



Agenda

Regular Meeting of the City Commission

City of Kalamazoo

Tuesday, September 3, 2019

7:00 PM

City Commission Chambers at City Hall - 241 W. South Street

A. CALL TO ORDER/ROLL CALL

B. OPENING CEREMONY

1. Invocation: Reverend David W. Zomer, Bethany Reformed Church
2. Pledge of Allegiance
3. Introduction of Guests
4. Proclamations
 - a. Childhood Cancer Awareness Month

C. ADOPTION OF FORMAL AGENDA

D. COMMUNICATIONS

1. Calendar of Upcoming Meetings

E. PUBLIC HEARINGS

F. CONSENT AGENDA

(Action: Motion to approve Items "1-6"; hold Item "7" until September 16, 2019; and authorize the City Manager to sign all documents on behalf of the City)

1. First reading an ordinance rezoning 700 S. Howard Street from Zone CN-1 to Zone RM-36; and schedule a public hearing on September 16, 2019.
2. First reading of an ordinance to amend Section 4.2 of the Zoning Code regarding medical marihuana facility standards; and schedule a public hearing for September 16, 2019.
3. First reading of an ordinance to amend Section 4.3 of the Zoning Code regarding medical marihuana as a home occupation; and schedule a public hearing for September 16, 2019.
4. First reading of an ordinance amending Chapter 9 - The Building Code to make violations of this chapter municipal civil infractions and to modify sections regarding unsafe equipment, licensed

contractors, and dangerous buildings.

5. Adoption of a RESOLUTION concurring with the Kalamazoo County Brownfield Authority Brownfield Plan for Graphic Packaging International, LLC regarding the properties located at 1500, 1810, 1819 N Pitcher Street, 511 E Paterson Street, and 1401 Harrison Street.
6. Approval of the minutes from the City Commission meetings on April 29, May 6, May 20, June 3, June, 10, June 17, July 1, and July 15, 2019.
7. Approval of a purchase agreement with Arntemio Zavalain for the acquisition of 636 Lake Street for the Farmer's Market project and Bank Street realignment plan in the amount of \$37,000 plus closing costs. *(Hold until September 16, 2019)*

G. REGULAR AGENDA

H. REPORTS AND LEGISLATION

1. City Manager's Report

I. UNFINISHED BUSINESS

J. POLICY ITEMS

K. NEW BUSINESS

L. CITIZEN COMMENTS

M. MISCELLANEOUS COMMENTS BY COMMISSIONERS

N. CLOSED SESSION

O. ADJOURNMENT

ADDITIONAL INFORMATION

Get news, information, and alerts from the City of Kalamazoo. Sign up at www.kalamazooconnect.org/connect, follow @KalamazooCity on Twitter, and search for The City of Kalamazoo on Facebook.

Questions regarding agenda items may be answered prior to the meeting by contacting the City Manager's Office at 269.337.8047.

Persons with disabilities who need accommodations to effectively participate in City Commission meetings should contact the City Clerk's Office at 337-8792 a week in advance to request mobility, visual, hearing or other assistance.

Agendas for the regular meetings of the Kalamazoo City Commission are available on the

Internet at: www.kalamazoocity.org

The Kalamazoo City Commission business meetings are held on the first and third Mondays at 7:00 p.m. and are shown live on the Public Media Network (channel 190 for Charter customers, channel 99 for U-Verse customers). Business meetings are also web streamed live on the City's YouTube channel at <https://goo.gl/Q6DW37>. Public Media Network rebroadcasts these meetings on Tuesdays at 8:00 a.m., Wednesdays, at 1:00 a.m., and Thursdays at 3:00 p.m. Recorded meetings are also available on-demand on the YouTube channel.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners

FROM: Scott A. Borling, City Clerk

PREPARED BY: Shelby Moss, Deputy City Clerk

DATE: 8/5/2019

SUBJECT: Calendar of Upcoming Meetings

INFORMATIONAL ITEMS

Attached is the calendar of upcoming meetings of the City Commission's advisory boards, commissions, and committees.

ATTACHMENTS:

	Type	Description
▢	Meeting Schedule	20190903 Calendar of Meetings



Calendar of Upcoming Meetings

City of Kalamazoo

City Commission (next 30 days)

Regular Business Meetings – 7:00 p.m. in the City Commission Chambers

September 16th and October 7th

Regular Neighborhood Meetings – 6:00 p.m. in the Community Room at City Hall

September 16th

Advisory Boards, Commissions and Committees (next two weeks)

The **Employee Retirement System Board of Trustees** will meet on Wednesday, September 4, 2019 at 8:00 a.m. on the Third Floor Conference Room at City Hall.

The **Planning Commission** will meet on Thursday, September 5, 2019 at 7:00 p.m., in the City Commission Chambers at City Hall.

The **Shared Prosperity Kalamazoo Organizing Committee** will meet on Monday, September 9, 2019 at 12:30 p.m., in the Community Room at City Hall.

The **Natural Features Protection Review Board** will meet on Tuesday, September 10, 2019 at 4:00 p.m., in the Community Room at City Hall.

The **Citizen-Public Safety Review and Appeals Board** will meet on Tuesday, September 10, 2019 at 6:00 p.m. in the Parks and Recreation Community Room at Mayors' Riverfront Park, located at 251 Mills Street.

The **Kalamazoo Historic Preservation Commission** will meet on Tuesday, September 10, 2019 at 6:00 p.m., in the Community Room at City Hall.

The **Traffic Board** will meet on Thursday, September 12, 2019 at 2:00 p.m., in the Public Services Conference Room, located at 415 Stockbridge Avenue.

The **Community Development Act Advisory Committee** will meet on Thursday, September 12, 2019 at 6:30 p.m., in the Community Room at City Hall.

The **Zoning Board of Appeals** will meet on Thursday, September 12, 2019 at 7:00 p.m., in the City Commission Chambers at City Hall.

The **Foundation for Excellence Board** will meet on Friday, September 13, 2019 at 9:00 a.m., in the Community Room at City Hall.

The **Downtown Development Authority Board** will meet on Monday, September 16, 2019 at 3:00 p.m., in the Community Room at City Hall. The **Downtown Economic Growth Authority Board** will meet immediately following.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Rebekah Kik, Director Community Planning & Economic Development

PREPARED BY: Pete Eldridge, Assistant City Planner

DATE: 8/19/2019

SUBJECT: Rezoning of 700 S. Howard Street from CN-1 to RM-36.

RECOMMENDATION

It is recommended that the City Commission offer for first reading an ordinance rezoning 700 S. Howard Street from Zone CN-1 to Zone RM-36 and schedule a public hearing for September 16, 2019.

BACKGROUND

The applicant has indicated the desire to align the zoning with the current land use to protect their investment, provide for flexibility for this site if they choose to redevelop it in the future and achieve the correct zoning for this parcel as support by the Future Land Use Map.

The applicant is aware that the current zoning requires commercial uses on the ground floor level of all buildings on the site if this student house projects were to be redeveloped. This does not fit the profile of student house projects that this company owns and manages, and this area of Howard Street does not have a demand for more commercial tenants.

POLICY CONSIDERATIONS

The proposed rezoning aligns with the Future Land Use Map of the 2025 Master Plan which designates this area as R3 Residential - high density residential.

COMMUNITY RESOURCES CONSULTED

The Arcadia Neighborhood was notified of this request. The applicant reached out to Board members of the Arcadia Neighborhood Association and offered a conference call with the Board and any concerned citizens. Additionally, the applicant placed signs on the property and at the edge of the neighborhood indicating the date and time of the public hearing for the rezoning. The applicant has also indicated that flyers were dropped off door to door on the

adjacent neighborhood street behind their apartment complex prior to the Planning Commission hearing to advise property owners of the rezoning.

FISCAL IMPACT

None

ALTERNATIVES

The Commission could choose not to approve the rezoning and leave the apartment complex within Zone CN-1, Commercial Neighborhood District. However, the property is developed currently as high density residential and this provides an opportunity to align the zoning with the land use which is supported by the Future Land Use Map.

ATTACHMENTS:

Type	Description
▣ Minutes	Planning Commission Meeting Minutes 8/1/19
▣ Aerial Photo	Aerial Photo
▣ Map – Existing Zoning	Existing Zoning Map
▣ Map - Existing Land Use	Map of Existing Land Use
▣ Map – Future Land Use	Map of Future Land Use
▣ Ordinances	Rezoning Ordinance for 700 S. Howard St.
▣ Map	Ordinance Map

City of Kalamazoo
PLANNING COMMISSION
Minutes
August 1, 2019
DRAFT

Second Floor, City Hall
Commission Chambers
241 W. South Street, Kalamazoo, MI 49007

Members Present: Gregory Milliken, Chair; Emily Greenman Wright, Vice Chair; Alfonso Espinosa; Derek Wissner; Charley Coss; James Pitts

Members Excused: Sakhi Vyas

City Staff: Christina Anderson, City Planner; Clyde Robinson, City Attorney; Pete Eldridge, Assistant City Planner; Beth Cheeseman, Code Administration Clerk/Cashier

A. CALL TO ORDER

Commissioner Milliken called the meeting to order at 7:02 p.m.

B. ROLL CALL

Planner Anderson proceeded with roll call and determined that the aforementioned members were present.

C. ADOPTION OF FORMAL AGENDA

Planner Anderson stated there was an addition to the agenda under H. New Business. Members of the interview committee will discuss the first round of interviews.

Commissioner Greenman Wright, supported by Commissioner Espinosa, moved approval of the August 1, 2019 Planning Commission agenda as amended. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES

Commissioner Coss, supported by Commissioner Greenman Wright, moved approval of the June 6, 2019 Planning Commission minutes. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

None

F. PUBLIC HEARINGS

1. P.C. #2019.05. Request for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District). [**Recommendation: approval of the rezoning**]

Planner Eldridge came forward to present the staff report. He shared that the definition of CN-1 allows for small scale retail sales and personal service uses in or very near residential neighborhoods; allows for mixed-use developments with commercial on the ground floor and residential on the upper floors. This location currently has an apartment complex with 120 units with no commercial on ground floor. Planner Eldridge stated that the request is to bring the zoning into alignment with its current residential use. He added that the future land use is R-3 which is a high-density residential zone district. Planner Eldridge reviewed pictures of property and the area around it, noting the signs alerting the neighborhood of the rezoning. He noted that this zoning change is a “down zoning” to a less intense zoning district – just residential. The rationale for staff recommendation is the following: the rezoning aligns with existing development of the parcel; the rezoning is supported by Future Land Use map, and it eliminates ground floor commercial use requirement for CN-1 zone; the rezoning supports the goal to update the zoning ordinance and zoning map to match the vision of the Master Plan.

Mr. Eldridge stated that the standards for zoning have all been met. He said the City reached out to the Arcadia Neighborhood and to the applicant. The applicant reached out to the Arcadia neighborhood association; put up signs and took fliers door to door; set up a tentative conference call with board members of the Arcadia Neighborhood Association. The call was cancelled because no questions came in. The City has received no feedback from the public – positive or negative.

Applicant, Alex Tempalski, managing member of Alpha Capital Partners, Alpha 700 Soho, LLC, has owned the property for a little over 11 months. He said they went through extensive improvements to the property including taking care of code issues, adding security cameras and secure door access, changing management staff, making interior renovations, improving the landscaping/asphalt and some of the exteriors of the property. Mr. Tempalski said they are seeking to have zoning align with the current property usage and future use if it is to be developed. He reported that he received no calls, comments or concerns regarding the rezoning request.

Commissioner Milliken stated that he applauds the efforts to engage neighborhood. He asked why they are requesting the rezoning at this time. Mr. Tempalski replied that the original concern was two units outside of compliance which they cannot rent. To redevelop, he found they would have to put commercial in and they don’t want to do that. He said they determined it wasn’t properly zoned for its use.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed the public comment portion of the hearing.

Commissioner Greenman Wright asked why the City wasn’t the applicant if this is in line with the Master Plan and if there are other parcels in this zone which need to be redone. Planner Anderson answered the City will rarely be the applicant - only if doing large areas. She confirmed that at

some point they want to put in node zoning there. They are holding off on rezoning there so they can see Arcadia's neighborhood plan.

Commissioner Greenman Wright, supported by Commissioner Wissner, moved to recommend approval to the City Commission for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District).

Commissioner Milliken added that the request satisfies the requirements of zoning ordinance and the goals of the Master Plan.

Roll call vote was taken and passed. Commissioner Coss abstained.

2. P.C. #2019.06. Request for text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations. [**Recommendation: approval of the amendments**]

Attorney Robinson stepped forward to present some amendments to the ordinances pertaining to medical marihuana as a commercial business and as a caregiver. He stated these changes are a result of state regulatory rules which were adopted, and court cases decided by the Michigan Court of Appeals. Attorney Robinson said the State permits outdoor grow operations and that is one of the changes they made to City ordinance. If there is a barrier and plants are below fence height, then medical marihuana can be grown outdoors. He also noted that some of the amendments made are for clarification only. An example of that was regarding the separation between the various businesses. He said they attempted to make the words more clearly reflect intent and application of the separation distances. Attorney Robinson shared that the City has adopted the State rule that prohibits food preparation and consumption at a medical marihuana facility. He noted that you can sell edibles, but not consume them onsite. They wanted to be clear that you cannot have food consumption/preparation at a medical marijuana facility. Attorney Robinson said they also clarified, as a result of case law, that people are not permitted to operate as a medical marihuana business in Kalamazoo unless you have both a valid current state license and valid current City permit.

Attorney Robinson reported a change was made regarding medical marihuana as a home occupation. Due to case law, if caregivers want to operate from a commercial store front, they must allow that – the City can't restrict them to operate out of their home. The language that restricted caregivers as a home occupation has been deleted. There were also some amendments regarding the use of butane. He said when the State adopted medical marijuana law for commercialization, it specified that you cannot use butane extraction in a residential zone. Legislature was amended that to say you can't use any substances that have a flashpoint below 100 degrees Fahrenheit to extract resin in a residential zone because of its inherent danger. In a commercial area it is not a problem.

Commissioner Espinosa thanked Attorney Robinson for clarifying the changes and that they originated with the State.

Commissioner Milliken noted the 1st ordinance, section 4C compared to 3C. In 3C, the words, “is required” is deleted and in 4C it’s not but reads like it should be.

Commissioner Milliken asked for more clarification regarding foods and edibles. He wondered about the sale of food is prohibited, but they can sell edibles. Attorney Robinson clarified that under the statute, marihuana edibles are not considered food. He added that the intent of the amendment is that you don’t have them in the mix with restaurant food. Because they are not considered food, technically, they could consume the edible at the place where it is purchased.

Commissioner Greenman Wright spoke of the difference between microbrews and brewpubs – they are under different regulatory bodies than an establishment that has a liquor license. In the consumption of edibles, is it possible for someone to have a brewpub license and mix these two things. Attorney Robinson clarified that you can’t have consumption or dispensing of alcohol in the same building that you have a medical marihuana facility.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed public comment portion of the hearing.

Commissioner Espinosa asked if there is a method that can help caregivers to extract resin at their home for patients? He wondered if the City will consider that or will they wait for the State to address that. Attorney Robinson said they will take their cue from the state law.

Commissioner Wissner, supported by Commissioner Espinosa, moved to recommend approval of text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations with the changes to the safety compliance distance separation.

Commissioner Wissner felt the amendments were straightforward and he had no objections to them.

Commissioner Coss commented that he knows the City is following the lead of the state, but they went so fast in this, he thinks things need to be worked out better.

Commissioner Milliken expressed appreciation for the City’s efforts to stay on top of this and keep as close to compliance as possible.

Roll call vote was taken and passed. Commissioner Coss abstained.

G. UNFINISHED BUSINESS

None

H. NEW BUSINESS

Commissioners Milliken, Greenman Wright and Vyas interviewed applicants for the Planning Commission.

Commissioner Greenman Wright stated there was a wonderful set of 4 applicants they interviewed. She said all of them could be highly recommended. She said it was one of the most pleasurable set of interviews in which she had participated. She reviewed the applicants:

Coreen Ellis (South Westnedge Neighborhood): staff of YWCA; diverse background in education; Master's in Public Administration; a lot of experience with community engagement and advocacy work; motivated to be involved in local government.

Shardae Chambers (Westwood Neighborhood): came to Kalamazoo as a student; excited about community engagement and being involved in local government; has experience engaging with the Imagine Kalamazoo process; a lot of knowledge of the Master Plan; wants to be involved in shaping the future of land use in the city.

Joe Buck (Arcadia Neighborhood): background as real estate attorney; has had the experience of being an applicant; experience interfacing with the community and city staff in Illinois.

Gary Wark (Stuart Neighborhood): coming from the Zoning Board of Appeals. He has termed out with that Board and has invaluable knowledge; from the Stuart neighborhood.

Commissioners Greenman Wright and Milliken indicated they would like to recommend Coreen Ellis and Shardae Chambers. Commissioner Milliken stated that these are two impressive women who are engaged, positive, and not issue driven. He believes they would be good additions for the Planning Commission. Commissioner Greenman Wright said they were excited to see these candidates reflect the diversity of Kalamazoo as they are both women and are women of color.

Commissioner Milliken stated the other two candidates are good and if there is no vacancy on Planning Commission, they would be good on other boards or commissions.

Planner Anderson said the next step is to take the 4 candidates' information to the Mayor with recommendations. The mayor will then review the information and make a recommendation to City Commission. She said he could choose to take one forward now, or two forward now, or he could go in another direction. If the Commissioners are in support of committee's recommendations, Planning Staff will take those forward to the Mayor.

Commissioner Espinosa asked if there will there be another round of interviews.

Planner Anderson announced that Commissioner Coss is leaving the Commission, so there will be another vacancy. They will have another round of interviews to fill Commissioner Coss' position. She said they keep the pool of applicants and they are constantly looking for members to volunteer. Sometimes the candidates are asked if they are interested in other boards. Commissioner Coss announced they are always looking for help with the elections.

Commissioner Espinosa, with support from Commissioner Pitts, motioned to forward the interview committees recommendations to the Mayor.

Voice vote was taken, and the motion passed.

Planner Anderson stated again that Commissioner Coss was leaving the Commission. She thanked him for his service and gave him an Imagine Kalamazoo mug to remind him of the time he spent working on Imagine Kalamazoo and other things with City.

Commissioner Coss stated that it's been incredible to serve a City which has the input of citizens and community involvement. It is active and diverse, and it's good. He thanked the other Commissioners serving as well.

I. CITIZENS' COMMENTS (Regarding non-agenda items)

None

J. CITY COMMISSION LIAISON COMMENTS

None

K. CITY PLANNER'S REPORT

Planner Eldridge gave an update on three development projects.

Autobody on W Kalamazoo Avenue – mixed-use development. The site plan was recently approved, and the body shop is coming down in the future.

Bob Evans on Stadium Drive – will be an Honor Credit Union. The site plan was just submitted.

Chick Fil A on Drake and W Main is a step closer. Information was submitted to MDOT, and they are working closely with our traffic engineer to sort out traffic circulation issues. No site plan approval at this time.

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioners thanked Commissioner Coss for his service.

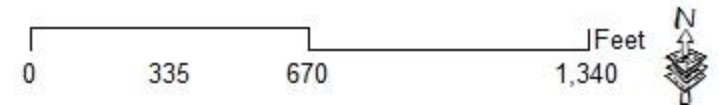
M. ADJOURNMENT

Commissioner Milliken adjourned the meeting at 7:57 pm.

P. C. #2019.05 - 700 S. Howard St,
Rezoning request from CN-1 to RM - 36

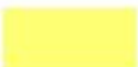


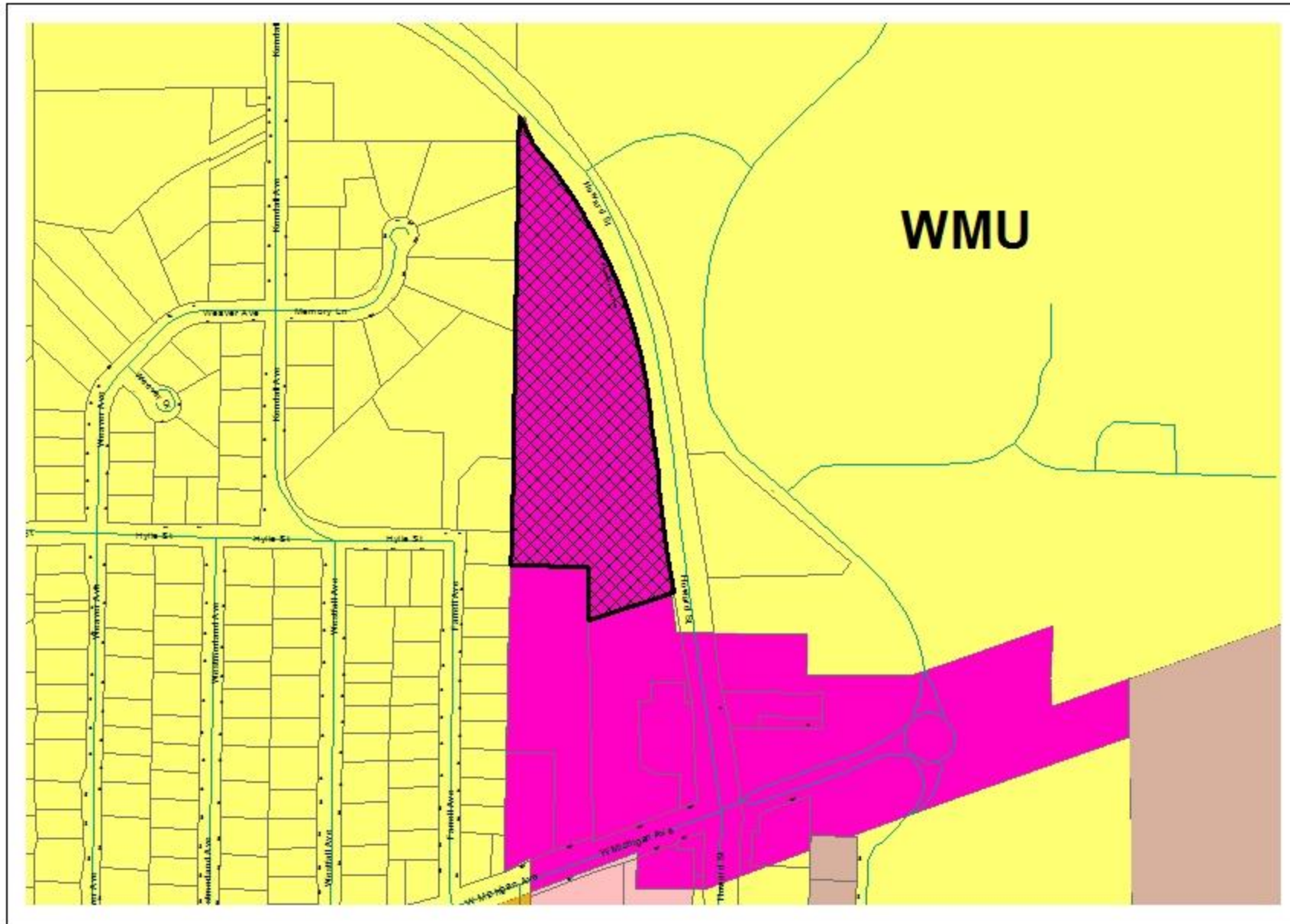
P. C. #2019.05 - 700 S. Howard St,



P. C. #2019.05 - 700 S. Howard St,
Rezoning request from CN-1 to RM - 36

**Current
Zoning**

-  CC
-  CN-1
-  RM-15C
-  RM-36
-  RS-5

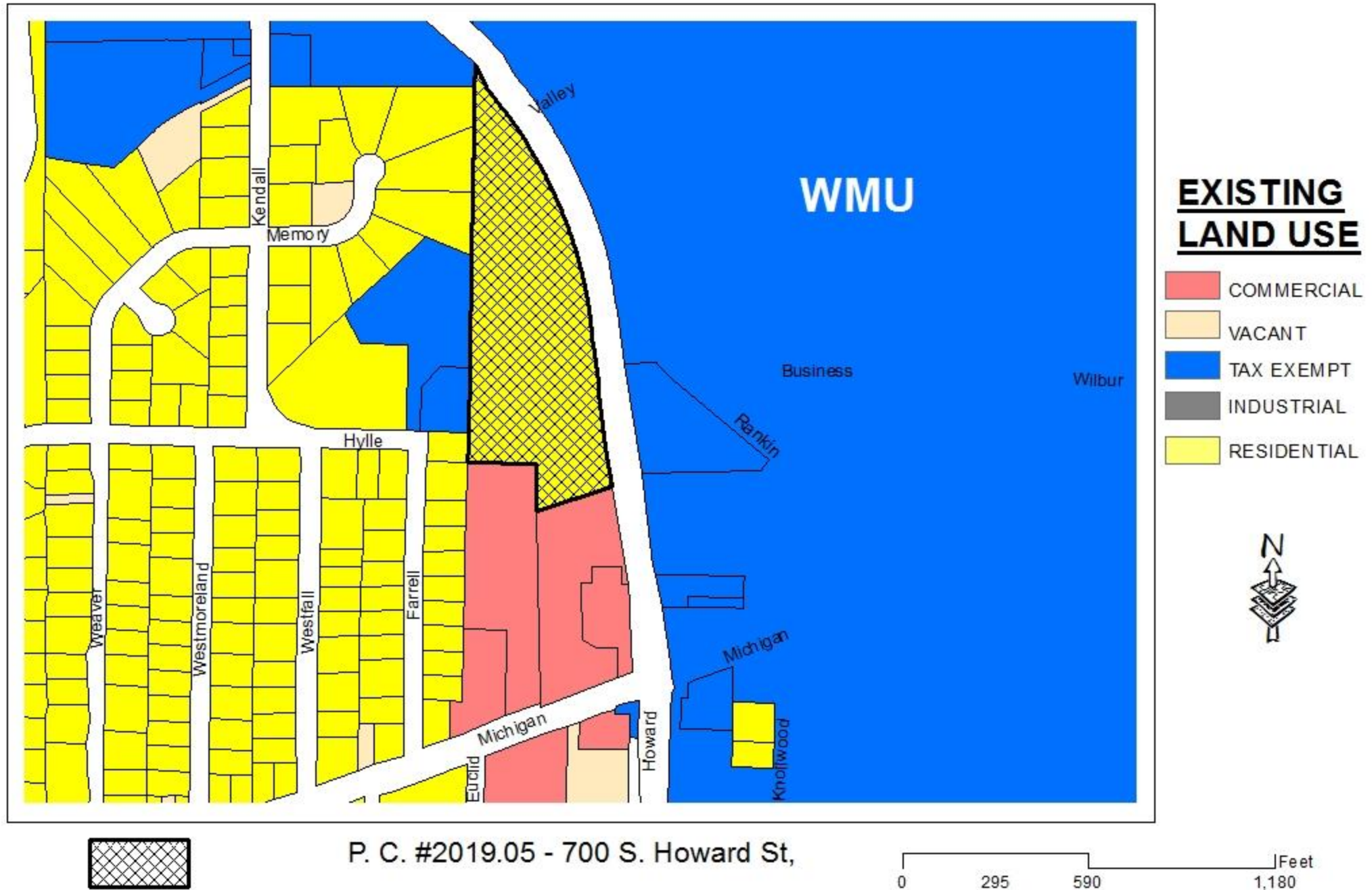


P. C. #2019.05 - 700 S. Howard St,

0 170 340 680 Feet

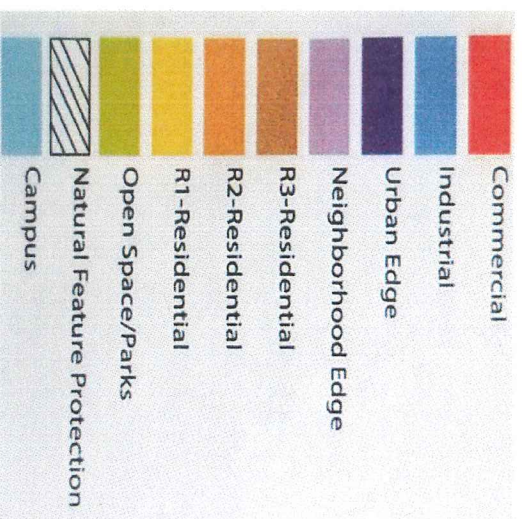
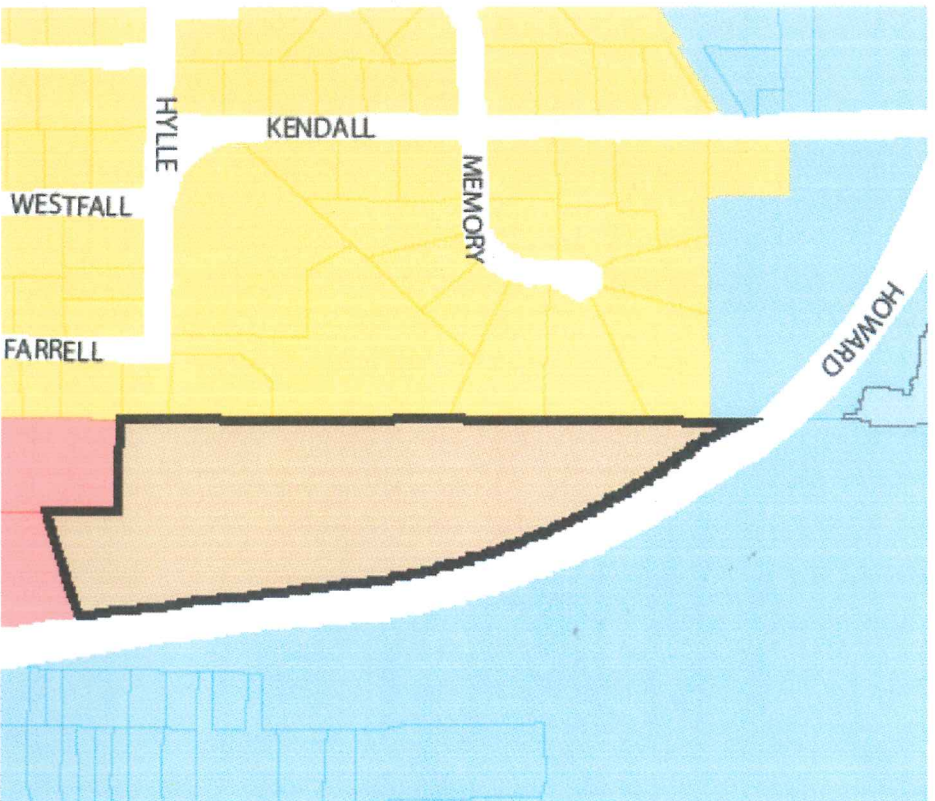


P. C. #2019.05 - 700 S. Howard St,
Rezoning request from CN-1 to RM - 36



P.C. #2019.05 - 700 Howard St.

Rezone from CN1 to RM-36 Parcel #06-20-175-002



P.C. #2019.05 - 700 Howard St.
Rezone from CN1 to RM-36 Parcel #06-20-175-002



**CITY OF KALAMAZOO, MICHIGAN
ORDINANCE NO. _____**

**AN ORDINANCE TO AMEND SECTION 1.8.A. ZONE DISTRICT MAP OF THE ZONING
ORDINANCE, BEING APPENDIX A OF THE KALAMAZOO CODE**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Under Section 1.8.E. the Zone District Map described in Section 1.8.A. is amended as follows:

The land area hereinafter described to be rezoned from CN-1 (Commercial – Neighborhood Business District) to RM-36 (Residential – Multi Dwelling District).

That area of land in Section 20 of the City of Kalamazoo, County of Kalamazoo, State of Michigan, commonly referred to as 700 S. Howard Street, more fully described as:

G20-6A, G20-7, G44-56&57 Commencing at the intersection of the center line of Streeter Avenue (now vacated) of recorded PLAT OF KALAMAZOO PARK with the northerly right-of-way line of West Michigan Avenue, thence North 1deg 24min 40sec West along center line Streeter Avenue 11.0ft; thence South 68deg 42min 40sec W parallel with center line of West Michigan Avenue 235.78ft to west line of said Plat; thence North 0deg 36min 56sec West along west line said Plat 850.83ft to the point of beginning for the following: thence North 0deg 36min 56sec West 116.62ft to the northeast corner of WESTMORELAND PARK; thence North 0deg 41min 38sec West 1145.41ft to southwesterly right-of-way line of Howard Street; thence Southeasterly along said right-of-way 831.17ft along curve to right (Radius = 1382.4ft, Chord = South 26deg 53min 49sec East 818.71ft); thence continuing along the Westerly right-of-way of Howard Street South 9deg 40min 20sec East 602.19ft; thence S 72deg 17min 17sec West 255.11ft to the center line of Streeter Avenue; thence North 01deg 24min 40sec West along said center line 139.09ft; thence North 89deg 53min 28sec West 209.98ft to the point of beginning. Contains apprx. 9.30 Acres

A map identifying the land area is attached.

Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____, 2019, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been available as required by said Act, and furthermore, said ordinance was duly recorded, posted, and authenticated by the Mayor and City Clerk as provided by the Charter of said City.

Bobby J. Hopewell, Mayor

Scott A. Borling, City Clerk

P. C. #2019.05 - 700 S. Howard St,

**WMU**

0 230 460 920 Feet



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Rebekah Kik, Director of Community Planning & Economic Development

PREPARED BY: Pete Eldridge, Assistant City Planner

DATE: 8/9/2019

SUBJECT: Zoning Ordinance Text Amendments for Medical Marihuana Facilities

RECOMMENDATION

It is recommended that the City Commission adopt the medical marihuana ordinance text amendments for Chapter 4.

BACKGROUND

The City Attorney has been monitoring recent case law which has resulted in minor amendments need to the original ordinance language approved in 2018. In addition, the Michigan Department of Licensing and Regulatory Affairs (LARA) has amended some applicable medical marihuana rules that should be reflected in the Zoning Ordinance text for consistency.

Additionally, the Planning Division has fielded numerous calls clarifying the separation distance language between medical marihuana facilities and in November of 2018, a property owner/developer filed an appeal of administrative decision related to the separation distances required between facilities due in part to the wording of the text. The appeal was denied by the Z.B.A., but this highlighted the importance of tightening up the wording of the regulations for each medical marihuana facility type.

POLICY CONSIDERATIONS

The City of Kalamazoo drafted the original medical marihuana ordinances in the fall of 2018. The local ordinance cannot be more restrictive than the State Medical Marihuana Facilities Licensing Act. Since changes have been made to the Administrative rules set forth by the Michigan Department of Licensing and Regulatory Affairs (LARA) it is important to adopt these minor text amendments to the ordinance.

