

*Public Phone Line: (844) 854-2222 Access Code 529853# (To voice a question or comment, press *6 to enter the queue.)*

7:00 p.m. Call to Order.

Invocation.

Pledge of Allegiance.

Roll Call.

Proclamations:

1. 2020 National Gun Violence Awareness Day
2. Resolution of Respect for William K. Furry

A. Consent Agenda:

1. Approval of City Council Meeting Minutes:
 - a. Regular Meeting of May 12, 2020.
 - b. Committee of the Whole of May 14, 2020.
 - c. Pre-Council Meeting of May 26, 2020.
2. Approval of the Accounts Payable Register of May 26, 2020 as presented.
3. Amend a construction contract with Northern Construction Services, Corp. for the 2019 Local Street Reconstruction Program in an amount not to exceed \$118,434.76, and authorize the City Manager to execute all documents related to the contract on behalf of the city.
4. Approve a two-year contract renewal, with the option of one additional two-year renewal, with The Hartford for employee basic life, basic accidental death and dismemberment, contributory life, contributory accidental death and dismemberment, dependent life and long-term disability insurance, and authorize the City Manager to execute all documents on behalf of the city.
5.
 1. Accept the Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way, and set a public hearing for June 23, 2020; and
 2. Subsequent to the public hearing on June 23, 2020, consider the Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way, including the requested building height modification to allow construction of the proposed hotel building to a height up to 65-feet and the requested screening waiver, with the findings contained in the April 30, 2020 Department of Community Development staff report.
6. Enter into an agreement with Noresco for the provision of ESCO services for the period of July 1, 2020 through June 30, 2025 and authorize the City Manager to execute all documents related to this contract on behalf of the city.
7. Confirm the appointment of Lauren VanderVeen as Interim Finance Director.
8. Adopt the Resolution Approving Tax and Continuing Disclosure Post Issuance Compliance Procedures.
9. Minutes of Boards & Commissions.
10. Materials Transmitted of May 12, 2020 and May 13, 2020.

11. Calendar of Meetings:

- Human Services Board, Thursday, June 4, 2020 at 6:30 p.m. in City Hall Room #1 - Virtual Meeting.
- Planning Commission, Thursday, June 4, 2020 at 7:00 p.m. in Council Chambers - Virtual Meeting.
- Zoning Board of Appeals, Monday, June 8, 2020 at 7:00 p.m. in Council Chambers - Virtual Meeting.
- Environmental Board, Wednesday, June 10, 2020 at 7:00 p.m. in City Hall Room #1 - Virtual Meeting.
- Senior Citizen Advisory Board, Wednesday, June 17, 2020 at 2:30 p.m. at the Senior Center - Virtual Meeting.
- **NOTE:** *All above meetings are subject to cancellation or transition to a "virtual meeting" due to the on-going health crisis. Please monitor the City of Portage website at www.portagemi.gov for additional information. The public phone line to comment during public meetings is: (844) 854-2222 Access Code 529853# (To voice a question or comment, press *6 to enter the queue.) Meetings may be viewed live on Charter channel 995 and AT&T channel 99. All meetings can be viewed via live streaming at portagemi.gov/205.*

B. Petitions and Statements of Citizens:

C. Communications:

D. Public Hearings:

1. Subsequent to the Public Hearing, adopt Ordinance Amendment #19/20-A (5), allowing Adult Use Marihuana in certain districts, of Chapter 42, Land Development Regulations, Article 4 (Zoning).

E. Regular Business Agenda:

1. Approve the Fiscal Year 2020-2021 Proposed Budget with Revisions, and adopt the General Appropriations Act, Salary and Wage, and General Fund Reserve Policy Resolutions.

F. Unfinished Business:

1. Adopt Ordinance Amendment #19/20-6, Marihuana Businesses, of Chapter 14, Businesses, Article 12.

G. Council Committee Reports:

H. New Business:

I. Statements of Citizens:

J. Statements of City Council and City Manager.

Adjournment.



CITY OF PORTAGE PROCLAMATION

NATIONAL GUN VIOLENCE AWARENESS DAY PROCLAMATION

- WHEREAS,** this proclamation declares June 5, 2020, to be National Gun Violence Awareness Day in the City of Portage to honor and remember all victims and survivors of gun violence and declare that we as a country must do more to reduce gun violence; and
- WHEREAS,** every day, 96 Americans are killed by gun violence and on average there are nearly 13,000 gun homicides every year; and
- WHEREAS,** Americans are 25 times more likely to be killed with guns than people in other developed countries; and
- WHEREAS,** protecting public safety in the communities they serve is the highest Responsibility of the Mayor; and
- WHEREAS,** support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from dangerous people; and
- WHEREAS,** mayors and law enforcement officers know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and
- WHEREAS,** in January 2013, Hadiya Pendleton, a teenager who marched in President Obama's second inaugural parade and was tragically shot and killed just weeks later, should be now celebrating her 21st birthday; and
- WHEREAS,** to help honor Hadiya – and the 96 Americans whose lives are cut short and the countless survivors who are injured by shootings every day – a national coalition of organizations has designated June 8, 2019, as the fifth annual National Gun Violence Awareness Day; and
- WHEREAS,** the idea was inspired by a group of Hadiya's friends who asked their classmates to commemorate her life by wearing orange; they chose this color because hunters wear orange to announce themselves to other hunters when out in the woods, and orange is a color that symbolizes the value of human life; and
- WHEREAS,** anyone can join this campaign by pledging to Wear Orange on June 5th to help raise awareness about gun violence; and
- WHEREAS,** by wearing orange on June 5th Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors; and
- WHEREAS,** we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, Mayor of the City of Portage, do hereby declare June 5, 2020, to be National Gun Violence Awareness Day and encourage all citizens to support their local community efforts to prevent the tragic effects of gun violence and to honor and value human lives.

Signed this 26th day of May, 2020.

Patricia M. Randall, Mayor

RESOLUTION HONORING

William K. Furry

WHEREAS, William K. Furry served the City of Portage as a member of the Finance Department since 1999, first as Accounting / Payables Supervisor, then Deputy Director of Revenue / Capital Improvements, and finally as Finance Director in 2014; and

WHEREAS, William K. Furry provided excellent leadership and stability for both the Finance Department, as well as the City of Portage as a whole, reducing the city's debt by \$27,115,000 during his tenure; and

WHEREAS, William K. Furry continued the award-winning legacy of the City of Portage annually earning the Government Finance Officers Association's Distinguished Budget Presentation Award, as well as the Certificate of Achievement for Excellence in Financial Reporting, for a total of 33 years and counting; and

WHEREAS, William K. Furry fostered increased transparency and efficiency for the city, implementing a software transition for the Finance Department in accounts payable, accounts receivable and general ledger, as well as upgrading the city's payroll software; and

WHEREAS, William K. Furry raised the city's Standard & Poor general obligation bond rating to an AA+ in May 2017, effectively reducing borrowing costs and further proving the financial viability of the city, benefitting the residents of the City of Portage;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Portage, Michigan, acknowledge the many contributions of William K. Furry to the City Administration and the citizens of the City of Portage, and acknowledge twenty-one years of faithful and valuable service to this community; and

BE IT FURTHER RESOLVED that a copy of this resolution be placed in the Heritage Room of the Portage District Library so the contributions of William K. Furry to the Portage community may be continually recognized by future generations of Portage citizens.

Dated: May 26, 2020

Mayor Patricia M. Randall

Councilmember Claudette Reid

Mayor Pro Tem Jim Pearson

Councilmember Terry Urban

Councilmember Chris Burns

Councilmember Richard Ford

Councilmember Lori Knapp



CITY COUNCIL MEETING MINUTES FROM MAY 12, 2020

The Regular Meeting was called to order by Mayor Patricia Randall at 7:01 p.m. The meeting was held virtually in accordance with the Governor's Executive Directive 2020-02 in light of COVID-19. The following members were present via the WebEx meeting platform: Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid, Terry Urban, Mayor Pro Tem Jim Pearson, and Mayor Patricia Randall. Also in attendance on the WebEx meeting platform were Deputy City Manager Adam Herringa, Deputy City Manager Mike Carroll and City Attorney Randy Brown. In attendance in Council Chambers were City Manager Joe La Margo, Communications Manager Mary Beth Block, and City Clerk Erica Eklov.

At the request of Mayor Randall, the audience observed a moment of silence to reflect upon the sacrifice of police officers to keep the public safe. Following the moment of silence, the City Council recited the Pledge of Allegiance.

PROCLAMATIONS: Mayor Randall first issued a proclamation recognizing May 11th through May 16th, 2020, as Police Week 2020. Mayor Randall then issued a proclamation recognizing May as Mental Health Awareness Month. In light of the virtual meeting, Mayor Randall asked the City Clerk to read both proclamations.

CONSENT AGENDA: Mayor Randall shared where the public can access the meeting agenda and asked if any Councilmember or anyone in the audience would like an item removed from the Consent Agenda. Motion by Pearson, seconded by Reid, to approve the Consent Agenda as presented. Upon a roll call vote, motion carried 7 to 0.

APPROVAL OF MINUTES: Motion by Pearson, seconded by Ford, to approve the minutes of the City Council Budget Session #1 of April 21, 2020; Regular Meeting of April 28, 2020; City Council Budget Session #2 of May 5, 2020; and Pre-Council Meeting of May 11, 2020. Upon a roll call vote, motion carried 7 to 0.

APPROVAL OF ACCOUNTS PAYABLE REGISTER OF MAY 12, 2020: Motion by Pearson, seconded by Ford, to approve the Accounts Payable Register of May 12, 2020. Upon a roll call vote, motion carried 7 to 0.

FIRE STATION ALERTING SYSTEM PURCHASE AND INSTALLATION - BID TABULATION: Motion by Pearson, seconded by Ford, to approve: the purchase of three Phoenix G2 Station Alerting systems from US Digital Designs for in the amount of \$179,403.25, and the installation of this equipment by Esper Electric for the amount of \$64,500, and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

FINAL/SITE PLAN FOR STREAMSONG CONDOMINIUMS (PHASE 2), 715 WEST OSTERHOUT AVENUE: Motion by Pearson, seconded by Ford, to approve the Final/Site Plan for Streamsong Condominiums Phase 2, 715 West Osterhout Avenue, subject to MDEGLE review and approval of the emergency storm water overflow discharges along the southern portion of the site. Upon a roll call vote, motion carried 7 to 0.

2020 DOWNTOWN DEVELOPMENT AUTHORITY AMENDED TAX INCREMENT FINANCE PLAN/AMENDED DEVELOPMENT PLAN: Motion by Pearson, seconded by Ford, to accept: the 2020 Downtown Development Authority Amended Tax Increment Finance Plan/Amended Development

Plan and Development Agreement and set a public hearing for June 23, 2020; and the Resolution of intent to vacate a portion of a public street and to transfer property and place the Resolution on file for 28 days with the City Clerk and take final action on June 23, 2020. Upon a roll call vote, motion carried 7 to 0.

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM – FY2020-21 ANNUAL

ACTION PLAN: Motion by Pearson, seconded by Ford, to approve the Community Development Block Grant (CDBG) Program FY 2020-21 Annual Action Plan element of the Consolidated Plan and authorize the City Manager to submit the application to the U.S. Department of Housing and Urban Development. Upon a roll call vote, motion carried 7 to 0.

FY 2018-19 DOWNTOWN DEVELOPMENT AUTHORITY ANNUAL FINANCIAL REPORT:

Motion by Pearson, seconded by Ford, to accept the FY 2018-19 Downtown Development Authority Annual Financial Report. Upon a roll call vote, motion carried 7 to 0.

CITY OF PORTAGE - VILLAGE OF VICKSBURG SANITARY SEWAGE TRANSPORT AGREEMENT:

Motion by Pearson, seconded by Ford, to approve an extension to the City of Portage – Village of Vicksburg Sanitary Sewer Transport Agreement dated September 14, 2004 and authorize the Mayor and City Clerk to sign the agreement extension on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

BOARD & COMMISSION INTERVIEW SESSION AND TERMS: Motion by Pearson, seconded by Ford, to postpone the May 26, 2020 Board and Commission Interview Session to July 14, 2020 and temporarily extend the expiring terms on the Planning Commission, Construction Board of Appeals and Youth Advisory Committee until July 15, 2020. Upon a roll call vote, motion carried 7 to 0.

COMMITTEE OF THE WHOLE MEETING - CITY ATTORNEY SERVICES: Motion by Pearson, seconded by Ford, to set a Committee of the Whole Meeting to discuss City Attorney services on Thursday, May 14, 2020 at 1:00 p.m. Upon a roll call vote, motion carried 7 to 0.

MINUTES OF BOARDS AND COMMISSIONS: Motion by Pearson, seconded by Ford, to receive the minutes of the Planning Commission of April 16, 2020. Upon a roll call vote, motion carried 7 to 0.

MATERIALS TRANSMITTED OF MAY 5, 2020: Motion by Pearson, seconded by Ford, to receive the Materials Transmitted of May 5, 2020. Upon a roll call vote, motion carried 7 to 0.

CALENDAR OF MEETINGS: Motion by Pearson, seconded by Ford, to receive the Calendar of Meetings. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARINGS:

PROPOSED FISCAL YEAR 2020-2021 BUDGET AND TAX LEVY: Mayor Randall opened the public hearing and invited City Manager La Margo to begin the discussion. Mr. La Margo stated that the proposed Fiscal Year 2020-21 Budget was a balanced budget with zero increases in fees while ensuring there would be no impact on core services. He noted that, due to the current COVID-19 crisis and economy, the City Administration would be instituting monthly budget reports to City Council and quarterly administrative reviews. Mr. La Margo also relayed that staff is looking at

additional cost-saving measures, including potential grants and other funding opportunities. He deferred to Finance Director Bill Furry, noting it was Mr. Furry's last budget before his upcoming retirement.

Mr. Furry stated he realized these were uncertain times but offered the Finance Department remains committed to reporting back to City Council any quarterly changes in the line item details. He stated that staff will make sure to keep things running for another year.

Mayor Randall stated that this has been a great first budget for City Manager La Margo, as well as a great last budget for Director Furry. She highlighted the numerous hours that staff, led by Mr. La Margo and Mr. Furry, spent meeting with Council to review the various aspects of the budget and effects of the COVID-19 crisis. Mayor Randall asked Director Furry to relay the city's current debt level, noting that he and his staff had worked diligently to lower the city's debt over the past few years. Mr. Furry responded that it is \$55,215,000, which is \$310,000 less than last year.

Councilmember Reid relayed that the entire budget is currently posted for the public to view online, noting that there was still time to ask questions before Council approved it.

There were no questions or comments from the public. Motion by Reid, seconded by Knapp, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Motion by Reid, seconded by Knapp, to consider final adoption of the proposed Fiscal Year 2020-2021 budget at the regular meeting on May 26, 2020. Upon a roll call vote, motion carried 7 to 0.

COUNCIL COMMITTEE REPORTS: Councilmember Burns relayed that the Central County Transportation Authority (CCTA) had met virtually the day before to approve the purchase of 10 vans. He noted that the CCTA was also informed that it had received \$9 million in funding from the first round of the CARES Act. Councilmember Burns also relayed that the Metro Bus System was attempting to resume full bus service on certain routes following the COVID-19 crisis, but on reduced hours from 6:15 a.m. to 6:15 p.m. and with several other special provisions. He stated that Metro Connect will continue to run with limited capacity but the CCTA hoped that the opening of some of the regular routes would help with rider demand. Mr. Burns further noted that Metro Transit would be installing Plexiglas guards around drivers, increasing bus cleaning, installing hand sanitizer, and asking riders to wear masks as additional health safety measures for both drivers and riders. Councilmember Burns noted Mayor Pro Tem Pearson also serves on the CCTA and asked whether he had anything to add to his report. Mayor Pro Tem Pearson echoed Councilmember Burns' announcement regarding the welcome receipt of \$9 million in CARES Act funding.

Motion by Ford, seconded by Reid, to receive the Council Committee Report as presented. Upon a voice vote, motion carried 7 to 0.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Urban noted these are challenging times and increasingly so for those living alone. He acknowledged that as the state begins to open up that people still have the option to stay home, limit their exposure, and wear face masks as COVID-19 remains a health issue. He encouraged the use of face coverings as a civic duty, stating that online resources are available that illustrate how to correctly wear the masks. Councilmember Urban then highlighted the Police Week Proclamation, acknowledging that the current health crisis is a challenging time for Public Safety personnel as well as they are unable to social distance. He encouraged everyone to take the time to thank those that don't have the option to social distance.

Councilmember Reid thanked those that continue to stay home and encouraged anyone experiencing difficulty with their mental health to consult with a service like 211 that can be done from home. She noted maintaining mental health is difficult for everyone during this time, but hoped that the better weather would start to help. Councilmember Reid issued a reminder regarding

social distancing and masks, especially as people begin returning to work. She asked everyone to have patience with their employers as they return to work.

Councilmember Knapp also acknowledged the state beginning to slowly re-open with people returning to work. She relayed that the Kalamazoo County Health & Community Services Department had recently published an 89-page guide containing outlining how to best re-open. Councilmember Knapp stated that the document is a great resource and is available online on the Kalamazoo County Health & Community Services Department web page.

Councilmember Burns noted the May 5th election regarding the Kalamazoo Regional Educational Service Agency millage renewal that voters approved. He highlighted that this millage also benefits the Portage Public School District as well.

Councilmember Ford thanked city staff for their continued efforts during this time and noted the railroad construction occurring adjacent to City Hall.

City Manager La Margo relayed that staff was making preparations to re-open City Hall with extra safety measures for both staff and the public. He stated that the Governor had extended her Executive Order regarding virtual meetings to the end of June, which included the City of Portage.

Mayor Pro Tem Pearson encouraged everyone to use this time of quarantine as an opportunity for reconnection and reach out to a prior acquaintance or distant relative.

Mayor Randall relayed that she had received an e-mail from Kevin Orr of Pfizer, Inc. stating that Pfizer's Portage location was one of three initial manufacturing sites nationwide that would begin efforts toward a vaccine for COVID-19. She highlighted that it was currently Bike Week and stated that Portage is a great biking location with its 55 miles of trails; however, she relayed that much of this year's Bike Week was being held virtually. Mayor Randall stated that she participated in the National Day of Prayer's virtual event in the past week. She then provided an update regarding the Brush Collection Program and compost site activity. Mayor Randall closed the meeting by echoing City Manager La Margo's comments regarding the Council continuing to meeting virtually through June under the Governor's extended Executive Order, but reminded everyone that both Council and staff were still here to serve the citizens.

ADJOURNMENT: Mayor Randall adjourned the meeting at 7:46 p.m.

Erica L. Eklov, City Clerk

**MINUTES OF THE COMMITTEE OF THE WHOLE MEETING OF THE
PORTAGE CITY COUNCIL OF MAY 14, 2020**

Mayor Randall called the meeting to order at 1:04 p.m. The meeting was held virtually in accordance with the Governor's Executive Directive 2020-02 in light of COVID-19. The following members were present via the WebEx meeting platform: Councilmembers Chris Burns, Richard Ford, Lori Knapp, Claudette Reid, Terry Urban, Mayor Pro Tem Jim Pearson, and Mayor Patricia Randall. Also in attendance on the WebEx meeting platform was Deputy City Manager Adam Herringa. In attendance in Council Chambers were City Manager Joe La Margo, Deputy City Manager Mike Carroll, Communications Manager Mary Beth Block, and City Clerk Erica Eklov.

Mayor Randall reviewed the purpose of the meeting relating to the City Attorney contract expiration and deferred to City Manager La Margo. The City Manager reviewed the current City Administration's efforts to find cost savings and increased efficiencies. He noted that, with the arrival of Deputy City Manager Carroll and his background as an attorney, he had asked Mr. Carroll to review the current City attorney contract as the contract deadline approaches. Mr. La Margo stated that he believes it is time for the City to perform another RFQ for City attorney services. He stated that he likes the current way the City attorney services are structured and desires to keep the current structure instead of hiring internally. Mr. La Margo relayed that he and Mr. Carroll had reviewed the City Charter for potential efficiencies regarding City attorney services, noting that every City contract must currently go before the City attorney for approval to form, whereas they believe some contract could be completed internally. The City Manager also stated that staff is hoping to streamline acquiring outside attorney services, highlighting several recent instances when specialized counsel relating to marijuana, eminent domain, intellectual property issues, and others were needed. Mr. La Margo stated he is seeking City Council's feedback with regard to City Attorney services to better prepare language for an upcoming RFQ. The City Manager then deferred to Deputy City Manager Carroll for additional discussion.

Deputy Manager Carroll relayed that he has noticed things have been done not necessarily in accordance with the Charter. He highlighted section 6.6(B) of the Charter while noting that other sections, such as 6.6 (H) also give additional flexibility. Mr. Carroll stated that staff would like City Council's direction specifically with Section 6.6(B). Mr. Carroll highlighted issues in the past four months relating to code enforcement and relayed that this could become problematic as the City plans to increase enforcement efforts to elevate the quality of the city. Mr. Carroll also noted he had compiled a cost comparison with the assistance of the Michigan Municipal League highlighting that many cities currently use outside City attorney services similar to Portage. Mr. Carroll relayed that municipal attorneys can be challenging as they are usually not regularly performing litigation in courtroom environments. Deputy City Manager Carroll proposed separating litigation or enforcement as a standalone item in the upcoming RFQ. Mr. Carroll then stated that the current Charter requires the City Attorney's approval as to form all contracts which have created inefficiencies. He relayed there is currently a two- to three-day turnaround on contract reviews. He stated that repeat contracts should be able to be executed more easily. Mr. Carroll stated that the city is potentially spending more money on matters that are not needed. Mr. Carroll also noted that, under the Charter, City Council has the authority to hire specialized attorneys when needed, whereas historically staff had been hiring outside legal counsel. Mr. Carroll stated the City Administration would like to know whether the Council would like that practice to continue. He then turned the discussion over to City Council.

Councilmember Reid highlighted section 6.6(B) in the Charter and asked how many times ordinances require prosecution and, if the city is going to increase this effort, how much more of this effort do staff expect will be needed. Deputy City Manager Carroll responded that each case is unique. He stated some cases can be taken care of with one court appearance, whereas others can become prolonged. Mr. Carroll highlighted a current code enforcement case that he is currently monitoring where the person appears to be "gaming the system" and has already been there in court six times. Mr.

Carroll further responded to Councilmember Reid noting that there are pros and cons to increasing enforcement, stating that would likely be a 50 percent increase in cases with the new ordinance. He stated that he believed that this increase would be temporary in the beginning but is expected to taper off once citizens understood the city was getting more serious about code enforcement.

Councilmember Reid then relayed that she was not aware of how often or how many specialized attorneys have been hired in the past year. Deputy Manager Carroll responded that most contracts had come before Council, such as Bond Counsel, Environmental Counsel, and Labor Counsel, whereas the medical marijuana attorney contract did not require Council approval but the City Manager had made Council aware at a Committee of the Whole meeting. Mr. Carroll noted that the marijuana attorney was a single instance, whereas the other attorneys are routine except for an occasional eminent domain case.

Mayor Randall inquired regarding Michigan Tax Tribunal appeals and the specialized attorney for those cases. Deputy City Manager Carroll responded that he was unsure of the history in this instance.

Councilmember Knapp asked about the process for the hiring of outside legal counsel and whether that has been historically done through the City Manager's Office with the City Manager signing the contracts. She further inquired as to how the city decides which attorney to contract with. Deputy Manager Carroll responded that the City has identified leaders or very competent attorneys in those specific areas of interest. He then provided a history of each attorney the city currently utilizes and their tenure. Mr. Carroll stated that his opinion was if the City already had counsel providing good advice then continue to retain their services, noting the attorneys to date have been great. Mr. Carroll further offered that historically the City Manager's Office would retain the attorneys when necessary and would like the City Council to allow that to continue.

Councilmember Knapp requested additional clarification regarding protocol, noting Section 6.6(H) in the Charter, whether the desire is for City Council to provide some authority to the City Manager's Office to retain outside counsel. Deputy City Manager Carroll confirmed, stating that if a particular subject is outside the City Attorney's knowledge base then the City can hire a specialized attorney. Councilmember Knapp then highlighted the City's organizational chart noting that the City Attorney presently reports only to City Council and asked when the City Manager's Office is retaining counsel how City Council can account for reporting purposes. Deputy City Manager Carroll responded that many municipalities have a dual report structure that includes the City Manager's Office, noting City Council is separate from staff but the City Attorney reports to both Council and the City Manager's Office.

Councilmember Urban inquired about the particular municipalities noted on the comparison spreadsheet, stating that some municipalities did not match Portage in size for comparison purposes. Mr. Carroll responded that he used the Michigan Municipal League responses from a listserv request. City Manager La Margo noted that the listserv goes out to all Michigan municipalities but only those listed on the comparison example were the jurisdictions who responded in the short timeframe given.

Mayor Pro Tem Pearson agreed with Councilmember Urban and highlighted the annual City Manager salary survey. Mr. Pearson requested staff to inquire with the seven comparable cities in that survey to also be asked about City Attorney services. Councilmember Urban also noted the annually published list for comparable tax rates and requested those municipalities also be asked. He also requested the City of Kalamazoo to be included as it is the neighbor city to Portage. Mayor Pro Tem Pearson agreed. The City Manager and Deputy City Manager confirmed that they would include those municipalities in the secondary survey.

Councilmember Urban further noted that pulling away prosecutions from the City Attorney's office is a Charter provision and requires a vote of the people to change, not City Council. Debate regarding the Charter and Section 6.6(B) versus 6.6(H) followed.

City Manager La Margo noted that the City Administration desired to adhere to a procedure that all of the Council was comfortable with and that proved to be efficient. He stated that if Council was comfortable with the current procedures and structure of the City Attorney services, then he would not

make changes, but highlighted that with the current contract up for renewal that now was the time to review the topic. He suggested some matters could be reviewed by the Mayor and Mayor Pro Tem to increase efficiency.

Deputy City Manager Carroll then expressed concerns regarding structuring the City Attorney to an hourly format in an effort to economize and expressed a preference to continue the current contract structure using a flat fee contract. He stated that staff also want the opinion of the City Council regarding the desired contract structure for the upcoming RFQ.

Councilmember Urban agreed that having the City Attorney review all contracts is cumbersome but stated the Charter requires it under Section 6.6(C). Deputy Manager Carroll disagreed noting that the City Attorney is also under the direction of City Council. He further stated that the City Attorney is not preparing all contracts and documents as outlined in the Charter, in some instances outside vendors are preparing the contracts with the City Attorney simply approving them to form.

City Manager La Margo clarified that he was not looking to revise the Charter, that he wanted clarification from Council on a direction to ensure a cohesive procedure is followed going forward.

Councilmember Urban replied that the specialized marijuana counsel needed City Council approval. He further stated that sending certain matters to only the Mayor and the Mayor Pro Tem was unacceptable and all of the Council needed to review and approve items. He stated that he did not believe the Mayor and Mayor Pro Tem had any special authority beyond the other Councilmembers. He expressed concern that any proposed changes could violate the Charter and understanding these provisions were outlined by the Charter and not by ordinance has changed his prior opinions.

Mayor Pro Tem Pearson stated that certain contracts like the annual face painting contract should be considered routine. He also stated that he believes Section H of the Charter supersedes Section B and noted that other provisions in the Charter are not currently followed either.

Mayor Randall replied to Councilmember Urban regarding the current outsourcing of the bond counsel and labor attorney being long-term contracts that are not outlined in the Charter. She further stated that it is best to have a subject matter expert and get the best advice for the price. The Mayor also highlighted that she is receiving repeat complaints from citizens on code issues and feels this needs to be handled better in the future.

Councilmember Reid spoke regarding repetitive contracts and stated her desire that Council does not relinquish that oversight. She noted the current City Attorney contract is for five years and proposed a slightly shorter term. Ms. Reid further inquired about Council passing a resolution for approving certain routine outside legal counsel contracts, such as bond and labor counsel, that would be explicit regarding City Council intentions.

Councilmember Knapp stated that she liked Councilmember Reid's suggestions as a way to ease into a modified contract structure. She noted that, under the Charter, if the City Attorney was supposed to do everything there would not be a Section H. Ms. Knapp further agreed with Councilmember Reid that the next City Attorney contract is for a period slightly less than five years.

Councilmember Urban agreed and supported a more efficient procedure if there was a way in which to comply with Section C of the Charter. Mr. Urban also expressed agreement with the Mayor regarding problematic code enforcements, noting that it may be the ordinance guidelines that slows the process and not the attorneys prosecuting the matters. He expressed hope that the internal processes of the City Administration can be streamlined while still following due process.

City Manager La Margo responded to Councilmember Urban stating he believed the city needed a stronger prosecutor and deferred to Deputy City Manager Carroll. Mr. Carroll relayed that he had reviewed the city processes in the last four months and agreed with the manner in which items were being handled but also noted that he had gotten involved with the City Attorney's Office with regard to prosecuting. He stated that municipal attorneys differ from prosecuting attorneys in that litigation is a specific portion of law where municipal attorneys traditionally do not perform as well. Deputy City Manager Carroll relayed that the City Attorney contract could be less expensive but a contract with a

prosecuting attorney would be more dependent upon how future contracts were structured.

Councilmember Burns stated he wanted to echo Councilmember Knapp regarding her suggestion that a contract term be less than five years, especially in light of the proposed Fiscal Year 2020-21 Budget.

City Manager La Margo responded that the contract length is at the discretion of City Council but he desired further direction as to how to proceed with the service structure.

Mayor Randall stated that a Committee of the Whole meeting does not hold votes but she believed Council could provide direction now to allow for the City Attorney Services RFQ to be placed a later Council agenda. Mayor Randall stated that she has always favored voting to put this contract out to bid as the City Attorney contract is one of the biggest dollar amounts. She noted that the last time this contract was bid that there were two lower bids but City Attorney Brown had ultimately provided a supplementary addendum.

Councilmember Urban stated he was concerned with a shorter contract noting the steep learning curve, highlighting the current City Attorney's institutional knowledge and stressed that a shorter contract would need to allow for a new City Attorney to learn the city. He suggested advertising multiple RFQs with one format for the current structure and another format using the current structure but separating a prosecuting attorney and comparing the costs. He then inquired about Mr. Carroll's idea from a prior meeting to bring a magistrate into Portage and asked for more information on that proposal.

Councilmember Reid agreed that a one-year term for a new contract for a new firm would be too difficult and suggested at least a two-year term would be needed with explicit Council approval for certain categories of attorney types to adhere to the Charter.

Councilmember Ford agreed with the previous Councilmember suggestions but highlighted the numerous instances of City Council and City Attorney interaction, as well as interactions with the various City Boards and Commissions entailing evening meetings. He stated that at \$300 an hour and hourly structure could create a very expensive contract and requested an estimate regarding the amount of time the current City Attorney devotes to the City.

Mayor Pro Tem Pearson expressed a preference for a shorter contract such as a three or four-year term. Councilmembers Knapp and Burns agreed. Mayor Randall then asked whether the City Manager had any additional questions.

Deputy City Manager Carroll then reviewed the City Council's requirements from the meeting discussion. He noted the Council's request that he review the seven other entities or municipalities for service provision and costs comparison; that the upcoming RFQ structure needed to be tiered with one proposal mirroring the current City Attorney Services structure, then a second proposal with a split structure, and a third proposal with a prosecuting attorney only, and finally that the contract term be three to four years.

Mayor Randall questioned the potential for an a la carte bid structure to prevent from burdening responses and ensuring proposals were competitive. Deputy City Manager Carroll responded that advertising two bids would be best using the first and second service structures. Mr. Carroll also responded to Councilmember Ford, relaying the lack of response from his prior inquiries to the current City Attorney regarding current time commitments or time spent on cases.

Councilmember Urban inquired about the review of contracts and asked how the City could adhere to the Charter by eliminating contract reviews for contracts that only change dates or similar small details. He wondered if the City could create a policy with a noted dollar amount and provisions regarding change limitations to streamline this process. He then requested that the proposed RFQ receive City Council review and approval before the City's publication. Discussion then followed regarding the history of whether RFQ proposals were provided to the Council before publication. Mayor Randall asked the City Manager to review prior action and repeat what had been done previously. Councilmember Urban stated that if the contract is at the behest of the City Council then Council should

approve the RFQ.

Councilmember Reid noted the City Council only deals with two offices, the City Manager and City Attorney. Mayor Randall responded, asking City Manager La Margo to have the RFQ proposal on the next City Council agenda.

Mayor Randall opened the meeting for any citizen comments. There being none, the Mayor then asked if there were any additional Councilmember comments.

Councilmember Urban inquired about the magistrate option proposed by Deputy Manager Carroll. City Manager La Margo responded that it was just an informal idea at this time and not ready for a formal proposal. Mayor Pro Tem Pearson expressed hesitation regarding the public perspective in utilizing a magistrate to gain revenue. Councilmember Urban agreed, noting he was simply curious about the matter.

ADJOURNMENT: Mayor Randall adjourned the meeting at 2:55 p.m.

Erica L. Eklov, City Clerk

**MINUTES FROM THE PRE-MEETING
OF THE PORTAGE CITY COUNCIL
OF MAY 26, 2020**

Mayor Patricia Randall, via the WebEx meeting platform, called the meeting to order at 8:00 a.m. Councilmembers Lori Knapp, Claudette Reid and Mayor Pro Tem Jim Pearson also joined via the WebEx meeting platform. Councilmembers Chris Burns, Richard Ford, and Terry Urban were absent with excuse. Also in attendance were City Manager Joseph La Margo, Deputy City Manager Mike Carroll (via WebEx meeting platform), Deputy City Manager Adam Herringa (via WebEx meeting platform), Communications Manager Mary Beth Block, and City Clerk Erica Eklov (via WebEx meeting platform).

Mayor Randall began by reviewing the agenda. She confirmed that City Clerk Eklov would read the Proclamation.

With regard to Item A.2, Councilmember Reid inquired about the payment for temporary Parks Department assistance. She asked why the city was paying for temporary employees when some staff were currently furloughed. Deputy City Manager Herringa responded that the temporary staffing entailed routine seasonal workers that maintain the various parks, which Public Works staff are not able to manage.

With regard to Item A.4, Councilmember Reid noted that the City Manager's Report did not detail the current city costs for the contract. She stated that the report also noted the contract renewal had various increases and decreases that she would like further explained. Councilmember Knapp highlighted the second-to-last paragraph that noted dollar amounts. Councilmember Reid responded that she desired an itemized cost detail for each year. City Manager La Margo confirmed that he would provide the information.

With regard to Item A.5, Councilmember Knapp stated the wording of the motion was awkward, noting the mention of the public hearing, plus the additional action recommended was problematic. Councilmember Reid relayed various historical variations for similar motions. City Manager La Margo responded that the language would be reviewed and clarified.

With regard to Item A.6, Councilmember Reid requested clarification regarding the process for the vendor receiving a percentage of the cost and the duration of the benefit. City Manager La Margo deferred to the Deputy City Managers. Deputy City Manager Carroll responded he would review the contract and respond.

With regard to Item A.7, Councilmember Reid noted the language in the General Fund Reserve Policy Resolution stated that City Council would be informed of any overages spent. She requested clarification as to whether Council would simply be informed or the matter would require Council approval, stating her preference that City Council approve any purchases beyond the twenty-four percent fund balance. City Manager La Margo responded that City Council currently approves both the annual budget, as well as the bi-weekly Accounts Payable Register, which should account for any expenditures. Councilmember Reid replied that the proposed Resolution did not specifically state whether the expenditures were budgeted and suggested that additional language should be added. City Manager La Margo stated that efforts for Council approval could be cumbersome and relayed that any overages are directed to the Capital Improvement Program as previously discussed during the Council Budget Sessions. Councilmember Reid stated that Council usually is advised of fund overages at the end of the

fiscal year. She further noted she likes the concept of the Resolution but with improvements to the wording. Mayor Randall asked the City Manager to review the Resolution for additional revisions.

With regard to the Wage Resolution under Item E.1, Councilmember Reid noted that the Resolution stated increases for Department Heads and Non-Union but she requested clarification regarding the unions. City Manager La Margo responded that there are no additional increases planned but highlighted that the proposed budget already includes some wage increases for some areas to be planned at a later date.

Councilmember Knapp inquired whether an item for the City Attorney Services RFQ was planned. City Manager La Margo responded that the City Administration is continuing to work on the language for the RFQ and plan to present the item at the first Council meeting in June. Councilmember Knapp further inquired whether the item would entail the actual RFQ or simply the concept. Deputy City Manager Carroll responded that he was still acquiring answers to the questions City Council posed during the May 14th Committee of the Whole meeting and was working to have all information prepared before the next Council meeting.

Deputy City Manager Herringa relayed that a Resolution of Respect for retiring Finance Director Bill Furry was slated to be added to the agenda.

Mayor Randall relayed she had been contacted for recent Eagle Scout recognitions and inquired about adding an item or creating a process for a future agenda to recognize these youths. City Manager La Margo responded that he also desired to recognize certain staff for recent above and beyond efforts. Mayor Randall agreed that a new method to recognize these matters in the virtual City Council meetings was needed in a way that could be carried forward to the regular meetings for the future. Councilmember Reid suggested a potential photo montage for the virtual meetings.

ADJOURNMENT: Following a summary of the meeting, Mayor Randall adjourned the meeting at 8:33 a.m.

Erica L. Eklov, City Clerk

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Accounts Payable Register

SUPPORTING PERSONNEL: William Furry, Director of Finance

ACTION RECOMMENDED: Approval of the Accounts Payable Register of May 26, 2020 as presented.

The City Council reviews and approves the bi-weekly Accounts Payable Register which includes automated clearing house payments, paper checks and auto-pay payments. The attached Accounts Payable Register covers the period May 3, 2020 through May 16, 2020 and notes \$644,139.38 in automated clearing house payments, \$1,900,495.54 in paper checks, and \$114,834.03 in auto-pay payments for a grand total of \$2,659,468.95.

