

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. 19th Annual March for Meals Month
2. Girl Scouting Week

A. Consent Agenda:

1. Approval of City Council Meeting Minutes:
 - a. Regular Meeting of February 23, 2021.
 - b. Pre-Council Meeting of March 8, 2021.
2. Approve the Accounts Payable Register of March 9, 2021 as presented.
3. Establish Tuesday, April 20 from 5:00 to 8:00 p.m. and Tuesday, May 11, from 4:00 to 6:00 p.m. as the dates for review of the proposed Fiscal Year 2021-2022 Budget.
4. Set a Special Meeting on Tuesday, May 25, 2021, beginning at 5:15 p.m., to interview Board and Commission applicants.
5. Grant the request for an appeal of an Adult-Use Retail application from Attitude Wellness, LLC (dba "Lume Cannabis Co.") for 5324 Meredith Street.
6. Adopt the Notice of Intent Resolution to fund construction of various capital improvements.
7. Minutes of Boards & Commissions:
 - a. Planning Commission of February 4, 2021
8. Materials Transmitted.
9. Calendar of Meetings:
 - Environmental Board, March 10, 2021 at 7:00 p.m. - Virtual.
 - Youth Advisory Committee, March 15, 2021 at 4:30 p.m. - Virtual.
 - Senior Citizen's Advisory Board, March 17, 2021 at 2:30 p.m. - Virtual.
 - Planning Commission, March 18, 2021 at 7:00 p.m. - Virtual.
 - Kalamazoo County Public Art Commission, March 23, 2021 at 11:30 a.m. - Virtual.
 - *NOTE: All above meetings are subject to cancellation or inclusion/transition of a "virtual" aspect 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 most public meetings is: (844) 854-2222 Access Code 529853# (To voice a question or comment, press *6 to enter the queue.) Major meetings may be viewed live on Charter channel 995 and AT&T channel 99 or live streaming at portagemi.gov/205.*

B. Petitions and Statements of Citizens:

C. Communications:

D. Public Hearings:

E. Regular Business Agenda:

F. Unfinished Business:

1. Adopt the proposed amendments to the City of Portage Code of Ordinances Chapter 64 Storm Water, Illicit Discharges and Connections.

G. Council Committee Reports:

H. New Business:

I. Statements of Citizens:

J. Statements of City Council and City Manager.

Adjournment.



CITY OF PORTAGE PROCLAMATION

19th ANNUAL MARCH FOR MEALS MONTH

- WHEREAS,** on March 22, 1972, President Richard Nixon signed into law a measure that amended the Older Americans Act of 1965 and established a national nutrition program for seniors 60 years and older; and
- WHEREAS,** Meals on Wheels America established the March for Meals campaign in March 2002 to recognize the historic month, the importance of the Older Americans Act Nutrition Programs, both congregate and home-delivered, and raise awareness about the escalating problem of senior hunger in America; and
- WHEREAS,** the 2021 observance of March for Meals celebrates 19 years of providing an opportunity to support Meals on Wheels programs that deliver vital and critical services by donating, volunteering and raising awareness about senior hunger and isolation; and
- WHEREAS,** volunteers for Meals on Wheels programs in Portage are the backbone of the program and they not only deliver nutritious meals to seniors and individuals with disabilities who are at significant risk of hunger and isolation, but also caring concern and attention to their welfare; and
- WHEREAS,** Meals on Wheels programs in Portage provide nutritious meals to seniors throughout Portage that help them maintain their health and independence, thereby preventing unnecessary falls, hospitalizations and/or premature institutionalization; and
- WHEREAS,** Meals on Wheels programs in Portage provide a powerful socialization opportunity for millions of seniors to help combat the negative health effects and economic consequences of loneliness and isolation; and
- WHEREAS,** Meals on Wheels programs in Portage deserve recognition for the heroic contributions and essential services they have provided amid the COVID-19 pandemic and will continue to provide to local communities, our State and our Nation long after it is over.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, do hereby proclaim March 2021 as the 19th Annual March for Meals Month and urge every citizen to take this month to honor our Meals on Wheels programs, the seniors they serve and the volunteers who care for them. Our recognition of, and involvement in, the national 2021 March for Meals can enrich our entire community and help combat senior hunger and isolation in America.

Signed this 9th day of March, 2021.

Patricia M. Randall, Mayor



CITY OF PORTAGE PROCLAMATION

GIRL SCOUT WEEK 2021

- WHEREAS,** Juliette 'Daisy' Gordon Low founded the Girl Scouts of the USA on March, 12, 1912; and
- WHEREAS,** in Girl Scouts, girls develop their leadership potential through activities that enable them to discover their values, skills, and the world around them, as well as connect with others in a multicultural environment; and
- WHEREAS,** Girl Scouts continues to create gender balanced leadership by providing girls with the tools to become leaders dedicated to making this country a better place; and
- WHEREAS,** Girl Scouts has made girls' financial literacy a high priority in its programs and activities for more than 100 years and continues to develop financial empowerment programs for girls in grades K-12 to guarantee another future generation of independent female leaders; and
- WHEREAS,** the Girl Scout Cookie Program introduces girls to the concepts of business planning and entrepreneurship and is the largest girl-led business; teaching girls the value of goal setting, decision making, money management, people skills, and business ethics; and
- WHEREAS,** Girl Scouts teaches girls how to build healthy relationships through anti-bullying and relational aggression programs; and
- WHEREAS,** Girl Scouts is committed to ensuring every girl has the opportunity to explore and build an interest in science, technology, engineering, and mathematics (STEM), helping them to develop critical thinking skills, problem solving skills, and collaborative skills which are vital throughout life; and
- WHEREAS,** there are over 60 Girl Scout Troops in the Kalamazoo County area, with 15 based in the City of Portage; and,
- WHEREAS,** Girl Scouting builds girls of courage, confidence, and character, who make the world a better place.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, do hereby applaud the commitment Girl Scouting has made to support the continued advancement of girls in their roles as leaders here in Portage and declare March 7 through March 13, 2021 to be "Girl Scout Week."

Signed this 9th day of March, 2021.

Patricia M. Randall, Mayor

CITY COUNCIL MEETING MINUTES FROM FEBRUARY 23, 2021

Mayor Patricia Randall called the Regular Meeting to order at 07:02 PM. The regular meeting was held virtually as permitted by PA 228. Mayor Patricia M. Randall, Mayor Pro Tem Jim Pearson, and Councilmembers Chris Burns, Lori Knapp, Vic Ledbetter, and Claudette Reid were present. All members participated virtually from Portage, Michigan. Terry Urban was absent with excuse. Also in attendance were City Manager Joe La Margo, City Attorney Catherine Kaufman, Deputy City Manager Adam Herringa, Deputy City Manager Mike Carroll, and City Clerk Erica Eklov.

At the request of Mayor Randall, the audience observed a moment of silence to reflect with heavy hearts on the over 500,000 people who have died of COVID-19 since the beginning of the pandemic. Following the moment of silence, the City Council recited the Pledge of Allegiance.

PROCLAMATIONS: Councilmember Burns read the Proclamation honoring National Entrepreneurship Week, noting he was the spouse of a small business owner. Councilmember Reid read the Proclamation highlighting National Career and Technical Education Month.

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

Approval of Minutes: Motion by Reid, seconded by Knapp, to approve the Minutes of the Regular Meeting of February 9, 2021, and Pre-Council Meeting of February 22, 2021. Upon a roll call vote, motion carried 6 to 0.

Accounts Payable Register: Motion by Reid, seconded by Knapp, to approve the Accounts Payable Register of February 23, 2021, as presented. Upon a roll call vote, motion carried 6 to 0.

Traffic Signal Improvements - Bid Tabulation: Motion by Reid, seconded by Knapp, to award a contract for the purchase of traffic signal poles, mast arms, and assemblies for traffic signal upgrades on Milham Avenue to Farr & Faron Associates of Brighton, Michigan in the not-to-exceed amount of \$102,522 and authorize the City Manager to sign all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

Comprehensive Liability, Property and Auto Fleet Insurance: Motion by Reid, seconded by Knapp, to approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority (MMRMA) at a total cost not to exceed \$504,273 for the period March 1, 2021 to March 1, 2022, and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

MDOT Contract #21-5007 Portage Road/Bender Road Traffic Signal

Replacement: Motion by Reid, seconded by Knapp, to approve Contract #21-5007 between the Michigan Department of Transportation and the City of Portage concerning funding for the replacement of the Portage Road and Bender Road traffic signal. Upon a roll call vote, motion carried 6 to 0.

MDOT Contract #20-5546 East Milham Road (South Westnedge Avenue to Portage Road): Motion by Reid, seconded by Knapp, to approve Contract #20-5546 between the Michigan Department of Transportation and the City of Portage for the reconstruction of East Milham Avenue from South Westnedge Avenue to Portage Road and adopt a Resolution authorizing the City Manager to sign all documents related to the project on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

Water/Sewer (Utility) Rate Committee Vacancy: Motion by Reid, seconded by Knapp, to appoint Elma Pat Maye as the second citizen-at-large representative and Councilmember Vic Ledbetter to the City Council Water/Sewer (Utility) Rate Study Committee. Upon a roll call vote, motion carried 6 to 0.

Housing and Neighborhoods Committee: Motion by Reid, seconded by Knapp, to reinstate the City Council Housing and Neighborhoods Committee and appoint Mayor Patricia M. Randall, Mayor Pro Tem Jim Pearson, and Councilmember Chris Burns. Upon a roll call vote, motion carried 6 to 0.

Minutes of Boards and Commissions: Motion by Reid, seconded by Knapp, to accept the Minutes of the Human Services Board of January 28 and February 4, 2021, and the Zoning Board of Appeals of December 14, 2020. Upon a roll call vote, motion carried 6 to 0.

Calendar of Meetings: Motion by Reid, seconded by Knapp, to accept the Calendar of Meetings as presented. Upon a roll call vote, motion carried 6 to 0.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Reid thanked the City Council for the Career and Technical Education proclamation, noting the recent national interest in the topic due to a lack of new skilled trades applicants as the existing workforce begins to retire. She then expressed excitement regarding the President's recent visit and stated Portage was lucky to have such a resource and facility in Pfizer. Councilmember Reid closed her comments with a reminder to continue the health and safety measures in the fight against COVID-19.

Councilmember Burns thanked City Council for appointing him to serve on the reinstated Housing and Neighborhoods Committee noting the recent passage of the countywide housing millage. He expressed hope that the Committee will work to bring those millage resources to Portage. He then thanked the city and area leaders for hosting the President's recent visit.

Councilmember Ledbetter thanked the city for presenting the "Fridays in February" Black History Month events, stating that he had enjoyed them.

Councilmember Knapp echoed the comments of Councilmembers Burns and Reid regarding the President's recent visit.

City Manager La Margo thanked the Public Safety Department for their efforts and preparation with the President's recent visit, including the last-minute adjustments when the scheduled arrival day changed. He relayed that meeting the President was a great opportunity and thanked the Pfizer employees for their efforts on the COVID-19 vaccine production.

Mayor Pro Tem Pearson stated he was proud to be a former Pfizer employee and implored the Mayor to relay her visit with the President.

Mayor Randall relayed that meeting the President had been a highlight in her role as Mayor. She stated that both she and the City Manager had urged the President's staff to allow the entire City Council to attend the event at Pfizer but only a limited attendance was permitted. She stated that her early arrival at the event with the City Manager allowed them time to meet with the new Pfizer leadership and receive a small tour of the facility. Mayor Randall relayed that Pfizer had hired an additional 500 people to increase the COVID-19 vaccine production. She stated that President Biden was very welcoming with a diverse young team of staff. She then acknowledged the extensive efforts of various city teams to prepare for the President's first visit to Portage. Mayor Randall closed by stating the preceding week had been very busy leading up to the historic moment for Portage.

ADJOURNMENT: Mayor Randall adjourned the meeting at 07:23 PM.

Erica Eklov, City Clerk

**MINUTES FROM THE PRE-MEETING
OF THE PORTAGE CITY COUNCIL
OF MARCH 8, 2021**

Mayor Patricia Randall called the virtual meeting to order at 8:00 a.m. Councilmembers Chris Burns, Lori Knapp, and Mayor Pro Tem Jim Pearson also joined virtually. Councilmember Vic Ledbetter joined virtually at 8:02 a.m. In compliance with Michigan Public Act 228, the Mayor and Councilmembers disclosed their virtual participation from Portage, Michigan. Councilmembers Claudette Reid and Terry Urban were absent with excuse. Also in attendance were City Manager Joseph La Margo, Deputy City Manager Mike Carroll, Deputy City Manager Adam Herringa, and City Clerk Erica Eklov.

Mayor Randall began by highlighting the Proclamations, noting Mayor Pro Tem Pearson would read the March for Meals acknowledgment and requesting Councilmember Knapp read the Girl Scouts Month acknowledgment.

With regard to Item A.5, Lume Cannabis Appeal, Councilmember Burns inquired regarding the City Administration's expected timeline regarding the city's marijuana ordinance updates in light of the Michigan Marijuana Regulatory Agency policy changes. City Clerk Eklov responded that staff, under the direction of the City Attorney, planned to operate under the current ordinance until the preset sunset stipulation of November 2021 that requires a medical license in order to apply for a retail use. She further relayed that a Committee of the Whole meeting was anticipated for the upcoming summer or early fall to review the proposed ordinance revisions from staff with City Council in order to have an updated ordinance ready following November 2021.

With regard to Item A.6, Adoption of Notice of Intent Resolution, Councilmember Burns requested that the City Administration revise the Action Recommended language to be more specific for public clarity. City Manager La Margo stated staff would research and modify accordingly. Mayor Pro Tem Pearson inquired about the Zylman Avenue/Portage Road intersection project quoted on page 39 of the agenda packet for \$175,000. He relayed that he recalled the former City Administration had planned for a pocket park at that location and had secured state funding with the assistance of former Councilmember Margaret O'Brien. Mayor Pro Tem Pearson inquired about the proposal for the \$175,000 expenditure and the plans for the property in question. City Manager La Margo responded that the former City Administration had proposed the state funding opportunity to City Council but never ultimately applied for the state funds. He stated that the city still planned for a pocket park at that location and the proposed \$175,000 would fund the development of that property as originally planned.

ADJOURNMENT: Following a summary of the meeting, Mayor Randall adjourned the meeting at 8:10 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: Grant Taylor, Deputy Director of Treasury/Revenue

ACTION RECOMMENDED: Approve the Accounts Payable Register of March 9, 2021 as presented.