COMMUNITY RESOURCES CONSULTED

The Planning Commission held a public hearing on the medical marihuana ordinance text amendments on August 1, 2019. No public comments were received at this public hearing.

FISCAL IMPACT

Adoption of the text amendments will help avoid unnecessary legal challenges to the medical marihuana ordinance.

ALTERNATIVES

The Commission could opt to not move these text amendments forward for a public hearing and vote. However, this would leave the medical marihuana ordinance out of step with Michigan Department of Licensing and Regulatory Affairs and could raise more legal challenges.

ATTACHMENTS:

Type	Description
▢ Minutes	Planning Commission Draft Mtg. Min. 8-01-19
	Ordinances
▢ - Redline	Med. Marihuana Ord. Amendments (Redline Version)
	Version
▢ Ordinances	Med. Marihuana Ord. Amendments (Final)

City of Kalamazoo
PLANNING COMMISSION
Minutes
August 1, 2019
DRAFT

Second Floor, City Hall
Commission Chambers
241 W. South Street, Kalamazoo, MI 49007

Members Present: Gregory Milliken, Chair; Emily Greenman Wright, Vice Chair; Alfonso Espinosa; Derek Wissner; Charley Coss; James Pitts

Members Excused: Sakhi Vyas

City Staff: Christina Anderson, City Planner; Clyde Robinson, City Attorney; Pete Eldridge, Assistant City Planner; Beth Cheeseman, Code Administration Clerk/Cashier

A. CALL TO ORDER

Commissioner Milliken called the meeting to order at 7:02 p.m.

B. ROLL CALL

Planner Anderson proceeded with roll call and determined that the aforementioned members were present.

C. ADOPTION OF FORMAL AGENDA

Planner Anderson stated there was an addition to the agenda under H. New Business. Members of the interview committee will discuss the first round of interviews.

Commissioner Greenman Wright, supported by Commissioner Espinosa, moved approval of the August 1, 2019 Planning Commission agenda as amended. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES

Commissioner Coss, supported by Commissioner Greenman Wright, moved approval of the June 6, 2019 Planning Commission minutes. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

None

F. PUBLIC HEARINGS

1. P.C. #2019.05. Request for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District). **[Recommendation: approval of the rezoning]**

Planner Eldridge came forward to present the staff report. He shared that the definition of CN-1 allows for small scale retail sales and personal service uses in or very near residential neighborhoods; allows for mixed-use developments with commercial on the ground floor and residential on the upper floors. This location currently has an apartment complex with 120 units with no commercial on ground floor. Planner Eldridge stated that the request is to bring the zoning into alignment with its current residential use. He added that the future land use map identifies this parcel as R-3 which is a high-density residential. Planner Eldridge reviewed pictures of property and the area around it, noting the signs alerting the neighborhood of the rezoning. He noted that this zoning change is a “down zoning” to a less intense zoning district – just residential. The rationale for staff recommendation is the following: the rezoning aligns with existing development of the parcel; the rezoning is supported by Future Land Use map, and it eliminates ground floor commercial use requirement for CN-1 zone; the rezoning supports the goal to update the zoning ordinance and zoning map to match the vision of the Master Plan.

Mr. Eldridge stated that the standards for a rezoning have all been met. He said the City reached out to the Arcadia Neighborhood and to the applicant. The applicant reached out to the Arcadia neighborhood association; put up signs and took fliers door to door; set up a tentative conference call with board members of the Arcadia Neighborhood Association. The call was cancelled because no questions came in. The City has received no feedback from the public – positive or negative.

Applicant, Alex Tempalski, managing member of Alpha Capital Partners, Alpha 700 Soho, LLC, has owned the property for a little over 11 months. He said they went through extensive improvements to the property including taking care of code issues, adding security cameras and secure door access, changing management staff, making interior renovations, improving the landscaping/asphalt and some of the exteriors of the property. Mr. Tempalski said they are seeking to have zoning align with the current property usage and future use if it is to be developed. He reported that he received no calls, comments or concerns regarding the rezoning request.

Commissioner Milliken stated that he applauds the efforts to engage neighborhood. He asked why they are requesting the rezoning at this time. Mr. Tempalski replied that the original concern was two units outside of compliance which they cannot rent. To redevelop, he found they would have to put commercial in and they don’t want to do that. He said they determined it wasn’t properly zoned for its use.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed the public comment portion of the hearing.

Commissioner Greenman Wright asked why the City wasn’t the applicant if this is in line with the Master Plan and if there are other parcels in this zone which need to be redone. Planner Anderson answered the City will rarely be the applicant - only if doing large areas. She confirmed that at

some point they want to put in node zoning there. They are holding off on rezoning there so they can see Arcadia's neighborhood plan.

Commissioner Greenman Wright, supported by Commissioner Wissner, moved to recommend approval to the City Commission for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District).

Commissioner Milliken added that the request satisfies the requirements of zoning ordinance and the goals of the Master Plan.

Roll call vote was taken and passed. Commissioner Coss abstained.

2. P.C. #2019.06. Request for text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations. [**Recommendation: approval of the amendments**]

Attorney Robinson stepped forward to present some amendments to the ordinances pertaining to medical marihuana as a commercial business and as a caregiver. He stated these changes are a result of state regulatory rules which were adopted, and court cases decided by the Michigan Court of Appeals. Attorney Robinson said the State permits outdoor grow operations and that is one of the changes they made to City ordinance. If there is a barrier and plants are below fence height, then medical marihuana can be grown outdoors. He also noted that some of the amendments made are for clarification only. An example of that was regarding the separation between the various businesses. He said they attempted to make the words more clearly reflect intent and application of the separation distances. Attorney Robinson shared that the City has adopted the State rule that prohibits food preparation and consumption at a medical marihuana facility. He noted that you can sell edibles, but not consume them onsite. They wanted to be clear that you cannot have food consumption/preparation at a medical marijuana facility. Attorney Robinson said they also clarified, as a result of case law, that people are not permitted to operate as a medical marihuana business in Kalamazoo unless you have both a valid current state license and valid current City permit.

Attorney Robinson reported a change was made regarding medical marihuana as a home occupation. Due to case law, if caregivers want to operate from a commercial store front, they must allow that – the City can't restrict them to operate out of their home. The language that restricted caregivers as a home occupation has been deleted. There were also some amendments regarding the use of butane. He said when the State adopted medical marijuana law for commercialization, it specified that you cannot use butane extraction in a residential zone. Legislature was amended that to say you can't use any substances that have a flashpoint below 100 degrees Fahrenheit to extract resin in a residential zone because of its inherent danger. In a commercial area it is not a problem.

Commissioner Espinosa thanked Attorney Robinson for clarifying the changes and that they originated with the State.

Commissioner Milliken noted the 1st ordinance, section 4C compared to 3C. In 3C, the words, “is required” is deleted and in 4C it’s not but reads like it should be.

Commissioner Milliken asked for more clarification regarding foods and edibles. He wondered about the sale of food is prohibited, but they can sell edibles. Attorney Robinson clarified that under the statute, marihuana edibles are not considered food. He added that the intent of the amendment is that you don’t have them in the mix with restaurant food. Because they are not considered food, technically, they could consume the edible at the place where it is purchased.

Commissioner Greenman Wright spoke of the difference between microbrews and brewpubs – they are under different regulatory bodies than an establishment that has a liquor license. In the consumption of edibles, is it possible for someone to have a brewpub license and mix these two things. Attorney Robinson clarified that you can’t have consumption or dispensing of alcohol in the same building that you have a medical marihuana facility.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed public comment portion of the hearing.

Commissioner Espinosa asked if there is a method that can help caregivers to extract resin at their home for patients? He wondered if the City will consider that or will they wait for the State to address that. Attorney Robinson said they will take their cue from the state law.

Commissioner Wissner, supported by Commissioner Espinosa, moved to recommend approval of text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations with the changes to the safety compliance distance separation.

Commissioner Wissner felt the amendments were straightforward and he had no objections to them.

Commissioner Coss commented that he knows the City is following the lead of the state, but they went so fast in this, he thinks things need to be worked out better.

Commissioner Milliken expressed appreciation for the City’s efforts to stay on top of this and keep as close to compliance as possible.

Roll call vote was taken and passed. Commissioner Coss abstained.

G. UNFINISHED BUSINESS

None

H. NEW BUSINESS

Commissioners Milliken, Greenman Wright and Vyas interviewed applicants for the Planning Commission.

Commissioner Greenman Wright stated there was a wonderful set of four applicants they interviewed. She said all of them could be highly recommended. She said it was one of the most pleasurable set of interviews in which she had participated. She reviewed the applicants:

Coreen Ellis (South Westnedge Neighborhood): staff of YWCA; diverse background in education; Master's in Public Administration; a lot of experience with community engagement and advocacy work; motivated to be involved in local government.

Shardae Chambers (Westwood Neighborhood): came to Kalamazoo as a student; excited about community engagement and being involved in local government; has experience engaging with the Imagine Kalamazoo process; a lot of knowledge of the Master Plan; wants to be involved in shaping the future of land use in the city.

Joe Buck (Arcadia Neighborhood): background as real estate attorney; has had the experience of being an applicant; experience interfacing with the community and city staff in Illinois.

Gary Wark (Stuart Neighborhood): coming from the Building Board of Appeals. He has termed out with that Board and has invaluable knowledge; from the Stuart neighborhood.

Commissioners Greenman Wright and Milliken indicated they would like to recommend Coreen Ellis and Shardae Chambers. Commissioner Milliken stated that these are two impressive women who are engaged, positive, and not issue driven. He believes they would be good additions for the Planning Commission. Commissioner Greenman Wright said they were excited to see these candidates reflect the diversity of Kalamazoo as they are both women and are women of color.

Commissioner Milliken stated the other two candidates are good and if there is no vacancy on Planning Commission, they would also be good additions on other boards or commissions.

Planner Anderson said the next step is to take the four candidates' information to the Mayor with recommendations. The Mayor will then review the information and make a recommendation to City Commission. She said the Mayor could choose to take one forward now, or two forward now, or he could go in another direction. If the Commissioners are in support of committee's recommendations, Planning Staff will take those forward to the Mayor.

Commissioner Espinosa asked if there will there be another round of interviews.

Planner Anderson announced that Commissioner Coss is leaving the Commission, so there will be another vacancy. They will have another round of interviews to fill Commissioner Coss' position. She said they keep the pool of applicants and they are constantly looking for members to volunteer. Sometimes the candidates are asked if they are interested in other boards. Commissioner Coss announced they are always looking for help with the elections.

Commissioner Espinosa, with support from Commissioner Pitts, motioned to forward the interview committees recommendations to the Mayor.

Voice vote was taken, and the motion passed.

Planner Anderson stated again that Commissioner Coss was leaving the Commission. She thanked him for his service and gave him an Imagine Kalamazoo mug to remind him of the time he spent working on Imagine Kalamazoo and other things with City.

Commissioner Coss stated that it's been incredible to serve a City which has the input of citizens and community involvement. It is active and diverse, and it's good. He thanked the other Commissioners serving as well.

I. CITIZENS' COMMENTS (Regarding non-agenda items)

None

J. CITY COMMISSION LIAISON COMMENTS

None

K. CITY PLANNER'S REPORT

Planner Eldridge gave an update on three development projects.

Former Rorrick Auto Body site on W Kalamazoo Avenue – mixed-use development. The site plan was recently approved, and the body shop is coming down in the near future.

Bob Evans on Stadium Drive – will be an Honor Credit Union. The site plan was just submitted.

Chick Fil A on Drake and W Main is a step closer. Information was submitted to MDOT, and they are working closely with our traffic engineer to sort out traffic circulation issues. No site plan approval at this time.

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioners thanked Commissioner Coss for his service.

M. ADJOURNMENT

Commissioner Milliken adjourned the meeting at 7:57 pm.

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND SECTION 4.2 OF THE CITY OF KALAMAZOO ZONING
ORDINANCE ADDRESSING MEDICAL MARIHUANA FACILITIES STANDARDS**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Section 4.2 AA., Use Specific Standards, of the City of Kalamazoo Zoning Ordinance, being Appendix A to the Kalamazoo City Code, addressing zoning regulations for medical marihuana facilities is amended to read as follows:

“AA. Marihuana Facilities:

1. Applicable Standards for Grower facilities:

- a) Except as permitted by State regulatory rules for Class C growers, only one Medical Marihuana Grower facility license is allowed per parcel or lot.
- b) Class C Grower facilities ARE only allowed in Zone M-2.
- c) All Grower facilities and operations must be within an enclosed building, EXCEPT CULTIVATION MAY OCCUR IN AN OUTDOOR AREA PROVIDED THAT THE AREA IS CONTIGUOUS WITH THE FACILITY BUILDING, FULLY ENCLOSED BY FENCES OR BARRIERS THAT BLOCK OUTSIDE VISIBILITY OF THE MARIHUANA PLANTS FROM PUBLIC VIEW, WITH NO MARIHUANA PLANTS GROWING ABOVE THE HEIGHT OF THE FENCE OR BARRIER, AND THE FENCE IS SECURED AND ONLY ACCESSIBLE TO AUTHORIZED PERSONS AND EMERGENCY PERSONNEL.
- d) Licensees may occupy the same premises if holding a separate Grower and Processor licenses for the premises.
- e) Any building or unit housing medical marihuana operations AND ANY OUTDOOR CULTIVATION AREA shall BE located at least five hundred (500) feet from a residential zone district.

2. Applicable Standards for Processor facilities:

- a) Only one Medical Marihuana Processor facility license permitted per parcel or lot
- b) All Processing operations must be conducted within an enclosed building
- c) Licensees may occupy the same premises if holding a separate Grower and Processor licenses for the premises.
- d) Any building or unit housing medical marihuana operations shall BE located at least five hundred (500) feet from a residential zone district.

3. Applicable Standards for Secure Transporter FACILITIES:

- a) Secure Transporter facilities located in Zone CC are limited to a gross floor

area of less than 3,500 square feet.

- b) Secure Transporter facilities located in Zone CC are only permitted warehousing activity as an accessory to the principal permitted Secure Transporter use.
- c) SECURE TRANSPORTER FACILITIES LOCATED IN ZONE CC SHALL BE LOCATED AT LEAST ~~A separation distance of~~ five hundred (500) feet ~~is required~~ from ALL other licensed marihuana facilities ~~in a CC Zone~~. IN ANY ZONING DISTRICT.

4. Applicable Standards for Safety Compliance FACILITIES:

- a) Safety Compliance facilities located in Zone CC are limited to a gross floor area of less than 3,500 square feet.
- b) All testing must BE conducted within an enclosed building.
- c) SAFETY COMPLIANCE FACILITIES LOCATED IN ZONE CC SHALL BE LOCATED AT LEAST ~~A separation distance of~~ five hundred (500) feet ~~is required~~ from all other licensed marihuana facilities ~~in a CC Zone~~. IN ANY ZONING DISTRICT.

5. Applicable Standards for Provisioning Centers:

- a) Only one Provisioning Center license IS PERMITTED per parcel or lot.
- b) All Provision Center activities must be conducted within an enclosed building.
- c) A Provisioning Center is not allowed within six hundred sixty (660) feet of the following designated nodes: The intersection of E. Cork St. and S. Burdick St., the intersection of E. Cork St. and Portage St., and the intersection of W. Ransom St. and N. Westnedge Ave.
- d) A separation distance of one thousand (1000) feet is required from any other PROVISIONING CENTER AND FIVE HUNDRED (500) FEET FROM ANY OTHER licensed medical marijuana facilities IN ANY ZONING DISTRICT.
- e) A Medical Cannabis Dispensary is subject to the same standards required of Provisioning Centers.
- f) A Provisioning Center is not permitted on the same property or parcel or within the same building where any of the following are located: a package liquor store, a convenience store that sells alcoholic beverages, or a fueling station that sells alcoholic beverages.
- g) THE SALE, CONSUMPTION, OR SERVING OF FOOD TO VISITORS IS PROHIBITED ON PROVISIONING CENTER PREMISES.

6. General Provisions

- a) The location criteria contained in this Section is applicable to any proposed change in the location of an existing marihuana facility.
- b) A licensee shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk.
- c) A licensee shall operate the licensed facility in compliance with all

- applicable State and City regulations for that type of facility.
- d) A licensee shall not operate a marihuana facility within one thousand (1,000) feet of AN EXISTING:
 - 1) ~~any~~ private or public preschool, elementary, secondary, vocational or trade school, college or university;
 - 2) ~~any~~ park or playground;
 - 3) ~~any~~ public library; or
 - 3) a housing facility owned by a public housing authority.
 - e) A licensee shall not operate a marihuana facility within five hundred (500) feet of AN EXISTING:
 - 1) ~~any existing~~ licensed child care center,
 - 2) ~~any existing~~ place of worship or religious assembly,
 - 3) ~~any~~ public pool or recreation facility,
 - 4) ~~any~~ public or private youth center, or
 - 5) ~~any~~ juvenile or adult halfway house, correctional facility or substance abuse rehabilitation or treatment center.
 - f) The distances described in this Section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this Section above to the nearest portion of the building or unit in which the medical marihuana facility is located.
 - g) A licensee shall not operate a marihuana facility within the boundaries of any residential zoning district or in a residential unit.
 - h) The separation distances contained in this Section are applicable to marihuana facilities and protected uses located in adjacent governmental jurisdictions.
 - i) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, IT IS ~~it shall be~~ unlawful to operate a medical marihuana business ~~or to grow medical marihuana~~ outside of an enclosed building. All medical marihuana commercial entity licenses shall be issued for a specific fixed location within an enclosed building. A medical marihuana commercial entity license may be issued only if the business qualifies as a use permitted as a matter of right in the zoning district where it is proposed to be located.
 - j) The provisions of this Section shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this ordinance.
 - k) Any marihuana facility in operation ~~on the effective date of this ordinance~~ THAT DOES NOT POSSESS BOTH A CURRENTLY VALID STATE OPERATING LICENSE ISSUED PURSUANT TO THE MEDICAL MARIHUANA FACILITIES LICENSING ACT AND A CITY PERMIT TO OPERATE A MEDICAL MARIHUANA FACILITY, is deemed an unlawful public nuisance and shall cease operations. Noncompliance with this provision ~~shall~~ WILL subject the owner and/or operator of the facility to applicable criminal and civil sanctions brought by the City Attorney for violation of this provision.
 - l) Nothing in this ordinance shall be construed to “grandfather” or provide any legal, equitable, or property right to the owner or occupier of property on

which a medical marihuana facility is operating, before a City operating license for such facility or business is issued, to continue such use.

- m) No medical marihuana facility shall be located within 250 feet of the municipal boundary shared by the City of Kalamazoo with the Charter Township of Kalamazoo except where the adjoining property in the township is similarly zoned to zoning districts with the City that permit marihuana facilities.”

Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

Section 4. Effective Date. Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its adoption.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____, 2019. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976, M.C.L. § 15.261 et. seq). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby Hopewell, Mayor

Scott Borling, City Clerk

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND SECTION 4.2 OF THE CITY OF KALAMAZOO ZONING
ORDINANCE ADDRESSING MEDICAL MARIHUANA FACILITIES STANDARDS**

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- a) Except as permitted by State regulatory rules for Class C growers, only one Medical Marihuana Grower facility license is allowed per parcel or lot.
- b) Class C Grower facilities are only allowed in Zone M-2.
- c) All Grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area provided that the area is contiguous with the facility building, fully enclosed by fences or barriers that block outside visibility of the marijuana plants from public view, with no marijuana plants growing above the height of the fence or barrier, and the fence is secured and only accessible to authorize persons and emergency personnel.
- d) Licensees may occupy the same premises if holding separate Grower and Processor licenses for the premises.
- e) Any building or unit housing medical marihuana operations and any outdoor cultivation area shall be located at least five hundred (500) feet from a residential zone district.

2. Applicable Standards for Processor facilities:

- a) Only one Medical Marihuana Processor facility license permitted per parcel or lot
- b) All Processing operations must be conducted within an enclosed building
- c) Licensees may occupy the same premises if holding a separate Grower and Processor licenses for the premises.
- d) Any building or unit housing medical marihuana operations shall be located at least five hundred (500) feet from a residential zone district.

3. Applicable Standards for Secure Transporter facilities:

- a) Secure Transporter facilities located in Zone CC are limited to a gross floor area of less than 3,500 square feet.

- b) Secure Transporter facilities located in Zone CC are only permitted warehousing activity as an accessory to the principal permitted Secure Transporter use.
- c) Secure Transporter facilities located in Zone CC shall be located at least five hundred (500) feet from all other licensed marihuana facilities in any zoning district.

4. Applicable Standards for Safety Compliance facilities:

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- b) All testing must be conducted within an enclosed building.
- c) Safety Compliance facilities located in Zone CC shall be located at least five hundred (500) feet from all other licensed marihuana facilities in any zoning district.

5. Applicable Standards for Provisioning Centers:

- a) Only one Provisioning Center license is permitted per parcel or lot.
- b) All Provision Center activities must be conducted within an enclosed building.
- c) A Provisioning Center is not allowed within six hundred sixty (660) feet of the following designated nodes: The intersection of E. Cork St. and S. Burdick St., the intersection of E. Cork St. and Portage St., and the intersection of W. Ransom St. and N. Westnedge Ave.
- d) A separation distance of one thousand (1000) feet is required from any other Provisioning Center and five hundred (500) feet from any other licensed medical marijuana facilities in any zoning district.
- e) A Medical Cannabis Dispensary is subject to the same standards required of Provisioning Centers.
- f) A Provisioning Center is not permitted on the same property or parcel or within the same building where any of the following are located: a package liquor store, a convenience store that sells alcoholic beverages, or a fueling station that sells alcoholic beverages.
- g) The sale, consumption, or serving of food to visitors is prohibited on provisioning Center premises.

6. General Provisions

- a) The location criteria contained in this Section is applicable to any proposed change in the location of an existing marihuana facility.
- b) A licensee shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk.
- c) A licensee shall operate the licensed facility in compliance with all applicable State and City regulations for that type of facility.
- d) A licensee shall not operate a marihuana facility within one thousand (1,000) feet of an existing:
 - 1) private or public preschool, elementary, secondary, vocational or

- trade school, college or university;
 - 2) park or playground;
 - 3) public library; or
 - 3) a housing facility owned by a public housing authority.
- e) A licensee shall not operate a marihuana facility within five hundred (500) feet of an existing:
- 1) licensed child care center,
 - 2) place of worship or religious assembly,
 - 3) public pool or recreation facility,
 - 4) public or private youth center, or
 - 5) juvenile or adult halfway house, correctional facility or substance abuse rehabilitation or treatment center.
- f) The distances described in this Section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this Section above to the nearest portion of the building or unit in which the medical marihuana facility is located.
- g) A licensee shall not operate a marihuana facility within the boundaries of any residential zoning district or in a residential unit.
- h) The separation distances contained in this Section are applicable to marihuana facilities and protected uses located in adjacent governmental jurisdictions.
- i) Except as otherwise provided by this Section, it is unlawful to operate a medical marihuana business outside of an enclosed building. All medical marihuana commercial entity licenses shall be issued for a specific fixed location within an enclosed building. A medical marihuana commercial entity license may be issued only if the business qualifies as a use permitted as a matter of right in the zoning district where it is proposed to be located.
- j) The provisions of this Section shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this ordinance.
- k) Any marihuana facility in operation that does not possess both a currently valid state operating license issued pursuant to the Medical Marijuana Facilities Licensing Act and a City permit to operate a medical marijuana facility, is deemed an unlawful public nuisance and shall cease operations. Noncompliance with this provision will subject the owner and/or operator of the facility to applicable criminal and civil sanctions brought by the City Attorney for violation of this provision.
- l) Nothing in this ordinance shall be construed to “grandfather” or provide any legal, equitable, or property right to the owner or occupier of property on which a medical marihuana facility is operating, before a City operating license for such facility or business is issued, to continue such use.
- m) No medical marihuana facility shall be located within 250 feet of the municipal boundary shared by the City of Kalamazoo with the Charter Township of Kalamazoo except where the adjoining property in the township is similarly zoned to zoning districts with the City that permit marihuana facilities.”

Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

Section 4. Effective Date. Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its adoption.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____, 2019. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976, M.C.L. § 15.261 et. seq). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby Hopewell, Mayor

Scott Borling, City Clerk



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Rebekah Kik, Director of Community Planning & Economic Development

PREPARED BY: Pete Eldridge, Assistant City Planner

DATE: 8/9/2019

SUBJECT: Zoning Ordinance Text Amendments for Medical Marihuana Home Occupations.

RECOMMENDATION

It is recommended that the City Commission adopt the medical marihuana ordinance text amendments for Chapter 4.

BACKGROUND

The City Attorney has been monitoring recent case law which has resulted in minor amendments need to the original ordinance language approved in 2018. In addition, the Michigan Department of Licensing and Regulatory Affairs (LARA) has amended some applicable medical marihuana rules that should be reflected in the Zoning Ordinance text for consistency.

POLICY CONSIDERATIONS

The City of Kalamazoo drafted the original medical marihuana ordinances in the fall of 2018. The local ordinance cannot be more restrictive than the State Medical Marihuana Facilities Licensing Act. Since changes have been made to the Administrative rules set forth by the Michigan Department of Licensing and Regulatory Affairs (LARA) it is important to adopt these minor text amendments to the ordinance.

COMMUNITY RESOURCES CONSULTED

The Planning Commission held a public hearing on the medical marihuana ordinance text amendments on August 1, 2019. No public comments were received at this public hearing.

FISCAL IMPACT

Adoption of the text amendments will help avoid unnecessary legal challenges to the medical marihuana ordinance.

ALTERNATIVES

The Commission could opt to not move these text amendments forward for a public hearing and vote. However, this would leave the medical marihuana ordinance out of step with Michigan Department of Licensing and Regulatory Affairs and could raise more legal challenges.

ATTACHMENTS:

Type	Description
▢ Minutes	Planning Commission Draft Mtg. Min. 8-01-19
	Ordinances
▢ - Redline	Home Occupation Ord. Amendments (Redline Version)
	Version
▢ Ordinances	Home Occupation Ord. Amendments (Final)

City of Kalamazoo
PLANNING COMMISSION
Minutes
August 1, 2019
DRAFT

Second Floor, City Hall
Commission Chambers
241 W. South Street, Kalamazoo, MI 49007

Members Present: Gregory Milliken, Chair; Emily Greenman Wright, Vice Chair; Alfonso Espinosa; Derek Wissner; Charley Coss; James Pitts

Members Excused: Sakhi Vyas

City Staff: Christina Anderson, City Planner; Clyde Robinson, City Attorney; Pete Eldridge, Assistant City Planner; Beth Cheeseman, Code Administration Clerk/Cashier

A. CALL TO ORDER

Commissioner Milliken called the meeting to order at 7:02 p.m.

B. ROLL CALL

Planner Anderson proceeded with roll call and determined that the aforementioned members were present.

C. ADOPTION OF FORMAL AGENDA

Planner Anderson stated there was an addition to the agenda under H. New Business. Members of the interview committee will discuss the first round of interviews.

Commissioner Greenman Wright, supported by Commissioner Espinosa, moved approval of the August 1, 2019 Planning Commission agenda as amended. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES

Commissioner Coss, supported by Commissioner Greenman Wright, moved approval of the June 6, 2019 Planning Commission minutes. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

None

F. PUBLIC HEARINGS

1. P.C. #2019.05. Request for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District). **[Recommendation: approval of the rezoning]**

Planner Eldridge came forward to present the staff report. He shared that the definition of CN-1 allows for small scale retail sales and personal service uses in or very near residential neighborhoods; allows for mixed-use developments with commercial on the ground floor and residential on the upper floors. This location currently has an apartment complex with 120 units with no commercial on ground floor. Planner Eldridge stated that the request is to bring the zoning into alignment with its current residential use. He added that the future land use map identifies this parcel as R-3 which is a high-density residential. Planner Eldridge reviewed pictures of property and the area around it, noting the signs alerting the neighborhood of the rezoning. He noted that this zoning change is a “down zoning” to a less intense zoning district – just residential. The rationale for staff recommendation is the following: the rezoning aligns with existing development of the parcel; the rezoning is supported by Future Land Use map, and it eliminates ground floor commercial use requirement for CN-1 zone; the rezoning supports the goal to update the zoning ordinance and zoning map to match the vision of the Master Plan.

Mr. Eldridge stated that the standards for a rezoning have all been met. He said the City reached out to the Arcadia Neighborhood and to the applicant. The applicant reached out to the Arcadia neighborhood association; put up signs and took fliers door to door; set up a tentative conference call with board members of the Arcadia Neighborhood Association. The call was cancelled because no questions came in. The City has received no feedback from the public – positive or negative.

Applicant, Alex Tempalski, managing member of Alpha Capital Partners, Alpha 700 Soho, LLC, has owned the property for a little over 11 months. He said they went through extensive improvements to the property including taking care of code issues, adding security cameras and secure door access, changing management staff, making interior renovations, improving the landscaping/asphalt and some of the exteriors of the property. Mr. Tempalski said they are seeking to have zoning align with the current property usage and future use if it is to be developed. He reported that he received no calls, comments or concerns regarding the rezoning request.

Commissioner Milliken stated that he applauds the efforts to engage neighborhood. He asked why they are requesting the rezoning at this time. Mr. Tempalski replied that the original concern was two units outside of compliance which they cannot rent. To redevelop, he found they would have to put commercial in and they don’t want to do that. He said they determined it wasn’t properly zoned for its use.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed the public comment portion of the hearing.

Commissioner Greenman Wright asked why the City wasn’t the applicant if this is in line with the Master Plan and if there are other parcels in this zone which need to be redone. Planner Anderson answered the City will rarely be the applicant - only if doing large areas. She confirmed that at

some point they want to put in node zoning there. They are holding off on rezoning there so they can see Arcadia's neighborhood plan.

Commissioner Greenman Wright, supported by Commissioner Wissner, moved to recommend approval to the City Commission for rezoning of 700 S. Howard Street from Zone CN-1 (Commercial – Neighborhood District) to Zone RM-36 (Residential - Multi Dwelling District).

Commissioner Milliken added that the request satisfies the requirements of zoning ordinance and the goals of the Master Plan.

Roll call vote was taken and passed. Commissioner Coss abstained.

2. P.C. #2019.06. Request for text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations. [**Recommendation: approval of the amendments**]

Attorney Robinson stepped forward to present some amendments to the ordinances pertaining to medical marihuana as a commercial business and as a caregiver. He stated these changes are a result of state regulatory rules which were adopted, and court cases decided by the Michigan Court of Appeals. Attorney Robinson said the State permits outdoor grow operations and that is one of the changes they made to City ordinance. If there is a barrier and plants are below fence height, then medical marihuana can be grown outdoors. He also noted that some of the amendments made are for clarification only. An example of that was regarding the separation between the various businesses. He said they attempted to make the words more clearly reflect intent and application of the separation distances. Attorney Robinson shared that the City has adopted the State rule that prohibits food preparation and consumption at a medical marihuana facility. He noted that you can sell edibles, but not consume them onsite. They wanted to be clear that you cannot have food consumption/preparation at a medical marijuana facility. Attorney Robinson said they also clarified, as a result of case law, that people are not permitted to operate as a medical marihuana business in Kalamazoo unless you have both a valid current state license and valid current City permit.

Attorney Robinson reported a change was made regarding medical marihuana as a home occupation. Due to case law, if caregivers want to operate from a commercial store front, they must allow that – the City can't restrict them to operate out of their home. The language that restricted caregivers as a home occupation has been deleted. There were also some amendments regarding the use of butane. He said when the State adopted medical marijuana law for commercialization, it specified that you cannot use butane extraction in a residential zone. Legislature was amended that to say you can't use any substances that have a flashpoint below 100 degrees Fahrenheit to extract resin in a residential zone because of its inherent danger. In a commercial area it is not a problem.

Commissioner Espinosa thanked Attorney Robinson for clarifying the changes and that they originated with the State.

Commissioner Milliken noted the 1st ordinance, section 4C compared to 3C. In 3C, the words, “is required” is deleted and in 4C it’s not but reads like it should be.

Commissioner Milliken asked for more clarification regarding foods and edibles. He wondered about the sale of food is prohibited, but they can sell edibles. Attorney Robinson clarified that under the statute, marihuana edibles are not considered food. He added that the intent of the amendment is that you don’t have them in the mix with restaurant food. Because they are not considered food, technically, they could consume the edible at the place where it is purchased.

Commissioner Greenman Wright spoke of the difference between microbrews and brewpubs – they are under different regulatory bodies than an establishment that has a liquor license. In the consumption of edibles, is it possible for someone to have a brewpub license and mix these two things. Attorney Robinson clarified that you can’t have consumption or dispensing of alcohol in the same building that you have a medical marihuana facility.

Commissioner Milliken opened public comment portion of the hearing.

No one came forward.

Commissioner Milliken closed public comment portion of the hearing.

Commissioner Espinosa asked if there is a method that can help caregivers to extract resin at their home for patients? He wondered if the City will consider that or will they wait for the State to address that. Attorney Robinson said they will take their cue from the state law.

Commissioner Wissner, supported by Commissioner Espinosa, moved to recommend approval of text amendments to Chapter 4 and Chapter 12 of the Zoning Ordinance regarding medical marihuana regulations with the changes to the safety compliance distance separation.

Commissioner Wissner felt the amendments were straightforward and he had no objections to them.

Commissioner Coss commented that he knows the City is following the lead of the state, but they went so fast in this, he thinks things need to be worked out better.

Commissioner Milliken expressed appreciation for the City’s efforts to stay on top of this and keep as close to compliance as possible.

Roll call vote was taken and passed. Commissioner Coss abstained.

G. UNFINISHED BUSINESS

None

H. NEW BUSINESS

Commissioners Milliken, Greenman Wright and Vyas interviewed applicants for the Planning Commission.

Commissioner Greenman Wright stated there was a wonderful set of four applicants they interviewed. She said all of them could be highly recommended. She said it was one of the most pleasurable set of interviews in which she had participated. She reviewed the applicants:

Coreen Ellis (South Westnedge Neighborhood): staff of YWCA; diverse background in education; Master's in Public Administration; a lot of experience with community engagement and advocacy work; motivated to be involved in local government.

Shardae Chambers (Westwood Neighborhood): came to Kalamazoo as a student; excited about community engagement and being involved in local government; has experience engaging with the Imagine Kalamazoo process; a lot of knowledge of the Master Plan; wants to be involved in shaping the future of land use in the city.

Joe Buck (Arcadia Neighborhood): background as real estate attorney; has had the experience of being an applicant; experience interfacing with the community and city staff in Illinois.

Gary Wark (Stuart Neighborhood): coming from the Building Board of Appeals. He has termed out with that Board and has invaluable knowledge; from the Stuart neighborhood.

