RETAIL-01
7939 S SPRINKLE RD	202	VACANT
7940 S SPRINKLE RD	201	AUTO SALES
7925 S SPRINKLE RD	202	VACANT
7907 S SPRINKLE RD	201	RETAIL-01
7849 S SPRINKLE RD	201	FLEX SPACE - 2
7837 S SPRINKLE RD	201	RETAIL-01
7842 PORTAGE RD	201	RESTAURANT
7840 PORTAGE RD	201	RETAIL-WINDOWS
7812 PORTAGE RD	201	OFFICE
7262 S WESTNEDGE AVE	201	RESTAURANT
7206 S WESTNEDGE AVE	201	ARCADE/MINI GOL
5977 PORTAGE RD	201	RETAIL-01/STORA
5974 PORTAGE RD	201	GAS STATION
5929 PORTAGE RD	201	OFFICE-01
2401 E MILHAM AVE	201	OFFICE-01
2229 E MILHAM AVE	201	AUTO SERVICE
2603 E MILHAM AVE	202	VACANT
5919 PORTAGE RD	201	RETAIL-01
5950 PORTAGE RD	201	OFFICE-01
5911 PORTAGE RD	401	RESIDENTIAL
2375 E MILHAM AVE	701	RETAIL
5905 PORTAGE RD	401	RESIDENTIAL
5900 PORTAGE RD	201	OFFICE-01
5845 PORTAGE RD	401	RESIDENTIAL
5747 S WESTNEDGE AVE	201	RETAIL-02
5730 S WESTNEDGE AVE	201	RETAIL-01
5600 S WESTNEDGE AVE	702	CITY VACANT
5342 S WESTNEDGE AVE	201	GAS/REST DDA
5324 MEREDITH ST	201	RETAIL-01
5231 S WESTNEDGE AVE	201	GAS STATION
5230 S WESTNEDGE AVE	201	RETAIL-01 DDA
5050 S SPRINKLE RD	201	FLEX-02
5000 S SPRINKLE RD	201	RESTAURANT
3932 E KILGORE RD	701	FLEX -02
8119 PORTAGE RD	202	VACANT
8229 PORTAGE RD	201	VACANT

70 Available properties using 1000' Exclusion Area and not adjacent to residential zoning.
(No 250' Municipal Boundary Requirement)

- Eligible properties

Exclusion Areas 1000' & not Adj. to Res.

B-3 Zoning

City Boundary

State Game Area

1 inch = 3,200 feet
Date: 2/27/2018

Potential locations must be B-3 zoned, and not adjacent to a residential zone and more than 1000' from churches, schools, day cares, libraries, treatment facilities, parks and public and/or private recreation areas and at least 250' from city limits. This listing is considered approximate and all properties must be individually evaluated.

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Proposed Medical Marihuana Provisioning Centers in B-3
1000' Exclusion Areas and Not Adjacent to Residential
1000' Separation - 11 Potential Locations

ADDRESS	CLASS	USE
9017 S SPRINKLE RD	201	RETAIL-01
4017 WELLS ST	201	RESTAURANT
8969 PORTAGE RD	201	VACANT
8715 PORTAGE RD	202	RETAIL-01
8724 PORTAGE RD	201	AUTO SERVICE
8720 SHAVER RD	201	RETAIL-01
8650 SHAVER RD	201	AUTO SERVICE
8542 SHAVER RD	202	VACANT
8444 PORTAGE RD	202	VACANT
8441 PORTAGE RD	201	AUTO SERVICE
8434 PORTAGE RD	301	CONSUMERS
8435 PORTAGE RD	201	RETAIL-01
8415 PORTAGE RD	202	VACANT
8405 PORTAGE RD	201	WAREHOUSE
8379 PORTAGE RD	201	GAS STATION
8387 PORTAGE RD	201	CAR WASH
8314 PORTAGE RD	201	RETAIL-02
8312 PORTAGE RD	201	RETAIL-01
8211 PORTAGE RD	201	RESTAURANT
8204 PORTAGE RD	201	RESTAURANT
8131 PORTAGE RD	401	RESIDENTIAL
8136 PORTAGE RD	201	RESTAURANT
8139 PORTAGE RD	201	RETAIL-01
8127 PORTAGE RD	201	RETAIL-01
8111 PORTAGE RD	201	LAUNDRY
8043 PORTAGE RD	202	VACANT
8061 PORTAGE RD	202	VACANT
8037 PORTAGE RD	201	OFFICE-01
2700 E CENTRE AVE	202	VACANT
2610 E CENTRE AVE	202	VACANT
8071 PORTAGE RD	001	VACANT
8015 PORTAGE RD	202	VACANT
4203 E CENTRE AVE	201	RETAIL STORE
4123 E CENTRE AVE	201	RETAIL-01
7939 S SPRINKLE RD	202	VACANT
7940 S SPRINKLE RD	201	AUTO SALES
7925 S SPRINKLE RD	202	VACANT
7907 S SPRINKLE RD	201	RETAIL-01
7849 S SPRINKLE RD	201	FLEX SPACE - 2
7837 S SPRINKLE RD	201	RETAIL-01
7842 PORTAGE RD	201	RESTAURANT
7840 PORTAGE RD	201	RETAIL-WINDOWS
7812 PORTAGE RD	201	OFFICE
7262 S WESTNEDGE AVE	201	RESTAURANT
7206 S WESTNEDGE AVE	201	ARCADE/MINI GOL
5977 PORTAGE RD	201	RETAIL-01/STORA
5974 PORTAGE RD	201	GAS STATION
5929 PORTAGE RD	201	OFFICE-01
2401 E MILHAM AVE	201	OFFICE-01
2229 E MILHAM AVE	201	AUTO SERVICE
2603 E MILHAM AVE	202	VACANT
5919 PORTAGE RD	201	RETAIL-01
5950 PORTAGE RD	201	OFFICE-01
5911 PORTAGE RD	401	RESIDENTIAL
2375 E MILHAM AVE	701	RETAIL
5905 PORTAGE RD	401	RESIDENTIAL
5900 PORTAGE RD	201	OFFICE-01
5845 PORTAGE RD	401	RESIDENTIAL
5747 S WESTNEDGE AVE	201	RETAIL-02
5730 S WESTNEDGE AVE	201	RETAIL-01
5600 S WESTNEDGE AVE	702	CITY VACANT
5342 S WESTNEDGE AVE	201	GAS/REST DDA
5324 MEREDITH ST	201	RETAIL-01
5231 S WESTNEDGE AVE	201	GAS STATION
5230 S WESTNEDGE AVE	201	RETAIL-01 DDA
5050 S SPRINKLE RD	201	FLEX-02
5000 S SPRINKLE RD	201	RESTAURANT
3932 E KILGORE RD	701	FLEX -02
8119 PORTAGE RD	202	VACANT
8229 PORTAGE RD	201	VACANT

70 Available properties using 1000' Exclusion Area and not adjacent to residential zoning.
(No 250' Municipal Boundary Requirement)

- Eligible properties
- Exclusion Areas 1000' & not Adj. to Res.
- B-3 Zoning
- City Boundary
- State Game Area

1 inch = 3,200 feet
Date: 2/27/2018

Potential locations must be B-3 zoned, and not adjacent to a residential zone and more than 1000' from churches, schools, day cares, libraries, treatment facilities, parks and public and/or private recreation areas.

This listing is considered approximate and all properties must be individually evaluated.

TO: Honorable Mayor and City Council

FROM: Laurence Shaffer, City Manager



SUBJECT: Medical Marihuana Facilities

SUPPORTING PERSONNEL: Chris Forth, Deputy Director of Planning, Development & Neighborhood Services

ACTION RECOMMENDED: Adopt amendments to Chapter 14, Article 12, Businesses and Chapter 42, Article 4, Zoning, for Medical Marihuana Facilities.

The two lists below summarize the changes to two ordinances managing Medical Marihuana Facilities proposed to the City Council on January 23, 2018 based on the discussions that took place on January 23rd and February 27th.

A. The changes to *Chapter 14, Article 12, Businesses*, are recommended.

1. Definition of "Stacked license" has been added (page 3).
2. Stacked Class C licenses permitted (pages 5 and 18).
3. Lottery process has been clarified/added (pages 13, 14, 15 and 16).
4. Obtaining a state license is not a requirement for the issuance of a certificate of occupancy permit (page 17).
5. A facility will not be in violation of spacing requirements if a protected use locates less than the minimum distance required after a permit has been issued (pages 20 and 21).
6. Changes or modifications to a facility or its operations may occur at any time but must receive approval from the State of Michigan Licensing and Regulatory Affairs (LARA) and the City Administration. Unapproved changes may result in the permit being revoked or suspended (pages 21 and 22).
7. Sale or transfer of marihuana between facilities has been clarified (page 23).

B. The changes to *Chapter 42, Article 4, Zoning* are included as revision to the January 23, 2018 Ordinance submitted to City Council.

1. Library is referred to as a "public" library and child day care facilities are referred to as "day care center" (pages 1, 4, 6, 9 and 12).
2. The 1,000-foot buffer area from a protected facility extends to adjoining jurisdictions (pages 1, 4, 6, 9 and 12).
3. The 250-foot buffer along the corporate boundary involving all five medical marihuana facilities has been removed (pages 2, 4, 7, 8, 10, 12 and 13).
4. Language has been added to state the boundary lines of the zoning lot shall be those in existence on December 31, 2017 to ensure location requirements are fulfilled as intended.
5. Reference to a map maintained by the city that shows locations of potential properties for

facilities has been removed to avoid liability issues and confusion (page 3).

6. Growers with a class C license are allowed stack licenses at one location (pages 6 and 11).
7. Medical marihuana home occupations are permitted to grow in an accessory building or outdoors (pages 15 and 16).
8. Following the January 23, 2018 meeting, three small religious institutions operating near East Milham Avenue/Portage Road (zoned B-3), near East Kilgore Road/Sprinkle Road (zoned B-3) and Sprinkle Road north of East Centre Avenue (zoned I-2) were identified resulting in the removal of properties from consideration. Language that was subsequently added to preserve properties for medical marihuana facilities has been removed.

Attached for City Council review is are clean and redline/strike-out versions of both ordinances that reflect the substantive changes made to each since the January 23, 2018 and February 27, 2018 City Council meetings. Also attached are updated maps that include changes resulting from the identification of three additional religious institutions.

It is recommended that City Council adopt the amendments to Chapter 14, article 12, Businesses and Chapter 42, Article 4, Zoning, for Medical Marihuana Facilities.

FUNDING: N/A

- Attachments:**
1. Highlight/strike and clean copy of proposed ordinance amendments to Chapter 14, Article 12, Businesses
 2. Highlight/strike and clean copy of proposed Ordinance amendments to Chapter 42, Article 4, Zoning
 3. Map of potential provision center locations
 4. Map of potential grower, processor, secure transporter and safety compliance locations
 5. March 5, 2018 E-mail communication from Denise Pollicella
 6. March 9, 2018 Exemption Request of Syed Hasan

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY ADDING ARTICLE 12, MEDICAL MARIHUANA
FACILITIES, OF CHAPTER 14, BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

That Chapter 14 shall be amended to add Article 12, Medical Marihuana Facilities, as follows:

CHAPTER 14. BUSINESSES.

ARTICLE 12. MEDICAL MARIHUANA FACILITIES.

Sec. 14-245. Purpose.

(a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, to: authorize the establishment of certain types of medical marihuana facilities in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such facilities; and establish fees for such permits.

(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, licensees, or the owners or occupants 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.

Sec. 14-246. Definitions.

As used in this article, the following terms shall have the meanings indicated:

(a) "Act" means the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, as amended.

(b) "Board" means the medical marihuana licensing board created in section 301 of the Act.

(c) “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 of 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, or a greenhouse.

(d) “Grower” means a licensee and permittee that is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

(e) “LARA” means the Michigan Department of Licensing and Regulatory Affairs.

(f) “Licensee” means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

(g) “Marihuana” means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(h) “Marihuana facility” means a location at which a licensee and permittee is licensed and permitted to operate as a grower, processor, provisioning center, safety compliance facility, or secure transporter under the Act and this article.

(i) “Marihuana plant” means any plant of the species *Cannabis sativa* L.

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

(k) “Marihuana-infused product” means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 *et seq.*

(l) “Paraphernalia” means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

(m) “Permittee” means a person who has been issued a medical marihuana facilities permit pursuant to this article.

(n) “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity, as well as those persons defined as “true party of interest”.

(o) “Proposed marihuana facility” means a location at which an applicant plans to operate under the Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

(p) "Provisioning center" means a licensee and permittee that is a commercial entity located in this city that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the Michigan Department of Licensing and Regulatory Affairs' (LARA) marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this article.

(q) "Rules" mean the emergency and general rules of the Michigan Department of Licensing and Regulatory Affairs adopted pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, and the Marihuana Tracking Act, MCL 333.27901 *et seq.*, as may be amended from time to time.

(r) "Safety compliance facility" means a licensee and permittee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(s) "Secure transporter" means a licensee and permittee that is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee.

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

~~(t)~~ "State operating license" or "license" means a license that is issued the Act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

~~(u)~~ "Statewide monitoring system" or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (i) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (ii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act.

~~(v)~~ "Tracking Act" means the Marihuana Tracking Act, MCL 333.27901 *et seq.*

(~~wx~~) “True party of interest” means the following:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.
- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.
- (5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

“True party of interest” does not mean:

- (1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.
- (2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(~~xy~~) Unless the context requires a different meaning, any term used in this article that is defined by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.* shall have the definition given in that act.

(~~yz~~) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, shall have the definition given in that act.

(~~zaa~~) Unless the context requires a different meaning, any term used in this article that is defined by the Marihuana Tracking Act, MCL 333.27901 *et seq.* shall have the definition given in that act.

Sec.14-247. Adoption of state rules and regulations.

All activities related to medical marihuana shall be in compliance with 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.

Sec. 14-248 Marihuana facilities allowed.

(a) Pursuant to Section 205(1) of the Act the city authorizes the following types of marihuana facilities to be permitted in the city without limitation as to the number of facilities: class A, B, and C growers, processors, secure transporters, provisioning centers, and safety compliance facilities.