The City Council reviews and approves the bi-weekly Accounts Payable Register which includes automated clearing house payments, paper checks, auto-pay payment, and electronic payments. The attached Accounts Payable Register covers the period February 14, 2021 through February 27, 2021 and notes \$450,233.75 in automated clearing house payments, \$1,013,242.47 in paper checks, \$14,047.27 in autopay payments and \$3,154,426.55 in electronic payments for a grand total of \$4,631,950.04.

FUNDING: N/A

Attachments: 1. Accounts Payable Register of March 9, 2021

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/14/2021 to 02/27/2021

Page 1 of 7

Check Type: ACH Transactions

Check Date	Check	Vendor Name	Description	Amount
02/19/2021	14592(A)	A NEW LEAF	PLANT CARE @ CITY HALL	93.50
02/19/2021	14593(A)	ABONMARCHE CONSULTANTS, INC	ENGINEERING SERVICES	775.40
02/19/2021	14594(A)	AIRGAS USA LLC	WELDING SUPPLIES	195.57
02/19/2021	14595(A)	ALL CITY MANAGEMENT SERVICES, INC.	CROSSING GUARD CONTRACT	3,202.29
02/19/2021	14596(A)	ALL-TRONICS, INC.	GLTC FIRE ALARM MONITORING	81.00
02/19/2021	14597(A)	AMERICAN HYDROGEOLOGY CORP.	S WESTNEDGE PARK - PFAS	20,611.17
02/19/2021	14598(A)	AMERICAN SAFETY & FIRST AID	EYEWASH STATION SERVICES	334.85
02/19/2021	14599(A)	ANIMAL REMOVAL SERVICE, LLC	ANIMAL REMOVAL SERVICES	2,620.00
02/19/2021	14600(A)	APOLLO FIRE EQUIPMENT COMPANY	FIRE OPS SUPPLIES	241.57
02/19/2021	14601(A)	B S & A SOFTWARE	INVENTORY MGT SYS ANNUAL SUPPORT FEE	2,690.00
02/19/2021	14602(A)	BATTERIES PLUS	MISC BATTERIES	276.85
02/19/2021	14603(A)	BELL EQUIPMENT COMPANY	SWEeper MAINTENANCE/SUPPLIES	1,250.75
02/19/2021	14604(A)	BEST WAY DISPOSAL, INC.	CURBSIDE RECYCLING PROGRAM	53,037.94
02/19/2021	14605(A)	BLACKBOARD, INC.	BLACKBOARD CONNECT SERVICE	14,000.00
02/19/2021	14606(A)	BRENNER OIL CO.	GASOLINE & DIESEL DELIVERY	23,963.00
02/19/2021	14607(A)	BYRUM FISK COMMUNICATIONS LLC	EMPLOYEE TRAINING SERVICES	7,500.00
02/19/2021	14608(A)	C M P DISTRIBUTORS, INC.	MISC POLICE SUPPLIES	2,227.60
02/19/2021	14609(A)	C T S TELECOM, INC.	TS DEDICATED FIBER OPTIC CIRCUIT FOR CAB	2,487.80
02/19/2021	14610(A)	CAPITAL ADVANTAGE LEASING	KONICA MINOLTA COPIER LEASE	693.15
02/19/2021	14611(A)	CARLETON EQUIPMENT CO.	EGR COOLER REPLACE	6,576.55
02/19/2021	14612(A)	CARSTAR PORTAGE	FIRE APPARATUS MAINT	851.00
02/19/2021	14613(A)	CHARTER COMMUNICATIONS	CABLE TV	675.29
02/19/2021	14614(A)	CIVICPLUS	PORTAGEM.I.GOV WEBSITE HOSTING FEES	10,910.17
02/19/2021	14615(A)	CLEAN EARTH ENVIRONMENTAL SERV	VACTOR SERVICES	5,720.00
02/19/2021	14616(A)	CLEANIT CORP	CAR WASHES	84.00
02/19/2021	14617(A)	DELTA DENTAL PLAN OF MICHIGAN	DELTA DENTAL INSURANCE	19,179.72
02/19/2021	14618(A)	DEPATIE FLUID POWER CO., INC.	HYDRAULIC REPAIR/MAINT SUPPLIES	18.75
02/19/2021	14619(A)	ENGINEERED PROTECTION SYSTEMS, INC.	ALARM MONITORING PARKS	14,726.52
02/19/2021	14620(A)	EXTREME POWER EQUIPMENT, INC.	TWO PLOW INSTALLATIONS	5,209.92
02/19/2021	14621(A)	FIDELITY SECURITY LIFE INSURANCE CO	EYEMED VISION INSURANCE	1,257.24
02/19/2021	14622(A)	FISHBECK THOMPSON CARR & HUBER, INC	RISK & RESILIENCE ASSESSMENT	4,932.00
02/19/2021	14623(A)	FOREMOST SALES COMPANY LLC	PARK FACILITY CLEANING	1,720.00
02/19/2021	14624(A)	FURRY, WILLIAM	FINANCE CONSULTANT SERVICES	1,712.50

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/14/2021 to 02/27/2021

Page 2 of 7

Check Date	Check	Vendor Name	Description	Amount
02/19/2021	14625(A)	GORDON WATER SYSTEMS	WATER SERVICE	281.95
02/19/2021	14626(A)	GRAINGER INC	OPERATING SUPPLIES	214.44
02/19/2021	14627(A)	GREAT LAKES CHLORIDE, INC.	BOOST - LIQUID DICER	6,517.76
02/19/2021	14628(A)	HURLEY & STEWART, LLC	AIRPORT-NE WATER TRANSMISSION MAIN IMPRV	4,540.15
02/19/2021	14629(A)	INDUSCO SUPPLY CO., INC.	CITY HALL RESTROOM SUPPLIES	915.99
02/19/2021	14630(A)	INFOUSA MARKETING, INC.	2020-21 CITY DIRECTORIES	450.00
02/19/2021	14631(A)	INSIGHT PUBLIC SECTOR, INC.	CH HP SERVER CHASSIS SUPPORT RENEWAL	3,222.42
02/19/2021	14632(A)	JACK DOHENY SUPPLIES INC.	VACTOR SUPPLIES	182.66
02/19/2021	14633(A)	JONS TO GO PORTABLE RESTROOM	PORTABLE RESTROOMS PARKS	240.00
02/19/2021	14634(A)	KAHN, WILMA	WRITING CLASS INSTRUCTION	204.00
02/19/2021	14635(A)	MILONAS, GEORGE	LAND CONTRACT 2005 W MILHAM	854.00
02/19/2021	14636(A)	MORBARK LLC	CHIPPER REPAIRS	555.12
02/19/2021	14637(A)	MYERS, JAMES	MACP WINTER CONFERENCE	671.92
02/19/2021	14638(A)	NYE UNIFORMS	MISC UNIFORMS - 2ND HALF	1,294.98
02/19/2021	14639(A)	ONE WAY PRODUCTS	JANITORIAL SUPPLIES	635.50
02/19/2021	14640(A)	PARIS CLEANERS	LAUNDRY CONTRACT	1,142.54
02/19/2021	14641(A)	PAVER PET SUPPLY	PET SUPPLIES	50.50
02/19/2021	14642(A)	PRECISION PRINTER SERVICES INC	PRINTER SERVICES	1,523.85
02/19/2021	14643(A)	PREMIER SAFETY	FIRE SCBA MAINTENANCE	750.00
02/19/2021	14644(A)	R W LAPINE INC.	FIRE FACILITY MAINT	2,407.89
02/19/2021	14645(A)	RIDGE AUTO NAPA	REPAIR/MAINTENANCE SUPPLIES	707.85
02/19/2021	14646(A)	S B F ENTERPRISES, INC.	SET UP PREP FOR ASSESSMENT NOTICE MAILING	2,679.07
02/19/2021	14647(A)	SEVERANCE ELECTRIC COMPANY, INC	TRAFFIC SIGNAL MAINTENANCE	4,460.00
02/19/2021	14648(A)	SMITH DAWSON & ANDREWS, INC.	ADVOCACY SERVICES	5,000.00
02/19/2021	14649(A)	SUEZ WATER ENVIRONMENTAL SERVICES	UTILITY SYSTEM OPERATION	178,044.60
02/19/2021	14650(A)	TERMINAL SUPPLY CO.	SAFETY LIGHTS	1,077.56
02/19/2021	14651(A)	THE IRRIGATOR	FIRE FACILITY MAINT	421.50
02/19/2021	14652(A)	TRUCK & TRAILER SPECIALTIES	REPAIR/MAINTENANCE SUPPLIES	930.40
02/19/2021	14653(A)	UNIFIRST CORPORATION	HALLWAY CARPET RENTAL	105.68
02/19/2021	14654(A)	UNITED PETROLEUM	GAS PUMP #2- METER REPLACEMENT	1,172.15
02/19/2021	14655(A)	VIRIDIS DESIGN GROUP	MARTIN LUTHER KING JR, PARK CONCEPT PLAN	1,000.00
02/19/2021	14656(A)	WARNER NORCROSS & JUDD LLP	LEGAL & RETAINER FEES	1,855.00
02/19/2021	14657(A)	WEST MICHIGAN INT'L LLC	EQUIPMENT MAINTENANCE	142.16
02/19/2021	14658(A)	WINDER POLICE EQUIPMENT, INC.	FUSES	2,990.00

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/14/2021 to 02/27/2021

Page 3 of 7

Check Date	Check	Vendor Name	Description	Amount
02/19/2021	14659(A)	WOLVERINE LAWN SERVICE, INC.	SNOW REMOVAL SERVICES	7,401.00
02/26/2021	14660(A)	CHARTER COMMUNICATIONS	CABLE TV	119.56
02/26/2021	14661(A)	LAMARGO, JOSEPH	REQUIRED COVID-19 PCR TEST FOR PRESIDENT	185.00
02/26/2021	14662(A)	MILLS, DANIEL	MACP WINTER CONFERENCE	625.57
02/26/2021	14663(A)	PORTAGE FIREFIGHTERS	IAFF DUES FOR FEBRUARY 2021	1,800.00
02/26/2021	14664(A)	PORTAGE ON-CALL FIREFIGHTERS	ON CALL FF DUES FOR FEBRUARY 2021	20.00
02/26/2021	14665(A)	PORTAGE POLICE OFFICERS ASSOC	PPOA DUES FOR FEBRUARY 2021	602.00
02/26/2021	14666(A)	UNITED AUTO. IMPLEMENT WORKERS 2290	UAW DUES FOR FEBRUARY 2021	527.88
02/26/2021	14667(A)	WARNER NORCROSS & JUDD LLP	LEGAL & RETAINER FEES	1,855.00
Total ACH				450,233.75

Check Type: Paper

02/19/2021	316005	ADP, INC.	BI WEEKLY PAYROLL	3,843.75
02/19/2021	316006	ALERT-ALL CORP.	FIRE MARSHAL SUPPLIES	1,750.00
02/19/2021	316007	ALL SEASON WINDOW, INC.	CDBG THILL 6828 ROTHBURY WINDOWS	9,587.00
02/19/2021	316008	ALLEGRA PRINT & IMAGING	PRINTING SERVICES	1,084.55
02/19/2021	316009	ANY CUTTING & WELDING	WELDING-HIGH PRESSURE NOZZLE-VACTOR	60.00
02/19/2021	316010	AT&T	ELECTRONIC COMMUNICATIONS	4,771.46
02/19/2021	316011	AT&T LONG DISTANCE	LONG DISTANCE SERVICE	64.69
02/19/2021	316012	BAREITHER, CHAD	STRATEGIC PLANNING CONSULTING SERVICES	1,250.00
02/19/2021	316013	BARNHART, BECKY	AMPHITHEATRE FEES & DEPOSIT REFUND	330.00
02/19/2021	316014	BAY AREA TOUCHLESS CARWASH LLC	CAR WASHES	408.00
02/19/2021	316015	BEATTIE, JUDITH P	EASEMENT-E MILHAM RECONSTRUCTION PROJ	651.60
02/19/2021	316016	BELL, DAVID L	TENNIS COURT SUPPLIES	2,125.75
02/19/2021	316017	BERKSHIRE HATHAWAY HOME SERVICES	OVERPAYMENT WTAX 92020-009-A	39.51
02/19/2021	316018	BRIARGATE, LP	REIMBURSEMENT-ELECTRICAL BREAK	329.99
02/19/2021	316019	BRONSON HEALTHCARE GROUP	LEGAL BLOOD DRAWS	300.00
02/19/2021	316020	BURGGRABE MASONRY, INC.	DUMPSTER & GENERATOR ENCLOSURES	32,823.10
02/19/2021	316021	CAMPBELL AUTO SUPPLY	MISC AUTO SUPPLIES	74.75
02/19/2021	316022	CASHEN, MATTHEW TIMOTHY	CDBG TAYLOR 8938 NEWHOUSE WINDOWS SIDING	19,850.00
02/19/2021	316023	CC CONSULTING LLC	CONSULTING SVC/RETAIL MARKETING ANALYSIS	1,500.00
02/19/2021	316024	CHICAGO TITLE OF MICHIGAN	OVERPAYMENT FINAL WATER/SEWER BILL 1709	16.36
02/19/2021	316025	CHICAGO TITLE OF MICHIGAN INC	OVERPAYMENT FINAL WATER/SEWER BILL 2284	127.89
02/19/2021	316026	CINTAS CORP.	UNIFORM RENTAL FOR INSPECTORS	140.07