FUNDING: N/A

Attachments: 1. Accounts Payable Register of May 26, 2020

ACCOUNTS PAYABLE REGISTER
Check Dates From: 5/3/2020 to 5/16/2020

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Check Type: ACH Transaction

Check Date	Check	Vendor Name	Description	Amount
05/08/2020	13108(A)	A I S CONSTRUCTION EQUIP. CO.	PUMP MAINTENANCE	1,414.70
05/08/2020	13109(A)	AMERICAN SAFETY & FIRST AID	FIRST AID SUPPLIES	318.25
05/08/2020	13110(A)	BEST WAY DISPOSAL, INC.	CURBSIDE RECYCLING PROGRAM	103,392.20
05/08/2020	13111(A)	C D W GOVERNMENT, INC.	3 PANASONIC TOUGHBOOKS/PATROL VEH	2,376.63
05/08/2020	13112(A)	C M P DISTRIBUTORS, INC.	MISC POLICE SUPPLIES	76.45
05/08/2020	13113(A)	C T S TELECOM, INC.	TELEPHONE SERVICE	2,337.23
05/08/2020	13114(A)	CHARTER COMMUNICATIONS	CABLE TV	149.98
05/08/2020	13115(A)	D & D PRINTING CO.	RAMONA ANNUAL PARK PERMITS	1,960.62
05/08/2020	13116(A)	ENTENMANN-ROVIN CO.	SHIRT/WALLET BADGE	400.25
05/08/2020	13117(A)	FERRELLGAS, LP	PROPANE TANK RETNAL	84.00
05/08/2020	13118(A)	GORDON WATER SYSTEMS	WATER SERVICES	22.25
05/08/2020	13119(A)	GRIFFIN PEST SOLUTIONS, INC.	PEST CONTROL SERVICES	49.00
05/08/2020	13120(A)	HURST MECHANICAL, INC.	WATER HEATER REPAIR	475.81
05/08/2020	13121(A)	INDUSCO SUPPLY CO., INC.	JANITORIAL SUPPLIES DPW	745.13
05/08/2020	13122(A)	IP CONSULTING, INC.	LABOR FOR PHONE SYS BACKUPS	3,000.00
05/08/2020	13123(A)	KUSHNER & COMPANY, INC.	COBRA & FSA ADMINISTRATION	327.47
05/08/2020	13124(A)	LANDS END	RECORDS/IC UNIFORMS	313.20
05/08/2020	13125(A)	MATERIALS RESOURCES	LATEX GLOVES/SUPPLIES	25.00
05/08/2020	13126(A)	MCNALLY ELEVATOR CO.	ELEVATOR MAINTENANCE	138.50
05/08/2020	13127(A)	MFCI, LLC	CIP 2020 NEW MONEY BOND ISSUE	18,111.97
05/08/2020	13128(A)	MICROSYSTEMS, INC.	PAPERVISION ENTERPRISE RENEWAL	199.50
05/08/2020	13129(A)	MULDERS LANDSCAPE SUPPLIES INC	OPERATING SUPPLIES	1,090.00
05/08/2020	13130(A)	ONSTAFF USA INC	TEMPORARY EMPLOYEES PARKS	17,812.67
05/08/2020	13131(A)	PARIS CLEANERS	LAUNDRY CONTRACT	1,114.15
05/08/2020	13132(A)	PEOPLEFACTS, LLC	EMPLOYEE BACKGROUND CHECKS	33.34
05/08/2020	13133(A)	PRINTING SERVICES INC	MONTHLY POSTER PRINTING	5,673.38
05/08/2020	13134(A)	R W LAPINE INC.	HVAC MAINTENANCE	4,073.00
05/08/2020	13135(A)	RIDGE AUTO NAPA	OPERATING SUPPLIES	338.77
05/08/2020	13136(A)	ROTO-ROOTER SEWER & DRAIN SERV	EMERGENCY DRAIN SERVICE	353.95
05/08/2020	13137(A)	SEVERANCE ELECTRIC COMPANY, INC	TRAFFIC SIGNAL MAINTENANCE	4,718.00
05/08/2020	13138(A)	STEELE, DANA	REIMB/FIRE MARSHAL SUPPLIES	107.34
05/15/2020	13139(A)	ABONMARCHE CONSULTANTS, INC	ELIASON RESERVE DEVELOPMENT	2,876.10

ACCOUNTS PAYABLE REGISTER
Check Dates From: 5/3/2020 to 5/16/2020

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Check Date	Check	Vendor Name	Description	Amount
05/15/2020	13140(A)	AIRGAS USA LLC	MAINTENANCE SUPPLIES	64.67
05/15/2020	13141(A)	ALL CITY MANAGEMENT SERVICES, INC.	CROSSING GUARD CONTRACT	12,758.88
05/15/2020	13142(A)	ANIMAL REMOVAL SERVICE, LLC	ANIMAL REMOVAL SERVICES	2,605.00
05/15/2020	13143(A)	APOLLO FIRE APPARATUS REPAIR	FIRE TOOLS REPAIR	291.73
05/15/2020	13144(A)	BLUE CARE NETWORK-GREAT LAKES	BCNA INSURANCE	150,651.12
05/15/2020	13145(A)	C D W GOVERNMENT, INC.	3 TOUGHBOOKS FOR PATROL VEH	2,226.20
05/15/2020	13146(A)	C M P DISTRIBUTORS, INC.	MISC POLICE SUPPLIES	295.00
05/15/2020	13147(A)	CAPITAL ADVANTAGE LEASING	KONICA MINOLTA COPIER LEASE	3,177.05
05/15/2020	13148(A)	CARLETON EQUIPMENT CO.	MAINTENANCE SUPPLIES	1,156.49
05/15/2020	13149(A)	CARRIER & GABLE	TRAFFIC SIGNAL MAINTENANCE	3,950.00
05/15/2020	13150(A)	CLARK HILL, PLC	BOND COUNSEL/CIP 2020 SERIES	23,500.00
05/15/2020	13151(A)	CONSOLIDATED ELECTRICAL DIST INC	OPERATING SUPPLIES	83.70
05/15/2020	13152(A)	DEPATIE FLUID POWER CO., INC.	HYDRAULIC SUPPLIES	644.87
05/15/2020	13153(A)	DIESEL INJECTION SERVICE, LLC	UNIT 245 REPAIRS	4,143.25
05/15/2020	13154(A)	DOUGLASS SAFETY SYSTEMS LLC	FIRE PPE GEAR	61,584.00
05/15/2020	13155(A)	E J USA, INC.	MANHOLE SUPPLIES	6,286.20
05/15/2020	13156(A)	EKLOV, ERICA	REIMB/HANGING FILE CARTS/SCANNERS	483.43
05/15/2020	13157(A)	GLEESING, KEVIN	STAFF & COMMAND SCHOOL WEEK	225.00
05/15/2020	13158(A)	GORDON WATER SYSTEMS	GORDON WATER SYSTEMS	98.00
05/15/2020	13159(A)	GORNO FORD	NEW FLEET VEHICLES - DPW	144,511.00
05/15/2020	13160(A)	GRIFFIN PEST SOLUTIONS, INC.	PEST CONTROL - DPW	746.00
05/15/2020	13161(A)	HURLEY & STEWART, LLC	AIRPORT WATERMAIN BIDDING SVC	10,263.24
05/15/2020	13162(A)	INDUSCO SUPPLY CO., INC.	MISC PAPE/CLEANING SUPPLIES	978.32
05/15/2020	13163(A)	IP CONSULTING, INC.	PRORATED WEBEX LIC/SR CENTER	824.63
05/15/2020	13164(A)	JONS TO GO PORTABLE RESTROOM	RENTAL PORTA JON	75.00
05/15/2020	13165(A)	LAWSON PRODUCTS, INC	FIELD MARKING PAINT	318.96
05/15/2020	13166(A)	MALL CITY MECHANICAL	FIRE FACILTY MAINT	180.50
05/15/2020	13167(A)	MCGUIRE, INGRID	HAND SANITIZER FOR TREASURY CUST	42.36
05/15/2020	13168(A)	MEEKHOF TIRE SALES & SERVICE INC.	TIRES AND SERVICES	471.00
05/15/2020	13169(A)	MIH MICHIGAN LLC	DISASTER RECOVERY SERV MO CHARGE	3,515.40
05/15/2020	13170(A)	MULDERS LANDSCAPE SUPPLIES INC	OPERTAING SUPPLIES	1,409.50
05/15/2020	13171(A)	OFF THE CUFF CATERING	MAY 5TH ELEC WORKERS LUNCH	315.00
05/15/2020	13172(A)	ONE WAY PRODUCTS	JANITORIAL SUPPLIES	603.36

ACCOUNTS PAYABLE REGISTER
Check Dates From: 5/3/2020 to 5/16/2020

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Check Date	Check	Vendor Name	Description	Amount
05/15/2020	13173(A)	PERCEPTIVE CONTROLS, INC.	SCADA MAINTENANCE SERVICES	2,785.72
05/15/2020	13174(A)	PRINTING SERVICES INC	4X8 BANNERS FOR SUMMER EVENTS	1,280.00
05/15/2020	13175(A)	R W LAPINE INC.	FIRE FACILITY MAINT	5,876.51
05/15/2020	13176(A)	REPUBLIC SERVICES OF WEST MICHIGAN	WASTE SERVICES	2,355.95
05/15/2020	13177(A)	RIDGE AUTO NAPA	VEHICLE MAINTENENACE	3,635.81
05/15/2020	13178(A)	VOID		0.00 V
05/15/2020	13179(A)	ROAD EQUIPMENT PARTS CENTER	MAINTENANCE SUPPLIES	203.67
05/15/2020	13180(A)	ROE-COMM, INC.	FIRE COMM REPAIR	363.26
05/15/2020	13181(A)	S B F ENTERPRISES, INC.	PRINT/PROCESS QTLY WATER/FIRE PRINTING	2,682.16
05/15/2020	13182(A)	SIMPLIFILE LLC	APRIL DOCUMENT FILINGS	33.00
05/15/2020	13183(A)	TECHNOLOGY SOLUTIONS	PLOWTRAX APPLICATION MAINT	342.72
05/15/2020	13184(A)	TERMINAL SUPPLY CO.	SAFETY LIGHTS FOR EQUIP	185.17
05/15/2020	13185(A)	THE POSTMAN INC.	CHAINLINK FENCE REPAIRS	200.00
05/15/2020	13186(A)	TRUCK & TRAILER SPECIALTIES	MAINTENANCE SUPPLIES	128.26
05/15/2020	13187(A)	VANDENBRINK, BRIAN	STAFF & COMMAND SCHOOL WEEK 4	225.00
05/15/2020	13188(A)	WEST MICHIGAN INT'L LLC	ENGINE REPAIRS UNIT 245	5,359.45
05/15/2020	13189(A)	WOLVERINE LAWN SERVICE, INC.	SNOW REMOVAL SERVICES	5,895.00
Total ACH Transactions:				644,139.38

Check Type: Paper

05/08/2020	313334	BAY AREA TOUCHLESS CARWASH LLC	CAR WASHES	180.00
05/08/2020	313335	CITY OF KALAMAZOO TREASURER	SANITARY SEWER CHARGES	230,821.39
05/08/2020	313336	CONGREGATION OF MOSES	HAYLOFT THEATRE RENTAL REFUND	160.00
05/08/2020	313337	COSTAR REALTY INFORMATION, INC.	COMM REAL ESTATE DATABASE	367.23
05/08/2020	313338	CREATIVE CIVIC SOLUTIONS LLC	COMM DEV CONSULTATION	7,000.00
05/08/2020	313339	DUNIGAN BROTHERS, INC.	LIFT STATION RENOVATION/EMILY-CORA	172,316.50
05/08/2020	313340	EMERGENCY VEHICLE PRODUCTS	POLICE VEHICLE REPAIR	746.55
05/08/2020	313341	FAWLEY OVERHEAD DOOR, INC.	OVERHEAD DOOR REPAIRS	442.00
05/08/2020	313342	GERBER COLLISION & GLASS	VEHICLE REPAIRS	1,218.62
05/08/2020	313343	GROSSER, SANDRA	SCHRIER PARK BLD. RENTAL REFUND	550.00
05/08/2020	313344	H & K EXCAVATING	HYDRANT METER DEPOSIT REFUND	350.00
05/08/2020	313345	HOME DEPOT	PARKS MAINTENANCE	443.57
05/08/2020	313346	KZOO TIRE COMPANY	POLICE VEHICLE MAINTENANCE	2,417.90

ACCOUNTS PAYABLE REGISTER
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Check Date	Check	Vendor Name	Description	Amount
05/08/2020	313347	MENARDS	BUILDING MAINTENANCE	470.67
05/08/2020	313348	MICH MUNICIPAL POLICE & FIRE REPAIR	POLICE VEHICLE REPAIR/MAINT	4,653.44
05/08/2020	313349	VOID		0.00 V
05/08/2020	313350	MICHIGAN ASSESSORS ASSOCIATION	ADVERTISEMENT MMA	150.00
05/08/2020	313351	MILLAR, KATHERINE	HAYLOFT THEATRE RENTAL REFUND	570.00
05/08/2020	313352	OFFICE DEPOT, INC.	OFFICE SUPPLIES	161.63
05/08/2020	313353	POJETA, RICHARD & PATRICIA	MAGNIFICENT MANSIONS REFUND	200.00
05/08/2020	313354	QUINN HOOKER-TOMAK, ASHLEE	HAYLOFT THEATRE RENTAL REFUND	920.00
05/08/2020	313355	RICHARDSON, JODI	SCHRIER PARK BLD. RENTAL REFUND	550.00
05/08/2020	313356	SAFEUILT MICHIGAN, LLC	FILL IN INSPECTIONS/BUILDING SVC	3,480.00
05/08/2020	313357	SHI INTERNATIONAL CORP.	PCS, LAPTOPS, IPADS & DOCK	12,261.60
05/08/2020	313358	TRUGREEN PROCESSING	LANDSCAPE SERVICES	226.30
05/08/2020	313359	ULINE, INC.	OPERATING SUPPLIES	1,010.52
05/08/2020	313360	UNITED PARCEL SERVICE	UPS WEEKLY	12.00
05/08/2020	313361	VERIZON WIRELESS	CELLULAR TELEPHONES	3,287.52
05/08/2020	313362	W MICH CRIMINAL JUSTICE TRAINING CO	SPRING DISTRIBUTION FOR TRAINING	1,357.39
05/08/2020	313363	WEIDEMANN, JUDY & LYLE	MINNESOTA MANSIONS REFUND	190.00
05/13/2020	313364	STATE OF MICHIGAN	BOND FILING FEE	1,000.00
05/15/2020	313365	ADP, INC.	ADP PAYROLL & ETIME	4,385.90
05/15/2020	313366	AIR COMPONENTS & ENGINEERING, INC.	AIR TOOL REPAIRS	240.59
05/15/2020	313367	AMERICAN ARBOR LLC	TREE REMOVAL SERVICES	2,180.00
05/15/2020	313368	APEX SOFTWARE	APEX SOFTWARE YRLY MAINT RENEWAL	1,385.00
05/15/2020	313369	AT&T	ELECTRONIC COMMUNICATIONS	6,904.25
05/15/2020	313370	BECK, JOAN	JUNE FOUR WINDS CASINO TRIP REF	30.00
05/15/2020	313371	BELDEN BRICK AND SUPPLY	CEMETERIES IMPROVEMENTS	7,418.27
05/15/2020	313372	BLAIN SUPPLY, INC.	MAINTENANCE SUPPLIES	105.80
05/15/2020	313373	BLUE CROSS/BLUE SHIELD OF MICH	BCBSM INSURANCE	44,758.56
05/15/2020	313374	BORGESS MEDICAL CENTER	POST OFFER CONDITIONS - MEDICAL	40.00
05/15/2020	313375	BULLSEYE WINDSHIELD REPAIR	REPAIR WINDOW ON #160	65.00
05/15/2020	313376	C&C PROFESSIONAL CLEANING SERVICE	FACILITY CLEANING	3,999.99
05/15/2020	313377	CHICAGO TITLE OF MI	OP WATER/SEWER BILL 6902 ANGLING	43.25
05/15/2020	313378	CINTAS CORP.	UNIFORM RENTAL SERVICES	818.96
05/15/2020	313379	CIZMADJI, SUSAN	NEW YORK WITH ED & TED REFUND	50.00

ACCOUNTS PAYABLE REGISTER
Check Dates From: 5/3/2020 to 5/16/2020

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Check Date	Check	Vendor Name	Description	Amount
05/15/2020	313380	COOKS HOME IMPROVEMENT	BITS OF BUSINESS SENIOR EXPO REFUND	75.00
05/15/2020	313381	CORBIN, BRADLEY	JUNE FOUR WINDS CASINO TRIP REFUND	40.00
05/15/2020	313382	DEVRIES, DAWN	GRAIN ELEVATOR RENTAL REFUND	305.00
05/15/2020	313383	DOUGLAS, KIRK	SCHRIER PARK BLD. RENTAL REFUND	550.00
05/15/2020	313384	DUNIGAN BROTHERS, INC.	LIFT STATION RENOVATION	12,250.00
05/15/2020	313385	EICHOLTZ, GREGG	APRIL- MAY WESTFIELD FIELD REFUND	150.00
05/15/2020	313386	EMERGENCY VEHICLE PRODUCTS	CHANGE OVER 4 VEHICLES	69,197.57
05/15/2020	313387	FLEIS & VANDENBRINK ENGINEERING	LEXINGTON-GREEN RENO A&E SVC	3,949.00
05/15/2020	313388	FOREMOST SALES COMPANY LLC	CLEANING SERVICES	1,395.00
05/15/2020	313389	FORESTRY SUPPLIERS, INC.	OPERATING SUPPLIES	67.57
05/15/2020	313390	GENEON TECHNOLOGIES, LLC	TRIO RX ELECTROLYTE	548.34
05/15/2020	313391	HALT FIRE, INC.	FIRE APPARATUS MAINT	483.81
05/15/2020	313392	HOLCOMB, JOSHUA	ONLINE MUSIC INSTRUCTION PMT	1,728.00
05/15/2020	313393	HOLOCENE ENVIRONMENTAL LLC	UST A & B OPERATOR SERVICES	175.00
05/15/2020	313394	HOME DEPOT	MAINTENANCE SUPPLIES- CEMETERIES	397.09
05/15/2020	313395	JOHNSON, SARAH	HAYLOFT THEATRE RENTAL REFUND	920.00
05/15/2020	313396	KAHN, WILMA	REMINISCENCE WRITING REFUND	59.44
05/15/2020	313397	KALAMAZOO COUNTY TREASURER	2019 MTT DOCKET #19-001278 CONSENT JDGMT	4,264.39
05/15/2020	313398	KALAMAZOO GAZETTE	SUBSCRIPTION RENEWAL	60.00
05/15/2020	313399	KALAMAZOO LANDSCAPE SUPPLIES	REPAIR/ MAINT SUPPLIES CEMETERIES	255.00
05/15/2020	313400	KERSTETTER, VIOLET	TRIP REFUND 200531 ESCAPE	145.00
05/15/2020	313401	KNOWBE4, INC.	KNOWBE4 EMAIL SEC TRAINING	2,025.00
05/15/2020	313402	KZOO TIRE COMPANY	TIRE TUBES	51.50
05/15/2020	313403	LANCASTER, JILL	REIMBURSEMENT FOR UTILITY SINK	307.39
05/15/2020	313404	LONG, HEATHER	GRAIN ELEVATOR RENTAL REFUND	335.00
05/15/2020	313405	LYSTER EXTERIORS	STUART MANOR REPAIRS	2,000.00
05/15/2020	313406	MACK, KRISTI	SCHRIER PARK BLD. RENTAL REFUND	400.00
05/15/2020	313407	MAKOWSKI, PEGGY	GRAIN ELEVATOR RENTAL REFUND	400.00
05/15/2020	313408	MCDONALD'S TOWING & RESCUE, INC.	TOWING SERVICES	314.00
05/15/2020	313409	MICH MUNICIPAL POLICE & FIRE REPAIR	POLICE VEHICLE REPAIR/MAINT	13,202.89
05/15/2020	313410	VOID		0.00 V
05/15/2020	313411	MICHIGAN ELECTION RESOURCES, LLC	ID/MASTER CARD RESTOCK	1,503.55
05/15/2020	313412	MICHIGAN ELECTION RESOURCES, LLC	ABSENT VOTER ENVELOPE	825.00

ACCOUNTS PAYABLE REGISTER
Check Dates From: 5/3/2020 to 5/16/2020

Check Date	Check	Vendor Name	Description	Amount
05/15/2020	313413	MILLER, CANFIELD, PADDOCK & STONE	AUSTIN LAKE TRAIL LEGAL SERVICES	6,260.00
05/15/2020	313414	MLIVE MEDIA GROUP	APRIL LEGAL NOTICES	1,620.32
05/15/2020	313415	NEOGOV	GOVERNMENTJOBS.COM ANNUAL SUB	1,500.00
05/15/2020	313416	O'REILLY AUTO PARTS	MAINTENANCE SUPPLIES	106.40
05/15/2020	313417	OFFICE DEPOT, INC.	OFFICE SUPPLIES	473.25
05/15/2020	313418	PEERLESS, INC.	FIRE MAINT. SUPPLIES	123.50
05/15/2020	313419	PEERLESS-MIDWEST, INC.	PUMP & MOTOR OVERHAUL-WESTFIELD #1	19,727.96
05/15/2020	313420	POPP, JOSEPH	NEW YORK WITH ED & TED REFUND	100.00
05/15/2020	313421	PRINCIPAL FINANCIAL GROUP	ACTUARIALLY RECOMMENDED CONTRIBUTION	92,255.00
05/15/2020	313422	QUADMED, INC.	FIRE EMS SUPPLIES	610.20
05/15/2020	313423	RAM'D AIR GEAR DRYER	NEW FIRE ST 2 EQUIP	7,893.91
05/15/2020	313424	RENEWED EARTH, INC.	LEAF AND BRUSH REMOVAL/COMPOST	9,083.33
05/15/2020	313425	SEELYE FORD, INC.	VEHICLE MAINTENANCE	4,463.64
05/15/2020	313426	SIGN SHOP OF WESTERN MICHIGAN	BALLOT DROPBOX OUTDOOR SIGN	225.00
05/15/2020	313427	SITEONE LANDSCAPE SUPPLY LLC	IRRIGATION REPAIR SUPPLIES	10.13
05/15/2020	313428	SMITH, BETH	REIMB FOR REPLACEMENT OF DOCK SEC	521.20
05/15/2020	313429	SOIL & MATERIALS ENGINEERS, INC	NEW FIRE ST 2	400.00
05/15/2020	313430	SPARTAN DISTRIBUTORS INC.	ANNUAL MAJOR SERVICE	3,184.04
05/15/2020	313431	STATE OF MICHIGAN (TREASURY)	2019 IFT DISBURSEMENT TO STATE OF MICH	905,729.74
05/15/2020	313432	STATE SYSTEMS RADIO, INC	RADIO SERVICES	607.00
05/15/2020	313433	STEENSMA LAWN & POWER EQUIPMENT	REPAIR AND MAINTENANCE	772.04
05/15/2020	313434	STEFFLER, JAMES	FINAL WTR BILL @7141 SPARROW RIDGE ST	18.20
05/15/2020	313435	STOMMEN, JOAN	YOGA AT ST. CATHERINE'S REFUND	54.00
05/15/2020	313436	T J M SERVICES	ELIASON NATURE RESERVE PHASE II	198,835.18
05/15/2020	313437	TAYLOR, KAREN	SCHRIER PARK BLD. RENTAL REFUND	550.00
05/15/2020	313438	THOMAS, DARCEE	GRAIN ELEVATOR RENTAL REFUND	365.00
05/15/2020	313439	ULINE, INC.	MISC. EVIDENCE SUPPLIES	65.72
05/15/2020	313440	UNION STREET HYDRAULICS	FLEET CYLINDER REPAIRS	777.61
05/15/2020	313441	VAUGHN, CAITLIN	SCHRIER PARK PAV. RENTAL REFUND	110.00
05/15/2020	313442	VERIZON CONNECT NWF, INC.	GPS SERVICES - FLEET	921.85
05/15/2020	313443	VERIZON WIRELESS	WIRELESS SERVICE	48.12
05/15/2020	313444	VICKSBURG HARDWARE	SEASONAL MAINTENANCE	800.70
05/15/2020	313445	WASTE MANAGEMENT	DISPOSAL SERVICES	265.38

ACCOUNTS PAYABLE REGISTER
Check Dates From: 5/3/2020 to 5/16/2020

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Check Date	Check	Vendor Name	Description	Amount
05/15/2020	313446	WHENTOWORK, INC.	STAFF ONLINE SCHEDULING	330.00
05/15/2020	313447	WINTER EQUIPMENT COMPANY, INC.	CURB GUARDS	2,250.93
05/15/2020	313448	ZANTELO'S INTERIOR CARE. LLC.	FIRE FACILITY MAINT.	1,116.25
Total Paper Checks:				1,900,495.54

Check Type: Auto-Pay Payment

04/16/2020	CONSUMERS ENERGY	GAS-ELECTRIC	486.12
04/17/2020	CONSUMERS ENERGY	GAS-ELECTRIC	5,573.10
04/20/2020	CONSUMERS ENERGY	GAS-ELECTRIC	439.20
04/30/2020	CONSUMERS ENERGY	GAS-ELECTRIC	109.42
05/05/2020	CONSUMERS ENERGY	GAS-ELECTRIC	9,085.55
05/06/2020	CONSUMERS ENERGY	GAS-ELECTRIC	45,605.54
05/07/2020	CONSUMERS ENERGY	GAS-ELECTRIC	1,058.22
05/08/2020	CONSUMERS ENERGY	GAS-ELECTRIC	7,557.08
05/11/2020	CONSUMERS ENERGY	GAS-ELECTRIC	18,794.69
05/12/2020	CONSUMERS ENERGY	GAS-ELECTRIC	882.70
05/13/2020	CONSUMERS ENERGY	GAS-ELECTRIC	1,005.94
05/14/2020	CONSUMERS ENERGY	GAS-ELECTRIC	4,815.65
05/15/2020	RANDALL BROWN & ASSOC	ATTORNEY RETAINER	18,810.00
05/15/2020	CONSUMERS ENERGY	GAS-ELECTRIC	610.82
Total Auto-Pay Payments:			114,834.03

Grand Total: 2,659,468.95

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: 2019 Local Street Reconstruction Project

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Amend a construction contract with Northern Construction Services, Corp. for the 2019 Local Street Reconstruction Program in an amount not to exceed \$118,434.76, and authorize the City Manager to execute all documents related to the contract on behalf of the city.

The Fiscal Year 2019-2020 Capital Improvement Program (CIP) budget provides funds for the 2019 Local Streets Reconstruction Program, which began in the summer of 2019. The project includes street milling and resurfacing, storm sewer system improvements, concrete curb and gutter replacement, new sidewalk to connect gaps in existing sidewalk and installation of ADA approved ramps at intersections. The 2019 Local Streets Reconstruction Program includes all streets in the Harbors, Heverly Downs, Devisser Plat, and Sherwood Forest Estates neighborhoods. The streets include:

- | | | |
|------------------------|----------------------|-----------------------|
| - Abbott Avenue | - Hemlock Avenue | - Rosewood Avenue |
| - Beacon Harbor Avenue | - Heverly Drive | - Sherwood Drive |
| - Bird Rock Street | - Newhaven Cove | - Springridge Street |
| - Eagle Harbor Avenue | - Newhaven Drive | - Sturgeon Bay Avenue |
| - French Bay Drive | - Old Mission Street | - Thunder Bay Street |
| - Grand Traverse Lane | - Robin Hood Drive | - Tradewind Drive |
| - Hedgewood Street | | |

Council approved the project in July 2019 and awarded a contract to Northern Construction Services, Corp. of Niles, Michigan in the amount of \$1,679,973.50. When construction began on the project, the contractor found that more storm sewer pipe than originally identified required replacement. At that time, Northern Construction Services performed the additional required storm sewer replacement at cost of \$118,434.76 over the original contract amount. Pending Council approval of a contract amendment in this amount, the final paving of the local streets is set to be completed in June 2020.

It is recommended that City Council amend the contract with Northern Construction Services, Corp. for

the 2019 Local Streets Reconstruction project in an amount not to exceed \$118,434.76 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

FUNDING: Funds are available in the FY 2019-2020 Capital Improvement Program budget.

Attachments: 1. 2019 Portage Local Street Reconstruction - Storm Sewer Repair Items

2019 Portage Local Street Reconstruction - Storm Sewer Repair Items

Project:	2019 Portage Local Street Reconstruction	Project No.:	18-0668-2
Client:	City of Portage	Client Project No.:	n/a
Description:	Summary of Storm Sewer Work	Project Stage:	Construction Administration
Prepared By:	Daniel A. Dombos II, PE	Date Prepared:	5/12/2020

Line Item	Item Description	Units	Original Quantity	Quantity Placed	Quantity Difference	Unit Price	Amount this Estimate
4	Sewer, Rem, Less than 24 inch	Ft	1,265.00	2,429.00	1,164.00	\$12.00	\$13,968.00
11	Aggregate Base, 8 inch	Syd	1,765.00	3,457.85	1,692.85	\$11.60	\$19,637.06
13	Sewer, CI IV, 12 inch, Tr Det B	Ft	1,265.00	2,206.00	941.00	\$40.00	\$37,640.00
24	Hand Patching	Ton	345.00	680.83	335.83	\$90.00	\$30,224.70
45	Sewer, CI IV, 15 inch, Tr Det B	Ft	-	195.00	195.00	\$87.00	\$16,965.00
Subtotal of Work Items:							\$118,434.76

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Life and Long-Term Disability Insurance

SUPPORTING PERSONNEL: William Furry, Director of Finance

ACTION RECOMMENDED: Approve a two-year contract renewal, with the option of one additional two-year renewal, with The Hartford for employee basic life, basic accidental death and dismemberment, contributory life, contributory accidental death and dismemberment, dependent life and long-term disability insurance, and authorize the City Manager to execute all documents on behalf of the city.

The City of Portage has the contractual responsibility to provide basic life and basic accidental death and dismemberment (AD&D) insurance to all full-time, unionized employees. The city also extends these benefits to full-time, non-union employees, as provided through the Personnel Rules and Regulations. Coverage levels vary depending upon the employee job classification and/or salary level. In the event of death, a life insurance benefit is paid to the designated beneficiary of the employee. The benefit doubles if death occurs due to an accident. The city also has the contractual obligation to provide full-time, unionized employees with the opportunity to purchase optional life and optional AD&D insurance benefits through payroll deduction, a benefit also extended to full-time, non-union employees. Also, dependent life insurance is a benefit offered to full-time non-union employees for dependent coverage. This coverage is voluntary and the cost of the benefit is paid by the employee.

The City of Portage is also contractually obligated to provide long-term disability insurance for all full-time, unionized employees. This benefit is also extended to full-time, non-union employees as provided through the Personnel Rules and Regulations. Long-term disability insurance entitles employees, who after completing an elimination period and continue to be unable to perform substantial and material duties of their occupation, to 66.67% of their monthly base salary. After 36 months, the employee must be unable to perform the main functions of any gainful occupation in which their training, education or experience will reasonably allow in order to continue to be considered disabled within the guidelines of the policy.

The current two-year contract with The Hartford for these benefits expires on June 30, 2020. As part of the 2020 renewal process with The Hartford, the city was advised of significant increases in premiums

for basic life insurance, voluntary life insurance and long-term disability insurance. As a result of the increased premiums received during the renewal process, the city took action to solicit quotes from Lincoln Financial and Mutual of Omaha. Although Lincoln Financial was able to provide premium savings in some areas, it was unable to match other contractual coverage levels, or coverage levels offered to the full-time, non-unionized employees. Mutual of Omaha declined to quote citing it could not match plan designs. Ultimately, the city negotiated with The Hartford and was able to obtain certain reductions in the significant premium increases received during the renewal process.

The cost of the first year of the current contract was \$105,572.48 and is anticipated to cost approximately \$109,801.58 for the second year. During recent contract negotiations with The Hartford, the City Administration was able to secure a two-year renewal with a decrease of 20% in basic life insurance premiums, a 12.26% increase in long-term disability premiums, and an increase of 14.71% in voluntary life insurance premiums. The annual cost for the renewal contract is expected to be \$114,672 in the first year and \$120,131 in the second year. The Hartford has provided excellent customer service to city staff during the past several years.

It is recommended that City Council approve a two-year contract renewal for the period of July 1, 2020 – June 30, 2022, with the option of one additional two-year renewal, with The Hartford for employee basic life, basic accidental death and dismemberment, contributory life, contributory accidental death and dismemberment, dependent life and long-term disability insurance, and authorize the City Manager to execute all documents on behalf of the city.

FUNDING: Funds have been included in the FY 2020/2021 Budget to cover the cost of employee benefits. Employees also contribute to the cost.

Attachments: None

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Conceptual Plan Amendment for Trade Centre Commercial Planned Development,
300-1150 Trade Centre Way

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

ACTION RECOMMENDED:

1. Accept the Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way, and set a public hearing for June 23, 2020; and
2. Subsequent to the public hearing on June 23, 2020, consider the Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way, including the requested building height modification to allow construction of the proposed hotel building to a height up to 65-feet and the requested screening waiver, with the findings contained in the April 30, 2020 Department of Community Development staff report.

An application has been submitted by Trade Centre Holdings, LLC requesting to amend two conceptual plans originally approved in 2002 and 2004 by combining them into one plan and adding a new hotel and associated site improvements on a new, approximate two-acre parcel. The overall 30-acre tract of land, commonly known as Trade Centre Commercial Planned Development, is zoned commercial planned development, CPD, and includes parcels addressed as 300, 400, 450, 500, 550, 650, 750, 850, 950 and 1150 Trade Centre Way.

In addition to combining the two existing conceptual plans into one, the applicant is proposing to construct a new four-story, 59-foot-tall hotel building and associated site improvements on a new approximate two-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. This proposal involves another partnership with the City of Portage whereby the existing City of Portage storm water basin located on the 850 Trade Centre Way parcel will be relocated to the northwest to allow for construction of the new hotel building and associated parking facilities. An exchange of land between the City of Portage and Trade Centre Holdings, LLC and modification of property lines involving 750, 850 and 950 Trade Centre Way is also proposed for this project to come to fruition. This

project also involves an amendment to the Downtown Development Authority Plan.

In conjunction with the proposed conceptual plan amendment, and similar to the previously approved multi-story hotel and office buildings within the Trade Centre CPD, the applicant is also requesting one modification and one waiver:

1. A height modification to allow construction of the four-story hotel to a height of up to 65-feet. Section 42-350.B(6) of the Zoning Code establishes a building height of 30 feet and one-story when the zoning lot abuts a single-family residential zoning district. The Planning Commission can approve a building height up to the height normally permitted in the district (35 feet) and City Council approval is necessary for a building height that exceeds 35 feet.
2. A conflicting land use screening waiver for the remaining northern portion of the development where abutting single family residential zoning (City of Kalamazoo wellfield, Portage Creek and single family residences) to the north. Section 42-573.E of the Zoning Code requires construction of a six-foot-tall landscaped berm between the development and property either zoned or used for residential purposes that can be modified/waived with City Council approval.

In a report dated April 30, 2020, the Department of Community Development discussed the proposed conceptual plan amendment including the requested height modification, screening waiver, surrounding land use pattern, distances and topographic differences between the proposed hotel building and single-family residences to the north/northwest, traffic, access and environmental related issues. Based on the analysis contained in the report, staff is supportive of the proposed Conceptual Plan Amendment for Trade Centre Commercial Planned Development including the requested building height modification to allow construction of the proposed hotel building to a height up to 65 feet and the requested screening waiver.

The Planning Commission convened a public hearing during the April 16 and May 7, 2020 meetings to consider the proposed conceptual plan amendment. Greg Dobson of AVB, the applicant's representative, phoned into to these virtual meetings to support the application and explain the proposed hotel project. One citizen, Tony Ettwein who resides at 5265 Bronson Boulevard, called in during the April 16 meeting regarding the conceptual plan amendment and the proposed new hotel development. Mr. Ettwein and his wife also submitted a written communication in support of the proposed project. No additional citizens called in during the public hearings and no additional citizen communications were received regarding this proposed conceptual plan amendment.

After careful consideration, the Planning Commission voted unanimously 9-0 to recommend to City Council that the Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way, be approved including the requested building height modification to allow construction of the proposed hotel building to a height up to 65-feet and the requested screening waiver.

FUNDING: Not applicable

Attachments:

1. Planning Commission transmittal dated May 15, 2020
2. Planning Commission meeting minutes dated April 16 and May 7, 2020
3. Department of Community Development staff report dated April 30, 2020 with attachments

4. Proposed elevation drawing

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: May 15, 2020

SUBJECT: Conceptual Plan Amendment for Trade Centre Commercial Planned Development,
300-1150 Trade Centre Way

The Planning Commission convened a public hearing during the April 16th and May 7, 2020 meetings to consider the request submitted by Trade Centre Holdings, LLC to amend previously approved conceptual plans to allow construction of a new 4-story hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. The overall 30-acre tract of land (commonly known as Trade Centre Commercial Planned Development) is zoned CPD, commercial planned development and includes parcels addressed as 300, 400, 450, 500, 550, 650, 750, 850, 950 and 1150 Trade Centre Way. Greg Dobson of AVB (applicant representative) called-in during both of these virtual meetings to support the application and explain the proposed hotel project. One citizen (Tony Ettwein, 5265 Bronson Boulevard) called-in during the April 16th meeting to comment on the conceptual plan amendment and the proposed new hotel development. Mr. Ettwein and his wife also submitted a written communication in support of the proposed project.

After careful consideration, a motion was made by Commissioner Patterson, seconded by Commissioner Myer, to recommend to City Council that the Conceptual Plan Amendment for Trade Centre CPD, 300-1150 Trade Centre Way, be approved including the requested building height modification to allow construction of the proposed hotel building to a height up to 65-feet and the requested screening waiver. The motion included a finding consistent with Section 42-414.G of the Zoning Code and as outlined in the April 30, 2020 Department of Community Development staff report. The motion was unanimously approved 9-0.

Sincerely,


Dan Corradini
Chairman

waive the second public hearing and make a formal recommendation to City Council to approve Ordinance Amendment #19/20-A, Adult Use Marihuana. Mr. West then asked Assistant City Attorney Bear to provide a more detailed overview of the proposed amendments.

Assistant City Attorney Bear provided a summary of State legislation and local ordinance development associated with medical marihuana, followed by a summary of adult use marihuana State legislation. Assistant City Attorney Bear reviewed in detail the proposed amendments to Section 42-262 (B-3, general business district), Section 42-280 (I-1, light industrial district) and Section 42-281 (I-2, heavy industrial district). Assistant City Attorney Bear, Mr. West and the Commission next discussed various aspects of the proposed ordinance amendment including the requirement for separate HVAC systems and odor mitigation, compliance with ADA requirements, delivery services, no drive-thru service and separation requirements from schools, child care centers, etc. and the phrase "adjacent to or abutting a residential zoning district".

The public hearing was then opened by Chairman Corradini. One citizen (Omar Catani, 5747 South Westnedge Avenue) spoke regarding the proposed adult use marihuana ordinance amendments. Mr. Catani asked about the partitioning requirement when a provisioning center and retailer are located at the same location, and the rationale for the determining the boundary lines for the zoning lot "as those line existed on December 31, 2017. Assistant City Attorney Bear and Mr. West responded. No additional citizens called-in to speak regarding the proposed adult use marihuana ordinance amendments. A motion was then made by Commissioner Harrell-Page, seconded by Commissioner Schimmel, to close the public hearing. Upon a roll call vote: Harrell-Page (yes); Patterson (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

After a brief discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Myer, to waive the second public hearing and recommend to City Council that Ordinance Amendment #19/20-A, Adult Use Marihuana be approved. Upon a roll call vote: Joshi (yes); Meyer (yes); Harrell-Page (yes); Pezzoli (yes); Baldwin (yes); Corradini (yes); Patterson (yes); Fries (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

4. Preliminary Report: Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way. Mr. West summarized the staff report dated April 9, 2020 regarding a request by Trade Centre Holdings, LLC to amend two previously approved conceptual plans to allow construction of a new 4-story hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. Mr. West stated the 30-acre tract of land is zoned CPD, commercial planned development and includes parcels addressed as 300, 400, 500, 550, 650, 750, 850, 950 and 1150 Trade Centre Way. Mr. West stated the first conceptual plan was approved in 2002 (amended in 2012) and involved an approximate 20-acre tract of land that includes parcels 200 400, 500, 550, 650 and 750 Trade Centre Way. Mr. West stated the second conceptual plan was approved in 2004 and involved a 12-acre tract of land that includes parcels 850, 950 and 1150 Trade Centre Way. Mr. West stated the applicant was proposing to amend these two previously approved conceptual plans to allow construction of a new 4-story, 59-foot tall hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. Mr. West stated the proposal involves another partnership between the developer and the City of Portage, along with an exchange of land and modification of property lines, whereby the existing city storm water basin located on the 850 Trade Centre Way parcel will be relocated to the northwest to allow construction of the new hotel building. In conjunction with the conceptual plan amendment and consistent with previous approvals, Mr. West stated the applicant was also requesting a height modification and a waiver from the conflicting land use screening requirements.

Greg Dobson of American Village Builders (applicant representative) called-in to support the application and discuss the proposed new hotel project. Mr. Dobson thanked staff for all their assistance during the application review process and also thanked the Planning Commission for conducting the virtual meeting during these challenging times. Mr. Dobson next summarized the history of the Trade Centre CPD and the partnership between Joe Gesmundo and Roger Hinman. Mr. Dobson reviewed development projects which have been completed to date within the CPD including three multi-story office buildings, two multi-story hotels and one restaurant building. Mr. Dobson summarized the proposed new hotel project and discussed efforts to reach out

to the residential neighbors to the west and north. Mr. Dobson discussed the “site line” studies performed between the proposed hotel building and the residences located to the north, northeast and northwest, and the sound mitigation study previously prepared for the adjacent multi-story office buildings. Mr. Dobson discussed the careful planning which has occurred with each development project to preserve the adjacent wetlands, floodplain and natural area along the Portage Creek. The Commission and applicant next discussed various aspects of the proposed project.

The public hearing was then opened by Chairman Corradini. One citizen (Tony Ettwein, 5265 Bronson Boulevard) spoke regarding the conceptual plan amendment and the proposed new hotel development. Mr. Ettwein expressed concern about the screening provision and the visibility of the proposed hotel from his residence. Mr. Ettwein stated that discussions with Mr. Dobson have been very positive and Mr. Dobson has agreed to consult with him and his wife, both pre-construction and post-construction, to ensure their concerns were addressed. No additional citizens called-in to speak regarding the proposed conceptual plan amendment and new hotel project. A motion was then made by Commissioner Schimmel, seconded by Commissioner Harrell-Page, to adjourn the public hearing for the Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way, to the May 7, 2020 meeting. Upon a roll call vote: Joshi (yes); Meyer (yes); Harrell-Page (yes); Pezzoli (yes); Baldwin (yes); Corradini (yes); Patterson (yes); Fries (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

STATEMENT OF CITIZENS/COMMISSIONERS

Commissioner Patterson encouraged citizens to continue to follow Planning Commission and City Council meetings even after the Governor’s Executive Order is lifted stating it was an excellent way of staying informed of city activities and projects.

Commissioners Pezzoli and Fries thanked Chairman Corradini and Mr. West for coordinating this virtual meeting and for the pre-meeting preparation.

Commissioner Joshi reminded everyone of the upcoming May 5th election and strongly encouraged everyone to register on-line before April 20th since there will be no precincts open for this election.

Commissioner Baldwin thanked all the front-line workers including health care personnel, law enforcement, fire department, EMTs and others for all their hard work during this national health crisis.

ADJOURNMENT:

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Michael West, AICP
Senior City Planner

PLANNING COMMISSION

May 7, 2020

The City of Portage Planning Commission meeting of May 7, 2020 was called to order by Chairman Corradini at 7:00 p.m. Pursuant to the "Remote Attendance Rules for Meetings" and Michigan Governor Whitmer's Executive Order 2020-21, this meeting was held remotely with Commissioners, staff, applicants and the general public participating via telephone call-in.

IN ATTENDANCE

Michael West, Senior City Planner and Randy Brown, City Attorney.

ROLL CALL

Mr. West called the roll: Meyer (yes); Pezzoli (yes); Baldwin (yes); Joshi (yes); Harrell-Page (yes); Schimmel (yes); Corradini (yes); Fries (yes); and Patterson (yes). All Commissioners present.

APPROVAL OF MINUTES

Chairman Corradini referred the Commission to the April 16, 2020 meeting minutes contained in the agenda. A motion was made by Commissioner Fries, seconded by Commissioner Baldwin, to approve the minutes as submitted. Upon a roll call vote: Patterson (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Harrell-Page (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

PUBLIC HEARING

1. Final Report: Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way. Mr. West summarized the staff report dated April 30, 2020 regarding a request by Trade Centre Holdings, LLC to amend two previously approved conceptual plans to allow construction of a new 4-story hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. Mr. West stated the 30-acre tract of land is zoned CPD, commercial planned development and includes nine parcels ranging between 300-1150 Trade Centre Way. Mr. West stated the applicant was proposing to amend two previously approved conceptual plans to allow construction of a new 4-story tall hotel building. Mr. West stated the proposal involves another partnership between the developer and the City of Portage, along with an exchange of land and modification of property lines, whereby the existing city storm water basin located on the 850 Trade Centre Way parcel will be relocated to the northwest to allow construction of the new hotel building. In conjunction with the conceptual plan amendment and consistent with previous approvals within the Trade Centre CPD, Mr. West stated the applicant was also requesting a height modification and a conflicting land use screening waiver. Mr. West indicated the conceptual plan amendment, and associated height modification and conflicting land use screening waiver, were recommended for approval with the findings contained in the staff report.

Greg Dobson of American Village Builders (applicant representative) called-in to support the application and discuss the proposed new hotel project. Mr. Dobson thanked staff for all their assistance and the Planning Commission for conducting the virtual meeting. Mr. Dobson briefly summarized the proposed hotel project, the history of the Trade Centre CPD and efforts to reach out to the residential neighbors to the west and north.

The public hearing was then reconvened by Chairman Corradini. No citizens called-in to speak regarding the proposed conceptual plan amendment and new hotel project. A motion was then made by Commissioner Baldwin, seconded by Commissioner Schimmel, to close the public hearing. Upon a roll call vote: Myer (yes);

Pezzoli (yes); Baldwin (yes); Harrell-Page (yes); Schimmel (yes); Corradini (yes); Joshi (yes); Fries (yes); and Patterson (yes), the motion was unanimously approved 9-0.