(b) Operation of provisioning centers, processors and growers at the same location is not authorized.

Sec.14-249. Permit required.

No person shall own or operate a marihuana facility in the city without first applying for and receiving a permit from the city clerk and state operating license. No person who has received a city permit and state license to operate a class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional class C license the person desires to stack with its original state operating license, and a stacked class C state operating license or licenses.

Sec. 14-250. Application for permit.

(a) Permit applications for medical marihuana facilities and applications for stacked class C grower licenses at an existing class C grower facility, shall be received by the city annually during a period specifically designated by the city manager for that purpose, and at no other time. The city will initially begin receiving permit applications for marihuana facilities on a date determined by the city manager as soon after the effective date of this article as the city manager deems practicable.

(b) Except as provided in this article, the city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits, establishing the beginning and ending dates during which permits will initially be received, establishing the beginning and ending dates during which permits may be received each year, and providing public notice regarding the permitting process and of the time period within which the city will receive permits.

(c) Any person desiring to secure a permit shall make application to the city clerk upon a form provided by the city clerk. All permit applicants, except applicants with regard to a stacked class C grower license or licenses, must be prequalified for a medical marihuana facilities license by the Michigan Department of Licensing and Regulatory Affairs (LARA) before submitting an application. A copy of all applications received shall be distributed by the city clerk to the office of the city manager, department of public safety and department of community development for review to determine that the application is complete. If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided by the applicant in the application or notification. The applicant shall have 10 days of the date of mailing of the written notice to provide the incomplete or missing information to the city clerk.

(d) Information requested in the application shall be provided for each true party of interest in the applicant; any other person who controls, directly or indirectly, the applicant; any other person who is controlled, directly or indirectly, by the applicant or by a person who

controls, directly or indirectly, the applicant; and each stockholder or other person having a 1% or greater beneficial interest in the proposed marihuana facility. The application for a permit shall include at a minimum the information and documentation listed below under oath:

- (1) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.
- (2) All residential addresses of the applicant for the past 3 years.
- (3) The business, occupation or employment of the applicant for 5 years immediately preceding the date of application.
- (4) Documentation evidencing that the applicant has been prequalified for a medical marihuana facilities license by LARA.
- (5) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a felony under the laws of this state, any other state, or the United States, or a controlled substance-related felony, within the past 10 years preceding the date of the application.
- (6) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past five years.
- (7) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
- (8) A comprehensive operating plan for the marihuana facility for which the application is being submitted that includes all of the information required for the Marihuana Facilities Plan to be submitted in connection with a state license pursuant to the rules, the operational standards in sections 14-261 through 14-266 of this article, as applicable, and the following at a minimum:
 - a) A description of the type of marihuana facility applied for.
 - b) A security plan for the marihuana facility that addresses all required security measures of the rules and addresses at a minimum the ability to meet the security measures of the rules. The security plan must contain the specification details of each piece of security equipment to be utilized by

the marihuana facility and comply with the provisions of article 2 and article 3 of chapter 26 of this code, sections 14-261(c) and (d), as well as any other applicable provisions of this code and the rules.

- c) An HVAC plan for the marihuana facility describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.
- d) A staffing plan that addresses the number of persons estimated to be employed at the facility, estimated employee salaries, and employee hiring, and 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, where appropriate, marihuana product information, dosage and daily limits, or educational materials.
- (e) A marketing plan that at a minimum:
 - i. details how the marihuana facility will comply with all municipal ordinances and state law regulating signs and advertising;
 - ii. provides that marihuana products must be marketed or advertised as “medical marihuana” for use only by registered qualifying patients or registered primary caregivers;
 - iii. provides that marihuana products must not be marketed or advertised to minors aged 17 years or younger.
- (f) An inventory and record keeping plan.
- (g) A technology plan.
- (h) A scaled conceptual plan.
- (i) Written policies and procedures to timely address any concerns or complaints expressed by residents and businesses within the neighborhood surrounding the proposed location of the medical marihuana facility.
- (j) For growers, the operational plan shall also include a cultivation plan that includes but is not limited to:

- i. the cultivation process or processes that will be used including a description of the grow medium, the equipment, and the fertilizer to be used;
- ii. the estimated electrical and water usage and a statement of the projected daily average and peak electrical load anticipated to be used by the marihuana facility, a certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility, and a certification from the electrical utility supplying electricity to the facility that the anticipated electrical loads required for the facility will not exceed the capacity of the electrical supply system;
- iii. a waste water plan that details how wastewater generated during the cultivation of marihuana shall be disposed of in compliance with applicable state and local laws and regulation;
- iv. a plant waste disposal plan that at a minimum:
 - (a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:
 - 1) a manned and permitted solid waste landfill;
 - 2) a manned compostable materials operation or facility;
 - 3) an in-vessel digester; and
 - 4) provides disposal will be in a manner in compliance with

applicable state and local laws and regulations.

- v. a mold, mildew and pest prevention plan;
 - vi. an air quality plan addressing monitoring, clearance, temperate and humidity control, Co2, ozone, fumigation, and odor mitigation;
 - vii. a pesticide and chemical safety plan which shall include a detailed description of all toxic, hazardous, or flammable materials, chemicals and pesticides, that will be kept or used at the marihuana facility, and a detailed plan describing where and how such materials, chemicals and pesticides will be stored in the marihuana facility, and the means of disposing of unused toxic or flammable materials, chemicals, and pesticides.
- (k) For a provisioning center, the operational plan shall also include:
- i. a detailed description of the products and services to be provided;
 - ii. a plant waste disposal plan that at a minimum:
 - (a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:
 - 1) a manned and permitted solid waste landfill;

- 2) a manned compostable materials operation or facility;
- 3) an in-vessel digester; and
- 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.

(l) For a processor, the operational plan shall also include:

- i. a detailed description of the products to be produced;
- ii. a waste water plan that details how wastewater generated during the processing of marihuana products shall be disposed of in compliance with applicable state and local laws and regulation;
- iii. a plant waste disposal plan that at a minimum:

(a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;

(b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;

(c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

- 1) a manned and permitted solid waste landfill;
- 2) a manned compostable materials operation or facility;
- 3) an in-vessel digester; and

- 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- (9) The address of the proposed marihuana facility to be operated by the applicant.
- (10) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana facility for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- (11) Whether the applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state or the federal government; or is employed by a governmental unit of this state.
- (12) The mailing address and electronic address at which the applicant desires to receive notification under the article, and phone numbers at which the applicant desires to be contacted.
- (13) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by LARA or any other jurisdiction concerning medical marihuana or marihuana that has been denied, restricted, suspended, revoked or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (14) Whether the applicant has an interest in any other marihuana facility under the Act, and if so the type of facility, name, and location of the facility the applicant has an interest in.
- (15) A statement that the applicant will not violate any of the laws of the State of Michigan or the ordinances of the City of Portage in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
- (16) A statement that the applicant understands that the issuance of a permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for 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, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.

- (17) All marijuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city of Portage, its officials, and employees.
- 18) Whether the applicant has filed, or been served with a complaint or other notice filed with any public body regarding the delinquency in the payment of or dispute over the filings concerning the payment of any tax required under federal, state, or local law, including the amount of any tax, taxing agency and time periods involved.
- (19) Applicants have a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.
- (20) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.

Sec. 14-251. Fees.

A nonrefundable permit fee set by resolution of city council, but not to exceed \$5,000.00, shall be submitted with the application for a permit. This fee shall be in addition to, and not in lieu of, any other fees for licensing or permitting requirements including but not limited to site plan review, zoning, or building permits.

Sec. 14-252. Acceptance or Denial of application.

(a) Applications received may be denied by the city manager if the applicant, upon written notice, fails to provide missing or incomplete information within the time specified in section 14-250(c) of this article. The city manager shall deny an application for any of the following reasons:

- (1) The applicant has not been prequalified for a marihuana facility state license by LARA.

- (2) The applicant did not pay the required application fee at the time of submission of the application.
- (3) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the marihuana facility for the period during which the permit will be issued.
- (4) The applicant's proposed location does not comply with the zoning regulations in article 4 of chapter 42 of this code. That a proposed facility is located less than the minimum spacing required by article 4 of chapter 42 of this code from another proposed facility however, will not alone be grounds for denial of an application. ~~Where two or more~~ Any applications ~~that~~ meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 24 of this code between the medical marihuana facility proposed by that applicant and the facilities-medical marihuana facility proposed by the-any other applications applicant, the applications will be accepted, but only one such application will be issued a provisional permit entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit and which applications will not. After the initial application period, Aan application for a proposed facility that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 42 from an existing medical marihuana facility will be denied.
- (5) The city manager determines that the applicant has not satisfactorily complied with all of the permit requirements in section 14-250 of this article.
- (6) The applicant has been granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that has been denied or not renewed, or is currently restricted suspended or revoked.
- (7) The city manager determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or who has intentionally omitted pertinent information on the application for a medical marihuana facilities permit.
- (8) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (9) The comprehensive operating plan submitted by the applicant with the application pursuant to section 14-250(d)(8) does not comply with the requirements for a marihuana facilities plan as required by the rules, the requirements of section 14-250(d)(8), or the act.

- (10) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(b) All applications that are not denied as provided in subsection (a) above, and comply with all of the requirements for an application in section 14-250 of this article and the zoning provisions of article 4 of chapter 42 of this code shall be accepted by the city clerk. All applications that meet the application requirements of section 14-250 and the zoning requirements of article 4 of chapter 42 of this code except the minimum spacing requirements from another proposed medical marihuana facility will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit.

Sec. 14-253. Provisional permit.

(a) Provisional permits will be issued by the city manager to applicants whose applications are accepted as provided in this section.

(b) The city manager, in connection with the initial permit application period, shall issue provisional permits ~~to applicants whose application has been accepted applications~~ in three phases:

- (1) In the first phase, the city manager shall issue a provisional permit to applicants whose permit has been accepted and who were issued a temporary operating permit pursuant to chapter 14, article 11 of this code entitled Temporary Operation of Medical Marihuana Facilities.
- (2) In the second phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this code;
- (3) The third phase will determine which applicants will receive a provisional permit from among those applicants whose ~~applications were accepted consistent with sections 14-252(a)(5) and 14-252(b) because their applications meet all of the requirements for acceptance of the application except for the spacing between the facilities proposed by the applications~~ proposed medical marihuana facility is less than the minimum spacing distance required by article 4 of chapter 42 of this code from another proposed medical marihuana facility. All such applicants ~~The applicants whose proposed facilities are less than the required minimum spacing from each other~~ will be entered in a lottery with each other to determine which applicant will receive a provisional permit. The name of each such applicant will be drawn individually in sequence, with each applicant being assigned a number corresponding to the order in which their name was drawn. The lottery will continue until the names of all such applicants are drawn and assigned a number. The location of the medical marihuana

~~facility proposed by the applicant whose name that is drawn first in the lottery shall then be reviewed to determine if the proposed location of the applicant will comply with the applicable spacing requirements of article 4 of chapter 42 for the proposed facility with respect to any proposed facility be issued for which it has previously been determined will be issued a provisional permit by the city manager. If the proposed facility will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, the applicant will be issued a provisional permit. Otherwise, the applicant will be denied a provisional permit. The location of the facility proposed by each of the other applicants will then be evaluated in the same manner and in the order their name was drawn to determine compliance with the applicable spacing requirements of article 4 of chapter 42, and will be issued a provisional permit if the location will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, and denied a provisional permit if it will not, and the other applicant or applicants will be denied a provisional permit.~~ All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing. ~~Applicants whose proposed facility is less than the minimum spacing distance from as required by article 4 of chapter 42 from an applicant issued a provisional permit in the first phase will be denied a provisional permit.~~

(c) The city manager, in connection with any permit application period after the initial permit application period, shall issue provisional permits to applicants whose application has been accepted in two phases:

- (1) In the first phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this code. ~~Applicants whose proposed facility is less than the minimum spacing distance required by article 4, chapter 42 of this code from an existing medical marihuana facility shall be denied a provisional permit;~~
- (32) The second phase shall determine which applicants will receive a provisional permit ~~if the applicant's proposed medical marihuana facility complies with the minimum spacing distance required by article 4 of chapter 42 of this code from an existing facility, but is less than the minimum spacing distance required by article 4, chapter 42 from another proposed medical marihuana facility. Such applicants will be entered in a lottery conducted in the same manner as in phase 3 in section 14-253(b), above to determine which of them will receive a provisional permit. from among those applicants whose applications were accepted consistent with sections 14-252(a)(5) and 14-252(b) because their applications meet all of the requirements for acceptance of the application except for the spacing between the facilities proposed by the applications is less than~~

~~the minimum spacing distance required by article 4 of chapter 24 of this code. The applicants whose proposed facilities are less than the required minimum spacing from each other will be entered in a lottery with each other to determine which applicant will receive a provisional permit. The applicant that is drawn in the lottery shall be issued a provisional permit by the city manager, and the other applicant or applicants will be denied a provisional permit. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing. Applicants whose proposed facility is less than the minimum spacing distance from as required by article 4 of chapter 42 from an applicant issued a provisional permit in the first phase will be denied a provisional permit. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.~~

(d) A provisional permit does not authorize the applicant to operate a marihuana facility without first obtaining a state operating license for the facility, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this code. Upon issuance of a provisional permit the city clerk will be authorized to execute an affirmation to accompany an application for a facilities license that discloses that the city has adopted an ordinance under section 205 of the act, the limitations on the number and type of each facility if any imposed by the ordinance, a description of the city zoning regulations that apply, and any other information that may be required by the act or the rules for such an attestation.

(e) A provisional permit will lapse and be void 6 months from the date it has been issued if a state operating license, or all inspections and other permits and approvals required by city ordinance are not obtained, or if an applicant is denied a state operating license. The city manager or his or her designee shall notify LARA of all persons whose provisional permit has lapsed or become void. A provisional permit may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed 6 months.

(f) A provisional permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the provisional permittee provides to the city.

Sec. 14-254 Termination, revocation, suspension, or restriction of provisional permit.