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/14/2021 to 02/27/2021

Page 4 of 7

Check Date	Check	Vendor Name	Description	Amount
02/19/2021	316027	CITY OF KALAMAZOO TREASURER	WATER SERVICES	21.97
02/19/2021	316028	CITY OF PORTAGE	UTILITY BILLING REFUND WEST0862104	90.00
02/19/2021	316029	CLEARNETWORK, INC.	UNIFIED SECURITY DEC & JAN	3,900.00
02/19/2021	316030	D C PLUMBING	PLUMBING REPAIR OF DRINKING FOUNTAIN	139.00
02/19/2021	316031	DAME AND UPDIKE LLC	EASEMENT-E MILHAM RECONSTRUCTION PROJ	859.28
02/19/2021	316032	DAVE'S CONCRETE PRODUCTS, INC.	SIDEWALK REPAIR AT POLICE DEPT	340.00
02/19/2021	316033	DTN, LLC	WEATHER SERVICES	972.00
02/19/2021	316034	EDDY, KAYLAH	EASEMENT-E MILHAM RECONSTRUCTION PROJ	651.60
02/19/2021	316035	EDWARDS INDUSTRIAL SALES, INC.	REPAIR AND MAINTENANCE	39.95
02/19/2021	316036	EMERGENCY VEHICLE PRODUCTS	POLICE VEHICLE REPAIR/MAINT	1,036.94
02/19/2021	316037	ESSIX, DOMINIQUE L	BLACK HISTORY MONTH PERFORMANCE	100.00
02/19/2021	316038	FIRE DEPARTMENT TRAINING NETWORK	FIRE MEMBERSHIPS	300.00
02/19/2021	316039	FIRST DAY SHOE FUND	FY 20-21 HUMAN SERVICES BOARD	500.00
02/19/2021	316040	GOLDENBELD, PAUL	EASEMENT-E MILHAM RECONSTRUCTION PROJ	733.05
02/19/2021	316041	HALT FIRE, INC.	FIRE APPARATUS MAINT	4,514.97
02/19/2021	316042	HEALTHSOURCE SOLUTIONS, LLC	WELLRIGHT PORTAL QUARTERLY FEE	1,814.35
02/19/2021	316043	HEANY, BRYAN	BLACK HISTORY MONTH - AUDIO SERVICES	105.00
02/19/2021	316044	HIGLEY, SARAH	SCHRIER RENTAL FEES & DEPOSIT REFUND	450.00
02/19/2021	316045	HITS	TR ADVANCED VEH CONTRABAND CONCEALMENT	250.00
02/19/2021	316046	HITS	TR CRIMINAL PATROL/DRUG INTERDICTION	250.00
02/19/2021	316047	HOME DEPOT	WINTER MAINTENANCE/SUPPLIES	867.50
02/19/2021	316048	HOWE, HAROLD AND LARUEL	OVERPAYMENT WINTER TAX 7032 LEAWOOD ST	30.00
02/19/2021	316049	IMAGETREND, INC.	FIRE SOFTWARE	9,000.00
02/19/2021	316050	INT'L INSTITUTE MUNI. CLERKS	IIMC ANNUAL CONFERENCE REGISTRATION	385.00
02/19/2021	316051	KALAMAZOO COUNTY TREASURER	OAKBROOK JAN & FEB MOBILE HOME TAXES	645.00
02/19/2021	316052	KALAMAZOO COUNTY TREASURER	2021 DOG LICENSE SALES PAYMENT	900.00
02/19/2021	316053	KALAMAZOO COUNTY TREASURER	4TH QTR 2020 BILLING SUBPOENA BY MAIL	278.25
02/19/2021	316054	KALAMAZOO LITERACY COUNCIL	FY 20-21 HUMAN SERVICES BOARD	500.00
02/19/2021	316055	KALAMAZOO MALL LLC	MICHIGAN TAX TRIBUNAL #20-001654 REFUND	489,646.57
02/19/2021	316056	KINGSLEY, RICHARD A	EASEMENT-E MILHAM RECONSTRUCTION PROJ	407.25
02/19/2021	316057	KITCH DRUTCHAS WAGNER VALITUTTI & S	PROFESSIONAL SERVICES RENDERED	570.00
02/19/2021	316058	KZOO TIRE COMPANY	POLICE VEHICLE REPAIR	1,392.80
02/19/2021	316059	LANGUAGE LINE, INC	LANGUAGE SERVICES	76.58
02/19/2021	316060	LK HOLDINGS LLC	EASEMENT-E MILHAM RECONSTRUCTION PROJ	4,735.50

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/14/2021 to 02/27/2021

Page 5 of 7

Check Date	Check	Vendor Name	Description	Amount
02/19/2021	316061	MARTINAZZI, ADAM M	EASEMENT-E MILHAM RECONSTRUCTION PROJ	447.98
02/19/2021	316062	MAYNARD, KIRK	EASEMENT-E MILHAM RECONSTRUCTION PROJ	447.98
02/19/2021	316063	MCBRIDE, ROBERT J	EASEMENT-E MILHAM RECONSTRUCTION PROJ	447.98
02/19/2021	316064	MCDONALD'S TOWING & RESCUE, INC.	TOWING SERVICES	340.50
02/19/2021	316065	METRO BUILDING INSPECTORS ASSOC.	MEMBERSHIP RENEWAL	65.00
02/19/2021	316066	METRO BUILDING INSPECTORS ASSOC.	MEMBERSHIP RENEWAL	65.00
02/19/2021	316067	MICH MUNICIPAL POLICE & FIRE REPAIR	POLICE VEHICLE REPAIR AND MAINT	2,280.95
02/19/2021	316068	MICHIGAN MUNICIPAL LEAGUE	MML AD FOR PURCHASING MANAGER	160.08
02/19/2021	316069	MULDER INSULATION INC	CDBG GEBAUER 7710 JULIE INSULATION	1,700.00
02/19/2021	316070	NELSON'S HARDWARE	OPERATING SUPPLIES	28.97
02/19/2021	316071	NEWHALL KLEIN	UPDATES TO TECH PLAN LAYOUT	2,500.00
02/19/2021	316072	NUANCE COMMUNICATIONS	WINScribe LICENSES/ANNUAL MAINT CONTRACT	1,855.62
02/19/2021	316073	O'REILLY AUTO PARTS	FLEET MAINTENANCE	6.64
02/19/2021	316074	OAKLAND COMMUNITY COLLEGE/CREST	EVIDENCE TECH SCHOOL	695.00
02/19/2021	316075	OFFICE DEPOT, INC.	OFFICE SUPPLIES	524.51
02/19/2021	316076	ON DUTY GEAR, LLC	ID TAGS	122.90
02/19/2021	316077	PADULA, MONICA BROOKE WASHINGTON	BLACK HISTORY MONTH PRESENTATION	400.00
02/19/2021	316078	PAVEK, PATRICIA	PING PONG SESSION 2 REFUND	30.00
02/19/2021	316079	PEERLESS, INC.	BAGS OF SALT	500.00
02/19/2021	316080	RATHCO SAFETY SUPPLY, INC.	TRAFFIC CONTROL SERVICES	465.00
02/19/2021	316081	RENEWED EARTH, INC.	LEAF AND BRUSH REMOVAL	9,083.33
02/19/2021	316082	ROWERDINK, INC.	MAINTENANCE SUPPLIES	788.51
02/19/2021	316083	ROWLEY BROTHERS, INC.	HYDRAULIC AND MOTOR OIL	1,040.00
02/19/2021	316084	SEARLES, RON	NATIONAL FIRE PROTECTION 2020 CODE BOOKS	245.45
02/19/2021	316085	SEELYE FORD, INC.	VEHICLE MAINTENANCE/ REPAIR	1,362.71
02/19/2021	316086	SHI INTERNATIONAL CORP.	MINI PC MONITOR	2,357.50
02/19/2021	316087	SIGN SHOP OF WESTERN MICHIGAN	A-FRAME SIGN INSERT	150.00
02/19/2021	316088	SPRING CREST CUSTOM DRAPERIES	MINI BLIND	225.00
02/19/2021	316089	STATE OF MICHIGAN	SOR REGISTRATIONS	360.00
02/19/2021	316090	STATE OF MICHIGAN (EGLE)	2021 STORM WATER ANNUAL PERMIT FEE	4,000.00
02/19/2021	316091	STATE OF MICHIGAN (SUW TAX)	SALES TAX REMITTANCE	101.10
02/19/2021	316092	STATE SYSTEMS RADIO, INC	RADIO SERVICES	2,132.67
02/19/2021	316093	STEENSMA LAWN & POWER EQUIPMENT	REPAIR/MAINTENANCE SUPPLIES	485.76
02/19/2021	316094	STONERIDGE BUILDERS	BID BOND PAYMENT REFUND	621.26

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/14/2021 to 02/27/2021

Page 6 of 7

Check Date	Check	Vendor Name	Description	Amount
02/19/2021	316095	SUPERIOR BUSINESS SOLUTIONS	PDPS BRANDED STRETCH TABLE COVERS	230.00
02/19/2021	316096	TACTRON, INC.	FIRE OPS SUPPLIES	11.69
02/19/2021	316097	THAD REEDER AUTOMOTIVE LLC	VEHICLE REPAIRS	372.42
02/19/2021	316098	TOWER PINKSTER TITUS ASSOCIATES	PROFESSIONAL SERVICES FOR FIBER OPTIC	376.21
02/19/2021	316099	ULINE, INC.	DPW CLEANING SUPPLIES	259.83
02/19/2021	316100	USPS	YEARLY BUSINESS REPLY MAIL PERMIT	245.00
02/19/2021	316101	USPS	PORTAGER POSTAGE	8,600.00
02/19/2021	316102	VANDERNOOT, JULIE	VAL DRIVE THRU SUPPLIES/SR CENTER	240.46
02/19/2021	316103	VERMEER	RIGGING ROPES	805.88
02/19/2021	316104	WASHCO, LLC	GRAFFITI REMOVAL AT HAVER HILL & WATER TWR	490.00
02/19/2021	316105	WEDEL'S INC.	50 CARNATIONS	62.01
02/19/2021	316106	WILD, JED	FIRE CONSULTANT	1,085.00
02/19/2021	316107	WILLIAMS & WORKS	ENGINEERING SERVICES-LOVERS LANE	15,188.75
02/19/2021	316108	WMACP	WMACP MEMBERSHIP RENEWAL	25.00
02/19/2021	316109	YARZEBINSKI, STEPHANIE	HAYLOFT THEATRE FEES & DEPOSIT REFUND	920.00
02/24/2021	316110	BLUE CROSS/BLUE SHIELD OF MICH	BCBSM MEDICARE PLUS BLUE PPO	240.50
02/26/2021	316111	GREATER KALAMAZOO FOP LODGE 98	FOP PORTION OF PPOA DUES FOR FEB 2021	2,910.76
02/26/2021	316112	HALL BUILDERS LLC	GENERAL CONTRACTOR SERVICES FIRE ST 2	319,583.10
02/26/2021	316113	KALAMAZOO COUNTY LAND BANK	KALAMAZOO COUNT LAND BANK 2020 TAX DIST	4,069.42
02/26/2021	316114	STATE OF MICHIGAN	2020 STATE OF MI SCHOOL AID FUND LAND BK DIS	554.50
02/26/2021	316115	UNITED PARCEL SERVICE	UPS WEEKLY	33.86
02/26/2021	316116	VERIZON WIRELESS	WIRELESS CARDS	5,290.49
02/26/2021	316117	WATER EDGE PROPERTIES, LLC	2020 SUM TAX REFUND 08460-004-B	7,329.31
02/26/2021	316118	WATER EDGE PROPERTIES, LLC	2020 WINTER TAX REFUND 08460-004-B	599.85
02/26/2021	316119	WMOTA	EMERGING LEGAL TRENDS/LIABILITY MGMT TRNG	50.00
Total Paper Checks				1,013,242.47

Check Type: Auto-Pay Payments

02/12/2021	CONSUMERS AUTOPAY	GAS-ELECTRIC	1,973.30
02/16/2021	CONSUMERS AUTOPAY	GAS-ELECTRIC	5,806.69
02/17/2021	CONSUMERS AUTOPAY	GAS-ELECTRIC	6,060.91
02/18/2021	CONSUMERS AUTOPAY	GAS-ELECTRIC	206.37
Total Auto-Pay Payments			14,047.27

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/14/2021 to 02/27/2021

Page 7 of 7

Check Date	Check	Vendor Name	Description	Amount
Check Type: Electronic Payments				
02/16/2021		EAGLE CLAIMS	WORKERS' COMPENSATION	26,562.72
02/24/2021		HUNTINGTON NATIONAL BANK	DEBT SERVICE/CIP REFUNDING	485,705.63
02/25/2021		COMERICA	INVESTMENTS	500,000.00
02/19/2021		MULTIPLE	WEEKLY TAX DISBURSEMENT 2/12/21	1,293,463.37
02/23/2021		SBF	PERSONAL PROPERTY ASSESSMENTS POSTAGE	301.24
02/26/2021		MULTIPLE	WEEKLY TAX DISBURSEMENT 2/19/21	721,604.43
02/25/2021		ICMA	DEPT HEAD & CM PENSION PAYMENTS	17,058.93
02/26/2021		ICMA	PENSION WITHHOLDINGS	44,323.35
02/26/2021		HUNTINGTON NATIONAL BANK	DEBT SERVICE PAYMENT	65,406.88
			Total Electronic Payments:	3,154,426.55
			Grand Total	4,631,950.04

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Fiscal Year 2020-2021 Proposed Budget Review Schedule

SUPPORTING PERSONNEL: Lauren VanderVeen, Finance Director

ACTION RECOMMENDED: Establish Tuesday, April 20 from 5:00 to 8:00 p.m. and Tuesday, May 11 from 4:00 to 6:00 p.m. as the dates for review of the proposed Fiscal Year 2021-2022 Budget.

City Council will receive the proposed Fiscal Year 2021-2022 budget on April 13, 2021. The budget review schedule has been developed to permit review of all budget aspects. Budget review sessions are proposed for Tuesday, April 20 and Tuesday, May 11 at 4:00 p.m. On each of the proposed dates, sessions will be held virtually.

Further, a public hearing on the proposed budget will be held during the May 11, 2021, regular meeting of City Council, with formal adoption scheduled for May 25, 2021. The review sessions, public hearing and other Council meetings will provide ample opportunity for City Council analysis and public comment.

FUNDING: N/A

Attachments: None

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Special Meeting for Board and Commission Applicants

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

ACTION RECOMMENDED: Set a Special Meeting on Tuesday, May 25, 2021, beginning at 5:15 p.m., to interview Board and Commission applicants.

The City of Portage relies on citizen participation on many Boards and Commissions that help to serve the community. The advice received from these groups assists the City Council and City Administration in making Portage *A Natural Place to Move!* The citizens provide the talent and experience needed to meet the diverse challenges facing the community. Interviews of Board and Commission applicants are performed each year in January, May and October.