After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Myer, to recommend to City Council that the Conceptual Plan Amendment for Trade Centre CPD, 300-1150 Trade Centre Way, be approved including the requested building height modification to allow construction of the proposed hotel building to a height up to 65-feet and the requested screening waiver. The motion included a finding that consistent with Section 42-414.G of the Zoning Code and based on information provided by the applicant: 1) strict adherence of the height and screening requirements would be inconsistent with the planned development as a whole; 2) the objectives of the requirements can be satisfactorily met without strict adherence; 3) the requested height modification and screening waiver will not be detrimental to the public welfare or injurious to other surrounding properties; and 4) because of the particulars of the development plan it would be unreasonable to require strict adherence to these requirements. Upon a roll call vote: Schimmel (yes); Corradini (yes); Joshi (yes); Fries (yes); Patterson (yes); Harrell-Page (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

SITE/FINAL PLANS

1. Specific Plan: Trade Centre Hotel, 850 Trade Centre Way. Mr. West summarized the April 30, 2020 staff report regarding a request by Trade Centre Holdings, LLC to construct a new 4-story, 62,318 square foot hotel building and associated site improvements on a new approximate 2-acre parcel at 850 Trade Centre Way. Mr. West stated the applicant has requested concurrent review of the conceptual plan amendment and specific plan in order to expedite the development review process and meet construction deadlines. Mr. West next discussed the access arrangement and the removal of the Trade Centre Way cul-de-sac bulb, the relocation and reconstruction of the combined city/private storm water system, and proposed landscaping and outdoor lighting at the site. Mr. West stated the specific plan was recommended for approval subject to the three conditions identified in the staff report.

Greg Dobson of American Village Builders (applicant representative) called-in to support the application and discuss the proposed new hotel project. The Commission, Mr. Dobson and Mr. West next discussed various aspects of the proposed hotel project including the distance measurement between the hotel building and the nearest residence to the north, the relocation of the MDOT storm water box culvert and economic impacts the virus may have on the hotel project.

A motion was made by Commissioner Myer, seconded by Commissioner Harrell-Page, to approve the Specific Plan for Trade Centre Hotel, 850 Trade Centre Way, subject to the following conditions: 1) City Council review and approval of the Conceptual Plan Amendment; 2) Review and approval of the storm water basin controlled rate discharge to the adjacent wetland area and Portage Creek by the Michigan Department of Environment Great Lakes & Energy; and 3) Finalization of engineering related details associated with the storm water system and public water main extension. Upon a roll call vote: Myer (yes); Pezzoli (yes); Baldwin (yes); Harrell-Page (yes); Schimmel (yes); Corradini (yes); Joshi (yes); Fries (yes); and Patterson (yes), the motion was unanimously approved 9-0.

NEW BUSINESS:

None.

OLD BUSINESS:

None.

STATEMENT OF CITIZENS/COMMISSIONERS

Commissioner Joshi thanked the City Council for pursuing an ordinance that will prohibit the clear cutting of trees with the site development proposals.

Commissioner Baldwin stated it was National Nurse's Week and also the Year of the Nurse and encouraged people to thank nurses that they may know for their service during this national health crisis.

Chairman Corradini indicated that he worked the recent elections and wanted to thank the City Clerk (Erica Eklov) and Deputy City Manager (Adam Herringa), along with the many volunteers, for all their hard work during these challenging times.

ADJOURNMENT:

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 7:35 p.m.

Respectfully submitted,

Michael West, AICP
Senior City Planner

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TO: Planning Commission**DATE:** April 30, 2020**FROM:** Christopher Forth, Interim Director of Community Development**SUBJECT:** Final Report: Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way**I. INTRODUCTION/BACKGROUND:**

An application has been submitted by Trade Centre Holdings, LLC requesting to amend previously approved conceptual plans to allow construction of a new 4-story hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. The overall 30-acre tract of land (commonly known as Trade Centre Commercial Planned Development) is zoned CPD, commercial planned development and includes parcels addressed as 300, 400, 450, 500, 550, 650, 750, 850, 950 and 1150 Trade Centre Way.

In 2002, City Council approved the original CPD conceptual plan submitted by Furniture Row USA, LLC for the approximate 20-acre tract of land currently addressed as 300, 400, 450, 500, 650 and 750 Trade Centre Way. The original conceptual plan proposed construction of two hotels, one retail furniture store, two specialty retail buildings and two restaurants. In 2003, H & G, LLC acquired the property and constructed Phase 1 of the development which included a three-story, 50-foot tall, 83,000 square foot office building (Trade Centre I) and associated site improvements along the western portion of the property at 750 Trade Centre Way. This office building replaced the two specialty retail buildings previously identified on the original conceptual plan. In 2012, City Council approved an amendment to the originally approved conceptual plan that changed the overall development plan to include two hotels, one additional office building and three restaurant/retail buildings and related site improvements on the 20-acre tract of land. To date, the additional office building (650 Trade Centre Way), the two hotels (400 and 500 Trade Centre Way) and one restaurant building 550 Trade Centre Way) have been constructed, while two vacant parcels (300 and 450 Trade Centre Way) remain for future construction of restaurant or retail buildings.

In 2004, City Council approved a separate CPD conceptual plan submitted by Trade Centre, LLC for an approximate 12-acre tract of land located at the western terminus of Trade Centre Way, currently addressed as 850, 950 and 1150 Trade Centre Way. This conceptual plan proposed construction of a four-story, 65-foot tall 106,000 square foot office building. This project involved a partnership with the City of Portage whereby the Trade Centre II office building would occupy approximately 9.4 acres and the remaining 2.6 acres (850 Trade Centre Way) would be conveyed to the city for public road and storm water purposes. The office building and associated site improvements were constructed in 2006/2007 on the 950 Trade Centre Way parcel, while the 1150 Trade Centre Way parcel was retained in vacant open space.

As detailed in the application materials, the applicant is proposing to amend these previously approved CPD conceptual plans and combine the two conceptual plans into one to allow construction of a new 4-story, 59-foot tall hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. This proposal involves another

partnership with the City of Portage whereby the existing City of Portage storm water basin located on the 850 Trade Centre Way parcel will be relocated to the northwest to allow for construction of the new hotel building and associated parking facilities. An exchange of land between the City of Portage and Trade Centre Holdings, LLC and modification of property lines involving 750, 850 and 950 Trade Centre Way is also proposed in order for this project to come to fruition. This project also involves an amendment to the Downtown Development Authority Plan.

II. COMMERCIAL PLANNED DEVELOPMENT PROCEDURES/REQUIREMENTS:

For development projects within the CPD zone, the Zoning Code requires that City Council approve a conceptual plan for development after a public hearing and after Planning Commission review and recommendation. The conceptual plan is intended to show the overall development of the area including proposed uses, number and location of building sites, parking, location of streets/driveways and so forth. The specific (site) plan shows the proposed development details and characteristics for each individual site. The Zoning Code stipulates that the Planning Commission subsequently reviews and approves the specific (site) plan. If a specific (site) plan is not received by the time required in an approved program of development, or two years after approval of the conceptual plan, whichever is less, the conceptual plan approval shall expire.

While specific (site) plans for the two Trade Centre Office Buildings at 750 and 950 Trade Centre Way were submitted and approved in 2003 and 2006, future development of the intervening 850 Trade Centre Way parcel was not envisioned at this time or identified in the two previously approved conceptual plans. Therefore, the applicant is submitting a combined, amended conceptual plan/narrative for the overall 30-acre tract of land (300-1150 Trade Centre Way) which details the proposal to construct the new hotel building on the 850 Trade Centre Way parcel.

III. PUBLIC HEARING/COMMENTS:

The Planning Commission convened a virtual meeting and public hearing to consider the conceptual plan amendment at the April 16, 2020 meeting. Greg Dobson of American Village Builders (applicant representative) called-in to support the application and discuss the proposed new hotel project. One citizen (Tony Ettwein, 5265 Bronson Boulevard) also called-in to speak regarding the conceptual plan amendment and the proposed new hotel development. Mr. Ettwein expressed concern about the visibility of the proposed hotel from his residence, however, stated conversations with Mr. Dobson have been very positive and Mr. Dobson has agreed to consult with him and his wife, both pre-construction and post-construction, to ensure their concerns were addressed. No additional citizens called-in to speak regarding the proposed conceptual plan amendment.

IV. FINAL ANALYSIS:

Section 42-414.A of the Zoning Code establishes standards and objectives of review for conceptual plans that the Planning Commission and City Council are to consider as part of the recommendation/approval process. The following information summarizes the proposed conceptual plan amendment as requested by the applicant.

Surrounding Land Uses/Property Issues – Consistent with the CPD ordinance and previous projects within the Trade Centre CPD, the proposed conceptual plan amendment has been designed to minimize impacts on surrounding properties through site design, access, building use/location and

relate details. The portion of the CPD development proposed for the amendment (primarily the 850 Trade Centre Way parcel) is situated adjacent to the 50-acre City of Kalamazoo wellfield property, the Portage Creek and privately owned residential properties to the north/northwest including 5255 Old Colony Road and 5265 and 5300 Bronson Boulevard. This area is characterized by natural wetlands, floodplain, Portage Creek, mature trees and associated natural vegetation. The nearest single family residence (5255 Old Colony Road) is situated in excess of 300 feet to the north of the proposed hotel building. Additionally, this residence along with other residences located to the north, northwest and northeast, are situated approximately 35 feet higher in elevation than the proposed hotel building.

Traffic and Access Issues – The capacity of the adjacent street network to accommodate land development within and adjacent to the Trade Centre CPD site and the Downtown Development Area (DDA) has been carefully considered over the past several years. In preparation of establishing the DDA and changing the area zoning, a planning level traffic study was prepared in 1998 by Traffic Engineering Consultants, PC that evaluated the entire 60-acre area. This study assumed a land use matrix and anticipated traffic generation that is consistent with the existing and proposed development pattern within the surrounding area. Another traffic study was completed in 2009 by Abonmarche Consultants that specifically evaluated the Trade Centre CPD area, redesign/reconstruction of the South Westnedge Avenue and I-94 interchange area and concluded with several recommendations regarding the design of South Westnedge Avenue/Trade Centre Way intersection that were subsequently implemented.

Significant investment has been made to the surrounding public street network (Trade Centre Way, West Fork Crossing, Marketplace and South Westnedge Avenue) in and around the DDA to support existing and planned development projects. As such, traffic generation from the existing and proposed uses within the Trade Centre CPD project area can be accommodated by the adjacent street network.

Environmental Issues – As part of the land transfer/development agreement with the city and in conjunction with the proposed hotel site construction, the existing city storm water basin will be relocated to the northern portion of the existing 850 Trade Centre Way parcel. While the treatment cell and infiltration basin will be adjacent to the Portage Creek, all construction activities will occur outside of designated wetland and floodplain areas. All necessary permits and approvals for the overall discharge to the adjacent wetland area and Portage Creek will be obtained from the Michigan Department of Environment, Great Lakes and Energy (EGLE).

Modifications. In conjunction with the proposed conceptual plan amendment and similar to the previously approved multi-story hotel and office buildings within the Trade Centre CPD, the applicant is requesting one modification and one waiver:

- 1) Height modification to allow construction of the four-story hotel to a height up to 65-feet. Section 42-350.B(6) of the Zoning Code establishes a building height 30-feet and one-story when the zoning lot abuts a single family residential zoning district. The Planning Commission can approve a building height up to the height normally permitted in the district (35 feet) and City Council approval is necessary for a building height that exceeds 35 feet.
- 2) Conflicting land use screening waiver for the remaining northern portion of the development where abutting single family residential zoning (City of Kalamazoo wellfield, Portage Creek and single family residences) to the north. Section 42-573.E of the Zoning Code requires

construction of a six-foot tall landscaped berm between the development and property either zoned or used for residential purposes that can be modified/waived with City Council approval.

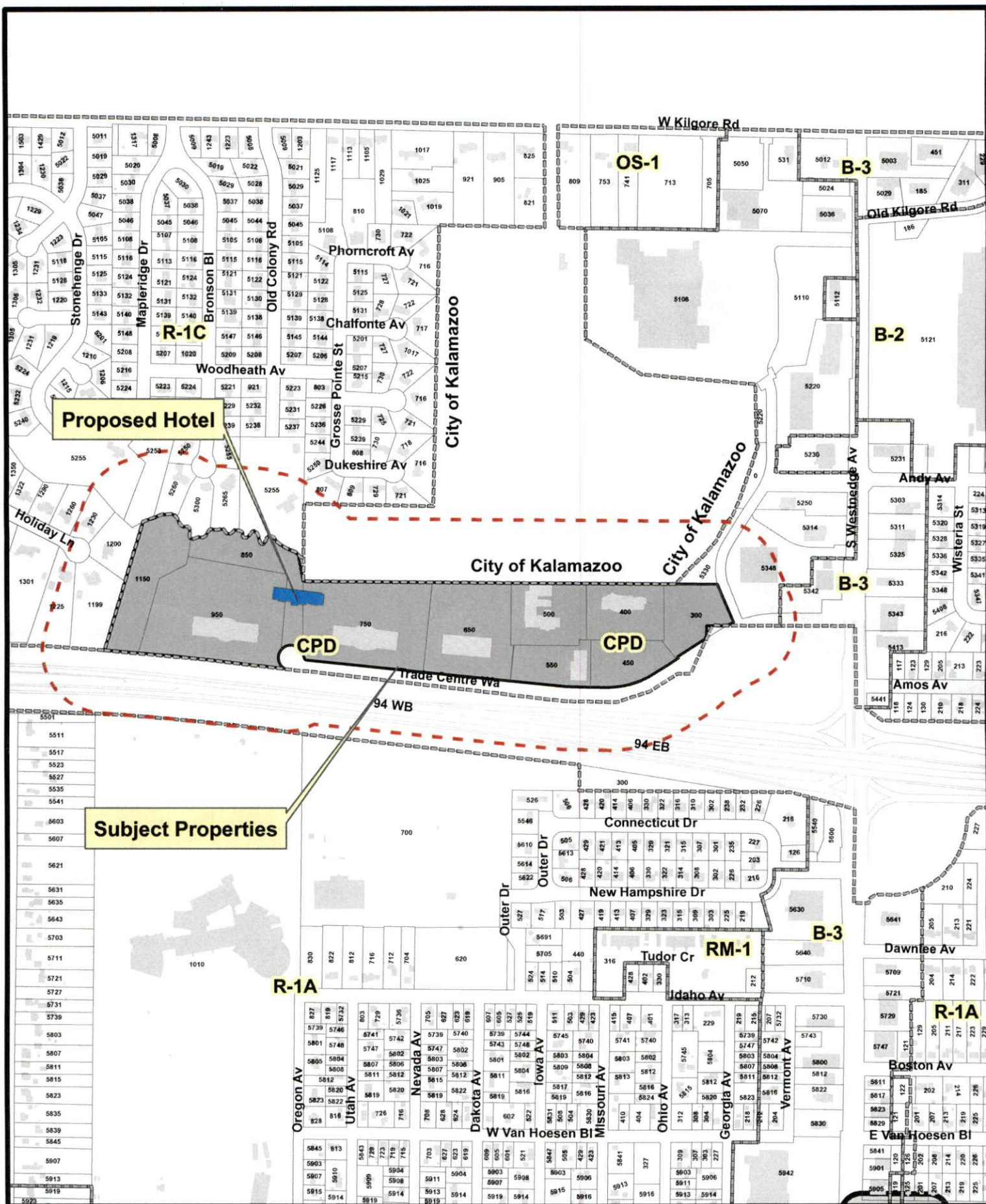
With regard to the proposed building height modification and screening waiver, the presence of the 50-acre City of Kalamazoo, combined with the setback distances, elevation differences and the presence of the Portage Creek and associated natural area (wetland, floodplain, mature trees and associated vegetation) will mitigate potential adverse impacts to the existing residences located to the north, northeast and northwest. The proposed hotel building will also be consistent and compatible in height, mass and orientation with the existing previously approved multi-story office buildings located immediately to the east and west, and the multi-story hotel buildings located further to the east. As indicated in the attached materials, the applicant is continuing to design the layout of the proposed hotel site, similar to the previous two hotel sites, so as to provide scenic views of the large natural wetland areas.

Integration of the Development – Consistent with the previously approved conceptual plans and previous buildings constructed within the Trade Centre CPD, the proposed hotel building will continue the cohesive and integrated architectural theme of the overall development. Orientation of the hotel will be aesthetically pleasing from I-94 and Trade Centre Way and will overlook the natural wetland/floodplain area located to the north, along Portage Creek. Exterior building finishes will consist of concrete and unit masonry materials and a mixture of stone/wood with a color scheme that will integrate positively with the existing Trade Center I and II office buildings to the east and west, and the mass of the two existing hotel buildings located further to the east. Site landscaping will continue the unifying theme of the Trade Centre CPD that emphasize the adjacent Portage Creek and associated wetland/floodplain vegetation. The proposed hotel site will also be integrated through interior vehicular and pedestrian interconnections and a reciprocal easement agreement (REA) that will ensure the property is developed in a cohesive manner. Building elevations for the proposed hotel are attached for Commission review.

V. RECOMMENDATION:

Subject to any additional comments that may be received during the public hearing, staff advises the Planning Commission to recommend to City Council the Conceptual Plan Amendment for Trade Centre CPD, 300-1150 Trade Centre Way, be approved including the requested building height modification to allow construction of the proposed hotel building to a height up to 65-feet and the requested screening waiver. Consistent with Section 42-414.G of the Zoning Code and based on information provided by the applicant, 1) strict adherence of the height and screening requirements would be inconsistent with the planned development as a whole, 2) the objectives of the requirements can be satisfactorily met without strict adherence, 3) the requested height modification and screening waiver will not be detrimental to the public welfare or injurious to other surrounding properties and 4) because of the particulars of the development plan it would be unreasonable to require strict adherence to these requirements.

Attachments: Zoning/Vicinity Map
 Aerial Photograph
 Conceptual Plan Amendment (narrative and conceptual plan drawings)
 Color elevation drawing (proposed hotel)
 April 13, 2020 Communication from Molly & Tony Ettwein, 5265 Bronson Boulevard



Legend

- Proposed Hotel
- 300' Notification Boundary
- Zoning Boundary
- Subject Properties

Conceptual Plan Amendment 300-1150 Trade Centre Way

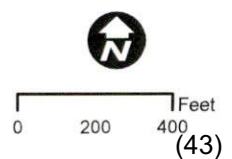


0 300 600 Feet
(42)



- Legend**
- Proposed hotel
 - Tentative city retention parcel
 - Tentative hotel parcel
 - Conceptual Plan Area

Aerial Photo 300-1150 Trade Centre Way





BUILD SOMETHING BETTER.

April 2, 2020

Mr. Michael K. West, AICP, Assistant City Planner
City of Portage
7900 South Westnedge Avenue
Portage, Michigan 49002

RE: Conceptual Plan Amendment for Trade Way Commercial Planned Development

Dear Mike:

What follows is our revision to the 2002 conceptual plan approval, amended in 2012 for 750, 650, 550, 500, 450, 400 and 300 Trade Centre Way and the 2004 conceptual plan approval for 1150, 950 and 850 Trade Centre Way. The purpose of this amendment is to allow for the development of a hotel building at 850 Trade Centre Way, in between 950 Trade Centre Way and 750 Trade Centre Way. Other facets of the planned development have been previously approved and are unchanged.

The original conceptual plan was approved by Portage City Council in 2002 with an update in 2012. Prior to 2002, out-of-town developers had envisioned the property for hotel, restaurant and retail use; three uses we still propose today. Further, they had requested modifications for screening, setbacks and height, all to accommodate a hotel. In 2003 we developed an 83,000 square foot, Class A office building at 750 Trade Centre Way. In 2004 a separate conceptual plan was submitted for the westernmost 11.98 +/- parcel to develop the parcel as an office building site. Over the subsequent years a substantial amount of development has taken place. In 2006/07 a 110,000 square foot Class A office building on the 950 Trade Centre Way Site was constructed. In 2014, construction started on a Courtyard by Marriott hotel. In 2016, construction started on a Hilton Garden Inn. In 2017/2018 a 100,000 square foot Class A office

building was opened at 650 Trade Centre Way. A 10,000 SF +/- Black Rock restaurant was opened in 2018.

The proposed amendment involves the 750 Trade Centre Way and the 950 Trade Centre Way parcels which are both currently owned by the developer. Additionally, the amendment involves the 850 Trade Centre Way parcel, which is presently owned by the City of Portage. A portion of the City of Portage land is being deeded to the developer under a separate development agreement.

We are requesting one modification and a waiver like what has been requested in this planned development in the past: a height modification request, and a screening waiver in accordance with City of Portage Land Development Regulations.

Statement of Purpose: The purpose of this conceptual plan amendment is to allow for the development office buildings, hotels, restaurants and retail space in a manner is that consistent with the high quality that has been established in the Trade Centre development. We are requesting to revise the Commercial Planned Development conceptual plan for the Trade Centre and the 750, 850 and 950 Trade Centre way parcel areas as noted herein.

General Development Plan: The concept plan indicates the existing buildings (3 office buildings, two hotels and a restaurant) along with one additional four-story hotel and two additional restaurant or retail buildings. While this plan is conceptual in nature, we expect the following approximate sizes and square footages for each use. The 4-story hotel will occupy a 2.0 acre +/- site, as the 950, 850 and 750 Trade Centre Way sites are reconfigured. The building will be of an architectural and structural character that will express an architectural character that integrates well into the existing development. In addition, the landscaping will be upscale through the development and will emphasize the adjacent West Fork of the Portage Creek where appropriate. We intend to orient the buildings so that they are aesthetically pleasing from I-94 and Trade Centre Way. The exterior building finishes will be mainly split face block, brick, pre-cast or synthetic materials such as DRIVIT which have the appearance of masonry.

Some natural stones or woods may be integrated into the design for architectural diversity. The color schemes for the primary building surfaces will be limited to those that integrate well with the existing Trade Centre office buildings. The masses of the hotel building will be broken up with banding and color differentiation and movement in the elevation.

Property Map: We have attached a conceptual plan per the CPD requirements.

Developer: The developer is H & G, L.L.C, (Roger Hinman, Principal of The Hinman Company and Joe Gesmundo, Principal of AVB) of 4200 W. Centre Avenue, Portage, MI, 49024 and 750 Trade Centre Way, Portage, MI 49024. The land owner entities are Trade Centre Holdings, LLC, H & G, LLC, 950 Trade Center, LLC, 750 Trade Centre, LLC, 650 Trade Center, LLC and Trade Center H, LLC, Trade Center G, LLC, and 1150 Trade Centre Way of 750 Trade Centre Way, Portage, MI, 49024. All the noted entities are owned 50/50 by Joe Gesmundo and Roger Hinman.

Holdings: The 750 Trade Centre Way and the 950 Trade Centre Way parcels which are both currently owned by the developer. Additionally, the amendment involves 850 Trade Centre Way parcel, which is presently owned by the City of Portage. A portion of the City of Portage land is being deeded to the developer under a separate development agreement. The 750, 850 and 950 Trade Centre Way parcels will all be reconfigured to allow for a new 850 Trade Centre Way parcel where the hotel building will be developed.

Property Lines, Streets and Utilities: The attached conceptual plan provides the adjacent tract property lines, the public streets, easements, and the locations of the underground water and sanitary sewer. Utilities are in place and ready to serve the development.

Topography: The topography of the Property is relatively flat.

Use, Height & Setbacks: The 650 Trade Centre office building is five stories and is less than the previously approved 78 feet to the top of the screen wall (tallest point on the building). The existing hotel buildings at 400 and

500 Trade Centre Way are four stories and do not exceed 59 feet tall. The 950 and 750 Trade Centre Way office buildings do not exceed 65 feet to the top of the screen wall and the proposed four-story hotel will also not exceed 65 feet.

We are therefore requesting, in accordance with Section 42-414(G) of the Land Development Regulations of the City of Portage, a height modification request to allow the construction of the proposed hotel to a height not to exceed 65 feet above the existing elevation of the land. When considering this request please note the following factors which mitigate the impact of the height of this building.

- The property to the north and west contains many mature trees that will further screen the homes to the west and north from our proposed building. Further the residential property to the north is 30 to 35 feet higher in grade higher than the conceptual plan property.
- The proposed hotel building will be approximately 300 feet from the nearest residence, located on 5255 Old Colony.
- Expert testimony provided by William Clark, Ph.D., during development of the 950 Trade Centre building, indicated that the additional building mass reduces road noise impact on the residential properties to the north. Some resident comments have also indicated that the construction of the 950 Trade Centre building has reduced the sound impact of I-94.

We are also requesting a waiver from the screening requirement from the adjacent property to the north. It is our desire to allow the hotel guests to overlook the adjacent natural wetland properties. Like the existing hotels at 400 and 500 Trade Centre way, the new hotel at 850 Trade Centre Way will be designed with an outdoor open space and plaza to specifically orient to the natural views. In addition, please also note the following.

- The property north and east of the proposed hotel is the City of Kalamazoo wellfield.

- The area north of the 850 Trade Centre Way hotel development is mainly wetlands and floodplains.
- Additionally, we are relocating the existing storm water area from the existing 850 parcel to the area immediately north of the 950 Trade Centre Way parcel and office building.

Development Staging: What follows is our anticipated staging of the development. However, no final commitments exist beyond the new hotel building.

- Hotel Building #3 – Fall of 2020 to Fall 2021
- Restaurant/Retail #1 – Summer 2020 to Fall of 2021
- Restaurant/Retail #2 – Summer 2021 to Fall of 2022

Development Integration & Independence: Each building proposed herein is designed to be a part of a cohesive development while maintaining the ability to fully stand on its own merits. Additionally, the buildings will be benefited by a reciprocal easement agreement (the “REA”) to allow for the integrated development of the property. The REA document ensures that utility corridors and connections can be made and vehicular and pedestrian connections can be made and maintained between parcels.

Common Open Space: The common open space within the Trade Centre development is best demonstrated by viewing the attached conceptual plan. To outline the conceptual plan, common open space includes the Westnedge and Trade Centre Way entry statement, sign, and boulevard, the landscaping along the entire Trade Centre both north and sides, the relocated storm retention area north of 950 Trade Centre Way. Additionally, for aesthetics, the developer mows the I-94 right of way between I-94 and the decorative fence (which is also owned and maintained as common space by the developer). This common area maintenance program would be one of many common areas that have been maintained by the developer successfully over the last 40 years. These common areas facilitate a natural and well-maintained feel to the entire development and is a unifying theme for the development.

Water & Sanitary Sewer: The water and sanitary sewer already run through the development, mainly along Trade Centre Way. The proposed buildings would be served by tying directly into these existing utilities. The storm system was previously permitted by the MDEQ and the City of Portage. We presently anticipate maintaining all storm water east of 650 Trade Centre Way underground, with overflows of said underground system being release to the West Fork of Portage Creek according to the flows approved by the MDEQ permit. If above ground storm water detention becomes necessary, such storm water volume would be proposed in a manner similar to the storm water area between the 750 and 950 Trade Centre Way buildings. The western portion of the Trade Centre is served by the existing storm area on the 850 Trade Centre Way parcel. As this storm water area is moved north and west from its current location, we are confident it will continue to receive the positive feedback that it has over the years. This storm water area has been an enhancement to our overall development and is commented on often by current and prospective tenants for its attractiveness and natural feel.

Traffic & Parking: Traffic will be routed to the development along Trade Center Way, West Fork Crossing and Westnedge Avenue. Trade Centre Way is designed for the proposed development activities. The width of Trade Centre Way is 32 feet. Parking will all be accommodated around the buildings as can be seen on the attached conceptual plan.

Covenants, Restrictions, Easements: The attached conceptual plan provides the proposed property lines and the location of Trade Centre Way. The civil engineering plans include the locations of the underground water and sanitary sewer. The main utilities are in place and ready to serve the development. In addition, as previously noted, easements will be provided to allow for cross access between the sites, public utilities and for public turn around over the reconfigured 850 Trade Centre Way parcel.

Natural Features: The property is bordered on the west by the natural land buffer area, on the north by the West Fork of Portage Creek and the City of Kalamazoo well field, on the east by West Fork Crossing and on the South by Trade Centre Way and I-94. The land buffer area to the west is restricted from development. With its exposure to I-94, the property is

exposed to a significant amount of visual inspection daily. The main natural features have been created in our re-development of this property in the form of landscaping and storm water features. The development is also benefited by the City of Kalamazoo well field to the north.

It should be noted that there are existing wetlands on the north edge of the property, immediately adjacent to Portage Creek. A small portion of this northern edge of the property is also within the floodplain. We have designed the hotels as well as the existing hotels and the existing office buildings to overlook the natural wetlands to the north. We believe this is an especially appealing feature of these properties even though they are positioned so close to I-94. Further, the proposed hotel will not encroach on the wetlands. The proposed concept plan is compliant with previous MDEGLE storm water discharge permits and MDEGLE staff has indicated that no new permits are therefore required.

In summary we at H & G look forward to working with both the City of Portage and our neighbors in a positive manner. Please direct any questions to me at (269) 329-3636 or gdobson@avbinc.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Dobson", with a stylized flourish at the end.

Greg Dobson

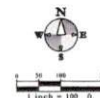
C: Joseph L. Gesmundo, Roger E. Hinman, Rich MacDonald



VICINITY MAP
NOT TO SCALE



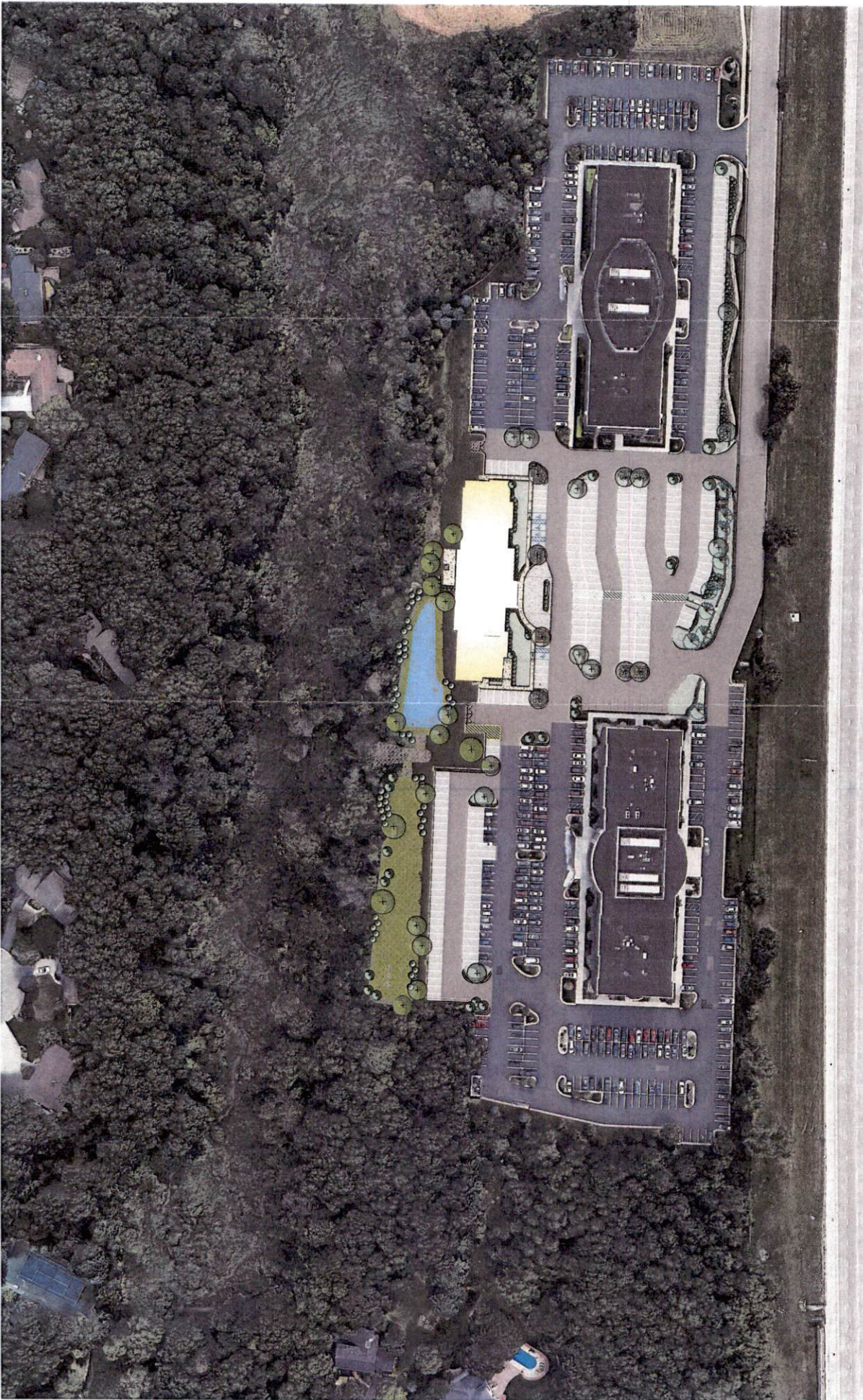
PORTAGE, MI

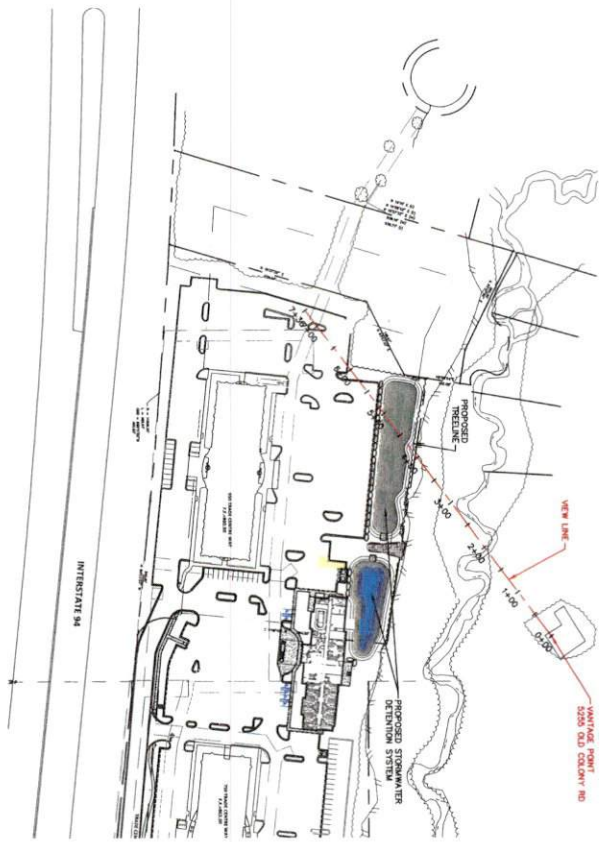


MIXED USE DEVELOPMENT MASTER PLAN

TRADE CENTRE DEVELOPMENT

MARCH 30, 2020





STATION	EXISTING ELEVATION	PROPOSED ELEVATION
850.0	850.0	850.0
850.5	850.5	850.5
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STATION	EXISTING ELEVATION	PROPOSED ELEVATION
850.0	850.0	850.0
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Sheet
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of 3

Sheet Title:
Project:
Client:

LINE OF SIGHT PLAN
850 TRADE CENTRE WAY
H&G II, LLC

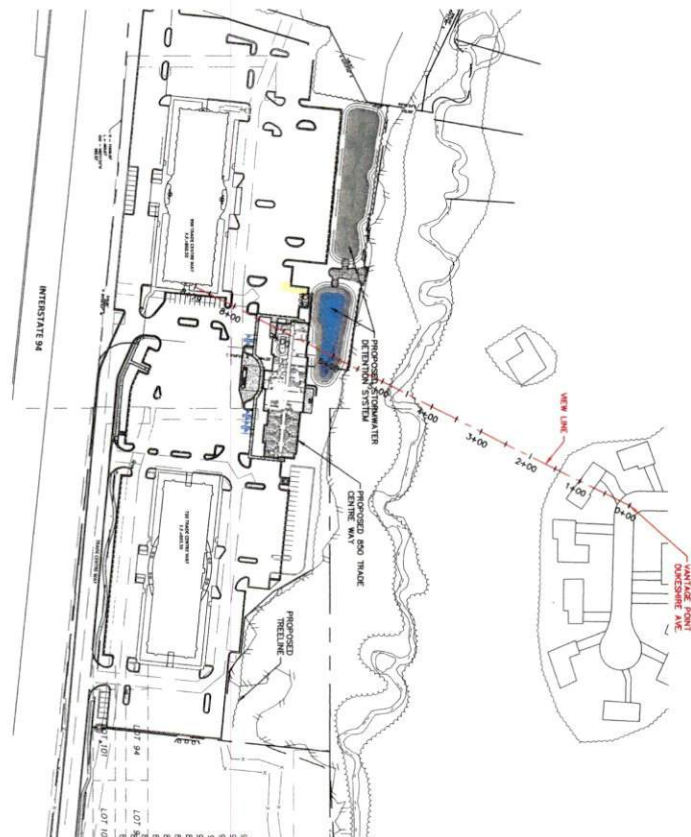
Job No.: 19-0078 P.M.T.M. DTL JLU QA/QC 3/23/20
ISSUED FOR REVISIONS
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hurley & stewart, llc
2800 s 11th street
kalamazoo, michigan 49009
269.552.4960 fax 269.552.4961
www.hurleyandstewart.com



STATION	ELEVATION	REMARKS
0+00	895.0	EXISTING GRADE
0+10	892.8	EXISTING GRADE
0+20	889.4	EXISTING GRADE
0+30	880.6	EXISTING GRADE
0+40	873.3	EXISTING GRADE
0+50	867.4	EXISTING GRADE
0+60	856.6	EXISTING GRADE
0+70	854.4	EXISTING GRADE
0+80	852.8	EXISTING GRADE
0+90	851.0	EXISTING GRADE
1+00	850.6	EXISTING GRADE
1+10	873.3	EXISTING GRADE
1+20	867.4	EXISTING GRADE
1+30	856.6	EXISTING GRADE
1+40	854.4	EXISTING GRADE
1+50	852.8	EXISTING GRADE
1+60	851.0	EXISTING GRADE
1+70	851.0	EXISTING GRADE
1+80	851.0	EXISTING GRADE
1+90	851.1	EXISTING GRADE
2+00	851.4	EXISTING GRADE
2+10	851.5	EXISTING GRADE
2+20	851.8	EXISTING GRADE
2+30	852.5	EXISTING GRADE
2+40	854.0	EXISTING GRADE
2+50	854.1	EXISTING GRADE
2+60	854.3	EXISTING GRADE
2+70	852.5	EXISTING GRADE
2+80	852.5	EXISTING GRADE
2+90	853.8	EXISTING GRADE
3+00	858.4	EXISTING GRADE
3+10	858.7	EXISTING GRADE
3+20	858.8	EXISTING GRADE
3+30	858.9	EXISTING GRADE
3+40	859.0	EXISTING GRADE
3+50	859.3	EXISTING GRADE
3+60	859.5	EXISTING GRADE
3+70	860.5	EXISTING GRADE
3+80	860.5	EXISTING GRADE
3+90	860.5	EXISTING GRADE
4+00	860.5	EXISTING GRADE



STATION	ELEVATION	REMARKS
0+00	891.0	EXISTING GRADE
0+10	891.1	EXISTING GRADE
0+20	892.2	EXISTING GRADE
0+30	893.4	EXISTING GRADE
0+40	894.0	EXISTING GRADE
0+50	893.8	EXISTING GRADE
0+60	891.5	EXISTING GRADE
0+70	888.3	EXISTING GRADE
0+80	885.0	EXISTING GRADE
0+90	881.8	EXISTING GRADE
1+00	878.5	EXISTING GRADE
1+10	875.2	EXISTING GRADE
1+20	871.8	EXISTING GRADE
1+30	868.3	EXISTING GRADE
1+40	864.4	EXISTING GRADE
1+50	860.4	EXISTING GRADE
1+60	856.4	EXISTING GRADE
1+70	852.7	EXISTING GRADE
1+80	851.0	EXISTING GRADE
1+90	851.0	EXISTING GRADE
2+00	851.3	EXISTING GRADE
2+10	851.8	EXISTING GRADE
2+20	852.4	EXISTING GRADE
2+30	853.5	EXISTING GRADE
2+40	854.0	EXISTING GRADE
2+50	852.9	EXISTING GRADE
2+60	852.5	EXISTING GRADE
2+70	854.6	EXISTING GRADE
2+80	858.4	EXISTING GRADE
2+90	858.7	EXISTING GRADE
3+00	859.1	EXISTING GRADE
3+10	859.4	EXISTING GRADE
3+20	859.6	EXISTING GRADE
3+30	860.1	EXISTING GRADE
3+40	860.4	EXISTING GRADE
3+50	860.4	EXISTING GRADE
3+60	860.4	EXISTING GRADE
3+70	860.4	EXISTING GRADE
3+80	860.4	EXISTING GRADE
3+90	860.4	EXISTING GRADE
4+00	860.4	EXISTING GRADE

April 13, 2020

Dear Members of City of Portage Planning Commission:

This letter is in response to the April 2, 2020 notification of proposed changes to the 2004 conceptual plan approved for 1150, 950 and 850 Trade Centre Way, specifically an amendment to allow for the development of a hotel building at 850 Trade Centre Way.

Nine years ago, prior to purchasing our home at 5265 Bronson Blvd., we performed our due diligence by visiting City Hall to review the conceptual plan for the Trade Centre Development, to determine where future development would take place because our property backs up to Portage Creek directly behind the existing Trade Center offices. We noted that the location for future office buildings, hotels, and restaurants on the property were all to the east of 950 & 750 Trade Centre Way.

We were surprised to receive this notice of a proposed amendment to the conceptual plan, as this hotel will be directly in our sight line from all windows at the back of our home, which look out onto Portage Creek. Although our lot extends straight toward 950 Trade Centre, our home, which is on a cul-de-sac at the end of Bronson Blvd., is directly oriented toward the proposed 850 Trade Centre property. Our view to 850 is obscured when there are leaves on the trees five months of the year, however the remainder of the year we will look directly at a high-density-use 4-story building rather than the long view toward I-94 and Portage Northern High School. From our perch on the hill overlooking the Trade Centre buildings, that is quite a profound change.

Greg Dobson of AVB reached out to us last week to answer the questions we had, as well as to listen to any of our concerns. Those concerns included the fragile nature of the wetlands at this specific location and Portage Creek, which runs through it. It was important for us to confirm to what extent this creek-side development will impact the habitat. Additionally, in our experience, hotel properties tend to degrade over time and more attention is given to the side that the general public views rather than what neighbors see from the back.

After meeting with Greg, we are satisfied that attention has been paid to the environmental impact this proposed building will have on the wetlands and Portage Creek. While we are cognizant that we do not 'own' the view that we have enjoyed over the years, Greg has assured us that the structure's façade has been designed to be as unobtrusive as possible from the rear. Going forward, Greg confirmed that AVB is willing to consider reasonable remedies with regard to screening if necessary.

We appreciate that Greg was willing to facilitate a dialogue to address our concerns. From our vantage point across the creek, 750 & 950 Trade Centre have always been well maintained, and we have enjoyed observing the activities associated with those offices.

Sincerely,

The block contains two handwritten signatures in black ink. The first signature is 'Molly J. Ettwein' and the second is 'Tony Ettwein'. Both are written in a cursive, flowing style.

