

Committee of the Whole Work Session of September 16, 2019.

5:30 p.m. Call to Order.

Roll Call.

A. Discussion on Proposed Ordinance Amendment #18/19-B, Residential Amendments.

1. Proposed Ordinance Amendment #18/19-B, Residential Amendments - Information Only

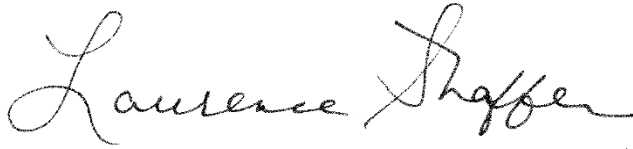
B. Petitions and Statements of Citizens:

C. Summary of Discussion on Proposed Ordinance Amendment #18/19-B, Residential Amendments.

Adjournment.

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Ordinance Amendment #18/19-B, Residential Amendments

**SUPPORTING PERSONNEL:** Vicki Georgeau, Director of Community Development

**ACTION RECOMMENDED:** Information Only

On August 20, 2019, the attached Ordinance Amendment #18/19-B, Residential Amendments, was introduced to City Council for first reading and City Council was asked to set a public hearing on September 17, 2019. Subsequent to introducing this matter, City Council had a number of questions regarding the amendments, and scheduled a Committee of the Whole meeting on September 16, 2019 to further review the proposed amendments prior to setting a public hearing.

While staff will be available to provide an overview of all aspects of the proposed amendments, responses to specific questions that arose at the August 19, 2019 Pre-Council meeting in regard to the proposed amendments are below.

**1. Why was the initial proposal of a maximum level of lot coverage for lakefront properties decreased from 30% to 25%?**

*Response: Lakefront properties that meet the lot width and lot area requirements would be allowed a maximum building lot cover of 30% under the proposed amendment. However, given the flooding that has been occurring in recent years due to historic high groundwater levels, combined with more frequent heavy rains, the increase in lot cover for non-conforming lots (i.e. lots that do not meet the width or lot area requirement) was reconsidered and the recommendation is to retain the existing 25% lot cover. Property owners will continue to have the option to request a variance from the Zoning Board of Appeals.*

**2. The Zoning Board of Appeals has heard 20 appeals regarding non-conformance of lakefront properties and granted 17 of them. Please provide the total number of lakefront properties and the number that are non-conforming.**

*Response: Between 1995 and 2019, there were 33 lot cover variance requests which averages to 1.3 per year. Rather, 20 of the 33 involved substandard/non-conforming lots and 10 involved lakefront lots. The attached August 1, 2019 email to the Planning Commission provides more information regarding variance requests, and the staff rationale for holding the maximum lot cover to 25% for non-conforming lots.*

*There are 814 residential lakefront properties in the city. Of those that are non-conforming, a total of 481, or 49.1%, are non-conforming with regard to width while 149, or 18.3%, are non-conforming*

*with regard to area.*

*A larger percentage of non-conforming lakefront properties exist because most were platted in the 1920s and 1930s with small lots intended for cottage/seasonal living. Lot cover on these small lakefront properties can be challenging with regard to the current lifestyle of families with year-round living, which includes larger homes and accessory buildings.*

*City Administration recommends the amendment be revised to permit an increase of building lot cover to 30% for properties that are non-conforming with regard to width, while retaining the building lot cover to 25% for properties that are non-conforming with regard to size (area).*

**3. With regard to water overflow and lot coverage, does an increase in the amount of impervious surface (such as carports and decks) contribute to water overflow concerns?**

*Response: Impervious surfaces such as building rooftops, paved driveways and patios may impact the ability to contain stormwater on an individual property. However, for conforming lots, an increase from 25% to 30% is not anticipated to have an adverse impact. Importantly, the proposed amendment includes review and approval by the Department of Transportation and Utilities to ensure drainage plans properly consider groundwater levels and stormwater for all properties that propose to exceed a 25% lot cover.*

**4. Is there a time frame or deadline for City Council action on this ordinance amendment?**

*Response: No, there is no urgency with regard to Council action on the proposed amendments, which can be characterized as “clean-up” amendments.*

**5. If there is an increase to 30% lot coverage, what is the anticipated need for variance requests?**

*Response: With a maximum 30% building lot cover, it is anticipated that lot cover variance requests would be very infrequent.*

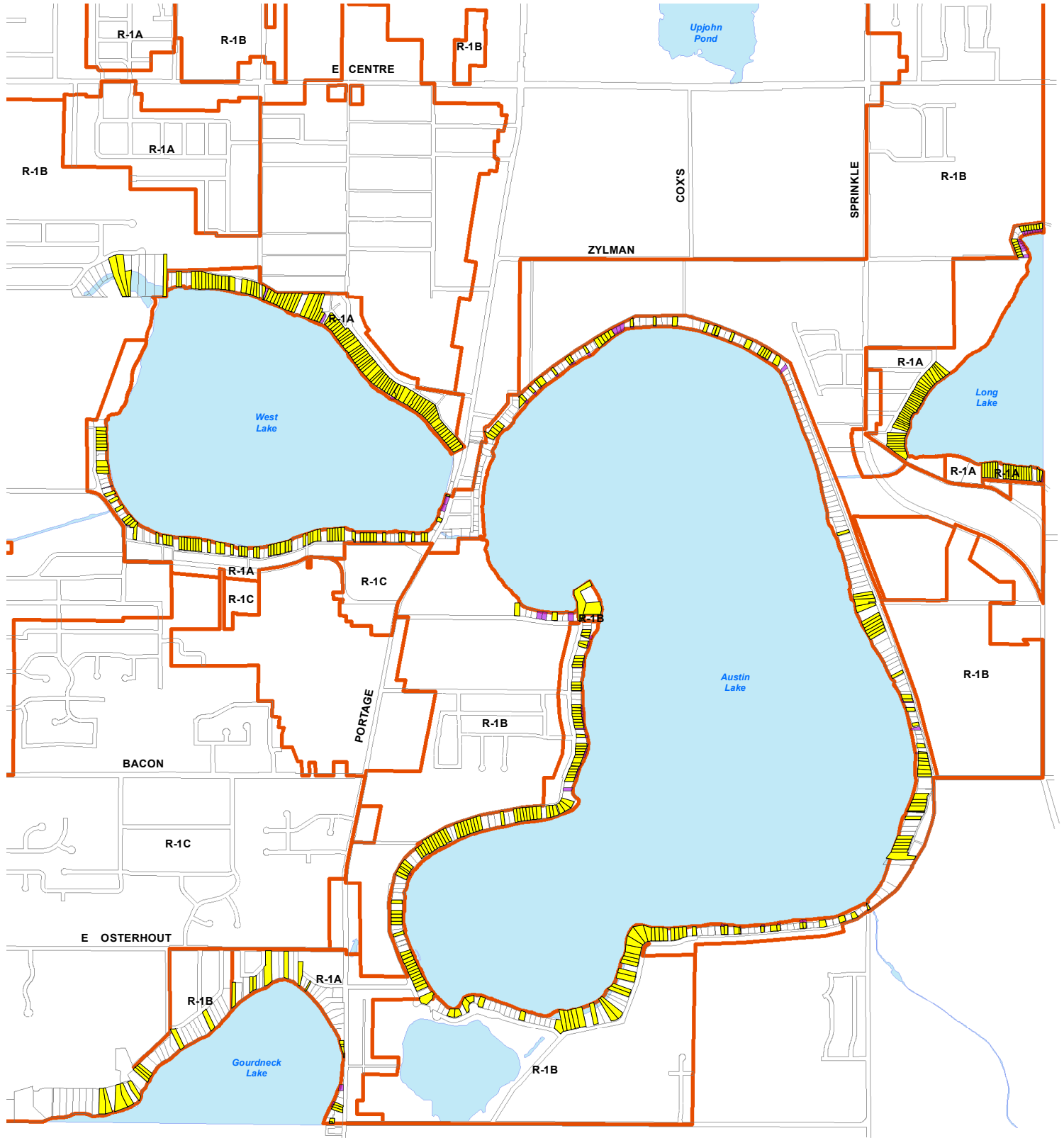
**FUNDING:** N/A

**Attachments:**

1. Substandard Lakefront Lots Map
2. August 1, 2019 email communication to Planning Commission
3. Community Development Aug. 20 - Agenda Item A.5 RE Ordinance Amendments #18 19B Residential Amendments

# Substandard Lakefront Lots

Date: 8/20/2019



## Legend

- Substandard Width (481)
- Substandard Area (149)
- Lakefront Residential Property



## Christopher Forth

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**From:** Christopher Forth  
**Sent:** Thursday, August 1, 2019 6:10 PM  
**To:** 'billfriesjr@gmail.com'; Michael West  
**Cc:** baldwin.bs69@gmail.com; bettyraeb@gmail.com; Bill Patterson (bill.patterson1969@gmail.com); Dan Corradini; meharrell0818@aol.com; paulpezzoli1@gmail.com; Sarah Joshi (joshi.sarah@gmail.com); Wayne Stoffer (wstoffer92@gmail.com); Victoria Georgeau  
**Subject:** RE: Variances

Bill:

Between 1995 and 2019, there were 33 lot cover variance requests (applicant wanted to exceed 25%) or about 1.3/year.

Below are more statistics regarding substandard (nonconforming) lots:

1. 20 of the 33 applications involved substandard lots
2. 15 of the 20 applications were zoned R-1A (smallest lot size). Overall, 27 of the 33 properties were zoned R-1A
3. 10 applications involved lakefront lots
4. The ZBA approved 17 of the 20 applications. 14 of the 20 applications were not recommended for approval by staff.

Substandard lots, like lakefront lots, are generally smaller in area and would result in less green area to help control/contain storm water. We have had a number of complaints from residents (lakefront and non-lakefront property owners), especially during the past several years due to higher ground water elevations and intense precipitation events, regarding storm water impacts. This problem is exacerbated when a small, substandard lot such as those around the lakes contains a fair amount of impervious surface. Impervious surfaces include not only the buildings, but other improvements that do not count towards lot cover such as driveways, walkways, patios, and uncovered/unenclosed decks. Finally, the side yard setback for substandard lots is five feet. Larger buildings will increase the amount of wall area only five feet from the property line, which could impact adjacent property owners.

With regard to building height, there have been 13 residential variance requests since 1995. In the early 1990's, the Zoning Code was amended that increased building height up to 40 feet for lots 80 feet or more in width. Homes on lots that are less than 80 feet in width (primarily those located in the R-1A district) are limited to 25 feet in height. As you know, this has been an issue for new home construction involving lakefront lots. Many of the lakefront property owners desire to have a three story walkout facing the lake and the 25-foot height limit oftentimes prevented it or the owner would have to make other concessions to stay within 25 feet in height such as lowering ceiling height or roof pitch. In other situations, property owners artificially changed the grade of the lot, which resulted in adjacent property owners being negatively impacted. The recommendation to increase the building height by five feet on lots less than 80 feet in width an increase in height is intended to address these concerns.

Someone who owns a substandard lot would still have the option to request a variance from the ZBA should City Council retain the current 25% lot cover for substandard lots.

We can further discuss these issues tonight during the meeting.

Christopher Forth, AICP  
Deputy Director of Planning, Development and Neighborhood Services  
City of Portage Department of Community Development

**TO:** Honorable Mayor and City Council

**FROM:** Laurence Shaffer, City Manager



**SUBJECT:** Ordinance Amendment #18/19-B, Residential Amendments

**SUPPORTING PERSONNEL:** Vicki Georgeau, Director of Community Development

**ACTION RECOMMENDED:** Accept Ordinance Amendment #18/19-B, Residential Amendments, for first reading and set a public hearing for September 17, 2019.

The City Administration has prepared a number of Zoning Code amendments (primarily pertaining to residential land uses) that are intended to provide more flexibility for property owners and developers and to address ongoing issues associated with code administration. The more substantive changes are summarized below:

1. Regulation of accessory buildings in a more flexible manner (increase height from 14 feet to 16 feet, decrease separation distance between buildings, slight increase in size, and slight increase in setback distance from three feet to five feet from the side or rear property line) so that fewer variances for residential property are requested.
2. Increase the residential building height for properties with less than 80 feet of lot-width (from 25 feet to 30 feet) to facilitate a desirable architectural design and better address lifestyle changes of property owners.
3. Increase percentage of lot cover from 25% to 30% for all conforming size lots (width and area) in the single-family residential districts.
4. Increase the height of non-residential buildings in locations that have little impact on adjacent properties and neighborhoods.
5. Clarify projections into required yards, including barrier-free ramps for persons with disabilities.
6. Allow, on a limited basis, land divisions without 60 feet of frontage on a public street or 50 feet on a cul-de-sac, and in a manner that provides accessibility for public safety purposes.
7. Language has been added to ensure lots are properly graded and maintained to ensure storm water does not adversely impact neighboring properties.
8. Increase plan approvals and Board/Commission approvals from six (6) to twelve (12) months.
9. Increase the number of residential lots permitted on a cul-de-sac from 20 to 30 consistent with the requirements of the International Fire Code.
10. Modify the method to determine the minimum living area of 1½ and 2-story dwellings to eliminate a minimum area per floor and a combined total area of each floor.
11. Modify the floor area requirements for tri and bi-level dwellings. The minimum floor area is the combined total floor area of each level not classified as a basement. Since all non-basement levels are computed in the total floor area, bi and tri-level dwellings must meet the minimum

area requirement for a two-story residence in the same district.