Commissioners Greenman Wright and Milliken indicated they would like to recommend Coreen Ellis and Shardae Chambers. Commissioner Milliken stated that these are two impressive women who are engaged, positive, and not issue driven. He believes they would be good additions for the Planning Commission. Commissioner Greenman Wright said they were excited to see these candidates reflect the diversity of Kalamazoo as they are both women and are women of color.

Commissioner Milliken stated the other two candidates are good and if there is no vacancy on Planning Commission, they would also be good additions on other boards or commissions.

Planner Anderson said the next step is to take the four candidates' information to the Mayor with recommendations. The Mayor will then review the information and make a recommendation to City Commission. She said the Mayor could choose to take one forward now, or two forward now, or he could go in another direction. If the Commissioners are in support of committee's recommendations, Planning Staff will take those forward to the Mayor.

Commissioner Espinosa asked if there will there be another round of interviews.

Planner Anderson announced that Commissioner Coss is leaving the Commission, so there will be another vacancy. They will have another round of interviews to fill Commissioner Coss' position. She said they keep the pool of applicants and they are constantly looking for members to volunteer. Sometimes the candidates are asked if they are interested in other boards. Commissioner Coss announced they are always looking for help with the elections.

Commissioner Espinosa, with support from Commissioner Pitts, motioned to forward the interview committees recommendations to the Mayor.

Voice vote was taken, and the motion passed.

Planner Anderson stated again that Commissioner Coss was leaving the Commission. She thanked him for his service and gave him an Imagine Kalamazoo mug to remind him of the time he spent working on Imagine Kalamazoo and other things with City.

Commissioner Coss stated that it's been incredible to serve a City which has the input of citizens and community involvement. It is active and diverse, and it's good. He thanked the other Commissioners serving as well.

I. CITIZENS' COMMENTS (Regarding non-agenda items)

None

J. CITY COMMISSION LIAISON COMMENTS

None

K. CITY PLANNER'S REPORT

Planner Eldridge gave an update on three development projects.

Former Rorrick Auto Body site on W Kalamazoo Avenue – mixed-use development. The site plan was recently approved, and the body shop is coming down in the near future.

Bob Evans on Stadium Drive – will be an Honor Credit Union. The site plan was just submitted.

Chick Fil A on Drake and W Main is a step closer. Information was submitted to MDOT, and they are working closely with our traffic engineer to sort out traffic circulation issues. No site plan approval at this time.

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioners thanked Commissioner Coss for his service.

M. ADJOURNMENT

Commissioner Milliken adjourned the meeting at 7:57 pm.

**CITY OF KALAMAZOO, MICHIGAN
ORDINANCE NO. _____**

**AN ORDINANCE TO AMEND SECTION 4.3 OF THE CITY OF KALAMAZOO ZONING
CODE ADDRESSING MEDICAL MARIHUANA AS A HOME OCCUPATION**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Section 4.3 G. 16 of the City of Kalamazoo Zoning Code is amended to read as follows:

“16. Medical Marihuana. A primary caregiver who has agreed, and is registered with the State of Michigan to assist with a qualifying patient’s use of medical marihuana, shall be allowed as a home occupation. The following requirements for a primary caregiver as a home occupation shall apply:

a) The medical use of marihuana and marihuana-infused products shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act, 2008 Initiated Law #1, MCL 333.26421 et seq. (“Act”) and the Administrative Rules promulgated by the State of Michigan (“Administrative Rules”), as they may be amended from time to time;

b) A primary caregiver must be located outside of a one-thousand-foot radius from the real property comprising AN EXISITNG public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority or public library or private library open to the public, nor within 100 feet of AN EXISTING public or private youth center, public swimming pool, or video arcade facility to insure community compliance with State and Federal “Drug-Free School Zone” requirements;

c) Not more than one primary caregiver within a single dwelling unit shall be permitted to service qualifying patients who do not reside with the primary caregiver;

d) Not more than five qualifying patients shall be assisted with the medical use of marihuana by any primary caregiver;

e) If the primary caregiver is not the owner of the premises, then either written consent must be obtained from the property owner to ensure the owner’s knowledge of the use of the premises as permitted by this subsection or the primary caregiver shall maintain written proof that the use of the property as a home occupation under this section is not prohibited by the property owner;

f) All medical marihuana plants shall be contained within a structure that is an

enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient; provided however, outdoor cultivation may occur if the marihuana plants are fully enclosed by fences or barriers that block outside visibility of the plants from public view, with no plants visibly growing above the fence or barrier, and the fence or barrier is locked or otherwise secured to limit access only to the primary caregiver or qualifying patient engaged in cultivating the plants.

g) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana;

h) If a room with windows is utilized as a marihuana-growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties;

i) The separation of plant resin from a marihuana plant by butane extraction OR ANY METHOD THAT UTILIZES A SUBSTANCE WITH A FLASHPOINT BELOW 100 DEGREES FAHRENHEIT in any public place, a motor vehicle, inside a residential structure, RESIDENTIAL ACCESSORY STRUCTURE, or the curtilage of a residential structure is prohibited.

j) Nothing in this subsection, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the Administrative Rules and this subsection. ~~To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat or alleviate a qualifying patient shall only be conducted as a home occupation, and shall not be permitted as a commercial use in any other zoning classification of this Zoning Code.~~ Also, since federal law is not affected by that Act or the Administrative Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

k) The location and operation of a marihuana facility pursuant to the provisions of the Michigan Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq., as a home occupation is prohibited.

l) Definitions. As used in this subsection:

MARIHUANA — This term shall have the meaning given to it in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCLA 333.7106.

MARIHUANA-INFUSED PRODUCT— A topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

MEDICAL USE OF MARIHUANA — The acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition or symptoms associated with a debilitating condition.

PRIMARY CAREGIVER — A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined by Public Act 175 of 1927, MCL 770.9a.

QUALIFYING PATIENT — A person who has been diagnosed by a physician as having a debilitating medical condition and includes a person who has obtained a physician's professional opinion, made in the course of a bona fide physician patient relationship, that the person is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the person's serious or debilitating medical condition.

USABLE MARIHUANA—The dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant."

Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____,

2017. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976, M.C.L. § 15.261 et. seq). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby Hopewell, Mayor

Scott Borling, City Clerk

**CITY OF KALAMAZOO, MICHIGAN
ORDINANCE NO. _____**

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b) A primary caregiver must be located outside of a one-thousand-foot radius from the real property comprising an existing public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority or public library or private library open to the public, nor within 100 feet of an existing public or private youth center, public swimming pool, or video arcade facility to insure community compliance with State and Federal “Drug-Free School Zone” requirements;

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g) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana;

h) If a room with windows is utilized as a marihuana-growing location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 6:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties;

i) The separation of plant resin from a marihuana plant by butane extraction or any method that utilizes a substance with a flashpoint below 100°F in any public place, a motor vehicle, inside a residential structure, residential accessory structure, or the curtilage of a residential structure is prohibited.

j) Nothing in this subsection, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the Administrative Rules and this subsection. Also, since federal law is not affected by that Act or the Administrative Rules, nothing in this chapter, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

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QUALIFYING PATIENT — A person who has been diagnosed by a physician as having a debilitating medical condition and includes a person who has obtained a physician's professional opinion, made in the course of a bona fide physician patient relationship, that the person is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the person's serious or debilitating medical condition.

USABLE MARIHUANA—The dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant."

Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

Section 4. Effective Date. Pursuant to section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its passage.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____, 2019. Public notice was given and the meeting was conducted in full compliance with the

Open Meetings Act, (PA 267, 1976, M.C.L. § 15.261 et. seq). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby Hopewell, Mayor

Scott Borling, City Clerk



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners

FROM: Clyde J. Robinson, City Attorney

PREPARED BY: Richard O. Cherry, Deputy City Attorney

DATE: 8/21/2019

SUBJECT: Amendments to Chapter 9

RECOMMENDATION

It is recommended that the City Commission adopt proposed amendments to Chapter 9 of the Kalamazoo City Code of Ordinances.

BACKGROUND

This City Commission has issued a mandate that the City Attorney's Office decriminalize sections of the Kalamazoo City Code, changing most violations from misdemeanors to municipal civil infractions. In response, the City Attorney has initiated a comprehensive overhaul of the Kalamazoo City Code. The City Attorney's Office has elicited input from the City's various departments to update the City code. After a complete review of the Kalamazoo City Code, the City Attorney recommends the following proposed amendments to Chapter 9.

Under section 9-4 maintaining unsafe equipment is now a violation under the building code. Unsafe equipment is defined as any plumbing, heating, electrical, ventilating, air conditioning, refrigerating, fire protection equipment, elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations that are related to building services. For instance, unsafe equipment, such as furnaces or boilers are sometimes responsible for fires or carbon monoxide poisoning. Having this within the code will give the building department the ability to cite violations and ensure that equipment meets manufacturers' safety standards.

Additionally, under the building, plumbing, electrical and mechanical sections individuals - unless specifically exempted under the code - must be licensed to perform plumbing, building, electrical, or mechanical work. Further, inspectors can issue stop-work orders if they determine after an initial inspection that the permitted work is not meeting the intent of the code or safety standards.

Furthermore, the amendments to the code will give the Dangerous Building Board the ability to condemn unsafe, dangerous buildings or structures only after the board provides notice to the owner that their building or structure is dangerous, and the board provides the owner an opportunity for a public hearing. If the situation is dire and the public's safety and health is in immediate jeopardy, the building official may condemn a building or structure, without a preliminary order from the Dangerous Building Board.

Lastly, all violations of this chapter are municipal civil infractions. The civil fine for a violation of this chapter is

not more than \$200.00. However, a second or subsequent violation of Chapter 9 committed within 12-month period from the first violation may be fined a minimum fine of \$200 but not more than \$500.

COMMUNITY RESOURCES CONSULTED

Community Planning and Economic Development (CPED)- Building and Trades department has been consulted throughout the revisioning process. The amendments to Chapter 9 are consistent with state law, and in many cases mirror it.

FISCAL IMPACT

The proposed amendments will result in no negligible fiscal impact.

ALTERNATIVES

The alternative is not to make changes to this chapter; however, this would continue to limit the City’s ability to ensure safe buildings for the citizens of Kalamazoo. Additionally, all violations in Chapter 9 would remain criminal.

ATTACHMENTS:

Type	Description
▣ Ordinances	Chapter 9 Amendments - Clean Ordinances
▣ - Redline Version	Chapter 9 Amendments - Redline

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND AND DECRIMINALIZE CHAPTER 9
OF THE KALAMAZOO CODE OF ORDINANCES**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. The following provisions of Chapter 9 of the Kalamazoo City Code are amended to read as follows:

Chapter 9

Buildings and Building Regulations

Article I

In General

§ 9-1 Purpose and definitions.

- A. The purpose of this chapter is to establish codes and standards regulating the safety, sanitation and general public welfare as they are affected by construction, maintenance, wrecking and/or moving of all types of structures in the City.
- B. As used in this chapter, the term "Buildings Division" and "Housing Section" shall mean the department and/or division responsible for enforcement and oversight of all or part of the provisions of this chapter.
- C. The term equipment means any plumbing, heating, electrical, ventilating, air conditioning, refrigerating, and fire protection equipment, and elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations that are related to building services. Equipment or fixture shall not include manufacturing, production, or process equipment, but shall include connections from building service to process equipment.
- D. Interior Demolition is the process of removing the interior building components of a structure. This type of demolition consists of removing select items or removing all items and leaving the shell of a building.
- E. The term "Building Official" refers to the individual described in § **2-301** of this Code and as described in the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended. The term "Building Official" shall mean the Building Official or his authorized representative. Where the possessive pronoun "his" is used in this chapter, it shall mean "his or her."

§ 9-2 Boarding up of buildings — limitation on time.

No person shall permit any building to be boarded up in the City for a period of longer than six months. Such period of six months may be extended by the Building Official upon filing, by the owner or other person responsible for the premises, of applications for required permits to comply with the ordinances of the City, along with a letter of intent describing what repairs are to be made and a detailed schedule indicating when they are to be completed.

§ 9-3 Same — Method.

Any boarding up of openings in a building within the City shall be done with plywood of minimum thickness of 1/2 inch, free of holes. It shall fully cover each opening and be securely fastened. All exposed edges and surfaces shall be painted.

§ 9-4 Unsafe equipment

Equipment that becomes unsafe, insanitary or deficient because it may constitute a fire hazard or is otherwise dangerous to human life or the public welfare, or that involve inadequate maintenance, shall be deemed a violation of this chapter. Unsafe equipment shall be removed or made safe, as the building official deems necessary and as provided for in this section.

§ 9-5 Violation; penalty.

A. The City of Kalamazoo may charge any person who violates any section of this chapter with a municipal civil infraction, unless the section specifically states otherwise.

(1) The Civil fine for a violation of this Chapter shall be not more than \$200.

(2) A second or subsequent violation of this Chapter committed by an individual who has been previously adjudicated responsible for a violation of this Chapter within a previous 12-month period may be fined a minimum fine of \$200 but not more than \$500.

§ 9-6 Special permits, licenses, fees and conditions.

A. Permits and fees associated with this chapter are generally regulated by provisions described in Chapter 2, Article XI, of the City Code of Ordinances. Unless noted to the contrary in this chapter, the fees for all permits issued under all articles of this chapter shall be set by resolution by the City Commission.

B. The following structures and/or work not specifically addressed in other articles of this chapter require building permits. Unless a permit fee for the structure(s) and/or work is noted in a current permit fee resolution, the fee will be calculated on the same basis as used for residential alteration work:

(1) Freestanding television reception towers; satellite antenna; radio broadcast and reception towers, freestanding and roof-mounted.

- (2) Interior demolition work when not done as part of the work of a building permit.
- C. Special inspection and reinspection fees may be charged under the following conditions:
 - (1) When a request is made to the Buildings Division for a partial occupancy certificate for a building, an inspection fee may be charged for each inspector required in addition to any other fee prescribed in this chapter.
 - (2) A fee shall be charged for any inspection performed under this chapter.
 - (3) All inspection and re-inspection fees must be paid in advance for any special inspection of an existing commercial or residential property requested by the Federal Housing Administration, the Veterans Administration, a lending institution, a realtor, property owner or prospective property purchaser.
- D. Other permits which are applied for, issued through and fees for the same collected by the Buildings Division for work and conditions not regulated by this chapter include:
 - (1) Related to Appendix A, Zoning Regulations, City Code of Ordinances:
 - (a) Environmental permit for parking area development when not a part of construction work included in a building permit (parking lots, loading areas, outdoor sales lots) or other general grading and filling when less than one acre in area.
 - (b) Environmental permit for paving an existing parking area when not a part of construction work included in a building permit (parking lots, loading areas, outdoor sales areas). Environmental permit for building use change which involves no work requiring a building permit (business and residential uses as defined in the Zoning Ordinance and in the building code).
 - (c) Environmental permit for any site grading, filling, improvements and/or construction in a flood-fringe or floodway as identified by the Federal Management Agency, National Flood Insurance Program.
 - (d) Sign permits of any type.
 - (2) Related to soil erosion and sedimentation control, Chapter **30**, City Code of Ordinances: Any grading or filling work on one acre or more for any reason. A soil erosion permit and bond are required for such work in addition to any other permits associated with the improvement.
- E. Other permits or approvals applied for through other City departments, but which may be required before a building permit may be issued:
 - (1) Applied for through the Department of Public Safety:

- (a) Storage tanks for hazardous materials, above and in ground.
 - (b) Any general plan review and approval required by Chapter **15**, Fire Prevention and Protection. Permit and/or approval will be requested through and approved by the Public Safety Department. Fees are paid through the Buildings Division.
- (2) Applied for through the Public Services Department, or such department as the City Manager may designate:
- (a) Curb cuts from street across City property and drainage of storm water off of developed property, including any change in existing conditions. Approval is required by the Public Works Division before any permits related to such work can be issued by the Buildings Division.
 - (b) Any type of construction on or projecting over property owned by the City. Approval is required from the City Commission but secured through the Department of Public Services. This approval is required before any permits associated with the work can be issued by the Buildings Division.
- F. Permits of approvals required by non-City agencies:
- (1) Towers and any construction over 50 feet high; or any construction within a half mile of the county airport may require approval by the Federal Aviation Administration, Kalamazoo County Airport.
 - (2) Any site grading, filling or other construction in a flood-fringe or floodway area requires a permit from the State of Michigan, Department of Natural Resources, Engineering-Water Management Division, or its successor agency.
 - (3) Any work including construction and/or demolition which involves toxic wastes (toxic liquids, unknown chemicals in any form) requires clearance by the State of Michigan, Department of Natural Resources, or its successor agency. This affects all construction permits and wrecking permits.
 - (4) Any construction on a site which does not have public water or sewage disposal requires the approval of the Kalamazoo County Health Department.
- G. An annual electrical permit may be obtained by a firm or corporation or person authorized by the firm or corporation to cover installations or minor alterations, each normally requiring a separate electrical permit, performed on or within the firm or corporation's own facilities. The firm or corporation obtaining such a permit must employ one or more electrical journey persons or master electricians or contract work regularly with one such trade person or firm employing such trade person to do the electrical work. The annual permit shall be issued subject to the following conditions:
- (1) The journey person or master electrician so employed shall register their state licenses with the Building Division annually.

- (2) The annual permit shall be applicable and limited to work performed on the premises described on the permit.
- (3) The annual permit shall not be applicable to new buildings or additions until an occupancy permit for the new construction has been issued by the Buildings Division.
- (4) The holder of the annual permit shall, upon the request of the Building Official, allow inspection of the premises to assure that all work is in accordance with the electrical code as contained in this chapter.
- H. Temporary electrical service permits may be issued for a time period of six months only, unless special arrangements are made with the Building Official, and shall be subject to renewal application to the Buildings Division if still required after expiration date.
- I. Permits for emergency work of all types described in this chapter, when the emergency occurs on Saturday, Sunday or City-employee holidays, shall be secured from the Buildings Division within 24 hours of the next opening of the division offices for official business following the emergency.
- J. Any person, firm or corporation may perform minor repair work on all construction and/or devices covered by all of the articles of this chapter on their own property without having secured a permit or license, including such work which is being done to correct code violations posted on said property by the Buildings Division or Housing Section within the time limits stated in the violations notice. When such minor repair work is being done after the specified time limits for correction in a violation notice, permits will usually be required. This permission shall not extend to connections between utility supply systems and the distribution systems on the premises. For this latter work, a permit must be obtained, and a licensed contractor used. This permission also shall not extend to work which modifies or changes structural elements, window replacement work and glazing work. Such work will require permits and may require a licensed contractor.
- K. An owner-occupant of a one- or two-family dwelling may secure permits to personally install, alter or repair any items or do any construction covered by the articles of this chapter provided said owner-occupant has reasonable knowledge of such installation. The Building Official may require the applicant to submit evidence of such skills and knowledge before issuing a permit for any such work. Said occupant shall call for inspections as required by the building code.
- L. Plans, engineering calculations, diagrams and other data shall be submitted in one or more sets with each application for any permit covered by this chapter. The Building Official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed in the State of Michigan to practice as such. Exceptions are as follows:
 - (1) Alterations and repair work determined by the Building Official to be of a minor

nature.

- (2) A building of use group R-3 containing not more than 3,500 square feet unless such building is constructed using unusual or proprietary systems for structure, mechanical, electrical components not clearly covered by the building regulations.
- (3) Work costing less than \$15,000 and to be done by a state agency.

§ 9-7 Alterations, renovations and interior demolition.

- A. All unused wiring, piping, conduit, communications cable, ducts and associated junction boxes, supports and accessories, the same which are located in areas accessible for maintenance and remaining from any prior or current remodeling and/or rehabilitation work on any building, are to be removed from the building or premises unless such items are planned to be reused at some future date. The Building Official may permit such items to remain when reuse is not planned if they can be rendered safe and will not otherwise constitute a violation of this Code or other law.
- B. A building permit must be obtained from the Buildings Division for interior demolition work as herein described for all buildings unless such work is documented as part of the plans and specifications submitted with a building permit request for reconstruction work to be done in the building and such demolition work is done after the issuance of the building permit. Demolition work requiring such a permit includes but is not limited to the removal of duct work, piping, conduit partitions, structural members and general clearing of an interior area of more than 500 square feet. Any interior demolition work of any kind which, when started or if discovered in the work process, requires the removal of asbestos, must be done by a contractor approved by the State of Michigan, Department of Public Health, Bureau of Environmental and Occupational Health.
- C. When renovation work results in a change of use of a building as defined in Chapter 11 of the Michigan Building Code or any renovation work is done to more than 50% of the floor area of an existing building, the entire building must be brought into compliance with the current barrier-free design rules promulgated by the State of Michigan. When renovation work is done to less than 50% of an existing building, the area renovated and a means of exit travel from the area to the exterior must comply with the referenced barrier-free rules. All additions to existing buildings must comply with the referenced barrier-free rules.
- D. When and where renovation work is of such a scope that either face of a hollow wall or partition is removed and replaced, all services exposed within said wall or partition shall be brought up to current building, electrical, mechanical and plumbing codes. This same requirement applies to work which includes removing and replacing ceilings and removing and replacing floor construction. When such work includes adding electrical devices, any new circuits required to feed those devices to avoid overloading existing circuits shall be added.

- E. Debris resulting from demolition and other construction work is to be regularly and promptly removed from the site and disposed of in compliance with all federal, state and local regulations. As long as a dumpster or other debris container is not full, and its contents do not pose a hazard or violate any statute, ordinance, rule or regulation, the dumpster need not be emptied until completion of the work for which the permit was issued. Dumpsters and any other containers used to collect such debris shall be placed and protected on the construction site so that they do not attract unauthorized use for trash and garbage disposal by persons other than those engaged in work on the site. When containers for debris from demolition or other construction work are not required or used for a period of two weeks and are accessible to unauthorized use, they are to be removed from the site. If such removal is not made, such containers may be declared a nuisance and their removal accomplished under provisions of Chapter **21**, §§ **21-3** through **21-5**, of the City Code of Ordinances.
- F. When the repair of plumbing piping requires the replacement of a section of metal water supply piping, and the replacement pipe is nonmetallic, the two ends of the metal piping shall be bonded to maintain electrical grounding continuity past the nonmetallic pipe.
- G. When new electrical wiring is required in any finished area in a dwelling unit, and such wiring cannot be concealed within walls, under floors or above ceilings, then such exposed wiring shall be done in a complete wiring distribution system specifically designed to be surface-mounted on finished surfaces.

§ 9-8 Permit duration and expiration.

Regardless of any other language in this chapter, the Building Official may grant an extension to the starting time for any permit issued under the provisions of this chapter for a maximum of 30 days if the permit holder requests such an extension in writing and provides evidence that the delay is caused by action over which the permit holder has no control. Likewise, the Building Official may grant an extension to the period of construction inactivity after work has commenced for a maximum of 30 days under the same procedure and conditions as allowed for the delay in starting work. A limit of two such extensions in either case may be granted by the Building Official. Any further extensions may only be granted by the Construction Board of Appeals.

§ 9-9 Fees for actions taken under Chapter 9.

- A. The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken under Chapter **9** of the City Code.
- B. The costs shall be a lien against the real property and shall be reported to the assessing officer of the City who shall assess the cost against the property on which the building or dwelling is or was located.
- C. The owner or party in interest in whose name the property appears upon the last local tax assessment record shall be notified of the amount of the costs referred to in Subsection **B** by first class mail at the address shown on the record. If he/she

fails to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City, and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes and/or may be collected by suit at law. Interest shall accrue as provided for taxes and judgments by law.

§ 9-10 Civil remedies for violations.

- A. Any building constructed, altered, converted or maintained in violation of any provision of this chapter is declared to be a nuisance. The Building Official may institute an action in the circuit court to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or any nuisance, to prevent the occupation of such building or to prevent any illegal act, conduct or business in or about such building. The procedure for such action shall be the same as for an injunction for abatement of a nuisance in the circuit court.
- B. The judgment of the court in such cause may direct the corrections, repair or rehabilitation of the building or the abatement of the nuisance, may authorize a reasonable time within which the defendant may make such corrections, repairs, rehabilitation or abatement, and may authorize the Building Official to execute and carry out the provisions of the judgment in case of default by the defendant. Whenever the City has incurred any expense for the enforcement of this chapter or the judgment of the court, the City may sue the owner or possessor of the premises, or both, and may recover the amount of such expense, in addition to the costs of suit.
- C. The City shall have a lien upon the premises for the expenses necessarily incurred in the execution of such judgment which lien shall have priority over all other liens or encumbrances, except taxes, assessments or mortgages recorded previous to the existence of such lien. Such lien may be foreclosed as in the case of foreclosure of mortgages by court action, as established by the circuit court rules and statutes of the state in such case made and provided.

§ 9-11 Appearance tickets.

Prosecutions for violations of this chapter may be commenced by issuing a municipal civil infraction citation. The Building Official is authorized to issue and serve such citations.

§ 9-12 Paving permit required.

- A. No part of any yard or premises shall be paved or repaved (including pavement reconstruction and pavement expansion) for the purposes of providing vehicular access or parking unless a paving permit is first issued by the Building Official as described in this section.

(1) Definitions. For the purposes of this section, the following definitions shall apply:

PAVE (AND ITS DERIVATIVES)

The placement of materials on the ground for the purposes of providing vehicular access or parking including, but not limited to, gravel, concrete, bituminous material, crushed stone, tile, or brick pavers.

PAVEMENT RECONSTRUCTION

The replacement of the existing paved surfaces, or the supplementation of existing paving materials, or the placement of a new type of surface material over an existing paved surface.

PAVEMENT EXPANSION

The extension of the existing boundaries of the paving on a property.

PAVEMENT MAINTENANCE

The minor repair and routine maintenance of existing paving, including applying surface sealers and patches, filling cracks and potholes, and raking and leveling loose paving materials.

- (2) Permit application. An application for a paving permit shall include an accurate site plan or survey of the lot for which the permit is sought, showing:
 - (a) The dimension of each side of the lot.
 - (b) The boundaries, with dimensions, of existing and proposed paving on the lot and the location and dimensions of parking spaces.
 - (c) The location and dimensions of any buildings or other structures on the lot.
 - (d) The nature of the paving material or materials to be used, the nature of the subbase to be used, and the nature of adjacent ground cover.
- (3) Permit issuance. The paving permit shall identify the property upon which the paving is to be done and describe the specific area which is to be paved and the type of surface to be used. The paving permit shall be posted in a conspicuous location on the lot during the paving operation. No paving permit shall be issued to place new paving, or paving expansion, unless all parking and access facilities on the property meet the standards in § **36-186** in the City Code of Ordinances and the standards of Chapter **6**, Section 1 (§ 6.1) of Appendix A of the City Code of Ordinances, being the Zoning Ordinance.
- (4) Nonconforming paving. A paving permit may be issued to reconstruct a driveway or a paving space which legally exists at the time of adoption of this provision. When such paving, or any portion thereof, can feasibly be done in greater conformity with the standards in § **36-186** in the City Code of Ordinances and/or the standards of Chapter **6**, Section 1 (§ 6.1) of Appendix A of the City Code of Ordinances, being the Zoning Ordinance, the Building Official shall so require in any paving permit. In determining such feasibility, the following provisions shall apply:

- (a) The reconstruction shall not increase or extend any existing nonconformity;
- (b) The reconstruction shall not cause or permit a change in the occupancy or use of the property; and
- (c) The reconstruction shall not increase the number of parking spaces provided on the property.

§ 9-13 through § 9-20 unchanged.

Article II Building Code DIVISION 1

§ 9-21 Title.

This chapter, together with the codes adopted by § 9-22, shall be known as the "Kalamazoo Building Code."

§ 9-22 Adoption and purpose of Michigan Building Code and Michigan Residential Code.

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Building Code and the Michigan Residential Code, being the most recent editions as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, are hereby adopted by reference as if fully set forth herein for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment use, height, area and maintenance of building and residential structures in the City, providing for the issuance of permits and collection of fees therefor and providing penalties for the violations thereof except as otherwise provided in the City Code. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of such state-adopted codes herein adopted, and a provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the state-adopted codes shall control.

§ 9-23 Definitions of terms used in Michigan Building Code and Michigan Residential Code.

References therein to "state" shall mean the State of Michigan; references to "municipality" shall mean the City of Kalamazoo; references to the "municipal charter" shall mean the Charter of the City of Kalamazoo; and reference to "local ordinances" shall mean the Kalamazoo City Code.

§ 9-24 Assumption by City of Kalamazoo for administration and enforcement of

Stille-DeRossett-Hale Single State Construction Code Act.

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the City of Kalamazoo assumes responsibility for the administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act throughout the corporate limits of the City of Kalamazoo.

§ 9-25 Building Official as enforcing agent under Stille-DeRossett-Hale Single State Construction Code Act.

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Building Official of the City of Kalamazoo is hereby designated as the enforcing agent to discharge the responsibility of the City of Kalamazoo under the Stille-DeRossett-Hale Single State Construction Code Act.

§ 9-26 A person may engage in the business of or act in the capacity of a residential builder or a residential maintenance and alteration contractor or salesperson in this state without a license under this section, if the person is 1 of the following:

- A. An authorized representative of the United States government, this state, or a county, township, city, village, or other political subdivision of this state.
- B. An owner of property, with reference to a structure on the property for the owner's own use and occupancy.
- C. An owner of rental property, with reference to the maintenance and alteration of that rental property.
- D. An officer of a court who is acting within the scope of that office.
- E. A person other than the salesperson that engages solely in the business of performing work and services under contract with a residential builder or a residential maintenance and alteration contractor that is licensed under this article.
- F. A person that is working on 1 undertaking or project by 1 or more contracts, if the aggregate contract price for the labor, material, and any other items for the undertaking or project is less than \$600.00. The exemption described in this subdivision does not apply if the work of a construction is only a part of a larger or major operation, whether undertaken by the same or a different residential builder or residential maintenance and alteration contractor, or in which a division of the operation is made in contracts of amounts less than \$600.00, to evade this act.
- G. An electrical contractor that is licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739. The exemption described in this subdivision applies only to the electrical installation, electrical maintenance, or electrical repair work that is performed by the electrical contractor.

- H. A plumbing contractor that is licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133. The exemption described in this subdivision applies only to plumbing installation, plumbing maintenance, or plumbing repair work that is performed by the plumbing contractor.
- I. A mechanical contractor that is licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819. The exemption described in this subdivision applies only to mechanical installation, mechanical maintenance, or mechanical repair work that is performed by the mechanical contractor.

§ 9-27 Stop-work orders

- A. Where the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.
- B. A person who is served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition is subject to the penalty provisions prescribed in this Chapter.
- C. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall in violation of this Chapter.

§ 9-28 through §9-77.2 unchanged.

Article III Plumbing Code DIVISION 1

Generally,

§ 9-78 Title.

This article shall be known and may be cited as the "Kalamazoo Plumbing Code."

§ 9-79 Michigan Plumbing Code adopted; purpose; definition.

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Plumbing Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference as if fully set forth herein, for the purpose of regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal and buildings, and the maintenance of plumbing

systems in the City. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of the Michigan Plumbing Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the Michigan Plumbing Code shall control.

- B. The term "plumbing official," when used in the Michigan Plumbing Code, shall mean the Building Official of the City of Kalamazoo and/or plumbing inspector authorized to act for said Building Official.

§ 9-79.1 through § 9-84 unchanged.

DIVISION 3

Amendments to Plumbing Code

§ 9-85 **(Reserved)**

§ 9-85.1 **Section P-114.0 (Fees) amended.**

- A. Subsection P-114.1 of Section P-114.0 is amended by adding thereto the following sentence: "The fees for permits required by this code shall be fixed by resolution of the City Commission."
- B. Subsection P-114.2 is deleted.

§ 9-85.2 **Section P-118.0 (Stop Orders) amended.**

- A. Subsection P-118.1 is amended to read as follows: "Whenever any plumbing work is being done contrary to the provisions of this code, the plumbing official may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, or said notice may be placed in a conspicuous location on the premises in violation, and any such persons shall stop such work until authorized by the plumbing official to proceed with the work. Written notice may be served either in person or by the United States mail."

(Use this language for electrical, building code, soil, and mechanical etc.)

- B. Subsection P-118.2 is deleted.

§ 9-85.3 **Plumbing contractor, master plumber, journey plumber, or apprentice plumber; license or registration required; work not requiring license; performing activities within scope of licensure or registration.**

- A. A person shall not engage in or work at the business of a plumbing contractor, master plumber, journey plumber, or apprentice plumber unless that person is licensed or registered under this section. Except as provided in subsections B and C, only a licensed master or journey plumber shall perform plumbing. A licensed master plumber shall be in charge and responsible for proper installation and

conformance with the state construction code. Plumbing shall not be performed unless the plumbing contractor who is responsible has obtained a permit from the state or a governmental subdivision authorized to issue permits.

B. A license under this section is not required to perform any of the following work:

- (1) Minor repair work.
 - (2) The installation of a building sewer or water service pipe, if a permit is secured from the responsible enforcing agency and inspections are performed. The installations shall comply with the applicable parts of the state construction code.
 - (3) The installation of domestic water treatment and filtering equipment that requires modification to an existing cold-water distribution supply and associated waste piping in buildings if a permit is secured, required inspections performed, and the installation complies with the applicable parts of the state construction code. If the enforcing agency determines a violation exists, the responsible installer must correct it.
 - (4) The installation by a homeowner of his or her own plumbing, building sewer, or private sewer in his or her single-family dwelling if a permit is secured.
 - (5) The installation of medical gas piping, if the installation is performed under the supervision of a licensed plumbing contractor.
- C. This article does not prevent a person from performing any activities within the scope of licensure or registration under any other licensure or registration act or applicable codes for that licensed or registered professional adopted pursuant to law.

§ 9-86 through § 9-97 unchanged.

Article IV Electrical Code

§ 9-98 **(Reserved)**

§ 9-99 **Michigan Electrical Code adopted; purpose; definition.**

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Electrical Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference thereto as if fully set forth herein, for the purpose of regulating the design, installation, alteration and repair of electrical wiring, devices and equipment in the City of Kalamazoo, providing for issuance of permits, and providing penalties for violation thereof. Unless otherwise expressly provided, in the event of a conflict between any of the

provisions of the Michigan Electrical Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the Michigan Electrical Code shall control.

- B. The term "electrical official," when used in the Michigan Electrical Code, shall mean the Building Official of the City of Kalamazoo and/or electrical inspector authorized to act for said Building Official.

§ 9-100 Electrical contracting; license required; classes of work.