As reflected on the attached Board and Commission Vacancy Summaries and per the *Policy for Appointments to Citizen Advisory Boards*, Council will interview applicants to fill vacancies on the following Board and Commissions:

Construction Board of Appeals	2 expiring terms
Planning Commission	3 expiring terms
Youth Advisory Committee	30 expiring terms
Historic District Commission	1 vacancy
Local Officers Compensation Commission	1 expiring term, 1 vacancy
Park Board	1 vacancy
Senior Citizen's Advisory Board	1 (alt) vacancy
Zoning Board of Appeals	2 (alt) vacancies

It is recommended that City Council set a Special Meeting on Tuesday, May 25, 2021, beginning at 5:15 p.m., to interview Board and Commission applicants.

FUNDING: N/A

- Attachments:**
1. Vacancy Summary - Boards
 2. Vacancy Summary - Youth

BOARD/COMMISSION VACANCY SUMMARY
FOR MAY 25, 2021 SPECIAL MEETING

Interviews									Appointed:	End of Term:
Applicants:		Planning Commission 3 Exp terms	Construction Board of Appeals 2 Exp terms	Historic District Commission 1 Vacancy	Local Officers Compensation Commission 1 Exp terms 1 Vacancy	Park Board 1 Vacancy	Sr Citizen's Advisory Board 1 Alt Vacancy	Zoning Board of Appeals 2 Alt Vacancies		
Danny	Corriadini, Chr.	Member							7/11/2017	5/31/2021
Gerald	Myer	Member							5/21/2019	5/31/2021
Paul	Pezzoli	Member							5/8/2018	5/31/2021
Todd	Gasaway		Member						10/10/2017	6/1/2021
Gary	Gilchrist		Member						5/10/2011	6/1/2021
Vacancy				Vacancy						12/31/2022
Gary C.	Roberts				Member				5/21/2019	10/1/2019
Vacant					Vacancy					10/1/2020
Vacant						Vacancy				10/1/2021
Vacant- Alternate							Vacancy			10/1/2020
Vacant- Alternate								Vacancy		2/28/2020
Vacant- Alternate								Vacancy		2/28/2001

BOARD/COMMISSION VACANCY SUMMARY
FOR MAY 25, 2021 SPECIAL MEETING
YOUTH ADVISORY COMMITTEE

Residents		
First Name	Last Name	Status
Clarice	Bryant	Member
Tavishi	Budagavi	Member
Grace	Decker	Member
Laura	Durant	Member
Alex	Durian	Member
Grace	Freed	Member
Amiti	Goel	Member
Aaron	Henry	Member
Madeline	Herringa	Member
Janelle	Little	Member
Rahib	Malik	Member
Una	Metzger	Member
Jacob	Misejka	Member
Anna	Rachowicz	Member
Jaime	Sackett	Member
Anna	Sonday	Member
Hannah	Strackangast	Member
Conor	Sullivan	Member

Non Residents			
First Name	Last Name	Status	School/City
James	Asher	Member	PPS/Texas
Deshana	Betala	Member	PPS/Kalamazoo
Ashlyn	Haigh	Member	PPS/Texas
Drew	Lawler	Member	PPS/Texas
Eliza	Phares	Member	PPS/Kalamazoo
Fayyaz	Razi	Member	PPS/Kalamazoo
Mason	Teachman	Member	PPS/Texas
Noura	Warsi	Member	PPS/Texas

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Lume Cannabis Co. Appeal of Marihuana Denial

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

ACTION RECOMMENDED: Grant the request for an appeal of an Adult-Use Retail application from Attitude Wellness, LLC (dba "Lume Cannabis Co.") for 5324 Meredith Street.

During the current 2021 application window, which opened on March 1, Attitude Wellness, LLC (dba Lume Cannabis Co.), filed a retail marihuana application for an adult-use store at 5342 Meredith Street. During the prior 2020 application window, Lume Cannabis applied for a medical marihuana provisioning center and was granted provisional approval for the provisioning center by the city in December 1, 2020.

At this time, Lume Cannabis only has Provisional Approval from the City of Portage. Per Sec. 14-249 "Permit required" of the City of Portage Code of Ordinances: *"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."* To receive a marihuana facilities permit (or marihuana business permit to which it is more commonly referred), an applicant must meet the provisions of Sec. 14-255 of the Code of Ordinances, including *"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."* Lume Cannabis has not received a marihuana business permit from the City of Portage as of yet because construction at the 5342 Meredith Street location has not yet begun. As such, the application for a Retailer permit in the City of Portage for Lume Cannabis is denied at this time. Prior to submission of the Adult-Use application, Lume Cannabis requested the ability to complete construction of both the provisioning center operation and adult-use operation concurrently in an effort to streamline construction and initial operations costs.

On November 13, 2020, the State of Michigan Marihuana Regulatory Agency announced that effective March 1, 2021, a medical marihuana business license is no longer a pre-requisite in obtaining a marihuana retail business license. Specifically, beginning March 1, 2021, an applicant is no longer required to hold an active Medical Marihuana Facilities License in order to be eligible for adult-use licenses such as a marihuana retailer or processor. As relayed to City Council in December 2020, a

modification to the City of Portage Code of Ordinances is planned in order to comply with the regulations of the Marihuana Regulatory Agency. However, our City Attorney has shared that updating our Code of Ordinances should be completed closer to the current ordinance's November 2021 sunset clause as rules and regulations at the State level remain in flux. Rather than make Lume Cannabis wait several months to apply for a retail license that is currently permitted by the State of Michigan, it is recommended that City Council grant the appeal by Lume Cannabis and reverse the denial for a Marihuana Retail Business Permit.

FUNDING: Lume Cannabis has already submitted the \$5,000 application fee for the Marihuana Retail Business proposal for 5324 Meredith Street.

Attachments:

1. Appeal from Lume
2. 2021 03 04 Lume Cannabis - Retail (Next Steps)

Via Email

March 5, 2021

Portage City Council
c/o Erica L. Eklov, City Clerk
City of Portage
7900 South Westnedge Avenue
Portage, Michigan 49002

Re: Appeal of March 4, 2021 Denial

Dear Esteemed Members of the Portage City Council:

My firm represents Attitude Wellness, LLC d/b/a Lume Cannabis Co. ("Lume") with regard to cannabis licensing and regulatory matters. Lume previously submitted an application for an adult-use marihuana retail business permit, which was denied via letter dated March 4, 2021. Lume hereby respectfully appeals that denial pursuant to Section 14-252 because, among other reasons, the requirement in Sections 14-249 and 14-252(a)(2) that Lume must have a city marihuana facilities permit before it can apply for a marihuana retail business permit was modeled after the corresponding provision in MRTMA, see MCL 333.27959(6), but the MRA accelerated the two-year default sunset date in that provision, and it expired on March 1, 2021. Section 14-262 expressly provides that state laws and rules control and any conflicting Portage ordinance provisions are preempted. See also MCL 333.27956(3) ("A municipality . . . may not impose qualifications for licensure that conflict with [MRTMA] or rules promulgated by the [MRA].").

In closing, please let me just reiterate two other points for your consideration. First, Lume satisfied the state law requirement in MCL 333.27959(6) over two years ago, and it already has several state and local medical marihuana facility permits throughout Michigan. Indeed, all of those municipalities will attest that Lume is a great long-term community partner. And second, Lume will comply with Section 14-249 anyway (notwithstanding its preempted status) because Lume is not asking to receive a marihuana retail business permit alone or even before its city marihuana facilities permit is issued; rather, Lume just wants to apply for both simultaneously.

I want to sincerely thank you for your time and attention to this matter. Please do not hesitate to contact me if you have any questions or need anything else.

Very truly yours,

HONIGMAN LLP


Kevin M. Blair

John Abbo
Attitude Wellness, LLC (dba Lume Cannabis)
5324 Meredith Street
769 Chicago Rd, Floor 2
Troy, MI 48083

March 4, 2021

Dear Mr. Abbo,

Re: Application for a Marihuana Facilities Permit: Retailer – 5324 Meredith Street

The City of Portage has reviewed your application for a Marihuana Retail Business Permit. At this time, Attitude Wellness, LLC only has Provisional Approval from the City of Portage. Per Sec. 14-249 "Permit required" of the City of Portage Code of Ordinances: *"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."* To receive a marihuana facilities permit (or marihuana business permit to which it is more commonly referred), an applicant must meet the provisions of Sec. 14-255 of the Code of Ordinances. Attitude Wellness, LLC has not received a marihuana business permit from the City of Portage as of yet. As such, Attitude Wellness, LLC's application for a Retailer permit in the City of Portage is denied at this time.

Based on this finding, Attitude Wellness, LLC has two options:

1. Per Sec. 14-252, appeal the denial before the City Council in writing stating the basis for the appeal. This must be done within ten (10) days of receipt of this notice.
2. Withdraw the application as it pertains to the Retailer permit and receive a \$5,000 refund of that portion of the application fee. Request for a withdrawal should be submitted in writing to the City Clerk.

Should you have any questions or wish additional information, please contact the Office of the City Clerk at Portage City Hall, 7900 S. Westnedge Avenue, Portage, Michigan 49002. The telephone number is (269) 329-4511 and the e-mail address is cityclerk@portagemi.gov.

Sincerely,



Erica L. Eklov
City Clerk

c: Adam Herringa, Deputy City Manager
Michael Carroll, Deputy City Manager
Christopher Forth, Deputy Director of Planning & Neighborhood Svcs
Nicholas Arnold, Director of Public Safety – Police/Fire Chief
Catherine Kaufman, City Attorney

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Adoption of Notice of Intent Resolution

SUPPORTING PERSONNEL: Lauren VanderVeen, Finance Director

ACTION RECOMMENDED: Adopt the Notice of Intent Resolution to fund construction of various capital improvements.

The annual Capital Improvement Program (CIP) includes proceeds from bonds as part of the total revenue to fund projects each fiscal year. Past practice for bond issuance has been based on an estimate of the total expected expenditures realized and accrued on construction of non-utility projects as of June 30 to establish a level of borrowing sufficient debt and ensure a solid fund balance at year end. This practice has left many projects appropriated but unsupported by actual funding. To ensure a solid foundation for the CIP fund, and to take advantage of current low interest rates, bonding for projects approved and appropriated during the current and prior fiscal years is necessary.

Unfunded CIP projects total approximately \$15 million, requiring Capital Improvement Bonds in that amount to fund those construction and purchase costs. As is the case with every City of Portage bond issue, available reserves and surpluses will be analyzed prior to issuance to reduce the total dollar amount of bonds issued as much as possible.

Capital Improvement Projects for this issuance of bonds include:

- Portage Community Senior Center construction and property acquisition (\$9,400,000)
- Street and sidewalk construction and improvements (\$2,620,000)
- Trailway extension and improvements (\$345,000)
- Park improvements, landscaping, and amenities (\$211,000)
- Park development (\$845,500)
- Technology updates and improvements (\$486,000)
- Public facility improvements (\$796,000)
- Public infrastructure improvements (\$395,000)

Debt principal reductions for Fiscal Year 2020-2021 will total approximately \$7.8 million from annual principal payments and early redemption of old bonds. Consequently, this \$15 million “catch up” funding effort will increase total city debt by a maximum of \$7.3 million, resulting in a total debt level

of \$62 million. Capital improvements planned for Fiscal Year 2021-2022 are expected to require less debt than scheduled payments, reducing the debt level by approximately \$3.6 million by June 30, 2022, to a total of \$59 million.

The attached bond resolution was prepared by the City of Portage Bond Counsel. If approved, the resolution approving the Notice of Intention to Issue Capital Improvement Bonds will be published. A resolution authorizing the issuance of the Capital Improvement Bonds, Series 2021, and approving the Undertaking to Provide Continuing Disclosure will be presented at the April 13, 2021, City Council meeting.

It is recommended that the City Council approve the resolution approving the Notice of Intent to Issue Capital Improvement Bonds in an amount not to exceed \$15,000,000.

FUNDING: N/A

Attachments:

1. Notice of Intent Resolution, City of Portage Capital Improvement Bonds, Series 2021
2. Capital Improvement Project Descriptions

CITY OF PORTAGE

At a Virtual meeting of the City Council of the City of Portage, Michigan, held on the ____ day of _____, 2021, at __:__.m., Eastern Standard Time, at the City Hall in Portage, Michigan there were:

PRESENT: _____

ABSENT: _____

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

NOTICE OF INTENT RESOLUTION

City of Portage

Capital Improvement Bonds, Series 2021

WHEREAS, there have been prepared and presented to the City Council (the "Council") of the City of Portage, Michigan (the "City"), a description of improvements to the City of Portage (the "Capital Improvement Project"), all as more fully described in EXHIBIT A, pursuant to the terms of Act No. 34, Public Acts of Michigan, 2001 as amended ("Act 34"); and

WHEREAS, it has been estimated that the period of usefulness of the Capital Improvement Project is not less than 20 years and that the total cost of the Capital Improvement Project and issuing the Bonds will not exceed \$15,000,000 to be provided by the proceeds from the sale of bonds by the City pursuant to Act 34; and

WHEREAS, the City proposes to undertake the Capital Improvement Project and to incur taxable or tax-exempt debt (the "Reimbursement Obligations") to finance all or a portion of the costs of the Capital Improvement Project; and

WHEREAS, the City may make certain expenditures for said Capital Improvement Project prior to issuance of the Reimbursement Obligations and may wish to use the proceeds of the Reimbursement Obligations to reimburse all or a portion of said expenditures; and

WHEREAS, it is in the public interest and for the public benefit that the City designate an authorized officer for the purposes of declaring official intent of the City with respect to expenditures; and

WHEREAS, there has been prepared and attached hereto as APPENDIX I a form of notice entitled "NOTICE OF INTENTION OF THE CITY OF PORTAGE TO ISSUE CAPITAL IMPROVEMENT BONDS AND NOTICE OF RIGHT TO PETITION FOR REFERENDUM THEREON" (the "Notice of Intention").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTAGE, MICHIGAN, AS FOLLOWS:

1. **Approval of Plans:** The preliminary plans and estimates relating to the Capital Improvement Project and identified in EXHIBIT A hereto are hereby approved and ordered filed with the City Clerk.

2. **Insertion of Notice of Intent:** It is hereby determined that the Notice of Intention provides information sufficient to adequately inform the electors and taxpayers of the City of the nature of the obligations to be undertaken by the City by the issuance of the bonds and of their right under Act 34 to file a petition requesting a referendum election on the issuance of the bonds.