The proposed amendments were introduced to the Planning Commission during the June 6, 2019 meeting. The Commission convened public hearings during the July 11, 2019 and August 1, 2019 meetings. During the public hearing process, one citizen spoke regarding the proposed amendments and expressed concern over the proposed increase in lot coverage from 25% to 30% especially on lakefront lots. No other comments, either written or verbal, were received regarding the proposed residential amendments.

It is recommended that City Council accept the Ordinance Amendment #18/19-B, Residential Amendments, and set a public hearing for September 17, 2019.

**FUNDING:** N/A

**Attachments:**

1. August 9, 2019 Planning Commission transmittal
2. June 6, July 11, and August 1 2019 Planning Commission Meeting Minutes
3. July 26, 2019 Community Development staff report with Ordinance Amendment highlight strike and clean version


**TO:** Honorable Mayor and City Council  
**FROM:** Planning Commission  
**DATE:** August 9, 2019  
**SUBJECT:** Ordinance Amendment #18/19-B, Residential Amendments

During the June 6, 2019 meeting, staff introduced to the Planning Commission a number of Zoning Code amendments (primarily pertaining to residential land uses) that are intended to provide more flexibility for property owners/developers and to address ongoing issues associated with code administration. The more substantive amendments address the size height and location of accessory buildings; increase in residential and nonresidential building height; increase in the percent of lot cover for conforming lots; projections into required yards; land divisions without frontage on a public street; lot grading; increase in the number of lots/units on a residential cul-de-sac and an increase in plan/Commission approval time from six the 12 months.

The Planning Commission held a public meeting on July 11, 2019, to garner public input on the proposed changes. The public hearing was reconvened on August 1, 2019. During the public hearing process, one citizen spoke regarding the proposed amendments and expressed concern over the proposed increase in lot coverage from 25% to 30% especially on lakefront lots. No other comments, either written or verbal, were received regarding the proposed residential amendments.

Following a discussion regarding whether or not an increase in lot cover from 25% to 30% should apply to nonconforming lots, a motion was made by Commissioner Joshi, seconded by Commissioner Patterson, to recommend to City Council that Ordinance Amendment #18/19-B, Residential Amendments, be approved. The motion was approved 7-1 with Commissioner Fries voting against the motion. Commissioner Fries clarified that he supported all the other proposed residential amendments, but believes a consistent 30% maximum building lot coverage standard should be established for both substandard/nonconforming lots and standard/conforming lots.

Sincerely,

  
Dan Corradini  
Chairman



**NEW BUSINESS:**

1. Election of Officers. Secretary Schimmel asked for nominations for Chairman. Commissioner Joshi nominated Commissioner Corradini for Chairman, supported by Commissioner Patterson. The nomination was unanimously approved 7-0. Commissioner Fries then nominated Commissioner Joshi for Vice-Chairwoman, supported by Commissioner Baldwin. The nomination was unanimously approved 7-0. Commissioner Joshi next nominated Commission Schimmel for Secretary, supported by Commissioner Baldwin. The nomination was unanimously approved 7-0.

**STATEMENT OF CITIZENS/COMMISSIONERS:**

Secretary Schimmel welcomed new Planning Commissioner, Gerald Myer.

7:40 p.m. - The Commission took a short recess.

7:45 p.m. - The Commission reconvened the meeting in City Hall Conference Room No. 1

**NEW BUSINESS:**

1. Ordinance Amendment #18/19-B: Residential Zoning Regulations (preliminary). Mr. Forth referred the Commission to the May 31, 2019 staff report and summarized the proposed amendments to the Zoning Code and Subdivision Regulations. Mr. Forth stated the proposed amendments were intended to provide more flexibility for property owners/developers and to address ongoing issues associated with code implementation by staff.

Mr. Forth and the Commission next reviewed and discussed the various amendments including inclusion definition and references to pergolas and arbors; elimination of R-1E zoning district; residential building height; accessory building size, height, percentage of rear yard coverage, separation from the principal residence, total floor area compared to square footage of principal residence and setback from side/rear property lines; clarification of "vertical projections" into required yards; public street frontage changes; Schedule of Regulation changes pertaining to maximum lot coverage and building height/lot grading changes; extensions of site plan and variance approvals to 12 months and changes to Subdivision Regulations regarding increase of number of lots on cul-de-sac from 20 lots to 30 lots. Commissioner Fries asked for staff to consider changes that would not increase accessory building setback requirements from 3-feet to ½ building height (retain 3-foot setback requirement) and an allowance for either the Transportation and Utilities Department or the Community Development Department to review/approval lot coverage increases to 30% on smaller, substandard lakefront lots.

At the conclusion of this discussion, Mr. Forth indicated that the public hearing to formally considered adoption of these residential zoning regulation amendments would be noticed and scheduled for the July 11, 2019 meeting.

**ADJOURNMENT:**

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Christopher Forth, AICP  
Deputy Director of Planning, Development and Neighborhood Service



**SITE/FINAL PLANS:**

1. Site Plan: Kingdom Sports KidFit Child Care Center, 8151 Merchant Place. Mr. West summarized the staff report dated July 3, 2019 regarding a request by Chris and Stephanie Keenan to construct an approximate 6,300 square foot child care center building and associated site improvements along the northwest portion of the existing Kingdom Indoor Center site. Mr. West discussed the applicant's intent to "bank" a portion of the required parking in greenspace since the peak hours of operation for the existing Kingdom Indoor Center use and the proposed child care center do not conflict. Mr. West indicated that deferment of these parking spaces will reduce the amount of unnecessary pavement until such time that additional parking may be required.

Stephanie Keenan of Kingdom Indoor Center was present to support the site plan. No citizens spoke regarding the proposed child care center building. After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Schimmel, to approve the Site Plan for Kingdom Sports KidFit Child Care Center, 8151 Merchant Place. The motion was unanimously approved 8-0.

**SITE/FINAL PLANS:**

1. Final/Site Plan: American Village Builders (addition), 4200 West Centre Avenue. Mr. West summarized the July 3, 2019 staff report regarding the final/site plan submitted by American Village Builders to construct an approximate 4,000 square foot, two story building addition along the west side of the existing office building located at 4200 West Centre Avenue. Mr. West indicated the proposed building addition would maintain a similar setback from West Centre Avenue as the existing office building, and would be situated outside of the defined wetland area to the north.

Greg Dobson of American Village Builders was present to support the application and explain the development project. No citizens spoke regarding the proposed building addition. After a brief discussion, a motion was made by Commissioner Pezzoli, seconded by Commissioner Baldwin, to recommend to City Council that the Final/Site Plan for American Village Builders (addition), 4200 West Centre Avenue, be approved. The motion was unanimously approved 8-0.

**PUBLIC HEARING:**

1. Preliminary Report: Ordinance Amendment #18/19-B: Residential Amendments. Mr. Forth referred the Commission to the July 5, 2019 staff report and summarized the proposed amendments to the Zoning Code and Subdivision Regulations pertaining to residential land uses. Mr. Forth stated that Community Development has been working with the City Attorney for the past several months to develop these amendments which are intended to provide more flexibility for property owners/developers and to address ongoing issues associated with code implementation by staff. Mr. Forth indicated the proposed amendments were first presented to Planning Commission at the June 6, 2019 meeting where preliminary review and discussion occurred. Based on these preliminary discussions, Mr. Forth stated minimum side and rear yard building setbacks for residential accessory buildings were changed from ½ the building height to 5-feet (current requirement is 3-feet). Mr. Forth also stated the provision for review/approval of lot coverage increases (from 25% to 30%) on substandard lakefront lots by the Director of Transportation and Utilities was retained and indicated that Community Development staff would also be involved with the review.

Mr. Forth then reviewed the proposed amendments, by section, including elimination of the R-1E zoning district, Section 42-112 (Definitions), Section 32-121 (Accessory Uses), Section 42-124 (Projections into required yards), Section 42-125 (Street frontage requirements, development standards for land divisions), Section 42-128 (Lakefront lots), Section 42-139 (Lot grading), Section 42-350 (Schedule of Regulations), various sections pertaining to the length of approvals for site plan, special land use permit and variance (increase to 12 month approval period) and Section 42-803 (Streets) and Section 42-805 (Utilities) of the Subdivision Regulations.

The Commission and staff discussed issues associated with the proposed extension of time for site plan, special land use permit and variance approvals to 12 months, number of lots on a cul-de-sac street and number of lots served by municipal water. The public hearing was then opened by Chairman Corradini. One citizen (James Hudson, 9001 West End Drive) spoke regarding the proposed amendments. Mr. Hudson commended staff and the Commission for the increased flexibility associated with the ordinance amendments, however, expressed concern over the proposed increase in lot coverage from 25% to 30% especially on lakefront lots. Mr. Hudson stated this increase in lot coverage could result in negative impacts associated with higher density/more intensive residential land use, larger residential structures, increases in traffic, diminished lake views and possible accessibility issues for the Fire Department. No citizens were present to speak regarding the proposed residential amendments.

A motion was then made by Commissioner Myer, seconded Commissioner Fries, to adjourn the public hearing for Ordinance Amendment #18/19-B, Residential Amendments to the August 1, 2019 meeting. The motion was unanimously approved 8-0.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

1. Redevelopment Ready Communities – Public Participation Plan. Mr. Forth referred the Commission to the July 5, 2019 staff report and summarized the city's efforts to date to obtain Redevelopment Ready Community (RRC) certification through the Michigan Economic Development Corporation (MEDC). Mr. Forth discussed the three primary steps in the MEDC-RRC certification process which are 1) Engagement, 2) Evaluation and 3) Certification. Mr. Forth indicated that Step 1 (Engagement) was completed after City Council adoption of a resolution in July 2017 and the city's submission of a self-evaluation to the MEDC in November 2017. In regard to Step 2 (Evaluation), Mr. Forth referred the Commission to the MEDC-RRC Baseline Report received from the MEDC on April 15, 2019. Mr. Forth indicated the MEDC report concluded that the City of Portage was already engaged in 68% of the RRC best practices and additional work activities were recommended in areas of developing criteria for identifying and promoting redevelopment ready sites, updating economic development strategies and developing an overarching marketing strategy to promote redevelopment ready sites and economic development in general. Mr. Forth indicated that Step 3 (Certification) comes after successful implementation of the approved RRC best practices. Mr. Forth stated that City Council, on May 7, 2019, adopted a resolution to proceed with the RRC certification process.

Mr. Forth discussed the Public Participation Plan, which was provided to City Council and accepted on June 25, 2019 with the purpose of encouraging citizen input in community-wide planning efforts and the review and approval process for new development and redevelopment projects. Mr. Forth reviewed the various components of this Plan including Objectives, Key Stakeholders, Public Notice Requirements, Planning and Review Entities, Open Meetings, Public Hearings, Methods of Community Participation and Communicating Results. Mr. Forth indicated updates to the Public Participation Plan would be drafted by staff and reviewed and recommended by the Planning Commission as needed, but at a minimum every 5 years in conjunction with the city's Master Plan review.

The Commission and Mr. Forth next discussed various aspects of the MEDC-RRC Baseline Report and the Public Participation Plan. Commissioner Fries stated that he was impressed with the city's scoring criteria on the MEDCRRRC Baseline Report. After additional discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Schimmel, to approved the Public Participation Plan as submitted. The motion was unanimously approved 8-0.

## PLANNING COMMISSION

 **DRAFT**

August 1, 2019

The City of Portage Planning Commission meeting of August 1, 2019 was called to order by Chairman Corradini at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Two citizens were in attendance.

### **PLEDGE OF ALLEGIANCE:**

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

### **IN ATTENDANCE:**

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

### **ROLL CALL:**

Mr. Forth called the role: Myer (yes); Fries (yes); Baldwin (yes); Pezzoli (yes); Schimmel (yes); Corradini (yes); Joshi (yes) and Patterson (yes). A motion was then made by Commissioner Patterson, seconded by Commissioner Schimmel, to approve the role excusing Commissioner Harrell-Page. The motion was unanimously approved 8-0.