- A. Except as otherwise provided in this section or in subsection C, a person shall not engage in the business of electrical contracting unless the person has received from the board or from the appropriate municipality an electrical contractor's license.
- B. Except as otherwise provided in this section or in subsection C, an individual, other than an individual who is licensed under this article and employed by and working under the direction of a holder of an electrical contractor's license, shall not in any manner undertake to execute any electrical wiring.
- C. A licensee is not required to perform any of the following classes of work:
- (1) Minor repair work.
 - (2) The installation, alteration, repairing, rebuilding, or remodeling of elevators, dumbwaiters, escalators, or man lifts performed under a permit issued by an elevator inspection agency of this state or a municipality of this state.
 - (3) The installation, alteration, or repair of electrical equipment and its associated wiring installed on the premises of consumers or subscribers by or for an electrical energy supply or communication agency for use by that agency in the generation, transmission, distribution, or metering of electrical energy or for the operation of signals or transmission of intelligence.
 - (4) The installation, alteration, or repair of electrical wiring for the generation and primary distribution of electric current, or the secondary distribution system up to and including the meters, if that work is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized service.
 - (5) Any work involved in the manufacture of electric equipment, including the testing and repairing of that manufactured equipment.
 - (6) The installation, alteration, or repair of equipment and its associated wiring for the generation or distribution of electric energy for the operation of signals or transmission of intelligence if that work is performed in connection with a

communication system owned or operated by a telephone or telegraph company in rendering its authorized service as a telephone or telegraph company.

- (7) Any installation, alteration, or repair of electrical equipment by a homeowner in a single-family home and accompanying outbuildings owned and occupied or to be occupied by the individual who is performing the installation, alteration, or repair of electrical equipment.
- (8) Any work involved in the use, maintenance, operation, dismantling, or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and that has the necessary permanent wiring and floor and wall receptacle outlets designed for the proper and safe use of that theatrical equipment, but not including any permanent wiring.
- (9) Work performed by a person that is licensed as a mechanical contractor in a classification described in section MCL 339.5807(2)(a), (b), (d), (e), and (f), a person that is licensed as a plumbing contractor under article 11, and employees of those persons, while performing maintenance, service, repair, replacement, alteration, modification, reconstruction, or upgrading of control wiring circuits and electrical component parts in existing mechanical systems defined in the Michigan mechanical code and the Michigan plumbing code, including, but not limited to, energy management systems, relays and controls on boilers, water heaters, furnaces, air conditioning compressors and condensers, fan controls, thermostats and sensors, and all interconnecting wiring associated with the mechanical systems in buildings that are on the load side of the unit disconnect, that is located on or immediately adjacent to the equipment, except for life safety systems wiring.
- (10) Electrical wiring associated with the installation, removal, alteration, or repair of a water well pump on a single-family dwelling to the first point of attachment in the house from the well, by a pump installer registered under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.
- (11) The installation, maintenance, or servicing of security alarm systems in a building or structure. As used in this subdivision, "security alarm system" means that term as defined in MCL 339.5733(2)(c).
- (12) The installation, maintenance, or servicing of listed residential and commercial lawn irrigation equipment, except any permanent wired connections exceeding 30 volts.
- (13) The installation, maintenance, or servicing of listed landscape lighting systems and equipment, except any permanent wired connections exceeding 30 volts.
- (14) The installation, alteration, maintenance, or repair of electric signs and related wiring by an unlicensed individual under the direct supervision of a licensed sign specialist except that the ratio of unlicensed individuals engaged in this activity

shall not exceed 2 unlicensed individuals to 1 licensed sign specialist. An enforcing agency shall enforce this ratio on a jobsite basis.

- (15) The construction, installation, maintenance, repair, and renovation of telecommunications equipment and related systems by a person that is primarily engaged in the telecommunications and related information systems industry. This exemption does not include the construction, installation, maintenance, repair, or renovation of a fire alarm system

§ 9-101 **(Reserved)**

§ 9-102 **(Reserved)**

§ 9-103 **Violation; remedies.**

- A. Any violation of the provisions of this article setting standards of construction or installation shall be a public nuisance and constitute a municipal civil infraction.
- B. This code may be enforced by suit for injunction, action for damages or any other legal process appropriate to enforcement thereof.

§ 9-104 **through § 9-149 unchanged**

Article V **Mechanical Code**

DIVISION 1

Generally,

§ 9-150 **(Reserved)**

§ 9-151 **(Reserved)**

§ 9-152 **Adoption and purpose of Code.**

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Mechanical Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference thereto as if fully set forth herein, for the purpose of regulating the design, construction, installation, quality of materials, location, operation and maintenance of heating, ventilating, cooling and refrigeration systems, and incinerators and other heat-producing appliances in the City, providing for the issuance of permits and collection of fees therefor, and providing penalties for the violation thereof. The City Commission may by resolution establish fees for permits issued for mechanical work authorized by the Michigan Mechanical Code. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of the Michigan Mechanical Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any

City resolution, rule or regulation, the Michigan Mechanical Code shall control.

- B. The term "mechanical official," when used in the Michigan Mechanical Code, shall mean the Building Official of the City of Kalamazoo and/or mechanical inspector authorized to act for said Building Official.

§ 9-153 Installations, alterations, or servicing of work classifications; designation of contractor of record; performance of work without compensation or on behalf of charitable organization; person registered as system provider or licensed as security alarm system contractor; contractor employing qualified maintenance crew.

- A. Except as provided in subsection C or D and under MCL 339.5819, an individual or other person shall not perform installations, alterations, or servicing of work classifications under MCL 339.5807(2) that are regulated under the Stille-DeRossett-Hale single state construction code act unless the person, if the person is an individual, or an employee of the person has received a mechanical contractor's license from the department that has not been revoked or suspended, the license is classified and limited under MCL 339.5807, and the holder of the license has secured the appropriate permit from the enforcing agency charged with the responsibility of issuing permits.
- B. A person that performs installations, alterations, or servicing of work classifications under MCL 339. 5807(2) shall designate the holder of a mechanical contractor's license described in subsection A as the contractor of record notify the department in writing of the designation.
- C. If work that is within 1 of the classifications described in section MCL 339.5807(2) is performed without compensation by a person that is licensed under this article for or on behalf of a charitable organization, the owner of the property on which the work is performed may obtain the permit required under subsection A. However, this subsection applies only to the reconstruction, renovation, or remodeling of 1- to 4-family dwellings.
- D. A person that is registered as a system provider under the security alarm systems act, 2012 PA 580, MCL 338.2181 to 338.2187, or licensed as a security alarm system contractor under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1092, is not required to obtain a license from the department under this article or obtain a license or permit from a governmental subdivision or enforcing agency to perform work described in subsection A in connection with the installation, maintenance, replacement, or servicing of a thermostat for a heating, ventilating, and air conditioning system or a hydronic heating and cooling system.
- E. If a contractor of record regularly employs a qualified maintenance crew to perform mechanical contracting work regulated under this article in a facility, this article does not require that the contractor of record perform work in that facility.

F. § 9-154 through § 9-313 unchanged

Article VII
Dangerous Buildings

§ 9-314 through § 9-324 unchanged

§ 9-325 Condemnations of Dangerous Buildings and Structures

- A. No person shall maintain any structure or dangerous as defined in the definition section below. All such structures are hereby declared to be public nuisances as defined by Chapter 21.
- B. The building board of appeals may, after notice to the owner and after holding a public hearing thereon, condemn any structure which a public nuisance under subsection A of this section. Such notice shall be given to the owner of the land upon which such structure is located and shall specify in what respects the structure is a public nuisance and require the owner to alter, repair, tear down or remove the structure within such reasonable time as may be necessary to do or have done the work required by the notice. The notice may also provide a reasonable time within which such work shall be commenced and a reasonable time within which such work shall be completed.
- C. If, at the expiration of any time limit specified in the notice given pursuant to subsection B of this section, the owner has not complied with the requirements of such notice, the city manager or designee shall carry out the requirements of the notice. The cost of such abatement shall be charged against the premises and the owner.
- D. The building official may abate any public nuisance defined in this section, if the public safety requires immediate action, without preliminary order of the building board of appeals. Thereafter, the cost of abating such nuisance shall be charged against the premises and the owner.
- E. In addition, the city may commence legal action against the owner of the premises for recovery of the full cost of abatement, including, but not limited to, demolition, making the premises safe, or maintaining the exterior of the structure or grounds adjoining the structure. A judgment in an action brought pursuant to this section may be enforced against assets of the owner other than the building or structure.

§ 9-326 Definitions.

Generally. As used in this article, words and terms shall have the meanings ascribed to them in the building code adopted by § 9-22 and in Chapter 17, Chapter 21 of this Code, unless indicated to the contrary. The following terms shall have the meanings indicated:

BOARD

The Building Board of Appeals as described in § 9-327.

DANGEROUS BUILDING

Any building or structure which, because of one or more violations of Chapter 9, Buildings and Building Regulations, Chapter 17, Housing , and/or Chapter 21 Nuisance Code, of the City of Kalamazoo Code of Ordinances, is unsafe for occupancy or to the general public, or is a visual blight adversely affecting the general welfare of the area. § 9-327 Building Board of Appeals.

§ 9-327 Building Board of Appeals.

- A. For the purpose of carrying out the provisions of this article, or Chapter 17, Article II, a Building Board of Appeals shall be created, consisting of seven members appointed by the City Commission, who meet one or more of the following qualifications:
 - (1) A residential builder, licensed by the state;
 - (2) An architect or engineer, registered in the state;
 - (3) An employee or representative of the general contracting business with experience in nonresidential building construction;
 - (4) An individual with experience in residential and/or commercial property leasing, maintenance, or similar capacity;
 - (5) An owner of residential property existing within the City;
 - (6) An owner of property located in an historic district within the City; and
 - (7) A resident of the City of Kalamazoo.
- B. The City Fire Marshal and the Historic Preservation Coordinator shall be ex officio members of the Board with no voting power.
- C. The Board members shall be residents of the City of Kalamazoo or owners or employees of a business which is located in the City of Kalamazoo, the majority of which are City residents.
- D. Appointments of said Board members shall be for a three-year term except that the initial appointments shall be made up from current members of the Building Board of Appeals and the Housing Board of Appeals, keeping term expiration dates.
- E. The Board shall elect from its membership a Chair, Vice Chair, and such other

officers as it deems advisable. The terms of the officers are for one year and they are eligible for reelection. An employee of the Community Planning and Development Department shall act as recording secretary to receive and distribute all meeting minutes and to perform other relevant functions.

- F. A majority of the members of the Board shall constitute a quorum. A majority of the members is required to take action on all matters not of an administrative nature, but a majority of a quorum may deal with administrative matters. Administrative matters, without limitation, consist of election of offices; amendments to rules of procedure; setting special meetings or adjourning a meeting; changes in meeting dates, times or locations; or similar actions not involving matters arising from this article or Chapter 17, Article II.
- G. The Board shall adopt rules of procedure subject to approval by the City Commission.
- H. All meetings of the Board shall comply with the Open Meetings Act.

§ 9-328 Maintenance prohibited.

It shall be unlawful for any owner or owner's agent to keep or maintain any dangerous building or structure within the City.

§ 9-329 Notice of determination; other remedies.

- A. When the Building Official determines that a building is a dangerous building, the Building Official may:
 - (1) Issue a notice of such a determination by mailing it to the owner of the building. Such notice shall be mailed by first-class mail to the owner of the building and to any agent, lessee, mortgagee, or land contract vendee of record of whom the City has actual knowledge; and/or
 - (2) Issue a citation charging the property's owner or agent with a violation of Chapter 9, Chapter 17 or Chapter 21 of the City of Kalamazoo Code of Ordinances.
- B. If a notice of determination is issued, it shall identify the property at issue and shall contain the following provisions:
 - (1) A description of the conditions causing the building to be a dangerous building ("dangerous conditions") and identifying the necessary repairs to correct the dangerous conditions;
 - (2) An indication if permits for performance of work to repair the conditions are necessary;
 - (3) A deadline by which the City must receive a written commitment to perform the necessary repairs;

- (4) A deadline for the repair of the dangerous building conditions; and
- (5) An indication that if either of the deadlines mentioned above is not complied with, the Building Official may request that the Building Board of Appeals order that the City may have the building razed or repaired. The cost incurred by the City shall become a lien against the property enforceable in the same manner as delinquent taxes.

§ 9-330 Request for hearing.

- A. Any owner who has received such a notice of determination may file a written request for a hearing with the Building Board of Appeals asking that the Board:
 - (1) Extend the deadline to perform the required repairs; or if the Building Official desires the property to be razed, allow the owner a reasonable time to repair the dangerous conditions;
 - (2) Determine that the building is not, in fact, a dangerous building;
 - (3) Modify or delete (but not add to) some or all of the required repairs on the grounds that such repairs are unnecessary or excessive; and/or
 - (4) Determine that any aspect of the notice sent by the Building Official is in error, illegal, or unauthorized.
- B. If the Building Official is not satisfied with the response (if any) to the notice of determination he/she previously sent, the Building Official may file a written request for a hearing with the Building Board of Appeals (even if the owner has also made such a request). The request shall ask the Board to order that the building be razed or that the dangerous conditions be repaired, either by the owner or by the City (or the City's designee).
- C. An owner may not file a written request for a hearing before the Building Board of Appeals more than 10 days after the date the City mailed notice to such owner that the Building Official has requested a hearing.
- D. Upon receipt of either of such requests, the City shall schedule a hearing with the Board and shall notify the owner (by first-class mail) of the time and place of the hearing.
- E. If the decision of the Board either under Subsection **A** or Subsection **B** does not resolve the situation in a timely manner based on such decision, then either the owner (following Subsection **A**) or the Building Official (following Subsection **B**) may request another hearing before the Building Board of Appeals.

§ 9-331 Hearing.

- A. At the time and place provided in the notice of hearing, the Board shall conduct the

hearing requested by the owner and/or the Building Official. At the hearing, the party who requested the hearing has the burden of proof to present clear and convincing evidence to support the requested relief. The evidence may include written documents, photographs, oral testimony of witnesses or affidavits. For the Board to consider any written documents, photographs or affidavits, those shall be provided to the other party at least five days before the hearing, unless the Board finds good cause for not adhering to that deadline, or the other party has no objection for the Board to consider that evidence. The Board will consider only that evidence that is relevant to the issues before it. The Board may exclude evidence that is irrelevant, immaterial or unduly repetitious. In weighing the evidence, the Board may consider evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs and facts within the general knowledge of the community. The owner shall be entitled to be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments concerning the factual and legal issues. The Board shall ensure that the entire hearing is recorded.

- B. Within 30 days after the conclusion of the hearing, the Board shall prepare its written decision and mail it, by first-class mail, to the owner and the Building Official. The decision shall be supported by specific findings of fact and shall state:
 - (1) That the relief sought, if any, by the owner is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
 - (2) That the relief sought, if any, by the Building Official is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
 - (3) That the owner is to be allowed a specified and reasonable time during which to repair the dangerous conditions, including any reasonable terms and conditions, and the reasons explaining the decision; and/or
 - (4) That the hearing is adjourned to a later time so that specified additional information can be obtained from the owner and/or the City and presented to the Board.
- C. If the Board's decision is that the dangerous conditions should be repaired by the City or its designee, the decision shall provide a complete list of all repairs necessary to eliminate the dangerous conditions, along with an estimated cost to complete them.

§ 9-332 Appeal.

An owner aggrieved by any final decision of the Board under § **9-331** may appeal that decision to the Kalamazoo County Circuit Court, provided that the appeal must be filed within 21 days from the date of the mailing of the Board's decision to the owner, or within such time period as provided by law.

§ 9-333 Placarding and vacating; abatement of rent.

- A. If the Board determines that a building is a dangerous building and that it should be razed or repaired, and no petition is filed within the time prescribed by § 9-332 (or such a petition is filed but denied), the Building Official shall post, in a conspicuous place on the dangerous building, a placard describing the Building Board of Appeals' ordered action. No person, other than the Building Official, shall deface or remove the placard.
- B. All occupants of a dangerous building on which a placard was placed under this section shall vacate such building within a reasonable time, as required by the Building Official. No owner or operator shall let to any person for human occupancy, and no person shall occupy or permit anyone to occupy, such dangerous building on which the Building Official has placed a placard indicating the date on which such building is to be vacated. Only when the Building Official has provided the owner with written approval and the placard is removed from the dangerous building may human occupancy again occur. The Building Official shall remove such placard upon the complete repair of the dangerous conditions upon which the Board's decision was based.
- C. If, under the provisions of this section, a dangerous building has been ordered vacated by the Building Official and there is no compliance with the order in the time specified, the Building Official may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate the dangerous building forthwith.
- D. If any dangerous building is occupied after it has been ordered vacated under this section, no rent shall be recoverable for the period of occupancy.

§ 9-334 Raze or repair.

- A. If the Board's decision is to have the City raze or repair the building, the City, at its sole option, may either:
 - (1) Assume the responsibility of performing the ordered task by use of City employees or by directly contracting with appropriately qualified persons or businesses to perform any or all of such task; or
 - (2) Assign the performance of the ordered task, by contract, to a receiver, who shall then assume the responsibility to perform, at its own expense, such task (by either its own employees or those with whom the receiver contracts).
- B. If the City elects to perform the ordered task, either through its employees, third-party contractor or receiver, the owner shall reimburse the City for all costs it incurred in the effort (including reasonable administrative costs and expenses).

§ 9-335 Receiver bids.

If the City elects to contract the responsibility for razing or repairing the building to a receiver, the City shall put the matter out for bid, pursuant to established City procedure.

§ 9-336 Receiver control.

A. If the City contracts with a receiver under § **9-335**, the receiver shall:

- (1) Be granted total control of the building and its premises to the extent necessary to cause the repairs to be performed; and
- (2) Keep complete records of all work performed (materials and services) on the building.

§ 9-337 Receiver invoice.

Upon completion of the work required of the receiver by the contract, the receiver shall submit to the City a complete invoice listing all of the work performed and the cost (materials, supplies and services).

§ 9-338 Demand for payment.

- A. Upon the completion of the raze or repair by either the City or the receiver, the City shall mail an invoice to the owner demanding payment by the owner of the cost incurred by the City or, if a receiver performs the ordered task, the amount of the receiver's bid to the City.
- B. The owner shall pay the invoice within 30 days of the date on the invoice. If the owner fails to pay the invoice within such thirty-day period, the City, at its sole option, may pursue all of its legal and equity remedies under § **9-339**.

§ 9-339 Remedies for nonpayment.

- A. Declare the amount owing as a lien against the property and enforce collection in the same manner as delinquent property taxes, including accruing interest and administrative fees as allowed by law regarding delinquent taxes.
- B. File suit in the appropriate court in Kalamazoo County seeking a money judgment as if the amount owed by the owner is past due for an open account.
- C. Commence foreclosure proceedings against owner pursuant to applicable laws, including the power to sell the subject real estate at public auction by advertisement, without notice or hearing, except as required by Michigan statutes.
 - (1) If the proceeds from a foreclosure sale are insufficient to pay the sum due, the City may recover said deficiency in the same manner as delinquent property taxes.
- D. Any judgment, including the cost for reasonable attorney fees incurred, obtained by

the City shall bear interest at the statutory allowed rate for money judgments.

§ 9-340 Purchase by receiver.

The receiver may bid at the foreclosure sale; if its bid is the highest bid, the sum due to it (as determined by the court) may be applied to said bid (so as to reduce the sum otherwise payable by the receiver).

§ 9-341 Recovery of deficiency.

- A. If the proceeds from a foreclosure sale are insufficient to pay the sum ordered by the court, the City may recover said deficiency:
 - (1) By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
 - (2) By petitioning the court, in the foreclosure action, for the entry of a civil money judgment.

§ 9-342 Alternative means of recovery.

- A. If the sum demanded by the City from the property's owner is not timely paid and the City elects not to pursue a foreclosure sale, the City may recover said sum:
 - (1) By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
 - (2) By filing suit in the appropriate court requesting the entry of a civil money judgment.

§ 9-343 Lis pendens.

Upon commencement of razing or repairing the dangerous building, the City may record a notice of lis pendens with respect to the future claim the City will assert (in its own name and/or on behalf of the receiver) for the costs to raze or repair such building.

§ 9-344 Exercise of control.

From the time repairs commence by the City, including through a third-party contractor or through a receiver, until the time the cost of those repairs is fully paid by the owner, the owner shall exercise no control over the building nor occupy nor cause or allow another to occupy such dangerous building.

§ 9-345 Fees for recovery of costs of actions.

- A. The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken by the Building Official and/or the Building Board of Appeals in enforcing the terms of §§ 9-314 through 9-345.

- B. The means of recovering costs set forth in §§ **9-338** through **9-343** shall also apply to the recovery of said costs of actions.

§ 9-346 through § 9-350. **(Reserved)**

Section 2. REPEALER.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 3. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 4. EFFECTIVE DATE

Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its passage.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on September ____, 2019. Public notice was given, and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby J. Hopewell, Mayor

Scott Borling, City Clerk

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND AND DECRIMINALIZE CHAPTER 9
OF THE KALAMAZOO CODE OF ORDINANCES**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. The following provisions of Chapter 9 of the Kalamazoo City Code are amended to read as follows:

Chapter 9

Buildings and Building Regulations

Article I

In General

§ 9-1 Purpose and definitions.

- A. The purpose of this chapter is to establish codes and standards regulating the safety, sanitation and general public welfare as they are affected by construction, maintenance, wrecking and/or moving of all types of structures in the City.
- B. As used in this chapter, the term "Buildings Division" and "Housing Section" shall mean the department and/or division responsible for enforcement and oversight of all or part of the provisions of this chapter.
- C. The term equipment means any plumbing, heating, electrical, ventilating, air conditioning, refrigerating, and fire protection equipment, and elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations that are related to building services. Equipment or fixture shall not include manufacturing, production, or process equipment, but shall include connections from building service to process equipment.
- D. Interior Demolition is the process of removing the interior building components of a structure. This type of demolition consists of removing select items or removing all items and leaving the shell of a building.
- E. The term "Building Official" refers to the individual described in § 2-301 of this Code and as described in the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended. The term "Building Official" shall mean the Building Official or his authorized representative. Where the possessive pronoun "his" is used in this chapter, it shall mean "his or her."

§ 9-2 Boarding up of buildings — limitation on time.

No person shall permit any building to be boarded up in the City for a period of longer than six months. Such period of six months may be extended by the Building Official upon filing, by the owner or other person responsible for the premises, of applications for required permits to comply with the ordinances of the City, along with a letter of intent describing what repairs are to be made and a detailed schedule indicating when they are to be completed.

§ 9-3 Same — Method.

Any boarding up of openings in a building within the City shall be done with plywood of minimum thickness of 1/2 inch, free of holes. It shall fully cover each opening and be securely fastened. All exposed edges and surfaces shall be painted.

§ 9-4 Unsafe equipment

Equipment that becomes unsafe, insanitary or deficient because it may constitute a fire hazard or is otherwise dangerous to human life or the public welfare, or that involve inadequate maintenance, shall be deemed a violation of this chapter. Unsafe equipment shall be removed or made safe, as the building official deems necessary and as provided for in this section.

§ 9-5 Violation; penalty.

A. The City of Kalamazoo may charge any person who violates any section of this chapter with a municipal civil infraction, unless the section specifically states otherwise.

(1) The Civil fine for a violation of this Chapter shall be not more than \$200.

(2) A second or subsequent violation of this Chapter committed by an individual who has been previously adjudicated responsible for a violation of this Chapter within a previous 12-month period may be fined a minimum fine of \$200 but not more than \$500.

§ 9-6 Special permits, licenses, fees and conditions.

A. Permits and fees associated with this chapter are generally regulated by provisions described in Chapter 2, Article XI, of the City Code of Ordinances. Unless noted to the contrary in this chapter, the fees for all permits issued under all articles of this chapter shall be set by resolution by the City Commission.

B. The following structures and/or work not specifically addressed in other articles of this chapter require building permits. Unless a permit fee for the structure(s) and/or work is noted in a current permit fee resolution, the fee will be calculated on the same basis as used for residential alteration work:

(1) Freestanding television reception towers; satellite antenna; radio broadcast and reception towers, freestanding and roof-mounted.

- (2) Interior demolition work when not done as part of the work of a building permit.
- C. Special inspection and reinspection fees may be charged under the following conditions:
 - (1) When a request is made to the Buildings Division for a partial occupancy certificate for a building, an inspection fee may be charged for each inspector required in addition to any other fee prescribed in this chapter.
 - (2) A fee shall be charged for any inspection performed under this chapter.
 - (3) All inspection and re-inspection fees must be paid in advance for any special inspection of an existing commercial or residential property requested by the Federal Housing Administration, the Veterans Administration, a lending institution, a realtor, property owner or prospective property purchaser.
- D. Other permits which are applied for, issued through and fees for the same collected by the Buildings Division for work and conditions not regulated by this chapter include:
 - (1) Related to Appendix A, Zoning Regulations, City Code of Ordinances:
 - (a) Environmental permit for parking area development when not a part of construction work included in a building permit (parking lots, loading areas, outdoor sales lots) or other general grading and filling when less than one acre in area.
 - (b) Environmental permit for paving an existing parking area when not a part of construction work included in a building permit (parking lots, loading areas, outdoor sales areas). Environmental permit for building use change which involves no work requiring a building permit (business and residential uses as defined in the Zoning Ordinance and in the building code).
 - (c) Environmental permit for any site grading, filling, improvements and/or construction in a flood-fringe or floodway as identified by the Federal Management Agency, National Flood Insurance Program.
 - (d) Sign permits of any type.
 - (2) Related to soil erosion and sedimentation control, Chapter **30**, City Code of Ordinances: Any grading or filling work on one acre or more for any reason. A soil erosion permit and bond are required for such work in addition to any other permits associated with the improvement.
- E. Other permits or approvals applied for through other City departments, but which may be required before a building permit may be issued:
 - (1) Applied for through the Department of Public Safety:

- (a) Storage tanks for hazardous materials, above and in ground.
 - (b) Any general plan review and approval required by Chapter **15**, Fire Prevention and Protection. Permit and/or approval will be requested through and approved by the Public Safety Department. Fees are paid through the Buildings Division.
- (2) Applied for through the Public Services Department, or such department as the City Manager may designate:
- (a) Curb cuts from street across City property and drainage of storm water off of developed property, including any change in existing conditions. Approval is required by the Public Works Division before any permits related to such work can be issued by the Buildings Division.
 - (b) Any type of construction on or projecting over property owned by the City. Approval is required from the City Commission but secured through the Department of Public Services. This approval is required before any permits associated with the work can be issued by the Buildings Division.
- F. Permits of approvals required by non-City agencies:
- (1) Towers and any construction over 50 feet high; or any construction within a half mile of the county airport may require approval by the Federal Aviation Administration, Kalamazoo County Airport.
 - (2) Any site grading, filling or other construction in a flood-fringe or floodway area requires a permit from the State of Michigan, Department of Natural Resources, Engineering-Water Management Division, or its successor agency.
 - (3) Any work including construction and/or demolition which involves toxic wastes (toxic liquids, unknown chemicals in any form) requires clearance by the State of Michigan, Department of Natural Resources, or its successor agency. This affects all construction permits and wrecking permits.
 - (4) Any construction on a site which does not have public water or sewage disposal requires the approval of the Kalamazoo County Health Department.
- G. An annual electrical permit may be obtained by a firm or corporation or person authorized by the firm or corporation to cover installations or minor alterations, each normally requiring a separate electrical permit, performed on or within the firm or corporation's own facilities. The firm or corporation obtaining such a permit must employ one or more electrical journey persons or master electricians or contract work regularly with one such trade person or firm employing such trade person to do the electrical work. The annual permit shall be issued subject to the following conditions:
- (1) The journey person or master electrician so employed shall register their state licenses with the Building Division annually.

- (2) The annual permit shall be applicable and limited to work performed on the premises described on the permit.
- (3) The annual permit shall not be applicable to new buildings or additions until an occupancy permit for the new construction has been issued by the Buildings Division.
- (4) The holder of the annual permit shall, upon the request of the Building Official, allow inspection of the premises to assure that all work is in accordance with the electrical code as contained in this chapter.
- H. Temporary electrical service permits may be issued for a time period of six months only, unless special arrangements are made with the Building Official, and shall be subject to renewal application to the Buildings Division if still required after expiration date.
- I. Permits for emergency work of all types described in this chapter, when the emergency occurs on Saturday, Sunday or City-employee holidays, shall be secured from the Buildings Division within 24 hours of the next opening of the division offices for official business following the emergency.
- J. Any person, firm or corporation may perform minor repair work on all construction and/or devices covered by all of the articles of this chapter on their own property without having secured a permit or license, including such work which is being done to correct code violations posted on said property by the Buildings Division or Housing Section within the time limits stated in the violations notice. When such minor repair work is being done after the specified time limits for correction in a violation notice, permits will usually be required. This permission shall not extend to connections between utility supply systems and the distribution systems on the premises. For this latter work, a permit must be obtained, and a licensed contractor used. This permission also shall not extend to work which modifies or changes structural elements, window replacement work and glazing work. Such work will require permits and may require a licensed contractor.
- K. An owner-occupant of a one- or two-family dwelling may secure permits to personally install, alter or repair any items or do any construction covered by the articles of this chapter provided said owner-occupant has reasonable knowledge of such installation. The Building Official may require the applicant to submit evidence of such skills and knowledge before issuing a permit for any such work. Said occupant shall call for inspections as required by the building code.
- L. Plans, engineering calculations, diagrams and other data shall be submitted in one or more sets with each application for any permit covered by this chapter. The Building Official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed in the State of Michigan to practice as such. Exceptions are as follows:
 - (1) Alterations and repair work determined by the Building Official to be of a minor

nature.

- (2) A building of use group R-3 containing not more than 3,500 square feet unless such building is constructed using unusual or proprietary systems for structure, mechanical, electrical components not clearly covered by the building regulations.
- (3) Work costing less than \$15,000 and to be done by a state agency.

§ 9-7 Alterations, renovations and interior demolition.

- A. All unused wiring, piping, conduit, communications cable, ducts and associated junction boxes, supports and accessories, the same which are located in areas accessible for maintenance and remaining from any prior or current remodeling and/or rehabilitation work on any building, are to be removed from the building or premises unless such items are planned to be reused at some future date. The Building Official may permit such items to remain when reuse is not planned if they can be rendered safe and will not otherwise constitute a violation of this Code or other law.
- B. A building permit must be obtained from the Buildings Division for interior demolition work as herein described for all buildings unless such work is documented as part of the plans and specifications submitted with a building permit request for reconstruction work to be done in the building and such demolition work is done after the issuance of the building permit. Demolition work requiring such a permit includes but is not limited to the removal of duct work, piping, conduit partitions, structural members and general clearing of an interior area of more than 500 square feet. Any interior demolition work of any kind which, when started or if discovered in the work process, requires the removal of asbestos, must be done by a contractor approved by the State of Michigan, Department of Public Health, Bureau of Environmental and Occupational Health.
- C. When renovation work results in a change of use of a building as defined in Chapter 11 of the Michigan Building Code or any renovation work is done to more than 50% of the floor area of an existing building, the entire building must be brought into compliance with the current barrier-free design rules promulgated by the State of Michigan. When renovation work is done to less than 50% of an existing building, the area renovated and a means of exit travel from the area to the exterior must comply with the referenced barrier-free rules. All additions to existing buildings must comply with the referenced barrier-free rules.
- D. When and where renovation work is of such a scope that either face of a hollow wall or partition is removed and replaced, all services exposed within said wall or partition shall be brought up to current building, electrical, mechanical and plumbing codes. This same requirement applies to work which includes removing and replacing ceilings and removing and replacing floor construction. When such work includes adding electrical devices, any new circuits required to feed those devices to avoid overloading existing circuits shall be added.

- E. Debris resulting from demolition and other construction work is to be regularly and promptly removed from the site and disposed of in compliance with all federal, state and local regulations. As long as a dumpster or other debris container is not full, and its contents do not pose a hazard or violate any statute, ordinance, rule or regulation, the dumpster need not be emptied until completion of the work for which the permit was issued. Dumpsters and any other containers used to collect such debris shall be placed and protected on the construction site so that they do not attract unauthorized use for trash and garbage disposal by persons other than those engaged in work on the site. When containers for debris from demolition or other construction work are not required or used for a period of two weeks and are accessible to unauthorized use, they are to be removed from the site. If such removal is not made, such containers may be declared a nuisance and their removal accomplished under provisions of **Chapter 21, §§ 21-3 through 21-5**, of the City Code of Ordinances.
- F. When the repair of plumbing piping requires the replacement of a section of metal water supply piping, and the replacement pipe is nonmetallic, the two ends of the metal piping shall be bonded to maintain electrical grounding continuity past the nonmetallic pipe.
- G. When new electrical wiring is required in any finished area in a dwelling unit, and such wiring cannot be concealed within walls, under floors or above ceilings, then such exposed wiring shall be done in a complete wiring distribution system specifically designed to be surface-mounted on finished surfaces.

§ 9-8 Permit duration and expiration.

Regardless of any other language in this chapter, the Building Official may grant an extension to the starting time for any permit issued under the provisions of this chapter for a maximum of 30 days if the permit holder requests such an extension in writing and provides evidence that the delay is caused by action over which the permit holder has no control. Likewise, the Building Official may grant an extension to the period of construction inactivity after work has commenced for a maximum of 30 days under the same procedure and conditions as allowed for the delay in starting work. A limit of two such extensions in either case may be granted by the Building Official. Any further extensions may only be granted by the Construction Board of Appeals.

§ 9-9 Fees for actions taken under Chapter 9.

- A. The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken under Chapter 9 of the City Code.
- B. The costs shall be a lien against the real property and shall be reported to the assessing officer of the City who shall assess the cost against the property on which the building or dwelling is or was located.
- C. The owner or party in interest in whose name the property appears upon the last local tax assessment record shall be notified of the amount of the costs referred to in Subsection **B** by first class mail at the address shown on the record. If he/she

fails to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the City, and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes and/or may be collected by suit at law. Interest shall accrue as provided for taxes and judgments by law.

§ 9-10 Civil remedies for violations.

- A. Any building constructed, altered, converted or maintained in violation of any provision of this chapter is declared to be a nuisance. The Building Official may institute an action in the circuit court to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or any nuisance, to prevent the occupation of such building or to prevent any illegal act, conduct or business in or about such building. The procedure for such action shall be the same as for an injunction for abatement of a nuisance in the circuit court.
- B. The judgment of the court in such cause may direct the corrections, repair or rehabilitation of the building or the abatement of the nuisance, may authorize a reasonable time within which the defendant may make such corrections, repairs, rehabilitation or abatement, and may authorize the Building Official to execute and carry out the provisions of the judgment in case of default by the defendant. Whenever the City has incurred any expense for the enforcement of this chapter or the judgment of the court, the City may sue the owner or possessor of the premises, or both, and may recover the amount of such expense, in addition to the costs of suit.
- C. The City shall have a lien upon the premises for the expenses necessarily incurred in the execution of such judgment which lien shall have priority over all other liens or encumbrances, except taxes, assessments or mortgages recorded previous to the existence of such lien. Such lien may be foreclosed as in the case of foreclosure of mortgages by court action, as established by the circuit court rules and statutes of the state in such case made and provided.