(a) A provisional permit may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:

- (1) The provisional permittee is denied a state operating license;

- (2) The marihuana facility is substantially different from the comprehensive operating plan, marihuana facility plan, conceptual plan or other representations;
- (3) Officers of the city are unable to access the proposed facility for permit inspections or are denied access by the provisional permittee;
- (4) The provisional permittee fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city.
- (5) Any violation of the act, rules, or this article.

(b) If a provisional permit is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the permit holder, at the last known address on file with the city for notification of the applicant, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing.

(c) The holder of a provisional permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-255. Medical marihuana facilities permit.

(a) Medical marihuana facilities permits will be issued by the city manager. In order to be issued a marihuana facilities permit an applicant who holds a valid provisional permit shall: successfully complete the inspection required by subsection (c) of this section, ~~and~~ submit proof to the city manager of obtaining ~~a state operating license, all other~~ required by all applicable ordinances of the city including but not limited to an approved site plan and occupancy permit; and, proof of insurance required by this article in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the city of Portage, its officials, and employees. An applicant who holds a provisional permit for a secure transporter permit shall additionally 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 in order to be issued a marihuana facilities permit by the city manager.

(b) The site plan required for issuance of a marihuana facilities permit shall be consistent with the requirements of section 42-482(A) of this code. The site plan will be reviewed administratively consistent with section 42-482(B) and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether or not to reverse an order of the director.

(c) Before issuance of a marihuana facilities permit the city shall conduct an inspection of the proposed marihuana facility to verify that the marihuana facility is ready to open for

business, the premises of facility are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this code and any other applicable law, rule, or regulation. No marihuana facilities permit may be issued and no marihuana facility may conduct any business or operations until the inspection is completed and it is determined that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application, marihuana facilities plan, and comprehensive operating plan submitted with the application as well as the approved site plan, and the facility is in compliance with the requirements of this code and any other applicable law, rule, or regulation.

(d) The marihuana facilities permit shall be issued only in the name of the true party of interest.

(e) A marihuana facilities permit issued under this article is a revocable privilege granted by the city and is not a property right. Granting the permit does not create or vest any right, title, franchise or other property interest.

(f) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred, sold, or purchased.

(g) The marihuana facilities permit and state operating license shall be displayed in a conspicuous public place in the business establishment.

(h) Acceptance of a marihuana facilities permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this code under which such permit was granted, to enter upon and inspect the premises of the marihuana facility at all reasonable times.

(i) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

Sec. 14-256. Renewal of permit.

(a) A marihuana facilities permit shall run concurrent with the state operating license issued for the facility and shall be renewed annually unless revoked as provided by law.

(b) Renewal of marihuana facilities permit shall be made by application to the city clerk. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the expiration of the permit. The application for renewal shall be upon a form provided by the city clerk and shall contain the same information required for an application for a new permit, be given under oath or affirmation, and shall be reviewed and approved in the same manner. Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.

(c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.

(d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the expiration date of the permit to be renewed. The city manager shall deny a permit renewal application if any of the following occur:

- (1) The permit to be renewed has been terminated or revoked.
- (2) The permit is suspended or restricted.
- (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
- (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the act or the rules.
- (6) The applicant failed to correct any deficiencies in the renewal application.
- (9) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.
- (10) The applicant fails to provide evidence of insurance as required by section 14-250(17).
- (11) An inspection conducted by the city reveals that the medical marihuana facility to which the renewal application pertains is not in compliance with this article, this code of ordinances, the act and rules.

(e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(f) The city manager or his or her designee shall inform in writing by mail or electronic mail the Michigan Department of Licensing and Regulatory Affairs of all permittees whose permit is renewed and if a permittee fails to renew a permit, or the permittee's renewal application is denied.

(g) A medical marihuana facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.

(h) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause.

Sec. 14-257. Revocation, termination or suspension of permit.

(a) Any marihuana facilities permit shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.

(b) Any marihuana facilities permit may be revoked upon the occurrence of any of the following:

- (1) Operation of the permitted use is not commenced within 1 year of the date of issuance of the marihuana facilities permit.
- (2) If the permitted use ceases or is discontinued for 90 days or more.

(c) Any marihuana facilities permit may be revoked or suspended in the discretion of the city manager upon the occurrence of any of the following:

- (1) Any violation of the provisions of this article, this code of ordinances, the act, the tracking act, and the rules. A medical marihuana facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.
- (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or negatively impacts the health, safety, or general welfare of surrounding property or city residents.

(d) A medical marihuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.

(e) Any marihuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.

(f) Any medical marihuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.

(g) If a medical marihuana facilities permit is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for notification of the permittee, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing by mail or electronic mail.

(h) The holder of a marihuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-258. Transfer, sale or purchase of permits or licenses.

(a) No marihuana facilities permit may be transferred, sold, or purchased without making application to and obtaining approval of the city manager.

(b) Any transferee, buyer or purchaser of a permit must meet all requirements and conditions for the issuance of a permit under this article for the type of facility the permit was issued for before the transfer, sale or purchase of the permit will be finally approved. The transfer, sale, or purchase will be conditioned upon the transferee, buyer or purchaser obtaining a state license for the type of facility the permit was issued for within 180 days of the approval of the transfer, sale, or purchase.

(c) Transfer or attempted transfer of a medical marihuana facilities permit or any interest in such permit without first obtaining approval of the city manager to do so will be grounds for suspension of the permit pursuant to section 14-257(c) and a violation of this article.

(d) For the purposes of a sale, transfer, or purchase of a medical marihuana facility the facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.

Sec. 14-259. Changes to marihuana facilities.

(a) Any change or modification of a marihuana facility after it receives a state license, and a permit under this article is governed by the standards and procedures of the act and rules, and the standards, and standards and procedures of this code including but not limited to standards and procedures relating to zoning, site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. Changes or modifications to a marihuana facility may, however, be made at any time, but must be approved by LARA and the city before any changes or modifications are made. The permittee must obtain all required city permits before the change or modification is commenced, and provide evidence to the city of the approval of LARA for any change or modification to a medical marihuana facility.

(b) Change of location of a marihuana facility requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee. The proposed new location of the medical marihuana facility, in addition to complying with the provisions of section 14-250, but must also comply with the provisions of

article 4, chapter 42 that pertain to the type of medical marihuana facility in question. The change of location permit will be submitted and approved or denied in the same manner as an application for a medical marihuana facility permit, and provisional and full permits for the change of location will be issued in the same manner as for a medical marihuana facilities permit application. Applications for a change of location may be made at any time.

(c) Failure to obtain prior approval of a change or modification of a marihuana facility from LARA and the city or to obtain all necessary permits for the change or modification, and, failure to obtain approval of a change of location of a medical marihuana facility are violations of the provisions of this article for which a medical marihuana facilities permit may be revoked or suspended pursuant to section 14-257 of this article.

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana facilities permit or permit renewal required under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

Sec. 14-261. Minimum operational standards for all marihuana facilities.

All marihuana facilities shall at a minimum comply with the following operational standards:

(a) Marihuana facilities shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the facility premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a marihuana facilities permit or leasing property to a marihuana facility constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the act, or applicable state administrative rules.

(b) Marihuana facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view.

(c) Marihuana facilities shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed twenty-four hours a day, seven days a week.

(d) Marihuana facilities shall have a video surveillance system that complies with the rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in the rules.

(e) Surveillance recordings of marihuana facilities shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.

(f) Marihuana facilities shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the facility at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the facility and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this code.

(g) Marihuana facilities shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.

(h) Subject to the laws of this state, before hiring a prospective employee, a permittee shall conduct a background check of the prospective employee. If the background check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, the permittee shall not hire the prospective employee without written permission of the board.

(i) Access to the marihuana facility is restricted to the permittee, employees of the permittee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, LARA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.

(j) All marihuana facilities must be at a fixed location. Mobile marihuana facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products by marihuana facilities as otherwise expressly authorized by the act.

(k) All marihuana facilities shall comply with all provisions of this code, state law and administrative rules regulating signs and advertising.

(l) The business, operations, marketing and advertising of all marihuana facilities and marihuana product shall comply at all times with applicable state law and regulations, and this code.

(m) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the act, the tracking act, and the rules are prohibited from being on the premises of any marihuana facility, and shall not be sold or transferred by any licensee.

(n) Any marihuana product without a batch number or identification tag pursuant to the rules is prohibited from being at or on the premises of any medical marihuana facility.

(o) Marihuana facilities shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of facility at all times.

(p) Marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form in a manner that prevents its acquisition by any person who may not lawfully possess it, and recorded in the statewide monitoring system. Marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

- (1) a manned and permitted solid waste landfill;
- (2) a manned compostable materials operation or facility;
- (3) an in-vessel digester.

(q) All marihuana product waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106.

(r) All marihuana product waste or marihuana products that are to be destroyed, or that LARA orders to be destroyed, shall not be sold.

(s) All inventory of marihuana products must be stored in a secured limited access area or restricted access area, and identified and tracked consistent with the statewide monitoring system under the act, the tracking act, and the rules.

(t) All containers used to store marihuana products for transfer or sale between marihuana facilities shall meet the requirements of the rules for such containers.

(u) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.

(v) Marihuana-infused products or materials used in direct contact with such products must have separate storage areas from toxic or flammable materials.

Sec. 14-262. Minimum Operational standards applicable to provisioning centers.

All provisioning centers shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) Provisioning centers shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m.

(b) No alcohol or tobacco products may be sold, used, or consumed on the premises. No marihuana or marihuana-infused products may be used or consumed on the premises.

(c) No marihuana plants shall be allowed on the premises.

(d) During times when the provisioning center is not open to the public, processed marihuana, marihuana products, cash and currency shall be stored in a safe or security vault that is incorporated into the building structure or securely attached to the building structure or a safe room with a security vault or other secure door.

(e) A provisioning center shall purchase marihuana only from a grower or processor.

(f) All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(g) A provisioning center shall sell or transfer marihuana only to a registered qualifying patient or registered primary caregiver.

(h) A provisioning center shall transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(i) The sale or transfer marihuana to a registered qualifying patient or registered primary caregiver shall only occur after it has been tested and bears the label required for retail sale by the act and the rules.

(j) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, a provisioning center shall inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the board under the act.

(k) All transactions, current inventory, and other information of the provisioning center shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.

(l) A provisioning center shall not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

(m) Marijuana and marihuana paraphernalia shall not be sold, given away, or dispensed from any outdoor location.

(n) A provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana products.

(o) All marihuana products shall be kept 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.

(p) A provisioning center shall comply with all packaging and labeling requirements of the rules before selling or transferring marihuana products.

Sec. 14-263. Minimum Operational standards applicable to grow facilities.

All grow facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a permit for grower facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.

(c) All transactions, current inventory, and other information of the grow facility shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.

(d) All activities and operations of the grow facility, including cultivation, shall take place indoors within a building.

(e) The use of compressed gases such as carbon dioxide in multiple processes in the cultivation of marihuana shall meet the requirements of the rules for such processes.

(f) A grow facility shall not use any pesticides in the cultivation of marihuana that has not been approved by LARA for such purpose.

Section 14-264. Minimum Operational standards applicable to processor facilities.

All processor facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) A processor shall purchase marihuana only from a grower and shall sell marihuana-infused products or marihuana only to a provisioning center.

(b) A processor shall transfer marihuana only by means of a secure transporter.

(c) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.

(d) While holding a permit for processor facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.

(e) All transactions, current inventory, and other information of the processor facility shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.

(f) Processes that extract oil from marihuana plants and marihuana products using flammable gas, flammable liquid, or compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide shall meet the requirements of the rules for such processes.

Sec. 14-265. Minimum standards applicable to secure transporters.

All secure transporter facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) May take physical custody of marihuana or money but legal custody belongs to the transferor or transferee.

(b) May not sell or purchase marihuana products.

(c) May store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee.

(d) Marihuana may not be transported to a registered qualifying patient or registered primary caregiver.

(e) Marihuana product may only be transported in a locked, secured, sealed container that is not accessible while in transit. Money associated with the purchase or sale of marihuana product between facilities shall be locked in a sealed container kept separate from the marihuana product and only accessible to the secure transporter licensee/permittee and its employees.

(f) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(g) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(h) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(i) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(j) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(k) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the act and this article.

(l) All transactions, current inventory, and other information of the secure transporter shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.

Sec. 14-266. Minimum standards applicable to safety compliance facilities.

All safety compliance facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) A safety compliance facility is authorized to only receive marihuana from, test marihuana for, and return marihuana to a marihuana facility.

(b) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services unless a variance from this requirement is granted by the board as provided by the act.

(c) A safety compliance facility shall:

- (1) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.
- (2) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.
- (3) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.
- (4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.
- (5) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.
- (6) Have a secured laboratory space that cannot be accessed by the general public.
- (7) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.
- (8) Comply with all provisions of the rules regarding the testing, retesting, and sampling of marihuana and marihuana products.

- (9) Establish an adequate chain of custody and instructions for sample and storage requirements.

Sec. 14-267. Conflicts, Future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the act or the rules, the conflicting provisions of this article will be preempted and the provisions of the act or the rules will control. Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana facility in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

Sec. 14-268. Penalty and remedies.

(a) Any violation of this article is a municipal civil infraction subject to penalties imposed on municipal civil infractions by section 1-7(e) of this code and state law.

(b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

(c) In addition to the penalties in this section, any violation of this article, the act, or the rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.

(d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

Sec. 14-269. Effect tie-barred.

This amendment to Chapter 14 to add Article 12, "Medical Marihuana Facilities" shall only take effect if Chapter 42 is amended to add section 42-262(B)(16), section 42-280(B)(21), section 42-280(B)(22), section 42-281(B)(7), and section 42-821(B)(8).

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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 _____, 201__.

PAGE 29,

FINAL

Adam Herringa, City Clerk

PREPARED BY:
Charles R. Bear (P34107)
Portage Assistant City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:

Date: _____

City Attorney

Z:\jody\portage\medical marihuana 2017\Ord to Amend Chap 14 to Add Art 12.COUNCIL. FINAL.030818.dox

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY ADDING ARTICLE 12, MEDICAL MARIHUANA
FACILITIES, OF CHAPTER 14, BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

That Chapter 14 shall be amended to add Article 12, Medical Marihuana Facilities, as follows:

CHAPTER 14. BUSINESSES.