### **APPROVAL OF MINUTES:**

Chairman Corradini referred the Commission to the July 11, 2019 meeting minutes contained in the agenda packet. A motion was made by Commissioner Patterson, seconded by Commissioner Joshi, to approve the minutes as submitted. The motion was unanimously approved 8-0.

### **SITE/FINAL PLANS:**

None.

### **PUBLIC HEARING:**

1. Final Report: Ordinance Amendment #18/19-B: Residential Amendments. Mr. Forth referred the Commission to the July 26, 2019 final staff report and summarized the proposed amendments to the Zoning Code and Subdivision Regulations pertaining to residential land uses. Mr. Forth discussed the Planning Commission preliminary review at the July 11, 2019 meeting and one change that was made following further staff review and evaluation. Mr. Forth indicated the revised ordinance amendments contained in the agenda packet have retained the current 25% maximum building lot coverage provision for substandard/nonconforming residential lots (30% lot maximum lot coverage still proposed for standard/conforming residential lots). Mr. Forth stated that since a substandard lot is smaller than a standard lot, staff was concerned about potential impacts including increase storm water runoff and flooding associated with more impervious area on these smaller lots with less remaining greenspace. Mr. Forth also mentioned the side yard setback for substandard lots reduces to five feet and there are other impervious surfaces, such as driveways, walkways, patios and uncovered/unenclosed decks/porches that are not included in lot cover calculations. Mr. Forth indicated additional information regarding this issue was requested by Commissioner Fries earlier in the day and a staff response was provided in an email communication sent to all Commissioners and a hard copy provided to Commission members prior to the start of the meeting.

The public hearing was reconvened by Chairman Corradini. No citizens spoke regarding the proposed amendments. A motion was then made by Commissioner Schimmel, seconded by Commissioner Baldwin, to close the public hearing. The motion was unanimously approved 8-0.

Commissioner Fries discussed his observations with home construction and lot coverage involving the smaller substandard lots and stated that he believes a 30% maximum lot coverage standard should be applied consistently for both substandard/nonconforming lots and standard/conforming lots. In cases of smaller substandard lots around the lakes, Commissioner Fries indicated that property owners will often opt for more house square footage, while reducing the size of the accessory garage and increasing the area of paved driveway/parking area to store vehicles and boats. Under this scenario, Commissioner Fries stated an increase in maximum building lot coverage from 25% to 30% for substandard lots would likely not increase the overall amount of impervious area across the site. Commissioner Fries also stated that the Building Code and Zoning Code require each property owner to properly maintain storm water runoff regardless of the amount of building lot coverage that is present at the site.

Mr. Forth summarized the staff recommendation regarding this issue and briefly reviewed Zoning Board of Appeals variance requests for increase in maximum lot coverage over the past 25 years. Mr. Forth stated that 20 variance requests over the past 25 years have involved maximum lot coverage on substandard/nonconforming lot (less than one per year on average). The Zoning Board of Appeals approved 17 of the 20 requests while staff only recommended approval of six requests. Mr. Forth indicated that substandard lots already have reduced building setbacks and staff was concerned with allowing additional lot coverage and resulting impervious area on these substandard lots that may result in storm water runoff and/or flooding problems. Commissioner Patterson shared his observations as a builder and indicated he supported the staff position to retain the 25% lot coverage standard for substandard/nonconforming lots. Commissioner Patterson stated variance requests to exceed 25% lot coverage for substandard/nonconforming lots could continue to be reviewed and evaluated on a case-by-case basis by the Zoning Board of Appeals. Commissioner Joshi stated she also concurs with the staff position regarding this issue and was concerned that an increase in lot coverage for these smaller substandard/nonconforming lots could potentially increase storm water runoff and flooding, especially around the lakes.

There being no further discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Patterson, to recommend to City Council that Ordinance Amendment #18/19-B, Residential Amendments, be approved. The motion was approved 7-1 with Commissioner Fries voting against the motion. Commissioner Fries clarified that he supported all the other proposed residential amendments, but believes a consistent 30% maximum building lot coverage standard should be established for both substandard/nonconforming lots and standard/conforming lots.

**NEW BUSINESS:**

None.

**OLD BUSINESS:**

None.

**STATEMENT OF CITIZENS/COMMISSIONERS:**

Chairman Corradini asked each Commissioner if they had any closing statements or comments:

- Commissioner Joshi thanked Mr. Hudson for his observations and comments regarding the proposed residential Zoning Code amendments.
- Commissioner Patterson commented on the beautiful weather and the opportunity for Portage residents to experience entertainment events at the Overlander Bandshell.
- Other Commissioners did not have any closing statements or comments.

**TO:** Planning Commission

**DATE:** July 26, 2019

**FROM:** Vicki Georgeau, Director of Community Development

**SUBJECT:** Final Report, Ordinance Amendment 18/19-B, Residential Amendments

## **I. INTRODUCTION**

Over the past several months, staff and the City Attorney have been preparing a number of Zoning Code amendments (primarily pertaining to residential land uses) that are intended to provide more flexibility for property owners/developers and to address ongoing issues associated with code implementation by staff. The more substantive changes are summarized below:

- 1) Regulation of accessory buildings in a more flexible manner so fewer residential property owners have to obtain variances to use their property in a manner that meets current household needs.
- 2) Increasing the residential building height for properties with less than 80 feet of lot width to facilitate desirable architectural design and better address lifestyle changes. An increase in building height is also consistent with many other comparable communities in Kalamazoo County and other areas of the state. With regard to lakefront lots where the demand for a 2-story walkout is high, an increase in height will avoid the practice of artificially changing the grade which may adversely impact adjacent properties.
- 3) Increasing the height of non-residential buildings in locations that have little impact on adjacent properties and neighborhoods.
- 4) Clarification on permissible projections into required yards, including barrier-free ramps for persons with disabilities;
- 5) Allowing increased flexibility to develop land without 60 feet of frontage on a public street (or 50 feet on a cul-de-sac), while ensuring alternative development patterns occur in an orderly fashion and in a manner that provide accessibility for public safety purposes;
- 6) Adding language regarding lot grading and maintenance to ensure storm water does not adversely impact neighboring properties, which is an increasingly relevant issue with more frequent and heavy rain events;
- 7) Increasing the time from for site plan approval and variance approval from 6 to 12 months to avoid additional bureaucratic review for development projects that are not built in what is a very short time frame;

Following the July 11, 2019 public hearing, staff reviewed/evaluated the proposal to increase the percent of lot coverage involving nonconforming lots (lots that don't meet the minimum zoning district requirement for width and/or area) from 25% to 30%. Since these lots are smaller than a standard size lot and, as a result, the impacts of increasing the amount of impervious area greater, staff has revised the ordinance language to retain 25% lot coverage for substandard or nonconforming lots.

## II. PROPOSED AMENDMENTS

The following specific sections of the Zoning Code have been revised and a brief summary/rationale for the change has been provided. For additional detail on the specific language of each change, a highlight and strike version of the ordinance is attached for Commission review.

1. Reference to the large lot R-1E single family residential zoning district has been deleted from the following sections of the Zoning Code. It was established in 2003 and no land area has ever been zoned R-1E.
  - 42-121.B.1 – Accessory Uses
  - 42-135.K – Wireless telecommunications facilities and towers
  - 42-160 – Districts established
  - 42-180 – Intent
  - 42-181 – Principal permitted uses
  - 42-182 – Special land uses
  - 42-350.A – Schedule of regulations
  - 42-484.I.2 – General Requirements (Signs)
  - 42-545. – R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts. (Signs)
2. Section 42-112 - Definitions. Definitions for Arbor and Pergola were added to clarify these types of structures are permitted without being counted towards building lot cover, and minimum setback distances from property lines. Also, the definition of building height was revised consistent with current method of calculating building height.
3. Section 42-121 – Accessory Uses.
  - A.2: The separation distance between an accessory building and main building has been reduced from 10 feet to 5 feet consistent with the Building Code.
  - B.1.a: Accessory building height has been increased to 16 feet due to numerous variance requests from homeowners. Also, requests to exceed 16 feet are proposed to be reviewed by the Planning Commission and not the Zoning Board of Appeals.
  - B.1.b.1: The size of an accessory building is proposed to be based on 20% of the entire rear yard, and not just the required rear yard. This would allow for a slightly larger building and would provide a more equal standard for narrow, long lots, in comparison to wide lots. If located in the side or rear yard, the setback is proposed to be increased from three feet to five feet. A larger building is proposed to be permitted so a slightly greater setback distance from the property line is appropriate. Existing accessory buildings that do not meet the revised setback standard would be considered legally nonconforming. However, if such building was destroyed by an act of God or public enemy, it could be reconstructed to its original location within 18 months.
  - B.1.b.2: This subsection is proposed to be deleted since the size of an accessory building in the rear yard is proposed to be based on the entire rear yard area.
  - B.1.b.2: (Renumbered from 3 to 2 since the previous section is proposed to be deleted). The total floor area of accessory buildings is proposed to be based on the

ground floor area of main building, plus half of the second story. This change will permit more accessory building area for two-story houses, and a more equal standard in comparison to one-story houses with a larger ground floor.

- B.1.b.3: Currently, a public hearing is not required to exceed the floor area of the main building. A public hearing is now proposed consistent with the current practice of notifying property owners within 300 feet.
- B.2.a-c: Subsections a, b, and c were combined into one (refer to B.2.b.).
- B.2.a: Consistent with the requirements applicable to non-lakefront lots, this subsection clarifies limitations on the total floor area of all accessory buildings also apply to lakefront lots.
- B.3: The current minimum setback requirement in the RM-1 and RM-2, multi-family districts for an accessory building located in the rear yard is three feet from a side or rear property line. Consistent with B.1.b.1 above, this section is proposed to be revised to require the minimum setback distance be increased from three feet to five feet.

#### 4. Section 42-124 - Projections into required yards

- A.4: Subsection (4) was added to address numerous front yard setback variance requests for barrier-free ramps.
- B: The current language of subsection (B) refers to a vertical projection, which has been difficult to interpret. For clarity purposes, vertical projection is proposed to be deleted and chimney added as an example. Cantilevered wall is excluded from an architectural feature since it could result in an entire wall of a building.
- C: This subsection was deleted and divided into two separate subsections for clarity purposes (refer to (D) & (E)).
- C: Subsection (C) was added to allow an egress landing and stairs in the side yard setback area as a result of numerous homeowner requests.

#### 5. Section 42-125 - Street frontage requirements; development standards for land divisions.

- A. & B. These subsections were revised to clarify that the width of frontage requirements extend to the front setback line or building line, whichever is greater. In addition, the revisions allow parcels without public street frontage if the following conditions are met:
  - Recordable access and utility easement with a width of not less than 20 feet.
  - The easement area must be improved with asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds.
  - If the access and utility easement is shared by more than one parcel or owner, a maintenance agreement must also be recorded.
  - No more than four parcels can be created from a parent parcel without frontage on a public street.

Sections 42-743.8 – Application requirements (Land Divisions) and 42-745.5 – Review of application; criteria for approval (Land Divisions) were also revised to include consistent language related to street frontage requirements.

- C. The phrase "...with public infrastructure improvements..." was added to clarify this section is applicable only when public infrastructure improvements are proposed.
6. Section 42-128 – Lakefront lots
- D: Pergolas, arbors and similar structures are allowed in the lakeside yard provided there are no walls, only support posts, and the structures do not exceed eight feet in height
7. Section 42-139 – Lot grading
- Lot grading is a new section to ensure lots are properly graded and maintained to prevent surface water and erosion problems.
8. Section 42-350 – Schedule of regulations
- A: In the table, the following changes were made as a result of many variance and property owner requests. The changes in building height and percent lot coverage is also consistent with other area communities.
    - Building height has been increased for lots with less than 80 feet of width in the R-1A – R-1D district from 25 to 30 feet and in the B-1 district from 25 to 35 feet.
    - Maximum lot cover may be increased from 25 to 30% (excluding nonconforming lots) but it is subject to review and approval by the Director of Transportation and Utilities to ensure storm water drainage and related impacts are properly addressed. Also, an increase to 30% would permit slightly larger ranch-style dwellings that address increasing needs for aging-in-place accommodations, mother-in-law suites and larger accessory buildings. An increase to 30% is also consistent with other comparable communities.
  - B.2.b.i: The rear yard setback for a lot that has less than the required area has been increased from 3 feet to 30 feet to correct an apparent typographical error
  - B.3: This footnote has been revised to clarify that for lots with more than 80 feet in width, the number of stories and building height can be increased to 3 and 40 feet, respectively, consistent with an amendment to the code in March 1993.
  - B.4: "...unless otherwise permitted in this article" was added for clarity purposes.
  - B.5: The following changes were made to this subsection:
    - "...on February 18, 2003" was added for clarity purposes.
    - In the table, the method in which to determine the minimum living area of 1½ and 2-story dwellings has been modified. The change eliminates a minimum area per floor (story) and a combined total area of each floor is now proposed. This change provides more flexibility with building design and construction.
    - Consistent with the changes in the table, floor area requirements for tri and bi-level dwellings has been deleted. The minimum floor area is the combined total floor area of each level not classified as a basement (more than 50% below grade). Since all non-basement levels are computed in the total floor area, bi and tri-level dwellings must meet the minimum area requirement for a two story residence in the same district.