§ 9-11 Appearance tickets.

Prosecutions for violations of this chapter may be commenced by issuing a municipal civil infraction citation. The Building Official is authorized to issue and serve such citations.

§ 9-12 Paving permit required.

- A. No part of any yard or premises shall be paved or repaved (including pavement reconstruction and pavement expansion) for the purposes of providing vehicular access or parking unless a paving permit is first issued by the Building Official as described in this section.

(1) Definitions. For the purposes of this section, the following definitions shall apply:

PAVE (AND ITS DERIVATIVES)

The placement of materials on the ground for the purposes of providing vehicular access or parking including, but not limited to, gravel, concrete, bituminous material, crushed stone, tile, or brick pavers.

PAVEMENT RECONSTRUCTION

The replacement of the existing paved surfaces, or the supplementation of existing paving materials, or the placement of a new type of surface material over an existing paved surface.

PAVEMENT EXPANSION

The extension of the existing boundaries of the paving on a property.

PAVEMENT MAINTENANCE

The minor repair and routine maintenance of existing paving, including applying surface sealers and patches, filling cracks and potholes, and raking and leveling loose paving materials.

- (2) Permit application. An application for a paving permit shall include an accurate site plan or survey of the lot for which the permit is sought, showing:
 - (a) The dimension of each side of the lot.
 - (b) The boundaries, with dimensions, of existing and proposed paving on the lot and the location and dimensions of parking spaces.
 - (c) The location and dimensions of any buildings or other structures on the lot.
 - (d) The nature of the paving material or materials to be used, the nature of the subbase to be used, and the nature of adjacent ground cover.
- (3) Permit issuance. The paving permit shall identify the property upon which the paving is to be done and describe the specific area which is to be paved and the type of surface to be used. The paving permit shall be posted in a conspicuous location on the lot during the paving operation. No paving permit shall be issued to place new paving, or paving expansion, unless all parking and access facilities on the property meet the standards in § **36-186** in the City Code of Ordinances and the standards of Chapter **6**, Section 1 (§ 6.1) of Appendix A of the City Code of Ordinances, being the Zoning Ordinance.
- (4) Nonconforming paving. A paving permit may be issued to reconstruct a driveway or a paving space which legally exists at the time of adoption of this provision. When such paving, or any portion thereof, can feasibly be done in greater conformity with the standards in § **36-186** in the City Code of Ordinances and/or the standards of Chapter **6**, Section 1 (§ 6.1) of Appendix A of the City Code of Ordinances, being the Zoning Ordinance, the Building Official shall so require in any paving permit. In determining such feasibility, the following provisions shall apply:

- (a) The reconstruction shall not increase or extend any existing nonconformity;
- (b) The reconstruction shall not cause or permit a change in the occupancy or use of the property; and
- (c) The reconstruction shall not increase the number of parking spaces provided on the property.

§ 9-13 through § 9-20 unchanged.

Article II Building Code DIVISION 1

§ 9-21 Title.

This chapter, together with the codes adopted by § 9-22, shall be known as the "Kalamazoo Building Code."

§ 9-22 Adoption and purpose of Michigan Building Code and Michigan Residential Code.

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Building Code and the Michigan Residential Code, being the most recent editions as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, are hereby adopted by reference as if fully set forth herein for the purpose of regulating the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment use, height, area and maintenance of building and residential structures in the City, providing for the issuance of permits and collection of fees therefor and providing penalties for the violations thereof except as otherwise provided in the City Code. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of such state-adopted codes herein adopted, and a provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the state-adopted codes shall control.

§ 9-23 Definitions of terms used in Michigan Building Code and Michigan Residential Code.

References therein to "state" shall mean the State of Michigan; references to "municipality" shall mean the City of Kalamazoo; references to the "municipal charter" shall mean the Charter of the City of Kalamazoo; and reference to "local ordinances" shall mean the Kalamazoo City Code.

§ 9-24 Assumption by City of Kalamazoo for administration and enforcement of

Stille-DeRossett-Hale Single State Construction Code Act.

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the City of Kalamazoo assumes responsibility for the administration and enforcement of the Stille-DeRossett-Hale Single State Construction Code Act throughout the corporate limits of the City of Kalamazoo.

§ 9-25 Building Official as enforcing agent under Stille-DeRossett-Hale Single State Construction Code Act.

Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Building Official of the City of Kalamazoo is hereby designated as the enforcing agent to discharge the responsibility of the City of Kalamazoo under the Stille-DeRossett-Hale Single State Construction Code Act.

§ 9-26 A person may engage in the business of or act in the capacity of a residential builder or a residential maintenance and alteration contractor or salesperson in this state without a license under this section, if the person is 1 of the following:

- A. An authorized representative of the United States government, this state, or a county, township, city, village, or other political subdivision of this state.
- B. An owner of property, with reference to a structure on the property for the owner's own use and occupancy.
- C. An owner of rental property, with reference to the maintenance and alteration of that rental property.
- D. An officer of a court who is acting within the scope of that office.
- E. A person other than the salesperson that engages solely in the business of performing work and services under contract with a residential builder or a residential maintenance and alteration contractor that is licensed under this article.
- F. A person that is working on 1 undertaking or project by 1 or more contracts, if the aggregate contract price for the labor, material, and any other items for the undertaking or project is less than \$600.00. The exemption described in this subdivision does not apply if the work of a construction is only a part of a larger or major operation, whether undertaken by the same or a different residential builder or residential maintenance and alteration contractor, or in which a division of the operation is made in contracts of amounts less than \$600.00, to evade this act.
- G. An electrical contractor that is licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739. The exemption described in this subdivision applies only to the electrical installation, electrical maintenance, or electrical repair work that is performed by the electrical contractor.

- H. A plumbing contractor that is licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133. The exemption described in this subdivision applies only to plumbing installation, plumbing maintenance, or plumbing repair work that is performed by the plumbing contractor.
- I. A mechanical contractor that is licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819. The exemption described in this subdivision applies only to mechanical installation, mechanical maintenance, or mechanical repair work that is performed by the mechanical contractor.

§ 9-27 Stop-work orders

- A. Where the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official is authorized to issue a stop work order.
- B. A person who is served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition is subject to the penalty provisions prescribed in this Chapter.
- C. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall in violation of this Chapter.

§ 9-28 through §9-77.2 unchanged.

Article III Plumbing Code DIVISION 1

Generally,

§ 9-78 Title.

This article shall be known and may be cited as the "Kalamazoo Plumbing Code."

§ 9-79 Michigan Plumbing Code adopted; purpose; definition.

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Plumbing Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference as if fully set forth herein, for the purpose of regulating the design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal and buildings, and the maintenance of plumbing

systems in the City. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of the Michigan Plumbing Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the Michigan Plumbing Code shall control.

- B. The term "plumbing official," when used in the Michigan Plumbing Code, shall mean the Building Official of the City of Kalamazoo and/or plumbing inspector authorized to act for said Building Official.

§ 9-79.1 through § 9-84 unchanged.

DIVISION 3

Amendments to Plumbing Code

§ 9-85 (Reserved)

§ 9-85.1 **Section P-114.0 (Fees) amended.**

- A. Subsection P-114.1 of Section P-114.0 is amended by adding thereto the following sentence: "The fees for permits required by this code shall be fixed by resolution of the City Commission."
- B. Subsection P-114.2 is deleted.

§ 9-85.2 **Section P-118.0 (Stop Orders) amended.**

- A. Subsection P-118.1 is amended to read as follows: "Whenever any plumbing work is being done contrary to the provisions of this code, the plumbing official may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, or said notice may be placed in a conspicuous location on the premises in violation, and any such persons shall stop such work until authorized by the plumbing official to proceed with the work. Written notice may be served either in person or by the United States mail."

(Use this language for electrical, building code, soil, and mechanical etc.)

- B. Subsection P-118.2 is deleted.

§ 9-85.3 Plumbing contractor, master plumber, journey plumber, or apprentice plumber; license or registration required; work not requiring license; performing activities within scope of licensure or registration.

- A. A person shall not engage in or work at the business of a plumbing contractor, master plumber, journey plumber, or apprentice plumber unless that person is licensed or registered under this section. Except as provided in subsections B and C, only a licensed master or journey plumber shall perform plumbing. A licensed master plumber shall be in charge and responsible for proper installation and

conformance with the state construction code. Plumbing shall not be performed unless the plumbing contractor who is responsible has obtained a permit from the state or a governmental subdivision authorized to issue permits.

B. A license under this section is not required to perform any of the following work:

- (1) Minor repair work.
- (2) The installation of a building sewer or water service pipe, if a permit is secured from the responsible enforcing agency and inspections are performed. The installations shall comply with the applicable parts of the state construction code.
- (3) The installation of domestic water treatment and filtering equipment that requires modification to an existing cold-water distribution supply and associated waste piping in buildings if a permit is secured, required inspections performed, and the installation complies with the applicable parts of the state construction code. If the enforcing agency determines a violation exists, the responsible installer must correct it.
- (4) The installation by a homeowner of his or her own plumbing, building sewer, or private sewer in his or her single-family dwelling if a permit is secured.
- (5) The installation of medical gas piping, if the installation is performed under the supervision of a licensed plumbing contractor.

C. This article does not prevent a person from performing any activities within the scope of licensure or registration under any other licensure or registration act or applicable codes for that licensed or registered professional adopted pursuant to law.

§ 9-86 through § 9-97 unchanged.

Article IV Electrical Code

§ 9-98 (Reserved)

§ 9-99 **Michigan Electrical Code adopted; purpose; definition.**

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Electrical Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference thereto as if fully set forth herein, for the purpose of regulating the design, installation, alteration and repair of electrical wiring, devices and equipment in the City of Kalamazoo, providing for issuance of permits, and providing penalties for violation thereof. Unless otherwise expressly provided, in the event of a conflict between any of the

provisions of the Michigan Electrical Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any City resolution, rule or regulation, the Michigan Electrical Code shall control.

- B. The term "electrical official," when used in the Michigan Electrical Code, shall mean the Building Official of the City of Kalamazoo and/or electrical inspector authorized to act for said Building Official.

§ 9-100 Electrical contracting; license required; classes of work.

- A. Except as otherwise provided in this section or in subsection C, a person shall not engage in the business of electrical contracting unless the person has received from the board or from the appropriate municipality an electrical contractor's license.
- B. Except as otherwise provided in this section or in subsection C, an individual, other than an individual who is licensed under this article and employed by and working under the direction of a holder of an electrical contractor's license, shall not in any manner undertake to execute any electrical wiring.
- C. A licensee is not required to perform any of the following classes of work:
- (1) Minor repair work.
 - (2) The installation, alteration, repairing, rebuilding, or remodeling of elevators, dumbwaiters, escalators, or man lifts performed under a permit issued by an elevator inspection agency of this state or a municipality of this state.
 - (3) The installation, alteration, or repair of electrical equipment and its associated wiring installed on the premises of consumers or subscribers by or for an electrical energy supply or communication agency for use by that agency in the generation, transmission, distribution, or metering of electrical energy or for the operation of signals or transmission of intelligence.
 - (4) The installation, alteration, or repair of electrical wiring for the generation and primary distribution of electric current, or the secondary distribution system up to and including the meters, if that work is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized service.
 - (5) Any work involved in the manufacture of electric equipment, including the testing and repairing of that manufactured equipment.
 - (6) The installation, alteration, or repair of equipment and its associated wiring for the generation or distribution of electric energy for the operation of signals or transmission of intelligence if that work is performed in connection with a

communication system owned or operated by a telephone or telegraph company in rendering its authorized service as a telephone or telegraph company.

- (7) Any installation, alteration, or repair of electrical equipment by a homeowner in a single-family home and accompanying outbuildings owned and occupied or to be occupied by the individual who is performing the installation, alteration, or repair of electrical equipment.
- (8) Any work involved in the use, maintenance, operation, dismantling, or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and that has the necessary permanent wiring and floor and wall receptacle outlets designed for the proper and safe use of that theatrical equipment, but not including any permanent wiring.
- (9) Work performed by a person that is licensed as a mechanical contractor in a classification described in section MCL 339.5807(2)(a), (b), (d), (e), and (f), a person that is licensed as a plumbing contractor under article 11, and employees of those persons, while performing maintenance, service, repair, replacement, alteration, modification, reconstruction, or upgrading of control wiring circuits and electrical component parts in existing mechanical systems defined in the Michigan mechanical code and the Michigan plumbing code, including, but not limited to, energy management systems, relays and controls on boilers, water heaters, furnaces, air conditioning compressors and condensers, fan controls, thermostats and sensors, and all interconnecting wiring associated with the mechanical systems in buildings that are on the load side of the unit disconnect, that is located on or immediately adjacent to the equipment, except for life safety systems wiring.
- (10) Electrical wiring associated with the installation, removal, alteration, or repair of a water well pump on a single-family dwelling to the first point of attachment in the house from the well, by a pump installer registered under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.
- (11) The installation, maintenance, or servicing of security alarm systems in a building or structure. As used in this subdivision, "security alarm system" means that term as defined in MCL 339.5733(2)(c).
- (12) The installation, maintenance, or servicing of listed residential and commercial lawn irrigation equipment, except any permanent wired connections exceeding 30 volts.
- (13) The installation, maintenance, or servicing of listed landscape lighting systems and equipment, except any permanent wired connections exceeding 30 volts.
- (14) The installation, alteration, maintenance, or repair of electric signs and related wiring by an unlicensed individual under the direct supervision of a licensed sign specialist except that the ratio of unlicensed individuals engaged in this activity

shall not exceed 2 unlicensed individuals to 1 licensed sign specialist. An enforcing agency shall enforce this ratio on a jobsite basis.

- (15) The construction, installation, maintenance, repair, and renovation of telecommunications equipment and related systems by a person that is primarily engaged in the telecommunications and related information systems industry. This exemption does not include the construction, installation, maintenance, repair, or renovation of a fire alarm system

§ 9-101 **(Reserved)**

§ 9-102 **(Reserved)**

§ 9-103 **Violation; remedies.**

- A. Any violation of the provisions of this article setting standards of construction or installation shall be a public nuisance and constitute a **municipal civil infraction**.
- B. This code may be enforced by suit for injunction, action for damages or any other legal process appropriate to enforcement thereof.

§ 9-104 **through § 9-149 unchanged**

Article V Mechanical Code

DIVISION 1

Generally,

§ 9-150 **(Reserved)**

§ 9-151 **(Reserved)**

§ 9-152 **Adoption and purpose of Code.**

- A. Pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, MCLA § 125.1501 et seq., as amended, the Michigan Mechanical Code, being the most recent edition as adopted by the State of Michigan, and a complete copy of which is on file in the office of the City Clerk, is hereby adopted by reference thereto as if fully set forth herein, for the purpose of regulating the design, construction, installation, quality of materials, location, operation and maintenance of heating, ventilating, cooling and refrigeration systems, and incinerators and other heat-producing appliances in the City, providing for the issuance of permits and collection of fees therefor, and providing penalties for the violation thereof. The City Commission may by resolution establish fees for permits issued for mechanical work authorized by the Michigan Mechanical Code. Unless otherwise expressly provided, in the event of a conflict between any of the provisions of the Michigan Mechanical Code, herein adopted, and a provision of this chapter, or any other provision of this chapter, or any other provision of the Kalamazoo City Code, or any

City resolution, rule or regulation, the Michigan Mechanical Code shall control.

- B. The term "mechanical official," when used in the Michigan Mechanical Code, shall mean the Building Official of the City of Kalamazoo and/or mechanical inspector authorized to act for said Building Official.

§ 9-153 Installations, alterations, or servicing of work classifications; designation of contractor of record; performance of work without compensation or on behalf of charitable organization; person registered as system provider or licensed as security alarm system contractor; contractor employing qualified maintenance crew.

- A. Except as provided in subsection C or D and under MCL 339.5819, an individual or other person shall not perform installations, alterations, or servicing of work classifications under MCL 339.5807(2) that are regulated under the Stille-DeRossett-Hale single state construction code act unless the person, if the person is an individual, or an employee of the person has received a mechanical contractor's license from the department that has not been revoked or suspended, the license is classified and limited under MCL 339.5807, and the holder of the license has secured the appropriate permit from the enforcing agency charged with the responsibility of issuing permits.
- B. A person that performs installations, alterations, or servicing of work classifications under MCL 339. 5807(2) shall designate the holder of a mechanical contractor's license described in subsection A as the contractor of record notify the department in writing of the designation.
- C. If work that is within 1 of the classifications described in section MCL 339.5807(2) is performed without compensation by a person that is licensed under this article for or on behalf of a charitable organization, the owner of the property on which the work is performed may obtain the permit required under subsection A. However, this subsection applies only to the reconstruction, renovation, or remodeling of 1- to 4-family dwellings.
- D. A person that is registered as a system provider under the security alarm systems act, 2012 PA 580, MCL 338.2181 to 338.2187, or licensed as a security alarm system contractor under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1092, is not required to obtain a license from the department under this article or obtain a license or permit from a governmental subdivision or enforcing agency to perform work described in subsection A in connection with the installation, maintenance, replacement, or servicing of a thermostat for a heating, ventilating, and air conditioning system or a hydronic heating and cooling system.
- E. If a contractor of record regularly employs a qualified maintenance crew to perform mechanical contracting work regulated under this article in a facility, this article does not require that the contractor of record perform work in that facility.

F. § 9-154 through § 9-313 unchanged

Article VII Dangerous Buildings

§ 9-314 through § 9-324 unchanged

§ 9-325 **Condemnations of Dangerous Buildings and Structures**

- A. No person shall maintain any structure or dangerous as defined in the definition section below. All such structures are hereby declared to be public nuisances as defined by Chapter 21.
- B. The building board of appeals may, after notice to the owner and after holding a public hearing thereon, condemn any structure which a public nuisance under subsection A of this section. Such notice shall be given to the owner of the land upon which such structure is located and shall specify in what respects the structure is a public nuisance and require the owner to alter, repair, tear down or remove the structure within such reasonable time as may be necessary to do or have done the work required by the notice. The notice may also provide a reasonable time within which such work shall be commenced and a reasonable time within which such work shall be completed.
- C. If, at the expiration of any time limit specified in the notice given pursuant to subsection B of this section, the owner has not complied with the requirements of such notice, the city manager or designee shall carry out the requirements of the notice. The cost of such abatement shall be charged against the premises and the owner.
- D. The building official may abate any public nuisance defined in this section, if the public safety requires immediate action, without preliminary order of the building board of appeals. Thereafter, the cost of abating such nuisance shall be charged against the premises and the owner.
- E. In addition, the city may commence legal action against the owner of the premises for recovery of the full cost of abatement, including, but not limited to, demolition, making the premises safe, or maintaining the exterior of the structure or grounds adjoining the structure. A judgment in an action brought pursuant to this section may be enforced against assets of the owner other than the building or structure.

§ 9-326 **Definitions.**

Generally. As used in this article, words and terms shall have the meanings ascribed to them in the building code adopted by § 9-22 and in Chapter 17, **Chapter 21** of this Code, unless indicated to the contrary. The following terms shall have the meanings indicated:

BOARD

The Building Board of Appeals as described in § 9-327.

DANGEROUS BUILDING

Any building or structure which, because of one or more violations of Chapter 9, Buildings and Building Regulations, Chapter 17, Housing , and/or Chapter 21 Nuisance Code, of the City of Kalamazoo Code of Ordinances, is unsafe for occupancy or to the general public, or is a visual blight adversely affecting the general welfare of the area. § 9-327 Building Board of Appeals.

§ 9-327 Building Board of Appeals.

- A. For the purpose of carrying out the provisions of this article, or Chapter 17, Article II, a Building Board of Appeals shall be created, consisting of seven members appointed by the City Commission, who meet one or more of the following qualifications:
 - (1) A residential builder, licensed by the state;
 - (2) An architect or engineer, registered in the state;
 - (3) An employee or representative of the general contracting business with experience in nonresidential building construction;
 - (4) An individual with experience in residential and/or commercial property leasing, maintenance, or similar capacity;
 - (5) An owner of residential property existing within the City;
 - (6) An owner of property located in an historic district within the City; and
 - (7) A resident of the City of Kalamazoo.
- B. The City Fire Marshal and the Historic Preservation Coordinator shall be ex officio members of the Board with no voting power.
- C. The Board members shall be residents of the City of Kalamazoo or owners or employees of a business which is located in the City of Kalamazoo, the majority of which are City residents.
- D. Appointments of said Board members shall be for a three-year term except that the initial appointments shall be made up from current members of the Building Board of Appeals and the Housing Board of Appeals, keeping term expiration dates.
- E. The Board shall elect from its membership a Chair, Vice Chair, and such other

officers as it deems advisable. The terms of the officers are for one year and they are eligible for reelection. An employee of the Community Planning and Development Department shall act as recording secretary to receive and distribute all meeting minutes and to perform other relevant functions.

- F. A majority of the members of the Board shall constitute a quorum. A majority of the members is required to take action on all matters not of an administrative nature, but a majority of a quorum may deal with administrative matters. Administrative matters, without limitation, consist of election of offices; amendments to rules of procedure; setting special meetings or adjourning a meeting; changes in meeting dates, times or locations; or similar actions not involving matters arising from this article or Chapter 17, Article II.
- G. The Board shall adopt rules of procedure subject to approval by the City Commission.
- H. All meetings of the Board shall comply with the Open Meetings Act.

§ 9-328 Maintenance prohibited.

It shall be unlawful for any owner or owner's agent to keep or maintain any dangerous building or structure within the City.

§ 9-329 Notice of determination; other remedies.

- A. When the Building Official determines that a building is a dangerous building, the Building Official may:
 - (1) Issue a notice of such a determination by mailing it to the owner of the building. Such notice shall be mailed by first-class mail to the owner of the building and to any agent, lessee, mortgagee, or land contract vendee of record of whom the City has actual knowledge; and/or
 - (2) Issue a citation charging the property's owner or agent with a violation of Chapter 9, Chapter 17 or **Chapter 21** of the City of Kalamazoo Code of Ordinances.
- B. If a notice of determination is issued, it shall identify the property at issue and shall contain the following provisions:
 - (1) A description of the conditions causing the building to be a dangerous building ("dangerous conditions") and identifying the necessary repairs to correct the dangerous conditions;
 - (2) An indication if permits for performance of work to repair the conditions are necessary;
 - (3) A deadline by which the City must receive a written commitment to perform the necessary repairs;

- (4) A deadline for the repair of the dangerous building conditions; and
- (5) An indication that if either of the deadlines mentioned above is not complied with, the Building Official may request that the Building Board of Appeals order that the City may have the building razed or repaired. The cost incurred by the City shall become a lien against the property enforceable in the same manner as delinquent taxes.

§ 9-330 Request for hearing.

- A. Any owner who has received such a notice of determination may file a written request for a hearing with the Building Board of Appeals asking that the Board:
 - (1) Extend the deadline to perform the required repairs; or if the Building Official desires the property to be razed, allow the owner a reasonable time to repair the dangerous conditions;
 - (2) Determine that the building is not, in fact, a dangerous building;
 - (3) Modify or delete (but not add to) some or all of the required repairs on the grounds that such repairs are unnecessary or excessive; and/or
 - (4) Determine that any aspect of the notice sent by the Building Official is in error, illegal, or unauthorized.
- B. If the Building Official is not satisfied with the response (if any) to the notice of determination he/she previously sent, the Building Official may file a written request for a hearing with the Building Board of Appeals (even if the owner has also made such a request). The request shall ask the Board to order that the building be razed or that the dangerous conditions be repaired, either by the owner or by the City (or the City's designee).
- C. An owner may not file a written request for a hearing before the Building Board of Appeals more than 10 days after the date the City mailed notice to such owner that the Building Official has requested a hearing.
- D. Upon receipt of either of such requests, the City shall schedule a hearing with the Board and shall notify the owner (by first-class mail) of the time and place of the hearing.
- E. If the decision of the Board either under Subsection **A** or Subsection **B** does not resolve the situation in a timely manner based on such decision, then either the owner (following Subsection **A**) or the Building Official (following Subsection **B**) may request another hearing before the Building Board of Appeals.

§ 9-331 Hearing.

- A. At the time and place provided in the notice of hearing, the Board shall conduct the

hearing requested by the owner and/or the Building Official. At the hearing, the party who requested the hearing has the burden of proof to present clear and convincing evidence to support the requested relief. The evidence may include written documents, photographs, oral testimony of witnesses or affidavits. For the Board to consider any written documents, photographs or affidavits, those shall be provided to the other party at least five days before the hearing, unless the Board finds good cause for not adhering to that deadline, or the other party has no objection for the Board to consider that evidence. The Board will consider only that evidence that is relevant to the issues before it. The Board may exclude evidence that is irrelevant, immaterial or unduly repetitious. In weighing the evidence, the Board may consider evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs and facts within the general knowledge of the community. The owner shall be entitled to be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments concerning the factual and legal issues. The Board shall ensure that the entire hearing is recorded.

- B. Within 30 days after the conclusion of the hearing, the Board shall prepare its written decision and mail it, by first-class mail, to the owner and the Building Official. The decision shall be supported by specific findings of fact and shall state:
 - (1) That the relief sought, if any, by the owner is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
 - (2) That the relief sought, if any, by the Building Official is or is not granted, in whole or in part, the terms and conditions of that relief, and the reasons explaining the decision;
 - (3) That the owner is to be allowed a specified and reasonable time during which to repair the dangerous conditions, including any reasonable terms and conditions, and the reasons explaining the decision; and/or
 - (4) That the hearing is adjourned to a later time so that specified additional information can be obtained from the owner and/or the City and presented to the Board.
- C. If the Board's decision is that the dangerous conditions should be repaired by the City or its designee, the decision shall provide a complete list of all repairs necessary to eliminate the dangerous conditions, along with an estimated cost to complete them.

§ 9-332 Appeal.

An owner aggrieved by any final decision of the Board under § **9-331** may appeal that decision to the Kalamazoo County Circuit Court, provided that the appeal must be filed within 21 days from the date of the mailing of the Board's decision to the owner, or within such time period as provided by law.

§ 9-333 Placarding and vacating; abatement of rent.

- A. If the Board determines that a building is a dangerous building and that it should be razed or repaired, and no petition is filed within the time prescribed by § 9-332 (or such a petition is filed but denied), the Building Official shall post, in a conspicuous place on the dangerous building, a placard describing the Building Board of Appeals' ordered action. No person, other than the Building Official, shall deface or remove the placard.
- B. All occupants of a dangerous building on which a placard was placed under this section shall vacate such building within a reasonable time, as required by the Building Official. No owner or operator shall let to any person for human occupancy, and no person shall occupy or permit anyone to occupy, such dangerous building on which the Building Official has placed a placard indicating the date on which such building is to be vacated. Only when the Building Official has provided the owner with written approval and the placard is removed from the dangerous building may human occupancy again occur. The Building Official shall remove such placard upon the complete repair of the dangerous conditions upon which the Board's decision was based.
- C. If, under the provisions of this section, a dangerous building has been ordered vacated by the Building Official and there is no compliance with the order in the time specified, the Building Official may petition the appropriate court to obtain compliance, and the court may order the occupants to vacate the dangerous building forthwith.
- D. If any dangerous building is occupied after it has been ordered vacated under this section, no rent shall be recoverable for the period of occupancy.

§ 9-334 Raze or repair.

- A. If the Board's decision is to have the City raze or repair the building, the City, at its sole option, may either:
 - (1) Assume the responsibility of performing the ordered task by use of City employees or by directly contracting with appropriately qualified persons or businesses to perform any or all of such task; or
 - (2) Assign the performance of the ordered task, by contract, to a receiver, who shall then assume the responsibility to perform, at its own expense, such task (by either its own employees or those with whom the receiver contracts).
- B. If the City elects to perform the ordered task, either through its employees, third-party contractor or receiver, the owner shall reimburse the City for all costs it incurred in the effort (including reasonable administrative costs and expenses).

§ 9-335 Receiver bids.

If the City elects to contract the responsibility for razing or repairing the building to a receiver, the City shall put the matter out for bid, pursuant to established City procedure.

§ 9-336 Receiver control.

A. If the City contracts with a receiver under § **9-335**, the receiver shall:

- (1) Be granted total control of the building and its premises to the extent necessary to cause the repairs to be performed; and
- (2) Keep complete records of all work performed (materials and services) on the building.

§ 9-337 Receiver invoice.

Upon completion of the work required of the receiver by the contract, the receiver shall submit to the City a complete invoice listing all of the work performed and the cost (materials, supplies and services).

§ 9-338 Demand for payment.

- A. Upon the completion of the raze or repair by either the City or the receiver, the City shall mail an invoice to the owner demanding payment by the owner of the cost incurred by the City or, if a receiver performs the ordered task, the amount of the receiver's bid to the City.
- B. The owner shall pay the invoice within 30 days of the date on the invoice. If the owner fails to pay the invoice within such thirty-day period, the City, at its sole option, may pursue all of its legal and equity remedies under § **9-339**.

§ 9-339 Remedies for nonpayment.

- A. Declare the amount owing as a lien against the property and enforce collection in the same manner as delinquent property taxes, including accruing interest and administrative fees as allowed by law regarding delinquent taxes.
- B. File suit in the appropriate court in Kalamazoo County seeking a money judgment as if the amount owed by the owner is past due for an open account.
- C. Commence foreclosure proceedings against owner pursuant to applicable laws, including the power to sell the subject real estate at public auction by advertisement, without notice or hearing, except as required by Michigan statutes.
 - (1) If the proceeds from a foreclosure sale are insufficient to pay the sum due, the City may recover said deficiency in the same manner as delinquent property taxes.
- D. Any judgment, including the cost for reasonable attorney fees incurred, obtained by

the City shall bear interest at the statutory allowed rate for money judgments.

§ 9-340 Purchase by receiver.

The receiver may bid at the foreclosure sale; if its bid is the highest bid, the sum due to it (as determined by the court) may be applied to said bid (so as to reduce the sum otherwise payable by the receiver).

§ 9-341 Recovery of deficiency.

- A. If the proceeds from a foreclosure sale are insufficient to pay the sum ordered by the court, the City may recover said deficiency:
 - (1) By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
 - (2) By petitioning the court, in the foreclosure action, for the entry of a civil money judgment.

§ 9-342 Alternative means of recovery.

- A. If the sum demanded by the City from the property's owner is not timely paid and the City elects not to pursue a foreclosure sale, the City may recover said sum:
 - (1) By directing the Assessor to add the amount due to the next tax roll of the City such that said sum is collected in the same manner as provided by law for collection of taxes; or
 - (2) By filing suit in the appropriate court requesting the entry of a civil money judgment.

§ 9-343 Lis pendens.

Upon commencement of razing or repairing the dangerous building, the City may record a notice of lis pendens with respect to the future claim the City will assert (in its own name and/or on behalf of the receiver) for the costs to raze or repair such building.

§ 9-344 Exercise of control.

From the time repairs commence by the City, including through a third-party contractor or through a receiver, until the time the cost of those repairs is fully paid by the owner, the owner shall exercise no control over the building nor occupy nor cause or allow another to occupy such dangerous building.

§ 9-345 Fees for recovery of costs of actions.

- A. The City Commission may, by resolution, establish reasonable fees for covering the costs of actions taken by the Building Official and/or the Building Board of Appeals in enforcing the terms of §§ 9-314 through 9-345.

- B. The means of recovering costs set forth in §§ **9-338** through **9-343** shall also apply to the recovery of said costs of actions.

§ 9-346 through § 9-350. **(Reserved)**

Section 2. REPEALER.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 3. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 4. EFFECTIVE DATE

Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its passage.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on September ____, 2019. Public notice was given, and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby J. Hopewell, Mayor

Scott Borling, City Clerk



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Marcy Dix

PREPARED BY: Joy Hills

DATE: 8/19/2019

SUBJECT: Resolution Concurring with the Kalamazoo County Brownfield Authority Brownfield Plan for Graphic Packaging International, LLC

RECOMMENDATION

It is recommended that the City of Kalamazoo City Commission adopt a RESOLUTION concurring with the Kalamazoo County Brownfield Authority Brownfield Plan for Graphic Packaging International, LLC regarding the properties located at 1500, 1810, 1819 N Pitcher Street, 511 E Paterson Street, and 1401 Harrison Street.

BACKGROUND

Kalamazoo County Brownfield Redevelopment Authority (KCBRA) Brownfield Plan Summary for Graphic Packaging International, LLC City of Kalamazoo and Kalamazoo Township, Michigan

Graphic Packaging International, LLC (GPI) is evaluating potential properties in Michigan and Ohio for the expansion of existing operations. A potential site in Michigan includes existing Graphic Packaging property, the former Checker Motors property, and contiguous properties in the City of Kalamazoo and Kalamazoo Township. The potential expansion site includes approximately 123.83 acres of mostly vacant and unoccupied property in a heavily industrial area. Historically, a portion of the property was used by Checker Motors Corporation for the manufacturing of automobiles from the 1920s until 1982, followed by the manufacturing of automotive parts until 2009. Since then, most of the buildings have been demolished and contamination has been identified on site in the soil and groundwater at levels exceeding generic residential cleanup criteria. The proposed project includes expansion and redevelopment of the property through selective building and site demolition and abatement.

GPI's investment plans include construction of a new building to house a new Coated Recycled Board Machine with an annual capacity of approximately 500,000 tons. GPI's investment is expected to have a significant positive economic impact for businesses and suppliers in the region. GPI has incurred or will incur costs associated with the following eligible activities: baseline environmental activities (Phase I, Phase II and BEA), due care activities, additional response activities, demolition of existing structures, lead and asbestos abatement, site preparation and infrastructure activities.

This Brownfield Plan has been prepared as one part of a State and Local incentive package and in order to provide for reimbursement of eligible activities associated with redevelopment of the subject property through tax increment financing (TIF) capture. This Plan details eligible activities that have been completed, as well as anticipated eligible activities that will be conducted by GPI and the City of Kalamazoo or another public partner. The Plan allows for capture of up to five full years of tax increment, if available, for the county-wide KCBRA

Local Brownfield Revolving Fund (LBRF).