3. **Form of Notice of Intent:** The form and content of the Notice of Intention as set forth in Appendix I, are hereby approved, and the City Clerk is hereby authorized and directed to cause the Notice of Intention to be published once in the *Kalamazoo Gazette*, a newspaper of general circulation within the City which is hereby determined to be the newspaper reaching the largest number of electors and taxpayers of the City. The notice shall be inserted in an advertisement at least one-third of a page in size.

4. **Referendum Period:** The referendum period within which voters and taxpayers shall have the right to circulate petitions is 45 days after publication of the notice of intention authorized in paragraph 2.

5. **Official Intent:** The Finance Director of the City is hereby authorized to declare official intent of the City with respect to reimbursement.

6. **Individual Declarations of Intent:** Each declaration of official intent shall be substantially in the form set forth in APPENDIX II attached hereto and by this reference incorporated herein, and said form may be modified from time to time on the advice of bond counsel to the City and as necessary to conform to requirements of the reimbursement regulations as the same may be adopted by the Internal Revenue Service or amended from time

to time, or with the requirements of applicable rulings or regulations relating to tax-exempt borrowings.

7. **Filing Official Intent:** The Finance Director of the City is hereby directed to file each declaration of official intent in the office of the Clerk of the City of Portage, which location constitutes the customary location of the records of the City which are available to the general public.

8. **Declarations of Intent Available:** The City Clerk is further directed to assure that each declaration of intent is continuously available during normal business hours of the City on every business day of the period beginning the earlier of 10 days after the date of execution of said declaration of intent and ending on the date of issuance of the Reimbursement Bonds.

9. **Retention of Bond Counsel.** The firm of Clark Hill PLC, attorneys of Detroit, Michigan, is hereby retained to act as bond counsel for the City in connection with the issuance, sale and delivery of the Bonds.

10. **Retention of Financial Consultants.** MFCI, LLC, Troy, Michigan, is hereby retained to act as financial consultant and advisor to the City in connection with the sale and delivery of the Bonds.

11. **Conflicting Resolutions.** All resolutions and parts of resolutions in conflict with the foregoing are hereby rescinded.

12. **Effective Date.** This Resolution shall become effective immediately upon its adoption and shall be recorded in the minutes of the City as soon as practicable after adoption.

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, hereby certifies that the foregoing is a true and complete copy of a resolution duly adopted by the City of Portage City Council at its Virtual meeting held on the _____ day of _____, 2021, at which meeting a quorum was present and remained throughout and that an original thereof is on file in the records of the City. I further certify that the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, and that minutes of such meeting were kept and will be or have been made available as required thereby.

Clerk, City of Portage

DATED: _____, 2021

Approved as to Form

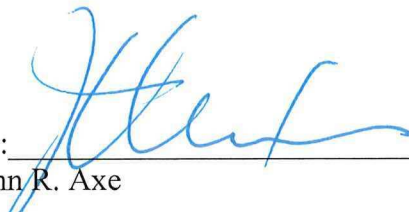
By: 
John R. Axe

EXHIBIT A

Capital Improvement Bonds, Series 2021

Project Descriptions

Community Senior Center Facility – Purchase of property and construction of a new two story, 32,000 square foot facility that will occupy a location between East Centre Ave and Brown St.

Public Facility Improvements – Department of Public Works facility, 7719 S Westnedge Ave, improvements to roof, HVAC, parking lot and driveway, install emergency exit drive, replace salt storage barn. City Hall, 7900 S Westnedge Ave, building and grounds improvements.

Public Infrastructure Improvements – Engineering and design for replacement of a failing dam on Portage Creek, approximately 1230 feet north of Milham Ave between Lovers Ln and the Portage Creek Bicentennial Park Trail. Landscaping and enhancement of the southeast corner of Portage Rd and Zylman Ave in the Lake Center District.

Technology Improvements – Public Safety, Police and Fire divisions, 7810 & 7830 Shaver Rd, replacement of computer, video, and situation monitoring equipment.

Park Improvements and Development – Design, engineering, structure and equipment replacements at 5 city parks: Celery Flats Park, 7335 Garden Ln: Eliason Nature Reserve, 1604 W Osterhout Ave: Haverhill Park, 6577 Hampton St: Lexington Green Park, 4750 Pittsford Ave: and Martin Luther King, Jr. Park, corner of Constitution Blvd and Mall Dr.

Trail Improvements and Extensions – Extend 10 ft wide asphalt trail along Romence Rd between Portage Rd and Sprinkle Rd. Austin Lake trail connection, a 12 ft wide paved trail following railroad right of way along east side of Austin Lake from E Centre Ave south to the city limits. Bishop's Bog Walk, replacement of trail deck sections between Shrier Park, 850 W Osterhout Ave, and the trailhead, 770 feet west of the S Westnedge Park entrance drive.

Streets and Sidewalks - Reconstruction and improvements to city streets to improve surfaces on S Westnedge from Kilgore Rd to Trade Center Way, E Centre Ave from Portage Rd to Sprinkle Rd, Oakland Dr from Osterhout Ave to south city limits, and E Milham from S Westnedge Ave to Portage Rd. Traffic signal and system upgrades and replacements at the Westnedge/Shaver intersection, and on Milham between Angling and Portage.

TOTAL COST ESTIMATES

Construction Costs, Acquisition Costs, Architects, Engineering Costs Furnishing and Equipment Costs, Financing Costs, & Contingency	\$15,000,000
Total For Project:	\$15,000,000

APPENDIX I

NOTICE OF INTENTION OF THE CITY OF PORTAGE TO ISSUE NOT TO EXCEED \$15,000,000 IN CAPITAL IMPROVEMENT BONDS AND NOTICE OF RIGHT TO PETITION FOR REFERENDUM THEREON

TO ALL ELECTORS AND TAXPAYERS OF
THE CITY OF PORTAGE:

NOTICE IS HEREBY GIVEN that the City Council of the City of Portage, Michigan (the "City"), has authorized the issuance of not to exceed \$15,000,000 in Capital Improvement Bonds to provide for the acquisition and construction of improvements to the City of Portage located in the City described in Exhibit A attached hereto (the "Capital Improvement Project"). The Bond Resolution will provide further that the City will finance all or a portion of the total cost of the Capital Improvement Project by the issuance of one or more series of capital improvement bonds (the "Bonds") pursuant to the provisions of Act No. 34, Public Acts of Michigan, 2001, as amended ("Act 34"). The maximum amount of Bonds to be issued in one or more series shall not exceed \$15,000,000, the term of the Bonds shall not exceed 25 years and the Bonds shall bear interest at a rate or rates that will result in a net interest cost of not more than 5% per annum. The maximum Capital Improvement Project cost is estimated at not to exceed \$15,000,000.

FULL FAITH AND CREDIT AND TAXING POWER OF THE CITY OF PORTAGE WILL BE PLEDGED

NOTICE IS FURTHER GIVEN that in the Bond Resolution the City will obligate itself to make payments to the Bond Holder in amounts sufficient to pay the principal of and interest on the Bonds. The limited tax full faith and credit of the City will be pledged for the making of such bond payments. Pursuant to such pledge of its full faith and credit, the City will be obligated to levy such ad valorem taxes upon all taxable property in the City as shall be necessary to make bond payments, which taxes, however, will be subject to applicable statutory and constitutional limitations on the taxing power of the City. In addition to its obligation to make payments on the Bonds, the City will agree in the Bond Resolution to pay all costs and expenses of operation and maintenance of the Capital Improvement Project and all expenses of the City incidental to the issuance and payment of the Bonds, to the extent such expenses are not payable from the proceeds of the Bonds.

RIGHT TO PETITION FOR REFERENDUM

NOTICE IS FURTHER GIVEN to the electors and taxpayers of the City to inform them of the right to petition for a referendum on the question of issuing the Bonds. The City intends to issue the Bonds without a vote of the electors thereon. If, within 45-days after publication of this notice, a petition for referendum requesting an election on the Bonds, signed by not less than 10% or 15,000 of the registered electors of the City, whichever is less, has been filed with the City Clerk, the Bonds shall not be issued unless and until approved by a majority of the electors of the City voting thereon at a general or special election.

This notice is given by order of the City Council pursuant to Act 34. Further information may be obtained at the office of the City of Portage City Clerk, 7900 S. Westnedge Avenue, Portage, Michigan 49002.

EXHIBIT A

Capital Improvement Bonds, Series 2021

Project Descriptions

Project Descriptions

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TOTAL COST ESTIMATES

Construction Costs, Acquisition Costs,
Architects, Engineering Costs
Furnishing and Equipment Costs,
Financing Costs, & Contingency

\$15,000,000

Total For Project:

\$15,000,000

Erica Eklov
City Clerk

DATED: [Date of Publication]

APPENDIX II

FORM OF DECLARATION OF OFFICIAL INTENT

I, the undersigned _____ of the City of Portage, Michigan, do hereby certify as follows:

1. I am an officer of the City authorized to declare official intent of the City to reimburse expenditures made, prior to the issuance of debt, from the proceeds of said debt.

2. This Declaration relates to the following expenditures (the "Expenditures"):

Amount

General Purpose

3. The Expenditures are with respect to property (the "Property") having:

(A) the following general character, type or purpose:

_____;

(B) the following size, quantity or cost: _____; and

(C) a reasonably expected economic life at least one (1) year.

4. I understand that a substantial deviation between the above description of the Property for which the Expenditures are being made and the actual Property which is acquired or constructed will invalidate this declaration of official intent with the result that any proceeds of tax-exempt debt which are used to reimburse for the Expenditures will not be deemed to have been expended upon such reimbursement.

5. The City intends to reimburse the Expenditures by incurring taxable or tax-exempt debt (the "Reimbursement Obligations").

6. The expected source of funds that will be used to pay the Expenditures is as follows: _____.

7. The expected source of funds to be used to pay debt service on the Reimbursement Obligation is as follows: _____.

8. This declaration of intent is consistent with the budgetary and financial circumstances of the City as of the date hereof in that there are no funds which are now or are reasonably expected to be, (A) allocated on a long-term basis, (B) reserved, or (C) otherwise available pursuant to the City's budget, to pay the Expenditure.

9. The City does not have a pattern of failure to reimburse expenditures for which official intent has been declared in that at least seventy-five percent (75%) of all expenditures made after _____, for which the City has declared an intent to reimburse from the proceeds of taxable or tax-exempt debt have been, or are expected to be, so reimbursed.

10. I acknowledge that in the event that the City fails to use the proceeds of Reimbursement Obligations issued within three (3) years of the date hereof to reimburse expenditures the same may adversely affect the ability of the City to use the proceeds of tax-exempt obligations in the future to reimburse for expenditures made prior to the issuance of such obligations.

11. I further acknowledge that unless the Expenditures constitute preliminary expenditures (in the nature of architect services and soil testing but excluding land acquisition) for the Property not in excess of ten percent (10%) of the expected cost of the Capital Improvement Project of which the Property constitutes a part, the Expenditures will be paid within not in excess of two (2) years following the date hereof or, as an alternative, this declaration of intent will be renewed.

12. I further acknowledge that it is expected that the proceeds of Reimbursement Obligations will be used for reimbursement of each Expenditure not later than (A) the date that is one (1) year after the date on which such Expenditure is paid, or (B) the date that is one (1) year after the date on which the Property is placed in service.

13. I further acknowledge that I will assure that the allocation referenced in item 12 (A) will be evidenced by an entry on the records of the City maintained with respect to the Reimbursement Obligations, (B) will specifically identify the Expenditure being reimbursed, and (C) on the advice of the appropriate counsel will be sufficient to relieve the allocated proceeds of the Reimbursement Obligations covered by such entry from any restrictions under the relevant legal documents and applicable state law that apply only to unspent proceeds of Reimbursement Obligations.

14. I further acknowledge that I will assure that except as referenced in item 15 the proceeds of the Reimbursement Obligations that are used to reimburse the Expenditures will not be used, directly or indirectly, (A) to pay debt service on an issue of tax-exempt obligations, (B) to create or increase the balance in a sinking fund established for the payment of debt service on the Reimbursement Obligations or another issue of tax-exempt obligations of the City or to replace funds that have been, are being, or will be so used for reserve or replacement fund purpose, or (C) to reimburse any expenditures or any payment with respect to financing of an expenditure that was originally paid with proceeds of any tax-exempt obligations of the City to any person or entity other than the City.

15. I understand that item 14 does not prohibit the use of those proceeds of the Reimbursement Obligations that are used to reimburse the Expenditures for (A) deposit in a bona fide debt service fund (that is, a fund established to pay debt service on any tax-exempt obligation of the City, other than the Reimbursement Obligation, which is depleted annually except for a reasonable carry over amount not in excess of one (1) year's interest earnings on said fund or one-twelfth (1/12th) of annual debt service), (B) to pay current debt service coming due within the next succeeding one-year period on any tax-exempt obligation of the City, other than the Reimbursement Obligations, or (C) to reimburse for expenditures originally made from the proceeds of a tax-exempt obligation of the City which were not reasonably expected by the City, on the date of issue of such obligation, to be used for such expenditure.

IN WITNESS WHEREOF, the undersigned has executed this declaration of official intent this _____ day of _____, ____.

Project Description	Comment	Amount
<u>Community Senior Center Facility</u>		
Property acquisitions	Purchased homes on E. Centre	400,000
Construction	Construction currently in process	9,000,000
	Subtotal	9,400,000
<u>Streets and Sidewalks</u>		
Westnedge/Shaver traffic signal	Completed fall 2020	570,000
Westnedge resurface, TC Way to Kilgore	Construction complete; orig \$825K less Fed & MDOT	282,000
East Centre, Portage to Sprinkle	Project complete, \$1M in Fed funds	565,000
Oakland, S City Limit to Osterhout	In conjunction with RR crossing in 21-22	75,000
Westnedge, Shaver to Romence	Completed fall 2020	650,000
Milham traffic signal & fiber network	construction spring 2021; Fed Funds	350,000
E Milham, Westnedge to Portage	construction spring 2021; Fed Funds	128,000
	Subtotal	2,620,000
<u>Trailways</u>		
Park trail improvements	Replace 700 ft of boardwalk	185,000
Austin Lake Trail connection	Legal fees & acquisitions	100,000
Romence East Multi-use Trail Extension	East Side of City Connection to Trail System	60,000
	Subtotal	345,000
<u>Park Improvements</u>		
Court resurfacing/repair	S Westnedge Park	66,000
Ramona Park Improvements/Landscaping	Tennis courts, beach house	80,000
Playground improvements & amenities	Play structure Celery Flats, bike racks other parks	65,000
	Subtotal	211,000
<u>Park Development</u>		
Lexington Green Park Improvements	Design, playground, trails	225,000
Eliason Nature Reserve development	Land purchase, landscape, trail rerout, parking lot	530,000
Martin Luther King Jr. Park	Council request; design approved	90,500
	Subtotal	845,500
<u>Technology Improvements</u>		
Real Time Situation Monitoring	Accreditation requirement	136,000
Mobile Computer/Video Replacement	Patrol car computers & video	350,000
	Subtotal	486,000
<u>Public Facility Improvements</u>		
City Hall improvements	Building & grounds	280,000
Public Works Facility Parking & Driveway	Building, parking lot, driveway, roof	516,000
	Subtotal	796,000
<u>Public Infrastructure Improvements</u>		
Lake Centre District enhancement	Zylman/Portage corner	175,000
Elijah Root Mill Dam Design	Dam is failing, feasibility, design. Construction 21-22	120,000
	Subtotal	295,000
	Total	14,998,500

Minutes of Boards & Commissions

PLANNING COMMISSION

February 4, 2021 Virtual Meeting

The City of Portage Planning Commission virtual meeting of February 4, 2021 was called to order by Chairman Corradini at 7:00 p.m.