ARTICLE 12. MEDICAL MARIHUANA FACILITIES.

Sec. 14-245. Purpose.

(a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, to: authorize the establishment of certain types of medical marihuana facilities in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such facilities; and establish fees for such permits.

(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, licensees, or the owners or occupants 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.

Sec. 14-246. Definitions.

As used in this article, the following terms shall have the meanings indicated:

(a) "Act" means the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, as amended.

(b) "Board" means the medical marihuana licensing board created in section 301 of the Act.

(c) “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 of 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, or a greenhouse.

(d) “Grower” means a licensee and permittee that is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

(e) “LARA” means the Michigan Department of Licensing and Regulatory Affairs.

(f) “Licensee” means a person holding a state operating license issued under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

(g) “Marihuana” means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(h) “Marihuana facility” means a location at which a licensee and permittee is licensed and permitted to operate as a grower, processor, provisioning center, safety compliance facility, or secure transporter under the Act and this article.

(i) “Marihuana plant” means any plant of the species *Cannabis sativa* L.

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

(k) “Marihuana-infused product” means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 *et seq.*

(l) “Paraphernalia” means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, marihuana.

(m) “Permittee” means a person who has been issued a medical marihuana facilities permit pursuant to this article.

(n) “Person” means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity, as well as those persons defined as “true party of interest”.

(o) “Proposed marihuana facility” means a location at which an applicant plans to operate under the Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

(p) “Provisioning center” means a licensee and permittee that is a commercial entity located in this city that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the Michigan Department of Licensing and Regulatory Affairs' (LARA) marihuana registration process in accordance with the Michigan medical marihuana act is not a provisioning center for purposes of this article.

(q) “Rules” mean the emergency and general rules of the Michigan Department of Licensing and Regulatory Affairs adopted pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, and the Marihuana Tracking Act, MCL 333.27901 *et seq.*, as may be amended from time to time.

(r) “Safety compliance facility” means a licensee and permittee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

(s) “Secure transporter” means a licensee and permittee that is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee.

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

(u) “State operating license” or “license” means a license that is issued the Act that allows the licensee to operate as 1 of the following, specified in the license:

- (i) A grower.
- (ii) A processor.
- (iii) A secure transporter.
- (iv) A provisioning center.
- (v) A safety compliance facility.

(v) “Statewide monitoring system” or, unless the context requires a different meaning, “system” means an internet-based, statewide database established, implemented, and maintained by the department under the marihuana tracking act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (i) Tracking marihuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (ii) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under section 4 of the Michigan medical marihuana act.

(w) “Tracking Act” means the Marihuana Tracking Act, MCL 333.27901 *et seq.*

(x) "True party of interest" means the following:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners and their spouses. For a limited liability company: all members, managers, and their spouses.
- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses and all stockholders and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses.
- (5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive a percentage of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

"True party of interest" does not mean:

- (1) A person or entity receiving reasonable payment for rent on a fixed basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.
- (2) A person who receives a bonus as an employee if the employee is on a fixed wage or salary and the bonus is not more than 25% of the employee's pre-bonus annual compensation or if the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(y) Unless the context requires a different meaning, any term used in this article that is defined by the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.* shall have the definition given in that act.

(z) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*, shall have the definition given in that act.

(aa) Unless the context requires a different meaning, any term used in this article that is defined by the Marihuana Tracking Act, MCL 333.27901 *et seq.* shall have the definition given in that act.

Sec.14-247. Adoption of state rules and regulations.

All activities related to medical marihuana shall be in compliance with 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.

Sec. 14-248 Marihuana facilities allowed.

(a) Pursuant to Section 205(1) of the Act the city authorizes the following types of marihuana facilities to be permitted in the city without limitation as to the number of facilities: class A, B, and C growers, processors, secure transporters, provisioning centers, and safety compliance facilities.

(b) Operation of provisioning centers, processors and growers at the same location is not authorized.

Sec.14-249. Permit required.

No person shall own or operate a marihuana facility in the city without first applying for and receiving a permit from the city clerk and state operating license. No person who has received a city permit and state license to operate a class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional class C license the person desires to stack with its original state operating license, and a stacked class C state operating license or licenses.

Sec. 14-250. Application for permit.

(a) Permit applications for medical marihuana facilities and applications for stacked class C grower licenses at an existing class C grower facility, shall be received by the city annually during a period specifically designated by the city manager for that purpose, and at no other time. The city will initially begin receiving permit applications for marihuana facilities on a date determined by the city manager as soon after the effective date of this article as the city manager deems practicable.

(b) Except as provided in this article, the city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits, establishing the beginning and ending dates during which permits will initially be received, establishing the beginning and ending dates during which permits may be received each year, and providing public notice regarding the permitting process and of the time period within which the city will receive permits.

(c) Any person desiring to secure a permit shall make application to the city clerk upon a form provided by the city clerk. All permit applicants, except applicants with regard to a stacked class C grower license or licenses, must be prequalified for a medical marihuana facilities license by the Michigan Department of Licensing and Regulatory Affairs (LARA) before submitting an application. A copy of all applications received shall be distributed by the city clerk to the office of the city manager, department of public safety and department of community development for review to determine that the application is complete. If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided by the applicant in the application or notification. The applicant shall have 10 days of the date of mailing of the written notice to provide the incomplete or missing information to the city clerk.

(d) Information requested in the application shall be provided for each true party of interest in the applicant; any other person who controls, directly or indirectly, the applicant; any other person who is controlled, directly or indirectly, by the applicant or by a person who

controls, directly or indirectly, the applicant; and each stockholder or other person having a 1% or greater beneficial interest in the proposed marihuana facility. The application for a permit shall include at a minimum the information and documentation listed below under oath:

- (1) The name, business address, business telephone number, social security number, and, if applicable, federal tax identification number of the applicant.
- (2) All residential addresses of the applicant for the past 3 years.
- (3) The business, occupation or employment of the applicant for 5 years immediately preceding the date of application.
- (4) Documentation evidencing that the applicant has been prequalified for a medical marihuana facilities license by LARA.
- (5) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a felony under the laws of this state, any other state, or the United States, or a controlled substance-related felony, within the past 10 years preceding the date of the application.
- (6) Whether the applicant has been indicted for, charged with, arrested for, convicted of, pled guilty or nolo contendere to, or forfeited bail concerning, a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state or been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past five years.
- (7) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
- (8) A comprehensive operating plan for the marihuana facility for which the application is being submitted that includes all of the information required for the Marihuana Facilities Plan to be submitted in connection with a state license pursuant to the rules, the operational standards in sections 14-261 through 14-266 of this article, as applicable, and the following at a minimum:
 - a) A description of the type of marihuana facility applied for.
 - b) A security plan for the marihuana facility that addresses all required security measures of the rules and addresses at a minimum the ability to meet the security measures of the rules. The security plan must contain the specification details of each piece of security equipment to be utilized by

the marihuana facility and comply with the provisions of article 2 and article 3 of chapter 26 of this code, sections 14-261(c) and (d), as well as any other applicable provisions of this code and the rules.

- c) An HVAC plan for the marihuana facility describing in detail among other things the equipment or systems that will be used to prevent any odor of marihuana from leaving the premises.
- d) A staffing plan that addresses the number of persons estimated to be employed at the facility, estimated employee salaries, and employee hiring, and 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, where appropriate, marihuana product information, dosage and daily limits, or educational materials.
- (e) A marketing plan that at a minimum:
 - i. details how the marihuana facility will comply with all municipal ordinances and state law regulating signs and advertising;
 - ii. provides that marihuana products must be marketed or advertised as “medical marihuana” for use only by registered qualifying patients or registered primary caregivers;
 - iii. provides that marihuana products must not be marketed or advertised to minors aged 17 years or younger.
- (f) An inventory and record keeping plan.
- (g) A technology plan.
- (h) A scaled conceptual plan.
- (i) Written policies and procedures to timely address any concerns or complaints expressed by residents and businesses within the neighborhood surrounding the proposed location of the medical marihuana facility.
- (j) For growers, the operational plan shall also include a cultivation plan that includes but is not limited to:

- i. the cultivation process or processes that will be used including a description of the grow medium, the equipment, and the fertilizer to be used;
- ii. the estimated electrical and water usage and a statement of the projected daily average and peak electrical load anticipated to be used by the marihuana facility, a certification from a licensed electrician that the premises are equipped to safely accept and utilize the required or anticipated electric load for the facility, and a certification from the electrical utility supplying electricity to the facility that the anticipated electrical loads required for the facility will not exceed the capacity of the electrical supply system;
- iii. a waste water plan that details how wastewater generated during the cultivation of marihuana shall be disposed of in compliance with applicable state and local laws and regulation;
- iv. a plant waste disposal plan that at a minimum:
 - (a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:
 - 1) a manned and permitted solid waste landfill;
 - 2) a manned compostable materials operation or facility;
 - 3) an in-vessel digester; and
 - 4) provides disposal will be in a manner in compliance with

applicable state and local laws and regulations.

- v. a mold, mildew and pest prevention plan;
 - vi. an air quality plan addressing monitoring, clearance, temperate and humidity control, Co2, ozone, fumigation, and odor mitigation;
 - vii. a pesticide and chemical safety plan which shall include a detailed description of all toxic, hazardous, or flammable materials, chemicals and pesticides, that will be kept or used at the marihuana facility, and a detailed plan describing where and how such materials, chemicals and pesticides will be stored in the marihuana facility, and the means of disposing of unused toxic or flammable materials, chemicals, and pesticides.
- (k) For a provisioning center, the operational plan shall also include:
- i. a detailed description of the products and services to be provided;
 - ii. a plant waste disposal plan that at a minimum:
 - (a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;
 - (b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;
 - (c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:
 - 1) a manned and permitted solid waste landfill;

- 2) a manned compostable materials operation or facility;
- 3) an in-vessel digester; and
- 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.

(l) For a processor, the operational plan shall also include:

- i. a detailed description of the products to be produced;
- ii. a waste water plan that details how wastewater generated during the processing of marihuana products shall be disposed of in compliance with applicable state and local laws and regulation;
- iii. a plant waste disposal plan that at a minimum:

(a) details how marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form and recorded in the statewide monitoring system. Disposal by on-site burning or via the sewer system is prohibited;

(b) provides that all waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106;

(c) provides that marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

- 1) a manned and permitted solid waste landfill;
- 2) a manned compostable materials operation or facility;
- 3) an in-vessel digester; and

- 4) provides disposal will be in a manner in compliance with applicable state and local laws and regulations.
- (9) The address of the proposed marihuana facility to be operated by the applicant.
- (10) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana facility for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- (11) Whether the applicant holds an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state or the federal government; or is employed by a governmental unit of this state.
- (12) The mailing address and electronic address at which the applicant desires to receive notification under the article, and phone numbers at which the applicant desires to be contacted.
- (13) Whether the applicant has ever applied for or has been granted any commercial license or certificate issued by LARA or any other jurisdiction concerning medical marihuana or marihuana that has been denied, restricted, suspended, revoked or not renewed, and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken, and the reason for each action.
- (14) Whether the applicant has an interest in any other marihuana facility under the Act, and if so the type of facility, name, and location of the facility the applicant has an interest in.
- (15) A statement that the applicant will not violate any of the laws of the State of Michigan or the ordinances of the City of Portage in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
- (16) A statement that the applicant understands that the issuance of a permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for 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, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.

- (17) All marijuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city of Portage, its officials, and employees.
- (18) Whether the applicant has filed, or been served with a complaint or other notice filed with any public body regarding the delinquency in the payment of or dispute over the filings concerning the payment of any tax required under federal, state, or local law, including the amount of any tax, taxing agency and time periods involved.
- (19) Applicants have a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.
- (20) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.

Sec. 14-251. Fees.

A nonrefundable permit fee set by resolution of city council, but not to exceed \$5,000.00, shall be submitted with the application for a permit. This fee shall be in addition to, and not in lieu of, any other fees for licensing or permitting requirements including but not limited to site plan review, zoning, or building permits.

Sec. 14-252. Acceptance or Denial of application.

(a) Applications received may be denied by the city manager if the applicant, upon written notice, fails to provide missing or incomplete information within the time specified in section 14-250(c) of this article. The city manager shall deny an application for any of the following reasons:

- (1) The applicant has not been prequalified for a marihuana facility state license by LARA.

- (2) The applicant did not pay the required application fee at the time of submission of the application.
- (3) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the marihuana facility for the period during which the permit will be issued.
- (4) The applicant's proposed location does not comply with the zoning regulations in article 4 of chapter 42 of this code. That a proposed facility is located less than the minimum spacing required by article 4 of chapter 42 of this code from another proposed facility however, will not alone be grounds for denial of an application. Any application that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 24 of this code between the medical marihuana facility proposed by that applicant and the medical marihuana facility proposed by any other applicant, will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit and which applications will not. After the initial application period, an application for a proposed facility that meets all of the requirements for acceptance of the application except for the minimum spacing distance required by article 4 of chapter 42 from an existing medical marihuana facility will be denied.(5) The city manager determines that the applicant has not satisfactorily complied with all of the permit requirements in section 14-250 of this article.
- (6) The applicant has been granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that has been denied or not renewed, or is currently restricted suspended or revoked.
- (7) The city manager determines that the applicant has submitted an application containing false, misleading, or fraudulent information, or who has intentionally omitted pertinent information on the application for a medical marihuana facilities permit.
- (8) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (9) The comprehensive operating plan submitted by the applicant with the application pursuant to section 14-250(d)(8) does not comply with the requirements for a marihuana facilities plan as required by the rules, the requirements of section 14-250(d)(8), or the act.
- (10) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial

to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(b) All applications that are not denied as provided in subsection (a) above, and comply with all of the requirements for an application in section 14-250 of this article and the zoning provisions of article 4 of chapter 42 of this code shall be accepted by the city clerk. All applications that meet the application requirements of section 14-250 and the zoning requirements of article 4 of chapter 42 of this code except the minimum spacing requirements from another proposed medical marihuana facility will be entered in a lottery as provided in section 14-253(b)(3) to determine which of those applications will be accepted and issued a provisional permit.