- **Anticipated private investment:**
 - \$180,000,000 in real property over the next 3 years
 - \$600,000,000 total estimated investment including personal property
- **Anticipated new jobs** — The project will create an estimated 1,000 construction jobs during the redevelopment phase and approximately 25–50 full-time jobs.
- **Local and State Tax Increment Capture (TIF)** available for reimbursement based on estimated redevelopment values (over 30 years) - \$12,830,976
- **Total taxes to continue to Taxing Jurisdictions during Plan** — \$10,693,200 (current base tax revenues projected over the 30-year period of tax increment revenue capture)
- **Total reimbursement to KCBRA** — TBD (administrative expenses of the KCBRA)
- **Length of Brownfield Plan** — 30 years (with start of tax capture delayed 3 years)

POLICY CONSIDERATIONS

As per Michigan Public Act 381, this Kalamazoo County Brownfield Plan requires concurrence by the local unit of government and the County Commission. The Kalamazoo County Brownfield Redevelopment Authority recommended this Plan for approval to the City of Kalamazoo, Kalamazoo Township, and the Kalamazoo County Commission at their August 22, 2019 meeting. The Kalamazoo County Commission is expected to hold the required public hearing at the September 17, 2019 County Commission meeting at 7:00 p.m.

COMMUNITY RESOURCES CONSULTED

The Kalamazoo County Commission will hold a public hearing on September 17 at 7:00pm.

FISCAL IMPACT

- **Anticipated private investment:**
 - \$180,000,000 in real property over the next 3 years
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- **Length of Brownfield Plan** — 30 years (with start of tax capture delayed 3 years)

ALTERNATIVES

It is not recommended that the City Commission not approve the resolution.

ATTACHMENTS:

Type	Description
Summary	
□ of	Summary of Kalamazoo County BRA Plan
Changes	
□	Resolution CC Resolution for GPI, LLC

Kalamazoo County Brownfield Redevelopment Authority (KCBRA)
Brownfield Plan Summary for Graphic Packaging International, LLC
City of Kalamazoo and Kalamazoo Township, Michigan

Graphic Packaging International, LLC (GPI) is evaluating potential properties in Michigan and Ohio for the expansion of existing operations. A potential site in Michigan includes existing Graphic Packaging property, the former Checker Motors property, and contiguous properties in the City of Kalamazoo and Kalamazoo Township. The potential expansion site includes approximately 123.83 acres of mostly vacant and unoccupied property in a heavily industrial area. Historically, a portion of the property was used by Checker Motors Corporation for the manufacturing of automobiles from the 1920s until 1982, followed by the manufacturing of automotive parts until 2009. Since then, most of the buildings have been demolished and contamination has been identified on site in the soil and groundwater at levels exceeding generic residential cleanup criteria. The proposed project includes expansion and redevelopment of the property through selective building and site demolition and abatement. GPI's investment plans include construction of a new building to house a new Coated Recycled Board Machine with an annual capacity of approximately 500,000 tons. GPI's investment is expected to have a significant positive economic impact for businesses and suppliers in the region. GPI has incurred or will incur costs associated with the following eligible activities: baseline environmental activities (Phase I, Phase II and BEA), due care activities, additional response activities, demolition of existing structures, lead and asbestos abatement, site preparation and infrastructure activities.

This Brownfield Plan has been prepared as one part of a State and Local incentive package and in order to provide for reimbursement of eligible activities associated with redevelopment of the subject property through tax increment financing (TIF) capture. This Plan details eligible activities that have been completed, as well as anticipated eligible activities that will be conducted by GPI and the City of Kalamazoo or another public partner. The Plan allows for capture of up to five full years of tax increment, if available, for the county-wide KCBRA Local Brownfield Revolving Fund (LBRF).

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 - **\$180,000,000 in real property over the next 3 years**
 - **\$600,000,000 total estimated investment including personal property**
- **Anticipated new jobs — The project will create an estimated 1,000 construction jobs during the redevelopment phase and approximately 25–50 full-time jobs.**
- **Local and State Tax Increment Capture (TIF) available for reimbursement based on estimated redevelopment values (over 30 years) - \$12,830,976**
- **Total taxes to continue to Taxing Jurisdictions during Plan — \$10,693,200 (current base tax revenues projected over the 30-year period of tax increment revenue capture)**
- **Total reimbursement to KCBRA — TBD (administrative expenses of the KCBRA)**
- **Length of Brownfield Plan — 30 years (with start of tax capture delayed 3 years)**

CITY OF KALAMAZOO, MICHIGAN

RESOLUTION NO. _____

**A RESOLUTION CONCURRING WITH THE KALAMAZOO COUNTY
BROWNFIELD AUTHORITY BROWNFIELD PLAN FOR GRAPHIC PACKAGING
INTERNATIONAL, LLC REGARDING THE PROPERTIES AT NORTH PITCHER
STREET, HARRISON STREET AND PATERSON STREET**

Minutes of a regular meeting of the City Commission of the City held on September 3, 2019, at 7:00 p.m., local time, at the City Hall.

PRESENT, Commissioners: _____

ABSENT, Commissioners: _____

RECITALS:

A. The Kalamazoo County Brownfield Redevelopment Authority (the "KCBRA"), was created under the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381") shortly after the enactment of Act 381.

B. The KCBRA has provided EPA grant funds and utilized tax increment revenues for projects throughout the county, including assisting the city's BRA in the Davis Creek redevelopment project and adding 232 W. Michigan Avenue and 383 South Pitcher Street into KCBRA's Brownfield plans for redevelopment those facilities. The City approved inclusion into the KCBRA's Brownfield plan for 232 W. Michigan Avenue under Resolution 11-47, and for 383 South Pitcher under Resolution 17-19.

C. Under Section 3(4) of Act 381, the KCBRA may exercise its powers regarding eligible property that is located within the city only upon the City Commission's concurrence of the county's Brownfield Plan regarding such property.

D. On August 22, 2019, the KCBRA implemented a Brownfield Plan for Graphic Packaging International, LLC ("GPI") regarding the eligible properties located at 1500, 1810 & 1819 North Pitcher Street, 511 East Paterson Street and 1401 Harrison Street in the City and 2016, 2019, 2101, 2105 & 2650 North Pitcher Street in Kalamazoo Township. The Kalamazoo Township Board of Trustees is scheduled to consider its concurrence with the adoption of the Brownfield Plan at its September 9, 2019 meeting. The County Board of Commissioners is scheduled to hold a public hearing and consider adoption of the Brownfield Plan at its September 17, 2019 meeting.

E. GPI has acquired the eligible properties that are former industrial sites and incurred or will incur eligible activity expenses as defined in Act 381, including baseline environmental activities, due care activities, additional response activities, demolition of existing structures, lead and asbestos abatement, site preparation and public infrastructure

improvements. The proposed project includes redevelopment of the Property through selective building and site demolition and abatement and construction of new warehouse facilities totaling approximately 245,000 square feet and installation of a new paper machine. City staff is supportive of the project.

F. The City Commission has reviewed the County's Brownfield Plan for GPI and determines that the project will help remediate environmental contamination and blight, improve public infrastructure, retain and grow jobs in the City, and increase the City's tax base. The project will therefore serve the best interests of the community.

THEREFORE, IT IS RESOLVED THAT:

In accordance with the provisions under Section 3(4) of Act 381, and subject to the approval of such plan by the County Board of Commissioners, the City of Kalamazoo concurs with the provisions of the County of Kalamazoo's Brownfield Plan for Graphic Packaging International, LLC regarding the property located at 1500, 1810 & 1819 North Pitcher Street, 511 East Paterson Street and 1401 Harrison Street as implemented by the County's Brownfield Redevelopment Authority.

AYES:

NAYS:

ABSTAIN:

RESOLUTION DECLARED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on September 3, 2019. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by Act.

Scott A. Borling
City Clerk



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners
FROM: Scott A. Borling, City Clerk
DATE: 5/13/2019
SUBJECT: Approval of Minutes

RECOMMENDATION

It is recommended that the City Commission approve the minutes from its meetings on April 29, May 6, May 20, June 3, June, 10, June 17, July 1, and July 15, 2019.

ATTACHMENTS:

Type	Description
□	Minutes April 29, 2019 Work Session
□	Minutes May 6, 2019 Business Meeting
□	Minutes May 20, 2019 Neighborhood Meeting
□	Minutes May 20, 2019 Business Meeting
□	Minutes June 3, 2019 Business Meeting
□	Minutes June 10, 2019 Special Meeting
□	Minutes June 17, 2019 Neighborhood Meeting
□	Minutes June 17, 2019 Business Meeting
□	Minutes July 1, 2019 Business Meeting
□	Minutes July 15, 2019 Neighborhood Meeting

	A special work session of the Kalamazoo City Commission was held on Monday, April 29, 2019 at 6:00 p.m. in the Community Room at City Hall. The purpose of the meeting was to discuss recreational marihuana.
Roll Call	COMMISSIONERS PRESENT: Mayor Bobby J. Hopewell Vice Mayor Erin Knott David Anderson Don Cooney Eric Cunningham Jack Urban COMMISSIONERS ABSENT: Shannon Sykes
	Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.
Commissioners Excused	Commissioner Anderson, seconded by Commissioner Cunningham, moved to excuse the absence of Commissioner Sykes. With a voice vote the motion passed.
Communications	An opportunity was given for general communications, but none were offered.
2019-0143 Presentation and Discussion re: Recreational Marihuana	City Attorney Robinson delivered a presentation entitled <i>Recreational Marihuana City Commission Presentation, April 29, 2019</i>. City Attorney Robinson distributed copies of a Michigan Municipal League publication entitled <i>Recreational Marihuana Proposition</i>, which he authored. Copies of the publication and the slides from this presentation were filed with the papers for this meeting. In response to questions from Commissioners, City Attorney Robinson provided the following information, opinions, and advice: - there was a backlog of Medical Marihuana Facility (MMF) license applications. The state licensing board had met for the last time the previous week; licenses would be approved administratively moving forward. - the City does not have any zoning districts that are “exclusively residential” in the strict sense. The courts might not agree with an ordinance that said, “These zones are ‘exclusively residential’ for purposes of this act.” - the City should enact stricter standards for flammable substances. - case law regarding recreational facility licenses probably would not start to appear until two years after the state started issuing licenses. - the Department of Licensing and Regulatory Affairs (LARA) would be developing administrative rules over the next year. The administrative rule process included a legislative review and public comment period before rules became final. Administrative rules for MMF’s were in place already; the recreational rules would probably mirror these rules, except for statutory differences. - temporarily opting-out of recreational marihuana facilities would mean there could be no retail operations for recreational marihuana in the City during the opt-out period. The statute seemed to indicate a jurisdiction needed to be all-in or all-out.

- LARA had not established any capitalization requirements yet.
- most cities in Michigan were opting out of hosting recreational marihuana facilities. If the City were to opt-out of recreational marihuana facilities, it should do so before the end of summer, as it was anticipated LARA would release its emergency rules in June and start taking applications in September.
- if the City wanted to opt-in to hosting recreational marihuana facilities, the City Attorney's Office would need to act quickly to develop zoning and police powers ordinances before September.
- during the first two years of licensing the state could issue recreational licenses only to businesses that already possessed MMF licenses, so the City would have limited ability to give City residents an advantage in the process. City Attorney Robinson referred to a chart entitled *City of Kalamazoo Medical Marihuana Facility Applicant Information* to show the residency of current applicants in line to obtain an MMF license. A copy of this table was filed with the papers for this meeting.
- the City adopted its MMF ordinances two years after the state law was enacted.
- it was unclear whether opting-out would lead to another citizen initiative.

Commissioner Cunningham stated he was interested in the program to help communities disproportionately impacted by marihuana enforcement. Commissioner Cunningham stated the City needed to create incentives for people to move from illegal to legal activities. Commissioner Cunningham noted the City had not been intentional with its MMF permit process, and he indicated the City should work to change the demographics of facility ownership. Commissioner Cunningham expressed frustration with the MMF legislation and capitalization requirements.

In response to questions from Commissioner Anderson and Mayor Hopewell, City Attorney Robinson stated he was not sure how the City could influence the creation of administrative rules for recreational facilities – and specifically the capitalization requirements – as meetings of the workgroups developing the rules were not open to the public. City Attorney Robinson suggested the City review the rules LARA presents and respond to those. City Attorney Robinson advised caution about granting favor based on race.

Mayor Hopewell noted LARA was an executive department that reported to the Governor. Mayor Hopewell reported the Urban Core Mayors were meeting regularly with Lieutenant Governor, which was a chance to influence marihuana policy. Mayor Hopewell stated the City missed an opportunity with medical marihuana in terms of helping people of color and City residents get involved with the industry.

In response to a question from Commissioner Anderson, Mayor Hopewell indicated marihuana policy was not yet a part of the official agenda for the Urban Core Mayors group.

Mayor Hopewell recessed the meeting at 7:27 p.m.

Mayor Hopewell resumed the meeting at 7:40 p.m.

2019-0143

Presentation and
Discussion re:
Recreational
Marihuana (cont'd)

Citizen Comments

Mayor Hopewell announced citizen the time for citizen comments would be limited to two minutes for each person.

Next, when an opportunity was given for general citizen comments, the following people addressed the City Commission:

Devin Loker, non-resident, spoke in favor of the City allowing recreational facility licenses. Mr. Loker reported the state was processing MMF applications much faster now and asked that the City grant extensions to current holders of Provisional Approval Certificates.

Chris Wahmhoff, City resident, encouraged the City to not opt-out of recreational marihuana facilities and asked that the City not change the zoning for microbusinesses. Mr. Wahmhoff expressed support for entry-level access to these businesses, especially for young people.

Jevin Weyenberg, non-resident, urged the City to allow recreational marihuana facilities and provide regulations for the multi-million-dollar local cannabis economy. you must provide regulations for this economy. Mr. Weyenberg asked the City to expand zoning to increase access for commercial facilities

Joey Kejbou, non-resident, remarked on the importance of allowing the integration of medical and recreational facility licenses. Mr. Kejbou noted the City had spent a long time determining the zoning for MMF's, and he encouraged the City to not waste that time.

Adam Tucker, non-resident, urged the City Commission to opt-out of recreational marihuana facilities temporarily, but without a hard deadline.

Creed Stegall, City resident, encouraged the City Commission to opt-out of recreational marihuana facilities until more regulations were developed. Mr. Stegall discussed the connection between marihuana and the opioid epidemic.

Kaitlin Topstreet, non-resident, stated the Journal of the American Medical Association had reported a reduction in drug-related deaths in areas where marihuana was legalized.

Brian, City resident, reported there was research that showed crime did not increase, and would possibly go down, with the legalization of marihuana.

Cathy Keast, City resident, expressed concern about reckless marihuana use and described how she had witnessed people smoking marihuana in cars and in front of small children.

Pauline Keiser, non-resident, asked about smoking in cars.

Omar Fakouri, non-resident, spoke about the negative consequences of the City waiting to allow recreational marihuana facilities, including a reduced window for Michigan residents to get licenses in Kalamazoo and lost tax dollars. Mr. Fakouri stated MMF's would fail if they could not access the recreational marihuana market.

Mark Ruppert, City resident, stated people will use marihuana regardless of whether the City allows recreational marihuana facilities. Mr. Ruppert urged the City to be ahead and not behind on recreational marihuana.

Peter encouraged the City to opt-in to recreational marihuana facilities and advocate with LARA regarding the administrative rules.

Benjamin Stanley, City resident, asked whether the City could opt-out of recreational marihuana facilities now and opt-in later.

Albert Trombley, City resident, noted 60% of the people had voted in favor of recreational marihuana.

In response to Mr. Stanley, Mayor Hopewell explained the City Attorney was recommending a temporary opt-out.

Finally, an opportunity was given for miscellaneous comments from City Commissioners.

Commissioner Cunningham remarked this was an opportunity for the City Commission to show good faith to community, who asked for recreational marihuana through their votes, and an opportunity to use resources to assist various communities in Kalamazoo. Commissioner Cunningham recommended the Commission table this discussion for now and get more clarity on the City's options and their impacts.

Commissioner Cooney thanked City Attorney Robinson and noted there was a lot of wisdom in community also.

Commissioner Anderson remarked that it was not the City Commission's practice to vote at a work session and noted this topic would come up at future Commission meetings.

Mayor Hopewell expressed frustration about how Grand Rapids had a better MMF process than Kalamazoo and offered the City had rushed into its process too soon. Mayor Hopewell noted decisions were made about MMF's before there was a recreational statute. Mayor Hopewell remarked the City Commission did not write the recreational marihuana law, but the City had to deal with the consequences of the law that was passed, which was complicated work. Mayor Hopewell observed the Commission seemed supportive of recreational marihuana, but the City needed to figure out what how, why, and when it would happen. Mayor Hopewell indicated the next steps were for staff to work through the issue and bring forward a recommendation for action at a regular business meeting in the future.

In response to a question from Mayor Hopewell, City Attorney Robinson stated there were changes that needed to be made to the City's MMF ordinance, and those changes could be made while the Commission was working through the recreational facilities issue.

Vice Mayor Knott thanked the City Attorney and stated she did not want the City to be a trailblazer. Vice Mayor Knott suggested the City slow down and let LARA do its work.

Citizen Comments
(cont'd)

City Commissioner
Comments

City Commissioner
Comments (cont'd)

City Attorney Robinson clarified the City was not talking about outlawing marihuana possession. City Attorney Robinson explained the City was forced to be a trailblazer on medical marihuana because an attorney had threatened a charter initiative that would have taken away the City Commission's ability to develop and control the MMF licensing process. City Attorney Robinson stated Grand Rapids may have done better with their MMF process, but he noted Kalamazoo's ordinances were developed collaboratively.

Mayor Hopewell expressed appreciation to staff for their work. Mayor Hopewell stated other jurisdictions had done things with their MMF process that addressed some of Kalamazoo's core principles like equity and prosperity. Mayor Hopewell recommended the City learn from those jurisdictions and remedy the situation where possible.

Adjournment

The meeting adjourned at 8:22 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

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Roll Call

A regular meeting of the Kalamazoo City Commission was held on Monday, May 6, 2019 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 West South Street.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Erin Knott
David Anderson
Don Cooney
Eric Cunningham
Shannon Sykes
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Opening Ceremony

The invocation, given by Bishop Daniel Cunningham, Greater Faith Empowerment Center, was followed by the Pledge of Allegiance.

2019-0144

Presentation re: the
County Tax Foreclosure
Prevention Program

Kalamazoo County Treasurer Mary Balkema delivered a presentation entitled *How We Got It Done: Eliminating Tax Foreclosures on Owner-Occupied Homes in the City of Kalamazoo in 2019*. A copy of the slides from this presentation were filed with the papers for this meeting.

Proclamations
2019-0145

Commissioner Cooney proclaimed April 26, 2019 *Arbor Day*. Forestry Supervisor Perry Banta received the proclamation.

2019-0146

Commissioner Anderson proclaimed May 13-16 *Public Services Week*. Public Services Director James Baker received the proclamation.

Adoption of the
Agenda

By unanimous consent the City Commission adopted its meeting agenda with the following changes:

- a citizen requested that items F-5 and F-6, first readings of ordinances regarding the proposed Natural Features Protection Overlay District, be moved to the Regular Agenda.

2019-0147

Public Hearing re: the
2019-2023 Consolidated
Plan and 2019 Action
Plan

At 7:20 p.m. Mayor Hopewell opened a public hearing to receive comments on the proposed 2019-2023 Consolidated Plan and the 2019 Action Plan.

Community Development Manager Dorla Bonner and Community Development Compliance Specialist Vanessa Collins Smith delivered a presentation entitled *2019 HUD Funding: 2019 to 2023 Consolidated Plan and 2019 Action Plan*. A copy of the slides from this presentation was filed with the papers for this meeting.

In response to a question from Commissioner Sykes, Community Development Manager Bonner stated more funding was necessary in order to scale-up the work being done with affordable housing.

When given an opportunity to comment on the proposed 2019-2023 Consolidated Plan and the 2019 Action Plan, the following people addressed the City Commission:

Bill Wells, City resident, thanked the Commission for allowing him to serve on the Community Development Act Advisory Committee (CDAAC) and expressed support for the Consolidated Plan and 2019 Action Plan.

Herb Davis, City resident, stated it could be difficult for developers to find properties at a reasonable price, and he asked why the Kalamazoo County Land Bank was allowed to hold properties.

Annie Sprague, City resident, identified corrections that needed to be made on pages 27 and 29 of the Consolidated Plan and expressed concern about how the Plan described the role of CDAAC. Ms. Sprague also expressed concerns about the City using Community Development Block Grant funds for code enforcement and stated the City's code enforcement activities had a disproportionate impact on poor people.

At 7:44 p.m. Mayor Hopewell closed the public hearing.

Vice Mayor Knott, seconded by Commissioner Anderson, moved to: 1) approve the 2019-2023 Consolidated Plan; 2) approve the 2019 Action Plan, including the budget recommended by the Community Development Act Advisory Committee; and 3) authorize the Director of Community Planning and Economic Development to act as the official representative of the City and to sign all required U.S. Department of Housing and Urban Development documents.

Prior to a vote on the motion, Commissioner Anderson thanked CDAAC members for their work and noted the City was allowed to use CDBG funds for City functions like code enforcement.

Commissioner Urban stated CDAAC gave members experience in planning and community engagement, and it was a great training ground for members who wanted to move on to other City boards.

Commissioner Cunningham thanked staff and CDAAC members for their work and noted the CDAAC process engaged the energy of the community.

Mayor Hopewell suggested the City analyze code violations and look at enforcement activities through the lens of Shared Prosperity Kalamazoo (SPK).

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Sykes, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

Consent Agenda items were presented as follows with a recommendation to approve the items and authorize the City Manager to sign all documents on behalf of the city:

- approval of a contract with J.L. Milling for Cold Milling of City Streets for the 2019 season in the amount of \$102,790.64.

2019-0147

Public Hearing re: the 2019-2023 Consolidated Plan and 2019 Action Plan (cont'd)

2019-0147

Approval of the 2019-2023 Consolidated Plan and 2019 Action Plan

Consent Agenda

2019-0148

2019-0149	- approval of a contract with Cornerstone Construction for constructing an aggregate storage bin at the City of Kalamazoo Wastewater Treatment Plant, in the amount of \$360,400.
2019-0150	- approval of a sole source purchase of an outdoor public restroom from Portland Loo in the amount of \$107,440.
2019-0151	- approval of a contract with Balkema Construction for improvements at Reed Street Park in the amount of \$310,000.
2019-0152	- first reading of an ordinance to amend Chapter 2- Article X Employee Retirement System § 2-224 Definitions.
2019-0153	- approval of a recommendation to hold until May 20, 2019 adoption of a resolution to terminate the Amended Restated Development Plan and Tax Increment Financing Plan for the City of Kalamazoo Downtown Development Authority and to repeal the following ordinances: 1450, 1457, 1468, 1492, 1523, 1643, 1817, and a portion of ordinance 1679.
2019-0154 Resolution 19-28	- adoption of a RESOLUTION from the Michigan Department of Licensing and Regulatory Affairs, Liquor Control Commission (MLCC) recommending approval of a Joint Off-Premises Tasting Room License for the Winery at Black Star Farms, LLC within Grand Traverse Distillery located at 224 E. Michigan Avenue in the City of Kalamazoo.
2019-0155 Resolution 19-29	- rescission of Resolution 18-29 and adoption of a RESOLUTION from the Michigan Department of Licensing and Regulatory Affairs, Liquor Control Commission, recommending approval of a Small Wine Maker License for The Roche' Collection LLC at 1627 South Burdick Street.
2019-0156	- approval of a Memorandum of Understanding with Kalamazoo Regional Education Services Agency/Youth Opportunities Unlimited in the amount of \$825,000 to provide summer employment and training opportunities for City of Kalamazoo youth ages 14-21.
2019-0157	- approval of a Public Utility Easement with Kalamazoo Properties, LLC associated with the Cork Street Road and Culvert Project.
2019-0158	- approval of the Mayor's reappointments to the following boards and commissions: - the reappointment of Grant Fletcher to the Downtown Development Authority for a one-year term expiring on March 31, 2020; - the reappointment of Bob Miller to the Downtown Economic Growth Authority Board of Directors for a one-year term expiring on March 31, 2020; and - the reappointment of Patti Owens to the Downtown Economic Growth Authority Board of Directors for a one-year term expiring on March 31, 2020.
2019-0159	- approval of the minutes from the City Commission meetings on March 23, April 1, and April 15, 2019.

Commissioner Cunningham, seconded by Commissioner Cooney, moved to approve the consent agenda requests and authorize the City Manager to sign all documents on behalf of the City.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Sykes, Urban,
Vice Mayor Knott, Mayor Hopewell

NAYS: None

Regular Agenda items were considered next.

When an opportunity was given for public comments on the first reading of additions to Chapter 50, The Zoning Code, to Create the Natural Features Protection Overlay District; the first reading of an ordinance to rezone properties throughout the City with the Natural Features Protection (NFP) Overlay District; and scheduling a public hearing for both ordinances on May 20, 2019, the following people addressed the City Commission:

Haji Tehrani, non-resident and the owner of property at Stadium Drive, expressed opposition to the proposed rezoning.

Matt Van Dyk, legal counsel for Mr. Tehrani, reviewed his letter to the Commission dated May 2, 2019 and requested that Parcels A and B not be included in the overlay district, or that the City Commission refer the ordinances back to the Planning Commission for reconsideration.

Paul MacNellis, non-resident, expressed support for the ordinances.

Dean Hauck, City resident, asked that stakeholders continue their discussions about the NFP overlay district.

Karen Larson, City resident, expressed support for the proposed ordinances.

Tom Small, City resident, expressed support for the ordinances but noted more needed to be done with regard to protecting natural features.

Rick Schell, non-resident and the owner/developer of 11 properties on Stadium Drive, asked that his properties not be included in the new overlay district. Mr. Schell provided a list of his properties, which was filed with the papers for this meeting.

Bonnie Alkema, City resident, expressed support for the ordinances and gave the City Commission a copy of *The Lorax* by Dr. Seuss.

Laurie Holmes, City resident, expressed concern about the development of the Vermeulen property, questioned why it was identified as an area for commercial zoning, and asked that the City Commission not exempt any properties from the overlay district.

Consent Agenda
(cont'd)

Regular Agenda

2019-0160

2019-0161

First Reading of NFP
Overlay District
Ordinances (cont'd)

2019-0160

First Reading of NFP
Overlay District Text
Ordinance (cont'd)

Nathan Smallwood, CEO of the Kalamazoo Nature Center, urged the City Commission to pursue both economic development and protection for the City's natural features.

Commissioner Sykes, seconded by Commissioner Urban, moved to offer for first reading additions to Chapter 50, The Zoning Code, to Create the Natural Features Protection Overlay District; and schedule a public hearing for May 20, 2019.

Prior to a vote, Commissioner Anderson noted this action was a first reading and observed that everyone seemed not quite happy with the proposed ordinance. Commissioner Anderson thanked staff for their work.

Commissioner Urban asked that the following questions be addressed at the public hearing on May 20th: 1) why were the parcel lines on the Vermeulen property redrawn; 2) why must the NFP Overlay District cover entire parcels; and 3) will the variance process be used to resolve disputes over the NFP standards?

Commissioner Sykes stated people had until 2025 to take action regarding climate change. Commissioner Sykes expressed objections to compromise in this area and stated climate change needed to be stopped.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Sykes, Urban,
Vice Mayor Knott, Mayor Hopewell

NAYS: None

2019-0161

First Reading of NFP
Overlay District Map
Ordinance

Vice Mayor Knott, seconded by Commissioner Sykes, moved to offer for first reading an ordinance to rezone properties throughout the City with the Natural Features Protection (NFP) Overlay District; and schedule a public hearing on May 20, 2019.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Sykes, Urban,
Vice Mayor Knott, Mayor Hopewell

NAYS: None

2019-0162

Ordinance 1983 re:
Consumer Fireworks

An opportunity was given for citizens to comment on an ordinance amending the fireworks ordinance so as to reflect recent changes in State law regarding the days and times when fireworks may be discharged.

Vice Mayor Knott, seconded by Commissioner Cunningham, moved to adopt an **ORDINANCE** amending the fireworks ordinance so as to reflect recent changes in State law regarding the days and times when fireworks may be discharged.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Sykes, Urban,
Vice Mayor Knott, Mayor Hopewell

NAYS: None

Shared Prosperity Kalamazoo Coordinator Kevin Ford delivered a presentation entitled *SPK High Impact Fund Proposals Presentation, May 6, 2019*. A copy of the slides from this presentation was filed with the papers for this meeting.

Mayor Hopewell stated the focus of the Shared Prosperity Kalamazoo (SPK) Organizing Committee was filling service gaps. Mayor Hopewell noted the Committee was aware of other needs in the community, and they were working to address those as well.

An opportunity was given for public comments on the recommendations of the SPK Organizing Committee and the SPK Goal Team Proposals and Budgets, but no comments were offered.

Commissioner Sykes, seconded by Commissioner Cunningham, moved to accept the recommendations of the Shared Prosperity Kalamazoo (SPK) Organizing Committee and approve of the SPK Goal Team Proposals and Budgets to access the SPK High Impact Fund.

Prior to a vote on the motion, Commissioner Cooney spoke about the extent of poverty and stated the City was doing everything it could to address poverty.

Commissioner Sykes stated she was proud of where SPK was and where it was headed, and she noted the proposed projects were root-cause projects. Commissioner Sykes expressed support for putting as many resources as possible behind SPK and stated structural problems needed to be addressed as well.

Commissioner Urban expressed support for the SPK focus on filling gaps, and he stated the SPK programs would be measured and evaluated.

Commissioner Cunningham commented on the interplay between federal, state, and local assistance and noted these providers did not always play well together. Commissioner Cunningham remarked that voters needed to consider candidates' ability to collaborate when filling City Commission seats in November.

Mayor Hopewell thanked City staff for their work and observed that the work of SPK was not easy.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Sykes, Urban,
Vice Mayor Knott, Mayor Hopewell

NAYS: None

City Clerk Borling reported the City Commission had received the *Foundation for Excellence 2018 Annual Report*.

Next, the City Commission discussed the anticipated resignation of Commissioner Sykes and the resulting vacancy on the City Commission.

Commissioner Sykes stated the May 20th business meeting would be her last City Commission meeting but noted she would be moving out of the City prior to that meeting.

2019-0163

Approval of SPK High Impact Fund Proposals

2019-0164

City Clerk's Report

2019-0165

Discussion re: Filling a Vacancy on the City Commission

2019-0165

Discussion re: Filling a
Vacancy on the City
Commission (cont'd)

City Attorney Robinson indicated that Commissioner Sykes would not be able to participate in the May 20th meeting if she moved out of the City before then.

Mayor Hopewell directed Commissioners' attention to a memo from the City Clerk regarding the process used to fill the most recent vacancy on the Commission.

In response to a question from Commissioner Anderson, City Attorney Robinson stated the 30-day timeframe for filling the vacancy would start when the City Commission accepted Commissioner Sykes' resignation on May 20th.

By consensus, the City Commission decided to use the selection process outlined in the memo from the City Clerk to fill the vacancy created by the resignation of Commissioner Sykes.

The meeting was recessed at 9:09 p.m.

The meeting resumed at 9:23 p.m.

2019-0166

Resolution re: Military
Aid to Israel

When an opportunity was given for public comments on a resolution to support human rights for Israelis and Palestinians by ending US military aid to Israel, the following people addressed the City Commission:

The following people expressed opposition to the proposed resolution:

Simone Schicker, Rabbi at Temple B'nai Israel

Michelle Miller-Adams, City resident

Earl Norman, non-resident

Dean Thomas, non-resident

Michelle Serlin, non-resident

Troy Zukowski, non-resident

Randy Lubratich, non-resident (Ms. Lubratich submitted written statements from multiple people. These statements were filed with the papers for this meeting.)

Jakob Weintraub, City resident

Sheralee Hurwitz, non-resident

Harvey Spivak, non-resident

Ken Fisher, City resident

Cary Mannaberg, City resident

Alvin Rosenthal, City resident

Tamara Norman, non-resident

Saraphoena Koffron, non-resident

Michael Tanoff, City resident

Alan Messinger, non-resident

Nijo Ellison, City resident

Sarah Kirsch, City resident

The following people expressed support for the proposed resolution:

Mary Ellen Hadek, City resident, read the proposed resolution

Ruth Moerdyk, City resident (Ms. Moerdyk submitted a petition supporting the resolution, which was filed with the papers for the meeting)

Paul Clements, City resident

Raelyn Joyce, City resident

David Benac, City resident
Farber Kasan, non-resident
Daniel Smith, non-resident
Andy Argo, City resident
Michael Dwyer, City resident
Harold Beu, City resident
Wade Adams, City resident
Sam Siegel, non-resident

2019-0166

Resolution re: Military
Aid to Israel (cont'd)

Brian Asquith, City resident, stated the proposed resolution would not have an impact on the situation in Israel, but Jewish people who were considering moving to Kalamazoo would hear about the resolution, which might affect their decision.

Commissioner Cooney, seconded by Commissioner Sykes, moved to adopt a RESOLUTION to support human rights for Israelis and Palestinians by ending US military aid to Israel.

Prior to a vote on the motion, Commissioner Sykes stated the cause of oppression for both Jewish and Palestinian people was white supremacy. Commissioner Sykes stated it was not anti-American for the City Commission to denounce the federal government's family separation policy, and it was possible to want peace and safety for your country while protecting innocent people.

Commissioner Cooney stated the proposed resolution was about standing against human rights violations, and he noted the resolution supported ending military aid to Israel *until* their military occupation and seizure of Palestinian land ended.

Commissioner Urban questioned whether there was a point to increasing divisiveness in the pursuit of justice. Commissioner Urban suggested postponing a vote on the resolution so that both sides could come together and craft language that was mutually acceptable.

Commissioner Cunningham urged people to put aside personal considerations to understand others. Commissioner Cunningham expressed support for postponing a vote on the resolution to allow for more dialogue.

Vice Mayor Knott stated the proposed resolution would not do anything to advance these issues. Vice Mayor Knott expressed support for postponing action and bringing together the parties to create an acceptable statement.

Commissioner Anderson commented that Commissioners were not experts on the Middle East, and he stated he had asked the Kalamazoo Non-Violent Opponent of War (KNOW) to not bring the proposed resolution to the City Commission. Commissioner Anderson expressed opposition to the resolution and stated the people who brought forward the resolution had done so with a superior attitude. Commissioner Anderson expressed support for postponing action on the resolution and getting input from all stakeholders, including Palestinians.

Commissioner Sykes stated she was concerned that doing the right thing for the human rights of some people would potentially hurt others, but she disagreed with the idea that KNOW should not have raised the issue. Commissioner Sykes expressed support for bringing people together to draft language that would calm

2019-0166

Resolution re: Military
Aid to Israel (cont'd)

fears about retaliation towards Jewish people, but she expected the new resolution to still call for an end to U.S. military aid.