- B.6.b: Building height in the RM-1 and RM-2 district was changed from 25 to 30 feet when abutting a single-family residential district and from 30 feet to 35 feet after Planning Commission review and approval. Construction of a two-story, multi-family residential building with the maximum height limited to 25 feet is challenging from a design perspective. Also, this change is consistent with the height and number of stories of single-family residential dwellings (40 feet and three stories).
  - B.6.c: Building height in all other zoning districts was changed from 25 to 30 feet and from one story to two stories when abutting a single-family residential district for the reasons noted above.
  - B.10: The exterior side yard setback for a structure located in the OS-1, office service district (when abutting a single-family residential district) was changed to from 10 feet to 15 feet to correct an inconsistency between the table in 42-350.A, which indicates 15 feet and footnote 10, which indicates 10 feet.
9. In the following Zoning Code sections, expiration of plan or Board/Commission approval is proposed to be extended to 12 months to allow applicants more time to prepare site plans, construction related documents or assemble other related material:
- Section 42-375 – Plan review and approval (PD, Planned Development).
  - Section 42-394.H.b – Plan review and approval (OTR, Office Technology and Research);
  - Section 42-414.I - Plan review and approval (Commercial Planned Development).
  - Section. 42-438.H.2 - Development project review and approval (CCA, City Center Area)
  - Section. 42-443.H.2 - Development project review and approval (CCMU, Commercial Corridor Mixed Use).
  - Section. 42-461.E.4 - Application and review procedures (Special Land Use Permit).
  - Section. 42-484.C – Site Plan Approval.
  - Section. 42-623. – Public hearings, voting, and decisions (Zoning Board of Appeals).
10. Section. 42-803. – Streets (Subdivision Regulations).
- i: This section is proposed to be revised to increase the number of residential lots on a cul-de-sac from 20 to 30 consistent with the International Fire Code.
11. Section. 42-805. – Utilities (Subdivision Regulations).
- c.5 & 6: These two sections are proposed to be changed to increase the number of residential units/lots served by municipal water from 20 to 30 consistent with the proposed increase in the number of lots permitted on a cul-de-sac per the International Fire Code.

### III. PUBLIC HEARING/COMMENT

The Planning Commission convened a public hearing during the July 11, 2019. One citizen, James Hudson, 9001 West End Drive, spoke regarding the proposed amendments. Mr. Hudson commended staff and the Commission for the increased flexibility associated with the ordinance amendments; however, expressed concern over the proposed increase in lot coverage from 25% to

30% especially on lakefront lots. Mr. Hudson stated this increase in lot coverage could result in negative impacts associated with higher density/more intensive residential land use, larger residential structures, increases in traffic, diminished lake views and possible accessibility issues for the Fire Department. No other comments, either written or verbal, were received regarding the proposed residential amendments.

### **III. RECOMMENDATION**

Based on the above analysis and subject to any comments received during the August 1, 2019 public hearing, the Planning Commission is advised to recommend to City Council that Ordinance Amendment 18/19-B, Residential Amendments, be approved.

Attachment: Draft Ordinance Amendment (highlight/strike and clean versions)

## HIGHLIGHT AND STRIKE VERSION

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SEC. 42-112, DEFINITIONS; 42-121, ACCESSORY USES; 42-124, PROJECTIONS IN REQUIRED YARDS; 42-125, STREET FRONTAGE REQUIREMENTS; DEVELOPMENT STANDARDS FOR LAND DIVISIONS; 42-128, LAKEFRONT LOTS; 42-135, WIRELESS TELECOMMUNICATIONS FACILITIES AND TOWERS; 42-139, LOT GRADING; 42-160, DISTRICTS ESTABLISHED; 42-180, INTENT; 42-181, PRINCIPAL PERMITTED USES; 42-182, SPECIAL LAND USES; 42-350, SCHEDULE OF REGULATIONS; 42-375, PLAN REVIEW AND APPROVAL (PD, PLANNED DEVELOPMENT); 42-394, PLAN REVIEW AND APPROVAL (OTR, OFFICE TECHNOLOGY AND RESEARCH); 42-414, PLAN REVIEW AND APPROVAL (COMMERCIAL PLANNED DEVELOPMENT); 42-438, DEVELOPMENT PROJECT REVIEW AND APPROVAL (CCA, CITY CENTER AREA); 42-443, DEVELOPMENT PROJECT REVIEW AND APPROVAL (CCMU, COMMERCIAL CORRIDOR MIXED USE); 42-461, APPLICATION AND REVIEW PROCEDURES; 42-484, SITE PLAN APPROVAL; 42-542, GENERAL REQUIREMENTS; 42-545, R-1A, R-1B, R-1C, R-1D, R-1E AND R-1T DISTRICTS; 42-623, PUBLIC HEARINGS, VOTING, AND DECISIONS; 42-743, APPLICATION REQUIREMENTS; 42-745, REVIEW OF APPLICATION; CRITERIA FOR APPROVAL; 42-803, STREETS; 42-807, LOTS OF ARTICLE 4, ZONING, OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended as follows:

### ARTICLE 4. ZONING.

Sec. 42-112. – **Definitions**, shall be amended as follows.

Arbor: A freestanding structure that typically serves as a passageway to a yard or garden. The sides of an arbor are either open or covered with lattice or trellis. The roof of an arbor is open consisting slatted members. An arbor shall not be considered an accessory building for the purpose of lot cover and setback from the main building.

*Building height:* The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs, and to the average height between the highest eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average grade.

Pergola: A freestanding structure supported by columns or posts with a roof that is more than 50% open. A pergola shall not be considered an accessory building for the purpose of lot cover and setback from the main building.

Sec. 42-112. A definition of building height was revised consistent with current application of the code.

Definitions for Arbor and Pergola were added to clarify these types of structures are permitted and minimum setback distances from property lines.

Sec. 42-121. - **Accessory uses.**

A. *General requirements.*

1. No Change.

2. No detached accessory building or structure shall be located closer than ~~ten~~ five feet to a main building or other accessory building or structure on the same lot unless the minimum fire separation requirements of the last adopted edition of the Building Code are met.
3. through 4. - No Change.

The separation distance between an accessory building and structure has been reduced from 10 feet to 5 feet consistent with the Building Code.

B. Accessory buildings—Residential zoning districts.

1. Non-lakefront lots: The following applies to accessory buildings and uses on non-lakefront lots in the R-1A one-family residential, R-1B one-family residential, R-1C one-family residential, R-1D one-family residential, ~~R-1E, estate residential~~ or R-1T attached residential districts. These requirements shall also apply to one family dwellings constructed in the RM-1 and RM-2 districts.

42-121.B.1 Reference to the R-1E single family residential zoning district has been deleted from all sections of the Zoning Code. It was established in 2003 and no land area has ever been zoned R-1F

- a. No detached accessory building shall exceed ~~14~~ 16 feet in height except, after a public hearing, the height of the building may be increased if the planning commission determines that the topography, natural features or other land use characteristics, including the distance of the proposed building from adjacent residential structures, adequately mitigate adverse impacts upon any adjacent single-family residential use.

42-121.B.1.a Accessory building height has been increased to 16 feet due to several requests from homeowners. Requests to exceed 16 feet are proposed to be reviewed by the Planning Commission and not the Zoning Board of Appeals

b. Maximum floor areas:

1. Except as noted in (2) and 3 below, each detached accessory building shall have a maximum floor area not greater than 20 percent of ~~a required~~ the rear yard. Accessory buildings on these lots may be located within a required rear or side yard, but not closer than ~~three~~ five feet to any side or rear lot line. Accessory buildings in the front yard shall meet the setbacks required for the main building.

42-121.B.1.b.1. The size of an accessory building is proposed to be based on 20% of the entire rear yard, and not just the required rear yard. This would allow for a slightly larger building and would provide a more equal standard for narrow, long lots, in comparison to wide lots. The setback is proposed to be based on the height of the building.

- ~~2. On nonconforming residential lots, the maximum floor area of all detached accessory buildings shall not exceed 20 percent of the total rear yard area. Accessory buildings on these lots may be located within a required rear yard, but not closer than three feet to any side or rear lot line.~~

42-121.B.1.b.2. Since the size of an accessory building in the rear yard is proposed to be based on the entire rear yard area, subsection 2 can be deleted

- ~~3~~ 2. The total floor area of all accessory buildings, including those attached to the main building, shall not exceed the ground floor area of the main building plus 50 percent of the second story, provided that breezeways or enclosed porches are not counted in computing the total floor area of an accessory(s) or main building.

42-121.B.1.b.2. The total floor area of accessory buildings is proposed to be based on the ground floor area of main building, plus half of the second story. This change will permit more accessory building area for two-story houses, and a more equal standard in comparison to one-story houses with a larger ground floor.

3. The floor area of accessory buildings may exceed the ground floor area of the main building plus 50 percent of the second story when the residential lot or parcel ~~is unplatted with an~~ has an area of two acres or more. However, when the floor area of the accessory building exceeds the ground floor area of the main building plus 50 percent of the second story, the accessory building and use shall be subject to the approval of the planning commission after a public hearing. To ensure harmonious relationships and to minimize conflicts between adjacent uses, the commission shall consider the proposed characteristics and uses of the building in relation to existing land uses and to the future

42-121.B.1.b.3. Currently, a public hearing is not required to exceed the floor area of the main building. A public hearing is now proposed.

land uses as shown in the comprehensive plan. The commission may attach requirements to such accessory building and use when it deems necessary to avoid or mitigate adverse impacts on surrounding properties. This section does not apply to agricultural uses.

2. Lakefront lots: The following applies to accessory buildings on lakefront lots in any residential district.

- ~~a. Not more than one detached accessory building is permitted in the rear (lake side) yard.~~
- ~~b. The permitted accessory building shall not exceed 80 square feet in area and eight feet in height, measured from the average grade at the accessory building location to the highest point of the accessory building.~~
- ~~c. The permitted accessory building shall be located not closer than ten feet to any side property line and three feet to the rear property line in the rear (lake side) yard.~~

42-121.B.2. Subsections a, b, and c were combined into one (refer to subsection b).

- a. The total floor area of all accessory buildings shall not exceed the ground floor area of the main building plus 50 percent of the second story, provided that breezeways or enclosed porches are not counted in computing the total floor area of a detached accessory(s) or main building.
- b. Not more than one detached accessory building is permitted in the rear (lake side) yard and shall not exceed 80 square feet in area and eight feet in height, measured from the average grade at the accessory building location to the highest point of the accessory building. The permitted accessory building shall be located not closer than ten feet to any side property line and three feet to the rear property line in the rear (lake side) yard.
- dc. Boathouses, docks and other similar structures that are situated in whole or in part in the water are not regulated by this section.
- e-d. All buildings and structures, including fences, that were in existence in the rear (lake side) yard prior to January 30, 1987, shall be allowed to continue and shall be considered to be nonconforming structures and buildings.

42-121.B.2.a. Subsection (a) was added to limit the total floor area of all accessory buildings consistent with non-lakefront lots.

3. RM-1 and RM-2 districts: A detached accessory building accessory to uses permitted in these districts may be located within a required rear yard not closer than ~~three~~ **five** feet to any side or rear lot line, except that community recreation or meeting facilities shall meet the setback requirements applicable to main buildings for the district. One-family dwellings shall comply with the provisions of section 42-121.B.1.

42-121.B.3. The setback is proposed to be increased from three to five feet.

**Sec. 42-124. - Projections into required yards.**

- A. Porches, terraces and decks through 1. through 3. No change
- 4. Ramps for the purpose of providing barrier free access to a dwelling can project to within 10 feet of the front property line.

42-124.A.4. Subsection (4) was added to address numerous variance requests for barrier-free ramps.

42-124.B. In Subsection (B), vertical projection was difficult to define so it is proposed to be deleted and chimney added as an example. Cantilevered wall is excluded from an architectural feature since it could result in an entire wall of a building.

B. An architectural feature, such as a chimney but not including a vertical projection cantilevered wall, may extend or project into a required side yard not more than two inches for each one foot of width of the side yard, and may extend or project not more than three feet into a required front yard or rear yard.