IN REMOTE ATTENDANCE

Kelly Peterson, Director of Community Development; Christopher Forth, Deputy Director of Planning & Neighborhood Services; Catherine Kaufman, City Attorney and Kyle Mucha, Zoning & Codes Administrator.

ROLL CALL

Ms. Peterson called the roll: Joshi (yes, Portage); Fries (yes, Portage); Corradini (yes, Portage); Pezzoli (yes, Portage); Baldwin (yes, Portage); Myer (yes, Portage); Youngs (logged into the virtual meeting at 7:18 p.m. Portage); Freiman (yes, Portage); Fawley (yes, Portage).

APPROVAL OF MINUTES:

A motion was made by Commissioner Baldwin, seconded by Commissioner Pezzoli to approve the November 5, 2020 and January 21, 2021 meeting minutes. Upon roll call vote, Joshi (yes); Fries (yes); Corradini (yes); Pezzoli (yes); Baldwin (yes); Myer (yes); Freiman (yes) Fawley (yes). The motion was approved 8-0.

NEW BUSINESS:

Tentative Plan Amendment for Woodbridge Hills Planned Development, 4100 West Centre Avenue. Director Peterson summarized the staff report related to an application submitted by Mr. Andrew DeNooyer, representing 633 Group dated January 28, 2021, to amend the previously approved Tentative Plan for the Woodbridge Hills Planned Development (PD). The applicant is proposing to change the land use designation of the property located at 4100 West Centre Avenue from commercial to multifamily residential. The applicant proposes to construct an apartment building, consisting of 48-60 residential units on the 1.45-acre parcel of land. Ms. Peterson informed the Commission that the proposed apartment building height, design, total number of units and setback distance from property lines will be finalized following the approval of the tentative plan amendment.

Mr. Andrew DeNooyer was present virtually to provide additional details regarding the proposed project. Mr. DeNooyer indicated that a recent market analysis was conducted that indicated Portage, and subsequently Woodbridge Hills, could support a higher density multi-family residential development project. Mr. DeNooyer indicated that the proposed parcel development would allow tenant access to the Woodbridge Hills shopping complex, recreational amenities (trails, bikeways). Mr. DeNooyer also indicated that the proximity to US-131 makes the development of this parcel of land attractive and desirable. Mr. DeNooyer finalized his summary by indicating to the Commission that the proposed project is still in the conceptual design phase.

Chairman Corradini opened the public hearing. Frank Tangney (4164 W. Centre Ave, #304), Cris Carpenter (4050 W. Centre Ave #215), Scott Fitzpatrick (4076 W. Centre Ave #210), Sally Zimmer (4128 W. Centre Ave #308), Linda Dove (4076 W. Centre Ave #110), Judy Goodwin (4024 W. Centre Ave #117) Amy Kurzman (4050 W. Centre Ave #214) and Gretchen Shannon (4024 W. Centre Ave #120) all residents of Marsh Pointe Condominiums, spoke in opposition to the proposed tentative plan amendment. The residents expressed concerns regarding the proposed density; storm water management/drainage since the Marsh Pointe Condominiums are located at a lower elevation; traffic impacts; and lack of greenspace for tenants of the development. The residents requested that traffic and environmental impact studies be conducted due to the scope of the project.

Kay Kossen, attorney with Kreis Enderle representing the Marsh Pointe Condominium Owners Association, spoke against the proposed plan amendment reiterated similar concerns expressed by residents related to; density, height, building setback, emergency access, and environmental concerns. There being no further public

comment, a motion was made by Commissioner Baldwin, seconded by Commissioner Pezzoli to adjourn the public hearing to the February 18, 2021 Planning Commission meeting. Upon roll call vote, Joshi (yes); Fries (yes); Corradini (yes); Pezzoli (yes); Baldwin (yes); Myer (yes); Youngs (yes); Freiman (yes) Fawley (yes). The motion passed 9-0.

City Attorney Kaufman clarified for the Commission that the request submitted by the applicant involves a land use designation change to the Woodbridge Hills tentative plan and not a zoning change as suggested by several Marsh Point residents and Attorney Kossen. Commissioner Freiman inquired with staff about Commission deliberation regarding the application. Mr. Forth responded that deliberation typically takes place after the second public hearing, once Commissioners have had a chance to hear all public comment and any supplemental discussion provided by the applicant. Mr. Forth indicated that applicant and staff will provide additional information regarding the concerns expressed by the citizens.

STATEMENT OF CITIZENS/COMMISSIONERS

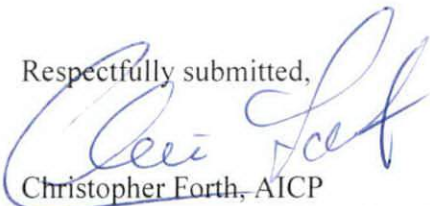
None.

ADJOURNMENT:

Commissioner Youngs asked that the January 21, 2021 meeting minutes be amended to indicate he was excused from the meeting. Commissioner Joshi amended the motion, which was supported by Commissioner Baldwin to acknowledge Commissioner Youngs was not present at the January 21, 2021 meeting. Upon roll call vote, Joshi (yes); Fries (yes); Corradini (yes); Pezzoli (yes); Baldwin (yes); Myer (yes); Youngs (yes); Freiman (yes) Fawley (yes). The motion passed 9-0.

There being no further business to come before the Commission, a motion was made by Commissioner Joshi, seconded by Commissioner Pezzoli to adjourn the meeting. Upon roll call vote, Joshi (yes); Fries (yes); Corradini (yes); Pezzoli (yes); Baldwin (yes); Myer (yes); Youngs (yes); Freiman (yes) Fawley (yes). The motion passed 9-0. The regularly scheduled meeting was adjourned at 8:05 p.m.

Respectfully submitted,



Christopher Forth, AICP

Deputy Director, Planning, Development & Neighborhood Services

TO: Honorable Mayor and City Council

FROM: Joseph La Margo, City Manager



SUBJECT: Ordinance Amendment-Storm Water Illicit Discharges & Connections

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Adopt the proposed amendments to the City of Portage Code of Ordinances Chapter 64 Storm Water, Illicit Discharges and Connections.

On September 20, 2019, the city was issued a new National Pollution Discharge Elimination System (NPDES) storm water permit through the Michigan Department of Environment, Great Lakes and Energy (EGLE) effective October 1, 2019, through October 1, 2022. NPDES permits are required by federal law for cities and municipalities that maintain storm drainage systems in urban areas with populations greater than 10,000. As a requirement of the permit, the city must maintain adequate and up-to-date ordinances and methods to control storm water runoff and amend ordinances and methods as necessary.

In July 2020, the current Storm Water, Illicit Discharges and Connections ordinance which had been approved by EGLE was adopted by City Council. Once the recorded ordinance was received by EGLE, additional updates were requested. Principally, the changes include:

- Change Best Management Practices to Nonpoint Source Best Management Practices Manual.
- Remove “or as approved by the Director of Transportation & Utilities” for channel protection, hot spot properties, and contaminated properties.
- Add “or as approved by the Director of Transportation & Utilities” for flooding standards and contaminated properties.

The changes continue to allow flexibility in addressing flood control and flood management while maintaining EGLE’s required and approved water quality standards and channel protection standards.

The first reading of this amendment took place during the January 26, 2021, Regular City Council Meeting. As such, it is recommended that City Council adopt the proposed amendment to the City of Portage Code of Ordinances Chapter 64 Storm Water, Illicit Discharges and Connections.

FUNDING: N/A

Attachments:

1. Chapter 64 Storm Water, Illicit Discharges and Connections - clean
2. Chapter 64 Storm Water, Illicit Discharges and Connections - redlined

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING CHAPTER 64, STORM WATER,
ILLCIT DISCHARGES AND CONNECTIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 64 shall be amended as follows:

ARTICLE 1. - IN GENERAL

Sec. 64-1. - Statutory authority and title.

This chapter is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq.; the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123, and 124; and other applicable state and federal laws.

The City shall administer, implement and enforce the provisions of this part. Any powers granted or duties imposed upon the City may be delegated by the City Manager to persons or entities acting in the beneficial interest of or in the employ of the City.

Sec. 64-2. - Findings.

The city finds that:

- (1) Illicit discharges contain pollutants that will significantly degrade the water bodies and water resources of the city.
- (2) Illicit discharges enter the MS4 and water bodies through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this chapter and implementing the same will address many of the deleterious effects of illicit discharges.

Sec. 64-3. - Purpose.

It is the purpose of this chapter to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To regulate the contribution of pollutants to the MS4 and water bodies by storm water discharges by any user.
- (2) To prohibit illicit discharges and connection to the MS4 and water bodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter.

Sec. 64-4. - Applicability, exemptions, and general provisions.

This chapter shall apply to all discharges entering the storm drain system generated on any developed and undeveloped lands, unless explicitly exempted.

Sec. 64-5. - Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized enforcement agency: Employees or designees of the director of the department of transportation and utilities designated to enforce this chapter.

Best management practices (BMPs): A practice, or combination of practices and design criteria that comply with the Michigan Department of Environment, Great Lakes, and Energy Nonpoint Source Best Management Practices Manual, or equivalent practices and design criteria that accomplish the purposes of this chapter (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the city engineer.

Chapter: The six articles of storm water.

City: The City of Portage.

Clean Water Act: The Federal Water Pollution Control Act, 33 USC section 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Director: The director of the department of transportation and utilities.

Discharger: Any person or entity who directly or indirectly discharges storm water from any property. Discharger also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this chapter.

Drain: Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, et seq., other than an established county or intercounty drain.

Drainage: The collection, conveyance, or discharge of groundwater and/or surface water.

Drainageway: MS4, drain, water body, or floodplain.

EGLE: Michigan Department of Environment, Great Lakes and Energy

EPA: The United States Environmental Protection Agency.

Exempted discharges: Discharges other than storm water as specified in section 64-7 of this chapter.

Floodplain: The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water, which has been or may be covered by floodwater.

Hazardous materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connection: Any method or means for conveying an illicit discharge into water bodies or the storm water system of the city.

Illicit discharge: Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this chapter.

MS4: Municipal separate storm sewer system, as defined by federal and state laws.

National pollutant discharge elimination system (NPDES) storm water discharge permit: A permit issued by the U.S. Environmental Protection Agency (EPA) (or a state under authority delegated pursuant to 33 USC section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Nonstorm water discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

Pollutant: A substance discharged which includes, but is not limited to, the following: Any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

Premises: Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Property owner: Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

State of Michigan Water Quality Standards: All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of section 3106 of part 31 of 1994 PA 451, as amended.

Storm drain: A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, groundwater, and drainage.

Storm water pollution prevention plan: A document, which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

Storm water runoff: The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Water body: A river, lake, stream, creek, or other watercourse or wetlands.

ARTICLE 2. - PROHIBITIONS AND EXEMPTIONS

Sec. 64-6. - Prohibited discharges.

- (a) No person shall discharge to a water body, directly or indirectly, any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (b) The city is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the storm water drainage system of the city.

- (c) **Prohibition of illicit discharges:** No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials including, but not limited, to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited, except for discharges specified in writing by the city as being necessary to protect public health, safety and welfare.
- (d) **Prohibition of illicit connections:**
 - (1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
 - (2) This prohibition expressly includes, without limitation, illicit connections made in the past regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) A person is considered to be in violation of this chapter if the person connects a conduit conveying wastewater to the MS4, or allows such a connection to continue.
- (e) The prohibition shall not apply to any nonstorm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Sec. 64-7. - Exempted discharges.

The following nonstorm water discharges shall be permissible, provided they are not significant contributors to violations of Water Quality Standards.

- (1) Water supply line flushing.
- (2) Landscape irrigation.
- (3) Diverted stream flows.
- (4) Rising groundwater.
- (5) Uncontaminated groundwater infiltration to storm drains.
- (6) Uncontaminated pumped groundwater.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensate.
- (10) Individual residential car washing.
- (11) Dechlorinated swimming pool water.
- (12) Street wash water.
- (13) Discharges or flows from emergency firefighting activities.
- (14) Discharges for which a specific federal or state permit has been issued.
- (15) Lawn watering runoff

- (16) Dye testing using EGLE approved dyes, so long as authorized by a EGLE Rule 97 Certificate of Approval, and preceded by a written notification to and permission from the Director of Transportation and Utilities.

Sec. 64-8. - Storage of hazardous or toxic materials in drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainageway, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a MS4, drain, or water body.

ARTICLE 3. - INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING

Sec. 64-9. - Inspection and sampling.

To assure compliance with the standards in this regulated area, the city may inspect and/or obtain storm water samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow the properly identified representative of the city to enter the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The city shall provide the discharger reasonable advance notice of such inspection and/or sampling, or monitoring including, but not limited to, smoke/dye testing, televising pipes, examination and/or copying of records that are required by this chapter to be maintained, sampling and excavation. The city or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a facility is a violation of this chapter.

Sec. 64-10. - Storm water monitoring facilities.

A discharger of storm water runoff suspected of violating this chapter shall provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility, when directed in writing to do so by the city. The city may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances, and regulations.

Sec. 64-11. - Accidental discharges.