Sec. 14-253. Provisional permit.

(a) Provisional permits will be issued by the city manager to applicants whose applications are accepted as provided in this section.

(b) The city manager, in connection with the initial permit application period, shall issue provisional permits in three phases:

- (1) In the first phase, the city manager shall issue a provisional permit to applicants whose permit has been accepted and who were issued a temporary operating permit pursuant to chapter 14, article 11 of this code entitled Temporary Operation of Medical Marihuana Facilities.
- (2) In the second phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this code;
- (3) The third phase will determine which applicants will receive a provisional permit from among those applicants whose proposed medical marihuana facility is less than the minimum spacing distance required by article 4 of chapter 42 of this code from another proposed medical marihuana facility. All such applicants will be entered in a lottery to determine which applicant will receive a provisional permit. The name of each such applicant will be drawn individually in sequence, with each applicant being assigned a number corresponding to the order in which their name was drawn. The lottery will continue until the names of all such applicants are drawn and assigned a number. The location of the medical marihuana facility proposed by the applicant whose name is drawn first in the lottery shall then be reviewed to determine if the proposed location of the applicant will comply with the applicable spacing requirements of article 4 of chapter 42 for the proposed facility with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager. If the proposed facility will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, the applicant will be issued a provisional permit. Otherwise, the

applicant will be denied a provisional permit. The location of the facility proposed by each of the other applicants will then be evaluated in the same manner and in the order their name was drawn to determine compliance with the applicable spacing requirements of article 4 of chapter 42, and will be issued a provisional permit if the location will comply with the spacing requirements with respect to any proposed facility for which it has previously been determined will be issued a provisional permit by the city manager, and denied a provisional permit if it will not. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.

(c) The city manager, in connection with any permit application period after the initial permit application period, shall issue provisional permits to applicants whose application has been accepted in two phases:

- (1) In the first phase, the city manager shall issue provisional permits to applicants whose application was accepted and whose proposed facility complies fully with the zoning regulations in article 4 of chapter 42 of this code. Applicants whose proposed facility is less than the minimum spacing distance required by article 4, chapter 42 of this code from an existing medical marihuana facility shall be denied a provisional permit;
- (2) The second phase shall determine which applicants will receive a provisional permit if the applicant's proposed medical marihuana facility complies with the minimum spacing distance required by article 4 of chapter 42 of this code from an existing facility, but is less than the minimum spacing distance required by article 4, chapter 42 from another proposed medical marihuana facility. Such applicants will be entered in a lottery conducted in the same manner as in phase 3 in section 14-253(b), above to determine which of them will receive a provisional permit. All lottery drawings shall be conducted by the city manager or the city manager's designee with all entrants in the lottery advised of the date and time of the lottery and afforded the opportunity to attend and witness the drawing.

(d) A provisional permit does not authorize the applicant to operate a marihuana facility without first obtaining a state operating license for the facility, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this code. Upon issuance of a provisional permit the city clerk will be authorized to execute an affirmation to accompany an application for a facilities license that discloses that the city has adopted an ordinance under section 205 of the act, the limitations on the number and type of each facility if any imposed by the ordinance, a description of the city zoning regulations that apply, and any other information that may be required by the act or the rules for such an attestation.

(e) A provisional permit will lapse and be void 6 months from the date it has been issued if a state operating license, or all inspections and other permits and approvals required by city

ordinance are not obtained, or if an applicant is denied a state operating license. The city manager or his or her designee shall notify LARA of all persons whose provisional permit has lapsed or become void. A provisional permit may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed 6 months.

(f) A provisional permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the provisional permittee provides to the city.

Sec. 14-254 Termination, revocation, suspension, or restriction of provisional permit.

(a) A provisional permit may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:

- (1) The provisional permittee is denied a state operating license;
- (2) The marihuana facility is substantially different from the comprehensive operating plan, marihuana facility plan, conceptual plan or other representations;
- (3) Officers of the city are unable to access the proposed facility for permit inspections or are denied access by the provisional permittee;
- (4) The provisional permittee fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city.
- (5) Any violation of the act, rules, or this article.

(b) If a provisional permit is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the permit holder, at the last known address on file with the city for notification of the applicant, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing.

(c) The holder of a provisional permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-255. Medical marihuana facilities permit.

(a) Medical marihuana facilities permits will be issued by the city manager. In order to be issued a marihuana facilities permit an applicant who holds a valid provisional permit shall: successfully complete the inspection required by subsection (c) of this section; submit proof to the city manager of obtaining all permits and approvals required by all applicable ordinances of the city including but not limited to an approved site plan and occupancy permit; and, proof of insurance required by this article in the form of a certificate of insurance evidencing the

existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the city of Portage, its officials, and employees. An applicant who holds a provisional permit for a secure transporter permit shall additionally 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 in order to be issued a marihuana facilities permit by the city manager.

(b) The site plan required for issuance of a marihuana facilities permit shall be consistent with the requirements of section 42-482(A) of this code. The site plan will be reviewed administratively consistent with section 42-482(B) and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether or not to reverse an order of the director.

(c) Before issuance of a marihuana facilities permit the city shall conduct an inspection of the proposed marihuana facility to verify that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this code and any other applicable law, rule, or regulation. No marihuana facilities permit may be issued and no marihuana facility may conduct any business or operations until the inspection is completed and it is determined that the marihuana facility is ready to open for business, the premises of facility are constructed and can be operated in accordance with the application, marihuana facilities plan, and comprehensive operating plan submitted with the application as well as the approved site plan, and the facility is in compliance with the requirements of this code and any other applicable law, rule, or regulation.

(d) The marihuana facilities permit shall be issued only in the name of the true party of interest.

(e) A marihuana facilities permit issued under this article is a revocable privilege granted by the city and is not a property right. Granting the permit does not create or vest any right, title, franchise or other property interest.

(f) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred, sold, or purchased.

(g) The marihuana facilities permit and state operating license shall be displayed in a conspicuous public place in the business establishment.

(h) Acceptance of a marihuana facilities permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this code under which such permit was granted, to enter upon and inspect the premises of the marihuana facility at all reasonable times.

(i) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

Sec. 14-256. Renewal of permit.

(a) A marihuana facilities permit shall run concurrent with the state operating license issued for the facility and shall be renewed annually unless revoked as provided by law.

(b) Renewal of marihuana facilities permit shall be made by application to the city clerk. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the expiration of the permit. The application for renewal shall be upon a form provided by the city clerk and shall contain the same information required for an application for a new permit, be given under oath or affirmation, and shall be reviewed and approved in the same manner. Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.

(c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.

(d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the expiration date of the permit to be renewed. The city manager shall deny a permit renewal application if any of the following occur:

- (1) The permit to be renewed has been terminated or revoked.
- (2) The permit is suspended or restricted.
- (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
- (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the act or the rules.
- (6) The applicant failed to correct any deficiencies in the renewal application.

- (9) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.
- (10) The applicant fails to provide evidence of insurance as required by section 14-250(17).
- (11) An inspection conducted by the city reveals that the medical marihuana facility to which the renewal application pertains is not in compliance with this article, this code of ordinances, the act and rules.

(e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(f) The city manager or his or her designee shall inform in writing by mail or electronic mail the Michigan Department of Licensing and Regulatory Affairs of all permittees whose permit is renewed and if a permittee fails to renew a permit, or the permittee's renewal application is denied.

(g) A medical marihuana facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.

(h) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause.

Sec. 14-257. Revocation, termination or suspension of permit.

(a) Any marihuana facilities permit shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.

(b) Any marihuana facilities permit may be revoked upon the occurrence of any of the following:

- (1) Operation of the permitted use is not commenced within 1 year of the date of issuance of the marihuana facilities permit.
- (2) If the permitted use ceases or is discontinued for 90 days or more.

(c) Any marihuana facilities permit may be revoked or suspended in the discretion of the city manager upon the occurrence of any of the following:

- (1) Any violation of the provisions of this article, this code of ordinances, the act, the tracking act, and the rules. A medical marihuana facility shall not be in violation of the spacing requirements from certain protected uses as

specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.

- (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or negatively impacts the health, safety, or general welfare of surrounding property or city residents.

(d) A medical marihuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.

(e) Any marihuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.

(f) Any medical marihuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.

(g) If a medical marihuana facilities permit is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for notification of the permittee, and the Michigan Department of Regulatory Affairs of the termination, revocation, suspension, or restriction of the permit and the reasons therefore in writing by mail or electronic mail.

(h) The holder of a marihuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-258. Transfer, sale or purchase of permits or licenses.

(a) No marihuana facilities permit may be transferred, sold, or purchased without making application to and obtaining approval of the city manager.

(b) Any transferee, buyer or purchaser of a permit must meet all requirements and conditions for the issuance of a permit under this article for the type of facility the permit was issued for before the transfer, sale or purchase of the permit will be finally approved. The transfer, sale, or purchase will be conditioned upon the transferee, buyer or purchaser obtaining a state license for the type of facility the permit was issued for within 180 days of the approval of the transfer, sale, or purchase.

(c) Transfer or attempted transfer of a medical marihuana facilities permit or any interest in such permit without first obtaining approval of the city manager to do so will be grounds for suspension of the permit pursuant to section 14-257(c) and a violation of this article.

(d) For the purposes of a sale, transfer, or purchase of a medical marihuana facility the facility shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the medical marihuana facility at any time after a permit under this article and a state license to operate the facility were issued.

Sec. 14-259. Changes to marihuana facilities.

(a) Any change or modification of a marihuana facility after it receives a state license, and a permit under this article is governed by the standards and procedures of the act and rules, and the standards, and standards and procedures of this code including but not limited to standards and procedures relating to zoning, site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. Changes or modifications to a marihuana facility may, however, be made at any time, but must be approved by LARA and the city before any changes or modifications are made. The permittee must obtain all required city permits before the change or modification is commenced, and provide evidence to the city of the approval of LARA for any change or modification to a medical marihuana facility.

(b) Change of location of a marihuana facility requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee. The proposed new location of the medical marihuana facility, in addition to complying with the provisions of section 14-250, but must also comply with the provisions of article 4, chapter 42 that pertain to the type of medical marihuana facility in question. The change of location permit will be submitted and approved or denied in the same manner as an application for a medical marihuana facility permit, and provisional and full permits for the change of location will be issued in the same manner as for a medical marihuana facilities permit application. Applications for a change of location may be made at any time.

(c) Failure to obtain prior approval of a change or modification of a marihuana facility from LARA and the city or to obtain all necessary permits for the change or modification, and, failure to obtain approval of a change of location of a medical marihuana facility are violations of the provisions of this article for which a medical marihuana facilities permit may be revoked or suspended pursuant to section 14-257 of this article.

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana facilities permit or permit renewal required under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

Sec. 14-261. Minimum operational standards for all marihuana facilities.

All marihuana facilities shall at a minimum comply with the following operational standards:

(a) Marihuana facilities shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the facility premises,

surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a marihuana facilities permit or leasing property to a marihuana facility constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the act, or applicable state administrative rules.

(b) Marihuana facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view.

(c) Marihuana facilities shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed twenty-four hours a day, seven days a week.

(d) Marihuana facilities shall have a video surveillance system that complies with the rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in the rules.

(e) Surveillance recordings of marihuana facilities shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.

(f) Marihuana facilities shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the facility at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the facility and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this code.

(g) Marihuana facilities shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana facility in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.

(h) Subject to the laws of this state, before hiring a prospective employee, a permittee shall conduct a background check of the prospective employee. If the background

check indicates a pending charge or conviction within the past 10 years for a controlled substance-related felony, the permittee shall not hire the prospective employee without written permission of the board.

(i) Access to the marihuana facility is restricted to the permittee, employees of the permittee, and registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, LARA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.

(j) All marihuana facilities must be at a fixed location. Mobile marihuana facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products by marihuana facilities as otherwise expressly authorized by the act.

(k) All marihuana facilities shall comply with all provisions of this code, state law and administrative rules regulating signs and advertising.

(l) The business, operations, marketing and advertising of all marihuana facilities and marihuana product shall comply at all times with applicable state law and regulations, and this code.

(m) Marihuana products not identified and recorded in the statewide monitoring system pursuant to the act, the tracking act, and the rules are prohibited from being on the premises of any marihuana facility, and shall not be sold or transferred by any licensee.

(n) Any marihuana product without a batch number or identification tag pursuant to the rules is prohibited from being at or on the premises of any medical marihuana facility.

(o) Marihuana facilities shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of facility at all times.

(p) Marihuana product waste will be destroyed, or rendered into an unusable and unrecognizable form in a manner that prevents its acquisition by any person who may not lawfully possess it, and recorded in the statewide monitoring system. Marihuana product waste shall be disposed of in a secured waste receptacle using 1 or more of the following:

- (1) a manned and permitted solid waste landfill;
- (2) a manned compostable materials operation or facility;
- (3) an in-vessel digester.

(q) All marihuana product waste that is hazardous waste shall be disposed of pursuant to MCL 324.11101 to 324.90106.

(r) All marihuana product waste or marihuana products that are to be destroyed, or that LARA orders to be destroyed, shall not be sold.

(s) All inventory of marihuana products must be stored in a secured limited access area or restricted access area, and identified and tracked consistent with the statewide monitoring system under the act, the tracking act, and the rules.

(t) All containers used to store marihuana products for transfer or sale between marihuana facilities shall meet the requirements of the rules for such containers.

(u) All chemicals or solvents must be stored separately from marihuana products and kept in locked storage areas.

(v) Marihuana-infused products or materials used in direct contact with such products must have separate storage areas from toxic or flammable materials.

Sec. 14-262. Minimum Operational standards applicable to provisioning centers.

All provisioning centers shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) Provisioning centers shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m.

(b) No alcohol or tobacco products may be sold, used, or consumed on the premises. No marihuana or marihuana-infused products may be used or consumed on the premises.

(c) No marihuana plants shall be allowed on the premises.

(d) During times when the provisioning center is not open to the public, processed marihuana, marihuana products, cash and currency shall be stored in a safe or security vault that is incorporated into the building structure or securely attached to the building structure or a safe room with a security vault or other secure door.

(e) A provisioning center shall purchase marihuana only from a grower or processor.