~~C. For the purpose of this article, an access drive may be placed in a required front or side yard so as to provide access to the rear yard and/or an accessory or attached structure. These drives shall be considered a permitted encroachment into a front or side yard. For the purpose of this article, any walk, terrace or other pavement serving a similar function, not in excess of nine inches above the grade upon which placed, shall not be considered a structure and shall be permitted in any required yard.~~

C. In the one-family residential districts, a landing and stairs for egress purposes less than 30 inches above grade may project into the side yard not more than 36 inches or as regulated by the last adopted edition of the city's building code.

~~D. For the purpose of this article, an access drive may be placed in a required front or side yard so as to provide access to the rear yard and/or an accessory or attached structure. These drives shall be considered a permitted encroachment into a front or side yard.~~

E. For the purpose of this article, any walk, terrace or other pavement serving a similar function, not in excess of nine inches above the grade upon which placed, shall not be considered a structure and shall be permitted in any required yard.

42-124.C Subsection (C) was deleted and divided into two separate Subsections (refer to (D) & (E) below.

42-124.C. Subsection (C) was added to allow an egress landing and stairs in the side yard setback area.

#### Sec. 42-125. - Street frontage requirements; development standards for land divisions.

~~A. This section is intended to preclude the development of private streets where land divisions are proposed, and to establish review and approval criteria for land divisions and developments not otherwise regulated.~~

~~B. A. Any parcel of land which is to be occupied by a use or building shall have a minimum of 60 feet of frontage on a public street or 50 feet of frontage on a public cul-de-sac, and shall further meet the lot width and setback requirements for the zoning district in which it is located. The public street shall be paved and adequate drainage provided therefor.~~

meet at least one of the following street frontage requirements:

1. Maintain a minimum of 60 feet of public street frontage, or a minimum of 50 feet of public street frontage on a cul-de-sac, to the front setback or building setback line, whichever is greater. The public street shall be paved and adequate drainage provided therefor; or
2. For a parcel that does not have the above required frontage on a public street, an access and utility easement with a width of not less than 20 feet to the front setback or building setback line, whichever is greater, shall be recorded with the Kalamazoo County Register of Deeds. Such recorded easement shall be provided to the Director simultaneously with the Register of Deeds filing. The access easement shall be a perpetual, irrevocable easement appurtenance over the burdened property, providing unobstructed access to the public street for the benefitting parcel. The utility easement shall also be perpetual, irrevocable and provide any public utility the ability and right to install all utilities on the burdened property. The 20 foot easement shall be improved with asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds. If the access and utility easement is shared by more than one parcel or owner, a maintenance agreement shall also be recorded providing for the rights and obligations of the parties regarding installation, maintenance and repair as well

42-125.A. Subsection (A) was deleted and a new Subsection (A) added to allow parcels without public street frontage if certain conditions are met.

as apportionment of costs and expense for infrastructure and/or improvement on the easement.

B. A parent parcel cannot be divided to create more than four resulting parcels without the required frontage on a public street. Each parcel shall further meet the lot width and setback requirements for the zoning district in which it is located.

C. Residential, commercial or industrial developments which result in land divisions with public infrastructure improvements, except lands divided pursuant to the Land Division Act (MCL 560.101 et seq., MSA 26.430(101) et seq.) and article V, Subdivision and Land Division Requirements, of this chapter, shall be subject to subsection B of this section and to the following conditions:

1. through 3. No change

42-125.C was revised to clarify it is applicable only when public infrastructure improvements are proposed

**Sec. 42-128. - Lakefront lots.**

A. and C. No change.

D. Pergolas, arbors and similar structures over nine inches in height above grade are permitted in the lakeside yard provided there are no walls, only support posts, and the structures do not exceed eight feet in height.

42-128.D. Pergolas, arbors and similar structures are allowed in the lakeside yard with conditions

**Sec. 42-135. - Wireless telecommunications facilities and towers.**

A. through J. No change.

K. Separation:

In Table 1 below, reference to R-1E has been deleted.

1. and 2. No change. Table 1- Setback and Separation Requirements  
For New Telecommunication Tower Construction

District of Tower Location <sup>1</sup>	Special land Use Required	Minimum Setbacks	Any Residential District or Use	OS-1, OTR, B-2, B-3, CPD, or P-1 Districts	I-1, I-2 Districts
R-1A, R-1B, R-1C, R-1D, <del>R-1E</del> , R-1T, MHC PD <sup>1</sup>		Front: 30 ft. Side: 12 ft. Rear: 40 ft.	No separation requirements if alternative tower structure is utilized.		
RM-1, RM-2, OS-1, OTR, B-1 <sup>1</sup>		Front: 30 ft. Side: 12 ft. Rear: 12 ft.			
B-2, B-3, CPD, P-1	Yes	Front: 30 ft. (except B-2-75 ft.) Side: 12 ft. Rear: 12 ft.	1,320 ft.	Greater of: 100 ft. or 100% of tower height	20% of tower height
			No separation requirements if alternative tower structure is utilized		
I-1, I-2		Front: 75 ft. Side/Rear: None; separation requirements only	200 ft.	Greater of: 100 ft. or 100% of tower height	20% of tower height
			No separation requirements if alternative tower structure is utilized.		

<sup>1</sup> Alternative tower structure required: Alternative design mounting structures that camouflage or conceal the presence of antennas and/or towers, see Section 42-135.C for definition.

**Sec. 42-139. – Lot Grading.**

Required yard space, as determined by the minimum setback requirements, shall be at an elevation to ensure surface water drains away from the foundation walls in accordance with the last adopted edition of the Residential Building Code. Yards shall be graded and maintained to prevent the accumulation of surface water on the property outside of designated storm water detention areas and not increase the natural flow or runoff of surface water onto adjacent properties.

42-139. Lot grading was added to ensure lots are properly graded to prevent surface water problems.

**Sec. 42-160. - Districts established.**

For the purpose of this article, the city is hereby divided into the following districts:

Zoning Map Designation	District Title (See also Division 4, Subdivision 10)
R-1A	One-Family Residential (Lot area: 7,800 to 15,000 sq. ft.)
R-1B	One-Family Residential (Lot area: 9,600 to 15,000 sq. ft.)
R-1C	One-Family Residential (Lot area: 12,000 to 15,000 sq. ft.)
R-1D	One-Family Residential Lot area: 12,000 to 28,000 sq. ft.)
<del>R-1E</del>	<del>Estate Residential (Lot area: 1 acre)</del>
R-1T	Attached Residential
RM-1	Multifamily Residential (High Density)
RM-2	Multifamily Residential (Medium Density)
OS-1	Office Service
B-1	Local Business
B-2	Community Business
B-3	General Business
CPD	Commercial Planned Development
OTR	Office Technology Research
I-1	Light Industrial
I-2	Heavy Industrial
P-1	Vehicular Parking
MHC	Manufactured Home Community
PD	Planned Development

42-160. In the table to the left, reference to R-1E has been deleted.

**Subdivision 2. - R-1A, R-1B, R-1C, ~~and~~ R-1D ~~and~~ ~~R-1E~~ One-Family Residential Districts**

**Sec. 42-180. - Intent.**

The R-1A through R-1~~E~~ D one-family residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density single-unit dwellings along with other residentially related facilities that serve the residents in the district. Further, the intent of these regulations is to protect residential neighborhoods from incompatible land uses and associated effects.

In Sections 42-180, 42-181 and 42-182, reference to R-1E has been deleted.

**Sec. 42-181. - Principal permitted uses.**

In a one-family residential district (R-1A through R-1~~E~~ D), no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

- A. thru H. - No change.

**Sec. 42-182. - Special land uses.**

The following uses may be allowed in a one-family residential district (R-1A through R-1~~E~~ D), subject to the conditions imposed in this Section for each use, and subject further, to the review and approval of the planning commission in accordance with the provisions of division 5, subdivision 1 of this article:

- A. thru J. - No change.

In the table below, the following changes were made:  
 1. Reference to the R-1E district has been deleted  
 2. Building height has been increased in the R-1A – R-1D district from 25 to 30 feet and in the B-1 district from 35 to 35 feet.  
 3. Maximum lot cover has been increased from 25 to 30% subject to review and approval by the Director of Transportation and Utilities

**Subdivision 10. - Schedule of Regulations**

**Sec. 42-350. - Schedule of regulations.**

A. Schedule of regulations: The following schedule sets forth regulations regarding building height, bulk, density and area for the zoning districts as indicated. Numbers in parentheses are footnotes and apply as explained.

Zoning District	Minimum Lot Area Per Dwelling Unit (sq. ft./lot width in feet (1))			Maximum Building Height in feet		Minimum Yard Setback in feet (2)			Minimum Floor Area Per Unit (sq. ft.)	Maximum Lot Coverage (20)
	With Sewer & Water	With Sewer or Water	Without Sewer & Water	Stories	Height	Front	Side	Rear		
R-1A One-Family Residential	7,800/65	12,000/80	15,000/100	2 (3)	3025 (3)	27	8(4)	40	(5)	25%
R-1B One-Family Residential	9,600/80	12,000/80	15,000/100	2 (3)	3025 (3)	30	10(4)	40	(5)	25%
R-1C One-Family Residential	12,000/100	12,000/100	15,000/100	2 (3)	3025 (3)	30	12(4)	40	(5)	25%
R-1D One-Family Residential	12,000/100	12,000/100	28,000/120	2 (3)	3025 (3)	30	12(4)	40	(5)	25%
<del>R-1E One-Family Residential</del>	<del>43,560/150</del>	<del>43,560/150</del>	<del>43,560/150</del>	<del>2 (3)</del>	<del>25 (3)</del>	<del>40</del>	<del>20(4)</del>	<del>60</del>	<del>(5)</del>	25%
R-1T Attached Residential	6,000/40	9,000/60	9,000/60	2	3025(6)	30	10(4)	40	850	25%
RM-1 & RM-2 Multi-family Residential	(7)	8,000	8,000	3	35(6)	30(8)	30(8) (4)	30(8)	1 BR: 500, 2 BR: 700, 3 BR: 900, 4 BR: 1,100	25%
OS-1 Office Service	—	—	—	—	35(6)	27(9)	15(10)(4)	20(11)	—	—
OTR Office Technology Research	(12)	—	—	—	35(6)	50(13)	50(13) (14) (4)	50(13)	—	25%
B-1 Local Business	—	—	—	—	3525(6)	27(9)	(10)(4)	20(11)	—	25%
B-2 Community Business	—	—	—	—	35(6)	75(9)(15)	(15)(4)	(11)(15)	—	—
B-3 General Business	—	—	—	—	35(6)	30(9)	(10)(4)	20(11)	—	—
CPD Commercial Planned Development	(16)	—	—	—	35(6)	(15)	(15)(4)	(11)(15)	—	25%
I-1 Light Industrial	—	—	—	—	40(6)	75(17)(18)	75(17)(19)(4)	(11)(17)(19)	—	—
I-2 Heavy Industrial	—	—	—	—	60(6)	100(17)(18)	100(17)(19)(4)	(11)(17)(19)	—	—
MHC, Mobile Home Community	See Division 4, Subdivision 8 for regulations pertaining to this zoning district									
PD, Planned Development	See Division 4, Subdivision 11 for regulations pertaining to this zoning district									
P-1, Parking	See Division 4, Subdivision 14 for regulations pertaining to this zoning district									

B. Footnotes to Schedule of regulations:

1. No change.
2. No change:
  - a. No change;
  - b. For lots with less than the required area, setbacks shall not be less than the following:
    - i. ~~Thirty~~ **Three** feet to the rear line;
    - ii. No change
    - iii. No change
3. R-1A, R-1B, R-1C, ~~and R-1D and R-1E~~ one-family residential districts. The number of stories and maximum height of any residential structure on lots of 80 feet or more in width shall **not exceed three stories and 40 feet in height.** ~~be regulated by the last adopted edition of the city's building code.~~
4. The side yard facing the street shall not be less than the minimum front yard of the district in which it is located, **unless otherwise permitted in this article.**
5. The following minimum floor area requirements apply to each residence hereafter erected. Any structure existing as of the date of the adoption of this Article **on February 18, 2003** and not meeting the requirements of this subsection shall not be prevented from being reconstructed and, for the purpose of this article, therefore, shall not be considered nonconforming.

42-350.B.2.b.1. The rear yard setback for a lot that has less than the required area has been increased from 3 feet to 30 feet to correct an apparent typographical error

42-350.B.3. Reference to R-1E has been deleted and the number of stories and building height clarified at 3 and 40 feet, respectively, consistent with an amendment to the code in March 1993.

42-350.B.4 "...unless otherwise permitted in this article" was added for clarity purposes.

42-350.B.5. "...on February 18, 2003" was added for clarity purposes.

In the table below, the method in which to determine the minimum area of 1½ and 2-story single family residential dwellings has been modified. The change eliminates a minimum area per floor (story) and a combined total area of each floor is now proposed. This change is based on changes in home design/construction that provide more living/utility area on the ½ or second story. Also, the R-1E district has been deleted from the table.