Molly & Tony Ettwein
5265 Bronson Blvd
Portage, MI 49024
Ettwein@charter.net

CONCEPTUAL ELEVATIONS

SOUTH



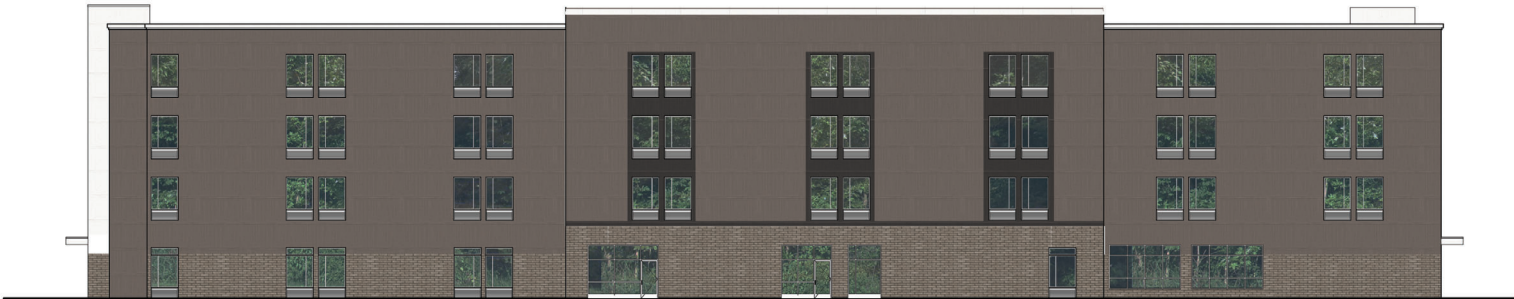
WEST



EAST



NORTH



TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Energy Services Company

SUPPORTING PERSONNEL: Adam Herringa, Deputy City Manager
Michael Carroll, Deputy City Manager
Jereme Rowland, Deputy Director - Fleet & Facilities

ACTION RECOMMENDED: Enter into an agreement with Noresco for the provision of ESCO services for the period of July 1, 2020 through June 30, 2025 and authorize the City Manager to execute all documents related to this contract on behalf of the city.

The City of Portage, like other municipalities across the State of Michigan, is faced with an uncertain financial future. To assist, staff are committed to seeking out and exploring opportunities for cost-savings and efficiencies. One area of exploration has been the utilization of an Energy Service Company (ESCO) to help identify and implement energy savings. The U.S. Department of Energy provides significant information and guidance on the implementation and use of ESCO's. According to the Department of Energy:

"Energy service companies (ESCOs) develop, design, build and arrange to finance for projects that save energy, reduce energy costs, and decrease operations and maintenance costs at their customers' facilities. In general, ESCOs act as project developers for a comprehensive range of energy conservation measures (ECMs) and assume the technical and performance risks associated with a project. ESCOs are distinguished from other firms that offer energy-efficiency improvements in that they use the performance-based contracting methodology. When an ESCO implements a project, the company's compensation is directly linked to the actual energy cost savings."

Using the advice from the Department of Energy as a guide, the City of Portage issued a request for proposals for the provision of ESCO services on April 13, 2020. The bid opening was closed on May 11, 2020. Three bids were received from Honeywell, Johnson Controls, and Noresco, all of whom are nationally recognized in this field. The proposals from these firms were outstanding. Following a thorough review of the bids, each vendor made a presentation and participate in a question and answer session. All three vendors took advantage of the opportunity. Differentiating between bids on projects and savings is difficult and doing so during a pandemic provided another layer of complexity. However, staff is confident that a thorough review of the bids has been conducted and solid proposals received.

Following a review of the bids and interview sessions, staff recommends that Noresco, of Detroit, MI, be awarded the contract. Noresco has a history of identifying and beating projected savings guarantees and has never been subject to a lawsuit in this regard. Their proposal referenced a lengthy list of areas they would review for potential savings beyond building and lighting improvements. For example, they referenced telecommunications, water meters, sewer lift stations, insurance rates, etc. Additionally, Noresco emphasized their commitment to sustainability, vendor neutrality, budget optimization, and real-time monitoring of energy efficiencies. While the other proposals referenced similar programs, Noresco excelled in their bid presentation and submittal.

Additionally, Noresco indicated that they anticipate energy efficiency savings over five years in the range of \$6 million. Johnson Controls identified similar savings but over a longer period and Honeywell did not identify projected savings but provided examples from other municipalities of savings they were able to realize as evidence of their capabilities. Staff recognized the difficulty in bidding on projects during a pandemic when city facilities are closed to the public. As a result, projected energy efficiency savings were not the primary driver of the recommendation for Noresco. Rather, the primary drivers were the responsiveness of the proposal and the quality of the presentation.

It is recommended that City Council enter into an agreement with Noresco for the provision of ESCO services for the period of July 1, 2020 through June 30, 2025 and authorize the City Manager to execute all documents related to this contract on behalf of the city.

FUNDING: Payment of vendor is based on energy cost savings.

Attachments: 1. ESCO - Bid Tabulation

Energy Services Company Bid Tabulation

Company	Profit Markup
Honeywell 3033 Orchard Vista Dr. SE Grand Rapids, MI 49546	\$0 initially. Payment based on percentage of savings. Profit percentage listed at 8%. No payments made until savings realized.
Johnson Controls 5164 South Sprinkle Road Portage, MI 49002	\$0 initially. Payment based on percentage of savings. Profit percentage listed at 10%. No payments made until savings realized.
Noresco 241 Madison Avenue, Suite 46 Detroit, MI 48226	\$0 initially. Payment based on percentage of savings. Profit percentage listed at 8-10%. No payments made until savings realized.

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Confirm the appointment of Lauren VanderVeen as Interim Finance Director.

SUPPORTING PERSONNEL: Adam Herringa, Deputy City Manager

ACTION RECOMMENDED: Confirm the appointment of Lauren VanderVeen as Interim Finance Director.

Following an outstanding career with the City of Portage, Mr. William Furry will retire on May 29, 2020 after twenty-one years of service. The current Deputy Director of Finance, Lauren VanderVeen, began her involvement with the City of Portage as an auditor with the firm BDO USA, LLP. In January 2015, she left the private sector and joined the City of Portage. Ms. VanderVeen has a Bachelor Degree in Business Administration (major in accountancy and a minor in business) and a Master of Science degree in Accountancy. Both degrees were received from Western Michigan University. In addition to a graduate degree, Ms. VanderVeen is also a licensed Certified Public Accountant. Her performance as Deputy Finance Director has been excellent and she is fully capable of performing the duties and responsibilities of the position. She has my full support to serve as Interim Finance Director and I have appointed her to this position.

It is recommended that City Council confirm the appointment of Lauren VanderVeen as Interim Finance Director.

FUNDING: Funds for this position are budgeted.

Attachments: None

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Tax and Continuing Disclosure Post Issuance Compliance - Resolution

SUPPORTING PERSONNEL: William Furry, Director of Finance

ACTION RECOMMENDED: Adopt the Resolution Approving Tax and Continuing Disclosure Post Issuance Compliance Procedures.

The Internal Revenue Service has recently taken a position requiring debt issuers to name a person responsible for the monitoring of debt issuances to avoid compliance problems during an audit. The bond counsel for the City of Portage, John Axe, of Clark Hill, PLC, has recommended that a specific individual be named as Compliance Officer for monitoring these arbitrage requirements. Finance Director William Furry has been designated as the Compliance Officer and, upon his retirement, this role will be transferred to the Interim Finance Director Lauren VanderVeen.

It is recommended that City Council adopt the Resolution approving Tax and Continuing Disclosure Post Issuance Compliance Procedures. Adoption of this resolution codifies the City of Portage procedure and names the individual so that, in the event of an audit, the city can demonstrate that it follows best practice, and is protected from issues or findings.

FUNDING: N/A

Attachments: 1. Resolution Approving Tax and Continuing Disclosure - approved as to form

CITY OF PORTAGE

At a regular meeting of the City Council for the City of Portage, Kalamazoo, Michigan held electronically and in conformance with Governor Gretchen Whitmer's Executive Order No. 2020-48, on _____, 2020, beginning at __:__ p.m., Eastern Time, there were

PRESENT: _____

ABSENT: _____

The following preambles and resolution were offered by
_____ and seconded by _____:

**RESOLUTION APPROVING
TAX AND CONTINUING DISCLOSURE
POST ISSUANCE COMPLIANCE PROCEDURES**

WHEREAS, the City of Portage, in order to carry out the procedures required by the United States Department of Internal Revenue (the "IRS Procedures") which must be followed once the City has issued Tax Exempt Bonds wishes to approve these procedures in writing and to appoint a Compliance Officer to carry out and be in charge of these procedures.

NOW THEREFOR BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTAGE AS FOLLOWS:

1. The Tax and Continuing Disclosure Post Issuance Compliance procedures (the "IRS Procedures") attached here as Appendix A is hereby approved.
2. The City's Finance Director, currently, Lauren Vanderveen, acting Finance Director, is hereby appointed to act as Compliance Officer for the City of Portage to carry out the IRS Procedures approved by Council.

A roll call vote on the foregoing resolution was then taken, and was as follows:

YES:

NO:

ABSTAIN:

The resolution was declared adopted.

STATE OF MICHIGAN)
)ss.
CITY OF PORTAGE)

The undersigned, being the duly qualified and acting Clerk of the City of Portage, Kalamazoo, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the Township Board at a regular meeting held on _____, 2020, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records in my office, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267) and the Governor's Executive Order No. 2020-48, as the same may be or has been expanded, extended, supplemented or replaced from time to time., Public Acts of Michigan, 1976, as amended), and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

Erica Eklov, Clerk, City of Portage

DATED: _____, 2020

Approved as to Form

By: 
John R. Axe, Senior Counsel

Appendix A

TAX AND CONTINUING DISCLOSURE POST ISSUANCE COMPLIANCE PROCEDURES

_____, 2020

The following procedures (the “Procedures”) are adopted by City of Portage (the “Issuer”) in connection with the issuance of tax advantaged Capital Improvement Bonds, Series 2020 (the “Bonds”) by the Issuer. In order to maintain the tax advantaged status of the Bonds under the Internal Revenue Code of 1986, as in effect on the date hereof, and the regulations (the “Regulations”) promulgated thereunder (collectively, the “Code”), the Issuer must comply with the provisions of the Code from the date of issuance through final payment or maturity of the Bonds. The Issuer may have also entered into certain Undertakings, as defined herein, regarding securities laws. These post-issuance compliance responsibilities are summarized in the transcript of proceedings prepared in connection with the Bonds (the “Transcript”).

The purpose of these Procedures is to summarize the post-issuance responsibilities of the Issuer in connection with the Bonds. The acting Finance Director of the Issuer (the “Compliance Officer”) shall be the Issuer’s representative responsible for establishing and coordinating compliance with these Procedures.

These Procedures supplement, but do not replace, any other procedures of the Issuer. The Procedures may be supplemented or amended at any time and from time to time by the Issuer, with the advice of nationally recognized bond counsel, but without any notice to or consent from any trustee, any bondholder or any other person. Noncompliance with the Procedures is permitted, with the advice of nationally recognized bond counsel, but without any notice to or consent from any trustee, any bondholder or any other person, if (i) compliance would impose unreasonable burdens on the Issuer and (ii) noncompliance would not cause any Bonds to fail to satisfy all requirements of the Code.

General

1. The Compliance Officer shall be primarily responsible for monitoring compliance with the Code.
2. The Compliance Officer shall be provided with training and educational resources necessary to ensure compliance with the Code.
3. The tax and arbitrage certificate (the “Tax Documents”) contained in the Transcript describes the provisions of the Code that must be followed in order to maintain the tax advantaged status of the Bonds. In addition, the Tax Documents contain the reasonable expectations of the Issuer at the time of issuance of the Bonds with respect to the use of the proceeds and the assets to be financed or refinanced from the Bonds. These Procedures supplement and support the covenants made by the Issuer in the Tax Documents. In order to comply with the covenants in the Tax Documents, the Issuer must track and monitor the actual use of the proceeds, the investment and expenditure of the proceeds and the use of the facilities financed with the Bonds over the life of the related Bond issue.

Issuance

1. In preparation for the issuance of any Bonds, the Compliance Officer shall review any offering materials, including an Official Statement or Offering Memorandum, prepared by the Issuer, its financial advisor or an underwriter, to ensure that such materials do not contain an untrue statement of a material fact nor are any facts omitted from such materials, the omissions of which would make statements contained in the materials misleading.

2. Upon issuance of any Bonds, the Compliance Officer shall obtain, review and retain a copy of any tax or arbitrage certificates of the Issuer with respect to each Bond issue.

3. The Compliance Officer shall cause an Internal Revenue Service Information Return (e.g., Form 8038-G) for any Bonds (an "Information Return") to be filed with the Internal Revenue Service not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued.

Post Issuance

1. The Compliance Officer shall monitor the yield on the investment of Bond proceeds (including compliance with any yield restrictions or temporary periods).

2. The Compliance Officer shall monitor the timely expenditure of Bond proceeds.

3. The Compliance Officer shall monitor the proper use of Bond proceeds and any facilities financed thereby.

4. The Compliance Officer shall, on or before each anniversary of the date of issuance of any Bonds, determine whether the Issuer has paid from funds available pursuant to the bond indenture or bond ordinance all amounts required to be rebated to the United States under Section 148(f) of the Code and Section 1.148-3 of the Regulations.

5. The Compliance Officer shall, on or before each anniversary of the date of issuance of any Bonds, determine whether the Issuer has made from funds available pursuant to the bond indenture or bond ordinance all yield reduction payments required to be made to the United States under Section 1.148-5(c) of the Regulations.

6. The Compliance Officer shall monitor the investment, expenditure and use of Bonds proceeds, to ensure timely identification of any violations of federal tax requirements and timely correction of any identified violations through remedial actions described in Section 1.141-12 of the regulations or other applicable regulation or through the Tax Exempt Bonds Voluntary Closing Agreement Program described in Notice 2010A-31.

7. The Compliance Officer shall monitor use of Bond proceeds, and any facilities financed or refinanced thereby, to ensure that (i) no facilities financed or refinanced by the Bonds will be sold prior to the earlier of the (a) the useful life of the facility or (B) the maturity date of the Bonds and (ii) no more than the 10% of the Bond proceeds, considered separately, or any facilities financed thereby, are:

- (a) used by any nongovernmental person;
- (b) leased to any nongovernmental person;
- (c) used by any 501(c)(3) organization in an “unrelated trade or business” within the meaning of Section 513(a) of the Code without regard to whether such activity results in unrelated trade or business income under Section 511 of the Code;
- (d) subjected to any management, service or incentive payment contract with any nongovernmental person, under which such nongovernmental person provides services involving all, any portion or any function of such facilities, unless such contract satisfies the conditions under which it would not result in private business use set forth in Revenue Procedure 2017-13, as amended from time to time;
- (e) subjected to any agreement by any nongovernmental person to sponsor research, unless such agreement satisfies the conditions under which it would not result in private business use set forth in Revenue Procedure 2007-47 (2007 29 I.R.B. 108), as amended from time to time; or
- (f) subjected to any other arrangement that conveys special legal entitlements for beneficial use thereof that are comparable to special legal entitlements described in subparagraph (a), (b), (c), (d) or (e) above.

8. For any Bonds for which a Continuing Disclosure Undertaking (the “Undertaking”) has been executed by the Issuer, the Compliance Officer shall review such Undertaking and be primarily responsible for ongoing compliance with SEC Rule 15c2-12, as amended (the “SEC Rule”), if applicable, and any Undertaking to which the Issuer is a party. The Compliance Officer agrees to obtain any needed training or professional assistance for himself or staff, in order to meet the Issuer’s responsibility under the Undertakings. (See each Undertaking for exact requirements and timing thereof.)

9. The Compliance Officer should annually calendar a time to review compliance with obligations under any Undertakings. Responsibility for ensuring such ongoing compliance shall include, but is not limited to, reporting to proper repositories (as of the date of execution of these Procedures, the sole repository is the Electronic Municipal Market Access website of the Municipal Securities Rulemaking Board at <http://www.emma.msrb.org>) the following information, where applicable:

- a. Audited Financial Statements as described below and certain Annual Financial Information as described in the Issuer’s Official Statement dated November 13, 2019 will be submitted to EMMA not more than 210 days after the last day of the Issuer’s Fiscal Year, which is April 30 of each calendar year. If Audited Financial Statements are not available, unaudited financial statements shall be submitted, and Audited Financial Statements will be filed when available;

b. Audited Financial Statements will be prepared in accordance with generally accepted accounting principles applicable to governmental units as in effect from time to time (i.e., as subject to the pronouncements of the Governmental Standards Accounting Board and subject to any express requirements of Illinois law);

c. Audited Financial Statements and Annual Financial Information will be submitted to EMMA in such format and manner and accompanied by identifying information as is prescribed by the MSRB, or, if not available at that time, as indicated in paragraph 14(a) above;

d. notice of certain reportable events, subject in some cases to a determination of materiality by the Issuer, within 10 days of the occurrence; See Undertakings for exact list of events, but typically includes the following:

- Principal and interest payment delinquencies
- Non-payment related defaults, if material
- Unscheduled draws on debt service reserves reflecting financial difficulties
- Unscheduled draws on credit enhancements reflecting financial difficulties
- Substitution of credit or liquidity providers, or their failure to perform
- Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security
- Modifications to the rights of security holders, if material
- Bond calls, if material, and tender offers
- Defeasances
- Release, substitution, or sale of property securing repayment of the securities, if material
- Rating changes
- Bankruptcy, insolvency, receivership, or similar event of the Issuer*

* This Reportable Event is considered to occur when any of the following occurs: the appointment of a receiver, fiscal agent, or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under State or federal law in which a court or governmental authority has assumed jurisdiction over

- The consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material
- Appointment of a successor or additional trustee or the change of name of a trustee, if material
- Incurrence of a financial obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the Issuer, any of which affect security holders, if material**
- Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the Issuer, any of which reflect financial difficulties**

If the Issuer employs another person or entity to assist with its obligations under any Undertakings, the Compliance Officer should annually review such agreement with that party in order to determine any and all responsibilities of the Issuer under that agreement.

Record Retention

1. Records related to Bond-financed assets must be kept for as long as the Bonds which financed the assets are outstanding, plus three (3) years after the final redemption date of those Bonds. In the case of a refunding, records relating to the original new money issue and all records relating to the refunding issue must be maintained until three (3) years after the final redemption date of both bond issues.

substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer.

** The term “financial obligation” means a: (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) a guarantee of (i) or (ii). The term “financial obligation” does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

The following documents shall be maintained, on paper or by electronic means (e.g., CD, disks, tapes) as indicated above:

- Tax Certificate and Arbitrage Certificate
- Information Return
- Audited Financial statements
- Bond transcripts, official statements and other offering documents
- Minutes and ordinances authorizing the issuance of the Bonds
- Certifications of the issue price of the Bonds
- Any formal elections for the Bonds (e.g., election to employ an accounting methodology other than specific tracing)
- Appraisals, demand surveys or feasibility studies for Bond-financed property, if any
- Documents related to government grants associated with construction, renovation or purchase of Bond-financed facilities, if any
- Trustee statements for the Bonds, if any
- Reports of any IRS examinations of the Issuer or Corporation Bonds
- Documentation of allocations of investments and investment earnings to the Bonds
- Documentation for investments of the Bond proceeds related to;
 - o Investment contracts (e.g., guaranteed investment contracts)
 - o Credit enhancement transactions (e.g., bond insurance contracts)
 - o Financial derivatives (swaps, caps, etc.)
 - o Bidding of financial products
- The following arbitrage related documents for the Bonds:
 - o Computations of Bond yield
 - o Computation of rebate and yield reduction payments
 - o Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate
 - o Form 8038-R, Request for Recovery of Overpayments Under Arbitrage Rebate Provisions
- Documentation of any allocations of Bond proceeds to expenditures (e.g., allocation of Bond proceeds to expenditures for the construction, renovation or purchase of facilities)

- Documentation of any allocations of Bond proceeds to issuance costs
- Copies of requisitions, draw schedules, draw requests, invoices, bills and cancelled checks related to Bond proceeds spent during the construction period
- Copies of all contracts entered into for the construction, renovation or purchase of Bond-financed facilities
- Records of expenditure reimbursements incurred prior to issuing the Bonds for facilities financed with Bond proceeds
- A list or schedule of all Bond-financed facilities or equipment
- Documentation that tracks the purchase and sale of Bond-financed assets
- Records of trade or business activities by third parties allocated to Bond-financed facilities, if any
- Copies of the following agreements when entered into with respect to Bond-financed property:
 - o Management and other service agreements
 - o Research contracts
 - o Naming rights contracts
 - o Ownership documentation (e.g., deeds, mortgages)
 - o Leases
 - o Subleases
 - o Leasehold improvement contracts
 - o Joint venture arrangements
 - o Limited liability corporation arrangements
 - o Partnership arrangements
 - o Take contracts, take or pay contracts, or requirements contracts

MATERIALS TRANSMITTED

Tuesday, May 12, 2020

1. TO BE ADDED AS PROCLAMATION NO. 2 - A Proclamation for Mental Health Awareness Month has been added to the May 12, 2020 Final Agenda. The City Clerk is planning to read the proclamation.
2. TO BE REPLACED IN AGENDA ITEM A.5. OF THE MAY 12, 2020 CITY COUNCIL AGENDA: Updated communication from the City Manager regarding the 2020 Downtown Development Authority Amended Tax Increment Finance Plan/Amended Development Plan.
3. TO BE ADDED AS AGENDA ITEM A.6. – Community Development Block Grant (CDBG) Program FY 2020-21 Annual Action Plan has been added to the Final Agenda.
4. TO BE ADDED AS AGENDA ITEM A.9. – Postponement of Board and Commission Interview Session and Extension of Expiring Terms has been added to the Final Agenda.
5. Communication from Bill Furry, Finance Director, regarding the April 2020 Monthly Financial Report – Information Only.



Joseph S. La Margo, City Manager

cc Adam Herringa, Deputy City Manager
Michael Carroll, Deputy City Manager

TO: Honorable Mayor and City Council

FROM: Joseph S. La Margo, City Manager



SUBJECT: Mental Health Awareness Month Proclamation

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

TO BE ADDED TO THE MAY 12, 2020 AGENDA: Proclamation for Mental Health Awareness Month has been added to the agenda. The City Clerk is planning to read the proclamation.

Attachments: Mental Health Awareness Month Proclamation



CITY OF PORTAGE PROCLAMATION

MENTAL HEALTH AWARENESS MONTH

- WHEREAS,** psychological health is an essential aspect of individual and community health; and
- WHEREAS,** Mental Health Awareness Month has been observed in May in the U.S. since 1949, reaching millions of people through the media, local events, and screenings; and
- WHEREAS,** while 1 in 5 people will experience a mental illness during their lifetime, everyone faces challenges in life that can impact their mental health; and
- WHEREAS,** the theme of Mental Health Awareness Month 2020 is “Tools 2 Thrive” which will provide practical tools that everyone can use to improve their mental health and increase resiliency regardless of the situations they are dealing with; and
- WHEREAS,** these Tools 2 Thrive, even those that may need to be adapted for the short term because of COVID-19 and social distancing, will be more useful than ever; and
- WHEREAS,** with the current mental distress being created, as well as accentuated by, the spread of SARS-CoV-2 and COVID-19, the disease it causes, stemming from such sources as uncertainty, loss, isolation, and confusion from tremendous and rapid change on local, national, and global levels; and
- WHEREAS,** the acknowledgement of such distress as a natural process, as well as actually occurring and an understandable reaction, whether stemming from genetic or external causes, can assist in accepting and beginning to work through such difficulties through a show of support, unity, and validation.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, as Mayor of the City of Portage, do hereby dedicate and proclaim May as Mental Health Awareness Month for 2020.

Signed this 12th day of May, 2020.

Patricia M. Randall, Mayor

TO: Honorable Mayor and City Council

FROM: Joseph S. La Margo, City Manager



SUBJECT: 2020 Downtown Development Authority Amended Tax Increment Finance Plan/Amended Development Plan

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

The developer of the hotel project is also requesting an amendment to the previously approved commercial planned development (CPD) concept plans. An amendment is necessary since this proposed hotel was not shown on the previously approved concept plans. If the concept plan is approved by City Council, it will allow the hotel project to proceed.

The Planning Commission recommended approval of the concept plan amendment on May 7th. It will be introduced to City Council on May 26th but due to notification requirements, the public hearing cannot be held on June 9th. The earliest Council can hold a public hearing is June 23rd. As a result, it makes sense to schedule both public hearings (concept plan amendment and DDA plan amendment) on the same date.

Attachments: 2020 Downtown Development Authority Amended Tax Increment Finance Plan/Amended Development Plan

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: 2020 Downtown Development Authority Amended Tax Increment Finance Plan/Amended Development Plan

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

ACTION RECOMMENDED: Accept:

1. the 2020 Downtown Development Authority Amended Tax Increment Finance Plan/Amended Development Plan and Development Agreement and set a public hearing for **June 23, 2020**; and
2. the Resolution of intent to vacate a portion of a public street and to transfer property and place the Resolution on file for 28 days with the City Clerk and take final action on **June 23, 2020**.

The City Administration has been working with Trade Centre, LLC on a project to construct a new hotel between the two existing office buildings located at 750 and 950 Trade Centre Way. This project would add to the success of the Trade Centre area and foster new growth and development in the Downtown Development Authority (DDA) district. The project would provide important long-term economic benefits in the form of new tax base and future employment opportunities within the City of Portage.

The 2020 Amended Tax Increment Finance Plan/2020 Amended Development Plan (2020 Amended Plan) has been prepared to facilitate the development of the new hotel which consists of three elements:

1. **Exchange of land between the City of Portage and Trade Center, LLC, the developer.** A portion of the land area to be occupied by the new hotel is owned by the city. Therefore, the city is proposing to transfer to the developer the southern .73 acres of 850 Trade Centre Way. In exchange, the developer will transfer to the city the northern .87 acres of 950 Trade Centre Way. The .87 acres transferred to the city will then be combined to the northern portion of 850 Trade Centre Way retained by the city to form one parcel of land, which will be the new location for the relocated stormwater retention basin. Since acquiring the southern .73 acres of 850 Trade Centre Way from the city is not large enough to accommodate the hotel and off-street parking area, the developer will combine the west portion of 750 Trade Centre Way and east portion of

950 Trade Centre Way with the .73 acres acquired from the city.

2. **Removal and relocation of existing stormwater retention basin.** The existing storm retention basin and associated drainage system improvements will be removed to accommodate the new hotel and off-street parking area. A new stormwater retention basin and associated improvements will be constructed on the new parcel of land located to the northwest and will be owned and maintained by the city. The developer will convey to the City of Portage an easement to access this new stormwater retention basin location.
3. **Removal of the Trade Centre Way cul-de-sac turnaround.** To meet the off-street parking needs of the hotel, the northern, approximate-one-half, of the Trade Centre Way cul-de-sac turnaround area will be removed and this land area will be transferred to the developer. In exchange for this land area, the developer will provide to the City of Portage an easement that will allow city vehicles and the public to turnaround on the newly created hotel property.

The cost to complete the public infrastructure improvements is estimated at \$653,228, which will initially be paid by the developer and the City Administration agreed to reimburse up to \$600,000. The additional \$53,228 is to be paid by the developer.

The 2020 Amended Development Plan identifies two financial sources to reimburse the developer for these up-front costs:

1. City of Portage Water Fund - \$150,000 has been budgeted in FY 2020-21 to rehabilitate the existing stormwater basin. As a result of the relocation, the developer will essentially act as the contractor on behalf of the city to rehabilitate the basin. The \$150,000 is proposed to be provided to the developer for a city project already scheduled to be completed.
2. Tax Increment Financing - A portion of the hotel building is located within the DDA district. Consequently, approximately 43% of the hotel's taxable value is eligible for tax capture utilizing tax increment financing. Based on the estimated annual amount to be captured, 12 years (or until 2031) is needed to capture \$450,000. Over the 12 years, it is estimated the entire new hotel facility will generate approximately \$517,000 for the City of Portage, of which \$229,000 will be captured and reimbursed to the developer.

A new development agreement with the principal property owners has also been prepared with the assistance of Bond Counsel and City Attorney and is attached.

This new economic initiative provides an opportunity for a cooperative, public-private partnership to encourage development and redevelopment activities with accompanying tax base growth and job creation. With the current economic challenge, this initiative to encourage private investment is essential and will benefit all of Kalamazoo County.

During the April 23, 2020 meeting, the DDA met to review and discuss the 2020 Amended Tax Increment Finance Plan/2020 Amended Development Plan. After the meeting, the DDA voted 8-0-1 to approve the Resolution and authorize the transmission of the 2020 Amended Tax Increment Finance Plan/2020 Amended Development Plan to City Council.

FUNDING: Over the 12-year tax increment financing period, the City of Portage will forego approximately \$229,000 in tax revenue.

- Attachments:**
1. Resolution of intent to vacate a portion of a public street and to transfer property
 2. Department of Community Development staff report dated April 17, 2020 with attachments
 3. April 23, 2020 DDA meeting minutes (draft)

TO: Honorable Mayor and City Council

FROM: Joseph S. La Margo, City Manager



SUBJECT: Community Development Block Grant (CDBG) Program FY 2020-21 Annual Action Plan

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

TO BE ADDED TO THE MAY 12, 2020 AGENDA: Approve the Community Development Block Grant (CDBG) Program FY 2020-21 Annual Action Plan element of the Consolidated Plan and authorize the City Manager to submit the application to the U.S. Department of Housing and Urban Development.

Attachments: CDBG Program FY 2020-21 Annual Action Plan

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Community Development Block Grant (CDBG) Program – FY2020-21 Annual Action Plan

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

ACTION RECOMMENDED: Approve the Community Development Block Grant (CDBG) Program FY 2020-21 Annual Action Plan element of the Consolidated Plan and authorize the City Manager to submit the application to the U.S. Department of Housing and Urban Development.

The City of Portage, as a Community Development Block Grant (CDBG) entitlement grantee of the U.S. Department of Housing and Urban Development (HUD), is required to prepare a Consolidated Plan every five years. The Consolidated Plan requirements are designed to help the city assess affordable housing and community development needs, as well as market conditions, and make data-driven investment decisions concerning the use of CDBG entitlement grant funds and other resources available within the community.

The Consolidated Plan sets goals and objectives to address identified priority needs over the five-year planning period based on anticipated resources. The Annual Action Plan element outlines how entitlement grant funds and other resources will be utilized over the next program year to implement the goals and objectives of the Strategic Plan.

The Fiscal Year 2020-21 CDBG Program budget has been developed based on the annual entitlement, estimated program income and available unexpended funds/program income, which together provide a total CDBG Program budget of \$346,794. In addition, the 2020-21 Annual Action Plan identifies activities and programs that fulfill identified priority needs as outlined in the 2016-2020 Consolidated Plan, including:

1. Owner-occupied housing assistance programs: housing rehabilitation loans and grants and a homebuyer down payment assistance program
2. Neighborhood improvement activities including code enforcement to aid in the prevention and elimination of blight and promote the quality of low and moderate-income neighborhoods throughout the city

3. Human/public service activities to assist Portage residents in need
4. Fair housing activities including administration of the City of Portage Non-discrimination Ordinance and support for the educational and enforcement programs of the Fair Housing Center of Southwest Michigan
5. Grant planning activities including preparation of annual performance reports, environmental review, labor standards reporting, 2021-22 Annual Action Plan and an update to the five-year Consolidated Plan

FY2020-21 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM BUDGET

The proposed FY2020-21 CDBG Program Budget has been prepared by the City Administration based on available funding levels, demonstrated community needs and compliance with federal goals and objectives. As shown in the attached Five-Year Comparative Analysis, the CDBG entitlement grant is projected to remain steady in FY2020-21 compared to the prior-year funding level. The city has been notified by HUD that the FY2020-21 grant amount is \$221,794. The grant amount, together with anticipated program income for FY2020-21 and unexpended funds/program income provides the following revenue:

FY 2020-21 Revenue	
Estimated FY 2019-2 Annual Entitlement	\$221,794
FY 2019-20 Estimated Program Income to be Received During Program Year	\$50,000
Available Unexpended Funds and/or Program Income Received in Prior Program Years that Exceeded Estimated Program Income	\$75,000
Total Funds Available	\$346,794

The four key components of the FY2020-21 CDBG Program Budget are highlighted below. The recommended activities are consistent with the Consolidated Plan and complement General Fund activities:

Housing Programs (\$192,896): Upgrade of housing stock in the city is recommended as a high-priority activity to be continued as the cornerstone of the block grant program. During the life of the program, approximately 587 owner-occupied houses have been rehabilitated. Owner-occupied housing upgrades for FY2020-21 are accomplished through the:

- Housing Rehabilitation Program (\$182,896) - Zero or low-interest deferred loans for housing rehabilitation, façade improvements, water/sewer hook-up, accessibility improvements and Emergency Repair Grants for repairs that are a threat to the health and safety of occupants.
- Homebuyer Down Payment Assistance Program (\$10,000) - Zero-interest deferred loans for down payment assistance to first-time homebuyers in targeted neighborhoods.

Neighborhood Improvement (\$64,366): The ongoing effort to maintain and improve low-moderate income neighborhoods is recommended as a high-priority activity and remains a vital component of the recommended comprehensive community development strategy. The budget will fund Code Enforcement efforts that aid in the prevention and elimination of blight and deterioration.

Administration of the Community Quality Code, Housing/Property Maintenance Code, Zoning Code and/or Building Code in low-moderate income neighborhoods will be ongoing throughout the program year.

Human/Public Services (\$44,618): Portage Community Center (PCC) is recommended to receive funding to provide human services identified as a high-priority activity in the Consolidated Plan. Per HUD, the maximum amount of human/public service funding is 15 percent of the annual entitlement grant plus program income received in the prior program year. For many years the City of Portage has allocated 15 percent of the annual CDBG Program budget toward human/public services to ensure consistency with the intent of the federal regulations that funding be provided for core programs such as housing and neighborhood improvement activities.

Administration (\$44,914): The maximum administration expenditure is limited to 20% of the FY 2019-20 entitlement grant plus anticipated FY 2019-20 program income. The funds will be utilized for program planning, administration, reporting and program expenses. A portion of the budget includes \$2,000 for fair housing services, educational programs and complaint referrals to the Fair Housing Center of Southwest Michigan. Additionally, approximately \$18,000 is budgeted for an update of the five-year Consolidated Plan.

It is recommended that City Council approve the Community Development Block Grant (CDBG) Program FY 2020-21 Annual Action Plan element of the Consolidated Plan and authorize the City Manager to submit the application to the Department of Housing and Urban Development by the May 15, 2020 deadline per federal regulations.

FUNDING: Draft FY2020-21 CDBG Program budget of \$346,794.

Attachments: 1. 2020-2021 Annual Action Plan Portage CDBG Program

TO: Honorable Mayor and City Council

FROM: Joseph S. La Margo, City Manager



SUBJECT: Postponement of Board and Commission Interview Session and Extension of Expiring Terms

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

TO BE ADDED TO THE MAY 12, 2020 AGENDA: Postpone the May 26, 2020 Board and Commission Interview Session to July 14, 2020 and temporarily extend the expiring terms on the Planning Commission, Construction Board of Appeals and Youth Advisory Committee until July 15, 2020.

Attachments: Postponement of Board and Commission Interview Session and Extension of Expiring Terms

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Board & Commission Interview Session and Terms

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

ACTION RECOMMENDED: Postpone the May 26, 2020 Board and Commission Interview Session to July 14, 2020 and temporarily extend the expiring terms on the Planning Commission, Construction Board of Appeals and Youth Advisory Committee until July 15, 2020.

In accordance with the City Council Policy for Boards and Commission, City Council conducts interview sessions for expiring and vacant Board and Commission terms three times each year in January, May and October. During the regular meeting on March 24, 2020, City Council set the May interview session for Tuesday, May 26, not knowing at the time how long the Governor's "Stay Home, Stay Safe" Executive Order would last.

Due to the complications at this time associated with conducting a remote interview session with applicants, as well as navigating transitions amongst the Boards and Commissions, it is recommended that City Council postpone the previously scheduled May 26 Board and Commission Interview Session to Tuesday, July 14, 2020. It is further recommended that City Council temporarily extend the expiring terms of Planning Commission members William Fries, Margaret Harrell-Page and Bill Patterson; Construction Board of Appeals members William J. Leach, Sr. and Sheldon Smith, as well as the entire Youth Advisory Committee.

FUNDING: Not Applicable.

Attachments: None

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Monthly Financial Report

SUPPORTING PERSONNEL: William Furry, Finance Director

Prudent practices require that the governing body be periodically apprised of the ongoing financial status of city operations. Attached is a report of revenue and expenditure levels as compared to budget for the most recently completed month.