- (a) Any discharger who accidentally discharges into a water body any substance other than storm water or an exempted discharge shall immediately inform the city concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the city within five days. The written report shall specify the following:
- (1) The composition of the discharge and the cause thereof.
 - (2) The exact date, time, and estimated volume of the discharge.
 - (3) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
 - (4) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.
- (b) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a legal action brought to obtain an injunction,

to obtain recovery of costs or to obtain other relief as a result of, or arising out of, the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of section 64-11(a).

Sec. 64-12. - Record keeping requirement.

Any person violating any part of this chapter or subject to monitoring under the chapter shall retain and preserve for no less than ten (10) years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any property.

Sec. 64-13 – Right of Entry & Furnishing Information

Representatives of the City, Michigan Department of Environment, Great Lakes and Energy (EGLE), Michigan Department of Transportation (MDOT) and Kalamazoo County Drain Commission (KCDC) shall have the right to enter at any reasonable time any property served by a storm water drainage facility for inspections, investigations, or monitoring. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the drainage system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of unlawful discharge.

ARTICLE 4. - ENFORCEMENT

Sec. 64-14. - Sanctions for violation.

- (a) Any person violating any provision of this chapter shall be responsible for a municipal civil infraction and subject to the penalties in section 1-7(e) of this Code. Each day such violation occurs or continues shall be deemed a separate offense, and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.
- (b) A notification of a violation shall be sent to any person violating any provision of this chapter. Notification of violation shall include a notice to cease the violation and corrective action which must be taken and a deadline for completion of such action. Failure to comply with the corrective action within the deadline or after an appeal pursuant to section 64-20 may be a basis to take enforcement action pursuant to section 64-15 or suspension of MS4 access as defined in section 64-19.
- (c) Any person who aids or abets a person in a violation of this chapter shall be subject to the sanctions provided in this section.

Sec. 64-15. - Failure to comply; completion.

In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the city may, after the giving of reasonable notice and opportunity for compliance as provided in section 64-14 (b), have the necessary work done, and the owner shall be obligated to promptly reimburse the city for all costs of such work.

Sec. 64-16. - Emergency measures.

When emergency measures are necessary to moderate a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the city is

authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this chapter, and shall promptly reimburse the city for all of such costs.

Sec. 64-17. - Cost recovery for damage to storm drain system.

A discharger shall be liable for all costs incurred by the city as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this chapter. Costs include, but are not limited to, those penalties levied by the EPA or EGLE for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 64-18. - Collection of costs; lien.

Costs incurred by the city pursuant to sections 64-15, 64-16, and 64-17 shall be a lien on the premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the finance director, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the city shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

Sec. 64-19. - Suspension of MS4 access.

- (a) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the MS4 or the environment, or to minimize danger to persons.
- (b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated, if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the city.

Sec. 64-20. - Appeals.

A written appeal may be taken to the city manager or his designated representative by any person affected by a decision or action of the director or the enforcing agency taken under this article not later than 30 days after said action or decision. Such appeal shall identify the matter being appealed and the basis for the appeal. An appeal shall stay all proceedings in furtherance of the action appealed unless the director certifies to the city manager that by reason of the facts a stay would cause imminent peril to life or property. The city manager shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the city manager may consider the recommendations of the city engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the city manager may grant a variance from the terms of this chapter so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the chapter provisions being appealed will present or cause practical difficulties for a facility; provided, however, that practical difficulties shall not include the need for the property owner to incur additional reasonable expenses in order to comply with the chapter; and
- (2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this chapter, nor result in less effective management of storm water runoff.

ARTICLE 5. - PERFORMANCE AND DESIGN STANDARDS

Sec. 64-21. - Responsibility to implement BMPs.

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

Sec. 64-22. Performance Standards.

1. Storm water management areas and facilities, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality. In order to be approved, all storm water management plans must meet the following performance standards:
 - (a) Runoff leaving the site shall be controlled to a non-erosive velocity, both during and after construction.
 - (b) Capture and treatment of runoff.
 - (c) Channel Protection Criteria.
 - (d) Flood Control.
2. Storm water storage facilities which protect water quality and provide channel protection shall be required for all sites. In order to improve the quality of storm water runoff and reduce the discharge of sediment into wetlands, watercourses, roadways, structures and other property within, and downstream of the City of Portage techniques and standards defined in the "Storm Water Design Criteria Manual – City of Portage, Michigan" shall be used.
3. Storm water storage facilities which prevent adverse flooding on-site and off-site shall be required for all sites. In order to prevent adverse flooding on-site and off-site techniques and standards defined in the "Storm Water Design Criteria Manual – City of Portage, Michigan" or as approved by the Director of Transportation and Utilities shall be used.
4. Pipes, conduits, ditches, drains, or other conveyance facilities shall not discharge directly to the following receiving waters without providing the minimum treatment volume and channel protection criteria:
 - (a) Any natural watercourses, including lakes, ponds, rivers and streams.

(b) Any wetlands.

5. **Operation and Maintenance.** All structural and vegetative best management practices installed as a performance standard for storm water management shall include a plan for maintaining maximum performance through the long-term operation and maintenance (O&M). The plan shall include a schedule for O&M procedures and recordkeeping provisions such as periodic inspections.
6. **Records Retention.** Inspection and other records pertaining to the O&M of best management practices for storm water quality protection shall be maintained by the property owner and retained for a minimum of ten (10) years.
7. No storm water management plan shall be approved if the Director of Transportation & Utilities finds that the action will or is likely to pollute, impair or destroy air, water or other natural resources or the public trust therein, provided that there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.

Sec. 64-23. Design Standards.

The City shall maintain design standards. Water quality standards and channel protection standards shall be as indicated in the "Storm Water Design Criteria Manual – City of Portage, Michigan." Flood control volume and flood management shall be as indicated in the "Storm Water Design Criteria Manual - City of Portage, Michigan" or as approved by the Director of Transportation and Utilities.

Sec. 64-24. "Hot Spots" Properties.

If the subject property is a potential "Hot Spot" area with the potential for significant pollutant loading or with the potential for contaminating public water supply (wells), additionally site-specific requirements may apply to address the contaminant(s) of concern. Example of typical "hot spots" areas included, but not limited to gas stations, commercial vehicle maintenance and repair, auto recyclers, recycling centers, and scrap yards. See City design standards related to address these properties in the "Storm Water Design Criteria Manual – City of Portage, Michigan."

Sec. 64-25 Contaminated Properties.

If the subject property contains soil and/or groundwater contamination, site-specific requirements may apply. See EGLE Post-Construction Storm Water Runoff Controls Program Compliance Assistance Document (MDEQ, 2014) for specifics regarding storm water. In addition, see Appendix 13 Soil and Groundwater Contamination in the "Storm Water Design Criteria Manual – City of Portage, Michigan."

Sec. 64-26 – 64-39. Reserved

ARTICLES 6. STORM WATER MANAGEMENT PLAN AND POST CONSTRUCTION

Sec. 64-40. Storm water Management Plan.

No building, grading, or sediment control permit shall be issued until a satisfactory storm water management plan (or a waiver thereof) shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this chapter. After review of the storm water management plan, and modifications to that plan as deemed necessary by the City, a storm water management final plan must be submitted to the City for approval. Information required for the storm water management plan is provided in the "Storm Water Design Criteria Manual – City of Portage, Michigan".

Sec. 64-41. Maintenance and Repair of Storm water BMPs.

- (a) **Storm water Best Management Practices Operations & Maintenance Agreement:** Prior to the issuance of any permit for development involving any storm water BMP, the applicant or owner of the site must execute a Storm water Best Management Practices Operations & Maintenance Agreement that shall be binding on all subsequent owners of land served by the storm water BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for inspection by the City or City's designee, as determined by the City and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City storm water requirements. The agreement shall be recorded by the City at the expense of the permit holder or property owners.
- (b) **Maintenance Covenants:** Maintenance of all storm water BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded prior to the storm water management final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts. Developer or entity responsible shall have the inspections performed by qualified persons or entities.
- (c) **Requirements for Maintenance Covenants:** All storm water BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. Developer or entity responsible shall have the inspections performed by qualified persons or entities. These needs may include (but are not limited to) removal of silt, litter, and other debris from all storm water treatment and conveyance facilities including ponds, infiltration basins, raingardens, catch basins, inlets, and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity responsible under a written maintenance agreement within 30 days, or as determined by the City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water BMPs.
- (d) **Inspection of Storm water BMPs:** Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in storm water BMPs, and evaluating the condition of storm water BMPs.
- (e) **Records of Installation and Maintenance and Repair Activities:** Parties responsible for the operation and maintenance of storm water BMPs shall be required to prepare an annual maintenance and inspection report including all records of the installation and of all maintenance and repairs conducted. The responsible parties shall retain the

report and records for at least ten (10) years or longer if the City Inspector deems it necessary. These report and records shall be made available to the City during inspection of the facility and at other reasonable times upon request.

- (f) **Failure to Maintain Storm water BMPs:** If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, the City, after reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the storm water BMP becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the storm water BMP in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the storm water BMP in an approved manner. After proper notice, the City may assess, jointly and severally, the owners of the storm water BMP or the property owners or the parties responsible for maintenance under any applicable written agreement for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes.

Sec. 64-42. - Effective date.

This Ordinance shall not become effective until 15 days after its adoption and publication.

Sec. 64-43 – 64.50. Reserved.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

CERTIFICATION

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 _____, 2021.

Erica Eklov, City Clerk

PREPARED BY:

Catherine P. Kaufman
Portage City Attorney
470 West Centre Avenue
Portage, MI 49024
(269) 382-4500

Approved as to Form:

Date: 1-12-2021

Catherine P. Kaufman
City Attorney

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING CHAPTER 64, STORM WATER,
ILLICIT DISCHARGES AND CONNECTIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 64 shall be amended as follows:

ARTICLE 1. - IN GENERAL

Sec. 64-1. - Statutory authority and title.

This chapter is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq.; the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123, and 124; and other applicable state and federal laws.

The City shall administer, implement and enforce the provisions of this part. Any powers granted or duties imposed upon the City may be delegated by the City Manager to persons or entities acting in the beneficial interest of or in the employ of the City.

Sec. 64-2. - Findings.

The city finds that:

- (1) Illicit discharges contain pollutants that will significantly degrade the water bodies and water resources of the city.
- (2) Illicit discharges enter the MS4 and water bodies through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this chapter and implementing the same will address many of the deleterious effects of illicit discharges.

Sec. 64-3. - Purpose.

It is the purpose of this chapter to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- (1) To regulate the contribution of pollutants to the MS4 and water bodies by storm water discharges by any user.
- (2) To prohibit illicit discharges and connection to the MS4 and water bodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this chapter.

Sec. 64-4. - Applicability, exemptions, and general provisions.

This chapter shall apply to all discharges entering the storm drain system generated on any developed and undeveloped lands, unless explicitly exempted.

Sec. 64-5. - Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized enforcement agency: Employees or designees of the director of the department of transportation and utilities designated to enforce this chapter.

Best management practices (BMPs): A practice, or combination of practices and design criteria that comply with the Michigan Department of ~~Environmental Quality Guidebook of BMPs for Michigan Watershed~~ Environment, Great Lakes, and Energy Nonpoint Source Best Management Practices Manual, or equivalent practices and design criteria that accomplish the purposes of this chapter (including, but not limited to, minimizing storm water runoff and preventing the discharge of pollutants into storm water) as determined by the city engineer.

Chapter: The six articles of storm water.

City: The City of Portage.

Clean Water Act: The Federal Water Pollution Control Act, 33 USC section 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Director: The director of the department of transportation and utilities.

Discharger: Any person or entity who directly or indirectly discharges storm water from any property. Discharger also means any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission which is or results in a violation of this chapter.

Drain: Any drain as defined in the Drain Code of 1956, as amended, being MCL 280.1, et seq., other than an established county or intercounty drain.

Drainage: The collection, conveyance, or discharge of groundwater and/or surface water.

Drainageway: MS4, drain, water body, or floodplain.

EGLE: Michigan Department of Environment, Great Lakes and Energy

EPA: The United States Environmental Protection Agency.

Exempted discharges: Discharges other than storm water as specified in section 64-7 of this chapter.

Floodplain: The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water, which has been or may be covered by floodwater.

Hazardous materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connection: Any method or means for conveying an illicit discharge into water bodies or the storm water system of the city.

Illicit discharge: Any discharge to water bodies that does not consist entirely of storm water, discharges pursuant to the terms of an NPDES permit, or exempted discharges as defined in this chapter.

MS4: Municipal separate storm sewer system, as defined by federal and state laws.

National pollutant discharge elimination system (NPDES) storm water discharge permit: A permit issued by the U.S. Environmental Protection Agency (EPA) (or a state under authority delegated pursuant to 33 USC section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Nonstorm water discharge: Any discharge to the storm drain system that is not composed entirely of storm water.

Pollutant: A substance discharged which includes, but is not limited to, the following: Any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act.

Premises: Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

Property owner: Any person having legal or equitable title to property or any person having or exercising care, custody, or control over any property.

State of Michigan Water Quality Standards: All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of section 3106 of part 31 of 1994 PA 451, as amended.

Storm drain: A system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, groundwater, and drainage.

Storm water pollution prevention plan: A document, which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

Storm water runoff: The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Water body: A river, lake, stream, creek, or other watercourse or wetlands.

ARTICLE 2. - PROHIBITIONS AND EXEMPTIONS

Sec. 64-6. - Prohibited discharges.

- (a) No person shall discharge to a water body, directly or indirectly, any substance other than storm water or an exempted discharge. Any person discharging storm water shall effectively prevent pollutants from being discharged with the storm water, except in accordance with BMPs.
- (b) The city is authorized to require dischargers to implement pollution prevention measures, utilizing BMPs, necessary to prevent or reduce the discharge of pollutants into the storm water drainage system of the city.

- (c) Prohibition of illicit discharges: No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials including, but not limited, to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited, except for discharges specified in writing by the city as being necessary to protect public health, safety and welfare.
- (d) Prohibition of illicit connections:
 - (1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
 - (2) This prohibition expressly includes, without limitation, illicit connections made in the past regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
 - (3) A person is considered to be in violation of this chapter if the person connects a conduit conveying wastewater to the MS4, or allows such a connection to continue.
- (e) The prohibition shall not apply to any nonstorm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the U.S. EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Sec. 64-7. - Exempted discharges.

The following nonstorm water discharges shall be permissible, provided they are not significant contributors to violations of Water Quality Standards.