Residence Type	Zoning District							
	(with basement of at least 440 sq. ft.)				(with basement less than 440 sq. ft.)			
	R-1A	R-1B	R-1C &D	<del>R-1E</del>	R-1A	R-1B	R-1C&D	<del>R-1E</del>
1 story	1,040	1,280	1,600	<del>2,000</del>	1,120	1,360	1,600	<del>2,000</del>
1 1/2 story	<del>880</del> <b>1,100</b>	<del>1,080</del> <b>1,340</b>	<del>1,280</del> <b>1,680</b>	<del>1,800</del>	<del>960</del> <b>1,180</b>	<del>1,160</del> <b>1,500</b>	<del>1,300</del> <b>1,700</b>	<del>1,800</del>
1 1/2 story, 2 <sup>nd</sup> floor	212	260	400	600	212	340	400	600
2 story, 1 <sup>st</sup> floor	<del>720</del> <b>1,440</b>	<del>900</del> <b>1,800</b>	<del>1,000</del> <b>2,000</b>	1,200	<del>800</del> <b>1,520</b>	<del>980</del> <b>1,880</b>	<del>1,000</del> <b>2,000</b>	1,200
2 story, 2 <sup>nd</sup> floor	720	900	1,000	1,200	720	900	1,000	1,200

~~Minimum floor area requirements for tri-levels shall be computed using the total square footage of the two uppermost levels. Minimum floor area requirements for bi-levels shall be computed using the total square footage of that floor at or above the approximate grade of the address street. The total square footage so computed for a tri-level or bi-level shall equal at least the minimum square footage requirement for a one-floor two-story residence in the same district.~~

Consistent with the changes in the table above, floor area requirements for tri and bi-level dwellings has been deleted. The minimum floor area is combined total floor area of each level not classified as a basement (more than 50% below grade). Since all non-basement levels are computed in the total floor area, bi and tri-level dwellings must meet the minimum area requirement for a two story residence in the same district.

42-350.B.6.b.  
Structure height was changed from 25 to 30 feet and from 30 feet to 35 feet

6. a. No change
- b. The height of any structure in an RM-1 or RM-2 multifamily residential district shall be no greater than ~~25~~30 feet and two stories when the zoning lot abuts a single-family residential zoning district, except, after a public hearing, which may be held prior to site plan approval, the height of the structure may be increased to no more than ~~30~~35 feet and three stories if the planning commission determines that the topography, natural features or other land use characteristics, including the distance of the proposed structure from the residential district and residential structures therein, adequately mitigate adverse impacts upon any adjacent single-family residential zone or use. The height of a structure under this provision may be increased beyond the maximum height stated in this subsection only if the regulations and procedures of subsection (6)(a) of this section are followed.

42-350.B.6.c.  
Structure height was changed from 25 to 30 feet and from one story to two stories.

- c. In all other districts, the height of any structure shall be no greater than ~~25~~30 feet and ~~one two story stories~~ when the zoning lot abuts a single-family residential zoning district, except, after a public hearing, which may be held prior to site plan approval, the height and number of stories of the structure may be increased to the height normally allowed in the zoning district if the planning commission determines that the topography, natural features or other land use characteristics, including the distance of the proposed structure from the residential district and residential structures therein, adequately mitigate adverse impacts upon any adjacent single-family residential zone or use. The height of a structure under this provision may be increased beyond the height normally allowed within the district only if the requirements and procedures of subsection (6)(a) of this section are followed.
- d. No change

42-350.B.10. The exterior yard setback was changed to 15 feet to correct an inconsistency between the table in 42-350.A and footnote.

7. thru (9). No change
10. No side yards are required along the interior side lot lines of the district, except as otherwise specified in the building code of the city (article 8, division 2 of this chapter), provided that if walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten feet shall be provided. On a corner lot which borders on a residential district, there shall be provided a setback of 27 feet on the side or residential street. On an exterior side yard abutting a residential district, there shall be provided a setback of ~~40~~15 feet in width.
11. thru (19). No change
20. An increase in lot coverage to 30% may be permitted for lots that meet the minimum area and width requirements for the zoning district in which it is located, subject to review and approval by the Director of Transportation and Utilities to ensure storm water drainage and related impacts are properly addressed.

**Sec. 42-375. - Plan review and approval (PD, Planned Development).**

- J. Time limit for commencing development: After a final plan is approved by the council, development of the planned development or divisible geographic section thereof shall begin within ~~120 days~~ 12 months of approval of the final plan. If development is not begun within such time, the final plan must be resubmitted for reapproval. At the lapse of each ~~120 days~~ 12 months period, the council, before reapproval, may require modification of the final plan to meet new or previously undetected conditions affecting the project area.

42-375.J. The expiration of plan approval has been extended from 120 days to 12 months to allow the community more time to prepare construction

**Sec. 42-394. - Plan review and approval (OTR, Office Technology and Research)**

- H. Development plan (specific plan):
- a. No change
  - b. Time limit for commencing construction. After a specific plan is approved pursuant to division 5, subdivision 2, Site Plan Review, development shall commence within ~~six months~~ 12 months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, Site Plan Review.
  - c. No change.

The expiration of plan approval has been extended from 6 to 12 months in Sec. 42-394, 414, 438, 443, 461 & 484 to allow the developers more time to prepare construction documents

**Sec. 42-414. - Plan review and approval (Commercial Planned Development).**

- I. Time limit for commencing development: After a specific plan is approved pursuant to division 5, subdivision 2, Site Plan Review, development shall commence within ~~six months~~ 12 months of approval of the specific plan. If development is not begun within this time period, the specific plan must be resubmitted for approval in accordance with the requirements of division 5, subdivision 2, Site Plan Review.

**Sec. 42-438. - Development project review and approval (CCA, City Center Area)**

- H. Development plan (specific plan):
1. No change.
  2. Time limit for commencing construction. After the specific plan is approved pursuant to division 5, subdivision 2, site plan review, development shall commence within ~~six months~~ 12 months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, site plan review.
  3. No change.

**Sec. 42-443. - Development project review and approval (CCMU, Commercial Corridor Mixed Use).**

- H. Development plan (specific plan):
1. No change.
  2. Time limit for commencing construction. After the specific plan is approved pursuant to division 5, subdivision 2, site plan review, development shall commence within ~~six months~~ 12 months of approval of the specific plan. If

development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, site plan review.

3. No change.

**Sec. 42-461, Application and review procedures**

- A. through D. No change
- E. Special land use decisions
  1. through 3. No change
  4. Validity of approval: Any approval given by the commission under which the premises are not used or work is not started within ~~six months~~ 12 months , or when the use or work has been abandoned for a period of ~~six months~~ 12 months , shall lapse and cease to be in effect.
  5. No change

**Sec. 42-484. - Site plan approval (Site Plan Review).**

- C. Site plan expiration: If construction activity has not commenced within ~~six months~~ 12 months of final site plan approval, the site plan becomes null and void and a new application for site plan review in accordance with the procedures of this subsection shall be required.

**Sec. 42-542. - General requirements.**

In Sec. 42-542.I.2, reference to R-1E has been deleted.

- A. through H. No change
- I. Electronic or mechanical sign elements.
  1. No change
  2. An accessory sign for a permitted use in the R-1A through ~~R-1E~~ R-1D one-family residential districts, the R-1T residential district, and the RM-1 and RM-2 residential districts, may include an EMD subject to the following requirements:
    - A through h. No change

**Sec. 42-545. - R-1A, R-1B, R-1C, R-1D, ~~R-1E~~ and R-1T districts.**

In Sec. 42-545, reference to R-1E has been deleted.

In any R-1A, R-1B, R-1C, R-1D, ~~R-1E~~ and R-1T residential district:

- A. through D. No change

**Sec. 42-623. - Public hearings, voting, and decisions (Zoning Board of Appeals).**

- A. through B. No change
- C. Decisions:
  1. No change.
  2. No change.
  3. No change.

4. Any approval given by the board under which the premises are not used or work is not started within ~~six months~~ 12 months , or when the use or work has been abandoned for a period of six months, shall lapse and cease to be in effect.
5. No change.

In Sec. 42-623.C.4, the expiration of ZBA approval has been extended from 6 to 12 months to allow the applicants more time to prepare construction documents, if applicable

**Sec. 42-743. - Application requirements.**

1. through 7. No change
8. The application shall include proof that all divisions shall result in buildable parcels containing at least ~~60 feet of frontage on a public street or 50 feet of frontage on a public cul-de-sac~~; one of the following street frontage requirements:

Consistent with 42-125.A, 42-743.8 for Land Divisions was modified to allow parcels without public street frontage if certain conditions are

- a. Maintain a minimum of 60 feet of public street frontage, or a minimum of 50 feet of public street frontage on a cul-de-sac, to the front setback or building setback line, whichever is greater. The public street shall be paved and adequate drainage provided therefor; or
- b. For a parcel that does not have the above required frontage on a public street, an access and utility easement with a width of not less than 20 feet to the front setback or building setback line, whichever is greater, shall be recorded with the Kalamazoo County Register of Deeds. Such recorded easement shall be provided to the Director simultaneously with the Register of Deeds filing. The access easement shall be a perpetual, irrevocable easement appurtenance over the burdened property, providing unobstructed access to the public street for the benefitting parcel. The utility easement shall also be perpetual, irrevocable and provide any public utility the ability and right to install all utilities on the burdened property. The 20 foot easement shall be improved with asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds. If the access and utility easement is shared by more than one parcel or owner, a maintenance agreement shall also be recorded providing for the rights and obligations of the parties regarding installation, maintenance and repair as well as apportionment of costs and expense for infrastructure and/or improvement on the easement.
  - i. A parent parcel cannot be divided to create more than four resulting parcels without the required frontage on a public street. Each parcel shall further meet the lot width and setback requirements for the zoning district in which it is located.
- c. The application shall also include proof of sufficient buildable area outside of wetlands, floodplains and other areas where buildings are prohibited; and sufficient area to comply with required setback provisions, minimum floor area requirements, off-street parking space requirements, on-site water and sewer location (if municipal utilities are not available), and maximum area for coverage of buildings.

9. through 10. No change

**Sec. 42-745. - Review of application; criteria for approval.**

1. through 4. No change

5. Each resulting parcel ~~has not less than 60 feet of frontage on a public street and 50 feet of frontage on a cul-de-sac.~~ shall meet at least one of the following street frontage requirements:

Consistent with 42-125.A and 42-743.8, 42-745.5 was modified to allow parcels without public street frontage if certain conditions are met.

- a. Maintain a minimum of 60 feet of public street frontage, or a minimum of 50 feet of public street frontage on a cul-de-sac, to the front setback or building setback line, whichever is greater. The public street shall be paved and adequate drainage provided therefor; or
- b. For a parcel that does not have the above required frontage on a public street, an access and utility easement with a width of not less than 20 feet to the front setback or building setback line, whichever is greater, shall be recorded with the Kalamazoo County Register of Deeds. Such recorded easement shall be provided to the Director simultaneously with the Register of Deeds filing. The access easement shall be a perpetual, irrevocable easement appurtenance over the burdened property, providing unobstructed access to the public street for the benefitting parcel. The utility easement shall also be perpetual, irrevocable and provide any public utility the ability and right to install all utilities on the burdened property. The 20 foot easement shall be improved with asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds. If the access and utility easement is shared by more than one parcel or owner, a maintenance agreement shall also be recorded providing for the rights and obligations of the parties regarding installation, maintenance and repair as well as apportionment of costs and expense for infrastructure and/or improvement on the easement.
- i. A parent parcel cannot be divided to create more than four resulting parcels without the required frontage on a public street. Each parcel shall further meet the lot width and setback requirements for the zoning district in which it is located.

6. through 8. No change

#### **Sec. 42-803. – Streets (Subdivision Regulations).**

- a. through h. No change
- i. Cul-de-sac. The maximum number of lots or parcels which front on a residential cul-de-sac street shall not exceed ~~20~~ 30. The maximum length for industrial and other cul-de-sac streets may exceed 500 feet subject to the review and approval of the planning commission.
- j. through k. No change

42-803.i was changed to increase the number of residential lots on a cul-de-sac from 20 to 30 consistent with the International Fire Code

#### **Sec. 42-805. – Utilities (Subdivision Regulations).**

- a. through b. No change
- c. 1. through 4. No change
5. Valves shall be placed at all intersections such that not more than ~~20~~ 30 dwelling units may be isolated. Valve spacing shall not exceed 1,000 feet.
6. Dead-end water mains serving cul-de-sac and other short street designs shall not serve more than a maximum of ~~20~~ 30 lots or as otherwise required by the city council.