Attachments: 1. April 2020 Financial Report

05/10/2020

BUDGET REPORT FOR CITY OF PORTAGE
Calculations as of 04/30/2020

		2019-20	2019-20	2019-20	83%
		ORIGINAL	AMENDED	ACTIVITY	Percent of
FUND	DESCRIPTION	BUDGET	BUDGET		Amended
					Collected/Used
REVENUES					
	Totals for dept 0000 -	24,360,004	24,560,650	22,740,810	93%
	Totals for dept 1720 - City Manager	500	500	0	0%
	Totals for dept 2053 - Finance Treasury	1,000	1,000	816	82%
	Totals for dept 2110 - Technology Services	0	0	0	0%
	Totals for dept 2133 - Public Information	0	0	0	0%
	Totals for dept 2415 - City Clerk	64,550	64,550	46,886	73%
	Totals for dept 2491 - City Clerk Elections	23,000	23,000	21,245	92%
	Totals for dept 2865 - Parks Maintenance	1,500	1,500	2,131	142%
	Totals for dept 2876 - Cemeteries	59,400	59,400	29,986	50%
	Totals for dept 2877 - Parks & Rec - Parks	65,500	65,500	40,380	62%
	Totals for dept 2878 - Parks & Rec - Kalamazoo In Bloom	0	0	0	0%
	Totals for dept 2882 - Parks & Rec - Team Sports	140,540	144,236	33,114	23%
	Totals for dept 2885 - Parks & Rec - Programs	19,000	13,000	11,246	87%
	Totals for dept 2886 - Parks & Rec - Ramona Park	54,450	54,450	39,905	73%
	Totals for dept 2887 - Parks & Rec - Special Events	12,000	12,000	25,588	213%
	Totals for dept 2888 - Parks & Rec - Millenium Park	45,000	45,000	41,991	93%
	Totals for dept 3005 - Police Administration	155,000	155,000	149,954	97%
	Totals for dept 3010 - Police Patrol	1,000	5,000	8,690	174%
	Totals for dept 3021 - Police Training-Grant Funded	9,000	9,000	8,799	98%
	Totals for dept 3030 - Police Public Safety Dispatch/ts	19,209	19,209	27,259	142%
	Totals for dept 3050 - Police Drug Law Enforcement	1,000	1,000	0	0%
	Totals for dept 3065 - Police Facility Management	70,000	70,000	52,500	0%
	Totals for dept 3310 - Fire Admin	160	160	0	0%
	Totals for dept 3340 - Fire Prevention	900	900	595	66%
	Totals for dept 3710 - Comm Dev Building Services	750,000	750,000	617,412	82%
	Totals for dept 3720 - Comm Dev Planning & Development	55,000	55,000	55,670	101%
	Totals for dept 3730 - Comm Dev Neighborhood Services	177,500	177,500	200,354	113%
	Totals for dept 6720 - Senior Center	158,700	175,107	73,028	42%
	Totals for dept 6721 - Senior Center Trips	375,000	375,000	262,557	70%
	Totals for dept 6722 - Senior Center Activities	15,000	15,000	10,000	67%
	Totals for dept 6725 - Aging Mastery Program	1,200	1,200	270	23%
TOTAL REVENUES - GENERAL FUND		26,635,113	26,853,862	24,501,186	91%

05/10/2020

BUDGET REPORT FOR CITY OF PORTAGE
Calculations as of 04/30/2020

		2019-20	2019-20	2019-20	83%
		ORIGINAL	AMENDED	ACTIVITY	Percent of
FUND	DESCRIPTION	BUDGET	BUDGET		Amended Collected/Used
EXPENDITURES					
	Totals for dept 1001-City Council	88,000	88,000	61,918	70%
	Totals for dept 1085-City Council-Human Services	169,740	169,740	110,025	65%
	Totals for dept 1720-City Manager	654,587	842,991	616,787	73%
	Totals for dept 2001-Finance Accounting	449,430	451,732	331,909	73%
	Totals for dept 2002-Finance & Budget	301,790	301,790	219,460	73%
	Totals for dept 2053-Finance Treasury	140,391	162,391	115,081	71%
	Totals for dept 2110-MIS	852,278	846,783	708,333	84%
	Totals for dept 2133-MIS Public Information	57,563	66,505	68,580	103%
	Totals for dept 2209-Assessor	445,695	445,695	340,663	76%
	Totals for dept 2247-Assessor Board Of Review	35,174	35,174	21,589	61%
	Totals for dept 2310-Attorney	226,728	226,728	188,100	83%
	Totals for dept 2415-City Clerk	167,958	167,958	115,488	69%
	Totals for dept 2416-City Clerk Records Management	67,256	67,256	65,431	97%
	Totals for dept 2491-City Clerk Elections	233,631	240,781	146,672	61%
	Totals for dept 2610-Human Resources	473,940	473,940	349,767	74%
	Totals for dept 2733-Purchasing	85,594	85,594	64,941	76%
	Totals for dept 2734-Purchasing Risk Management	25,958	25,958	20,261	78%
	Totals for dept 2865-Parks Maintenance	1,332,081	1,332,081	812,176	61%
	Totals for dept 2876-Cemeteries	66,855	66,855	40,529	61%
	Totals for dept 2877-Parks & Rec - Parks	649,905	649,905	500,241	77%
	Totals for dept 2878-Parks & Rec - Kalamazoo In Bloom	15,000	15,000	15,000	100%
	Totals for dept 2880-Parks & Rec Rec - Admin	204,852	204,852	154,940	76%
	Totals for dept 2882-Parks & Rec Rec - Team Sports	70,650	74,346	29,683	40%
	Totals for dept 2885-Parks & Rec - Programs	53,670	34,150	15,504	45%
	Totals for dept 2886-Parks & Rec Rec - Ramona Park	132,532	132,532	54,571	41%
	Totals for dept 2887-Parks & Rec Rec - Special Events	111,379	111,379	69,534	62%
	Totals for dept 2888-Parks & Rec - Ice Rink	88,603	88,603	55,692	63%
	Totals for dept 3005-Police Administration	1,228,159	1,228,159	912,390	74%
	Totals for dept 3006-Police Youth Services	517,905	517,905	387,468	75%
	Totals for dept 3007-Police Investigation	708,861	714,356	553,817	78%
	Totals for dept 3010-Police Patrol	5,692,511	5,718,142	4,497,335	79%
	Totals for dept 3020-Police Training	266,790	266,790	168,537	63%
	Totals for dept 3021-Police Training-Grant Funded	9,000	9,000	9,000	100%
	Totals for dept 3030-Police Public Safety Dispatch/ts	69,619	74,419	40,063	54%
	Totals for dept 3031-Police Emergency Sirens	23,676	23,676	498	2%
	Totals for dept 3040-Police Records & PST	640,074	640,074	496,787	78%
	Totals for dept 3050-Police Drug Law Enforcement	248,286	248,286	187,039	75%

05/10/2020

BUDGET REPORT FOR CITY OF PORTAGE
Calculations as of 04/30/2020

		2019-20	2019-20	2019-20	83%
		ORIGINAL	AMENDED	ACTIVITY	Percent of
FUND	DESCRIPTION	BUDGET	BUDGET		Amended Collected/Used
	Totals for dept 3065-Police Facility Management	196,420	221,579	141,086	64%
	Totals for dept 3090-Police KCCDA support	756,793	756,793	756,793	100%
	Totals for dept 3310-Fire Admin	713,282	713,282	590,062	83%
	Totals for dept 3320-Fire Operations	4,209,123	4,209,123	3,013,165	72%
	Totals for dept 3330-Fire On Call Firefighters	83,527	83,527	51,234	61%
	Totals for dept 3331-Fire Emergency Operations	4,900	4,900	1,300	27%
	Totals for dept 3340-Fire Prevention	139,291	139,291	105,214	76%
	Totals for dept 3350-Fire Training	191,552	191,552	119,164	62%
	Totals for dept 3365-Fire Facility Management	238,050	238,050	64,200	27%
	Totals for dept 3710-Comm Dev Building Services	591,069	591,069	465,746	79%
	Totals for dept 3720-Comm Dev Planning & Development	326,307	326,307	248,051	76%
	Totals for dept 3730-Comm Dev Neighborhood Services	238,145	238,145	176,146	74%
	Totals for dept 3765-Comm Dev Building Maintenance	257,817	257,817	162,434	63%
	Totals for dept 4210-General Public Services	510,650	657,650	584,182	89%
	Totals for dept 6050 - Contagious Diseases	0	0	191	-
	Totals for dept 6720-Senior Center	401,901	418,308	293,267	70%
	Totals for dept 6721-Senior Center Trips	387,246	387,246	266,192	69%
	Totals for dept 6725-Aging Mastery Program	1,500	1,500	60	0%
	Totals for dept 6740-Fundraising	0	28,320	17,845	0%
	Totals for dept 9610-Transfers Out	781,419	1,962,761	1,962,761	100%
TOTAL EXPENDITURES - GENERAL FUND		26,635,113	28,276,746	21,564,902	76%
202	Major Street Fund - Revenues	4,412,852	4,412,852	3,186,217	72%
	Major Street Fund - Expenditures	4,390,769	4,825,722	3,791,570	79%
203	Local Streets Fund - Revenues	1,661,784	1,661,784	1,232,608	74%
	Local Streets Fund - Expenditures	1,649,992	2,147,717	1,345,040	63%
204	Municipal Streets Fund - Revenues	1,563,000	1,563,000	1,507,395	96%
	Municipal Streets Fund - Expenditures	1,563,000	1,563,000	1,552,810	99%
223	Curbside Recycling - Revenues	698,885	698,885	674,834	97%
	Curbside Recycling - Expenditures	698,312	698,312	403,372	58%
226	Leaf Pickup/Spring Cleanup - Revenues	803,400	803,400	774,190	96%
	Leaf Pickup/Spring Cleanup - Expenditures	833,692	833,692	433,219	52%

05/10/2020

BUDGET REPORT FOR CITY OF PORTAGE
Calculations as of 04/30/2020

		2019-20	2019-20	2019-20	83%
		ORIGINAL	AMENDED	ACTIVITY	Percent of
FUND	DESCRIPTION	BUDGET	BUDGET		Amended Collected/Used
230	CDBG Program Income Fund - Revenues	125,000	125,000	84,520	68%
	CDBG Program Income Fund - Expenditures	125,000	125,000	45,992	37%
252	West Lake Weed Mgmt - Revenues	32,500	32,500	350	1%
	West Lake Weed Mgmt - Expenditures	32,120	32,120	8,000	25%
296	Community Development Block Grant - Rev	229,105	373,110	37,200	10%
	Community Development Block Grant - Exp	229,105	373,110	177,881	48%
298	Cable Television Fund - Revenues	784,522	784,522	390,164	50%
	Cable Television Fund - Expenditures	989,038	1,019,038	378,062	37%
400	Capital Improvement General - Revenues*	19,365,418	27,328,174	9,539,660	35%
	Capital Improvement General - Expenditures*	19,365,418	36,639,194	18,657,703	51%
490	Capital Improvement Sewer - Revenues*	900,000	4,905,000	800,000	16%
	Capital Improvement Sewer - Expenditures*	900,000	3,648,608	2,023,635	55%
491	Capital Improvement Water - Revenues*	2,350,000	8,586,974	800,000	9%
	Capital Improvement Water - Expenditures*	2,350,000	7,209,385	1,921,252	27%
590	Sewer Fund - Revenues	8,936,142	8,936,142	8,035,542	90%
	Sewer Fund - Expenditures	8,903,057	9,014,145	6,455,790	72%
591	Water Fund - Revenues	6,557,387	6,557,387	6,264,685	96%
	Water Fund - Expenditures	6,498,171	6,567,583	5,784,903	88%
TOTAL REVENUES - ALL FUNDS **		75,055,108	93,622,592	57,828,551	62%
TOTAL EXPENDITURE - ALL FUNDS **		75,162,787	102,973,372	64,544,131	63%

* The Capital Improvement Program uses project-length budgets, original is current fiscal year, amended includes budgets of prior year projects continued.

** Debt Service and Internal Service Funds not included.

MATERIALS TRANSMITTED

Wednesday, May 13, 2020

1. Communication from the City Manager regarding the May 14, 2020 Committee of the Whole Meeting materials. – Information Only



Joseph S. La Margo, City Manager

cc Adam Herringa, Deputy City Manager
Michael Carroll, Deputy City Manager

TO: Honorable Mayor and City Council

FROM: Joseph S. La Margo, City Manager



SUBJECT: Committee of the Whole – City Attorney

SUPPORTING PERSONNEL: Michael Carroll, Deputy City Manager

Attached are the pertinent sections of City of Portage Ordinances, and a spreadsheet created for the May 14, 2020 Committee of the Whole City meeting to discuss the City Attorney.

Attachments:

City of Portage Ordinance Section. 6.6. – City Attorney

City of Portage Ordinance Section 6.2. – Administrative Officers – Appointment, Employees
Attorney Fees Spreadsheet

Sec. 6.6. - City Attorney.

- (a) The City Attorney shall act as the legal advisor of and be responsible to the Council in all respects concerning the performance of its official duties. He shall advise the City Manager concerning legal problems affecting the City administration, and the Clerk, Treasurer, and Assessor concerning their statutory and Charter duties, when so required, and shall file with the Clerk a copy of all written opinions given by him.
- (b) He shall prosecute ordinance violations and shall represent the City in cases before courts and other tribunals.
- (c) He shall prepare or review all ordinances, regulations, contracts, bonds, and such other instruments that may be required by this Charter or by the Council, and shall promptly give his opinion as to the legality thereof.
- (d) He shall attend the meetings of the Council.
- (e) He shall be the attorney for the several boards of the City and shall give opinions to such boards upon the written request of the chairmen thereof.
- (f) He shall perform such other duties as may be prescribed for him by this Charter or the Council.
- (g) The Council and the City Attorney shall agree upon the basic compensation for any or all of the foregoing functions and duties of his office as are agreed to be covered thereby and upon the basis of compensating the City Attorney for services rendered which are not covered by such basic compensation. All such agreements shall be made before the services to be covered thereby are rendered.
- (h) Upon the Attorney's recommendation, or upon its own initiative, the Council may provide for an assistant to the City Attorney and may retain special legal counsel to handle any matter in which the City has an interest, or to assist the City Attorney in connection therewith.

Sec. 6.2. - Administrative Officers - Appointment, Employees.

- (a) The Council shall appoint the City Manager and the City Attorney who shall each serve at the pleasure of the Council.
- (b) All other administrative officers, [sic] shall be appointed by the City Manager, subject to the approval of and confirmation by the Council, and shall serve at the pleasure of the City Manager for indefinite terms.
- (c) All persons employed by the City who are not elective or administrative officers, or members of a board created by this Charter, or declared to be administrative officers by or under authority of this Charter, shall be deemed to be employees of the City.

Community	Population	Stipend	Hourly Rate	Approximate/ Budgeted	Notes
Grant, City of	894		\$ 165.00	\$3,055 3-year average.	
Dimondale, Village of	1,234			\$3,178 3-year avreerage.	
Brown City, City of	1,334		\$ 150.00		
Elk Rapids, Village of	1,640		\$ 140.00		
Auburn, City of	2,126		\$ 125.00		
Bronson, Village of	2,349	\$ 24,000			Does not including cost of labor attorney.
Charlevoix, City of	2,550		\$ 150.00	\$20,000-\$30,000	
Rogers City	2,800	\$ 18,000			
Essexville, City of	3,475			\$20,000 budgeted.	
Boyne City, City of	3,735		\$ 150.00	\$17,000-\$51,000 depending on what is going on.	Additional \$5,000-\$10,000 for litigation.
Fremont, City of	4,080	\$ 14,000			Additional \$15,000 for litigation
Richland, Township of	4,200		\$ 110.00		
Wayland, City of	4,200		\$ 240.00	\$15,000-\$25,000	
Dewitt, City of	4,507			\$35,000 budgeted.	
Marshall, City of	7,088			\$60,000 approximately.	
Menominee, City of	8,000	≤ \$85,000 K		30 hr Legal Secy -- \$52,000 + benefits	Outisde ≈ \$20K (Total \$160,000)
Ludington, City of	8,100			\$75,000 average.	
Hillsdale, City of	8,300		\$150.00	19/20 Budget -- \$45,000	
Albion, City of	8,643			\$ 95,000	Plus outside counsel (incl. labor) hourly
Grand Haven, City of	11,000		\$ 190.00		
Coldwater, City of	12,250			\$100,000 + benefits (inhouse) [divided between funds]	\$42,000 + benefits for asst.
Cascade, Township of	19,245			\$45,000 approximately.	
Allen Park, City of	28,000			\$180,000 -- general muni, prosecution & tax appeals	Outside counsel for labor
Port Huron, City of	30,000		\$ 155.00	\$160,000 budgeted.	
Portage, City of	50,000			\$250,000 annual.	Plus \$5,000-\$10,000 for labor.
Novi, City of	60,951		\$140.00	2018 -- \$370,379.25	Prosecutor & Labor -- outside counsel
Wyoming, City of	76,506	\$ 155,375		In-house, K Employee PT Admin -- \$22.36/hr (\$23K)	Prosecutor --outside counsel

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Ordinance Amendments - Adult Use Marihuana

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

ACTION RECOMMENDED: Subsequent to the Public Hearing, adopt Ordinance Amendment #19/20-A (5), allowing Adult Use Marihuana in certain districts, of Chapter 42, Land Development Regulations, Article 4 (Zoning).

Following the February 25, 2020 City Council Committee of the Whole meeting, the City Administration proceeded to develop zoning code amendments to permit adult use marihuana facilities. The proposed amendments involve changes to Section 42-262 (B-3, general business district), Section 42-280 (I-1, light industrial district) and Section 42-281 (I-2, heavy industrial district) to allow for adult use marihuana establishments. Provisioning centers and marihuana retailers would be allowed at the same locations in a B-3 zone, and provisioning centers, retailers, growers and processors would be allowed at the same location in districts I-1 and I-2. However, each marihuana business located at the same location as another marihuana business is required to have a separate space. All spacing requirements applicable to medical marihuana facilities are also applicable to adult use facilities. There are no provisions proposed for marihuana event organizers, designated consumption establishments, or temporary marihuana events.

The proposed amendments were introduced to the Planning Commission during their March 19, 2020 meeting, and the Planning Commission convened a public hearing during their April 16, 2020 meeting. During the public hearing, one citizen called in to obtain clarification on provisions relating to the partitioning requirement when a provisioning center and retailer are located at the same location, and the rationale for determining the boundary lines for the zoning lot. No additional citizens called in to speak during this virtual meeting. Following the public hearing, the Planning Commission voted 9-0 to waive the second public hearing and recommend to City Council that Ordinance Amendment #19/20-A, Adult Use Marihuana be approved.

City Council held the first reading of the ordinance on April 28, 2020. It is recommended that City Council approve Ordinance Amendment #19/20-A (5), allowing Adult Use Marihuana in certain districts, of Chapter 42, Land Development Regulations, Article 4 (Zoning). The tandem component of recreational marihuana, Ordinance Amendment #19/20-6, Marihuana Businesses, of Chapter 14,

Businesses, Article 12, will also be considered during the May 26th City Council Meeting under unfinished business.

FUNDING: Not applicable

- Attachments:**
1. Planning Commission transmittal dated April 20, 2020
 2. Planning Commission meeting minutes dated March 19th and April 16th, 2020
 3. Community Development Staff report dated April 9, 2020 with attachments
 4. First Reading Chapter 42 Zoning Amendments - clean
 5. Portage Amendment to Marihuana Ordinance No. 18-01 - clean
 6. First Reading Chapter 42 Zoning Amendments - highlight and strike

TO: Honorable Mayor and City Council
FROM: Planning Commission
DATE: April 20, 2020
SUBJECT: Ordinance Amendment #19/20-A, Adult Use Marihuana

During the March 19, 2020 meeting, staff introduced to the Planning Commission Zoning Code amendments pertaining to Adult Use Marihuana. These amendments would allow adult use marihuana facilities in the B-3, general business, I-1, light industrial and I-2, heavy industrial zoning districts similar to existing medical marihuana facilities.

The Planning Commission held a public meeting on April 16, 2020 to formally consider these proposed amendments. One citizen called-in to request clarification regarding provisions relating to the partitioning requirement when a provisioning center and retailer are located at the same location, and the rationale for the determining the boundary lines for the zoning lot. No additional citizens called-in to speak during this virtual meeting. After a brief discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Myer, to waive the second public hearing and recommend to City Council that Ordinance Amendment #19/20-A, Adult Use Marihuana be approved. Upon a roll call vote, the motion was unanimously approved 9-0.

Sincerely,


Dan Corradini
Chairman

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screening fence around the entire rear yard area, which would be extremely expensive. The Commission and Ms. Edwards next discussed various aspects of the proposed group child care home including hours of operation, parking, number of children (including her own), height of the existing chain link fence and installation of a screening fence around the rear yard of the property.

The public hearing was then opened by Chairman Corradini. Barry Klies, 2788 Brahms Avenue, expressed concern about the number of people, noise, additional traffic and vehicle speed through the neighborhood. Monica Johnson, 2810 Brahms Avenue, recommended the Planning Commission require the entire rear yard be fenced with the six-foot fence. Ms. Johnson also expressed concern about traffic, speed of vehicles and safety of children with a bus stop located nearby. Commissioner Joshi asked Ms. Johnson if she notices traffic at 4:30 a.m. Ms. Johnson indicated no. No additional citizens spoke regarding the special land use permit application. A motion was then made by Commissioner Fries, seconded by Commissioner Baldwin, to close the public hearing. Upon a roll call vote, the motion was unanimously approved 9-0.

Commissioner Joshi indicated a group daycare home does affect the quality of life of surrounding residents and indicated the property is small. Commissioner Patterson stated installation of a 6-foot privacy fence has been the standard practice of the Commission and therefore, supports it as a condition of approval. Commissioner Fries, Meyer and Baldwin concurred with Commissioner Patterson. Commissioner Fries also noted the daycare facility could also serve other residents in the neighborhood. Commissioner Harrell-Page recommended not placing two fences side-by-side along the south property line. Commissioner Fries recommended a survey be completed. There being no further discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Fries, to approve the Special Land Use Permit for Ms. Christine Edwards (group child care home), 10145 Shuman Avenue, subject to installation of a 6-foot tall solid, opaque screening fence along the north and east sides of the rear yard of the site. Mr. Forth suggested a timeframe when the fence must be installed. After discussing the time frame, Commissioner Pezzoli suggested the motion be amended to require the fence be installed 90 days after the State of Michigan issues the license to operate the group daycare home. Commissioner Joshi and Commissioner Fries accepted the amendment. Upon a roll call vote, the motion was unanimously approved 9-0.

NEW BUSINESS

1. **Ordinance Amendment #19/20-A, Adult Use Marihuana – Introduction.** Mr. Forth referred the Commission to a draft version of an adult-use marihuana ordinance that has been prepared by the city administration and included with the final agenda materials. Mr. Forth provided a brief history regarding the evolution of medical marihuana in the State of Michigan and Portage. The proposed amendments would not change spacing requirements nor distances from specified land uses currently referenced in the medical marihuana zoning ordinances. As a result, adult-use marihuana facilities will only be allowed where medical marihuana facilities are currently permitted. Mr. Forth indicated the ordinance amendments were being introduced at tonight's meeting and a public hearing would be scheduled for the April 16th Planning Commission meeting for additional discussion and a formal consideration. Commissioners did not have any preliminary questions or comments regarding the proposed amendments.

OLD BUSINESS:

1. **FY 2020-2030 Capital Improvement Program.** Mr. Forth referred the Commission to the finalized draft version of the FY2020-2030 Capital Improvement Program (CIP) document that was provided to the Commission with the final agenda materials, along with the communication from the City Manager. Mr. Forth stated the document has not changed since the Commission began review of the preliminary CIP document back on February 20th. Mr. Forth asked the Commission if they had any additional questions and, if not, a formal recommendation to City Council was requested. Commissioner Fries asked if the funding level will remain as proposed or will it change due to ongoing issues affecting people on local and global levels. Mike Carroll, Deputy City Manager, indicated city staff is reviewing revenue projections due to a state revenue tax decrease and the

fencing should be considered for safety purposes and keeping the children contained within the backyard. Commissioner Baldwin stated that she agrees with the comments made by Commissioner Fries and also noted that many of the correspondence received from the residents of the Sterling Oaks Condominiums are not in close proximity to the proposed group child care home and do not even have visibility to the rear yard of the site. Commissioner Patterson stated the rear yard of the site is clearly visible from a couple of the condominium units and rather than a 6-foot tall privacy fence, the Planning Commissioner should consider additional evergreen tree plantings along the east side of the site to protect the privacy of these condominium owners. Commissioner Pezzoli stated that he too concurs with the comments made by Commissioner Fries and believes that fencing along the east side of the rear yard of the site was not necessary. Commissioners Myer and Harrell-Page also concurred and stated that fencing for the purposes of safety should be determined by the State as part of the licensing approval. Chairman Corradini indicated he also believes that fencing is not necessary for screening purposes and a determination of fencing for safety should be made by the State licensing agency.

After additional discussion, a motion was made by Commissioner Fries, seconded by Commissioner Pezzoli, to approve the Special Land Use Permit for Ms. Elizabeth Franklin (group day care home), 9837 Pine View Drive, with no requirement for installation of fencing or supplemental landscaping. Upon a roll call vote: Harrell-Page (yes); Patterson (no); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was approved 8-1.

2. Special Land Use Permit: Rustic Axe Throwing Outpost, 618 Romence Road. Mr. West summarized the staff report dated April 9, 2020 regarding a special land use permit application submitted by Benjamin Baker and Cody Cottle to establish an indoor commercial recreation facility (Rustic Axe Throwing Outpost) within an approximate 4,700 square foot vacant tenant space within the Hillside Shopping Center located at 618 Romence Road. Specifically, Mr. West stated the use was proposed within Suite 102 of the building located closest to Romence Road, addressed as 626 Romence Road. Mr. West stated this tenant space is located in excess of 100 feet from the nearest residential district or use lot line and that all activities associated with the use would occur indoors. Mr. West indicated the application fulfills the requirements for issuance of a special land use permit and was recommended for approval.

Cody Cottle (applicant) called-in to support the application and discuss the proposed indoor recreation use. Mr. Cottle described the operations of the proposed Rustic Axe Throwing Outpost and indicated it would occupy the vacant tenant space along Romence Road, previously occupied by Blockbuster Video. The Commission and Mr. Cottle next discussed various aspects of the proposed use. The public hearing was then opened by Chairman Corradini. No citizens called-in to speak regarding the special land use permit application. A motion was then made by Commissioner Baldwin, seconded by Commissioner Harrell-Page, to close the public hearing. Upon a roll call vote: Joshi (yes); Meyer (yes); Harrell-Page (yes); Pezzoli (yes); Baldwin (yes); Corradini (yes); Patterson (yes); Fries (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Myer, to approve the Special Land Use Permit for Rustic Axe Throwing Outpost, 618 Romence Road. Upon a roll call vote: Harrell-Page (yes); Patterson (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

3. Ordinance Amendment #19/20-A, Adult Use Marihuana. Mr. West summarized the staff report dated April 9, 2020 regarding amendments to the Zoning Code prepared by the city administration to allow adult use marihuana facilities within the city. Mr. West referred the Commission to the first page of the staff report that contained a summary of medical marihuana and adult use marihuana legislation in the State of Michigan, and the existing medical marihuana ordinance that the city adopted in March 2018. Mr. West indicated the proposed amendments involve Zoning Code sections pertaining to the B-3, general business, I-1, light industrial and I-2, heavy industrial districts. Mr. West stated that all current spacing requirements applicable to medical marihuana facilities would also be applicable to proposed adult use marihuana facilities. Since the ordinance amendments were first introduced to the Commission on March 19th and given the provisions for the proposed adult use marihuana regulations are similar to those of the existing medical marihuana regulations, Mr. West indicated the Planning Commission was advised to review the amendments, receive public comment during the public hearing, then

waive the second public hearing and make a formal recommendation to City Council to approve Ordinance Amendment #19/20-A, Adult Use Marihuana. Mr. West then asked Assistant City Attorney Bear to provide a more detailed overview of the proposed amendments.

Assistant City Attorney Bear provided a summary of State legislation and local ordinance development associated with medical marihuana, followed by a summary of adult use marihuana State legislation. Assistant City Attorney Bear reviewed in detail the proposed amendments to Section 42-262 (B-3, general business district), Section 42-280 (I-1, light industrial district) and Section 42-281 (I-2, heavy industrial district). Assistant City Attorney Bear, Mr. West and the Commission next discussed various aspects of the proposed ordinance amendment including the requirement for separate HVAC systems and odor mitigation, compliance with ADA requirements, delivery services, no drive-thru service and separation requirements from schools, child care centers, etc. and the phrase "adjacent to or abutting a residential zoning district".

The public hearing was then opened by Chairman Corradini. One citizen (Omar Catani, 5747 South Westnedge Avenue) spoke regarding the proposed adult use marihuana ordinance amendments. Mr. Catani asked about the partitioning requirement when a provisioning center and retailer are located at the same location, and the rationale for the determining the boundary lines for the zoning lot "as those line existed on December 31, 2017. Assistant City Attorney Bear and Mr. West responded. No additional citizens called-in to speak regarding the proposed adult use marihuana ordinance amendments. A motion was then made by Commissioner Harrell-Page, seconded by Commissioner Schimmel, to close the public hearing. Upon a roll call vote: Harrell-Page (yes); Patterson (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

After a brief discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Myer, to waive the second public hearing and recommend to City Council that Ordinance Amendment #19/20-A, Adult Use Marihuana be approved. Upon a roll call vote: Joshi (yes); Meyer (yes); Harrell-Page (yes); Pezzoli (yes); Baldwin (yes); Corradini (yes); Patterson (yes); Fries (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

4. Preliminary Report: Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way. Mr. West summarized the staff report dated April 9, 2020 regarding a request by Trade Centre Holdings, LLC to amend two previously approved conceptual plans to allow construction of a new 4-story hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. Mr. West stated the 30-acre tract of land is zoned CPD, commercial planned development and includes parcels addressed as 300, 400, 500, 550, 650, 750, 850, 950 and 1150 Trade Centre Way. Mr. West stated the first conceptual plan was approved in 2002 (amended in 2012) and involved an approximate 20-acre tract of land that includes parcels 200 400, 500, 550, 650 and 750 Trade Centre Way. Mr. West stated the second conceptual plan was approved in 2004 and involved a 12-acre tract of land that includes parcels 850, 950 and 1150 Trade Centre Way. Mr. West stated the applicant was proposing to amend these two previously approved conceptual plans to allow construction of a new 4-story, 59-foot tall hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. Mr. West stated the proposal involves another partnership between the developer and the City of Portage, along with an exchange of land and modification of property lines, whereby the existing city storm water basin located on the 850 Trade Centre Way parcel will be relocated to the northwest to allow construction of the new hotel building. In conjunction with the conceptual plan amendment and consistent with previous approvals, Mr. West stated the applicant was also requesting a height modification and a waiver from the conflicting land use screening requirements.

Greg Dobson of American Village Builders (applicant representative) called-in to support the application and discuss the proposed new hotel project. Mr. Dobson thanked staff for all their assistance during the application review process and also thanked the Planning Commission for conducting the virtual meeting during these challenging times. Mr. Dobson next summarized the history of the Trade Centre CPD and the partnership between Joe Gesmundo and Roger Hinman. Mr. Dobson reviewed development projects which have been completed to date within the CPD including three multi-story office buildings, two multi-story hotels and one restaurant building. Mr. Dobson summarized the proposed new hotel project and discussed efforts to reach out

TO: Planning Commission

FROM: Christopher Forth, Interim Director of Community Development

SUBJECT: Ordinance Amendment #19/20-A, Adult-Use Marihuana

DATE: April 9, 2020

I. INTRODUCTION/BACKGROUND:

In November 2008, Michigan voters approved a statewide ballot initiative to create the Michigan Medical Marihuana Act (MMMA). At that time, the Act did not authorize the broad legalization of the cultivation, distribution or use of marihuana. Rather, the MMMA allows qualifying patients with a serious debilitating medical condition to obtain, possess, cultivate/grow and use marihuana for medicinal purposes. The MMMA also allows a primary caregiver to assist a qualifying patient with the medical use of marihuana, in accordance with state law.

In response to the MMMA, the City of Portage adopted a Medical Marihuana Home Occupation ordinance amendment in July 2011 that permits State of Michigan registered primary caregivers to possess, cultivate/grow and distribute medical marihuana in the city on behalf of a registered qualifying patient(s) consistent with the MMMA.

The MMMA did not reference dispensaries or the commercial sale of medical marihuana to qualifying patients or caregivers. As a result, three bills were enacted into law in September 2016 addressing the commercialization of medical marihuana and “medibles” (edible marijuana-infused products). Taken together, the statutes outline a “seed-to-sale” regulatory scheme for the commercialization of medical marihuana and permits consumption of marihuana other than by smoke inhalation. Subsequent to the adoption of the rules for implementation of these acts by the Department of Licensing and Regulatory Affairs (LARA) in December 2017, the City of Portage adopted an ordinance in March 2018 allowing the five types of Medical Marihuana Facilities subject to conditions:

- Grower: Class A – 500 plants; Class B – 1000 plants; Class C – 1500 plants.
- Processor: Extracts resin from plant /creates marihuana-infused products.
- Secure Transporter: Transports marihuana & cash between facilities and may also store marihuana.
- Safety Compliance Facility: Tests samples of marihuana for contaminants and its active ingredients.
- Provisioning Center: Sells marihuana / marihuana-infused products only to registered patients and caregivers.

In November 2018, Michigan voters approved Proposal 1, creating the Michigan Regulation and Taxation of Marihuana Act (MRTMA), which authorizes adult-use marihuana for recreational purposes. At that time, the City opted out so no adult use establishments were allowed in the City until the business and zoning ordinances are amended to allow adult use marihuana businesses. Since that time, the City Administration together with the attorneys have been revising Chapter 14, Article

12, Medical Marihuana Facilities to include adult-use marihuana facilities. Following the Committee of the Whole meeting on February 25, 2020, City Council requested the City Administration to finalize the amendments to Chapter 14, Article 12, Medical Marihuana Facilities to permit adult-use marihuana. Additionally, Council also requested the City Administration to proceed with amendments to the Zoning Code.

II. PROPOSED ZONING CODE AMENDMENTS

Attached are draft highlight and strike copies of the proposed amendments to the B-3, general business, I-1, light industrial and I-2, heavy industrial zoning districts to allow for adult-use establishments under the Adult-use Act. All spacing requirements applicable to medical marihuana facilities are also applicable to adult-use facilities. Consistent with the MRTMA, provisioning centers and marihuana retailers are allowed at the same locations in a B-3 zone, and provisioning centers, retailers, growers and processors are allowed at the same location in the I-1 and I-2. However, each marihuana business located at the same location as another marihuana business is required to have a separate space. Attached for Commission information are two maps that generally shows the eligible locations for medical/adult-use marihuana facilities.

In addition to retail establishments, the MRTMA also allows marihuana event organizers, designated consumption establishments, or temporary marihuana events. At this time, there are no provisions to permit these types of marihuana uses.

III. RECOMMENDATION

Since this ordinance amendment was first introduced to the Commission on March 19th and given that the provisions for the proposed adult-use marihuana regulations are consistent to those of the existing medical marihuana regulations, the Planning Commission is advised to receive public comment during the April 16, 2020 meeting, waive the second public hearing, then make a formal recommendation to City Council to approved Ordinance Amendment #19/20-A, Adult-Use Marihuana.

Attachments: Proposed ordinance amendments (highlight & strike)
Marihuana location maps

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 4, ZONING, DIVISION 4,
ZONING DISTRICTS AND REGULATIONS, SUBDIVISION 6, BUSINESS DISTRICTS,
SUBDIVISION 7, INDUSTRIAL DISTRICTS OF CHAPTER 42, LAND DEVELOPMENT
REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Land Development Regulations, Article 4, Zoning, shall be amended as follows:

ARTICLE 4. Zoning, Subdivision 6, Business Districts shall be amended to add Section 16 as follows:

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

B. Principal permitted uses: In a B-3 general business district, 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:

16. The following marihuana businesses: Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and marihuana retailer as defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

a. A medical marihuana~~The~~ provisioning center or marihuana retailer shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
- iii. Within 1,000 feet of any other medical marihuana provisioning center or marihuana retailer located within the city.

b. Determination of whether a proposed medical marihuana provisioning center or marihuana retailer will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed medical marihuana provisioning center or marihuana retailer will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center or marihuana retailer as those lines existed on December 31, 2017 as shown on the ~~assessment rolls for~~records of the City of Portage in existence on that date.
- ii. Measurements for purposes of subsections 42-262 (B)-(16)-(a)-(ii) and (iii). above shall be made from the boundary of the zoning lot to be occupied by the

medical marihuana provisioning center or marihuana retailer to the nearest point of the zoning lot occupied by any of the uses listed in subsection 42-262 (B)-(16)-(a)-(ii), or to the nearest point of the zoning lot occupied by another medical marihuana provisioning center or marihuana retailer using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

- c. Buildings or structures for the distribution, and sale of ~~medical marihuana and medical marihuana infused products~~ by a medical marihuana provisioning center or marihuana retailer shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana ~~facilities provisioning centers and marihuana retailers~~ shall not be located within greenhouses and similar buildings.
- d. ~~No drive-through facilities are permitted for provisioning center facilities. All medical marihuana provisioning centers and marihuana retailers must be at a fixed location. Mobile medical marihuana provisioning centers and marihuana retailers, and drive through operations for medical marihuana provisioning centers and marihuana retailers are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale by a medical marihuana provisioning center or marihuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.~~
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana provisioning center or marihuana retailer.
- f. The activities and operations of ~~the a~~ a medical marihuana provisioning center or marihuana retailer shall be indoors within a building and out of public view.
- g. ~~No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. A medical marihuana provisioning center and a marihuana retailer may be located in a B-3 zone at the same location consistent with the Adult-use Act and rules. The medical marihuana provisioning center or marihuana retailer located at the same location shall be partitioned from each other, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marihuana business. If a medical marihuana facility provisioning center or marihuana retailer is located in a multi-tenant building with any other activity or business, the medical marihuana provisioning center or marihuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility provisioning center or marihuana retailer.~~
- h. The business and operations of all ~~marihuana facilities~~ medical marihuana provisioning centers and marihuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

- i. This amendment to chapter 42 ~~to add section 42-262.(B).(16) to of~~ article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to is amended to allow marihuana establishments in the city pursuant to the Adult-use Act, add article 12, "Medical Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 21 and 22 to Section 42-280, I-1 Light Industrial District, as follows:

Sec. 42-280. - I-1 Light Industrial District.

- B. Principal permitted uses: In an I-1 light industrial district, 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:

21. The following marihuana businesses: Medical marihuana class A, B, and C grower facilities, stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).

- a. All marihuana businesses permitted by this section ~~The grower or processing facility~~ shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Within 1,000 feet of any other ~~medical marihuana grower or processor facility~~ business permitted by this section located within the city or section 42-281(7).

- b. Determination of whether a proposed ~~grower or processor facility~~ marihuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed ~~grower or processor facility~~ marihuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the ~~medical marihuana grower or processor facility~~ marihuana business as those lines existed on December 31, 2017 as shown on the ~~assessment rolls~~ records ~~for~~ of the city in existence on that date.
- ii. Measurements for purposes of subsections ~~42-280 (B)(21)(a)(ii) and (iii).~~ above shall be made from the boundary of the zoning lot to be occupied by ~~the~~

~~a medical marihuana grower or processor facility marihuana business permitted by this section~~ to the nearest point of the zoning lot occupied by any of the uses listed in 43-280 (B)-(21)-(a)-(ii), or to the nearest point of the zoning lot occupied by another ~~grower or processor marihuana business permitted by this section or section 42-281(7)~~ using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.

- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, ~~or processing, distribution or sale of medical marihuana~~ shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. ~~All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.~~
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a ~~medical marihuana facility~~ marihuana business permitted by this section.
- f. ~~Medical marihuana grow and processor facilities~~ Marihuana businesses permitted by this section shall conduct the activities of the marihuana ~~facility~~ business, including, without limitation, the cultivating, growing, processing, manufacturing, ~~or storage or sale and distribution~~ of marihuana and marihuana-infused products, ~~and all materials used in connection with the cultivating, growing, and processing, and distribution of marihuana and marihuana infused products, indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.~~
- g. ~~Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments, medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only allowed in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one marihuana microbusiness medical marihuana facility shall be allowed on a single zoning lot or at the same location as another marihuana business permitted by this section. (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility~~

business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical-marihuana-facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana facility business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical-marihuana business-facility.

- h. The business and operations of all marihuana facilities-businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
 - i. This amendment to add section 42-280-(B)-(21) to of chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14, is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical-Marihuana Facilities."
- 22. The following marihuana businesses: Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
 - a. The facility siteA medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-280 (B)-(22)-(a)-(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-280 (B)-(22)-(a)-(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the City of Portage in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

- c. Buildings or structures in connection with the transport and storage of ~~medical marihuana~~ and ~~medical marihuana~~ infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All medical marihuana and marihuana secure transporters and safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana- infused products may be used or consumed on the premises of a medical marihuana or marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana facility or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility or marihuana secure transporter or safety compliance facility.
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to ~~add section 42-280 (B) (22) to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical Marihuana Facilities."~~

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 7 and 8 to Section 42-281, I-2 Heavy Industrial District, as follows:

Sec. 42-281. - I-2 Heavy Industrial District.

- B. Principal permitted uses: In an I-2 heavy industrial district, 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:
 - 7. The following marihuana businesses: Medical marihuana class A, B, and C growers facilities, medical marihuana stacked class C grow facilities, and medical marihuana processors facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A

B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).

a. The facilityAll marihuana businesses permitted by this section shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Within 1,000 feet of any other medical marihuana or marihuana grower or processor facility business permitted by this section or section 42-281(21)~~located within the city.~~

b. Determination of whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
- ii. Measurements for purposes of subsections 42-281 (B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another medical marihuana or marihuana grower or processor business permitted by this section or section 42-280(22) using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

c. Buildings or structures for the growing, production, ~~or processing,~~ distribution or sale of ~~medical~~ marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~

d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of

marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.

- e. **No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facilitybusiness permitted by this section.**
- f. Medical marihuana grow and processing facilities ~~Marihuana businesses permitted by this section~~ **shall conduct the activities of the facilitybusiness, including, without limitation, the cultivating, growing, processing, manufacturing, or storage, sale or distribution of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing, and processing and sale or distribution of marihuana and marihuana infused products, indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.**
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments, medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one medical marihuana microbusiness facility shall be allowed on a single zoning lot or at the same location as another marihuana business allowed by this section. (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section). **and no more than one medical marihuana facility business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical marihuana facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana facilitybusiness shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facilitybusiness.**
- h. **The business and operations of all medical marihuana facilitiesbusinesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.**
- i. **This amendment to add section 42-281(B)(7) to of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical Marihuana Facilities."**

8. The following marihuana businesses: Medical marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
- a. A medical marihuana or marihuana secure transporter or safety compliance facility~~The facility site~~ shall not be located:
- i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority;
- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-281 (B)-(8)-(a)-(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)-(8)-(a)-(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana-infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All medical marihuana or marihuana secured transporters or safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of

marihuana products as may be permitted by law.~~No drive-through facilities are permitted for medical marihuana facilities.~~

- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~.
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to ~~add~~ section 42-281-(B)-(8) ~~to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12, is amended to allow marihuana establishments under the Adult-use Act, "Medical Marihuana Facilities."

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

Patricia M. Randall

CERTIFICATION

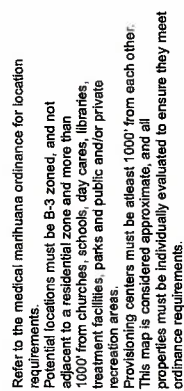
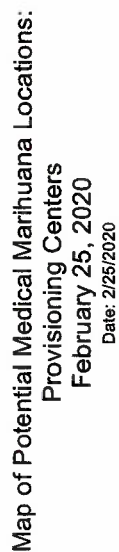
STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, Erica Eklov, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the ____ day of _____, 2020.

Erica Eklov, City Clerk

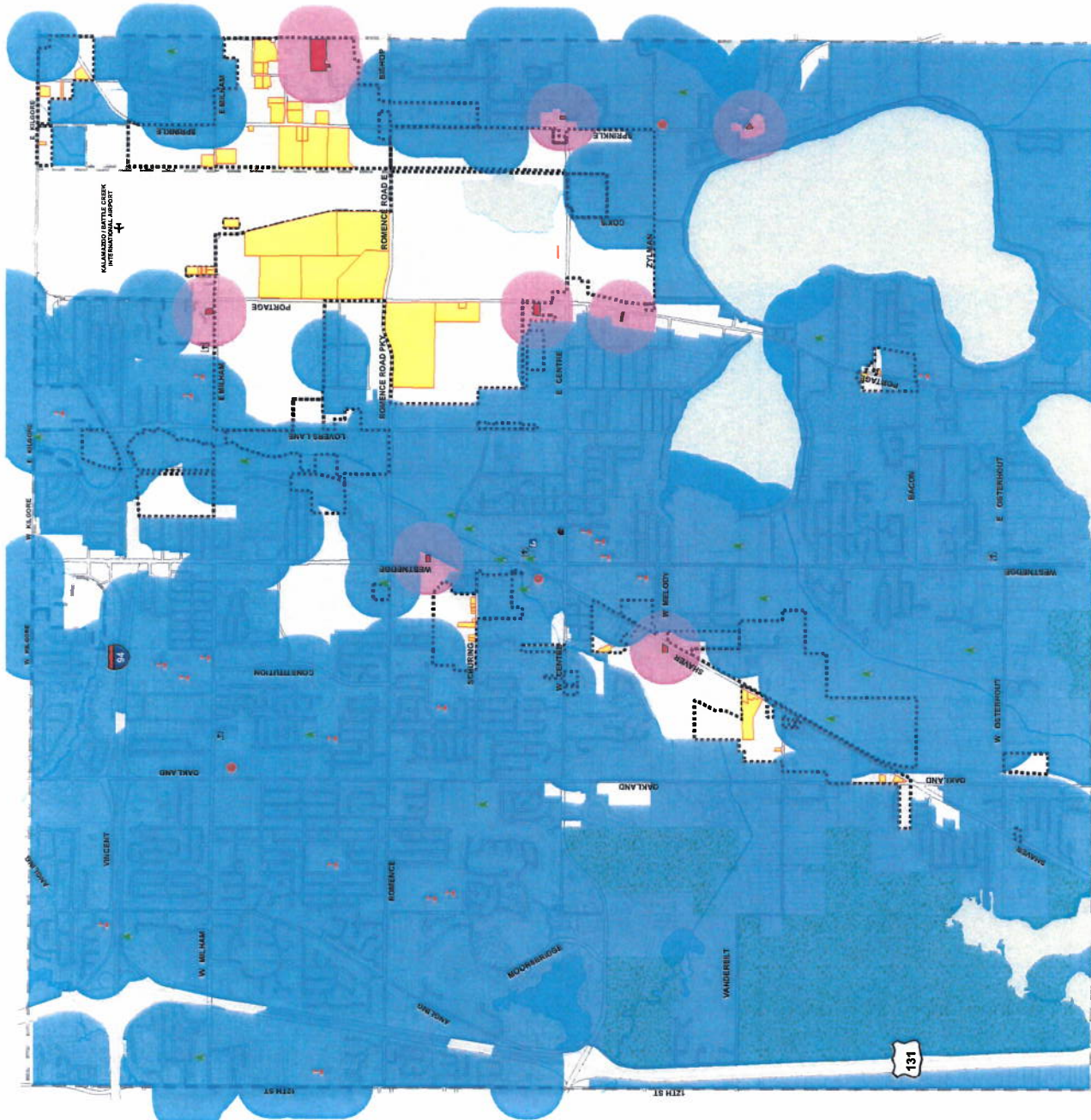
PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.
Portage, MI 49002

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**Map of Potential Medical Marihuana Locations:
Grow Operations, Processors,
Safety Compliance, & Secure Transporters
November 11, 2019**



 Properties that may meet eligibility requirements regardless of current use
 Previously approved provisioning center/grow operation
 1000' buffer from existing provisioning centers/grow operation
 Excluded areas
 I-1 or I-2 Zoning
 City Boundary

Refer to the medical marijuana ordinance for location requirements.