Mayor Hopewell recommended an up-and-down vote on the resolution rather than postponing action.

With a roll call vote this motion failed 2-5.

AYES: Commissioners Cooney, Sykes

NAYS: Commissioners Anderson, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

Public Comments

Next, when an opportunity was given for general public comments, the following people addressed the City Commission:

Nehemiah Scudder, City resident, spoke about the Middle East and stated the views and actions of radicals did not represent those of average people.

Jody Dozeman, City resident, spoke about being homeless.

Ruth Moerdyk, City resident, spoke about climate change and the connection between the climate action plan the City was developing and City's efforts to improve and develop its housing stock.

Benjamin Stanley, City resident, requested information on how the retention period for police records was established.

City Commissioner
Comments

Finally, an opportunity was given for miscellaneous comments from City Commissioners.

Commissioner Sykes stated human rights issues were moved forward through debates like the one that had just taken place.

Commissioner Cooney thanked Commissioner Sykes for her work.

Commissioner Urban asked that the questions he had raised regarding the NFP Overlay District be addressed at the public hearing on the ordinances.

Vice Mayor Knott congratulated Cory Barrett, a culinary professor at Kalamazoo Valley Community College, for winning the Food Network's Spring Baking Championship.

Adjournment

The meeting adjourned on May 7, 2019 at 12:17 a.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

Roll Call

A neighborhood meeting of the Kalamazoo City Commission was held on Monday, May 20, 2019 at 6:00 p.m. in the Community Room at City Hall, 241 W. South Street.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Erin Knott
David Anderson
Don Cooney
Jack Urban

COMMISSIONERS ABSENT:

Mayor Bobby J. Hopewell
Eric Cunningham*
Shannon Sykes

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Commissioners
Excused

Commissioner Cooney, seconded by Commissioner Anderson, moved to excuse the absences of Mayor Hopewell and Commissioners Cunningham and Sykes. With a voice vote the motion passed.

Communications

An opportunity was given for miscellaneous communications, but no communications were offered.

Neighborhood
Communications

Neighborhood communications were received next.

Representatives from the following neighborhood associations were present and addressed the City Commission:

Oakwood Neighborhood Association

Alfonso Espinosa, Vice President
Cheryl Lord, Executive Director

Parkwyn Village Association

Leslie Tung, President

Woods Lake Association

Christopher Bovid, President

Oakwood Neighborhood
Association
2019-0167

The Oakwood Neighborhood Association representatives:

- distributed and reviewed the May 2019 edition of the *Oakwood Times* newsletter.
- described efforts to move forward elements of the Oakwood Neighborhood Plan.
- discussed requests from businesses such as extending sidewalks, installing crosswalks, and installing decorative lighting.
- reported statistics for contact and volunteer hours.
- thanked Public Services for help with the Building Blocks program and the Parks and Recreation Department for the after-school program.

- expressed concern about retention ponds on City property in the neighborhood and the height of the grass in these areas.
- expressed concerns about the condition of the streets in the neighborhood and indicated proper drainage of stormwater was needed.
- asked that City mow 2528 Hazel Avenue, which backed up to the Springmont Tot Lot.
- expressed concern about the amount of trash and garbage on the sides of the roads in all City neighborhoods.
- requested a bus stop in the neighborhood.

Commissioner Cooney asked City Manager Ritsema to look into the concerns of the neighborhood.

In response to a question from Commissioner Cooney, Ms. Lord stated Springmont and Madison would be good locations for bus stops.

Commissioner Urban noted the Central County Transportation Authority had indicated the issue of bus stop placement was settled.

The Parkwyn Village Association representative:

- reported the updated deed covenants had been approved and recorded with the Register of Deeds.
- expressed concern with the spread of Japanese Knotweed and other invasive species and reported there were large patches immediately outside the neighborhood. Mr. Tung stated the Association had been working with the Michigan Department of Natural Resources, but that partnership fell through.
- stated deer overpopulation was still an issue.
- expressed concerns about security after recent incidents of mail theft in the neighborhood.
- reported the Association's early documents were now at the Western Michigan University Archives.
- announced a walking tour of the neighborhood would take place on July 25th.

The Woods Lake Association representative:

- distributed the following documents: *Woods Lake Association 2019 Membership/Dues Payment Request*; *Weekly Bathing Beach Monitoring Results for Woods Lake at Woods Lake City Park*, dated August 28, 2018; an MLive article entitled *Advisory for Woods Lake after High Levels of E.coli Found*, dated July 24, 2018; and an MLive article entitled *Advisory Lifted for Swimmers at Woods Lake after E.coli Found*.

Oakwood Neighborhood Association (cont'd)

Parkwyn Village Association

Woods Lake Association

2019-0168

Woods Lake Association
(cont'd)

- stated the main activity of Association was water quality testing and chemical treatments for algae blooms and invasive species.
- reported the current water clarity was 18 feet, which was the best he had ever seen.
- commended Parks and Recreation Director Sean Fletcher and Deputy Director Patrick McVerry for communicating about issues with Woods Lake Park. Mr. Bovid stated the City was doing a good job of mowing the park and dealing with trash.
- indicated the Association had serious concerns about the way the Kalamazoo County Health Department was doing water tests. Mr. Bovid stated the County issued press release quickly without validating test results, and he questioned whether testing protocols were being followed.
- noted the Association would be closely watching the redevelopment of the Consumers Credit Union property at Oakland Drive and Parkview Avenue.
- stated Association members were generally supportive of the Natural Features Protection Overlay, although there were concerns about potential impacts to private property owners.
- expressed hope that the Rich gas station on Oakland Drive would go away.
- expressed concern about the deer population.
- expressed concern about delays and disconnects with the Kalamazoo Department of Public Safety now that emergency and dispatch calls went through the Consolidated Dispatch Center.
- reported the Association had been working with the Environmental Concerns Committee on a resolution to the City Commission recommending street sweeping early and late in the summer season in order to reduce the amount of salt and detritus that flowed into the lake through storm sewers.

In response to a question from Commissioner Anderson, Mr. Bovid suggested culling as a solution to the deer population and noted this approach had been successful in Ann Arbor and Royal Oak.

*Commissioner Cunningham arrived at 6:48.

Public Comments

When an opportunity was given for public comments, the following people addressed the City Commission:

Nehemiah Scudder, City resident, commented on trees that were blocking a plaque about the Kalamazoo River and suggested the City create special parking spaces for motorcycles downtown.

Commissioner
Comments

Next an opportunity was given for miscellaneous comments by City Commissioners, but no comments were offered.

The meeting adjourned at 6:50 p.m.

Adjournment

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

Roll Call

A regular meeting of the Kalamazoo City Commission was held on Monday, May 20, 2019 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 West South Street.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Erin Knott
David Anderson
Don Cooney
Eric Cunningham
Shannon Sykes
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Opening Ceremony

The invocation, given by Pastor Sarah Schmidt-Lee, First Congregational Church, was followed by the Pledge of Allegiance.

2019-0169
Resolution 19-30
Accepting the
Resignation of
Shannon Sykes

Commissioner Sykes submitted her letter of resignation from the City Commission.

Commissioner Cooney, seconded by Commissioner Anderson, moved to adopt a **RESOLUTION** accepting the resignation of Commissioner Sykes.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

2019-0170
Proclamation Honoring
Shannon Sykes-Nehring

Commissioner Cooney read a proclamation *Honoring Commissioner Shannon Sykes-Nehring, 2015-2019*.

Commissioner Sykes accepted the proclamation and stated it had been an honor and pleasure serving on the City Commission, working with her fellow Commissioners, and serving the community.

Commissioners offered personal remarks of appreciation to Commissioner Sykes for her service on the City Commission and well-wishes for her future endeavors. Mayor Hopewell presented Commissioner Sykes with a gift and with her nameplate from the dais in the City Commission Chambers.

When given an opportunity for public comments the following people offered remarks of appreciation and compliment to Commissioner Sykes:

David Benac, City resident
Carl Wiseman, non-resident
Alicia Johnson, City resident
George Magas, City resident
Zack Lassiter, City resident

By unanimous consent the City Commission adopted its meeting agenda with the following changes:

- City Attorney Robinson stated Item G-2, an ordinance to terminate the Amended Restated Development Plan and Tax Increment Financing Plan for the City of Kalamazoo Downtown Development Authority, had been introduced on May 6th as a resolution but really needed to be an ordinance. City Attorney Robinson noted the substance of the two documents was the same.

At 7:28 p.m. Mayor Hopewell opened a public hearing to receive comments on an ordinance amending Chapter 50, the Zoning Code, to create the Natural Features Protection (NFP) Overlay District.

The following people expressed support for the proposed ordinance:

Robert Piellusch, City resident (distributed pictures)
Susanne Rose, City resident
Paul MacNellis, non-resident
Sherry Sims, City resident
John Kreuzer, City resident (provided a written statement from the Asylum Lake Preservation Association)
Judy Huxmann, City resident
Jessica Simons of the Kalamazoo Nature Center
David Crowe, City resident
Paul Manstrom, City resident and Chair of the Environmental Concerns Committee
Donna Tellam, non-resident
Wendy Denning, City resident
Bonnie Alkema City resident (provided a written statement from the Neighborhood Association of Parkview Hills)
Suzanne Rose, City resident
Tom Small, City resident
Margo Rebar, non-resident
Marcella Hunt, City resident
Peter Kushner, City resident

Nehemiah Scudder, City resident, offered remarks on humanism and naturalism.

Clair Batiste, City resident, asked if the NFP ordinance would prohibit rain barrels.

At 8:21 p.m. Mayor Hopewell closed the public hearing.

Commissioner Cunningham, seconded by Commissioner Cooney, moved to adopt an **ORDINANCE** amending Chapter 50, the Zoning Code, to create the Natural Features Protection Overlay District.

Prior to a vote on the motion, Commissioner Anderson thanked City Planner Christina Anderson and Development Project Coordinator Jamie McCarthy for their work on the ordinance, which had a lot of public input. Commissioner Anderson reminded people the ordinance would create an overlay district and was not about a particular development or developer. Commissioner Anderson noted

Adoption of the
Agenda

2019-00171

Public Hearing re: an
Ordinance Creating the
Natural Features
Protection Overlay
District

2019-0171

Ordinance 1984 Creating
the Natural Features
Protection Overlay
District

2019-0171

Ordinance 1984 Creating
the Natural Features
Protection Overlay
District

there was a site plan review process that would interact with the base zoning district and its rules, the overlay district and its rules, and the specific plans submitted by developers for specific sites.

Commissioners Cooney and Urban expressed support for the proposed ordinance.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

2019-0172

Public Hearing re: an
Ordinance to Rezone
Properties with the
Natural Features
Protection Overlay
District

At 8:29 p.m. Mayor Hopewell opened a public hearing to receive comments on an ordinance to rezone properties throughout the City with the Natural Features Protection (NFP) Overlay District.

Erin Schultz, City resident, requested that the NFP Overlay District be expanded to include the Oak Ridge Neighborhood and the area around Whites Lake, the Kalamazoo Country Club, and Lakeview Academy.

Rick Schell, non-resident, requested that his 11 properties on Stadium Drive be excluded from the NFP Overlay District. Written communication from Mr. Schell was filed with the papers for this meeting.

Haji Tehrani, non-resident, described his attempts to develop his property on Stadium Drive and noted he had been cooperative with staff through the whole process.

Mike Danch, non-resident, stated the NFP Overlay standards would render Mr. Tehrani's property on Stadium Drive undevelopable. Correspondence from Mr. Danch was included in the agenda packet for this meeting.

Matt Callendar, non-resident, expressed opposition to the proposed ordinance and stated only the southern one-third of Mr. Tehrani's property should be included in the NFP Overlay District.

Matt VanDyk, non-resident and an attorney representing Mr. Tehrani, stated Mr. Tehrani's parcel had been split into three parcels, and the northern two parcels should not be included in the NFP Overlay District. Mr. VanDyk stated the parcel split addressed the split-zoning problem. Correspondence from Mr. VanDyk was included with the agenda packet for this meeting.

Dean Hauck, City resident, questioned when the decision was made to change the designation of the parcels on Stadium Drive that backed up to Asylum Lake from residential to commercial.

Paul MacNellis, non-resident, expressed support for the ordinance but stated there were some properties that needed to be added.

Lauri Holmes, City resident, stated she did not understand how Mr. Tehrani's property was designated "commercial" in the City's Master Plan and expressed surprise he was told he could develop the property.

Karyn Larson, City resident, expressed surprise that Mr. Tehrani's property was designated "commercial," and she expressed support for the ordinance as presented, with no exclusions.

Tom Holmes, City resident, stated the designation of the Stadium Drive properties was changed in the Master Plan, which was an aspirational document, and he noted there were other processes for changing the zoning.

Suzanne Rose, City resident, asked the City Commission to not grant any exclusions to the proposed ordinance.

Diane Morten-Thompson, City resident, stated the NFP ordinance and the zoning map worked together, and the two could not be separated. Ms. Morten-Thompson noted the ordinance had been developed through a citizen engagement process, and it should be adopted as the first step. Ms. Morten-Thompson indicated there would be additional phases and processes to address the changes people wanted.

Sharon Dever, City resident, expressed support for the proposed ordinance.

Tom Small, City resident, stated the overlay district would apply regardless of the base zoning district. Mr. Small indicated the overlay rules could make development of a property difficult, but not impossible.

At 9:11 p.m. Mayor Hopewell closed the public hearing.

The meeting was recessed at 9:11 p.m.
The meeting resumed at 9:29 p.m.

Commissioner Urban, seconded by Vice Mayor Knott, moved to adopt an **ORDINANCE** to rezone properties throughout the City with the Natural Features Protection Overlay District.

Prior to a vote on the motion, and in response to Commissioners' questions, City Planner Christina Anderson made the following points:

- it was very typical for City staff to receive calls about the development of properties.
- the properties at the Drake Road/Stadium Drive intersection, and especially the frontage parcels, had been designated as "commercial" in the City's Master Plans going back to 1998.
- the proposed NFP Overlay District would address how the properties in the district would be developed, not what was developed on the properties.
- all of the properties in the proposed overlay district were treated the same. The map used to develop the Master Plan and the current map were different.
- staff was requesting that the City Commission adopt the ordinance as presented.
- the Master Plan was an aspirational document, not law, but there was a correlation between the Master Plan and the Zoning Ordinance.
- the properties on Stadium drive could be developed with the NFP Overlay if they went through the NFP review process.

2019-0172

Public Hearing re: an Ordinance to Rezone Properties with the Natural Features Protection Overlay District

Recess

2019-0172

Ordinance 1985
Rezoning Properties with the Natural Features Protection Overlay District

2019-0172
Ordinance 1985
Rezoning Properties
with the Natural
Features Protection
Overlay District
(cont'd)

- the Future Land Use Plan was an exhibit to the Master Plan. The Master Plan was updated every 10 years, with a review at the 5-year mark. The Master Plan could be amended in the middle of its life cycle.
- the Zoning Ordinance should reflect the Master Plan, but the two documents were not always synchronized.
- a parcel should not have multiple base zoning designations or have an overlay apply only to part of the parcel (split zoning). The ways to deal with this situation were to split the parcel and/or rezone it.

Mayor Hopewell stated there was a clear difference between the Master Plan and zoning, and there were processes and opportunities to deal with specific situations. Mayor Hopewell expressed support for the proposed ordinance.

Commissioner Cooney stated he wanted to preserve the Stadium Drive property in its current state, but he felt Mr. Tehrani had reason to believe he could develop the property. Commissioner Cooney suggested the City buy the property from Mr. Tehrani.

Commissioner Urban expressed concern about the irreparable harm that could be done to the environment. Commissioner Urban stated the City would not be damaging the property owner's return on investment.

Commissioner Cunningham stated he would not vote for the ordinance, as the moratorium should have resulted in a better solution with less reliance on other processes as "safety valves." Commissioner Cunningham stated the Planning Commission should have dealt with the split parcels issue.

Commissioner Anderson expressed concern that development on other properties would be delayed if the ordinance was not adopted. Commissioner Anderson questioned whether the Commission should adopt the ordinance but exclude Mr. Tehrani's properties while the issues with that property were worked out.

Mayor Hopewell noted the ordinance was not about one set of parcels. Mayor Hopewell urged caution on how the Commission proceeded and suggested there be a vote on the original motion.

City Attorney Robinson explained the adoption of the NFP Overlay District text amendment created the new district, but if the vote on the rezoning ordinance failed, the NFP standards would not apply to any properties in the City. City Attorney Robinson noted the current moratorium would expire on June 3rd, and he stated the Commission's options were to adopt the ordinance as presented; adopt the ordinance and exempt specific parcels; or remand the ordinance to the the Planning Commission to consider exempting specific parcels.

Commissioner Cooney moved to adopt an ORDINANCE to rezone properties throughout the City with the Natural Features Protection Overlay District, with the exception of the two northern parcels owned by Mr. Tehrani; and send those two parcels to the Planning Commission for further consideration. The motion failed for lack of a second.

Commissioner Anderson expressed interest in seconding Commissioner Cooney's motion for the sake of discussion.

Mayor Hopewell indicated Commissioner Cooney's motion had failed for lack of a second, and he would need to make the motion again in order for Commissioner Anderson to offer support.

Commissioner Cooney, seconded by Commissioner Anderson, moved to adopt an ORDINANCE to rezone properties throughout the City with the Natural Features Protection Overlay District, with the exception of the two northern parcels owned by Mr. Tehrani; and send those two parcels to the Planning Commission for further consideration.

In response to a question from Commissioner Cunningham, City Attorney Robinson stated the City Commission could extend the moratorium, but it would raise the question of which parcels should be affected. City Attorney Robinson noted if the City Commission exempted the two parcels from the NFP Overlay District without extending the moratorium, the property owner would have no NFP restrictions on development of the property from the expiration of the moratorium on June 3rd until the Planning Commission and City Commission would take action to address those parcels.

Commissioner Cooney withdrew his motion.

With a roll call vote the original motion to adopt the ordinance passed 4-2.

AYES: Commissioners Anderson, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: Commissioners Cooney and Cunningham

Consent Agenda items were presented as follows with a recommendation to approve the items and authorize the City Manager to sign all documents on behalf of the city:

- approval of the purchase of annual licenses for Microsoft Office 365 from CDWG through the MiDeal cooperative purchasing program in the amount of \$100,578.
- approval of a two-year contract extension with Wayne County Appraisal, LLC d/b/a WCA Assessing to provide City Assessor/Assessor of Record services through May 31, 2021 in the amount of \$216,156; and the appointment of Aaron Powers as City Assessor under the provisions of Charter Section 51, effective June 1, 2019.
- approval of the purchase of three International HV613 SBA truck chassis from West Michigan International through the National Joint Power Alliance cooperative purchasing program in the amount of \$393,159.20.
- approval of a contract with Consumers Concrete for ready mixed concrete in the amount of \$405,600.
- approval of a two-year contract extension with Wayne County Appraisal, LLC d/b/a WCA Assessing for assessing services, including field inspections, data entry, and small claims tax tribunal appeals in the amount of \$602,563.

2019-0172

Ordinance 1985
Rezoning Properties
with the Natural
Features Protection
Overlay District
(cont'd)

Consent Agenda

2019-0173

2019-0174

2019-0175

2019-0176

2019-0177

2019-0178	- approval of a contract with J. Ranck for Station 11, 24, and 25 upgrades in the amount of \$1,498,245; and appropriate an additional \$779,100 from bond proceeds or working capital.
2019-0179	- approval of a three-year contract with Arrowhead Realty Corporation for National Science Foundation Certified lead removal water filters in the amount of \$787,200.
2019-0180	- approval of a contract with SWT Excavating for the 2019 Lead Services Replacement Project in the amount of \$2,504,626.72; and the appropriation of an additional \$482,226.72 from bond proceeds or working capital.
2019-0181	- first reading of an ordinance repealing Sections 22-3 through 22-5 of the Kalamazoo City Code, which were replaced by recent amendments to Chapter 21 - Nuisances.
2019-0182	- first reading of an ordinance repealing Section 22-53 "Loitering" and Section 22-56 "Loitering in places where controlled substances or drug paraphernalia are sold, dispensed" of the City Code of Ordinances.
2019-0183	- first reading of an ordinance to amend Section 22-41 of the Kalamazoo City Code regarding drug paraphernalia.
2019-0184 Resolution 19-31	- adoption of RESOLUTION confirming the 2019 Assessment Roll.
2019-0185 Resolution 19-32	- adoption of a RESOLUTION approving the request of the Downtown Development Authority to levy a tax rate of 1.9638 mills.
2019-0186 Resolution 19-33	- adoption of a corrected RESOLUTION recommending approval of the application of DT Water Street, LLC (Water Street Coffee Joint) for a "New Class C license issued under MCL 436.1521(a)(1)(b)" to be located at 315 E Water Street within the Downtown Development District; and rescind Resolution 19-07 adopted on February 4, 2019.
2019-0187	- approval of a License Agreement between the City of Kalamazoo and The Kalamazoo Promise to install The Kalamazoo Promise's logo on the new water tank adjacent to US-131.
2019-0188	- approval of a request from the Kalamazoo Country Club for a permit to publicly display fireworks at 1609 Whites Road on Thursday, July 4, 2019 with a rain date of Friday, July 5th.
2019-0189	- approval of a request from Western Michigan University to publicly display fireworks at Hyames Field on Saturday, September 14, 2019.
2019-0190	- approval of the Mayor's appointment and reappointments to boards and commissions: - the appointment of Karla Ragainis to the Historic Preservation Commission for a term expiring on March 31, 2022; - the reappointment of Derek Wissner to the Planning Commission for a term expiring on March 31, 2022; and

- the reappointment of Greg Milliken to the Planning Commission for a term expiring on March 31, 2022.
- approval of the appointment of Kevin Weller to the Environmental Concerns Committee for a term expiring on January 1, 2022.

Vice Mayor Knott, seconded by Commissioner Anderson, moved to approve the consent agenda requests and authorize the City Manager to sign all documents on behalf of the City.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

Regular Agenda items were considered next.

An opportunity was given for public comments on an ordinance to amend Chapter 2- Article X Employee Retirement System § 2-224 Definitions, but no comments were offered.

Vice Mayor Knott, seconded by Commissioner Cooney, moved to adopt an **ORDINANCE** to amend Chapter 2- Article X Employee Retirement System § 2-224 Definitions.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

An opportunity was given for public comments on an ordinance to terminate the Amended Restated Development Plan and Tax Increment Financing Plan for the City of Kalamazoo Downtown Development Authority and to repeal the following ordinances: 1450, 1457, 1468, 1492, 1523, 1643, 1817, and a portion of ordinance 1679, but no comments were offered.

Commissioner Cooney, seconded by Commissioner Anderson, moved to adopt an **ORDINANCE** to terminate the Amended Restated Development Plan and Tax Increment Financing Plan for the City of Kalamazoo Downtown Development Authority and to repeal the following ordinances: 1450, 1457, 1468, 1492, 1523, 1643, 1817, and a portion of ordinance 1679.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

Consent Agenda
(cont'd)

2019-0181

Regular Agenda

2019-0192

Ordinance 1986 re:
Employee Retirement
System Definitions

2019-0193

Ordinance 1987
Terminating the DDA
Tax Increment
Financing (TIF) Plan

2019-0194

Ordinance 1988 and
Resolution 19-34 re:
Wastewater Revenue
Bonds

An opportunity was given for public comments on an ordinance authorizing the issuance of Wastewater Supply System Revenue Bonds, Series 2019 for an amount not to exceed \$10,000,000; and adoption of a Notice of Sale Resolution, but no comments were offered.

Commissioner Urban, seconded by Vice Mayor Knott, moved to adopt an **ORDINANCE** authorizing the issuance of Wastewater Supply System Revenue Bonds, Series 2019 for an amount not to exceed \$10,000,000; and adopt a Notice of Sale **RESOLUTION**.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

2019-0195

Ordinance 1989 and
Resolution 19-35 re:
Water Revenue Bonds

An opportunity was given for public comments on an ordinance authorizing the issuance of Water Supply System Revenue Bonds, Series 2019 for an amount not to exceed \$11,200,000; and adoption of a Notice of Sale Resolution, but no comments were offered.

Commissioner Urban, seconded by Vice Mayor Knott, moved to adopt an **ORDINANCE** authorizing the issuance of Water Supply System Revenue Bonds, Series 2019 for an amount not to exceed \$11,200,000; and adoption of a Notice of Sale **RESOLUTION**.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

2019-0196

Resolution 19-36 re:
Capital Improvement
Program (CIP) Bonds

An opportunity was given for public comments on a resolution for the issuance of General Obligation Limited Tax Bonds for an amount not to exceed \$10.5 million, for the purpose of financing FY 2019 capital projects, but no comments were offered.

Commissioner Urban, seconded by Vice Mayor Knott, moved to adopt a **RESOLUTION** for the issuance of General Obligation Limited Tax Bonds for an amount not to exceed \$10.5 million, for the purpose of financing FY 2019 capital projects.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

City Attorney Robinson presented the following reports and updates:

- Timothy Greely, a noteworthy federal magistrate, recently retired.
- The City's 2nd Annual Amnesty Day was held on Friday, May 17th. There were 171 participants, and 251 outstanding warrants were addressed. Of these warrants, 35 were City cases.
- The City Commission adopted a new fireworks ordinance, and under that ordinance people would be allowed to discharge fireworks on the Saturday and Sunday before Memorial Day between 11:00 a.m. and 11:45 p.m.

City Attorney Robinson thanked his staff for their hard work on Amnesty Day.

Next, Commissioners discussed the process for filling the vacancy on the City Commission.

By consensus Commissioners agreed to use the following process to select a person to fill the vacancy on the City Commission: applications would be due to the City Clerk by Thursday, May 30th at 5:00 p.m.; the City Commission would review the applications at its regular business meeting on Monday June 3rd and determine which applicants to interview; at a special meeting on Monday, June 10th at 6:00 p.m. the City Commission would interview candidates and select a person to fill the vacancy; in general the City Commission would use the same process to review applications and interview candidates as it had in 2015.

Next, when an opportunity was given for general public comments, the following people addressed the City Commission:

Antonia Kennedy, non-resident, spoke about the Middle East and stated the views and actions of radicals did not represent those of average people.

Jody Dozeman, City resident, offered remarks on various issues.

Anne Zemlick, non-resident, asked the City Commission to delay the demolition of the Mother House on the Nazareth campus for one year and asked the City to convene meetings with the Sisters of St. Joseph to discuss the matter.

Pam O'Connor, City resident, spoke about the City Commission's action in April to stop the Historic Preservation Commission from pursuing the establishment of historic districts around Bronson Park and the Nazareth Campus. Ms. O'Connor spoke about the benefits of historic preservation.

Zack Lassiter, City resident, asked if the City Commissioner applications would be made public, and he urged the Commission to appoint someone who would not be running for office in November.

Benjamin Stanley, City resident, asked for advice about ways he could become involved in the community.

City Attorney's Report

2019-0197

Discussion re: Filling
the Vacancy on the
City Commission

2019-0198

Public Comments

City Commissioner
Comments

Finally, an opportunity was given for miscellaneous comments from City Commissioners.

Commissioner Cunningham indicated City staff needed to improve their communication. Commissioner Cunningham expressed hope that people would get involved with the application process for filling the City Commission vacancy.

Adjournment

The meeting adjourned at 10:54 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

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Roll Call

A regular meeting of the Kalamazoo City Commission was held on Monday, June 3, 2019 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 West South Street.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Erin Knott
David Anderson
Don Cooney
Eric Cunningham
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Opening Ceremony

The invocation, given by Pastor Moise Ratsara, Kalamazoo Seventh-Day Adventist Church, was followed by the Pledge of Allegiance.

Proclamations
2019-0

Vice Mayor Knott proclaimed June 2019 *Pride Month – Kalamazoo*. Staff from OutFront Kalamazoo received the proclamation, including: Denise Miller, Executive Director; Michael Cleggs, Director of Programs; Brooke Lindley, Director of Advocacy; Krystina Edwards, Director of Special Events; and Lilly Mazzone, Intern.

2019-0

Commissioner Cooney proclaimed June 8, 2019 *Gun Violence Awareness Day*. Phyllis Lefebvre of Kalamazoo Area Moms Demand Action received the proclamation.

2019-00
Review of City
Commissioner
Applications and
Selection of
Candidates to
Interview

Mayor Hopewell requested Item J-1, review of City Commissioner applications, be considered next as he needed to leave for another engagement. There were no objections.

The City Commission discussed filling the vacancy on the Commission due to the resignation of former Commissioner Shannon Sykes.

City Clerk Borling presented slides showing a timeline of Commissioner Sykes' resignation and a proposed selection process based on the process used to fill a vacancy on the City Commission in 2015. A copy of these slides was filed with the papers for this meeting.

By consensus the City Commission agreed to the following procedures for interviewing candidates who had applied to fill the vacancy on the Commission:

- The City Commission would interview candidates at a special meeting on June 10, 2019 at 6:00 p.m. in the City Commission Chambers.
- Candidates would not receive questions in advance
- Candidates would be sequestered before their interviews
- Commissioners would ask the same 8-10 questions of all candidates in round-robin fashion
- Each candidate would have 2 minutes for an opening statement, 90 seconds to answer each question, and 90 seconds for a closing statement.

By consensus the City Commission agreed to use the follow process for developing interview questions:

- Commissioners would send suggested questions to the City Clerk by the close-of-business on Thursday, June 6th.
- The Clerk would compile and review the submitted questions with the Mayor.
- The Clerk will send the questions to Commissioners over the weekend.
- Commissioners will have an opportunity to review and discuss the questions on June 10th at the beginning of the meeting, prior to conducting the interviews.

Discussion took place regarding the number of candidates to interview. By consensus the City Commission agreed to interview no more than five candidates.

City Clerk Borling distributed paper ballots containing the names of the 14 City Commission applicants.

When an opportunity was given for public comments on the candidate selection process, the following people addressed the City Commission:

Jeff Messer, City resident, asked that the City Commission not select applicants who intended to run for Mayor or City Commissioner in the November.

Prior to the vote, Mayor Hopewell noted that Commissioners did not know whether applicants would be running for office in the fall. Mayor Hopewell stated a person who was willing to serve on the Commission now should not be prohibited from serving.

Commissioners marked their ballots and returned them to the Clerk. City Clerk Borling displayed the Commissioners' selections:

Commissioner Anderson

Megan Buwalda
Patrese Griffin
Esteven Juarez
Tami Rey
William Wells

Commissioner Cooney

Megan Buwalda
Patrese Griffin
Oliver Howell
Esteven Juarez
John McNeill

Commissioner Cunningham

Patrese Griffin
Esteven Juarez
Brian Pittelkow
James Pitts
William Wells

2019-00

Review of City
Commissioner
Applications and
Selection of
Candidates to
Interview (cont'd)

2019-00

Review of City
Commissioner
Applications and
Selection of
Candidates to
Interview (cont'd)

Commissioner Urban

Megan Buwalda
Patrese Griffin
Peter Kushner
John McNeill
William Wells

Vice Mayor Knott

Megan Buwalda
Patrese Griffin
Peter Kushner
John McNeill
Tami Rey

Mayor Hopewell

Megan Buwalda
Patrese Griffin
Oliver Howell
Esteven Juarez
James Pitts

Next, City Clerk Borling tallied the votes. The ballots and a copy of the tally sheet were filed with the papers for this meeting. Discussion followed.

By consensus the City Commission agreed to interview the following applicants on June 10th based on the criteria that they received three or more votes:

Patrese Griffin (6 votes)
Megan Buwalda (5 votes)
Esteven Juarez (4 votes)
John McNeill (3 votes)
William Wells (3 votes)

Mayor Hopewell left the meeting at 7:35 p.m., and Vice Mayor Knott became the presiding officer.

Adoption of the
Agenda

By unanimous consent the City Commission adopted its meeting agenda with the following change:

- A citizen requested that Item F-1, an agreement with the City of Portage to share a full-time Strategic Operations and Intelligence Analyst, be moved to the Regular Agenda.

Communications

City Manager Ritsema announced the City Commission would meet in special session on Monday, June 10, 2019 at 6:00 p.m. in the City Commission Chambers at City Hall. The purpose of the meeting was to interview candidates who had applied to fill the vacancy on the City Commission.

Consent Agenda

Consent Agenda items were presented as follows with a recommendation to approve the items and authorize the City Manager to sign all documents on behalf of the city:

2019-0

- approval and acceptance of easements for water main that will be installed as part of the Gilmore Farms West Condominiums Construction Project.

- approval of bylaws for the Natural Features Protection Review Board. **2019-0**
- approval of the Mayor's appointments to Natural Features Protection Review Board: **2019-0**
 - the appointment of Ashley Cole-Wick for a term expiring on March 31, 2020.
 - the appointment of Erin Fuller for a term expiring on March 31, 2022.
 - the appointment of Robert Glasser for a term expiring on March 31, 2021.
 - the appointment of Mitch Lettow for a term expiring on March 31, 2022.
 - the appointment of Paul MacNellis for a term expiring on March 31, 2021.
 - the appointment of Kyle Martin for a term expiring on March 31, 2022.
 - the appointment of Alan Sylvester for a term expiring on March 31, 2020.
- approval of the appointment of Beth Ann van den Hombergh to the Zoning Board of Appeals as an alternate member for a term expiring on March 31, 2021. **2019-0**

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott

NAYS: None

Regular Agenda items were considered next.

When an opportunity was given for public comments on an intergovernmental agreement with the City of Portage, Department of Public Safety for a Strategic Operations and Intelligence Analyst; and approval of an additional full-time equivalent position allocation for the Department of Public Safety, the following people addressed the City Commission:

Jeff Messer, City resident, asked how the police intelligence data would be used and if “predictive crime analysis” was the same as “predictive policing.” Mr. Messer suggested the City Commission adopt an ordinance requiring public input and legislative body approval before departments implement surveillance technology.

Commissioner Urban, seconded by Commissioner Anderson, moved to approve an intergovernmental agreement with the City of Portage, Department of Public Safety for a Strategic Operations and Intelligence Analyst; and approval of an additional full-time equivalent position allocation for the Department of Public Safety.

Prior to a vote on the motion, and in response to a question from Commissioner Anderson, Public Safety Chief Karianne Thomas explained the department currently used intelligence data to see where crime was happening. This initiative

Regular Agenda

2019-00
Agreement with the City of Portage re: a Shared Strategic Operations and Intelligence Analyst

2019-00

Agreement with the
City of Portage re: a
Shared Strategic
Operations and
Intelligence Analyst
(cont'd)

was an effort to bring all of that data into one place. Chief Thomas stated the department was not using predictive analytics, and she was not comfortable yet using artificial intelligence in policing.