42-805(c)(5)(6) were changed to increase the number of residential units/lots served by municipal water from 20 to 30 consistent with the International Fire Code

## CLEAN VERSION

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SEC. 42-112, DEFINITIONS; 42-121, ACCESSORY USES; 42-124, PROJECTIONS IN REQUIRED YARDS; 42-125, STREET FRONTAGE REQUIREMENTS; DEVELOPMENT STANDARDS FOR LAND DIVISIONS; 42-128, LAKEFRONT LOTS; 42-135, WIRELESS TELECOMMUNICATIONS FACILITIES AND TOWERS; 42-139, LOT GRADING; 42-160, DISTRICTS ESTABLISHED; 42-180, INTENT; 42-181, PRINCIPAL PERMITTED USES; 42-182, SPECIAL LAND USES; 42-350, SCHEDULE OF REGULATIONS; 42-375, PLAN REVIEW AND APPROVAL (PD, PLANNED DEVELOPMENT); 42-394, PLAN REVIEW AND APPROVAL (OTR, OFFICE TECHNOLOGY AND RESEARCH); 42-414, PLAN REVIEW AND APPROVAL (COMMERCIAL PLANNED DEVELOPMENT); 42-438, DEVELOPMENT PROJECT REVIEW AND APPROVAL (CCA, CITY CENTER AREA); 42-443, DEVELOPMENT PROJECT REVIEW AND APPROVAL (CCMU, COMMERCIAL CORRIDOR MIXED USE); 42-461, APPLICATION AND REVIEW PROCEDURES; 42-484, SITE PLAN APPROVAL; 42-542, GENERAL REQUIREMENTS; 42-545, R-1A, R-1B, R-1C, R-1D, R-1E AND R-1T DISTRICTS; 42-623, PUBLIC HEARINGS, VOTING, AND DECISIONS; 42-743, APPLICATION REQUIREMENTS; 42-745, REVIEW OF APPLICATION; CRITERIA FOR APPROVAL; 42-803, STREETS; 42-807, LOTS OF ARTICLE 4, ZONING, OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended as follows:

### ARTICLE 4. ZONING.

**Sec. 42-112. – Definitions**, *shall be amended as follows.*

*Arbor:* A freestanding structure that typically serves as a passageway to a yard or garden. The sides of an arbor are either open or covered with lattice or trellis. The roof of an arbor is open consisting slatted members. An arbor shall not be considered an accessory building for the purpose of lot cover and setback from the main building.

*Building height:* The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs, and to the average height between the highest eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average grade.

*Pergola:* A freestanding structure supported by columns or posts with a roof that is more than 50% open. A pergola shall not be considered an accessory building for the purpose of lot cover and setback from the main building.

**Sec. 42-121. - Accessory uses.**

#### A. *General requirements.*

1. No Change.
2. No detached accessory building or structure shall be located closer than five feet to a main building or other accessory building or structure on the same lot unless the minimum fire separation requirements of the last adopted edition of the Building Code are met.
3. through 4. - No Change.

B. *Accessory buildings—Residential zoning districts.*

1. Non-lakefront lots: The following applies to accessory buildings and uses on non-lakefront lots in the R-1A one-family residential, R-1B one-family residential, R-1C one-family residential, R-1D one-family residential, or R-1T attached residential districts. These requirements shall also apply to one family dwellings constructed in the RM-1 and RM-2 districts.
  - a. No detached accessory building shall exceed 16 feet in height except, after a public hearing, the height of the building may be increased if the planning commission determines that the topography, natural features or other land use characteristics, including the distance of the proposed building from adjacent residential structures, adequately mitigate adverse impacts upon any adjacent single-family residential use.
  - b. Maximum floor areas:
    1. Except as noted in (2) and 3 below, each detached accessory building shall have a maximum floor area not greater than 20 percent of the rear yard. Accessory buildings in the rear or side yard shall be setback from the side or rear property lines not less than one-half the height of the building. Accessory buildings in the front yard shall meet the setbacks required for the main building.
    2. The total floor area of all accessory buildings, including those attached to the main building, shall not exceed the ground floor area of the main building plus 50 percent of the second story, provided that breezeways or enclosed porches are not counted in computing the total floor area of an accessory(s) or main building.
    3. The floor area of accessory buildings may exceed the ground floor area of the main building plus 50 percent of the second story when the residential lot or parcel has an area of two acres or more. However, when the floor area of the accessory building exceeds the ground floor area of the main building plus 50 percent of the second story, the accessory building and use shall be subject to the approval of the planning commission after a public hearing. To ensure harmonious relationships and to minimize conflicts between adjacent uses, the commission shall consider the proposed characteristics and uses of the building in relation to existing land uses and to the future land uses as shown in the comprehensive plan. The commission may attach requirements to such accessory building and use when it deems necessary to avoid or mitigate adverse impacts on surrounding properties. This section does not apply to agricultural uses.
2. Lakefront lots: The following applies to accessory buildings on lakefront lots in any residential district.
  - a. The total floor area of all accessory buildings shall not exceed the ground floor area of the main building plus 50 percent of the second story, provided that breezeways or enclosed porches are not counted in computing the total floor area of a detached accessory(s) or main building.
  - b. Not more than one detached accessory building is permitted in the rear (lake side) yard and shall not exceed 80 square feet in area and eight feet in height, measured from the average grade at the accessory building location to the highest point of the accessory building. The permitted accessory building shall

be located not closer than ten feet to any side property line and three feet to the rear property line in the rear (lake side) yard.

- c. Boathouses, docks and other similar structures that are situated in whole or in part in the water are not regulated by this section.
- d. All buildings and structures, including fences, that were in existence in the rear (lake side) yard prior to January 30, 1987, shall be allowed to continue and shall be considered to be nonconforming structures and buildings.

- 3. RM-1 and RM-2 districts: A detached accessory building accessory to uses permitted in these districts may be located within a required rear yard not closer than five feet to any side or rear lot line, except that community recreation or meeting facilities shall meet the setback requirements applicable to main buildings for the district. One-family dwellings shall comply with the provisions of section 42-121.B.1.

**Sec. 42-124. - Projections into required yards.**

- A. Porches, terraces and decks through
  - 1. through 3. No change
  - 4. Ramps for the purpose of providing barrier free access to a dwelling can project to within 10 feet of the front property line.
- B. An architectural feature, such as a chimney but not including a cantilevered wall, may extend or project into a required side yard not more than two inches for each one foot of width of the side yard, and may extend or project not more than three feet into a required front yard or rear yard.
- C. In the one-family residential districts, a landing and stairs for egress purposes less than 30 inches above grade may project into the side yard not more than 36 inches or as regulated by the last adopted edition of the city's building code.
- D. For the purpose of this article, an access drive may be placed in a required front or side yard so as to provide access to the rear yard and/or an accessory or attached structure. These drives shall be considered a permitted encroachment into a front or side yard.
- E. For the purpose of this article, any walk, terrace or other pavement serving a similar function, not in excess of nine inches above the grade upon which placed, shall not be considered a structure and shall be permitted in any required yard.

**Sec. 42-125. - Street frontage requirements; development standards for land divisions.**

- A. Any parcel of land which is to be occupied by a use or building shall meet at least one of the following street frontage requirements:
  - 1. Maintain a minimum of 60 feet of public street frontage, or a minimum of 50 feet of public street frontage on a cul-de-sac, to the front setback or building setback line, whichever is greater. The public street shall be paved and adequate drainage provided therefor; or
  - 2. For a parcel that does not have the above required frontage on a public street, an access and utility easement with a width of not less than 20 feet to the front setback or building setback line, whichever is greater, shall be recorded with the Kalamazoo County Register of Deeds. Such recorded easement shall be provided to the Director simultaneously with the Register of Deeds filing. The access easement shall be a perpetual, irrevocable easement appurtenance over the burdened property, providing unobstructed access to the public street for the benefitting parcel. The utility easement shall also be perpetual, irrevocable and provide any public utility the ability and right to install all utilities on the burdened property. The 20 foot easement shall be improved with asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds. If the access

and utility easement is shared by more than one parcel or owner, a maintenance agreement shall also be recorded providing for the rights and obligations of the parties regarding installation, maintenance and repair as well as apportionment of costs and expense for infrastructure and/or improvement on the easement.

- B. A parent parcel cannot be divided to create more than four resulting parcels without the required frontage on a public street. Each parcel shall further meet the lot width and setback requirements for the zoning district in which it is located.
- C. Residential, commercial or industrial developments which result in land divisions with public infrastructure improvements, except lands divided pursuant to the Land Division Act (MCL 560.101 et seq., MSA 26.430(101) et seq.) and article V, Subdivision and Land Division Requirements, of this chapter, shall be subject to subsection B of this section and to the following conditions:

1. through 3. No change

**Sec. 42-128. - Lakefront lots.**

- A. and C. No change.
- D. Pergolas, arbors and similar structures over nine inches in height above grade are permitted in the lakeside yard provided there are no walls, only support posts, and the structures do not exceed eight feet in height.

**Sec. 42-135. - Wireless telecommunications facilities and towers.**

- A. through J. No change.
- K. Separation:

**1. and 2. No change.** Table 1- Setback and Separation Requirements  
For New Telecommunication Tower Construction

District of Tower Location <sup>1</sup>	Special land Use Required	Minimum Setbacks	Any Residential District or Use	OS-1, OTR, B-2, B-3, CPD, or P-1 Districts	I-1, I-2 Districts
R-1A, R-1B, R-1C, R-1D, R-1T, MHC PD <sup>1</sup>		Front: 30 ft. Side: 12 ft. Rear: 40 ft.	No separation requirements if alternative tower structure is utilized.		
RM-1, RM-2, OS-1, OTR, B-1 <sup>1</sup>		Front: 30 ft. Side: 12 ft. Rear: 12 ft.			
B-2, B-3, CPD, P-1	Yes	Front: 30 ft. (except B-2-75 ft.) Side: 12 ft. Rear: 12 ft.	1,320 ft.	Greater of: 100 ft. or 100% of tower height	20% of tower height
			No separation requirements if alternative tower structure is utilized		
I-1, I-2		Front: 75 ft. Side/Rear: None; separation requirements only	200 ft.	Greater of: 100 ft. or 100% of tower height	20% of tower height
			No separation requirements if alternative tower structure is utilized.		

<sup>1</sup> Alternative tower structure required: Alternative design mounting structures that camouflage or conceal the presence of antennas and/or towers, see Section 42-135.C for definition.

**Sec. 42-139. – Lot Grading.**

Required yard space, as determined by the minimum setback requirements, shall be at an elevation to ensure surface water drains away from the foundation walls in accordance with the last adopted edition of the Residential Building Code. Yards shall be graded and maintained to prevent the accumulation of surface water on the property outside of designated storm water detention areas and not increase the natural flow or runoff of surface water onto adjacent properties.

**Sec. 42-160. - Districts established.**

For the purpose of this article, the city is hereby divided into the following districts:

Zoning Map Designation	District Title (See also Division 4, Subdivision 10)
R-1A	One-Family Residential (Lot area: 7,800 to 15,000 sq. ft.)
R-1B	One-Family Residential (Lot area: 9,600 to 15,000 sq. ft.)
R-1C	One-Family Residential (Lot area: 12,000 to 15,000 sq. ft.)
R-1D	One-Family Residential Lot area: 12,000 to 28,000 sq. ft.)
R-1T	Attached Residential
RM-1	Multifamily Residential (High Density)
RM-2	Multifamily Residential (Medium Density)
OS-1	Office Service
B-1	Local Business
B-2	Community Business
B-3	General Business
CPD	Commercial Planned Development
OTR	Office Technology Research
I-1	Light Industrial
I-2	Heavy Industrial
P-1	Vehicular Parking
MHC	Manufactured Home Community
PD	Planned Development

**Subdivision 2. - R-1A, R-1B, R-1C, and R-1D One-Family Residential Districts**

**Sec. 42-180. - Intent.**

The R-1A through R-1D one-family residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density single-unit dwellings along with other residentially related facilities that serve the residents in the district. Further, the intent of these regulations is to protect residential neighborhoods from incompatible land uses and associated effects.

**Sec. 42-181. - Principal permitted uses.**

In a one-family residential district (R-1A through R-1D), no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

A. thru H. - No change.

**Sec. 42-182. - Special land uses.**

The following uses may be allowed in a one-family residential district (R-1A through R-1D ), subject to the conditions imposed in this Section for each use, and subject further, to the review and approval of the planning commission in accordance with the provisions of division 5, subdivision 1 of this article:

A. thru J. - No change.

## Subdivision 10. - Schedule of Regulations

### Sec. 42-350. - Schedule of regulations.

A. Schedule of regulations: The following schedule sets forth regulations regarding building height, bulk, density and area for the zoning districts as indicated. Numbers in parentheses are footnotes and apply as explained.