1 inch = 3,200 feet
Date: 11/13/2019

**FIRST READING
CITY OF PORTAGE, MICHIGAN
NOTICE**

TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND ALL OTHER INTERESTED PERSONS.

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on _____, 2020, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on _____, 2020, at 7:00 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, Zoning, shall be amended as follows:

ARTICLE 4. Zoning, Subdivision 6, Business Districts shall be amended to add subsection 16 to Section 42-262B, B-3 general business district as follows:

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

- B. Principal permitted uses: In a B-3 general business district, 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:
16. The following marihuana businesses: Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and marihuana retailer as defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
- a. A medical marihuana provisioning center or marihuana retailer shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-262(B)(16)(g), within 1,000 feet of any other medical marihuana provisioning center or marihuana retailer located within the city.

- b. Determination of whether a proposed medical marihuana provisioning center or marihuana retailer will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana provisioning center or marihuana retailer will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center or marihuana retailer as those lines existed on December 31, 2017 as shown on the records of the City of Portage in existence on that date.
 - ii. Measurements for purposes of subsections 42-262 (B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center or marihuana retailer to the nearest point of the zoning lot occupied by any of the uses listed in subsection 42-262 (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another medical marihuana provisioning center or marihuana retailer using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the distribution, and sale of marihuana and marihuana infused products by a medical marihuana provisioning center or marihuana retailer shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana provisioning centers and marihuana retailers shall not be located within greenhouses and similar buildings.
- d. All medical marihuana provisioning centers and marihuana retailers must be at a fixed location. Mobile medical marihuana provisioning centers and marihuana retailers, and drive through operations for medical marihuana provisioning centers and marihuana retailers are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale by a medical marihuana provisioning center or marihuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a medical marihuana provisioning center or marihuana retailer.
- f. The activities and operations of a medical marihuana provisioning center or marihuana retailer shall be indoors within a building and out of public view.
- g. A medical marihuana provisioning center and a marihuana retailer may be located in a B-3 zone at the same location consistent with the Adult-use

Act and rules. The medical marihuana provisioning center or marihuana retailer located at the same location shall be partitioned from each other, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marihuana business. If a medical marihuana provisioning center or marihuana retailer is located in a multi-tenant building with any other activity or business, the medical marihuana provisioning center or marihuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana provisioning center or marihuana retailer.

- h. The business and operations of all medical marihuana provisioning centers and marihuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to chapter 42 section 42-262(B)(16) of article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to allow marihuana establishments in the city pursuant to the Adult-use Act.

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 21 and 22 to Section 42-280B, I-1 Light Industrial District, as follows:

Sec. 42-280. - I-1 Light Industrial District.

- B. Principal permitted uses: In an I-1 light industrial district, 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:
 - 21. The following marihuana businesses: Medical marihuana class A, B, and C grow facilities, stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).
 - a. All marihuana businesses permitted by this section shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade

- facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Except as provided in section 42-280(B)(21)(g), within 1,000 feet of any other marihuana business permitted by this section or section 42-281(7).
- b. Determination of whether a proposed marihuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed marihuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the marihuana business as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-280 (B)(21)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by a marihuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 43-280 (B)(21)(a)(ii), or to the nearest point of the zoning lot occupied by another marihuana business permitted by this section or section 42-281(7) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, processing, distribution or sale of marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a marihuana business permitted by this section.
- f. Marihuana businesses permitted by this section shall conduct the activities of the marihuana business, including, without limitation, the cultivating, growing, processing, manufacturing, storage or sale and distribution of marihuana and marihuana infused products, and all materials used in connection with the cultivating, growing, processing, and distribution of marihuana and marihuana infused products indoors and out of public view, except medical marihuana grow facilities and marihuana grow

- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only allowed in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one marihuana microbusiness shall be allowed on a single zoning lot or at the same location as another marihuana business permitted by this section, and no more than one marihuana business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a marihuana business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business.
- h. The business and operations of all marihuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to section 42-280(B)(21) of chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14, article 12, is amended to allow marihuana establishments under the Adult-use Act.

22. The following marihuana businesses: Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

a. A medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:

i. Adjacent to or abutting a residential zoning district; and

(120)

- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-280 (B)(22)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-280 (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the City of Portage in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of marihuana and marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All medical marihuana and marihuana secure transporters and safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a medical marihuana or marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana or marihuana secure transporter or safety compliance facility.

- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to section 42-280(B)(22) of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 article 12, is amended to allow marihuana establishments under the Adult-use Act.

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 7 and 8 to Section 42-281, I-2 Heavy Industrial District, as follows:

Sec. 42-281. - I-2 Heavy Industrial District.

- B. Principal permitted uses: In an I-2 heavy industrial district, 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:
 - 7. The following marihuana businesses: Medical marihuana class A, B, and C grow facilities, medical marihuana stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).
 - a. All marihuana businesses permitted by this section shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational. charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-281(B)(7)(g), within 1,000 feet of any other medical marihuana or marihuana business permitted by this section or section 42-281(21).
 - b. Determination of whether a proposed medical marihuana or marihuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or

marihuana business as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.

- ii. Measurements for purposes of subsections 42-281(B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another medical marihuana or marihuana business permitted by this section or section 42-280(22) using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, processing, distribution or sale of marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a marihuana business permitted by this section.
- f. Marihuana businesses permitted by this section shall conduct the activities of the business, including, without limitation, the cultivating, growing, processing, manufacturing, storage, sale or distribution of marihuana and marihuana infused products, and all materials used in connection with the cultivating, growing, processing and sale or distribution of marihuana and marihuana infused products indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that

- h. The business and operations of all medical marihuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to section 42-281(B)(7) of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 article 12 is amended to allow marihuana establishments under the Adult-use Act.

- a. A medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority;
- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.

- ii. Measurements for purposes of subsections 42-281 (B)(8)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(8)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of marihuana and marihuana-infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All medical marihuana or marihuana secured transporters or safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana or marihuana secure transporter or safety compliance facility.
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to section 42-281(B)(8) of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 article 12, is amended to allow marihuana establishments under the Adult-use Act.

PLEASE TAKE FURTHER NOTICE that copies of said proposed amendment may be examined at the City Hall on any business day except public and legal holidays from and after publication of this Notice until the day of hearing from 8:00 a.m. and 5:00 p.m.

Dated: _____, 2020

Erica Eklov, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.
Portage, MI 49002

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 12, MEDICAL
MARIHUANA FACILITIES, OF CHAPTER 14, BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

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

CHAPTER 14. BUSINESSES.

ARTICLE 12. MARIHUANA BUSINESSES.

Sec. 14-245. Purpose.

- (a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* (Medical Facilities Act) and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*, (Adult-use Act) to: authorize the establishment of certain types of medical marihuana facilities and adult-use marihuana establishments (marihuana businesses) in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such businesses; and establish fees for such permits.
- (b) Nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, (Medical Marihuana Act) the Medical Facilities Act, the Marihuana Tracking Act, MCL 333.27901 *et seq.*, (Tracking Act) the Adult-use Act and all other applicable rules promulgated by the state of Michigan.
- (c) Because federal law is not affected by state law or rules, nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall any provision of this article or this code, be construed as granting immunity from criminal prosecution under federal law. Neither the Medical Facilities Act nor the Adult-Use Act protects patients, users, care givers, licensees, or the owners or occupants of properties on which the medical or adult-use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

Sec. 14-246. Definitions.

- (a) As used in this article, the following terms shall have the meanings indicated:

Applicant means the person who applied for and received prequalification for a license under either the Marihuana Facilities Act or the Adult-use Act, and who then applied for a marihuana business permit under this article or a marihuana facilities permit under the previous version of this article.

Equivalent licenses means any of the following held by a single licensee:

- (1) A marihuana grower license, of any class, issued under Adult-use Act and a grower license, of any class, issued under the Medical Facilities Act.
- (2) A marihuana processor license issued under Adult-use Act and a processor license issued under the Medical Facilities Act.
- (3) A marihuana retailer license issued under MRTMA and a provisioning center license issued under the MMFLA.
- (4) A marihuana secure transporter license issued under Adult-use Act and a secure transporter license issued under the Medical Facilities Act.
- (5) A marihuana safety compliance facility license issued under Adult-use Act and a safety compliance facility license issued under the Medical Facilities Act.

Grower means a licensee and permittee that, under either the Medical facilities Act and Rules or the Adult-use Act and Rules, is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or marihuana retailer.

License, Marihuana Business License or Business License means a state operating license issued under the Medical Facilities Act or the Adult-use Act.

Licensee means a person holding a state operating license issued under the Medical Facilities Act or the Adult-use Act. *Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Marihuana business or business means the licensed and permitted operation at a property location in the city as a grower, processor, provisioning center, safety compliance facility, or secure transporter, under the Medical Facilities Act and this article or the prior version of this article, or a grower, processor, retailer, safety compliance facility, secure transporter, microbusiness, or marihuana event organizer under the Adult-use Act and this article.

Marihuana business permit means a permit issued under this article that allows a person to operate either a medical marihuana facility permitted under the Medical Facilities Act and this article, or an adult-use establishment permitted under the Adult-use Act and this article, in this city.

Marihuana facilities permit. means a permit issued under the previous version of this article for a medical marihuana facility under the Medical Facilities Act and that article.

Marihuana Microbusiness or Microbusiness means a licensee and permittee that is a commercial entity in this city that, consistent with the Adult-use Act and Rules, cultivates not more than 150 marihuana plants, processes and packages marihuana, and sells or transfers marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments or to medical marihuana facilities.

Marihuana plant means any plant of the species *Cannabis sativa* L. Marihuana plant does not include industrial hemp as that term is defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

- (a) *Marihuana product* means marihuana or marihuana-infused product, or both, as those terms are defined in the in the Medical Facilities Act or the Adult-Use Act, unless otherwise provided for in the rules and this article.

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

Marihuana Retailer or Retailer means a licensee and permittee that is a commercial entity located in this city that, consistent with the Adult-use Act and Rules purchases marihuana products from an adult-use grower or adult-use processor and sells, supplies, or provides marihuana to persons over 21 years of age or older. Retailer includes any commercial property where marihuana products are sold at retail to registered persons over 21 years of age or older as provided in the Adult-use Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the MRA marihuana registration process in accordance with the Medical Marihuana Act is not a provisioning center for purposes of this article.

MRA means the Marijuana Regulatory Agency created by E.R.O. No. 2019-2, compiled at MCL 333.27001.

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

Permittee means a person who has been issued a marihuana business permit pursuant to this article or a medical facilities permit under the previous version of this article.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Proposed marihuana business means a location in the city at which an applicant plans to operate a marihuana business under the Medical Facilities Act and/or Adult-use Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

Provisional approval means a determination that an applicant has submitted an application that meets all of the requirements for a complete permit in section 14-250 of this article, and the requirements for acceptance of the application in section 14-252 of this article.

Provisioning center means a licensee and permittee that is a commercial entity located in this city that, consistent with the Medical Facilities Act and Rules, purchases marihuana products from a medical facility grower or medical facility processor and sells, supplies, or provides marihuana products to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana products are sold at retail to registered qualifying patients or registered primary caregivers as provided in the Medical Facilities Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected

to the caregiver through the MRA marihuana registration process in accordance with the Medical Marihuana Act is not a provisioning center for purposes of this article.

Rules mean the emergency and general rules of MRA adopted pursuant to the Medical Facilities Act the Tracking Act and the Adult-use Act as may be amended from time to time.

Safety compliance facility means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-use Act and Rules is a commercial entity that receives marihuana from a marihuana business or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana business.

Secure transporter means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-use Act and Rules is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee.

Stacked license means more than one state operating license issued to a single licensee to operate as a class C grower as specified in each license at a marihuana business under either the Medical Facilities Act and Rules or the Adult-use Act and Rules.

State operating license business license, or license means a license that is issued under the Medical Facilities Act or Adult-use Act that allows the licensee to operate as 1 of the following, specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.
- (5) A safety compliance facility.
- (6) A microbusiness.
- (7) An excess marihuana grower.
- (8) A marijuana event organizer.
- (9) A designated consumption establishment.
- (10) A temporary marihuana event.
- (11) A marihuana retailer

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

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

medical marihuana act.

- (a) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Act shall have the definition given in that act.
- (b) Unless the context requires a different meaning, any term used in this article as it is defined by the Medical Facilities Act shall have the definition given in that act. Unless the context requires a different meaning, any term used in this article that is defined by the Tracking Act shall have the definition given in that act.
- (c) Unless the context requires a different meaning, any term used in this article that is defined by the Adult-use Act shall have the definition given in that act.

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

All activities related to marihuana shall be in compliance with the Tracking Act, Medical Facilities Act, or the Adult-use Act and all other applicable rules promulgated by the state of Michigan.

Sec. 14-248 Marihuana businesses allowed.

- (a) Pursuant to Section 205(1) of the Medical Facilities Act and Section 6(1) of the Adult-use Act, the city authorizes the following types of marihuana businesses to be permitted in the city, without limitation as to the number of businesses:
 - (1) Under the Medical Facilities Act:
 - i. Provisioning center
 - ii. Class A grower;
 - iii. Class B grower;
 - iv. Class C grower;
 - v. Stacked license Class C grower;
 - vi. Processor;
 - vii. Safety compliance facility;
 - viii. Secure transporter.
 - (2) Under the Adult-use Act:
 - i. Retailer;
 - ii. Class A grower;
 - iii. Class B grower;
 - iv. Class C grower;
 - v. Stacked license Class C grower;
 - vi. Processor;
 - vii. Safety compliance facility;
 - viii. Secure transporter;

ix. Microbusiness.

- (b) Marihuana business permits are not authorized by this article for designated consumption establishments, excess marihuana growers, marihuana event organizers, and temporary marihuana events under the Adult-use Act, or other marihuana related licenses that may be allowed by any State law or administrative rule in the future.
- (c) **The council reserves the right to amend the number and types of marihuana businesses allowed within the city, subject to the laws, rules, and other regulations promulgated by the State of Michigan, or the MRA. Sec.14-249. Permit required.**

No person shall own or operate a marihuana business in the city without first applying for and receiving a license from MRA, and either a marihuana facilities permit under the previous version of this article, or a marihuana business permit under this article. No person who has received a city permit and state license to operate a medical marihuana class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional medical marihuana class C license the person desires to stack with its original state operating license, and a stacked medical marihuana class C state operating license or licenses. Additionally, no person who has received a city permit and state license to operate an adult-use marihuana class C grower establishment shall grow more than 2,000 plants at the establishment without first applying for and receiving a permit from the city manager for each additional adult-use marihuana class C license the person desires to stack with its original state operating license, and a stacked adult-use marihuana class C state operating license or licenses. For two years from November 1, 2019, the date MRA began receiving license applications under the Adult-use Act, no person shall receive a permit for a marijuana retail business that has not first received a Marihuana facilities permit from the city and a medical marihuana state operating license

Sec. 14-250. Application for permit.

- (a) Any person desiring to secure a marihuana business permit shall make application to the city clerk upon a form provided by the city clerk at a time established by the city manager pursuant to section 14-250(c). The city clerk will stamp the permit application with the date and time received and mark the application "received". The review of applications as provided by this article will be completed, and all applications will be either accepted or denied within 90 days of the date the application is marked "received" by the city clerk.
 - (1) All permit applicants, except applicants regarding a medical facility or adult-use stacked class C grower license or licenses, before applying for a permit must be prequalified by MRA for a medical marihuana facility license if they are applying for a permit to operate a medical marihuana facility under the Medical Facilities Act, or marihuana establishment license if they are applying for a permit to operate a marihuana establishment under the Adult-use Act.
 - (2) The applicant must be the same person who received prequalification from MRA.
 - (3) A copy of all applications received shall be distributed by the city clerk to the appropriate city departments for review. All applications will be reviewed in the order received by the city clerk to determine that the application contains all information and documentation required by section 14-250(d) and the location of the proposed facility complies with the zoning requirements in article 4 of chapter 42 of this Code. Applications that are not missing any required information or documentation and comply with the zoning requirements of article 4 of chapter 42 of this Code will be

stamped by the city clerk with the date and time the application is deemed to be complete, and marked "complete". Applications that do not comply with the zoning requirements of article 4 of chapter 42 of this Code will be denied pursuant to section 14-252.

- (4) If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided for notification by the applicant. The applicant shall have five business days from the date of mailing by regular or electronic mail of the written notice to provide the incomplete or missing information to the city clerk. Failure to provide the missing or incomplete information within the time specified may result in denial of the application. Applications with incomplete or missing information shall not be reviewed by city staff or marked or stamped complete until all incomplete or missing information is received by the city clerk and that date will be used to determine the order of review of the application in relation to other applications.
 - (5) An application will be accepted at the date and time the application is stamped or marked complete pursuant to subsection 14-250(a)(3) or (4) of this section.
 - (6) If on the effective date of this article there is an application for a medical marijuana facility that was submitted to the city clerk under the previous version of this article and a provisional permit has not yet been issued to the applicant, the application will be reviewed and processed before any application received under this article.
- (b) Permit applications for marijuana businesses and applications for stacked class C grower licenses at an existing class C grower, shall be submitted to the city clerk at a time or within the time periods established by the city manager.
 - (c) The city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits.
 - (d) The application for a permit shall include at a minimum the information and documentation listed below under oath.
 - (1) The name, business address, business telephone number, and, if applicable, federal tax identification number of the applicant.
 - (2) A copy of the notice from MRA that the applicant has been prequalified for a license.
 - (3) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
 - (4) A description of the type of marijuana business applied for.
 - (5) A security plan for the marijuana business that addresses all required security measures of the Medical Facilities and Adult-use rules and addresses at a minimum the ability to meet the security measures of those rules.
 - (6) An HVAC plan for the marijuana business describing in detail among other things the equipment or systems that will be used to preclude marijuana odors from emanating from the premises in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.
 - (7) A scaled conceptual site plan and floor plan.
 - (8) The property address of the proposed marijuana business to be operated by the applicant.

- (9) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana business for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- (10) The mailing address and electronic address at which the applicant desires to receive notification under this article, and phone numbers at which the applicant desires to be contacted.
- (11) Whether the applicant intends that a combination of marihuana businesses will operate as separate businesses at the same location, and if so, a description of the types of marihuana business intended to be located at the same location.
- (12) Whether the applicant intends that equivalent licenses will operate as separate businesses at the same location and if so, a description of the equivalent marihuana businesses intended to be located at the same location.
- (13) A copy of the marihuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the marihuana business for which provisional approval was issued, or a copy of the marihuana establishment plan to be submitted in connection with a state license application under the Adult-use Act for the marihuana business for which provisional approval was issued
- (14) A statement that the applicant will not violate any of the laws of the state or the ordinances of the city in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
- (15) A statement that the applicant understands that the issuance of a marihuana business permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana in any form or manner that is not in compliance with the Marihuana Act, the Medical Facilities Act, the Tracking Act, the Adult-Use Act, and all other applicable rules promulgated by the MRA, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
- (16) All marihuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city, its officials, and employees.
- (17) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.
- (18) The city manager may require the applicant to provide, within 5 business days of a written demand any document, report, graph or other information which applicant has

supplied to MRA and that is not specifically required by this section.

Sec. 14-251. Fees.

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

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

- (a) Applications received may be denied by the city manager if the applicant fails to provide missing or incomplete information within the time specified in section 14-250(a)(4) of this article. The city manager shall deny an application for any of the following reasons:
 - (1) The applicant has not been prequalified for a marihuana business license by MRA.
 - (2) During the period from November 1, 2019 to November 1, 2021 an applicant for a marihuana business under the Adult-use Act, does not hold a valid and unexpired marihuana facilities permit issued by the city and a medical marihuana state operating license.
 - (3) The applicant did not pay the required application fee at the time of submission of the application.
 - (4) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the marihuana business for the period during which the permit will be issued.
 - (5) The applicant's proposed marihuana business does not comply with the zoning regulations in article 4 of chapter 42 of this code.
 - (6) The city manager determines that the applicant has not satisfactorily complied with all permit requirements in section 14-250 of this article.
 - (7) The applicant was granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that was denied or not renewed, or is currently restricted suspended or revoked.
 - (8) The city manager determines that the applicant submitted an application containing false, misleading, or fraudulent information, or who intentionally omitted pertinent information on the application for a marihuana business permit.
 - (9) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (b) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

Sec. 14-253. Provisional approval.

- (a) Provisional approval will be issued by the city manager to applicants whose applications are accepted as provided in this section. The effective date of the provisional approval will be the date an application is accepted as provided in section 14-250(a)(5).
- (b) Provisional approval does not authorize the applicant to operate a marihuana business without first obtaining a state operating license for the marihuana business, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this code. Upon issuance of provisional approval, the city clerk will be authorized to execute an attestation of compliance with city ordinances to MRA to accompany an application for a license as required by the Medical Facilities Act or the Adult-use Act.
- (c) Provisional approval will lapse and be void one year from the date it is issued or the expiration of the applicant's prequalification status for a license from MRA, whichever occurs first. The city manager or his or her designee shall notify MRA of all persons whose provisional approval has lapsed or become void. Provisional approval may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed 6 months.
- (d) An applicant who has received provisional approval has a continuing duty to provide the city with the following:
 - (1) Up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.
 - (2) A copy of any amendments or changes to the marihuana facilities plan under the Medical Facilities Act submitted in connection with the application for the marihuana business permit for which provisional approval was issued, or a copy of the marihuana establishment plan under the Adult-use Act submitted in connection with the application for the marihuana business for which provisional approval was issued.
- (e) Provisional approval is exclusive to the person who received the provisional approval or provisional permit. Provisional approval or a provisional permit is a revocable privilege granted by the city, is not a property right, and does not create or vest any right, title, franchise or other property interest. No provisional approval or provisional permit issued under the previous version of this article shall be transferred or assigned. Any attempted transfer or assignment shall be void.

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

- (a) Provisional approval may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:
 - (1) The applicant is denied a state operating license by MRA;
 - (2) The marihuana business is substantially different from the, marihuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the marihuana business for which provisional approval was issued, or a copy of the marihuana establishment plan to be submitted in connection with a

state license application under the Adult-use Act for the marihuana business for which provisional approval was issued conceptual plan or other representations;

- (3) Officers of the city are unable to access the proposed marihuana business for permit inspections or are denied access by the applicant or those acting in behalf of the applicant;
 - (4) The applicant fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city;
 - (5) Any violation of the Medical Facilities Act and rules, Adult-use Act and rules, an applicable city ordinance, or this article.
- (b) If provisional approval is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the applicant, at the last known address on file with the city for notification of the applicant, and MRA, of the termination, revocation, suspension, or restriction of the provisional approval and the reasons therefore in writing.
- (c) The applicant who has received provisional approval under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten (10) days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-255. Marihuana business permit.

- (a) Marihuana business permits will be issued by the city manager. In order to be issued a marihuana business permit, an applicant who has received provisional approval and whose provisional approval has not been revoked as provided in section 14-254 shall:
- (1) Successfully complete the inspection required by subsection 14-255(b) of this section.
 - (2) Submit proof to the city manager of obtaining all permits and approvals required by all applicable ordinances of the city including but not limited to an approved site plan and occupancy permit.
 - (3) Submit proof of insurance required by this article in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the city of Portage, its officials, and employees.
 - (4) An applicant who holds a provisional permit for a secure transporter permit shall additionally show proof of auto insurance, vehicle registration and registration as a commercial motor vehicle as applicable for any transporting vehicles used to transport marihuana product in order to be issued a marihuana business permit by the city manager.
 - (5) The site plan required for issuance of a marihuana business permit shall be consistent with the requirements of section 42-482.A of this code. The site plan will be reviewed

administratively consistent with section 42-482.B and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether to reverse an order of the director.

- (b) Before issuance of a marihuana business permit the city shall conduct an inspection of the proposed marihuana business to verify that the marihuana business is ready to open for business, the premises of the business are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this code and any other applicable law, rule, or regulation. No marihuana business permit may be issued and no marihuana business may conduct any business or operations until the inspection is completed and it is determined that the marihuana business is ready to open for business, the premises of the marihuana business are constructed and can be operated in accordance with the application, marihuana facilities plan, or the marihuana establishment plan submitted with the application as well as the approved site plan, and the marihuana business is in compliance with the requirements of this code and any other applicable law, rule, or regulation.
- (c) The marihuana business permit shall be issued only in the name of the applicant.
- (d) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred.
- (e) The marihuana business permit and state operating license shall be displayed in a conspicuous public place inside the marihuana business.
- (f) Acceptance of a marihuana business permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this code under which such permit was granted, to enter upon and inspect the premises of the marihuana business at all reasonable times.
- (g) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

Sec. 14-256. Renewal of permit.

- (a) A marihuana business permit or marihuana facilities permit issued under the previous version of this article shall be renewed annually unless revoked as provided by Section 14-257.
- (b) Renewal of marihuana business permit shall be made by application to the city clerk and payment of a nonrefundable permit renewal fee set by resolution of city council, but not to exceed \$5,000.00. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the due date for annual renewal of the permittee's license for the permittee's marihuana business. The application for renewal shall be upon a form provided by the city clerk and shall contain an update of all information required in the applicant's permit application, be given under oath or affirmation, including an affirmation that all information in the renewal

application is up to date and current, and shall be reviewed and approved in the same manner as the permit application. Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.

- (c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.
- (d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the due date for renewal of the permit established pursuant to section 14-256(b) . The city manager shall deny a permit renewal application if any of the following occur:
 - (1) The permit to be renewed has been terminated or revoked.
 - (2) The permit is suspended or restricted.
 - (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
 - (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
 - (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the Medical Facilities Act and rules, or the Adult-use Act and rules.
 - (6) The applicant failed to correct any deficiencies in the renewal application.
 - (7) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.

The applicant fails to provide evidence of insurance as required by section 14-250(d)(17).
 - (8). An inspection conducted by the city reveals that the marihuana business to which the renewal application pertains is not in compliance with this article, this code of ordinances, the Medical Facilities Act and rules, or the Adult-use Act and rules.
- (e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten (10) days of receipt of the notice of denial.
- (f) The city manager or his or her designee shall inform MRA in writing by mail or electronic

mail of all permittees whose permit is renewed, if a permittee fails to renew a permit, or the permittee's renewal application is denied. The city clerk will file an affirmation of renewal with MRA for all permits that are renewed.

- (g) For the purposes of a renewal application, a marihuana business shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the marihuana business at any time after a permit under this article and a state license to operate the business were issued.
- (h) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause.

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

- (a) Any marihuana business permit issued under this article, or marihuana facilities permit issued under the previous version of this article, shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.
- (b) Any marihuana business permit issued under this article, or marihuana facilities permit issued under the previous version of this article, may be revoked upon the occurrence of any of the following:
 - (1) Any violation of the provisions of this article or, this code of ordinances. A marihuana business shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the marihuana business at any time after a permit under this article and a state license to operate the business were issued.
 - (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or in a way that negatively impacts the health, safety, or general welfare of surrounding property or city residents.
- (c) A marihuana business permit or marihuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.
- (d) Any marihuana business permit or marihuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.
- (e) Any marihuana business permit or marihuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.
- (f) If a marihuana business permit, or marihuana facilities permit issued under the previous version of this article, is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for notification of the permittee, and MRA of the termination, revocation, suspension, or restriction of the permit and the reasons therefore.

- (g) If a marihuana business permit or marihuana facilities permit is revoked under this subsection the permittee shall immediately cease operation of its marihuana business.
- (h) The holder of a marihuana business permit or marihuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten (10) days of receipt of the notice of the termination, revocation, suspension or restriction.

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

- (a) No marihuana business permit, or marihuana facilities permit issued under the previous version of this article, may be transferred without making application to, and obtaining approval of, the city manager. Applications for transfer of a permit shall be made on a form provided by the city clerk. The application shall contain the following information at a minimum:
 - (1) The name and address of the marihuana business proposed to be transferred.
 - (2) The name, address, and other contact information for the owner of the marihuana business proposed to be transferred.
 - (3) The name, address, and other contact information for the proposed transferee.
 - (4) A plan detailing any changes or modifications of the marihuana business desired by the transferee, which must be approved by the city consistent with Section 14-259(a). No certificate of occupancy will be issued to the transferee until all changes have been completed and approved by the city consistent with all applicable codes.
- (b) Any transferee of a permit issued pursuant to this ordinance must meet all requirements and conditions for the issuance of a permit under this article for the type of marihuana business for which the permit was issued prior to the approval of a transfer. The transfer will be conditioned upon the transferee obtaining a state license for the type of marihuana business the permit was issued for within 90 days of the approval of the transfer.

Sec. 14-259. Changes to marihuana businesses.

- (a) Any change or modification of a marihuana business after it receives a state license, and a permit under this article is governed by the standards and procedures of the Medical Facilities Act and rules, and the Adult-use Act and rules, and the standards, and standards and procedures of this code including but not limited to standards and procedures relating to zoning, site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. Changes or modifications to a marihuana business may, however, be made at any time, but must be approved by MRA and the city before any changes or modifications are made. The permittee must obtain all required city permits before the change or modification is commenced and provide evidence to the city of the approval of MRA for any change or modification to a marihuana business.
- (b) Change of location of a marihuana business requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee set by resolution of city council, but not to exceed \$5,000.00. The proposed new location of the marihuana business, in addition to complying with the provisions of section 14-250, must also comply with the provisions of article 4, chapter 42 regarding

zoning. The change of location permit will be submitted and approved or denied in the same manner as an application for a marihuana business permit and a permit for the change of location will be issued in the same manner as for a marihuana business permit application. Applications for a change of location may be made at any time.

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

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4) and MCL 333.27959(7), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana business permit, permit renewal required, change or modification, or change of location under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

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

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

- (a) Marihuana businesses shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the business premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a marihuana business permit or leasing property to a marihuana business constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the Medical Facilities Act and Adult-use Act, or applicable state administrative rules.
- (b) Marihuana businesses shall conduct the activities of the marihuana business, including, without limitation, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view. Cultivating and growing marihuana may take place outdoors consistent with the Medical Facilities Act, the Adult-use Act or applicable state administrative rules.
- (c) Marihuana businesses shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed twenty-four hours a day, seven days a week.

- (d) Marihuana businesses shall have a video surveillance system that complies with the applicable administrative rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in those rules.
- (e) Surveillance recordings of marihuana businesses shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.
- (f) Marihuana businesses shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the business at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana business in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the marihuana business and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this code.
- (g) Marihuana businesses shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana business in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.
- (h) Access to the marihuana business is restricted to the permittee, employees of the permittee, registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, adults 21 years of age or older, if applicable, MRA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.
- (i) All marihuana businesses must be at a fixed location. Mobile marihuana businesses and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products by marihuana businesses as otherwise expressly authorized by the Medical Facilities Act or Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by those Acts or the rules corresponding to those Acts.
- (j) All marihuana businesses shall comply with all provisions of this code, state law and administrative rules regulating signs and advertising.
- (k) The business, operations, marketing and advertising of all marihuana businesses and marihuana product shall comply at all times with applicable state law and regulations, and this code.(l) Marihuana businesses shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of marihuana business at all times.

Sec. 14-262. Conflicts, Future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the Medical Facilities Act and rules,Adult-use Act and the rules, the conflicting provisions of this article will be

preempted and the provisions of the Medical Facilities Act and rules, or the Adult-use Act and rules will control. Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana business in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

Sec. 14-263. Penalty and remedies.

- (a) Any violation of this article is a civil infraction subject to a fine of not more than \$500.00.
- (b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
- (c) In addition to the penalties in this section, any violation of this article, the Medical Facilities Act and rules or Adult-use Act and rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.
- (d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

Sec. 14-264. Severability.

The various parts, sections and clauses of this article are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the article shall not be affected.

Sec. 14-265. Repealer.

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provisions of this article are repealed to the extent of such conflict, and the provisions of this article shall be and remain controlling as to the matters regulated herein.

Sec. 14-266. Effect tie-barred.

This amendment to Chapter 14 "Businesses", Article 12, "Marihuana Businesses" shall only take effect if Chapter 42 section 42-262(B)(16), section 42-280(B)(21), section 42-280(B)(22), section 42-281(B)(7), and section 42-821(B)(8) regarding zones where marihuana businesses are allowed are amended.

Dated: _____, 2020

Patricia M. Randall, Mayor

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

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, Erica Eklov, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the ____ day of _____, 2020.

Erica Eklov, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.
Portage, MI 49002

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**FIRST READING
CITY OF PORTAGE, MICHIGAN
NOTICE**

TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND ALL OTHER INTERESTED PERSONS.

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on _____, 2020, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on _____, 2020, at 7:00 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, Zoning, shall be amended as follows:

ARTICLE 4. Zoning, Subdivision 6, Business Districts shall be amended to add subsection 16 to Section 42-262B, B-3 general business district as follows:

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

B. Principal permitted uses: In a B-3 general business district, 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:

16. The following marihuana businesses: Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and marihuana retailer as defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
- a. A medical marihuana~~The~~ provisioning center or marihuana retailer shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-262(B)(16)(g). ~~Within within~~ 1,000 feet of any other medical marihuana provisioning center or marihuana retailer located within the city.

- b. Determination of whether a proposed [medical marihuana provisioning center or marihuana retailer](#) will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed medical marihuana provisioning center [or marihuana retailer](#) will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center [or marihuana retailer](#) as those lines existed on December 31, 2017 as shown on the [assessment rolls for records of the City of Portage in existence on that date](#).
 - ii. Measurements for purposes of subsections [42-262 \(B\)-\(16\)-\(a\)-\(ii\)](#) and [\(iii\)](#), above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center [or marihuana retailer](#) to the nearest point of the zoning lot occupied by any of the uses listed in subsection [42-262 \(B\)-\(16\)-\(a\)-\(ii\)](#), or to the nearest point of the zoning lot occupied by another [medical marihuana provisioning center or marihuana retailer](#) using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the [assessment rolls for records of the city in existence on that date](#).
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the distribution, and sale of ~~medical~~-marihuana and ~~medical~~-marihuana infused products [by a medical marihuana provisioning center or marihuana retailer](#) shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana ~~facilities~~ [provisioning centers and marihuana retailers](#) shall not be located within greenhouses and similar buildings.
- d. ~~No drive-through facilities are permitted for provisioning center facilities. All medical marihuana provisioning centers and marihuana retailers must be at a fixed location. Mobile medical marihuana provisioning centers and marihuana retailers, and drive through operations for medical marihuana provisioning centers and marihuana retailers are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale by a medical marihuana provisioning center or marihuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.~~
- e. No marihuana or marihuana- infused products may be used or consumed on the premises of a [medical marihuana provisioning center or marihuana retailer](#).
- f. The activities and operations of ~~the a~~ [medical marihuana provisioning center or marihuana retailer](#) shall be indoors within a building and out of public view.
- g. ~~No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. A medical marihuana provisioning center and a marihuana retailer may be located in a B-3 zone at the same location consistent with the Adult-use Act and rules. The medical marihuana provisioning center or marihuana retailer located at the same location shall be partitioned from each other.~~

have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marihuana business. If a medical marihuana ~~facility~~ provisioning center or marihuana retailer is located in a multi-tenant building with any other activity or business, the medical marihuana provisioning center or marihuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility~~ provisioning center or marihuana retailer.

- h. The business and operations of all ~~marihuana facilities~~ medical marihuana provisioning centers and marihuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to chapter 42 ~~to add~~ section 42-262-(B)-(16) ~~to of~~ article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to is amended to allow marihuana establishments in the city pursuant to the Adult-use Act, add article 12, "Medical Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 21 and 22 to Section 42-280B, I-1 Light Industrial District, as follows:

Sec. 42-280. - I-1 Light Industrial District.

- B. Principal permitted uses: In an I-1 light industrial district, 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:
 - 21. The following marihuana businesses: Medical marihuana class A, B, and C grower facilities, stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).
 - a. All marihuana businesses permitted by this section ~~The grower or processing facility~~ shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-280(B)(21)(g), Within within 1,000 feet of any other ~~medical marihuana grower or processor facility~~ business permitted by this section located within the city or section 42-281(7).

- b. Determination of whether a proposed ~~grower or processor facility marihuana business permitted by this section~~ will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed ~~grower or processor facility marihuana business permitted by this section~~ will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the ~~medical marihuana grower or processor facility marihuana business~~ as those lines existed on December 31, 2017 as shown on the ~~assessment rolls~~records for the city in existence on that date.
 - ii. Measurements for purposes of subsections ~~42-280 (B)-(21)-(a)-(ii)~~ and (iii). above shall be made from the boundary of the zoning lot to be occupied by ~~the a medical marihuana grower or processor facility marihuana business permitted by this section~~ to the nearest point of the zoning lot occupied by any of the uses listed in ~~43-280 (B)-(21)-(a)-(ii)~~, or to the nearest point of the zoning lot occupied by another ~~grower or processor marihuana business permitted by this section or section 42-281(7)~~ using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, ~~or processing~~, distribution or sale of ~~medical~~ marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a ~~medical marihuana facility~~business permitted by this section.
- f. ~~Medical marihuana grow and processor facilities~~Marihuana businesses permitted by this section shall conduct the activities of the marihuana ~~facility~~business, including, without limitation, the cultivating, growing, processing, manufacturing, ~~or storage or sale and distribution~~ of marihuana and marihuana-infused products, ~~and all materials used in connection with the cultivating, growing, and processing, and distribution of marihuana and marihuana infused products,~~ indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments medical provisioning centers, and marihuana retailers may be located as separate

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businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only allowed in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one marihuana microbusiness medical marihuana facility shall be allowed on a single zoning lot or at the same location as another marihuana business permitted by this section, (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical marihuana facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana facility business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana business facility.

- h. The business and operations of all marihuana facilities-businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to add section 42-280 ~~(B)-(21) to of~~ chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. ~~"Medical Marihuana Facilities."~~

22. The following marihuana businesses: Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

- a. The facility site ~~A medical marihuana or marihuana secure transporter or safety compliance facility~~ shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be

- occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
- ii. Measurements for purposes of subsections 42-280 (B)-(22)-(a)-(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-280 (B)-(22)-(a)-(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the City of Portage in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of ~~medical~~ marihuana and ~~medical~~ marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
 - d. All medical marihuana and marihuana secure transporters and safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
 - e. No marihuana or marihuana- infused products may be used or consumed on the premises of a medical marihuana or marihuana secure transporter or safety compliance facility.
 - f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ is located in a multi-tenant building with any other activity or business, the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~.
 - g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
 - h. This amendment to ~~add~~ section 42-280-~~(B)-(22)~~ to ~~of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical-Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 7 and 8 to Section 42-281B, I-2 Heavy Industrial District, as follows:

Sec. 42-281. - I-2 Heavy Industrial District.

B. Principal permitted uses: In an I-2 heavy industrial district, 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:

7. The following marihuana businesses: Medical marihuana class A, B, and C growers facilities, medical marihuana stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).

a. The facility All marihuana businesses permitted by this section shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Except as provided in section 42-281(B)(7)(g), Within within 1,000 feet of any other medical marihuana or marihuana grower or processor facility business permitted by this section or section 42-281(21) located within the city.

b. Determination of whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
- ii. Measurements for purposes of subsections 42-281-(B)-(7)-(a)-(ii) and (iii)- above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)-(7)-(a)-(ii), or to the nearest point of the zoning lot occupied by another medical marihuana or marihuana grower or processor business permitted by this section or section 42-280(22) using an uninterrupted straight

line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the [assessment rolls for records of](#) the city in existence on that date.

- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, ~~or processing, distribution or sale~~ of ~~medical~~-marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a ~~medical~~ marihuana ~~facility~~business permitted by this section.
- f. Medical marihuana grow and processing facilities ~~Marihuana businesses permitted by this section~~ shall conduct the activities of the ~~facility~~business, including, without limitation, the cultivating, growing, processing, manufacturing, ~~or storage, sale or distribution~~ of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing, ~~and processing and sale or distribution~~ of marihuana ~~and marihuana infused products,~~ indoors and out of public view, ~~except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.~~
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments, medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one medical marihuana microbusiness facility shall be allowed on a single zoning lot or at the same location as another marihuana business allowed by this section. (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one ~~medical marihuana facility~~ business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a ~~medical~~-marihuana ~~facility~~ business permitted by this section is located in a multi-tenant building with any other activity or business, the ~~medical~~-marihuana ~~facility~~business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC

system for the portion of the building occupied by the ~~medical~~-marihuana ~~facility~~business.

- h. The business and operations of all medical marihuana ~~facilities~~businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to ~~add~~ section 42-281-(B)-(7) ~~to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12; is amended to allow marihuana establishments under the Adult-use Act, "Medical-Marihuana Facilities."

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- 8. The following marihuana businesses: Medical marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
- a. A medical marihuana or marihuana secure transporter or safety compliance facility~~The facility site~~ shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority;
- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.
 - ii. Measurements for purposes of subsections ~~42-281 (B)-(8)-(a)-(ii)~~ above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in ~~42-281 (B)-(8)-(a)-(ii)~~ using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

- c. Buildings or structures in connection with the transport and storage of ~~medical~~ marihuana and ~~medical~~ marihuana-infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All medical marihuana or marihuana secured transporters or safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.~~No drive-through facilities are permitted for medical marihuana facilities.~~
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility.~~
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to ~~add~~ section 42-281-(B)-(8) ~~to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical Marihuana Facilities."

PLEASE TAKE FURTHER NOTICE that copies of said proposed amendment may be examined at the City Hall on any business day except public and legal holidays from and after publication of this Notice until the day of hearing from 8:00 a.m. and 5:00 p.m.

Dated: _____, 2020

Erica Eklov, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.

Portage, MI 49002

Z:\JODY\PORTAGE\FORMS\ORDINANCES\ZONING\1st reading Chapter 42 zoning amendments H&S.docx

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Fiscal Year 2020-2021 Budget Approval and Resolutions Adoption

SUPPORTING PERSONNEL: William Furry, Director of Finance

ACTION RECOMMENDED: Approve the Fiscal Year 2020-2021 Proposed Budget with Revisions, and adopt the General Appropriations Act and Salary and Wage Resolutions.

Following City Council budget review sessions on April 21 and May 5, as well as a public hearing on May 12, 2020, the adoption of the General Appropriations Act and Salary and Wage Resolutions will complete the Fiscal Year 2020-2021 Budget adoption and authorize implementation beginning July 1, 2020.

The Fiscal Year 2020-2021 Budget is a conservative financial plan that maintains a high level of excellence in service. Economic reactions to the COVID-19 will provide some financial challenges, particularly with expected decreases in revenue sharing and Act 51 revenues. Effective financial controls and planning efforts will be strengthened to minimize the effects of future budget challenges.