- (1) Water supply line flushing.
- (2) Landscape irrigation.
- (3) Diverted stream flows.
- (4) Rising groundwater.
- (5) Uncontaminated groundwater infiltration to storm drains.
- (6) Uncontaminated pumped groundwater.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensate.
- (10) Individual residential car washing.
- (11) Dechlorinated swimming pool water.
- (12) Street wash water.
- (13) Discharges or flows from emergency firefighting activities.
- (14) Discharges for which a specific federal or state permit has been issued.
- (15) Lawn watering runoff

- (16) Dye testing using EGLE approved dyes, so long as authorized by a EGLE Rule 97 Certificate of Approval, and preceded by a written notification to and approval permission from the Director of Transportation and Utilities.

Sec. 64-8. - Storage of hazardous or toxic materials in drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainageway, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a MS4, drain, or water body.

ARTICLE 3. - INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING

Sec. 64-9. - Inspection and sampling.

To assure compliance with the standards in this regulated area, the city may inspect and/or obtain storm water samples from storm water runoff facilities of any discharger to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow the properly identified representative of the city to enter the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The city shall provide the discharger reasonable advance notice of such inspection and/or sampling, or monitoring including, but not limited to, smoke/dye testing, televising pipes, examination and/or copying of records that are required by this chapter to be maintained, sampling and excavation. The city or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a facility is a violation of this chapter.

Sec. 64-10. - Storm water monitoring facilities.

A discharger of storm water runoff suspected of violating this chapter shall provide and operate equipment or devices for the monitoring of storm water runoff, so as to provide for inspection, sampling, and flow measurement of each discharge to a water body or a storm water runoff facility, when directed in writing to do so by the city. The city may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained in accordance with applicable laws, ordinances, and regulations.

Sec. 64-11. - Accidental discharges.

- (a) Any discharger who accidentally discharges into a water body any substance other than storm water or an exempted discharge shall immediately inform the city concerning the discharge. If such information is given orally, a written report concerning the discharge shall be filed with the city within five days. The written report shall specify the following:
- (1) The composition of the discharge and the cause thereof.
 - (2) The exact date, time, and estimated volume of the discharge.
 - (3) All measures taken to clean up the accidental discharge, and all measures proposed to be taken to reduce and prevent any recurrence.
 - (4) The name and telephone number of the person making the report, and the name of a person who may be contacted for additional information on the matter.
- (b) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a legal action brought to obtain an injunction,

to obtain recovery of costs or to obtain other relief as a result of, or arising out of, the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of section 64-11(a).

Sec. 64-12. - Record keeping requirement.

Any person violating any part of this chapter or subject to monitoring under the chapter shall retain and preserve for no less than ten (10) years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or storm water runoff from any property.

Sec. 64-13 – Right of Entry & Furnishing Information

Representatives of the City, Michigan Department of Environment, Great Lakes and Energy (EGLE), Michigan Department of Transportation (MDOT) and Kalamazoo County Drain Commission (KCDC) shall have the right to enter at any reasonable time any property served by a storm water drainage facility for inspections, investigations, or monitoring. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the drainage system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of unlawful discharge.

ARTICLE 4. - ENFORCEMENT

Sec. 64-14. - Sanctions for violation.

- (a) Any person violating any provision of this chapter shall be responsible for a municipal civil infraction and subject to the penalties in section 1-7(e) of this Code. Each day such violation occurs or continues shall be deemed a separate offense, and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this chapter.
- (b) A notification of a violation shall be sent to any person violating any provision of this chapter. Notification of violation shall include a notice to cease the violation and corrective action which must be taken and a deadline for completion of such action. Failure to comply with the corrective action within the deadline or after an appeal pursuant to section 64-20 may be a basis to take enforcement action pursuant to section 64-15 or suspension of MS4 access as defined in section 64-19.
- (c) Any person who aids or abets a person in a violation of this chapter shall be subject to the sanctions provided in this section.

Sec. 64-15. - Failure to comply; completion.

In addition to any other remedies, should any owner fail to comply with the provisions of this chapter, the city may, after the giving of reasonable notice and opportunity for compliance as provided in section 64-14 (b), have the necessary work done, and the owner shall be obligated to promptly reimburse the city for all costs of such work.

Sec. 64-16. - Emergency measures.

When emergency measures are necessary to moderate a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the city is

authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation of this chapter, and shall promptly reimburse the city for all of such costs.

Sec. 64-17. - Cost recovery for damage to storm drain system.

A discharger shall be liable for all costs incurred by the city as the result of causing a discharge that produces a deposit or obstruction, or causes damage to, or impairs a storm drain, or violates any of the provisions of this chapter. Costs include, but are not limited to, those penalties levied by the EPA or EGLE for violation of an NPDES permit, attorney fees, and other costs and expenses.

Sec. 64-18. - Collection of costs; lien.

Costs incurred by the city pursuant to sections 64-15, 64-16, and 64-17 shall be a lien on the premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time. Any such charges which are delinquent for six months or more may be certified annually to the finance director, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the city shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended.

Sec. 64-19. - Suspension of MS4 access.

- (a) *Suspension due to illicit discharges in emergency situations.* The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4. If the violator fails to comply with a suspension order issued in an emergency, the city may take such steps as deemed necessary to prevent or minimize damage to the MS4 or the environment, or to minimize danger to persons.
- (b) *Suspension due to the detection of illicit discharge.* Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated, if such termination would abate or reduce an illicit discharge. The city will notify a violator of the proposed termination of its MS4 access. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the city.

Sec. 64-20. - Appeals.

A written appeal may be taken to the city manager or his designated representative by any person affected by a decision or action of the director or the enforcing agency taken under this article not later than 30 days after said action or decision. Such appeal shall identify the matter being appealed and the basis for the appeal. An appeal shall stay all proceedings in furtherance of the action appealed unless the director certifies to the city manager that by reason of the facts a stay would cause imminent peril to life or property. The city manager shall consider the appeal and make a decision whereby it affirms, rejects, or modifies the action being appealed. In considering any such appeal, the city manager may consider the recommendations of the city engineer and the comments of other persons having knowledge of the matter. In considering any such appeal, the city manager may grant a variance from the terms of this chapter so as to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:

- (1) The application of the chapter provisions being appealed will present or cause practical difficulties for a facility; provided, however, that practical difficulties shall not include the need for the property owner to incur additional reasonable expenses in order to comply with the chapter; and
- (2) The granting of the relief requested will not substantially prevent the goals and purposes sought to be accomplished by this chapter, nor result in less effective management of storm water runoff.

ARTICLE 5. - PERFORMANCE AND DESIGN STANDARDS

Sec. 64-21. - Responsibility to implement BMPs.

The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan as necessary for compliance with requirements of the NPDES permit.

Sec. 64-22. Performance Standards.

1. Storm water management areas and facilities, whether on-site or off-site, shall be designed, constructed, and maintained to prevent flooding and protect water quality. In order to be approved, all storm water management plans must meet the following performance standards:
 - (a) Runoff leaving the site shall be controlled to a non-erosive velocity, both during and after construction.
 - (b) Capture and treatment of runoff.
 - (c) Channel Protection Criteria.
 - (d) Flood Control.
2. Storm water storage facilities which protect water quality and provide channel protection ~~prevent adverse flooding on-site and off-site~~ shall be required for all sites. In order to improve the quality of storm water runoff and reduce the discharge of sediment into wetlands, watercourses, roadways, structures and other property within, and downstream of the City of Portage techniques and standards defined in the "Storm Water Design Criteria Manual – City of Portage, Michigan" ~~or as approved by the Director of Transportation and Utilities~~ shall be used.
- 2-3. Storm water storage facilities which prevent adverse flooding on-site and off-site shall be required for all sites. In order to prevent adverse flooding on-site and off-site techniques and standards defined in the "Storm Water Design Criteria Manual – City of Portage, Michigan" or as approved by the Director of Transportation and Utilities shall be used.

~~3.4.~~ Pipes, conduits, ditches, drains, or other conveyance facilities shall not discharge directly to the following receiving waters without providing the minimum treatment volume and channel protection criteria:

- (a) Any natural watercourses, including lakes, ponds, rivers and streams.
- (b) ~~Wetlands with unique or natural wildlife or habitat characteristics as defined by a profession wetlands delineation specialist, biologist or ecologists~~Any wetlands.
- (c) ~~Wetlands which are within a 500 foot distance of any natural lake or pond.~~
- (d) ~~Wetlands which are within a 100 foot distance of any river or stream.~~

~~4.5.~~ Operation and Maintenance. All structural and vegetative best management practices installed as a performance standard for storm water management shall include a plan for maintaining maximum performance through the long-term operation and maintenance (O&M). The plan shall include a schedule for O&M procedures and recordkeeping provisions such as periodic inspections.

~~5.6.~~ Records Retention. Inspection and other records pertaining to the O&M of best management practices for storm water quality protection shall be maintained by the property owner and retained for a minimum of ten (10) years.

~~6.7.~~ No storm water management plan shall be approved if the Director of Transportation & Utilities finds that the action will or is likely to pollute, impair or destroy air, water or other natural resources or the public trust therein, provided that there is a feasible and prudent alternative consistence-consistent with the reasonable requirements of the public health, safety and welfare.

Sec. 64-23. Design Standards.

The City shall maintain design standards. Water quality standards and channel protection standards shall be as indicated in the "Storm Water Design Criterial Manual – City of Portage, Michigan." ~~are referred to as~~Flood control volume and flood management shall be as indicated in the "Storm Water Design Criteria Manual - City of Portage, Michigan" or as approved by the Director of Transportation and Utilities.

Sec. 64-24. "Hot Spots" Properties.

If the subject property is a potential "Hot Spot" area with the potential for significant pollutant loading or with the potential for contaminating public water supply (wells), additionally site-specific requirements may apply to address the contaminant(s) of concern. Example of typical "hot spots" areas included, but not limited to gas stations, commercial vehicle maintenance and repair, auto recyclers, recycling centers, and scrap yards. See City design standards related to address these properties in the "Storm Water Design Criteria Manual – City of Portage, Michigan." ~~or as approved by the Director of Transportation and Utilities.~~

Sec. 64-25 Contaminated Properties.

If the subject property contains soil and/or groundwater contamination, site-specific requirements may apply. See EGLE Post-Construction Storm Water Runoff Controls Program Compliance Assistance Document (MDEQ, 2014) for specifics regarding storm water. In addition, see Appendix 13 Soil and Groundwater Contamination in the "Storm Water Design Criteria Manual – City of Portage, Michigan." ~~or as approved by the Director of Transportation & Utilities.~~

Sec. 64-26 – 64-39. Reserved

ARTICLES 6. STORM WATER MANAGEMENT PLAN AND POST CONSTRUCTION

Sec. 64-40. Storm water Management Plan.

No building, grading, or sediment control permit shall be issued until a satisfactory storm water management plan (or a waiver thereof) shall have undergone a review and been approved by the City after determining that the plan or waiver is consistent with the requirements of this chapter. After review of the storm water management plan, and modifications to that plan as deemed necessary by the City, a storm water management final plan must be submitted to the City for approval. Information required for the storm water management plan is provided in the "Storm Water Design Criteria Manual – City of Portage, Michigan".

Sec. 64-41. Maintenance and Repair of Storm water BMPs.

- (a) Storm water Best Management Practices Operations & Maintenance Agreement: Prior to the issuance of any permit for development involving any storm water BMP, the applicant or owner of the site must execute a Storm water Best Management Practices Operations & Maintenance Agreement that shall be binding on all subsequent owners of land served by the storm water BMP. The agreement shall provide for access to the BMP and the land it serves at reasonable times for inspection by the City or City's designee, as determined by the City and for regular or special assessments of property owners to ensure that the BMP is maintained in proper working condition to meet City storm water requirements. The agreement shall be recorded by the City at the expense of the permit holder or property owners.
- (b) Maintenance Covenants: Maintenance of all storm water BMPs shall be ensured through the creation of a formal maintenance covenant that must be approved by the City and recorded prior to the storm water management final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water BMPs. The covenant shall also include plans for periodic inspections to ensure proper performance of the BMPs between scheduled cleanouts. Developer or entity responsible shall have the inspections performed by qualified persons or entities.
- (c) Requirements for Maintenance Covenants: All storm water BMPs must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this chapter and accomplishment of its purposes. Developer or entity responsible shall have the inspections performed by qualified persons or entities. These needs may include (but are not limited to) removal of silt, litter, and other debris from all storm water treatment and conveyance facilities including ponds, infiltration basins, raingardens, catch basins, inlets, and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance or repair needs detected must be corrected by the developer or entity responsible under a written maintenance agreement within 30 days, or as determined by the City, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the storm water BMPs.
- (d) Inspection of Storm water BMPs: Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type

associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water or sediment quality standards or the NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in storm water BMPs, and evaluating the condition of storm water BMPs.

- (e) Records of Installation and Maintenance and Repair Activities: Parties responsible for the operation and maintenance of storm water BMPs shall be required to prepare an annual maintenance and inspection report including all records of the installation and of all maintenance and repairs conducted. The responsible parties shall retain the report and records for at least ten (10) years or longer if the City Inspector deems it necessary. These report and records shall be made available to the City during inspection of the facility and at other reasonable times upon request.
- (f) Failure to Maintain Storm water BMPs: If a responsible party fails or refuses to meet the requirements of the maintenance covenant or any provision of this chapter, the City, after reasonable notice, may correct a violation by performing all necessary work to place the BMP in proper working condition. In the event that the storm water BMP becomes a danger to public safety or public health, the City shall notify the party responsible for maintenance of the storm water BMP in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the storm water BMP in an approved manner. After proper notice, the City may assess, jointly and severally, the owners of the storm water BMP or the property owners or the parties responsible for maintenance under any applicable written agreement for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes.

Sec. 64-42. - Effective date.

This Ordinance shall not become effective until 15 days after its adoption and publication.

Sec. 64-43 – 64.50. Reserved.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

CERTIFICATION

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 _____, 202~~0~~1.

Erica Eklov, City Clerk

PREPARED BY:

Approved as to Form:

~~Randall L. Brown (P34116)~~ Catherine P. Kaufman

Date:

Portage City Attorney

~~1662 East Centre Avenue~~ 470 West Centre Avenue

City Attorney

Portage, MI ~~49002~~ 49024

(269) ~~323-8812~~ 382-4500

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