(f) All transfers of marihuana to a provisioning center from a separate marihuana facility shall be by means of a secure transporter.

(g) A provisioning center shall sell or transfer marihuana only to a registered qualifying patient or registered primary caregiver.

(h) A provisioning center shall transfer marihuana to or from a safety compliance facility for testing by means of a secure transporter.

(i) The sale or transfer marihuana to a registered qualifying patient or registered primary caregiver shall only occur after it has been tested and bears the label required for retail sale by the act and the rules.

(j) Before selling or transferring marihuana to a registered qualifying patient or to a registered primary caregiver on behalf of a registered qualifying patient, a provisioning center

shall inquire of the statewide monitoring system to determine whether the patient and, if applicable, the caregiver hold a valid, current, unexpired, and unrevoked registry identification card and that the sale or transfer will not exceed the daily purchasing limit established by the board under the act.

(k) All transactions, current inventory, and other information of the provisioning center shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.

(l) A provisioning center shall not allow a physician to conduct a medical examination or issue a medical certification document on the premises for the purpose of obtaining a registry identification card.

(m) Marijuana and marihuana paraphernalia shall not be sold, given away, or dispensed from any outdoor location.

(n) A provisioning center shall have a separate room that is dedicated as the point of sale area for the transfer or sale of marihuana products.

(o) All marihuana products shall be kept 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.

(p) A provisioning center shall comply with all packaging and labeling requirements of the rules before selling or transferring marihuana products.

Sec. 14-263. Minimum Operational standards applicable to grow facilities.

All grow facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.

(b) While holding a permit for grower facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.

(c) All transactions, current inventory, and other information of the grow facility shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.

(d) All activities and operations of the grow facility, including cultivation, shall take place indoors within a building.

(e) The use of compressed gases such as carbon dioxide in multiple processes in the cultivation of marihuana shall meet the requirements of the rules for such processes.

(f) A grow facility shall not use any pesticides in the cultivation of marihuana that has not been approved by LARA for such purpose.

Section 14-264. Minimum Operational standards applicable to processor facilities.

All processor facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) A processor shall purchase marihuana only from a grower and shall sell marihuana-infused products or marihuana only to a provisioning center.

(b) A processor shall transfer marihuana only by means of a secure transporter.

(c) Until December 31, 2021, the permittee or an active employee shall have, a minimum of 2 years' experience as a registered primary caregiver.

(d) While holding a permit for processor facility, no permittee shall be a registered primary caregiver and shall not employ an individual who is simultaneously a registered primary caregiver.

(e) All transactions, current inventory, and other information of the processor facility shall be entered into the statewide monitoring system as required by the act, rules, and the marihuana tracking act.

(f) Processes that extract oil from marihuana plants and marihuana products using flammable gas, flammable liquid, or compressed gases of varying materials including, but not limited to, butane, propane, and carbon dioxide shall meet the requirements of the rules for such processes.

Sec. 14-265. Minimum standards applicable to secure transporters.

All secure transporter facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) May take physical custody of marihuana or money but legal custody belongs to the transferor or transferee.

(b) May not sell or purchase marihuana products.

(c) May store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee.

(d) Marihuana may not be transported to a registered qualifying patient or registered primary caregiver.

(e) Marihuana product may only be transported in a locked, secured, sealed container that is not accessible while in transit. Money associated with the purchase or sale of marihuana product between facilities shall be locked in a sealed container kept separate from

the marihuana product and only accessible to the secure transporter licensee/permittee and its employees.

(f) Each driver transporting marihuana must have a chauffeur's license issued by this state.

(g) Each employee who has custody of marihuana or money that is related to a marihuana transaction shall not have been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States within the past 5 years or have been convicted of a misdemeanor involving a controlled substance within the past 5 years.

(h) Each vehicle shall be operated with a 2-person crew with at least 1 individual remaining with the vehicle at all times during the transportation of marihuana.

(i) A route plan and manifest shall be entered into the statewide monitoring system, and a copy shall be carried in the transporting vehicle and presented to a law enforcement officer upon request.

(j) A secure transporting vehicle shall not bear markings or other indication that it is carrying marihuana or a marihuana-infused product.

(k) A secure transporter is subject to administrative inspection by a law enforcement officer at any point during the transportation of marihuana to determine compliance with the act and this article.

(l) All transactions, current inventory, and other information of the secure transporter shall be entered into the statewide monitoring system as required by the act, rules, and the tracking act.

Sec. 14-266. Minimum standards applicable to safety compliance facilities.

All safety compliance facilities shall, in addition to the operational standards in Section 14-261, comply with the following operational standards at a minimum:

(a) A safety compliance facility is authorized to only receive marihuana from, test marihuana for, and return marihuana to a marihuana facility.

(b) A safety compliance facility must be accredited by an entity approved by the board by 1 year after the date the license is issued or have previously provided drug testing services to this state or this state's court system and be a vendor in good standing in regard to those services unless a variance from this requirement is granted by the board as provided by the act.

(c) A safety compliance facility shall:

(1) Perform tests to certify that marihuana is reasonably free of chemical residues such as fungicides and insecticides.

- (2) Use validated test methods to determine tetrahydrocannabinol, tetrahydrocannabinol acid, cannabidiol, and cannabidiol acid levels.
- (3) Perform tests that determine whether marihuana complies with the standards the board establishes for microbial and mycotoxin contents.
- (4) Perform other tests necessary to determine compliance with any other good manufacturing practices as prescribed in rules.
- (5) Enter all transactions, current inventory, and other information into the statewide monitoring system as required in this act, rules, and the marihuana tracking act.
- (6) Have a secured laboratory space that cannot be accessed by the general public.
- (7) Retain and employ at least 1 staff member with a relevant advanced degree in a medical or laboratory science.
- (8) Comply with all provisions of the rules regarding the testing, retesting, and sampling of marihuana and marihuana products.
- (9) Establish an adequate chain of custody and instructions for sample and storage requirements.

Sec. 14-267. Conflicts, Future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the act or the rules, the conflicting provisions of this article will be preempted and the provisions of the act or the rules will control. Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana facility in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

Sec. 14-268. Penalty and remedies.

(a) Any violation of this article is a municipal civil infraction subject to penalties imposed on municipal civil infractions by section 1-7(e) of this code and state law.

(b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

(c) In addition to the penalties in this section, any violation of this article, the act, or the rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.

(d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

Sec. 14-269. Effect tie-barred.

This amendment to Chapter 14 to add Article 12, "Medical Marihuana Facilities" shall only take effect if Chapter 42 is amended to add section 42-262(B)(16), section 42-280(B)(21), section 42-280(B)(22), section 42-281(B)(7), and section 42-821(B)(8).

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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 _____, 201__.

Adam Herringa, City Clerk

PREPARED BY:

Charles R. Bear (P34107)

Portage Assistant City Attorney

1662 East Centre Avenue

Portage, MI 49002

(269) 323-8812

Approved as to Form:

Date: _____

City Attorney

Z:\jody\portage\medical marihuana 2017\Ord to Amend Chap 14 to Add Art 12.CLEAN.FINAL.030818.dox

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-262, 42-280, and 42-
281 OF ARTICLE 4, DIVISION 4, AND SECTION 42-129 ARTICLE 4, DIVISION 3, OF
CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended to add Section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 6. Business Districts.

Section 42-262. B-3 general business district.

A. No change.

B. Principal permitted uses.

1 through 15 no change.

16. Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The provisioning center shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana provisioning center located within the city of Portage.
- ~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo-Battle Creek International Airport.~~

- b. ~~Measurements for purposes of subsections (B)(16)(a)(ii) and (iii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point of the zoning lot occupied by any of the uses listed in (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another provisioning center using an uninterrupted straight line without regard to intervening structures or objects. Measurements for the purposes of subsection (B)(16)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the zoning lot to be occupied by a provisioning center using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined in Section 42-112 of this code of ordinances. Determination of whether a proposed provisioning center will be located consistent with the provisions of subsection (a) above will be made as follows:~~
- ~~i. Whether a proposed medical marihuana provisioning center will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.~~
 - ~~ii. Measurements for purposes of subsections (B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point of the zoning lot occupied by any of the uses listed in (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another provisioning center using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.~~
 - ~~iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.~~
- e. ~~A map showing the uses and facilities permitted in this section as well as the protected areas identified in subsections (B)(16)(a)(i), (ii), (iii) and (iv), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.~~
- dc. Buildings or structures for the distribution, and sale of medical marihuana and medical marihuana infused products shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

- ~~ed~~. No drive-through facilities are permitted for provisioning center facilities.
- ~~fe~~. No marihuana or marihuana-infused products may be used or consumed on the premises of a provisioning center.
- ~~gf~~. The activities and operations of the provisioning center shall be indoors within a building and out of public view.
- ~~hg~~. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the provisioning center shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- ~~ih~~. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- ~~ji~~. This amendment to Chapter 42 to add section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations shall only take if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-280(B)(21), and Section 42-280(B)(22) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-280. I-1 light industrial district.

A. No change.

B. Principal permitted uses.

1 through 20 No change.

21. Medical marihuana class A, B, and C grower facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The grower or processing facility shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution_ or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

- ~~b. Measurements for purposes of subsection (B)(21)(a)(ii) and (iii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(21)(a)(ii), or to the nearest point on the zoning lot occupied by another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. Measurements for the purposes of subsection (B)(21)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the the zoning lot to be occupied by a grower or processor facility using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances. Determination of whether a proposed grower or processor facility will be located consistent with the provisions of subsection (a) above will be made as follows:~~

- ~~i. Whether a proposed grower or processor facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana grower or processor facility as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.~~

ii. Measurements for purposes of subsections (B)(21)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(21)(a)(ii), or to the nearest point of the zoning lot occupied by another grower or processor using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.

iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.

~~e. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(21)(a)(i), (ii), (iii), and (iv), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.~~

~~dc.~~ Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

~~ed.~~ No drive-through facilities are permitted for medical marihuana facilities.

~~fe.~~ No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.

~~gf.~~ Medical marihuana grow and processor facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.

~~hg.~~ No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

~~ih.~~ The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

- j. This amendment to add section 42-280(B)(21) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

22. Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility site shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution_ or housing facility owned by a public housing authority; and
- ~~iii. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

- b. ~~Measurements for purposes of this section shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. Measurements for the purposes of subsection (B)(22)(a)(iii) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances. Determination of whether a proposed secure transporter or safety compliance facility will be located consistent with the provisions of subsection (a) above will be made as follows:~~

i. Whether a proposed secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.

ii. Measurements for purposes of subsections (B)(22)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.

iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.

~~c. A map showing the uses and facilities permitted in this section, as well as the protected areas identified in subsections (B)(22)(a)(i), (ii), and (iii), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.~~

~~d.~~ Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

~~e.~~ No drive-through facilities are permitted for medical marihuana facilities.

~~f.~~ No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.

~~g.~~ No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or

business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

~~hg.~~ The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

~~ih.~~ This amendment to add section 42-280(B)(22) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-281(B)(7), and Section 42-281(B)(8) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-281. I-2 heavy industrial district.

A. No change.

B. Principal permitted uses.

1 through 6 No change.

7. Medical marihuana class A, B, and C growers, and medical marihuana processors as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility shall not be located:

i. Adjacent to or abutting a residential zoning district; and

ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and

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iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

~~iv. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo Battle Creek International Airport.~~

b. ~~Measurements for purposes of subsection (B)(7)(a)(ii) and (iii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana grow or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by a another grower or processor facility, using an uninterrupted straight line without regard to intervening structures or objects. Measurements for the purposes of subsection (B)(7)(a)(iv) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by a grower or processor facility using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances. Determination of whether a proposed medical marihuana grower or processor facility will be located consistent with the provisions of subsection (a) above will be made as follows:~~

~~i. Whether a proposed grower or processor facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana grower or processor facility as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.~~

~~ii. Measurements for purposes of subsections (B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another grower or processor using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.~~

~~iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.~~

c. ~~A map showing the uses and facilities listed in subsection (B)(7)(a) above, as well as the protected areas identified by subsections (B)(7)(a)(i), (ii), (iii), and (iv) above, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.~~

~~dc.~~ Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

~~ed.~~ No drive-through facilities are permitted for medical marihuana facilities.

~~fe.~~ No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.

~~gf.~~ Medical marihuana grow and processing facilities shall conduct the activities of the facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.

~~hg.~~ No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

~~ih.~~ The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

~~ji.~~ This amendment to add section 42-281(B)(7) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

8. Medical Marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility site shall not be located:

i. Adjacent to or abutting a residential zoning district; and

ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade

facility or recreation facility or religious institution or housing facility owned by a public housing authority; ~~and~~

~~iii. Within 250 feet of the municipal boundary of the city of Portage except for the boundary in common with the east, south, and west boundaries of the Kalamazoo-Battle Creek International Airport.~~

~~b. Measurements for purposes of subsection (B)(8)(a) (ii) above shall be made from the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(8)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects. Measurements for the purposes of subsection (B)(8)(a)(iii) above shall be made from the municipal boundary of the city of Portage to the nearest point on the property boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined section 42-112 of this code of ordinances. Determination of whether a proposed secure transporter or safety compliance facility will be located consistent with the provisions of subsection (a) above will be made as follows:~~

~~i. Whether a proposed secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.~~

~~ii. Measurements for purposes of subsections (B)(22)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.~~

~~iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.~~

~~c. A map showing the uses and facilities listed in subsection (B)(8)(a) above, as well as the protected areas identified in subsections (B)(8)(a)(i), (ii), and (iii), is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.~~

~~dc.~~ Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

~~ed.~~ No drive-through facilities are permitted for medical marihuana facilities.

~~fe.~~ No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.

~~gf.~~ No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

~~hg.~~ The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

~~ih.~~ This amendment to add section 42-281(B)(8) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended as follows to amend Section 42-129(C), Article 4, Division 3, General Provisions, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Division 3. General Provisions.

Section 42-129. Home occupations.

A. No change.

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B. No change.