The FY 2020-2021 Budget is a sound financial plan for the community that:

- Maintains the overall city tax rate (millage) at 10.6400 mills;
- Maintains the City Council prescribed fund balance for the General Fund at twenty-four percent (24%) of General Fund expenditures;
- Preserves the City of Portage position in the lower twenty-five percent (25%) of all Michigan cities with populations between 30,000 and 80,000 in terms of millage level.

Considerations made to address the effects of potential revenue losses include a reallocation of the levied millage, adjusting fund balances levels and increasing resources in the General Fund:

- Millage increase in the General Fund from 7.3200 to 7.5000, with a corresponding revenue increase of \$390,100;
- Millage reduction in the Municipal Streets Fund from 0.6760 to 0.6500;

- Millage reduction in the Curbside Recycling Fund from 0.3000 to 0.2450;
- Millage reduction in the Leaf Pickup/Spring Cleanup Fund from 0.3440 to 0.2450.

Additional changes to the original proposed include:

- Reduction of anticipated franchise fee revenue in the Cable Television fund by \$80,000, with corresponding expenditure reduction;
- Reduction of General Fund personnel costs of \$61,891;
- Reduction of other services and charges for duplicated entry of \$9,945.

Revisions to the FY 2020-2021 CIP budget are expected as state revenues decline. Projects will be prioritized and any eliminated or delayed will be considered for inclusion in the development of the 2021-2031 Capital Improvement Plan.

Additionally, the General Fund Reserve Policy Resolution, which is attached, amends the policy to state that if the Fund Balance at the end of a fiscal year is above the twenty-four percent target, the City Administration will inform City Council as to how the excess fund balance will be utilized.

The General Appropriations Act Resolution, which is attached, has been prepared to conform to all requirements of the City Charter and state statutes. The Salary and Wage Resolution, necessary to establish salary and wage schedules, is also attached. In accordance with the timeline prescribed by the City Charter, City Council adoption of these two resolutions is recommended.

FUNDING: N/A

Attachments:

1. General Appropriations Act 2020-2021
2. Salary and Wage Resolution 2020-2021
3. Resolution General Fund Reserve Policy
4. Line Item Detail

GENERAL APPROPRIATIONS ACT
RESOLUTION TO ADOPT THE BUDGET
OF THE CITY OF PORTAGE FOR THE FISCAL YEAR
JULY 1, 2020 TO JUNE 30, 2021
AND TO MAKE APPROPRIATIONS THEREFORE

Motion by
Supported by

WHEREAS, Chapter 7 of the City Charter requires: That the City Manager submit a budget proposal with his recommendation to the City Council; that a public hearing be held on said budget proposal; that the City Council by resolution adopt a budget for the ensuing fiscal year, make an appropriation of the money needed therefore, and designate the sum to be raised by taxation; and

WHEREAS, the Manager has submitted said budget and recommendations and a public hearing has been held thereon;

NOW, THEREFORE, BE IT RESOLVED as provided in Chapter 7 of the City Charter, and in conformity with Public Act 621 of 1978, the Uniform Budgeting and Accounting Act, that the budgets attached hereto and made a part hereof by reference are hereby considered and adopted, to be administered on an activity level, with the exception of the Capital Improvement Fund, which will be administered on a program/project level, as the budgets of the City of Portage to cover the operations and expenditures thereof for the fiscal year July 1, 2020 to June 30, 2021.

BE IT FURTHER RESOLVED that the sum of \$23,146,200 be raised by taxation by the levy of 10.6400 mills for operations on the taxable value of all real and personal property in the City as follows:

General Operating Fund	7.5000 mills	\$16,270,100
Capital Improvement Fund	2.0000 mills	4,403,000
Curbside Recycling Fund	0.2450 mills	531,500
Leaf Pickup/Spring Cleanup Fund	0.2450 mills	531,500
Municipal Street Fund	<u>0.6500 mills</u>	<u>1,410,100</u>
	<u>10.6400 mills</u>	<u>\$23,146,200</u>

BE IT FURTHER RESOLVED that the City Manager be authorized to transfer necessary amounts between activities/departments within a fund and make any adjustments within or between funds which do not change ending fund balance. The Capital Improvement Funds shall be considered one fund for the purposes of this provision.

BE IT FURTHER RESOLVED that for the General Fund, the fund balance shall be at least 24% of the 2020-2021 appropriations, including transfers.

BE IT FURTHER RESOLVED that a copy of this budget resolution be furnished to the City Assessor, who together with the Finance Director shall then proceed to assess and collect the taxes in accordance with the City Charter and State Statutes.

YES:
NO:
ABSENT:

Erica Eklov, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the 26th day of May, 2020 the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 26th day of May, 2020

Erica Eklov, City Clerk

SALARY AND WAGE RESOLUTION
RESOLUTION TO ADOPT THE SALARY AND WAGE SCHEDULES FOR
THE FISCAL YEAR JULY 1, 2020 TO JUNE 30, 2021

Motion by
Supported by

WHEREAS, Section 6.18(a) of the City Charter and Section 248.06 of the City Code require that upon recommendation of the City Manager, the City Council shall establish uniform salary and wage scales for all officers and employees of the City;

NOW, THEREFORE, BE IT RESOLVED that for the period beginning July 1, 2020 and until otherwise directed, salaries and wages shall be established and adjusted as follows:

- (1) Personnel of the following bargaining unit(s) shall receive compensation in accordance with bargaining agreement being negotiated to replace the labor agreement expiring June 30, 2020:
International Association of Firefighters (IAFF)
- (2) Personnel of the following bargaining unit(s) shall receive compensation effective July 1, 2020 in accordance with applicable collective bargaining agreements:
Portage Police Command Officers Association (PPCOA) – effective 7/1/19-6/30/21
Portage Police Officers Association (PPOA) – effective 7/1/19-6/30/22
United Auto Workers (UAW) – Department of Public Services –effective 7/1/18-6/30/21
- (3) Department Head and full time non-union employees receive salary adjustments as provided for in the Non-Union Employee Compensation and Classification Plan, as recommended by the City Manager and adopted with the budget on May 26, 2020. The 2020/2021 recommended budget provides for one-time merit bonus or adjustments for Department Head and full-time non-union employees and for organizational restructuring and certain attainment adjustments authorized by the City Manager during the fiscal year. Total adjustments for Department Head and regular full-time non-union employees shall not exceed \$172,801. Part-time and seasonal employees receive wage increases as approved by the City Manager. Compensation for the City Manager shall be determined by the City Council.

YES:
NO:
ABSENT:

Erica Eklov, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the 26th day of May, 2020 the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this 26th day of May, 2020.

Erica Eklov, City Clerk

**RESOLUTION FOR THE GENERAL FUND RESERVE POLICY FOR
THE CITY OF PORTAGE**

At a regular meeting of Council of the City of Portage, Kalamazoo County, Michigan,
held at the City Hall in said City on the _____ day of May, 2020, at 7:30 p.m., local time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following resolution was offered by Councilmember _____ and
supported by Councilmember _____.

WHEREAS, the City Council of the City of Portage established a General Fund Reserve
Policy on May 27, 2014;

WHEREAS, the General Fund Reserve Policy established that the General Fund
audited balance at the end of a fiscal year be at 24%; and

WHEREAS, the General Fund Reserve Policy includes a provision that “if the Fund Balance
at the end of a fiscal year is above 24 percent, the available excess fund balance shall be used to
pay cash for future non-utility capital improvement projects in an effort to reduce long-term
debt;” and

WHEREAS, the City Council and City Administration are desirous of utilizing excess
fund balance in the most fiscally responsible manner and to increase the flexibility as to how
excess fund balance may be utilized;

NOW THEREFORE BE IT RESOLVED THAT the provision of the General Fund Reserve Policy
mandating that “if the Fund Balance at the end of a fiscal year is above 24 percent, the available excess fund balance
shall be used to pay cash for future non-utility capital improvement projects in an effort to reduce long-term debt”
be removed from the General Fund Reserve Policy.

BE IT FURTHER RESOLVED THAT the following provision be added to the General

Fund Reserve Policy: "if the Fund Balance at the end of a fiscal year is above 24 percent, the City Council of the City of Portage shall be informed as to how the excess fund balance is to be utilized."

YEAS: _____

NAYS: _____

ABSENT: _____

RESOLUTION DECLARED ADOPTED.

ERICA EKLOV, CITY CLERK

CERTIFICATION

I hereby certify this _____ day of May, 2020, that the foregoing is a true and complete copy of the original on file in my office.

APPROVED AS TO FORM
DATED: 5/20/2020
RD

CITY ATTORNEY

	CITY OF PORTAGE							
	Proposed Annual Operating Budget							
	For Fiscal Year 2020-2021							
	Line Item Detail - EDITS							
					Original	Edited	Edited	
				2019-20	2020-21	2020-21	20/21	
				ORIGINAL	ADMIN	ADMIN	vs	
Page #	Department	GL NUMBER	DESCRIPTION	BUDGET	RECOMMEND	RECOMMEND	19/20	NOTE
2	City Manager	101-1720-705.8520	Other Services & Charges	4,300	26,245	14,245	9,945	Remove \$12K aerial deer survey duplication
5	Assessor	101-2209-707.7010	Regular Full Time	265,821	374,178	307,678	41,857	Remove Deputy Assessor position
6	Assessor	101-2209-707.7070	Fringes	89,982	150,724	108,021	18,039	Remove Deputy Assessor position
6	Assessor	101-2209-707.8528	Temp Emp Services	2,000	12,000	2,000	0	Remove \$10K consulting for Assessor - already included in Regular Full Time account
6	Assessor	101-2247-707.7010	Regular Full Time	13,948	19,694	16,194	2,246	Remove Deputy Assessor position
6	Assessor	101-2247-707.7070	Fringes	5,936	9,057	5,685	(251)	Remove Deputy Assessor position
59	Cable Television	298-0000-453.0200	AT&T Franchise Fee	158,000	215,000	135,000	(23,000)	Reduce revenue to better estimate
60	Cable Television	298-7015-709.8520	Other Services & Charges	153,000	345,000	265,000	112,000	Corresponding reduction in expenditure

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Ordinance Amendments - Adult Use Marihuana

SUPPORTING PERSONNEL: Chris Forth, Acting Director of Community Development

ACTION RECOMMENDED: Adopt Ordinance Amendment #19/20-6, Marihuana Businesses, of Chapter 14, Businesses, Article 12.

Following the February 25, 2020 City Council Committee of the Whole meeting, the City Administration proceeded to develop zoning code amendments to permit adult use marihuana facilities. The proposed amendments involve changes to Section 42-262 (B-3, general business district), Section 42-280 (I-1, light industrial district) and Section 42-281 (I-2, heavy industrial district) to allow for adult use marihuana establishments. Provisioning centers and marihuana retailers would be allowed at the same locations in a B-3 zone, and provisioning centers, retailers, growers and processors would be allowed at the same location in districts I-1 and I-2. However, each marihuana business located at the same location as another marihuana business is required to have a separate space. All spacing requirements applicable to medical marihuana facilities are also applicable to adult use facilities. At this time, there are no provisions proposed for marihuana event organizers, designated consumption establishments, or temporary marihuana events.

The proposed amendments were introduced to the Planning Commission during the March 19, 2020 meeting, and the Planning Commission convened a public hearing during their April 16, 2020 meeting. During the public hearing, one citizen called in to obtain clarification on provisions relating to the partitioning requirement when a provisioning center and retailer are located at the same location, and the rationale for the determining the boundary lines for the zoning lot. No additional citizens called in to speak during this virtual meeting. Following the public hearing, the Planning Commission voted 9-0 to waive the second public hearing and recommend to City Council that Ordinance Amendment #19/20-A, Adult Use Marihuana be approved.

First reading of this ordinance was conducted at the April 28, 2020 Council meeting. It is recommended that City Council now adopt Ordinance Amendment #19/20-6, Marihuana Businesses, of Chapter 14, Businesses, Article 12. The zoning ordinance to operate in tandem with this ordinance is part of the public hearing segment of the May 26, 2020 City Council meeting.

FUNDING: Not applicable

- Attachments:**
1. Planning Commission transmittal dated April 20, 2020
 2. Planning Commission meeting minutes dated March 19th and April 16th, 2020
 3. Community Development Staff report dated April 9, 2020 with attachments
 4. First Reading Chapter 42 Zoning Amendments - clean
 5. Portage Amendment to Marihuana Ordinance No. 18-01 - clean
 6. First Reading Chapter 42 Zoning Amendments - highlight and strike

TO: Honorable Mayor and City Council
FROM: Planning Commission
DATE: April 20, 2020
SUBJECT: Ordinance Amendment #19/20-A, Adult Use Marihuana

During the March 19, 2020 meeting, staff introduced to the Planning Commission Zoning Code amendments pertaining to Adult Use Marihuana. These amendments would allow adult use marihuana facilities in the B-3, general business, I-1, light industrial and I-2, heavy industrial zoning districts similar to existing medical marihuana facilities.

The Planning Commission held a public meeting on April 16, 2020 to formally consider these proposed amendments. One citizen called-in to request clarification regarding provisions relating to the partitioning requirement when a provisioning center and retailer are located at the same location, and the rationale for the determining the boundary lines for the zoning lot. No additional citizens called-in to speak during this virtual meeting. After a brief discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Myer, to waive the second public hearing and recommend to City Council that Ordinance Amendment #19/20-A, Adult Use Marihuana be approved. Upon a roll call vote, the motion was unanimously approved 9-0.

Sincerely,


Dan Corradini
Chairman

T:\COMMDEV\2019- 2020 Department Files\Memos\City Council\2020 04 20 MCC Ordinance Amendment #19-20-A, Adult Use Marihuana (PC).docx

screening fence around the entire rear yard area, which would be extremely expensive. The Commission and Ms. Edwards next discussed various aspects of the proposed group child care home including hours of operation, parking, number of children (including her own), height of the existing chain link fence and installation of a screening fence around the rear yard of the property.

The public hearing was then opened by Chairman Corradini. Barry Klies, 2788 Brahms Avenue, expressed concern about the number of people, noise, additional traffic and vehicle speed through the neighborhood. Monica Johnson, 2810 Brahms Avenue, recommended the Planning Commission require the entire rear yard be fenced with the six-foot fence. Ms. Johnson also expressed concern about traffic, speed of vehicles and safety of children with a bus stop located nearby. Commissioner Joshi asked Ms. Johnson if she notices traffic at 4:30 a.m. Ms. Johnson indicated no. No additional citizens spoke regarding the special land use permit application. A motion was then made by Commissioner Fries, seconded by Commissioner Baldwin, to close the public hearing. Upon a roll call vote, the motion was unanimously approved 9-0.

Commissioner Joshi indicated a group daycare home does affect the quality of life of surrounding residents and indicated the property is small. Commissioner Patterson stated installation of a 6-foot privacy fence has been the standard practice of the Commission and therefore, supports it as a condition of approval. Commissioner Fries, Meyer and Baldwin concurred with Commissioner Patterson. Commissioner Fries also noted the daycare facility could also serve other residents in the neighborhood. Commissioner Harrell-Page recommended not placing two fences side-by-side along the south property line. Commissioner Fries recommended a survey be completed. There being no further discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Fries, to approve the Special Land Use Permit for Ms. Christine Edwards (group child care home), 10145 Shuman Avenue, subject to installation of a 6-foot tall solid, opaque screening fence along the north and east sides of the rear yard of the site. Mr. Forth suggested a timeframe when the fence must be installed. After discussing the time frame, Commissioner Pezzoli suggested the motion be amended to require the fence be installed 90 days after the State of Michigan issues the license to operate the group daycare home. Commissioner Joshi and Commissioner Fries accepted the amendment. Upon a roll call vote, the motion was unanimously approved 9-0.

NEW BUSINESS

1. **Ordinance Amendment #19/20-A, Adult Use Marihuana – Introduction.** Mr. Forth referred the Commission to a draft version of an adult-use marihuana ordinance that has been prepared by the city administration and included with the final agenda materials. Mr. Forth provided a brief history regarding the evolution of medical marihuana in the State of Michigan and Portage. The proposed amendments would not change spacing requirements nor distances from specified land uses currently referenced in the medical marihuana zoning ordinances. As a result, adult-use marihuana facilities will only be allowed where medical marihuana facilities are currently permitted. Mr. Forth indicated the ordinance amendments were being introduced at tonight's meeting and a public hearing would be scheduled for the April 16th Planning Commission meeting for additional discussion and a formal consideration. Commissioners did not have any preliminary questions or comments regarding the proposed amendments.

OLD BUSINESS:

1. **FY 2020-2030 Capital Improvement Program.** Mr. Forth referred the Commission to the finalized draft version of the FY2020-2030 Capital Improvement Program (CIP) document that was provided to the Commission with the final agenda materials, along with the communication from the City Manager. Mr. Forth stated the document has not changed since the Commission began review of the preliminary CIP document back on February 20th. Mr. Forth asked the Commission if they had any additional questions and, if not, a formal recommendation to City Council was requested. Commissioner Fries asked if the funding level will remain as proposed or will it change due to ongoing issues affecting people on local and global levels. Mike Carroll, Deputy City Manager, indicated city staff is reviewing revenue projections due to a state revenue tax decrease and the

fencing should be considered for safety purposes and keeping the children contained within the backyard. Commissioner Baldwin stated that she agrees with the comments made by Commissioner Fries and also noted that many of the correspondence received from the residents of the Sterling Oaks Condominiums are not in close proximity to the proposed group child care home and do not even have visibility to the rear yard of the site. Commissioner Patterson stated the rear yard of the site is clearly visible from a couple of the condominium units and rather than a 6-foot tall privacy fence, the Planning Commissioner should consider additional evergreen tree plantings along the east side of the site to protect the privacy of these condominium owners. Commissioner Pezzoli stated that he too concurs with the comments made by Commissioner Fries and believes that fencing along the east side of the rear yard of the site was not necessary. Commissioners Myer and Harrell-Page also concurred and stated that fencing for the purposes of safety should be determined by the State as part of the licensing approval. Chairman Corradini indicated he also believes that fencing is not necessary for screening purposes and a determination of fencing for safety should be made by the State licensing agency.

After additional discussion, a motion was made by Commissioner Fries, seconded by Commissioner Pezzoli, to approve the Special Land Use Permit for Ms. Elizabeth Franklin (group day care home), 9837 Pine View Drive, with no requirement for installation of fencing or supplemental landscaping. Upon a roll call vote: Harrell-Page (yes); Patterson (no); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was approved 8-1.

2. Special Land Use Permit: Rustic Axe Throwing Outpost, 618 Romence Road. Mr. West summarized the staff report dated April 9, 2020 regarding a special land use permit application submitted by Benjamin Baker and Cody Cottle to establish an indoor commercial recreation facility (Rustic Axe Throwing Outpost) within an approximate 4,700 square foot vacant tenant space within the Hillside Shopping Center located at 618 Romence Road. Specifically, Mr. West stated the use was proposed within Suite 102 of the building located closest to Romence Road, addressed as 626 Romence Road. Mr. West stated this tenant space is located in excess of 100 feet from the nearest residential district or use lot line and that all activities associated with the use would occur indoors. Mr. West indicated the application fulfills the requirements for issuance of a special land use permit and was recommended for approval.

Cody Cottle (applicant) called-in to support the application and discuss the proposed indoor recreation use. Mr. Cottle described the operations of the proposed Rustic Axe Throwing Outpost and indicated it would occupy the vacant tenant space along Romence Road, previously occupied by Blockbuster Video. The Commission and Mr. Cottle next discussed various aspects of the proposed use. The public hearing was then opened by Chairman Corradini. No citizens called-in to speak regarding the special land use permit application. A motion was then made by Commissioner Baldwin, seconded by Commissioner Harrell-Page, to close the public hearing. Upon a roll call vote: Joshi (yes); Meyer (yes); Harrell-Page (yes); Pezzoli (yes); Baldwin (yes); Corradini (yes); Patterson (yes); Fries (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Myer, to approve the Special Land Use Permit for Rustic Axe Throwing Outpost, 618 Romence Road. Upon a roll call vote: Harrell-Page (yes); Patterson (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

3. Ordinance Amendment #19/20-A, Adult Use Marihuana. Mr. West summarized the staff report dated April 9, 2020 regarding amendments to the Zoning Code prepared by the city administration to allow adult use marihuana facilities within the city. Mr. West referred the Commission to the first page of the staff report that contained a summary of medical marihuana and adult use marihuana legislation in the State of Michigan, and the existing medical marihuana ordinance that the city adopted in March 2018. Mr. West indicated the proposed amendments involve Zoning Code sections pertaining to the B-3, general business, I-1, light industrial and I-2, heavy industrial districts. Mr. West stated that all current spacing requirements applicable to medical marihuana facilities would also be applicable to proposed adult use marihuana facilities. Since the ordinance amendments were first introduced to the Commission on March 19th and given the provisions for the proposed adult use marihuana regulations are similar to those of the existing medical marihuana regulations, Mr. West indicated the Planning Commission was advised to review the amendments, receive public comment during the public hearing, then

waive the second public hearing and make a formal recommendation to City Council to approve Ordinance Amendment #19/20-A, Adult Use Marihuana. Mr. West then asked Assistant City Attorney Bear to provide a more detailed overview of the proposed amendments.

Assistant City Attorney Bear provided a summary of State legislation and local ordinance development associated with medical marihuana, followed by a summary of adult use marihuana State legislation. Assistant City Attorney Bear reviewed in detail the proposed amendments to Section 42-262 (B-3, general business district), Section 42-280 (I-1, light industrial district) and Section 42-281 (I-2, heavy industrial district). Assistant City Attorney Bear, Mr. West and the Commission next discussed various aspects of the proposed ordinance amendment including the requirement for separate HVAC systems and odor mitigation, compliance with ADA requirements, delivery services, no drive-thru service and separation requirements from schools, child care centers, etc. and the phrase "adjacent to or abutting a residential zoning district".

The public hearing was then opened by Chairman Corradini. One citizen (Omar Catani, 5747 South Westnedge Avenue) spoke regarding the proposed adult use marihuana ordinance amendments. Mr. Catani asked about the partitioning requirement when a provisioning center and retailer are located at the same location, and the rationale for the determining the boundary lines for the zoning lot "as those line existed on December 31, 2017. Assistant City Attorney Bear and Mr. West responded. No additional citizens called-in to speak regarding the proposed adult use marihuana ordinance amendments. A motion was then made by Commissioner Harrell-Page, seconded by Commissioner Schimmel, to close the public hearing. Upon a roll call vote: Harrell-Page (yes); Patterson (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

After a brief discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Myer, to waive the second public hearing and recommend to City Council that Ordinance Amendment #19/20-A, Adult Use Marihuana be approved. Upon a roll call vote: Joshi (yes); Meyer (yes); Harrell-Page (yes); Pezzoli (yes); Baldwin (yes); Corradini (yes); Patterson (yes); Fries (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

4. Preliminary Report: Conceptual Plan Amendment for Trade Centre Commercial Planned Development, 300-1150 Trade Centre Way. Mr. West summarized the staff report dated April 9, 2020 regarding a request by Trade Centre Holdings, LLC to amend two previously approved conceptual plans to allow construction of a new 4-story hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. Mr. West stated the 30-acre tract of land is zoned CPD, commercial planned development and includes parcels addressed as 300, 400, 500, 550, 650, 750, 850, 950 and 1150 Trade Centre Way. Mr. West stated the first conceptual plan was approved in 2002 (amended in 2012) and involved an approximate 20-acre tract of land that includes parcels 200 400, 500, 550, 650 and 750 Trade Centre Way. Mr. West stated the second conceptual plan was approved in 2004 and involved a 12-acre tract of land that includes parcels 850, 950 and 1150 Trade Centre Way. Mr. West stated the applicant was proposing to amend these two previously approved conceptual plans to allow construction of a new 4-story, 59-foot tall hotel building and associated site improvements on a new approximate 2-acre parcel that includes portions of 750, 850 and 950 Trade Centre Way. Mr. West stated the proposal involves another partnership between the developer and the City of Portage, along with an exchange of land and modification of property lines, whereby the existing city storm water basin located on the 850 Trade Centre Way parcel will be relocated to the northwest to allow construction of the new hotel building. In conjunction with the conceptual plan amendment and consistent with previous approvals, Mr. West stated the applicant was also requesting a height modification and a waiver from the conflicting land use screening requirements.

Greg Dobson of American Village Builders (applicant representative) called-in to support the application and discuss the proposed new hotel project. Mr. Dobson thanked staff for all their assistance during the application review process and also thanked the Planning Commission for conducting the virtual meeting during these challenging times. Mr. Dobson next summarized the history of the Trade Centre CPD and the partnership between Joe Gesmundo and Roger Hinman. Mr. Dobson reviewed development projects which have been completed to date within the CPD including three multi-story office buildings, two multi-story hotels and one restaurant building. Mr. Dobson summarized the proposed new hotel project and discussed efforts to reach out

TO: Planning Commission

FROM: Christopher Forth, Interim Director of Community Development

SUBJECT: Ordinance Amendment #19/20-A, Adult-Use Marihuana

DATE: April 9, 2020

I. INTRODUCTION/BACKGROUND:

In November 2008, Michigan voters approved a statewide ballot initiative to create the Michigan Medical Marihuana Act (MMMA). At that time, the Act did not authorize the broad legalization of the cultivation, distribution or use of marihuana. Rather, the MMMA allows qualifying patients with a serious debilitating medical condition to obtain, possess, cultivate/grow and use marihuana for medicinal purposes. The MMMA also allows a primary caregiver to assist a qualifying patient with the medical use of marihuana, in accordance with state law.

In response to the MMMA, the City of Portage adopted a Medical Marihuana Home Occupation ordinance amendment in July 2011 that permits State of Michigan registered primary caregivers to possess, cultivate/grow and distribute medical marihuana in the city on behalf of a registered qualifying patient(s) consistent with the MMMA.

The MMMA did not reference dispensaries or the commercial sale of medical marihuana to qualifying patients or caregivers. As a result, three bills were enacted into law in September 2016 addressing the commercialization of medical marihuana and “medibles” (edible marijuana-infused products). Taken together, the statutes outline a “seed-to-sale” regulatory scheme for the commercialization of medical marihuana and permits consumption of marihuana other than by smoke inhalation. Subsequent to the adoption of the rules for implementation of these acts by the Department of Licensing and Regulatory Affairs (LARA) in December 2017, the City of Portage adopted an ordinance in March 2018 allowing the five types of Medical Marihuana Facilities subject to conditions:

- Grower: Class A – 500 plants; Class B – 1000 plants; Class C – 1500 plants.
- Processor: Extracts resin from plant /creates marihuana-infused products.
- Secure Transporter: Transports marihuana & cash between facilities and may also store marihuana.
- Safety Compliance Facility: Tests samples of marihuana for contaminants and its active ingredients.
- Provisioning Center: Sells marihuana / marihuana-infused products only to registered patients and caregivers.

In November 2018, Michigan voters approved Proposal 1, creating the Michigan Regulation and Taxation of Marihuana Act (MRTMA), which authorizes adult-use marihuana for recreational purposes. At that time, the City opted out so no adult use establishments were allowed in the City until the business and zoning ordinances are amended to allow adult use marihuana businesses. Since that time, the City Administration together with the attorneys have been revising Chapter 14, Article

12, Medical Marihuana Facilities to include adult-use marihuana facilities. Following the Committee of the Whole meeting on February 25, 2020, City Council requested the City Administration to finalize the amendments to Chapter 14, Article 12, Medical Marihuana Facilities to permit adult-use marihuana. Additionally, Council also requested the City Administration to proceed with amendments to the Zoning Code.

II. PROPOSED ZONING CODE AMENDMENTS

Attached are draft highlight and strike copies of the proposed amendments to the B-3, general business, I-1, light industrial and I-2, heavy industrial zoning districts to allow for adult-use establishments under the Adult-use Act. All spacing requirements applicable to medical marihuana facilities are also applicable to adult-use facilities. Consistent with the MRTMA, provisioning centers and marihuana retailers are allowed at the same locations in a B-3 zone, and provisioning centers, retailers, growers and processors are allowed at the same location in the I-1 and I-2. However, each marihuana business located at the same location as another marihuana business is required to have a separate space. Attached for Commission information are two maps that generally shows the eligible locations for medical/adult-use marihuana facilities.

In addition to retail establishments, the MRTMA also allows marihuana event organizers, designated consumption establishments, or temporary marihuana events. At this time, there are no provisions to permit these types of marihuana uses.

III. RECOMMENDATION

Since this ordinance amendment was first introduced to the Commission on March 19th and given that the provisions for the proposed adult-use marihuana regulations are consistent to those of the existing medical marihuana regulations, the Planning Commission is advised to receive public comment during the April 16, 2020 meeting, waive the second public hearing, then make a formal recommendation to City Council to approved Ordinance Amendment #19/20-A, Adult-Use Marihuana.

Attachments: Proposed ordinance amendments (highlight & strike)
Marihuana location maps

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 4, ZONING, DIVISION 4,
ZONING DISTRICTS AND REGULATIONS, SUBDIVISION 6, BUSINESS DISTRICTS,
SUBDIVISION 7, INDUSTRIAL DISTRICTS OF CHAPTER 42, LAND DEVELOPMENT
REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Land Development Regulations, Article 4, Zoning, shall be amended as follows:

ARTICLE 4. Zoning, Subdivision 6, Business Districts shall be amended to add Section 16 as follows:

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

B. Principal permitted uses: In a B-3 general business district, 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:

16. The following marihuana businesses: Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and marihuana retailer as defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

a. A medical marihuana~~The~~ provisioning center or marihuana retailer shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
- iii. Within 1,000 feet of any other medical marihuana provisioning center or marihuana retailer located within the city.

b. Determination of whether a proposed medical marihuana provisioning center or marihuana retailer will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed medical marihuana provisioning center or marihuana retailer will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center or marihuana retailer as those lines existed on December 31, 2017 as shown on the ~~assessment rolls for~~records of the City of Portage in existence on that date.
- ii. Measurements for purposes of subsections 42-262 (B)-(16)-(a)-(ii) and (iii). above shall be made from the boundary of the zoning lot to be occupied by the

medical marihuana provisioning center or marihuana retailer to the nearest point of the zoning lot occupied by any of the uses listed in subsection 42-262 (B)-(16)-(a)-(ii), or to the nearest point of the zoning lot occupied by another medical marihuana provisioning center or marihuana retailer using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

- c. Buildings or structures for the distribution, and sale of ~~medical marihuana and medical marihuana infused products~~ by a medical marihuana provisioning center or marihuana retailer shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities provisioning centers and marihuana retailers shall not be located within greenhouses and similar buildings.
- d. ~~No drive-through facilities are permitted for provisioning center facilities. All medical marihuana provisioning centers and marihuana retailers must be at a fixed location. Mobile medical marihuana provisioning centers and marihuana retailers, and drive through operations for medical marihuana provisioning centers and marihuana retailers are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale by a medical marihuana provisioning center or marihuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.~~
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana provisioning center or marihuana retailer.
- f. The activities and operations of ~~the a~~ a medical marihuana provisioning center or marihuana retailer shall be indoors within a building and out of public view.
- g. ~~No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. A medical marihuana provisioning center and a marihuana retailer may be located in a B-3 zone at the same location consistent with the Adult-use Act and rules. The medical marihuana provisioning center or marihuana retailer located at the same location shall be partitioned from each other, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marihuana business. If a medical marihuana facility provisioning center or marihuana retailer is located in a multi-tenant building with any other activity or business, the medical marihuana provisioning center or marihuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility provisioning center or marihuana retailer.~~
- h. The business and operations of all ~~marihuana facilities~~ medical marihuana provisioning centers and marihuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

- i. This amendment to chapter 42 ~~to add section 42-262.(B).(16) to of~~ article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to is amended to allow marihuana establishments in the city pursuant to the Adult-use Act, add article 12, "Medical Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 21 and 22 to Section 42-280, I-1 Light Industrial District, as follows:

Sec. 42-280. - I-1 Light Industrial District.

- B. Principal permitted uses: In an I-1 light industrial district, 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:

21. The following marihuana businesses: Medical marihuana class A, B, and C grower facilities, stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).

- a. All marihuana businesses permitted by this section ~~The grower or processing facility~~ shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Within 1,000 feet of any other ~~medical marihuana grower or processor facility~~ business permitted by this section located within the city or section 42-281(7).

- b. Determination of whether a proposed ~~grower or processor facility~~ marihuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed ~~grower or processor facility~~ marihuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the ~~medical marihuana grower or processor facility~~ marihuana business as those lines existed on December 31, 2017 as shown on the ~~assessment rolls~~ records ~~for~~ of the city in existence on that date.
- ii. Measurements for purposes of subsections ~~42-280 (B)(21)(a)(ii) and (iii).~~ above shall be made from the boundary of the zoning lot to be occupied by ~~the~~

~~a medical marihuana grower or processor facility marihuana business permitted by this section~~ to the nearest point of the zoning lot occupied by any of the uses listed in 43-280 (B)-(21)-(a)-(ii), or to the nearest point of the zoning lot occupied by another ~~grower or processor marihuana business permitted by this section or section 42-281(7)~~ using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.

- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, ~~or processing, distribution or sale of medical marihuana~~ shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. ~~All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.~~
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a ~~medical marihuana facility~~ marihuana business permitted by this section.
- f. ~~Medical marihuana grow and processor facilities~~ Marihuana businesses permitted by this section shall conduct the activities of the marihuana ~~facility~~ business, including, without limitation, the cultivating, growing, processing, manufacturing, ~~or storage or sale and distribution~~ of marihuana and marihuana-infused products, ~~and all materials used in connection with the cultivating, growing, and processing, and distribution of marihuana and marihuana infused products, indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.~~
- g. ~~Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments, medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only allowed in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one marihuana microbusiness medical marihuana facility shall be allowed on a single zoning lot or at the same location as another marihuana business permitted by this section. (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility~~

business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical-marihuana-facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana facility business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical-marihuana business-facility.

- h. The business and operations of all marihuana facilities-businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
 - i. This amendment to add section 42-280-(B)-(21) to of chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14, is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical-Marihuana Facilities."
22. The following marihuana businesses: Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
- a. The facility siteA medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-280 (B)-(22)-(a)-(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-280 (B)-(22)-(a)-(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the City of Portage in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

- c. Buildings or structures in connection with the transport and storage of ~~medical marihuana~~ and ~~medical marihuana~~ infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All medical marihuana and marihuana secure transporters and safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana- infused products may be used or consumed on the premises of a medical marihuana or marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana facility or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility or marihuana secure transporter or safety compliance facility.
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to ~~add section 42-280 (B) (22) to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical Marihuana Facilities."~~

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 7 and 8 to Section 42-281, I-2 Heavy Industrial District, as follows:

Sec. 42-281. - I-2 Heavy Industrial District.

- B. Principal permitted uses: In an I-2 heavy industrial district, 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:
 - 7. The following marihuana businesses: Medical marihuana class A, B, and C growers facilities, medical marihuana stacked class C grow facilities, and medical marihuana processors facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A

B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).

a. The facilityAll marihuana businesses permitted by this section shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Within 1,000 feet of any other medical marihuana or marihuana grower or processor facility business permitted by this section or section 42-281(21)~~located within the city.~~

b. Determination of whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
- ii. Measurements for purposes of subsections 42-281 (B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another medical marihuana or marihuana grower or processor business permitted by this section or section 42-280(22) using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

c. Buildings or structures for the growing, production, ~~or processing,~~ distribution or sale of ~~medical~~ marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~

d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of

marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.

- e. **No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana facility business permitted by this section.**
- f. Medical marihuana grow and processing facilities ~~Marihuana businesses permitted by this section~~ **shall conduct the activities of the facility business, including, without limitation, the cultivating, growing, processing, manufacturing, or storage, sale or distribution of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing, and processing and sale or distribution of marihuana and marihuana infused products, indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.**
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments, medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one medical marihuana microbusiness facility shall be allowed on a single zoning lot or at the same location as another marihuana business allowed by this section, (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical marihuana facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana facility business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility business.
- h. **The business and operations of all medical marihuana facilities businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.**
- i. **This amendment to add section 42-281(B)(7) to of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical Marihuana Facilities."**

8. The following marihuana businesses: Medical marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
- a. A medical marihuana or marihuana secure transporter or safety compliance facility~~The facility site~~ shall not be located:
- i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority;
- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-281 (B)-(8)-(a)-(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)-(8)-(a)-(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana-infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All medical marihuana or marihuana secured transporters or safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of

marihuana products as may be permitted by law.~~No drive-through facilities are permitted for medical marihuana facilities.~~

- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~.
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to ~~add~~ section 42-281-(B)-(8) ~~to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12, is amended to allow marihuana establishments under the Adult-use Act, "Medical Marihuana Facilities."

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

Patricia M. Randall

CERTIFICATION

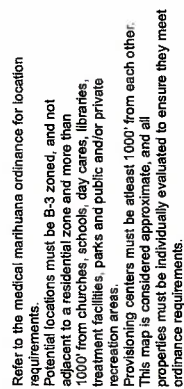
STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, Erica Eklov, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the ____ day of _____, 2020.

Erica Eklov, City Clerk

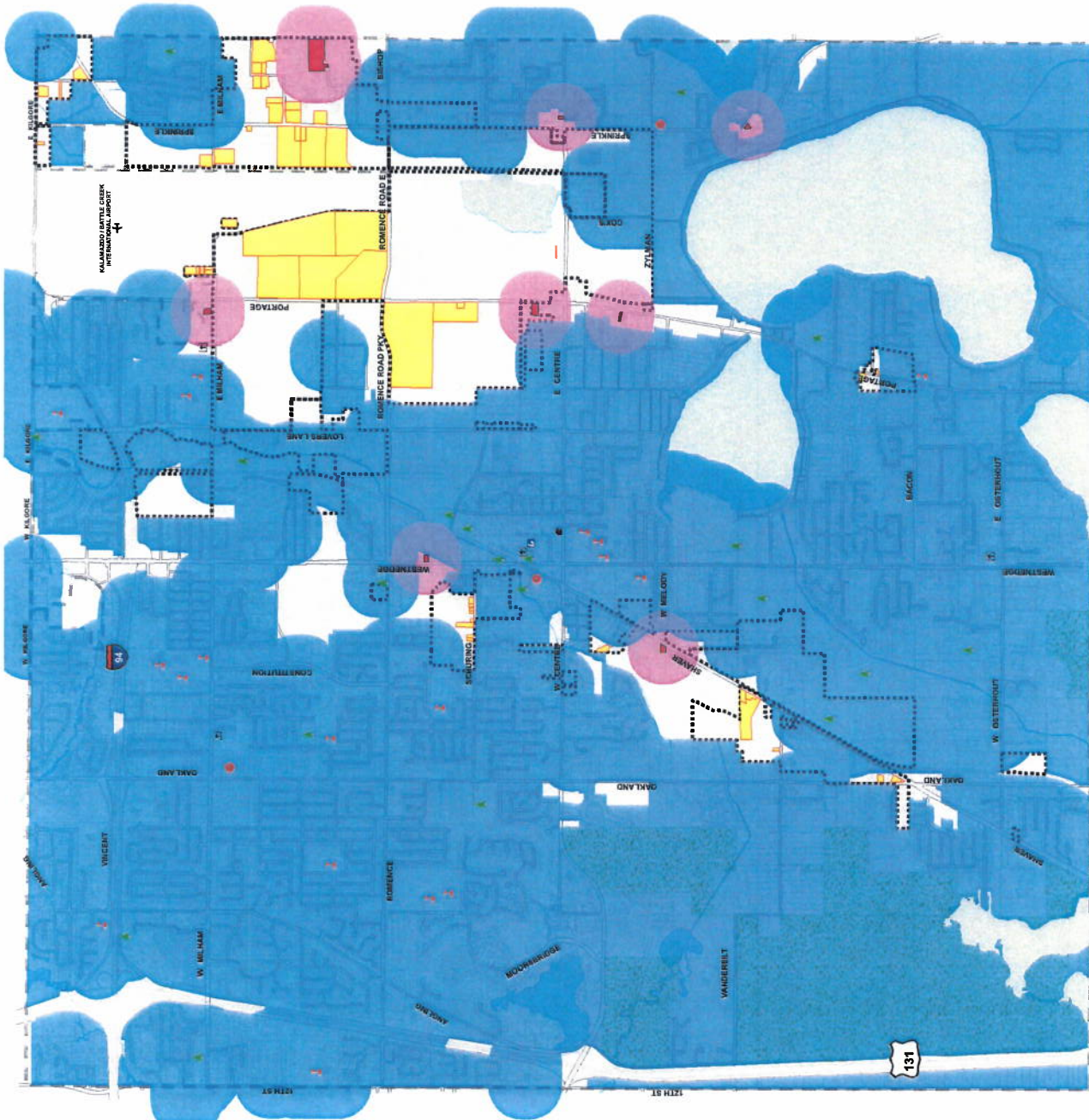
PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.
Portage, MI 49002

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-  Properties that may meet eligibility requirements regardless of current use
 1000' buffer from existing provisioning centers/grow operation
 Previously approved provisioning center/grow operation
 Excluded areas
 B-3 Zoning
 City Boundary
 State Game Area

**Map of Potential Medical Marihuana Locations:
Grow Operations, Processors,
Safety Compliance, & Secure Transporters
November 11, 2019**



 Properties that may meet eligibility requirements regardless of current use
 Previously approved provisioning center/grow operation
 1000' buffer from existing provisioning centers/grow operation
 Excluded areas
 I-1 or I-2 Zoning
 City Boundary

Refer to the medical marijuana ordinance for location requirements.



1 inch = 3,200 feet
Date: 11/13/2019

**FIRST READING
CITY OF PORTAGE, MICHIGAN
NOTICE**

TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND ALL OTHER INTERESTED PERSONS.

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on _____, 2020, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on _____, 2020, at 7:00 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, Zoning, shall be amended as follows:

ARTICLE 4. Zoning, Subdivision 6, Business Districts shall be amended to add subsection 16 to Section 42-262B, B-3 general business district as follows:

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

- B. Principal permitted uses: In a B-3 general business district, 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:
16. The following marihuana businesses: Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and marihuana retailer as defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
- a. A medical marihuana provisioning center or marihuana retailer shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-262(B)(16)(g), within 1,000 feet of any other medical marihuana provisioning center or marihuana retailer located within the city.