Zoning District	Minimum Lot Area Per Dwelling Unit (sq. ft.)/lot width in feet (1)			Maximum Building Height in feet		Minimum Yard Setback in feet (2)			Minimum Floor Area Per Unit (sq. ft.)	Maximum Lot Coverage (20)
	With Sewer & Water	With Sewer or Water	Without Sewer & Water	Stories	Height	Front	Side	Rear		
R-1A One-Family Residential	7,800/65	12,000/80	15,000/100	2 (3)	30 (3)	27	8(4)	40	(5)	25%
R-1B One-Family Residential	9,600/80	12,000/80	15,000/100	2 (3)	30 (3)	30	10(4)	40	(5)	25%
R-1C One-Family Residential	12,000/100	12,000/100	15,000/100	2 (3)	30 (3)	30	12(4)	40	(5)	25%
R-1D One-Family Residential	12,000/100	12,000/100	28,000/120	2 (3)	30 (3)	30	12(4)	40	(5)	25%
R-1T Attached Residential	6,000/40	9,000/60	9,000/60	2	30 (6)	30	10(4)	40	850	25%
RM-1 & RM-2 Multi-family Residential	(7)	8,000	8,000	3	35(6)	30(8)	30(8) (4)	30(8)	1 BR: 500, 2 BR: 700, 3 BR: 900, 4 BR: 1,100	25%
OS-1 Office Service	—	—	—	—	35(6)	27(9)	15(10)(4)	20(11)	—	—
OTR Office Technology Research	(12)	—	—	—	35(6)	50(13)	50(13) (14) (4)	50(13)	—	25%
B-1 Local Business	—	—	—	—	35(6)	27(9)	(10)(4)	20(11)	—	25%
B-2 Community Business	—	—	—	—	35(6)	75(9)(15)	(15)(4)	(11)(15)	—	—
B-3 General Business	—	—	—	—	35(6)	30(9)	(10)(4)	20(11)	—	—
CPD Commercial Planned Development	(16)	—	—	—	35(6)	(15)	(15)(4)	(11)(15)	—	25%
I-1 Light Industrial	—	—	—	—	40(6)	75(17)(18)	75(17)(19)(4)	(11)(17)(19)	—	—
I-2 Heavy Industrial	—	—	—	—	60(6)	100(17)(18)	100(17)(19)(4)	(11)(17)(19)	—	—
MHC, Mobile Home Community	See Division 4, Subdivision 8 for regulations pertaining to this zoning district									
PD, Planned Development	See Division 4, Subdivision 11 for regulations pertaining to this zoning district									
P-1, Parking	See Division 4, Subdivision 14 for regulations pertaining to this zoning district									

B. Footnotes to Schedule of regulations:

1. No change.
2. No change:
  - a. No change;
  - b. For lots with less than the required area, setbacks shall not be less than the following:
    - i. Thirty feet to the rear line;
    - ii. No change
    - iii. No change
3. R-1A, R-1B, R-1C, and R-1D one-family residential districts. The number of stories and maximum height of any residential structure on lots of 80 feet or more in width shall not exceed three stories and 40 feet in height.
4. The side yard facing the street shall not be less than the minimum front yard of the district in which it is located, unless otherwise permitted in this article.
5. The following minimum floor area requirements apply to each residence hereafter erected. Any structure existing as of the date of the adoption of this Article on February 18, 2003 and not meeting the requirements of this subsection shall not be prevented from being reconstructed and, for the purpose of this article, therefore, shall not be considered nonconforming.

Residence Type	Zoning District					
	(with basement of at least 440 sq. ft.)			(with basement less than 440 sq. ft.)		
	R-1A	R-1B	R-1C &D	R-1A	R-1B	R-1C&D
1 story	1,040	1,280	1,600	1,120	1,360	1,600
1 1/2 story	1,100	1,340	1,680	1,180	1,500	1,700
2 story	1,440	1,800	2,000	1,520	1,880	2,000

The total square footage for a tri-level or bi-level shall equal at least the minimum square footage requirement for a two-story residence in the same district.

6. a. No change
- b. The height of any structure in an RM-1 or RM-2 multifamily residential district shall be no greater than 30 feet and two stories when the zoning lot abuts a single-family residential zoning district, except, after a public hearing, which may be held prior to site plan approval, the height of the structure may be increased to no more than 35 feet and three stories if the planning commission determines that the topography, natural features or other land use characteristics, including the distance of the proposed structure from the residential district and residential structures therein, adequately mitigate adverse impacts upon any adjacent single-family residential zone or use. The height of a structure under this provision may be increased beyond the maximum height stated in this subsection only if the regulations and procedures of subsection (6)(a) of this section are followed.
- c. In all other districts, the height of any structure shall be no greater than 30 feet and two stories when the zoning lot abuts a single-family residential zoning district, except, after a public hearing, which may be held prior to site plan approval, the height and number of stories of the structure may be increased to the height normally allowed in the zoning district if the planning

commission determines that the topography, natural features or other land use characteristics, including the distance of the proposed structure from the residential district and residential structures therein, adequately mitigate adverse impacts upon any adjacent single-family residential zone or use. The height of a structure under this provision may be increased beyond the height normally allowed within the district only if the requirements and procedures of subsection (6)(a) of this section are followed.

- d. No change
- 7. thru (9). No change
- 10. No side yards are required along the interior side lot lines of the district, except as otherwise specified in the building code of the city (article 8, division 2 of this chapter), provided that if walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten feet shall be provided. On a corner lot which borders on a residential district, there shall be provided a setback of 27 feet on the side or residential street. On an exterior side yard abutting a residential district, there shall be provided a setback of 15 feet in width.
- 11. thru (19). No change
- 20. An increase in lot coverage to 30% may be permitted for lots that meet the minimum area and width requirements for the zoning district in which it is located, subject to review and approval by the Director of Transportation and Utilities to ensure storm water drainage and related impacts are properly addressed.

**Sec. 42-375. - Plan review and approval (PD, Planned Development).**

- J. Time limit for commencing development: After a final plan is approved by the council, development of the planned development or divisible geographic section thereof shall begin within 12 months of approval of the final plan. If development is not begun within such time, the final plan must be resubmitted for reapproval. At the lapse of each 12 months period, the council, before reapproval, may require modification of the final plan to meet new or previously undetected conditions affecting the project area.

**Sec. 42-394. - Plan review and approval (OTR, Office Technology and Research)**

- H. Development plan (specific plan):
  - a. No change
  - b. Time limit for commencing construction. After a specific plan is approved pursuant to division 5, subdivision 2, Site Plan Review, development shall commence within 12 months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, Site Plan Review.
  - c. No change.

**Sec. 42-414. - Plan review and approval (Commercial Planned Development).**

- I. Time limit for commencing development: After a specific plan is approved pursuant to division 5, subdivision 2, Site Plan Review, development shall commence within 12 months of approval of the specific plan. If development is not begun within this

time period, the specific plan must be resubmitted for approval in accordance with the requirements of division 5, subdivision 2, Site Plan Review.

**Sec. 42-438. - Development project review and approval (CCA, City Center Area)**

H. Development plan (specific plan):

1. No change.
2. Time limit for commencing construction. After the specific plan is approved pursuant to division 5, subdivision 2, site plan review, development shall commence within 12 months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, site plan review.
3. No change.

**Sec. 42-443. - Development project review and approval (CCMU, Commercial Corridor Mixed Use).**

H. Development plan (specific plan):

1. No change.
2. Time limit for commencing construction. After the specific plan is approved pursuant to division 5, subdivision 2, site plan review, development shall commence within 12 months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, site plan review.
3. No change.

**Sec. 42-461. - Application and review procedures**

A. through D. No change

E. Special land use decisions

1. through 3. No change
4. Validity of approval: Any approval given by the commission under which the premises are not used or work is not started within 12 months , or when the use or work has been abandoned for a period of 12 months , shall lapse and cease to be in effect.
5. No change

**Sec. 42-484. - Site plan approval (Site Plan Review).**

C. Site plan expiration: If construction activity has not commenced within 12 months of final site plan approval, the site plan becomes null and void and a new application for site plan review in accordance with the procedures of this subsection shall be required.

**Sec. 42-542. - General requirements.**

A. through H. No change

I. Electronic or mechanical sign elements.

1. No change
2. An accessory sign for a permitted use in the R-1A through R-1D one-family residential districts, the R-1T residential district, and the RM-1 and RM-2 residential districts, may include an EMD subject to the following requirements:  
A through h. No change

**Sec. 42-545. - R-1A, R-1B, R-1C, R-1D, and R-1T districts.**

In any R-1A, R-1B, R-1C, R-1D, and R-1T residential district:

- A. through D. No change

**Sec. 42-623. - Public hearings, voting, and decisions (Zoning Board of Appeals).**

- A. through B. No change

C. Decisions:

1. No change.
2. No change.
3. No change.
4. Any approval given by the board under which the premises are not used or work is not started within 12 months, or when the use or work has been abandoned for a period of six months, shall lapse and cease to be in effect.
5. No change.

**Sec. 42-743. - Application requirements.**

1. through 7. No change
8. The application shall include proof that all divisions shall result in buildable parcels containing at least one of the following street frontage requirements:
  - a. Maintain a minimum of 60 feet of public street frontage, or a minimum of 50 feet of public street frontage on a cul-de-sac, to the front setback or building setback line, whichever is greater. The public street shall be paved and adequate drainage provided therefor; or
  - b. For a parcel that does not have the above required frontage on a public street, an access and utility easement with a width of not less than 20 feet to the front setback or building setback line, whichever is greater, shall be recorded with the Kalamazoo County Register of Deeds. Such recorded easement shall be provided to the Director simultaneously with the Register of Deeds filing. The access easement shall be a perpetual, irrevocable easement appurtenance over the burdened property, providing unobstructed access to the public street for the benefitting parcel. The utility easement shall also be perpetual, irrevocable and provide any public utility the ability and right to install all utilities on the burdened property. The 20 foot easement shall be improved with asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds. If the access and utility easement is shared by more than one parcel or owner, a maintenance agreement shall also

be recorded providing for the rights and obligations of the parties regarding installation, maintenance and repair as well as apportionment of costs and expense for infrastructure and/or improvement on the easement.

- i. A parent parcel cannot be divided to create more than four resulting parcels without the required frontage on a public street. Each parcel shall further meet the lot width and setback requirements for the zoning district in which it is located.
- c. The application shall also include proof of sufficient buildable area outside of wetlands, floodplains and other areas where buildings are prohibited; and sufficient area to comply with required setback provisions, minimum floor area requirements, off-street parking space requirements, on-site water and sewer location (if municipal utilities are not available), and maximum area for coverage of buildings.

9. through 10. No change

**Sec. 42-745. - Review of application; criteria for approval.**

1. through 4. No change

5. Each resulting parcel shall meet at least one of the following street frontage requirements:

- a. Maintain a minimum of 60 feet of public street frontage, or a minimum of 50 feet of public street frontage on a cul-de-sac, to the front setback or building setback line, whichever is greater. The public street shall be paved and adequate drainage provided therefor; or
- b. For a parcel that does not have the above required frontage on a public street, an access and utility easement with a width of not less than 20 feet to the front setback or building setback line, whichever is greater, shall be recorded with the Kalamazoo County Register of Deeds. Such recorded easement shall be provided to the Director simultaneously with the Register of Deeds filing. The access easement shall be a perpetual, irrevocable easement appurtenance over the burdened property, providing unobstructed access to the public street for the benefitting parcel. The utility easement shall also be perpetual, irrevocable and provide any public utility the ability and right to install all utilities on the burdened property. The 20 foot easement shall be improved with asphalt, concrete or other approved driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds. If the access and utility easement is shared by more than one parcel or owner, a maintenance agreement shall also be recorded providing for the rights and obligations of the parties regarding installation, maintenance and repair as well as apportionment of costs and expense for infrastructure and/or improvement on the easement.
  - i. A parent parcel cannot be divided to create more than four resulting parcels without the required frontage on a public street. Each parcel shall further meet the lot width and setback requirements for the zoning district in which it is located.

6. through 8. No change

**Sec. 42-803. – Streets (Subdivision Regulations).**

a. through h. No change

- i. Cul-de-sac. The maximum number of lots or parcels which front on a residential cul-de-sac street shall not exceed 30. The maximum length for industrial and other cul-de-sac streets may exceed 500 feet subject to the review and approval of the planning commission.
- j. through k. No change

**Sec. 42-805. – Utilities (Subdivision Regulations).**

- a. through b. No change
- c. 1. through 4. No change
  - 5. Valves shall be placed at all intersections such that not more than 30 dwelling units may be isolated. Valve spacing shall not exceed 1,000 feet.
  - 6. Dead-end water mains serving cul-de-sac and other short street designs shall not serve more than a maximum of 30 lots or as otherwise required by the city council.

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