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the general rules of the department as they may be amended from time to time.
2. The home occupation may be conducted in a dwelling unit (as defined by the Zoning Code), in an accessory building, or outdoors, where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient);
 - b. Possesses up to the maximum amount of marihuana or marihuana-infused products permitted by the Act;
 - c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of five) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited;
 - d. Does not separate marihuana resin from marihuana plants by butane extraction on the premises of the medical marihuana home occupation; and
 - e. Does not store any chemicals such as herbicides, pesticides, and fertilizers inconsistent with the provisions of the Portage Code of Ordinances including but not limited to the International Fire Code as adopted by the code.
 - f. Does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property.
3. The following shall apply to a primary caregiver conducting a home occupation under this section:
 - a. Considering the federal "Drug Free School Zone" requirements, the medical marihuana home occupation shall not be located:
 - i. Within 500 feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college,

- junior college or university, a childcare center, a playground, a housing facility owned by a public housing authority; or
- ii. Within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.
 - b. Measurements for purposes of subsection (C)(3)(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined by article 42, section 42-112, definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in subsection (C)(3)(a) above, as well as the protected areas, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
 - c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.
4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.
 5. All medical marihuana plants and medical marihuana-infused products shall be contained in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either a registered qualifying patient or the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located.
 6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with article 4, chapter 24, noise, article 5, chapter 24, safety, sanitation and health, as well as article 14, chapter 42, Housing/Property Maintenance Code. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use

between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.

7. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than five qualifying patients may visit the site at any one time.
8. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of article 5, section 24-111, definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
9. There shall be no sign of any nature identifying the home occupation and the use of window displays is not permitted.
10. The location and operation of a marihuana facility pursuant to the provisions of the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as a home occupation is prohibited.
11. Nothing in this section, 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 growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the general rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the general rules, nothing in this section, 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 under federal law. Neither this section nor the Michigan Medical Marihuana Act protects users, caregivers 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.
12. Definitions. As used in this section:
 - a. *Marihuana*. This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
 - b. *Marihuana-infused product*. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation
 - c. *Primary caregiver*. A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.

- d. *Qualifying patient.* A person who has been diagnosed by a physician as having a debilitating medical condition.
- e. *Registry identification card.* A document issued by the department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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 _____, 2018.

Adam Herringa, City Clerk

PREPARED BY:
Charles R. Bear (P34106)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:
Date: _____

City Attorney

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**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-262, 42-280, and 42-
281 OF ARTICLE 4, DIVISION 4, AND SECTION 42-129 ARTICLE 4, DIVISION 3, OF
CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended to add Section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 6. Business Districts.

Section 42-262. B-3 general business district.

A. No change.

B. Principal permitted uses.

1 through 15 no change.

16. Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The provisioning center shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana provisioning center located within the city of Portage.

b. Determination of whether a proposed provisioning center will be located consistent with the provisions of subsection (a) above will be made as follows:

- i. Whether a proposed medical marihuana provisioning center will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
- ii. Measurements for purposes of subsections (B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center to the nearest point of the zoning lot occupied by any of the uses listed in (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another provisioning center using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
- iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances..
- c. Buildings or structures for the distribution, and sale of medical marihuana and medical marihuana infused products shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- d. No drive-through facilities are permitted for provisioning center facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a provisioning center.
- f. The activities and operations of the provisioning center shall be indoors within a building and out of public view.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the provisioning center shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- h. The business and operations of all marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- i. This amendment to Chapter 42 to add section 42-262(B)(16) to Article 4, Division 4, Zoning Districts and District Regulations shall only take if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-280(B)(21), and Section 42-280(B)(22) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-280. I-1 light industrial district.

A. No change.

B. Principal permitted uses.

1 through 20 No change.

21. Medical marihuana class A, B, and C grower facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The grower or processing facility shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

b. Determination of whether a proposed grower or processor facility will be located consistent with the provisions of subsection (a) above will be made as follows:

- i. Whether a proposed grower or processor facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana grower or processor facility as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
- ii. Measurements for purposes of subsections (B)(21)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(21)(a)(ii), or to the nearest point of the zoning lot occupied by another grower or processor using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
- iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.

- c. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- d. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- f. Medical marihuana grow and processor facilities shall conduct the activities of the marihuana facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
- g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.

iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.

- c. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- d. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- f. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- g. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
- h. This amendment to add section 42-280(B)(22) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended to add Section 42-281(B)(7), and Section 42-281(B)(8) to Article 4, Division 4, Zoning Districts and District Regulations, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Subdivision 7. Industrial Districts.

Section 42-281. I-2 heavy industrial district.

A. No change.

B. Principal permitted uses.

1 through 6 No change.

7. Medical marihuana class A, B, and C growers, and medical marihuana processors as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*

a. The facility shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Within 1000 feet of any other medical marihuana grower or processor facility located within the city of Portage.

b. Determination of whether a proposed medical marihuana grower or processor facility will be located consistent with the provisions of subsection (a) above will be made as follows:

- i. Whether a proposed grower or processor facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana grower or processor facility as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
- ii. Measurements for purposes of subsections (B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana grower or processor facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another grower or processor using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
- iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.

- c. Buildings or structures for the growing, production or processing of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
 - d. No drive-through facilities are permitted for medical marihuana facilities.
 - e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
 - f. Medical marihuana grow and processing facilities shall conduct the activities of the facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing and processing of marihuana, indoors and out of public view.
 - g. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location (a stacked license as defined in section 14-246(t) of this code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
 - h. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.
 - i. This amendment to add section 42-281(B)(7) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."
8. Medical Marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.*
- a. The facility site shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1000 feet from the real property, located either in the city of Portage or an adjacent municipality, comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade

facility or recreation facility or religious institution or housing facility owned by a public housing authority;

- b. Determination of whether a proposed secure transporter or safety compliance facility will be located consistent with the provisions of subsection (a) above will be made as follows:
 - i. Whether a proposed secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
 - ii. Measurements for purposes of subsections (B)(22)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for the city of Portage in existence on that date.
- iii. "Zoning lot" is defined in Section 42-112 of this code of ordinances.
- c. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.
- d. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility.
- f. No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. If a medical marihuana facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility.
- g. The business and operations of all medical marihuana facilities shall comply at all times with applicable state law and regulations, and this code of ordinances.

- h. This amendment to add section 42-281(B)(8) to Chapter 42, Article 4, Division 4, Zoning Districts and District Regulations shall only take effect if Chapter 14 is amended to add Article 12, "Medical Marihuana Facilities."

C. No change.

D. No change.

That Chapter 42 shall be amended as follows to amend Section 42-129(C), Article 4, Division 3, General Provisions, as follows:

CHAPTER 42. LAND DEVELOPMENT REGULATIONS.

ARTICLE 4. ZONING.

Division 3. General Provisions.

Section 42-129. Home occupations.

A. No change.

B. No change.

C. *Medical marihuana home occupation.* A primary caregiver acting in compliance with the General Rules of the Michigan Department of Licensing and Regulatory Affairs ("general rules"), the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (the "Act") and the requirements of this section, may be allowed as a home occupation. The conditions and requirements contained in section 42-129(A) and (B) (passive and active home occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the general rules of the department as they may be amended from time to time.
2. The home occupation may be conducted in a dwelling unit (as defined by the Zoning Code), in an accessory building, or outdoors, where no more than one primary caregiver:
 - a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient);
 - b. Possesses up to the maximum amount of marihuana or marihuana-infused products permitted by the Act;
 - c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of five) who have been issued and possess a registry identification

- card and who are connected with the primary caregiver through the department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited;
- d. Does not separate marihuana resin from marihuana plants by butane extraction on the premises of the medical marihuana home occupation; and
 - e. Does not store any chemicals such as herbicides, pesticides, and fertilizers inconsistent with the provisions of the Portage Code of Ordinances including but not limited to the International Fire Code as adopted by the code.
 - f. Does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property.
3. The following shall apply to a primary caregiver conducting a home occupation under this section:
- a. Considering the federal "Drug Free School Zone" requirements, the medical marihuana home occupation shall not be located:
 - i. Within 500 feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, a childcare center, a playground, a housing facility owned by a public housing authority; or
 - ii. Within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.
 - b. Measurements for purposes of subsection (C)(3)(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using an uninterrupted straight line without regard to intervening structures or objects. "Zoning lot" is defined by article 42, section 42-112, definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in subsection (C)(3)(a) above, as well as the protected areas, is available for review in the department of community development at the Portage City Hall and on the city's website under the department of community development.
 - c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.
4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.
5. All medical marihuana plants and medical marihuana-infused products shall be contained in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. Marihuana plants grown outdoors are considered to be in an

enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either a registered qualifying patient or the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located.

6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana, compliance with article 4, chapter 24, noise, article 5, chapter 24, safety, sanitation and health, as well as article 14, chapter 42, Housing/Property Maintenance Code. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
7. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than five qualifying patients may visit the site at any one time.
8. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of article 5, section 24-111, definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.
9. There shall be no sign of any nature identifying the home occupation and the use of window displays is not permitted.
10. The location and operation of a marihuana facility pursuant to the provisions of the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as a home occupation is prohibited.
11. Nothing in this section, 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 growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the Act and the general rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the general rules, nothing in this section, 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 under federal law. Neither

this section nor the Michigan Medical Marihuana Act protects users, caregivers 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.

12. Definitions. As used in this section:

- a. *Marihuana*. This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
- b. *Marihuana-infused product*. A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation
- c. *Primary caregiver*. A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.
- d. *Qualifying patient*. A person who has been diagnosed by a physician as having a debilitating medical condition.
- e. *Registry identification card*. A document issued by the department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, Adam Herringa, 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 _____, 2018.

Adam Herringa, City Clerk

PREPARED BY:
Charles R. Bear (P34106)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to Form:
Date: _____

City Attorney

Z:\jody\portage\medical marihuana 2017\Ordinance Amend Chap 42 Art 4.CLEAN.FINAL.03818.dox

Proposed Medical Marihuana Provisioning Centers in B-3
1000' Exclusion Areas and Not Adjacent to Residential
1000' Separation - 10 Potential Locations

address	class	use
5324 MEREDITH ST	201	RETAIL-01
5230 S WESTNEDGE AVE	201	RETAIL-01 DDA
5600 S WESTNEDGE AVE	702	CITY VACANT
7940 S SPRINKLE RD	201	AUTO SALES
7842 PORTAGE RD	201	OFFICE-01
7840 PORTAGE RD	201	RETAIL-WINDOWS
7812 PORTAGE RD	201	OFFICE
7206 S WESTNEDGE AVE	201	ARCADE/MINI GOL
7262 S WESTNEDGE AVE	201	RESTAURANT
8720 SHAVER RD	201	RETAIL-01
8650 SHAVER RD	201	AUTO SERVICE
8542 SHAVER RD	202	VACANT
8071 PORTAGE RD	001	VACANT
8037 PORTAGE RD	201	OFFICE-01
8111 PORTAGE RD	201	LAUNDRY
8127 PORTAGE RD	201	RETAIL-01
8131 PORTAGE RD	401	RESIDENTIAL
8139 PORTAGE RD	201	RETAIL-01
8211 PORTAGE RD	201	RESTAURANT
8387 PORTAGE RD	201	CAR WASH
8379 PORTAGE RD	201	GAS STATION
8405 PORTAGE RD	201	WAREHOUSE
8415 PORTAGE RD	202	VACANT
8435 PORTAGE RD	201	RETAIL-01
8441 PORTAGE RD	201	AUTO SERVICE
8136 PORTAGE RD	201	RESTAURANT
8715 PORTAGE RD	202	RETAIL-01
8969 PORTAGE RD	201	VACANT
8015 PORTAGE RD	202	VACANT
2610 E CENTRE AVE	202	VACANT
2700 E CENTRE AVE	202	VACANT
8043 PORTAGE RD	202	VACANT
8061 PORTAGE RD	202	VACANT
4203 E CENTRE AVE	201	RETAIL STORE
4123 E CENTRE AVE	201	RETAIL-01
7939 S SPRINKLE RD	202	VACANT
7925 S SPRINKLE RD	202	VACANT
7907 S SPRINKLE RD	201	RETAIL-01
7849 S SPRINKLE RD	201	FLEX SPACE - 2
7837 S SPRINKLE RD	201	RETAIL-01
8724 PORTAGE RD	201	AUTO SERVICE
8444 PORTAGE RD	202	VACANT
8434 PORTAGE RD	301	CONSUMERS
8314 PORTAGE RD	201	RETAIL-02
8312 PORTAGE RD	201	RETAIL-01
5747 S WESTNEDGE AVE	201	RETAIL-02
5231 S WESTNEDGE AVE	201	GAS STATION
5342 S WESTNEDGE AVE	201	GAS/REST DDA
8204 PORTAGE RD	201	RESTAURANT
4017 WELLS ST	201	RESTAURANT
9017 S SPRINKLE RD	201	RETAIL-01
5730 S WESTNEDGE AVE	201	RETAIL-01
8119 PORTAGE RD	202	VACANT
8229 PORTAGE RD	201	VACANT

54 Available properties using 1000' Exclusion Area and not adjacent to residential zoning.
(No 250' Municipal Boundary Requirement)

Eligible properties

Exclusion Areas 1000' & not Adj. to Res.

B-3 Zoning

City Boundary

State Game Area

1 inch = 3,200 feet
Date: 3/2/2018

Potential locations must be B-3 zoned, and not adjacent to a residential zone and more than 1000' from churches, schools, day cares, libraries, treatment facilities, parks and public and/or private recreation areas.
This listing is considered approximate and all properties must be individually evaluated.