- b. Determination of whether a proposed medical marihuana provisioning center or marihuana retailer will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana provisioning center or marihuana retailer will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center or marihuana retailer as those lines existed on December 31, 2017 as shown on the records of the City of Portage in existence on that date.
 - ii. Measurements for purposes of subsections 42-262 (B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center or marihuana retailer to the nearest point of the zoning lot occupied by any of the uses listed in subsection 42-262 (B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another medical marihuana provisioning center or marihuana retailer using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the distribution, and sale of marihuana and marihuana infused products by a medical marihuana provisioning center or marihuana retailer shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana provisioning centers and marihuana retailers shall not be located within greenhouses and similar buildings.
- d. All medical marihuana provisioning centers and marihuana retailers must be at a fixed location. Mobile medical marihuana provisioning centers and marihuana retailers, and drive through operations for medical marihuana provisioning centers and marihuana retailers are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale by a medical marihuana provisioning center or marihuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a medical marihuana provisioning center or marihuana retailer.
- f. The activities and operations of a medical marihuana provisioning center or marihuana retailer shall be indoors within a building and out of public view.
- g. A medical marihuana provisioning center and a marihuana retailer may be located in a B-3 zone at the same location consistent with the Adult-use

Act and rules. The medical marihuana provisioning center or marihuana retailer located at the same location shall be partitioned from each other, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marihuana business. If a medical marihuana provisioning center or marihuana retailer is located in a multi-tenant building with any other activity or business, the medical marihuana provisioning center or marihuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana provisioning center or marihuana retailer.

- h. The business and operations of all medical marihuana provisioning centers and marihuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to chapter 42 section 42-262(B)(16) of article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to allow marihuana establishments in the city pursuant to the Adult-use Act.

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 21 and 22 to Section 42-280B, I-1 Light Industrial District, as follows:

Sec. 42-280. - I-1 Light Industrial District.

- B. Principal permitted uses: In an I-1 light industrial district, 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:
 - 21. The following marihuana businesses: Medical marihuana class A, B, and C grow facilities, stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).
 - a. All marihuana businesses permitted by this section shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade

- facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Except as provided in section 42-280(B)(21)(g), within 1,000 feet of any other marihuana business permitted by this section or section 42-281(7).
- b. Determination of whether a proposed marihuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed marihuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the marihuana business as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-280 (B)(21)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by a marihuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 43-280 (B)(21)(a)(ii), or to the nearest point of the zoning lot occupied by another marihuana business permitted by this section or section 42-281(7) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, processing, distribution or sale of marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a marihuana business permitted by this section.
- f. Marihuana businesses permitted by this section shall conduct the activities of the marihuana business, including, without limitation, the cultivating, growing, processing, manufacturing, storage or sale and distribution of marihuana and marihuana infused products, and all materials used in connection with the cultivating, growing, processing, and distribution of marihuana and marihuana infused products indoors and out of public view, except medical marihuana grow facilities and marihuana grow

- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only allowed in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one marihuana microbusiness shall be allowed on a single zoning lot or at the same location as another marihuana business permitted by this section, and no more than one marihuana business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a marihuana business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business.
- h. The business and operations of all marihuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to section 42-280(B)(21) of chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14, article 12, is amended to allow marihuana establishments under the Adult-use Act.

- a. A medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and

- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - ii. Measurements for purposes of subsections 42-280 (B)(22)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-280 (B)(22)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the City of Portage in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of marihuana and marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All medical marihuana and marihuana secure transporters and safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a medical marihuana or marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana or marihuana secure transporter or safety compliance facility.

- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to section 42-280(B)(22) of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 article 12, is amended to allow marihuana establishments under the Adult-use Act.

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 7 and 8 to Section 42-281, I-2 Heavy Industrial District, as follows:

Sec. 42-281. - I-2 Heavy Industrial District.

- B. Principal permitted uses: In an I-2 heavy industrial district, 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:
 - 7. The following marihuana businesses: Medical marihuana class A, B, and C grow facilities, medical marihuana stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).
 - a. All marihuana businesses permitted by this section shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational. charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-281(B)(7)(g), within 1,000 feet of any other medical marihuana or marihuana business permitted by this section or section 42-281(21).
 - b. Determination of whether a proposed medical marihuana or marihuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or

marihuana business as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.

- ii. Measurements for purposes of subsections 42-281(B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another medical marihuana or marihuana business permitted by this section or section 42-280(22) using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, processing, distribution or sale of marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana infused products may be used or consumed on the premises of a marihuana business permitted by this section.
- f. Marihuana businesses permitted by this section shall conduct the activities of the business, including, without limitation, the cultivating, growing, processing, manufacturing, storage, sale or distribution of marihuana and marihuana infused products, and all materials used in connection with the cultivating, growing, processing and sale or distribution of marihuana and marihuana infused products indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that

h. The business and operations of all medical marihuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

i. This amendment to section 42-281(B)(7) of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 article 12 is amended to allow marihuana establishments under the Adult-use Act.

a. A medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:

- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority;

- ii. Measurements for purposes of subsections 42-281 (B)(8)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(8)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of marihuana and marihuana-infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All medical marihuana or marihuana secured transporters or safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana or marihuana secure transporter or safety compliance facility.
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to section 42-281(B)(8) of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 article 12, is amended to allow marihuana establishments under the Adult-use Act.

PLEASE TAKE FURTHER NOTICE that copies of said proposed amendment may be examined at the City Hall on any business day except public and legal holidays from and after publication of this Notice until the day of hearing from 8:00 a.m. and 5:00 p.m.

Dated: _____, 2020

Erica Eklov, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.
Portage, MI 49002

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 12, MEDICAL
MARIHUANA FACILITIES, OF CHAPTER 14, BUSINESSES**

THE CITY OF PORTAGE ORDAINS:

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

CHAPTER 14. BUSINESSES.

ARTICLE 12. MARIHUANA BUSINESSES.

Sec. 14-245. Purpose.

- (a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* (Medical Facilities Act) and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 *et seq.*, (Adult-use Act) to: authorize the establishment of certain types of medical marihuana facilities and adult-use marihuana establishments (marihuana businesses) in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such businesses; and establish fees for such permits.
- (b) Nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of marihuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 *et seq.*, (Medical Marihuana Act) the Medical Facilities Act, the Marihuana Tracking Act, MCL 333.27901 *et seq.*, (Tracking Act) the Adult-use Act and all other applicable rules promulgated by the state of Michigan.
- (c) Because federal law is not affected by state law or rules, nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall any provision of this article or this code, be construed as granting immunity from criminal prosecution under federal law. Neither the Medical Facilities Act nor the Adult-Use Act protects patients, users, care givers, licensees, or the owners or occupants of properties on which the medical or adult-use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

Sec. 14-246. Definitions.

- (a) As used in this article, the following terms shall have the meanings indicated:

Applicant means the person who applied for and received prequalification for a license under either the Marihuana Facilities Act or the Adult-use Act, and who then applied for a marihuana business permit under this article or a marihuana facilities permit under the previous version of this article.

Equivalent licenses means any of the following held by a single licensee:

- (1) A marihuana grower license, of any class, issued under Adult-use Act and a grower license, of any class, issued under the Medical Facilities Act.
- (2) A marihuana processor license issued under Adult-use Act and a processor license issued under the Medical Facilities Act.
- (3) A marihuana retailer license issued under MRTMA and a provisioning center license issued under the MMFLA.
- (4) A marihuana secure transporter license issued under Adult-use Act and a secure transporter license issued under the Medical Facilities Act.
- (5) A marihuana safety compliance facility license issued under Adult-use Act and a safety compliance facility license issued under the Medical Facilities Act.

Grower means a licensee and permittee that, under either the Medical facilities Act and Rules or the Adult-use Act and Rules, is a commercial entity located in this city that cultivates, dries, trims, or cures and packages marihuana for sale to a processor, provisioning center, or marihuana retailer.

License, Marihuana Business License or Business License means a state operating license issued under the Medical Facilities Act or the Adult-use Act.

Licensee means a person holding a state operating license issued under the Medical Facilities Act or the Adult-use Act. *Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Marihuana business or business means the licensed and permitted operation at a property location in the city as a grower, processor, provisioning center, safety compliance facility, or secure transporter, under the Medical Facilities Act and this article or the prior version of this article, or a grower, processor, retailer, safety compliance facility, secure transporter, microbusiness, or marihuana event organizer under the Adult-use Act and this article.

Marihuana business permit means a permit issued under this article that allows a person to operate either a medical marihuana facility permitted under the Medical Facilities Act and this article, or an adult-use establishment permitted under the Adult-use Act and this article, in this city.

Marihuana facilities permit. means a permit issued under the previous version of this article for a medical marihuana facility under the Medical Facilities Act and that article.

Marihuana Microbusiness or Microbusiness means a licensee and permittee that is a commercial entity in this city that, consistent with the Adult-use Act and Rules, cultivates not more than 150 marihuana plants, processes and packages marihuana, and sells or transfers marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments or to medical marihuana facilities.

Marihuana plant means any plant of the species *Cannabis sativa* L. Marihuana plant does not include industrial hemp as that term is defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

- (a) *Marihuana product* means marihuana or marihuana-infused product, or both, as those terms are defined in the in the Medical Facilities Act or the Adult-Use Act, unless otherwise provided for in the rules and this article.

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

Marihuana Retailer or Retailer means a licensee and permittee that is a commercial entity located in this city that, consistent with the Adult-use Act and Rules purchases marihuana products from an adult-use grower or adult-use processor and sells, supplies, or provides marihuana to persons over 21 years of age or older. Retailer includes any commercial property where marihuana products are sold at retail to registered persons over 21 years of age or older as provided in the Adult-use Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the MRA marihuana registration process in accordance with the Medical Marihuana Act is not a provisioning center for purposes of this article.

MRA means the Marijuana Regulatory Agency created by E.R.O. No. 2019-2, compiled at MCL 333.27001.

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

Permittee means a person who has been issued a marihuana business permit pursuant to this article or a medical facilities permit under the previous version of this article.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Proposed marihuana business means a location in the city at which an applicant plans to operate a marihuana business under the Medical Facilities Act and/or Adult-use Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

Provisional approval means a determination that an applicant has submitted an application that meets all of the requirements for a complete permit in section 14-250 of this article, and the requirements for acceptance of the application in section 14-252 of this article.

Provisioning center means a licensee and permittee that is a commercial entity located in this city that, consistent with the Medical Facilities Act and Rules, purchases marihuana products from a medical facility grower or medical facility processor and sells, supplies, or provides marihuana products to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana products are sold at retail to registered qualifying patients or registered primary caregivers as provided in the Medical Facilities Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected

to the caregiver through the MRA marihuana registration process in accordance with the Medical Marihuana Act is not a provisioning center for purposes of this article.

Rules mean the emergency and general rules of MRA adopted pursuant to the Medical Facilities Act the Tracking Act and the Adult-use Act as may be amended from time to time.

Safety compliance facility means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-use Act and Rules is a commercial entity that receives marihuana from a marihuana business or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana business.

Secure transporter means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-use Act and Rules is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee.

Stacked license means more than one state operating license issued to a single licensee to operate as a class C grower as specified in each license at a marihuana business under either the Medical Facilities Act and Rules or the Adult-use Act and Rules.

State operating license business license, or license means a license that is issued under the Medical Facilities Act or Adult-use Act that allows the licensee to operate as 1 of the following, specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.
- (5) A safety compliance facility.
- (6) A microbusiness.
- (7) An excess marihuana grower.
- (8) A marijuana event organizer.
- (9) A designated consumption establishment.
- (10) A temporary marihuana event.
- (11) A marihuana retailer

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

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

medical marihuana act.

- (a) Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Act shall have the definition given in that act.
- (b) Unless the context requires a different meaning, any term used in this article as it is defined by the Medical Facilities Act shall have the definition given in that act. Unless the context requires a different meaning, any term used in this article that is defined by the Tracking Act shall have the definition given in that act.
- (c) Unless the context requires a different meaning, any term used in this article that is defined by the Adult-use Act shall have the definition given in that act.

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

All activities related to marihuana shall be in compliance with the Tracking Act, Medical Facilities Act, or the Adult-use Act and all other applicable rules promulgated by the state of Michigan.

Sec. 14-248 Marihuana businesses allowed.

- (a) Pursuant to Section 205(1) of the Medical Facilities Act and Section 6(1) of the Adult-use Act, the city authorizes the following types of marihuana businesses to be permitted in the city, without limitation as to the number of businesses:
 - (1) Under the Medical Facilities Act:
 - i. Provisioning center
 - ii. Class A grower;
 - iii. Class B grower;
 - iv. Class C grower;
 - v. Stacked license Class C grower;
 - vi. Processor;
 - vii. Safety compliance facility;
 - viii. Secure transporter.
 - (2) Under the Adult-use Act:
 - i. Retailer;
 - ii. Class A grower;
 - iii. Class B grower;
 - iv. Class C grower;
 - v. Stacked license Class C grower;
 - vi. Processor;
 - vii. Safety compliance facility;
 - viii. Secure transporter;

ix. Microbusiness.

- (b) Marihuana business permits are not authorized by this article for designated consumption establishments, excess marihuana growers, marihuana event organizers, and temporary marihuana events under the Adult-use Act, or other marihuana related licenses that may be allowed by any State law or administrative rule in the future.
- (c) **The council reserves the right to amend the number and types of marihuana businesses allowed within the city, subject to the laws, rules, and other regulations promulgated by the State of Michigan, or the MRA. Sec.14-249. Permit required.**

No person shall own or operate a marihuana business in the city without first applying for and receiving a license from MRA, and either a marihuana facilities permit under the previous version of this article, or a marihuana business permit under this article. No person who has received a city permit and state license to operate a medical marihuana class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional medical marihuana class C license the person desires to stack with its original state operating license, and a stacked medical marihuana class C state operating license or licenses. Additionally, no person who has received a city permit and state license to operate an adult-use marihuana class C grower establishment shall grow more than 2,000 plants at the establishment without first applying for and receiving a permit from the city manager for each additional adult-use marihuana class C license the person desires to stack with its original state operating license, and a stacked adult-use marihuana class C state operating license or licenses. For two years from November 1, 2019, the date MRA began receiving license applications under the Adult-use Act, no person shall receive a permit for a marijuana retail business that has not first received a Marihuana facilities permit from the city and a medical marihuana state operating license

Sec. 14-250. Application for permit.

- (a) Any person desiring to secure a marihuana business permit shall make application to the city clerk upon a form provided by the city clerk at a time established by the city manager pursuant to section 14-250(c). The city clerk will stamp the permit application with the date and time received and mark the application "received". The review of applications as provided by this article will be completed, and all applications will be either accepted or denied within 90 days of the date the application is marked "received" by the city clerk.
 - (1) All permit applicants, except applicants regarding a medical facility or adult-use stacked class C grower license or licenses, before applying for a permit must be prequalified by MRA for a medical marihuana facility license if they are applying for a permit to operate a medical marihuana facility under the Medical Facilities Act, or marihuana establishment license if they are applying for a permit to operate a marihuana establishment under the Adult-use Act.
 - (2) The applicant must be the same person who received prequalification from MRA.
 - (3) A copy of all applications received shall be distributed by the city clerk to the appropriate city departments for review. All applications will be reviewed in the order received by the city clerk to determine that the application contains all information and documentation required by section 14-250(d) and the location of the proposed facility complies with the zoning requirements in article 4 of chapter 42 of this Code. Applications that are not missing any required information or documentation and comply with the zoning requirements of article 4 of chapter 42 of this Code will be

stamped by the city clerk with the date and time the application is deemed to be complete, and marked "complete". Applications that do not comply with the zoning requirements of article 4 of chapter 42 of this Code will be denied pursuant to section 14-252.

- (4) If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided for notification by the applicant. The applicant shall have five business days from the date of mailing by regular or electronic mail of the written notice to provide the incomplete or missing information to the city clerk. Failure to provide the missing or incomplete information within the time specified may result in denial of the application. Applications with incomplete or missing information shall not be reviewed by city staff or marked or stamped complete until all incomplete or missing information is received by the city clerk and that date will be used to determine the order of review of the application in relation to other applications.
 - (5) An application will be accepted at the date and time the application is stamped or marked complete pursuant to subsection 14-250(a)(3) or (4) of this section.
 - (6) If on the effective date of this article there is an application for a medical marijuana facility that was submitted to the city clerk under the previous version of this article and a provisional permit has not yet been issued to the applicant, the application will be reviewed and processed before any application received under this article.
- (b) Permit applications for marijuana businesses and applications for stacked class C grower licenses at an existing class C grower, shall be submitted to the city clerk at a time or within the time periods established by the city manager.
 - (c) The city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits.
 - (d) The application for a permit shall include at a minimum the information and documentation listed below under oath.
 - (1) The name, business address, business telephone number, and, if applicable, federal tax identification number of the applicant.
 - (2) A copy of the notice from MRA that the applicant has been prequalified for a license.
 - (3) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
 - (4) A description of the type of marijuana business applied for.
 - (5) A security plan for the marijuana business that addresses all required security measures of the Medical Facilities and Adult-use rules and addresses at a minimum the ability to meet the security measures of those rules.
 - (6) An HVAC plan for the marijuana business describing in detail among other things the equipment or systems that will be used to preclude marijuana odors from emanating from the premises in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.
 - (7) A scaled conceptual site plan and floor plan.
 - (8) The property address of the proposed marijuana business to be operated by the applicant.

- (9) Proof that the applicant has or will have lawful possession of the premises proposed for the marihuana business for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
- (10) The mailing address and electronic address at which the applicant desires to receive notification under this article, and phone numbers at which the applicant desires to be contacted.
- (11) Whether the applicant intends that a combination of marihuana businesses will operate as separate businesses at the same location, and if so, a description of the types of marihuana business intended to be located at the same location.
- (12) Whether the applicant intends that equivalent licenses will operate as separate businesses at the same location and if so, a description of the equivalent marihuana businesses intended to be located at the same location.
- (13) A copy of the marihuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the marihuana business for which provisional approval was issued, or a copy of the marihuana establishment plan to be submitted in connection with a state license application under the Adult-use Act for the marihuana business for which provisional approval was issued
- (14) A statement that the applicant will not violate any of the laws of the state or the ordinances of the city in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
- (15) A statement that the applicant understands that the issuance of a marihuana business permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana in any form or manner that is not in compliance with the Marihuana Act, the Medical Facilities Act, the Tracking Act, the Adult-Use Act, and all other applicable rules promulgated by the MRA, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
- (16) All marihuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or, evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city, its officials, and employees.
- (17) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.
- (18) The city manager may require the applicant to provide, within 5 business days of a written demand any document, report, graph or other information which applicant has

supplied to MRA and that is not specifically required by this section.

Sec. 14-251. Fees.

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

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

- (a) Applications received may be denied by the city manager if the applicant fails to provide missing or incomplete information within the time specified in section 14-250(a)(4) of this article. The city manager shall deny an application for any of the following reasons:
 - (1) The applicant has not been prequalified for a marihuana business license by MRA.
 - (2) During the period from November 1, 2019 to November 1, 2021 an applicant for a marihuana business under the Adult-use Act, does not hold a valid and unexpired marihuana facilities permit issued by the city and a medical marihuana state operating license.
 - (3) The applicant did not pay the required application fee at the time of submission of the application.
 - (4) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the marihuana business for the period during which the permit will be issued.
 - (5) The applicant's proposed marihuana business does not comply with the zoning regulations in article 4 of chapter 42 of this code.
 - (6) The city manager determines that the applicant has not satisfactorily complied with all permit requirements in section 14-250 of this article.
 - (7) The applicant was granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical marihuana or marihuana that was denied or not renewed, or is currently restricted suspended or revoked.
 - (8) The city manager determines that the applicant submitted an application containing false, misleading, or fraudulent information, or who intentionally omitted pertinent information on the application for a marihuana business permit.
 - (9) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (b) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

Sec. 14-253. Provisional approval.

- (a) Provisional approval will be issued by the city manager to applicants whose applications are accepted as provided in this section. The effective date of the provisional approval will be the date an application is accepted as provided in section 14-250(a)(5).
- (b) Provisional approval does not authorize the applicant to operate a marihuana business without first obtaining a state operating license for the marihuana business, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this code. Upon issuance of provisional approval, the city clerk will be authorized to execute an attestation of compliance with city ordinances to MRA to accompany an application for a license as required by the Medical Facilities Act or the Adult-use Act.
- (c) Provisional approval will lapse and be void one year from the date it is issued or the expiration of the applicant's prequalification status for a license from MRA, whichever occurs first. The city manager or his or her designee shall notify MRA of all persons whose provisional approval has lapsed or become void. Provisional approval may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed 6 months.
- (d) An applicant who has received provisional approval has a continuing duty to provide the city with the following:
 - (1) Up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.
 - (2) A copy of any amendments or changes to the marihuana facilities plan under the Medical Facilities Act submitted in connection with the application for the marihuana business permit for which provisional approval was issued, or a copy of the marihuana establishment plan under the Adult-use Act submitted in connection with the application for the marihuana business for which provisional approval was issued.
- (e) Provisional approval is exclusive to the person who received the provisional approval or provisional permit. Provisional approval or a provisional permit is a revocable privilege granted by the city, is not a property right, and does not create or vest any right, title, franchise or other property interest. No provisional approval or provisional permit issued under the previous version of this article shall be transferred or assigned. Any attempted transfer or assignment shall be void.

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

- (a) Provisional approval may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:
 - (1) The applicant is denied a state operating license by MRA;
 - (2) The marihuana business is substantially different from the, marihuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the marihuana business for which provisional approval was issued, or a copy of the marihuana establishment plan to be submitted in connection with a

state license application under the Adult-use Act for the marihuana business for which provisional approval was issued conceptual plan or other representations;

- (3) Officers of the city are unable to access the proposed marihuana business for permit inspections or are denied access by the applicant or those acting in behalf of the applicant;
 - (4) The applicant fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city;
 - (5) Any violation of the Medical Facilities Act and rules, Adult-use Act and rules, an applicable city ordinance, or this article.
- (b) If provisional approval is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the applicant, at the last known address on file with the city for notification of the applicant, and MRA, of the termination, revocation, suspension, or restriction of the provisional approval and the reasons therefore in writing.
- (c) The applicant who has received provisional approval under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten (10) days of receipt of the notice of the termination, revocation, suspension or restriction.

Sec. 14-255. Marihuana business permit.

- (a) Marihuana business permits will be issued by the city manager. In order to be issued a marihuana business permit, an applicant who has received provisional approval and whose provisional approval has not been revoked as provided in section 14-254 shall:
- (1) Successfully complete the inspection required by subsection 14-255(b) of this section.
 - (2) Submit proof to the city manager of obtaining all permits and approvals required by all applicable ordinances of the city including but not limited to an approved site plan and occupancy permit.
 - (3) Submit proof of insurance required by this article in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the city of Portage, its officials, and employees.
 - (4) An applicant who holds a provisional permit for a secure transporter permit shall additionally show proof of auto insurance, vehicle registration and registration as a commercial motor vehicle as applicable for any transporting vehicles used to transport marihuana product in order to be issued a marihuana business permit by the city manager.
 - (5) The site plan required for issuance of a marihuana business permit shall be consistent with the requirements of section 42-482.A of this code. The site plan will be reviewed

administratively consistent with section 42-482.B and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether to reverse an order of the director.

- (b) Before issuance of a marihuana business permit the city shall conduct an inspection of the proposed marihuana business to verify that the marihuana business is ready to open for business, the premises of the business are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this code and any other applicable law, rule, or regulation. No marihuana business permit may be issued and no marihuana business may conduct any business or operations until the inspection is completed and it is determined that the marihuana business is ready to open for business, the premises of the marihuana business are constructed and can be operated in accordance with the application, marihuana facilities plan, or the marihuana establishment plan submitted with the application as well as the approved site plan, and the marihuana business is in compliance with the requirements of this code and any other applicable law, rule, or regulation.
- (c) The marihuana business permit shall be issued only in the name of the applicant.
- (d) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred.
- (e) The marihuana business permit and state operating license shall be displayed in a conspicuous public place inside the marihuana business.
- (f) Acceptance of a marihuana business permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this code under which such permit was granted, to enter upon and inspect the premises of the marihuana business at all reasonable times.
- (g) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

Sec. 14-256. Renewal of permit.

- (a) A marihuana business permit or marihuana facilities permit issued under the previous version of this article shall be renewed annually unless revoked as provided by Section 14-257.
- (b) Renewal of marihuana business permit shall be made by application to the city clerk and payment of a nonrefundable permit renewal fee set by resolution of city council, but not to exceed \$5,000.00. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the due date for annual renewal of the permittee's license for the permittee's marihuana business. The application for renewal shall be upon a form provided by the city clerk and shall contain an update of all information required in the applicant's permit application, be given under oath or affirmation, including an affirmation that all information in the renewal

application is up to date and current, and shall be reviewed and approved in the same manner as the permit application. Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.

- (c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.
- (d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the due date for renewal of the permit established pursuant to section 14-256(b) . The city manager shall deny a permit renewal application if any of the following occur:
 - (1) The permit to be renewed has been terminated or revoked.
 - (2) The permit is suspended or restricted.
 - (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
 - (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
 - (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the Medical Facilities Act and rules, or the Adult-use Act and rules.
 - (6) The applicant failed to correct any deficiencies in the renewal application.
 - (7) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.

The applicant fails to provide evidence of insurance as required by section 14-250(d)(17).
 - (8). An inspection conducted by the city reveals that the marihuana business to which the renewal application pertains is not in compliance with this article, this code of ordinances, the Medical Facilities Act and rules, or the Adult-use Act and rules.
- (e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten (10) days of receipt of the notice of denial.
- (f) The city manager or his or her designee shall inform MRA in writing by mail or electronic

mail of all permittees whose permit is renewed, if a permittee fails to renew a permit, or the permittee's renewal application is denied. The city clerk will file an affirmation of renewal with MRA for all permits that are renewed.

- (g) For the purposes of a renewal application, a marihuana business shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the marihuana business at any time after a permit under this article and a state license to operate the business were issued.
- (h) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause.

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

- (a) Any marihuana business permit issued under this article, or marihuana facilities permit issued under the previous version of this article, shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.
- (b) Any marihuana business permit issued under this article, or marihuana facilities permit issued under the previous version of this article, may be revoked upon the occurrence of any of the following:
 - (1) Any violation of the provisions of this article or, this code of ordinances. A marihuana business shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this code in the event any of those protected uses was located less than the minimum spacing distance from the marihuana business at any time after a permit under this article and a state license to operate the business were issued.
 - (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or in a way that negatively impacts the health, safety, or general welfare of surrounding property or city residents.
- (c) A marihuana business permit or marihuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.
- (d) Any marihuana business permit or marihuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.
- (e) Any marihuana business permit or marihuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.
- (f) If a marihuana business permit, or marihuana facilities permit issued under the previous version of this article, is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for notification of the permittee, and MRA of the termination, revocation, suspension, or restriction of the permit and the reasons therefore.

- (g) If a marihuana business permit or marihuana facilities permit is revoked under this subsection the permittee shall immediately cease operation of its marihuana business.
- (h) The holder of a marihuana business permit or marihuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten (10) days of receipt of the notice of the termination, revocation, suspension or restriction.

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

- (a) No marihuana business permit, or marihuana facilities permit issued under the previous version of this article, may be transferred without making application to, and obtaining approval of, the city manager. Applications for transfer of a permit shall be made on a form provided by the city clerk. The application shall contain the following information at a minimum:
 - (1) The name and address of the marihuana business proposed to be transferred.
 - (2) The name, address, and other contact information for the owner of the marihuana business proposed to be transferred.
 - (3) The name, address, and other contact information for the proposed transferee.
 - (4) A plan detailing any changes or modifications of the marihuana business desired by the transferee, which must be approved by the city consistent with Section 14-259(a). No certificate of occupancy will be issued to the transferee until all changes have been completed and approved by the city consistent with all applicable codes.
- (b) Any transferee of a permit issued pursuant to this ordinance must meet all requirements and conditions for the issuance of a permit under this article for the type of marihuana business for which the permit was issued prior to the approval of a transfer. The transfer will be conditioned upon the transferee obtaining a state license for the type of marihuana business the permit was issued for within 90 days of the approval of the transfer.

Sec. 14-259. Changes to marihuana businesses.

- (a) Any change or modification of a marihuana business after it receives a state license, and a permit under this article is governed by the standards and procedures of the Medical Facilities Act and rules, and the Adult-use Act and rules, and the standards, and standards and procedures of this code including but not limited to standards and procedures relating to zoning, site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. Changes or modifications to a marihuana business may, however, be made at any time, but must be approved by MRA and the city before any changes or modifications are made. The permittee must obtain all required city permits before the change or modification is commenced and provide evidence to the city of the approval of MRA for any change or modification to a marihuana business.
- (b) Change of location of a marihuana business requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee set by resolution of city council, but not to exceed \$5,000.00. The proposed new location of the marihuana business, in addition to complying with the provisions of section 14-250, must also comply with the provisions of article 4, chapter 42 regarding

zoning. The change of location permit will be submitted and approved or denied in the same manner as an application for a marihuana business permit and a permit for the change of location will be issued in the same manner as for a marihuana business permit application. Applications for a change of location may be made at any time.

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

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4) and MCL 333.27959(7), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a marihuana business permit, permit renewal required, change or modification, or change of location under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

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

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

- (a) Marihuana businesses shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the business premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a marihuana business permit or leasing property to a marihuana business constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the Medical Facilities Act and Adult-use Act, or applicable state administrative rules.
- (b) Marihuana businesses shall conduct the activities of the marihuana business, including, without limitation, processing, displaying, manufacturing, selling, storage of marihuana and marihuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of marihuana and marihuana-infused products indoors in a building and out of public view. Cultivating and growing marihuana may take place outdoors consistent with the Medical Facilities Act, the Adult-use Act or applicable state administrative rules.
- (c) Marihuana businesses shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed twenty-four hours a day, seven days a week.

- (d) Marihuana businesses shall have a video surveillance system that complies with the applicable administrative rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in those rules.
- (e) Surveillance recordings of marihuana businesses shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.
- (f) Marihuana businesses shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the business at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the marihuana business in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the marihuana business and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this code.
- (g) Marihuana businesses shall install and maintain in operable condition a system to preclude marihuana odors from emanating from the premises of the marihuana business in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.
- (h) Access to the marihuana business is restricted to the permittee, employees of the permittee, registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, adults 21 years of age or older, if applicable, MRA through its investigators, agents, auditors or the state police, and, local law and code enforcement officers.
- (i) All marihuana businesses must be at a fixed location. Mobile marihuana businesses and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products by marihuana businesses as otherwise expressly authorized by the Medical Facilities Act or Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by those Acts or the rules corresponding to those Acts.
- (j) All marihuana businesses shall comply with all provisions of this code, state law and administrative rules regulating signs and advertising.
- (k) The business, operations, marketing and advertising of all marihuana businesses and marihuana product shall comply at all times with applicable state law and regulations, and this code.(l) Marihuana businesses shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of marihuana business at all times.

Sec. 14-262. Conflicts, Future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the Medical Facilities Act and rules,Adult-use Act and the rules, the conflicting provisions of this article will be

preempted and the provisions of the Medical Facilities Act and rules, or the Adult-use Act and rules will control. Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of marihuana, the additional or stricter laws and regulations shall control the establishment or operation of any marihuana business in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

Sec. 14-263. Penalty and remedies.

- (a) Any violation of this article is a civil infraction subject to a fine of not more than \$500.00.
- (b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
- (c) In addition to the penalties in this section, any violation of this article, the Medical Facilities Act and rules or Adult-use Act and rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.
- (d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

Sec. 14-264. Severability.

The various parts, sections and clauses of this article are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the article shall not be affected.

Sec. 14-265. Repealer.

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provisions of this article are repealed to the extent of such conflict, and the provisions of this article shall be and remain controlling as to the matters regulated herein.

Sec. 14-266. Effect tie-barred.

This amendment to Chapter 14 "Businesses", Article 12, "Marihuana Businesses" shall only take effect if Chapter 42 section 42-262(B)(16), section 42-280(B)(21), section 42-280(B)(22), section 42-281(B)(7), and section 42-821(B)(8) regarding zones where marihuana businesses are allowed are amended.

Dated: _____, 2020

Patricia M. Randall, Mayor

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

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, Erica Eklov, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the ____ day of _____, 2020.

Erica Eklov, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.
Portage, MI 49002

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**FIRST READING
CITY OF PORTAGE, MICHIGAN
NOTICE**

TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND ALL OTHER INTERESTED PERSONS.

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on _____, 2020, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on _____, 2020, at 7:00 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Chapter 42, Land Development Regulations, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, Zoning, shall be amended as follows:

ARTICLE 4. Zoning, Subdivision 6, Business Districts shall be amended to add subsection 16 to Section 42-262B, B-3 general business district as follows:

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

B. Principal permitted uses: In a B-3 general business district, 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:

16. The following marihuana businesses: Medical marihuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and marihuana retailer as defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

a. A medical marihuana~~The~~ provisioning center or marihuana retailer shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
- iii. Except as provided in section 42-262(B)(16)(g). ~~Within within~~ 1,000 feet of any other medical marihuana provisioning center or marihuana retailer located within the city.

- b. Determination of whether a proposed [medical marihuana provisioning center or marihuana retailer](#) will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana provisioning center [or marihuana retailer](#) will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana provisioning center [or marihuana retailer](#) as those lines existed on December 31, 2017 as shown on the [assessment rolls for records of the City of Portage in existence on that date](#).
 - ii. Measurements for purposes of subsections [42-262 \(B\)-\(16\)-\(a\)-\(ii\)](#) and [\(iii\)](#), above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana provisioning center [or marihuana retailer](#) to the nearest point of the zoning lot occupied by any of the uses listed in subsection [42-262 \(B\)-\(16\)-\(a\)-\(ii\)](#), or to the nearest point of the zoning lot occupied by another [medical marihuana provisioning center or marihuana retailer](#) using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the [assessment rolls for records of the city in existence on that date](#).
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the distribution, and sale of ~~medical~~-marihuana and ~~medical~~-marihuana infused products [by a medical marihuana provisioning center or marihuana retailer](#) shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana ~~facilities~~ [provisioning centers and marihuana retailers](#) shall not be located within greenhouses and similar buildings.
- d. ~~No drive-through facilities are permitted for provisioning center facilities. All medical marihuana provisioning centers and marihuana retailers must be at a fixed location. Mobile medical marihuana provisioning centers and marihuana retailers, and drive through operations for medical marihuana provisioning centers and marihuana retailers are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale by a medical marihuana provisioning center or marihuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.~~
- e. No marihuana or marihuana- infused products may be used or consumed on the premises of a [medical marihuana provisioning center or marihuana retailer](#).
- f. The activities and operations of ~~the a~~ [medical marihuana provisioning center or marihuana retailer](#) shall be indoors within a building and out of public view.
- g. ~~No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi tenant building. A medical marihuana provisioning center and a marihuana retailer may be located in a B-3 zone at the same location consistent with the Adult-use Act and rules. The medical marihuana provisioning center or marihuana retailer located at the same location shall be partitioned from each other.~~

have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marihuana business. If a medical marihuana ~~facility~~ provisioning center or marihuana retailer is located in a multi-tenant building with any other activity or business, the medical marihuana provisioning center or marihuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility~~ provisioning center or marihuana retailer.

- h. The business and operations of all ~~marihuana facilities~~ medical marihuana provisioning centers and marihuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to chapter 42 ~~to add~~ section 42-262-(B)-(16) ~~to of~~ article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to is amended to allow marihuana establishments in the city pursuant to the Adult-use Act, add article 12, "Medical Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 21 and 22 to Section 42-280B, I-1 Light Industrial District, as follows:

Sec. 42-280. - I-1 Light Industrial District.

- B. Principal permitted uses: In an I-1 light industrial district, 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:
 - 21. The following marihuana businesses: Medical marihuana class A, B, and C grower facilities, stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).
 - a. All marihuana businesses permitted by this section ~~The grower or processing facility~~ shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-280(B)(21)(g), Within within 1,000 feet of any other ~~medical marihuana grower or processor facility~~ business permitted by this section located within the city or section 42-281(7).

- b. Determination of whether a proposed ~~grower or processor facility marihuana business permitted by this section~~ will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed ~~grower or processor facility marihuana business permitted by this section~~ will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the ~~medical marihuana grower or processor facility marihuana business~~ as those lines existed on December 31, 2017 as shown on the ~~assessment rolls~~records for the city in existence on that date.
 - ii. Measurements for purposes of subsections ~~42-280 (B)-(21)-(a)-(ii)~~ and (iii). above shall be made from the boundary of the zoning lot to be occupied by ~~the a medical marihuana grower or processor facility marihuana business permitted by this section~~ to the nearest point of the zoning lot occupied by any of the uses listed in ~~43-280 (B)-(21)-(a)-(ii)~~, or to the nearest point of the zoning lot occupied by another ~~grower or processor marihuana business permitted by this section or section 42-281(7)~~ using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, ~~or processing~~, distribution or sale of ~~medical~~ marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a ~~medical marihuana facility~~business permitted by this section.
- f. ~~Medical marihuana grow and processor facilities~~Marihuana businesses permitted by this section shall conduct the activities of the marihuana ~~facility~~business, including, without limitation, the cultivating, growing, processing, manufacturing, ~~or storage or sale and distribution~~ of marihuana and marihuana-infused products, ~~and all materials used in connection with the cultivating, growing, and processing, and distribution of marihuana and marihuana infused products,~~ indoors and out of public view, except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments medical provisioning centers, and marihuana retailers may be located as separate

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businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only allowed in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one marihuana microbusiness medical marihuana facility shall be allowed on a single zoning lot or at the same location as another marihuana business permitted by this section, (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one medical marihuana facility business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical marihuana facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana facility business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana business facility.

- h. The business and operations of all marihuana ~~facilities~~ businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to ~~add~~ section 42-280(B)-(21) to of chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14, ~~is amended to add~~ article 12, is amended to allow marihuana establishments under the Adult-use Act, "Medical Marihuana Facilities."

22. The following marihuana businesses: Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

- a. ~~The facility site~~ A medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be

- occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
- ii. Measurements for purposes of subsections 42-280 (B)-(22)-(a)-(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-280 (B)-(22)-(a)-(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the City of Portage in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures in connection with the transport and storage of ~~medical~~ marihuana and ~~medical~~ marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
 - d. All medical marihuana and marihuana secure transporters and safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
 - e. No marihuana or marihuana- infused products may be used or consumed on the premises of a medical marihuana or marihuana secure transporter or safety compliance facility.
 - f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ is located in a multi-tenant building with any other activity or business, the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~.
 - g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
 - h. This amendment to ~~add~~ section 42-280-~~(B)-(22)~~ to ~~of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 7 and 8 to Section 42-281B, I-2 Heavy Industrial District, as follows:

Sec. 42-281. - I-2 Heavy Industrial District.

B. Principal permitted uses: In an I-2 heavy industrial district, 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:

7. The following marihuana businesses: Medical marihuana class A, B, and C growers facilities, medical marihuana stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).

a. ~~The facility~~ All marihuana businesses permitted by this section shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. ~~Except as provided in section 42-281(B)(7)(g), Within within~~ 1,000 feet of any other medical marihuana or marihuana grower or processor facility business permitted by this section or section 42-281(21) located within the city.

b. Determination of whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed medical marihuana or marihuana grower or processor facility business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
- ii. Measurements for purposes of subsections ~~42-281-(B)-(7)-(a)-(ii)~~ and ~~(iii)-~~ above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana grower or processor facility business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in ~~42-281 (B)-(7)-(a)-(ii)~~, or to the nearest point of the zoning lot occupied by another medical marihuana or marihuana grower or processor business permitted by this section or section 42-280(22) using an uninterrupted straight

line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the [assessment rolls for records of](#) the city in existence on that date.

- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, ~~or processing, distribution or sale of medical~~ marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a ~~medical marihuana facility~~ business permitted by this section.
- f. ~~Medical marihuana grow and processing facilities. Marihuana businesses permitted by this section~~ shall conduct the activities of the ~~facility~~ business, including, without limitation, the cultivating, growing, processing, manufacturing, ~~or storage, sale or distribution~~ of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing, ~~and processing and sale or distribution of marihuana and marihuana infused products,~~ indoors and out of public view, ~~except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.~~
- g. Medical marihuana grow facilities, marihuana grow establishments, medical marihuana processor facilities, marihuana processor establishments, medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical marihuana provisioning center and marihuana retailer are only permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one medical marihuana microbusiness facility shall be allowed on a single zoning lot or at the same location as another marihuana business allowed by this section. (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one ~~medical marihuana facility~~ business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a ~~medical marihuana facility~~ business permitted by this section is located in a multi-tenant building with any other activity or business, the ~~medical marihuana facility~~ business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC

system for the portion of the building occupied by the ~~medical~~-marihuana ~~facility~~business.

- h. The business and operations of all medical marihuana ~~facilities~~businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. This amendment to ~~add~~ section 42-281-(B)-(7) ~~to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12; is amended to allow marihuana establishments under the Adult-use Act, "Medical Marihuana Facilities."

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- 8. The following marihuana businesses: Medical marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).
 - a. A medical marihuana or marihuana secure transporter or safety compliance facility~~The facility site~~ shall not be located:
 - i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority;
 - b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:
 - i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.
 - ii. Measurements for purposes of subsections ~~42-281 (B)-(8)-(a)-(ii)~~ above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in ~~42-281 (B)-(8)-(a)-(ii)~~ using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the ~~assessment rolls for records of~~ the city in existence on that date.
 - iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

- c. Buildings or structures in connection with the transport and storage of ~~medical~~ marihuana and ~~medical~~ marihuana-infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. ~~Medical marihuana facilities shall not be located within greenhouses and similar buildings.~~
- d. All medical marihuana or marihuana secured transporters or safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law.~~No drive-through facilities are permitted for medical marihuana facilities.~~
- e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana secure transporter or safety compliance facility.
- f. No more than one medical marihuana ~~facility or marihuana secure transporter or safety compliance facility~~ shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana ~~facility or marihuana secure transporter or safety compliance facility.~~
- g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- h. This amendment to ~~add~~ section 42-281-(B)-(8) ~~to of~~ chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 ~~is amended to add~~ article 12, is amended to allow marihuana establishments under the Adult-use Act. "Medical Marihuana Facilities."

PLEASE TAKE FURTHER NOTICE that copies of said proposed amendment may be examined at the City Hall on any business day except public and legal holidays from and after publication of this Notice until the day of hearing from 8:00 a.m. and 5:00 p.m.

Dated: _____, 2020

Erica Eklov, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.

Portage, MI 49002

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