Proposed Medical Marihuana
Grow Operations and Processors
Safety Compliance & Secure Transporters
1000' Exclusion Areas & not Adjacent to Res. for I-1, I-2
16 Potential Locations with 1000' Separation

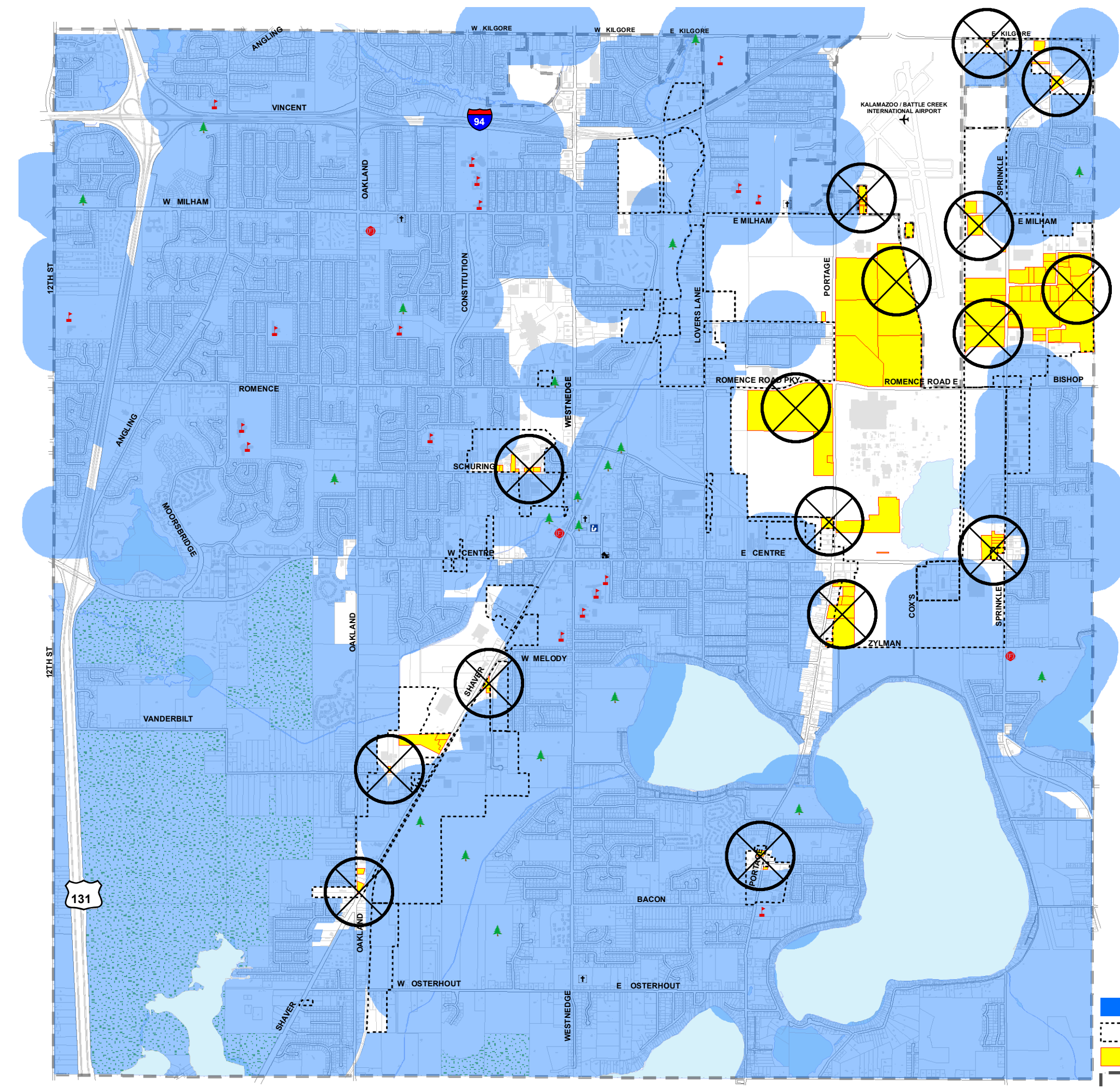
Approximately 89 properties available

ADDRESS	CLASS	USE
5200 S SPRINKLE RD	201	OFFICE-01/OC. IN FRONT
3512 E KILGORE RD	401	SINGLE FAMILY
5114 MEREDITH ST	202	ACCESS DRIVE
3000 E KILGORE RD	302	VACANT LAND
3737 E MILHAM AVE	201	RETAIL
3100 E MILHAM AVE	702	COUNTY
6901 PORTAGE RD	201	OFFICE-01
1011 ROMENCE RD EAST	302	VACANT LAND
6501 PORTAGE RD	301	MANUFACTURING
6555 PORTAGE RD	702	VACANT LAND
6701 PORTAGE RD	302	VACANT LAND
2403 RAMONA AVE	302	VACANT LAND
6401 CORPORATE AVE	702	CITY SEWER
6400 CORPORATE AVE	301	WAREHOUSE
6345 AMERICAN AVE	701	WAREHOUSE
4750 EXECUTIVE DR	301	PLASTIC INJECTION MOLDING
3700 E MILHAM AVE	301	MANUFACTURING
6500 S SPRINKLE RD	302	VACANT LAND
6600 S SPRINKLE RD	702	CITY VACANT
6700 S SPRINKLE RD	301	REFRIGERATION MFG
6400 S SPRINKLE RD	301	PLASTIC INJECTION MOLDING
6490 S SPRINKLE RD	201	OFFICE
6210 S SPRINKLE RD	301	CONSUMERS-SUB STATION
6700 QUALITY WAY	301	TOOL & DIE MFG
6710 QUALITY WAY	301	MANUFACTURING
4550 QUALITY CT	302	VACANT LAND
6615 S SPRINKLE RD	301	PLASTIC INJECTION MOLDING
6565 S SPRINKLE RD	301	ALUMINUM EXTRUSION
6701 QUALITY WAY	201	MANUFACTURING
3901 E CENTRE AVE	302	VACANT LAND
7926 S SPRINKLE RD	201	RETAIL-01
3921 E CENTRE AVE	301	MANUFACTURING
7860 S SPRINKLE RD	201	RETAIL-01
7910 S SPRINKLE RD	201	AUTO SERVICE
7880 S SPRINKLE RD	201	RETAIL-01
7870 S SPRINKLE RD	201	RETAIL-02
7725 PORTAGE RD	301	MANUFACTURING
7000 PORTAGE RD	301	VACANT LAND
7726 PORTAGE RD	302	VACANT LAND
2915 E CENTRE AVE	302	CONSUMERS
802 SCHURING RD	401	SINGLE FAMILY
726 SCHURING RD	401	SINGLE FAMILY
618 SCHURING RD	201	GREENHOUSE
608 SCHURING RD	302	VACANT LAND
515 SCHURING RD	401	SINGLE FAMILY
510 SCHURING RD	401	SINGLE FAMILY
428 SCHURING RD	401	SINGLE FAMILY
408 SCHURING RD	401	SINGLE FAMILY
8722 PORTAGE INDUSTRIAL DR	201	OFFICE-01
8750 PORTAGE INDUSTRIAL DR	201	OFFICE
8119 PORTAGE RD	202	VACANT
8145 PORTAGE RD	302	VACANT LAND
8141 PORTAGE RD	302	VACANT LAND
8209 PORTAGE RD	302	VACANT LAND
8229 PORTAGE RD	201	VACANT
2501 ZYLMAN AVE	701	PORTAGE BUS GARAGE
2485 ZYLMAN AVE	201	AUTO SERVICE
9702 PORTAGE RD	201	REST/MANUF
9741 PORTAGE RD	401	SINGLE FAMILY
9114 SHAVER RD	201	MINI-WAREHOUSE
9102 SHAVER RD	702	CITY HOUSE
9040 SHAVER RD	201	VACANT LAND
1728 VANDERBILT AVE	302	VACANT LAND
9821 OAKLAND DR	302	VACANT LAND
9950 SHAVER RD	201	GAS STATION
9960 SHAVER RD	202	VACANT
4176 COMMERCIAL AVE	201	OFFICE-01/WARE
4169 COMMERCIAL AVE	301	MANUFACTURING
4311 COMMERCIAL AVE	201	DISTRIBUTOR
4385 COMMERCIAL AVE	201	TRUCK TERMINAL
4384 COMMERCIAL AVE	201	MANUFACTURING
4250 COMMERCIAL AVE	201	WAREHOUSE
4460 COMMERCIAL AVE	301	WAREHOUSE
4510 COMMERCIAL AVE	201	WAREHOUSE
4570 COMMERCIAL AVE	201	WAREHOUSE-M
4481 COMMERCIAL AVE	301	MANUFACTURING
6292 AMERICAN AVE	301	MANUFACTURING
6256 AMERICAN AVE	301	MANUFACTURING
6239 AMERICAN AVE	301	WAREHOUSE
6287 AMERICAN AVE	201	LAB/SHOP
7230 PORTAGE RD	501	WELL SITES
7400 PORTAGE RD	502	VACANT LAND
5825 WILLOUGHBY DR	201	BRWNFLD WILLOUGHBY
5901 WILLOUGHBY DR	202	BRWNFLD WILLOUGHBY
5909 WILLOUGHBY DR	201	GARAGE
5913 WILLOUGHBY DR	401	SINGLE FAMILY
5921 WILLOUGHBY DR	401	SINGLE FAMILY
2711 E MILHAM AVE	401	SINGLE FAMILY
2725 E MILHAM AVE	201	OFFICE-01



1 inch = 3,200 feet
Date: 3/5/2018

Potential locations must be I-1 or I-2 zoned, and not adjacent or abutting a residential zone and more than 1000' from churches, schools, day cares, libraries, treatment facilities, parks and public and/or private recreation. This listing is considered approximate and all properties must be individually evaluated. (308)



From: Adam Herringa
Sent: Monday, March 05, 2018 4:38 PM
To: Patricia Randall; Jim Pearson; Chris Burns; Richard Ford; Lori Knapp; Claudette Reid; Terry Urban
Cc: Laurence Shaffer; Rob Boulis; Kaitlin Benn; Christopher Forth; Erica Eklov
Subject: FW: MMFLA zoning ordinance (Council Mail)

Good afternoon, Mayor and City Council,

Following please find an e-mail received by the Office of the City Clerk over the weekend and addressed to the attention of the City Manager and City Council.

- Adam

Adam Herringa
City Clerk
Office of the City Clerk
City of Portage, Michigan
herringa@portagemi.gov
(269) 329-4512 (phone)
(269) 324-8070 (fax)

-----Original Message-----

From: Denise Pollicella [mailto:denise.pollicella@pollicella.net]
Sent: Saturday, March 03, 2018 3:45 PM
To: Adam Herringa; Erica Eklov
Subject: MMFLA zoning ordinance

To L. Shaffer and City Council

POLLICELLA & ASSOCIATES, PLLC
CANNABIS ATTORNEYS OF MICHIGAN
4312 EAST GRAND RIVER AVENUE
HOWELL, MICHIGAN 48843
PH 517.546.1181 FAX 517.292.2468

Denise A. Pollicella, Managing Partner
Ph; 810-623-5188
Denise.pollicella@pollicella.net

March 3, 2018

Laurence Shaffer, City Manager
City of Portage
7900 South Westnedge
Portage, Michigan 49002

Re: Proposed Language for Draft Ordinance Amending Chapter 42, Article 4, Zoning for Medical Marihuana Facilities
Dear Mr. Shaffer:

As you are aware, my Firm represents the Lake Effect Group and we would first like to thank you for your diligent work on the proposed MMFLA ordinances in Portage, and appreciate the Council's commitment to finalize a works for the residents and medical marihuana patients in Portage.

We listened with interest at the last meeting on February 27th to the discussion regarding the potential disenfranchisement of lawfully permitted businesses by the subsequent location of businesses against which they are buffered under the draft zoning ordinance. While we disagree that a church or licensed child care facility choosing to locate next to a preexisting and properly permitted medical marihuana facility would operate as a disqualifier for that medical marihuana facility's permit renewal, the potential for this conflict is easily remedied.

We recommend including the word "preexisting" prior to any disqualifying property use in the zoning ordinance. For example, "The facility shall not be located: Within 1,000 feet from the real property comprising a preexisting public or private elementary, vocational or secondary school . . ." We would additionally recommend removing the zoning and buffer requirements for facilities who are renewing their land use permits.

Laurence Shaffer
March 3, 2018
Page 2

We would also like to reiterate our offer to hold public informational sessions about medical marihuana for the residents of Portage. Both the operators of Lake Effect and my firm have extensive knowledge in the MMFLA as well as reputably sourced data and reporting on marihuana in general. Moreover, we also have numerous contacts in the medical and law enforcement community upon whom we rely as resources, and we would be happy to call on them as well for these educational events.

We are looking forward to demonstrating the professionalism of this new industry, and to integrating the regulated provisioning of safe medical marihuana into the Portage community.

Thank you again for your attention to this issue.

Most Sincerely,

Denise A. Pollicella, Esq.

Cc: Mayor Randall
City Council

Date: 03/08/2018

To

Madam Mayor, City Manager and City Council Members.

City of Portage, MI



Subject: Request for exemption of 1000 feet distance from religious institution for a medical marihuana facility.

Respected Sir,

I request you to kindly grant an exemption of minimum 1000 feet distance from a religious institution for my property The Renaissance (Bar, Night Club and Banquet) located at 3750 East Kilgore, Portage MI 49002 so that it could qualify for medical marihuana use as per the new ordinance. This business of bar and night club existed at this location for last 40 years, about 2-3 years ago a religious institution Life Changing Ministry moved into a storefront office area located within 1000 feet of my property knowing that there is a bar and night club within 1000 feet. The reason they were not bothered by the fact that there is a bar and night club located within 1000 feet is because their membership has been growing very fast and this is their 3rd location within last few years and they knew that this is just an interim location for few years before they outgrow and relocate to a larger facility somewhere else.

Considering above fact I request Madam Mayor, City Manager and City Council Members to please grant an exemption to my property which is a convenient location for the purpose of medical marihuana use away from residential area, day care and schools. I am 100 % positive that it won't be too long before they move to a larger location. As it is due to restrictive nature of ordinance potential properties that could be used for a medical marihuana facility are very few. My property is most suitable for medical marihuana use in that corridor which is zoned for this purpose considering the fact that other businesses in the area are very successfully established and won't even consider moving since they are heavily invested as well.

It is a common practice that religious institutions move to larger facilities as they grow their membership and financial capability and I am sure we all have witnessed this before. One of such example within city of Portage is Lake Center Church, they sold their former location at 805 Osterhout Ave and relocated to Romance road in a much larger facility now called Radiant Church.

I would appreciate your kind consideration in this matter.

Thank you,

Syed Hasan

The Renaissance