In response to a question from Commissioner Cooney, Chief Thomas stated she would bring to the City Commission any future initiative to implement artificial intelligence.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott

NAYS: None

2019-00

Ordinance 1990
Repealing Sections of
Chapter 21 - Nuisances

An opportunity was given for public comments on an ordinance repealing Sections 22-3 through 22-5 of the Kalamazoo City Code, which were replaced by recent amendments to Chapter 21 – Nuisances, but no comments were offered.

Commissioner Anderson, seconded by Commissioner Urban, moved to adopt an **ORDINANCE** repealing Sections 22-3 through 22-5 of the Kalamazoo City Code, which were replaced by recent amendments to Chapter 21 – Nuisances.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott

NAYS: None

2019-00

Ordinance 1991
Repealing Sections 22-53
and 22-56 re: Loitering

When an opportunity was given for public comments on an ordinance repealing Section 22-53 “Loitering” and Section 22-56 “Loitering in places where controlled substances or drug paraphernalia are sold, dispensed” of the City Code of Ordinances, the following people addressed the City Commission:

Mattie Jordan-Woods, City resident, expressed opposition to the proposed ordinance, as eliminating the prohibition against loitering would take away the main tool used by Public Safety to address large crowds of people like the X-Train in the Northside Neighborhood.

Ben Stanley, City resident, asked about the reason for the ordinance changes.

Commissioner Anderson, seconded by Commissioner Cunningham, moved to adopt an **ORDINANCE** repealing Section 22-53 “Loitering” and Section 22-56 “Loitering in places where controlled substances or drug paraphernalia are sold, dispensed” of the City Code of Ordinances.

Prior to the vote and in response to questions from Commissioner Anderson, City Attorney Robinson explained the ordinance changes were being made because courts were not looking favorably on loitering laws, as it was not a crime to just be “hanging out” somewhere or to be present when a crime happened. City Attorney Robinson stated the City Commission recently adopted the Moving Party ordinance, and this ordinance was designed address activities like the X-Train.

Commissioner Cunningham stated he had been an advocate for decriminalizing ordinances, and he had reluctantly voted for the party ordinance. Commissioner Cunningham reported he had been working behind the scenes to get the community to develop and offer activities for people late at night.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott

NAYS: None

When an opportunity was given for public comments on an ordinance to amend Section 22-41 of the Kalamazoo City Code regarding drug paraphernalia, the following people addressed the City Commission:

Mattie Jordan-Woods, City resident, expressed opposition to the proposed ordinance and stated she did not want to see the Northside Neighborhood flooded with needles. Ms. Jordan-Woods stated needle exchange programs enabled the behavior that brought about gun violence.

Dr. William Nettleton, Medical Director for the Kalamazoo County Department of Health and Community Services, expressed support for the proposed ordinance and stated needle exchange programs were harm-reduction efforts that met people where they were. Dr. Nettleton noted syringe service programs, needle exchange programs, and safe injection sites were all different from each other. Dr. Nettleton indicated needle exchange programs reduced new cases of HIV and Hepatitis C.

Kelly Doyle, Executive Director of Community AIDS Resource and Education Services (CARES), expressed support for the proposed ordinance and stated CARES wanted to work with the Community Outreach, Prevention, and Education (COPE) Network to have a safe syringe program in the Vine Neighborhood.

Nancy King, President of COPE, expressed support for the proposed ordinance and stated clean needle programs were a harm reduction initiative.

Pam Roland, City resident, expressed opposition to the proposed ordinance and stated there were a lot of needles already in City parks and homeless encampments. Ms. Roland asked who would monitor the needle exchange programs and make sure the proliferation of needles did not get worse.

Esteven Juarez, City resident, stated the principles behind needle exchange programs were good, but their methods did not address the deeper underlying problems in the community. Mr. Juarez stated those who wanted to help addicts needed to reach out and go to them.

Ben Stanley, City resident, suggested having sites where people could use and safely dispose of the needles.

2019-00

Ordinance 1991
Repealing Sections 22-53
and 22-56 re: Loitering
(cont'd)

2019-00

Ordinance 1992 re: Drug
Paraphernalia and Needle
Exchange Programs

2019-00

Ordinance 1992 re: Drug
Paraphernalia and Needle
Exchange Programs
(cont'd)

Commissioner Cooney, seconded by Commissioner Anderson, moved to adopt an **ORDINANCE** to amend Section 22-41 of the Kalamazoo City Code regarding drug paraphernalia.

Prior to a vote on the motion, Commissioner Anderson remarked on the need for needle exchange programs to not have a disparate impact. Commissioner Anderson noted the proposed ordinance did not approve specific programs; it removed a prohibition and required that programs be approved by the City Commission.

City Attorney Robinson stated the Public Health Code allowed for needle exchange programs, and he noted several other cities in Michigan allowed them. City Attorney Robinson explained a non-profit organization would need to seek City Commission approval for a program, and the approval would be good for two years. City Attorney Robinson stated there were criteria for this approval, and users of services in the program would remain anonymous.

Commissioner Urban expressed concern that the ordinance would create a “wild west” situation, and he stated needle exchange programs should be reviewed and required to demonstrate their effectiveness.

Commissioner Urban moved to amend the proposed ordinance to: 1) delay the effective date of the ordinance until the first needle exchange program was approved; and 2) sunset the ordinance one year after that approval unless there was evidence shown that the overall benefit to the community was positive. The motion failed for lack of a second.

In response to Commissioner Urban, City Attorney Robinson stated the ordinance would not create a “wild west” situation, as City Commission approval was required for a program to be legal. City Attorney Robinson indicated he would need to look into the impact of a sunset provision on prior authorizations.

Commissioner Anderson explained the ordinance included a required review of approved programs every two years, which would entail the non-profit producing a report and data.

City Attorney Robinson noted the framework in the proposed ordinance was based on the program in Grand Rapids, which had been very successful.

Commissioner Cooney asked the City Manger to look into cleaning up needles on public property. Commissioner Cooney stated Mr. Juarez comments were good, but the issues he raised were two separate issues.

In response to a question from Commissioner Urban, City Attorney Robinson assured him the City Commission would need to approve needle exchange programs before they could operate in the City.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Urban, Vice Mayor Knott

NAYS: None

Next, when an opportunity was given for general public comments, the following people addressed the City Commission:

Nehemiah Scudder, City resident, asked Ms. Jordan-Woods why she did not run for City Commission.

Ann Zemlick, non-resident, asked the City Commission to help save the Mother House on the Nazareth campus.

Louie Zemlick, non-resident, asked the City Commission to delay the demolition of the Mother House on the Nazareth campus.

Mattie Jordan-Woods, City resident, spoke about the need to look at the effects of needle programs on people who could not afford lawyers and data. Ms. Jordan-Woods stated she would be looking to the City Commission to police needle programs, and she questioned how a needle exchange program was determined to be effective.

Kenneth Barnard, non-resident, invited people to a criminal justice reform event at the Douglas Community Center on June 5th regarding bail and pre-trial incarceration.

Luke Zemlick, non-resident, asked the City Commission to delay the demolition of the Mother House on the Nazareth campus. Mr. Zemlick stated a needle exchange program would create more needles.

Alejandro Rodriguez, non-resident, stated people who had left the street lifestyle needed to go back to the streets and the neighborhoods to reach out and help people who were there.

Christina Howard Hernandez, non-resident, asked the City Commission to help save the Mother House on the Nazareth campus.

Jeff Messer, City resident, stated the future of the Nazareth property was not clear, as the site plan submitted to the City was a demolition plan. Mr. Messer asked Nazareth supporters to keep their signs out of the public rights-of-way, and he asked whether the June 10th City Commission meeting would be broadcast.

Dr. William Nettleton, non-resident, stated data did not support the idea that needle exchange programs led to an increase in needle sharing.

Finally, an opportunity was given for miscellaneous comments from City Commissioners.

Commissioner Cooney expressed appreciation for citizens' concerns about needle exchange programs.

Commissioner Urban noted the Sisters of St. Joseph owned the Nazareth property, and he stated the City had limited ability to force an unwilling party to negotiate.

Commissioner Cunningham offered remarks on how people viewed the world through multiple perspectives. Commissioner Cunningham described how different policies affected different communities differently. Commissioner

Public Comments

City Commissioner
Comments

City Commissioner
Comments (cont'd)

Cunningham stated the community needed targeted policing in order to deal with problems like the X-Train, but the City should not overstep its boundaries.

Vice Mayor Knott stated she was not interested in re-opening the Nazareth issue.

Adjournment

The meeting adjourned at 9:05 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

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Roll Call

A special meeting of the Kalamazoo City Commission was held on Monday, June 10, 2019 at 6:00 p.m. in the City Commission Chambers at City Hall, 241 West South Street. The purpose of the meeting was to consider the acceptance of an easement related to The Kalamazoo Creamery project and interview candidates who have applied to fill the vacancy on the City Commission.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Erin Knott
David Anderson
Don Cooney
Jack Urban

COMMISSIONERS ABSENT:

Eric Cunningham*

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Commissioner
Excused

Commissioner Anderson, seconded by Commissioner Cooney, moved to excuse the absence of Commissioner Cunningham. With a voice vote the motion passed.

2019-0
Sidewalk Easement for
the Kalamazoo
Creamery Project

An opportunity was given for public comments on an easement for sidewalk purposes along Portage Street from the Kalamazoo Creamery Limited Dividend Housing Association Limited Partnership, but no comments were offered.

Vice Mayor Knott, seconded by Commissioner Cooney, moved to approve an easement for sidewalk purposes along Portage Street from the Kalamazoo Creamery Limited Dividend Housing Association Limited Partnership and authorize the City Manager to sign all documents on behalf of the City.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Urban, Vice Mayor Knott, Mayor Hopewell

NAYS: None

2019-0
Interview of
Candidates to Fill the
Vacancy on the City
Commission

Mayor Hopewell reviewed the process for interviewing City Commission candidates:

- Commissioners had submitted 11 interview questions to the City Clerk prior to the meeting.
- the order of the interviews was determined by random draw.
- candidates would be sequestered until their interviews.
- each candidate would have two minutes to make an opening statement.
- Commissioners would ask each candidate the same questions. Candidates would have 90 seconds to answer each question.
- each candidate would have 90 seconds to make a closing statement.

Mayor Hopewell noted the City Commission would receive public comments after all candidates had been interviewed. Each person would have two minutes to speak. Mayor Hopewell explained that voting would be by written ballot to eliminate Commissioners being influenced by other Commissioners' votes. Commissioners would put their names on their ballots for the record, and the City Clerk would display the results on the video screens.

Commissioner Urban suggested Commissioners did not need 11 questions to determine the best candidate.

*Commissioner Cunningham arrived at 6:06 p.m.

Commissioners reviewed the interview questions and selected questions 1, 3, 5, 6, 8, 9, 10, and 11 as the questions to ask the candidates.

The City Commission interviewed the following candidates to fill the vacancy created by the resignation of former City Commissioner Shannon Sykes:

John McNeill
Megan Buwalda
Esteven Juarez
Patrese Griffin
William Wells

Commissioners asked each candidate the following questions:

1. In your opinion, what are the biggest issues facing the City of Kalamazoo that the City Commission should be working to address? What would you like to see the City of Kalamazoo and the Kalamazoo metropolitan area be in 20 years? (asked by Commissioner Urban)
2. What is the City's overall budget for 2019? What is the General Fund Budget? (asked by Vice Mayor Knott)
3. How do you plan to involve residents in decision-making processes in our city? (asked by Commissioner Anderson)
4. What strategy should the City follow to end/alleviate intergenerational poverty? (asked by Commissioner Cooney)
5. What point of view will you bring to the City Commission that will help ensure that our decisions are wise and balanced? (asked by Commissioner Cunningham)
6. What was your participation in the IK2025 process, and what is your understanding of the IK2025 Strategic Goals for the City? Do you support these goals, and if so, how will you work to move forward the community's vision? (asked by Commissioner Anderson)
7. What is the primary purpose of the Kalamazoo Foundation for Excellence? What are some of the ways the FFE supports that purpose, as specified in its founding and organizational documents? (asked by Commissioner Cunningham)
8. The Human Rights Campaign issues an annual Municipal Equality Index that examines how inclusive municipal laws, policies, and services are of LGBTQ people who live and work there. Cities are rated based on non-discrimination laws, the municipality as an employer, municipal services, law enforcement, and the city leadership's public position on equality.

2019-0

Interview of
Candidates to Fill the
Vacancy on the City
Commission (cont'd)

2019-0

Interview of
Candidates to Fill the
Vacancy on the City
Commission (cont'd)

In Michigan 11 cities are ranked, and Kalamazoo's 2018 score is 74/100, which is behind cities like Ann Arbor, Detroit, E. Lansing, Ferndale, Grand Rapids, Lansing and Traverse City. Recognizing that you might not be familiar with the scoring criteria and metrics, what would you propose as a Commissioner to do policy wise and/or administratively to improve Kalamazoo's score before the next report is published in the fall of 2019? (asked by Vice Mayor Knott)

Public Comments on
the Candidates

Next, when given an opportunity for public comments about the candidates, the following people addressed the City Commission:

Nehemiah Scudder, City resident, stated good judgement of character was a more important characteristic for Commissioners than other skills or qualities.

Ed Genesis, City resident, expressed support for Patrese Griffin.

Alicia Penning, City resident, expressed support for Esteven Juarez.

Alisa Parker, City resident, expressed support for Patrese Griffin.

Mattie Jordan-Woods, City resident, expressed support for Patrese Griffin.

Edward Griffin, Jr., City resident, expressed support for Patrese Griffin.

Mary Garcia, City resident, expressed support for Esteven Juarez.

Ryan Griffin, City resident, expressed support for Patrese Griffin.

Jennifer Juarez, City resident, expressed support for Esteven Juarez.

Jessica Ledesma, non-resident, expressed support for Esteven Juarez.

Alejandro Rodriguez, non-resident, expressed support for Esteven Juarez.

Belen Moreno-Aguilar, City resident, unidentified person expressed support for Esteven Juarez.

Karina Martinez-Villanueva, City resident, expressed support for Esteven Juarez.

Shawn O'Bryant, City resident, expressed support for Patrese Griffin.

Ariel Juarez, City resident, expressed support for Esteven Juarez.

Jorge Rodriguez, City resident, expressed support for Esteven Juarez.

Jonathan Steele, City resident, expressed support for Esteven Juarez.

Pat Vinge, City resident, expressed support for Patrese Griffin.

Cathryn Phason, non-resident, expressed support for Patrese Griffin.

Antonia Kennedy, non-resident, expressed support for Esteven Juarez.

Adam Juarez, non-resident, expressed support for Esteven Juarez. Jeff Messer, City resident, expressed support for John McNeill. Tobi Hanah-Davies, City resident, expressed support for Patrese Griffin. Jackie Garcia, City resident, expressed support for Esteven Juarez. Stephanie Moore, City resident, expressed support for Patrese Griffin. Scott Goodwin, non-resident, expressed support for Esteven Juarez. Stacey Ledbetter, non-resident, expressed support for Patrese Griffin.	Public Comments on the Candidates (cont'd)
City Clerk Borling distributed the first ballot and tallied the results after Commissioners had cast their votes. On the first ballot Patrese Griffin received five votes and John McNeill received one vote: Commissioner Anderson selected Patrese Griffin Commissioner Cooney selected Patrese Griffin Commissioner Cunningham selected Patrese Griffin Commissioner Urban selected John McNeill Vice Mayor Knott selected Patrese Griffin Mayor Hopewell selected Patrese Griffin Having received affirmative votes from a majority of the City Commission, Patrese Griffin was appointed to the vacant seat on the City Commission. In response to a question from Mayor Hopewell, Ms. Griffin indicated she would like to take the oath of office immediately because her mother-in-law was present.	First Ballot
City Clerk Borling administered the Constitutional Oath of Office to Commissioner Griffin.	Oath of Office
Ed Genesis presented and affixed to Commissioner Griffin a pin with the City seal. Next, an opportunity was given for general public comments, but no comments were offered.	Public Comments
Finally, an opportunity was given for miscellaneous comments from City Commissioners.	City Commissioner Comments
Commissioner Anderson remarked on the impressive group of applicants and candidates. Commissioner Anderson stated it was comforting to know there were such committed people in the City. Commissioner Cunningham urged all of the applicants to stay engaged in the work of the City. Commissioner Urban explained that he voted for John McNeill to minimize the Commission's influence on the municipal election in November.	
The meeting adjourned at 8:13 p.m.	Adjournment

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

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Roll Call

A neighborhood meeting of the Kalamazoo City Commission was held on Monday, June 17, 2019 at 6:01 p.m. in the Community Room at City Hall, 241 W. South Street.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Erin Knott
David Anderson
Don Cooney
Eric Cunningham
Patrese Griffin
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Communications

An opportunity was given for miscellaneous communications, but no communications were offered.

Neighborhood Communications

Neighborhood communications were received next.

Representatives from the following neighborhood associations were present and addressed the City Commission:

Oakland Drive/Winchell Neighborhood Association

Peter Kushner, President

West Main Hill Neighborhood Association

Rachel Chadderdon Bair

Oakland Drive/Winchell Neighborhood

The Oakland Drive/Winchell Neighborhood Association representative:

- thanked the Community Planning and Economic Development staff for developing the Natural Features Protection Ordinance and engaging the community on this issue.
- remarked on the progress of the Oakland/Winchell 2020 Plan and stated the neighborhood wanted an opportunity to see and review the draft plan once it was developed. Mr. Kushner stated some of the committees working on the plan wanted better feedback and two-way communication with staff regarding the possibility of ideas being implemented.
- stated the Association was trying to get timelines for traffic studies that were related to traffic issues in the neighborhood, such as Winchell Avenue/Rambling Road intersection.
- reported Consumers Energy was doing upgrades in the neighborhood and getting easements from property owners. Mr. Kushner stated the Association wanted Consumers to make properties whole, but working with them was challenging.
- indicated the Association was working on Safe Routes to School Grant for improvements to make walking routes in the neighborhood safer.

- stated the Association was working with the Kalamazoo Department of Public Safety (KDPS) and residents to implement the app Neighbors by Ring.

Oakland Drive/Winchell
Neighborhood (cont'd)

In response to a question from Commissioner Urban, Mr. Kushner stated he wanted two-way communication with the City regarding the draft plan, and specifically a response from the City as to why elements were, or were not, included in the plan.

The West Main Hill Neighborhood Association representative:

West Main Hill
Neighborhood

- reported the Association would be engaging in the IK 2025 neighborhood plan process. Ms. Chadderdon Bair thanked Neighborhood Activator Katie Riley for her help.
- observed the Association seemed to be more active when there was a controversy.
- expressed concern about temporary speed bumps on Academy Street and noted Academy Street was not the area where dangerous speeding occurred.
- thanked the Parks and Recreation Department for the new tot lot in the neighborhood.

In response to a question from Commissioner Anderson, Ms. Chadderdon Bair stated everyone was happy with the new STOP sign at Lovell and Monroe Streets, but some did not like the flashing lights because they took away from the historic character of neighborhood.

When an opportunity was given for general public comments, the following people addressed the City Commission:

Public Comments

Nehemiah Scudder, City resident, expressed concern about the lack trash containers in some bus stops.

Ben Stanley, City resident, stated he was asked to leave the Oshtemo library grounds while gathering petition signatures because it was private property, but the Library Board indicated the library was public property. Mr. Stanley asked whether the Kalamazoo Department of Public Safety should be enforcing the library's rules.

Jeff Messer, City resident, noted the Kalamazoo County Sheriff enforced laws at the Oshtemo library, and he reported Jim Ferner was harassed by the Kalamazoo Department of Public Safety for getting signatures in Bronson Park during the Maranda Party in the Park in 2018.

Next an opportunity was given for miscellaneous comments by City Commissioners.

Commissioner
Comments

Commissioner Cooney asked the City Attorney for clarification on where people were allowed to solicit petition signatures.

Commissioner
Comments (cont'd)

Mayor Hopewell asked the City Attorney for clarification on public property vs. non-public property.

Commissioner Urban asked for an explanation of the difference between public streets and public buildings.

Adjournment

The meeting adjourned at 6:25 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on July 1, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: July 1, 2019

Roll Call

A regular meeting of the Kalamazoo City Commission was held on Monday, June 17, 2019 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 West South Street.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Erin Knott
David Anderson
Don Cooney
Eric Cunningham
Patrese Griffin
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Opening Ceremony

Mayor Hopewell opened the meeting with the Pledge of Allegiance.

2019-0

Proclamation re: Healthy Homes Awareness Month

Commissioner Anderson proclaimed June 2019 *Healthy Homes Awareness Month*. Community Investment Manager Dorla Bonner, Public Services Director James Baker, Kalamazoo Neighborhood Housing Services (KNHS) Construction Manager Matt Milcarek, and KNHS Executive Director Matt Lager received the proclamation.

Adoption of the Agenda

By unanimous consent the City Commission adopted its meeting agenda as presented

Consent Agenda

Consent Agenda items were presented as follows with a recommendation to approve the items and authorize the City Manager to sign all documents on behalf of the city:

2019-0

- approval of a contract with Consumers Energy to replace street light poles and fixtures on Stadium Drive from Rambling Road to South Street in the amount of \$481,146.41.

2019-0

- approval of a contract with Kalleward Group for improvements to be completed at Bronson Park in the amount of \$576,000.

2019-0

- approval of a contract with Prein & Newhof, a prequalified vendor, for professional engineering services related to the 2019 PFAS Contamination Response Project, in the amount of \$113,900.

2019-0

- approval of the purchase of four- and six-inch portable sewer trash pumps from AIS Construction Equipment Corp. under the MIDEAL cooperative purchasing program, in the amount of \$126,850.

2019-0

- approval of a contract with CDM Smith, a pre-qualified engineering consulting firm, for the downtown street network study in the amount of \$212,835.

2019-0

- approval of a change order to a contract with Carrier and Gable in the amount of \$80,000 for traffic signal maintenance services to be provided

through December 31, 2019, bringing the total contract amount to \$160,000.	Consent Agenda (cont'd)
- approval of the purchase of components for the wireless network refresh project from Trace3 through the MIDEAL cooperative purchasing program in the amount of \$172,264.58.	2019-0
- approval of a one-year contract extension with GHD for environmental consulting services at the Cork St. Landfill in the amount of \$131,400; and approval of an increase to the General Fund appropriation for the same amount.	2019-0
- approval of a contract extension with Treeworks, Inc. for neighborhood tree maintenance in the amount of \$398,600.	2019-0
- approval and acceptance of easements for water main to be installed as part of the 30th Street Water Main Project.	2019-0
- adoption of a RESOLUTION approving the project area designation, the establishment of project district boundaries, the appointment of two special directors and setting a public hearing on the project plan regarding the anticipated financing by Heritage Community of Kalamazoo to refinance existing 2007 EDC bonds, refinance an existing bank loan and to finance other major improvements in that project area through the issuance of Series 2019 Bonds and Series 2020 Bonds.	2019-0 Resolution 19-37
- adoption of a RESOLUTION recognizing Hispanic American Council Incorporated as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.	2019-0 Resolution 19-38
- adoption of a RESOLUTION accepting Michigan Natural Resources Trust Fund grant TF18-0226 in an amount not to exceed \$300,000 for the construction of the Kalamazoo River Valley Trail Development, Portage Creek; and approval of the appropriation of \$221,300 in matching funds.	2019-0 Resolution 19-39
- adoption of RESOLUTIONS adopting and implementing a Local Pavement Warranty Program acceptable to the Michigan Department of Transportation as required by state statute.	2019-0 Resolutions 19-40 and 19-41
- approval of an easement for Consumers Energy to place gas pipeline on City property for the Whites Lake Sewerage Lift Station.	2019-0
- approval of changes to the MERS Healthcare Savings Program vesting schedule for Non-Bargaining Unit (NBU) employees to align the schedule with the current vesting schedule for pension benefits.	2019-0
- approval of a recommendation to hold until July 1, 2019 consideration of a resolution to approve a Brownfield Plan Redevelopment and Purchase Agreement for the approximate southerly 6-acre portion of Davis Creek Business Park to Davis Creek Land Development Co., LLC.	2019-0

Commissioner Urban, seconded by Vice Mayor Knott, moved to approve the consent agenda requests and authorize the City Manager to sign all documents on behalf of the City.

Consent Agenda (cont'd)	With a roll call vote this motion passed unanimously. AYES: Commissioners Anderson, Cooney, Cunningham, Griffin, Urban, Vice Mayor Knott, Mayor Hopewell NAYS: None
2019-0 City Manager's Report	City Manager Ritsema presented Foundation for Excellence update and introduced Shelly Dusek as the new Human Resources/Labor Relations Director.
Public Comments	Next, when an opportunity was given for general public comments, the following people addressed the City Commission: Nehemiah Scudder, City resident, announced he was running for City Commission. Ben Stanley, City resident, thanked Commissioners and staff for their hard work.
City Commissioner Comments	Finally, an opportunity was given for miscellaneous comments from City Commissioners. Commissioner Griffin stated she was happy to be a Commissioner and was looking forward to the next few months. Commissioner Cooney offered remarks on a recent New York Times article about an immigrant family that had been separated and whose young child spent five months in Kalamazoo before being reunited with them. Commissioner Urban made observations about people who were not able to empathize with others. Commissioner Cunningham acknowledged family birthdays and Father's Day. Vice Mayor Knott announced she would not be at the July 15th City Commission meeting because she would be out of town from July 15-21. Mayor Hopewell noted this was the first day for the Parks and Recreation Department's summer camps and the first day for Pretty Lake Vacation Camp. Mayor Hopewell announced the Harrison Circle project was approved by the state and reported the project would have 80 housing units, with 80% of the units being affordable units for people earning 60% of the Area Median Income (AMI) or less. Commissioner Cunningham stated the Harrison Circle project was a huge win for the City in the area of affordable housing. At the Mayor's request there was a special presentation of City promotional videos entitled <i>Imagine Kalamazoo</i> and <i>Youth Mobility Fund</i>.
Adjournment	The meeting adjourned at 7:32 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

	A regular meeting of the Kalamazoo City Commission was held on Monday, July 1, 2019 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 West South Street.
Roll Call	COMMISSIONERS PRESENT: Vice Mayor Erin Knott David Anderson Don Cooney Eric Cunningham Patrese Griffin COMMISSIONERS ABSENT: Mayor Bobby J. Hopewell Jack Urban Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.
Commissioners Excused	Commissioner Anderson, seconded by Commissioner Cunningham, moved to excuse the absences of Mayor Hopewell and Commissioner Urban. With a voice vote the motion passed.
Opening Ceremony	The invocation, given by Pastor Chuck Moerdyk, North Presbyterian Church, was followed by the Pledge of Allegiance.
2019-0 Proclamation re: Summer Learning Day	Commissioner Griffin proclaimed July 11, 2019 <i>Summer Learning Day</i>. Meg Blinkiewicz, Executive Director for KYDNet, received the proclamation.
Adoption of the Agenda	By unanimous consent the City Commission adopted its meeting agenda with the following change: - City Manager Ritsema requested that Item F3, a uniform contract with UniFirst Corporation, and Item J-1, revisions to the City's Investment Policy, be removed from the agenda.
Consent Agenda	Consent Agenda items were presented as follows with a recommendation to approve the items and authorize the City Manager to sign all documents on behalf of the city:
2019-0	- approval of a contract with Tetra Tech, Inc., who is a prequalified firm, for the Phosphate Upgrades Project in the amount of \$971,500.
2019-0	- approval of a contract with Pajay, Inc. for the 30th Street Water Main Project, in the amount of \$920,180.
2019-0	- approval of a contract with Consumers Energy for installation of a generator at 4216 Lakeside Dr. for the Whites Lake Sanitary Station, in the amount of \$104,602.70.
2019-0	- approval of a contract with Consumers Energy for installation of a generator at 2830 Oakland Dr. for the Woods Lake Sanitary Lift Station in the amount of \$127,479.26.
2019-0	- first reading of an ordinance amending Chapter 20B addressing commercial medical marihuana facilities so as to reflect recent changes in

State law and regulatory rules governing those facilities and extend the term of provisional certificates issued by the City.

- adoption of a **RESOLUTION** designating financial institutions as approved depositories for the City and authorizing the positions of Management Services Director/CFO, City Treasurer, and the Assistant City Treasurer to execute and sign agreements to procure various cash management services of financial institutions and to provide specific operational and procedural information to such institutions as may be required.
- adoption of a **RESOLUTION** to enter into an Interlocal Agreement with the Michigan Cooperative Liquid Assets Securities System (CLASS).
- adoption of a **RESOLUTION** to approve a Brownfield Plan Redevelopment and Purchase Agreement for the approximate southerly 6-acre portion of Davis Creek Business Park to Davis Creek Land Development Co., LLC.

Commissioner Cooney, seconded by Commissioner Cunningham, moved to approve the consent agenda requests and authorize the City Manager to sign all documents on behalf of the City.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Griffin, Vice Mayor Knott

NAYS: None

Regular Agenda items were considered next.

An opportunity was given for the public to comment on an ordinance authorizing the issuance of Water Supply System Junior Lien Revenue Bonds, Series 2019B for an amount not to exceed \$1,730,000 and a related Notice of Sale Resolution, but no comments were offered.

Commissioner Anderson, seconded by Commissioner Cooney, moved to adopt an **ORDINANCE** authorizing the issuance of Water Supply System Junior Lien Revenue Bonds, Series 2019B for an amount not to exceed \$1,730,000; and adoption of a Notice of Sale **RESOLUTION**.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cooney, Cunningham, Griffin, Vice Mayor Knott

NAYS: None

City Attorney Robinson reminded residents about the City's new fireworks ordinance and noted people could use fireworks from June 29th to July 5th between the hours of 11:00 a.m. and 11:45 p.m. City Attorney Robinson stated people who discharged fireworks outside of these times were subject to a fine of up to \$1,000.

Consent Agenda
(cont'd)

2019-0
Resolution 19-42

2019-0
Resolution 19-43

2019-0
Resolution 19-44

Regular Agenda

2019-0
Ordinance 1993 re:
Water Supply System
Junior Lien Revenue
Bonds; and Notice of
Sale Resolution 19-44

City Attorney's Report

2019-0

City Clerk's Report

City Clerk Borling reported the City Commission had received a citizen proposal submitted by Mr. Chris Wahmhoff regarding designated camping areas for persons experiencing homelessness. City Clerk Borling noted the proposal was included in the agenda packet for this meeting.

Public Comments

Next, when an opportunity was given for general public comments, the following people addressed the City Commission:

2019-0

Nelly Fuentes, non-resident, presented a *Resolution in Support of Restoration of a Driver's License* and asked that the City Commission adopt the resolution in both English and Spanish at its meeting on July 15th.

The following people read the *Resolution in Support of Restoration of a Driver's License* in Spanish:

Matilde Ramirez, City resident
Valentin Bello, City resident

The following people read the *Resolution in Support of Restoration of a Driver's License* in English:

Abby McLain, non-resident
Victoria Marcetti, City resident

The following people expressed support for the *Resolution in Support of Restoration of a Driver's License*:

Lizbeth Fuentes, non-resident
Andy Argo, City resident
Emily DeMorest, City resident,
Tony Nelson, City resident
David Benac, City resident
Chris Wahmhoff, City resident
Sam DeMorest, City resident
Daniel Oropeza, City resident
Zach Lassiter, City resident

Judy Huxmann, City resident, spoke about the recent discharge of sediment into Asylum Lake from the property being developed on the west side of Drake Road south of Stadium Drive. Ms. Huxman requested stronger protections in the Natural Features Protection ordinance.

Nehemiah Scudder, City resident, suggested the state require English language classes in order to get a driver's license.

City Commissioner Comments

Finally, an opportunity was given for miscellaneous comments from City Commissioners.

In response to a question from Commissioner Anderson, City Attorney Robinson indicated the Commission did not need to take formal action to put the driver's license resolution on a future meeting agenda.

Commissioner Anderson expressed support for putting the driver's license resolution on the July 15th City Commission meeting agenda. Commissioner Anderson offered remarks on events celebrating Alma Powell and the 100th anniversary of the Douglas Community Association.

Commissioner Cooney spoke about the separation of immigrant families at the U.S. – Mexican border, and he expressed support for putting the driver's license resolution on the July 15th City Commission meeting agenda.

Commissioner Griffin expressed support for putting the driver's license resolution on the July 15th City Commission meeting agenda. Commissioner Griffin spoke about the City issuing more of its communications in Spanish.

Commissioner Cunningham expressed support for putting the driver's license resolution on the July 15th City Commission meeting agenda. Commissioner Cunningham offered remarks on violence that had taken place in the community over the past weekend. Commissioner Cunningham stated the community needed to come together and leaders needed to step up, as it was not possible to "police away" this activity.

Vice Mayor Knott asked the City Clerk and City Manager to put the driver's license resolution on the July 15th City Commission meeting agenda, and she asked to speak with Ms. Fuentes after the meeting to discuss strategy.

The meeting adjourned at 8:00 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

City Commissioner
Comments (cont'd)

Adjournment

	A neighborhood meeting of the Kalamazoo City Commission was held on Monday, July 15, 2019 at 6:00 p.m. in the Community Room at City Hall, 241 W. South Street.
Roll Call	COMMISSIONERS PRESENT: Mayor Bobby J. Hopewell David Anderson Don Cooney Eric Cunningham Shannon Sykes Jack Urban COMMISSIONERS ABSENT: Vice Mayor Erin Knott Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.
Commissioners Excused	Commissioner Anderson, seconded by Commissioner Urban, moved to excuse the absence of Vice Mayor Knott. With a voice vote the motion passed.
Communications	An opportunity was given for miscellaneous communications, but no communications were offered.
Neighborhood Communications	Neighborhood communications were received next. Representatives from the following neighborhood associations were present and addressed the City Commission: <u>Arcadia Neighborhood Association</u> Michael Coyle <u>Community Youth</u> Cassidy Jonaitis Mercedes Morales-Mills BrEndan Tribu <u>Northside Association for Community Development</u> Mildred Smith, President Stephanie Bell, Resident Mattie Jordan-Woods, Executive Director
Arcadia Neighborhood Association	The Arcadia Neighborhood Association representative: - distributed and reviewed the Imagine Arcadia Neighborhood Plan – 2018 Arcadia Neighborhood Survey. - stated the Association had backed out of the Neighborhood Plan process as conversations with City staff had become increasingly more difficult. - distributed and reviewed a portion of the City’s Future Land Use Map entitled <i>The “Orange Strip”</i> and expressed concern that the projected rezoning of this area to Zone R2 would change the character of neighborhood.

- noted the retaining walls on W. Michigan Avenue needed repairs. Mr. Coyle stated the City had committed to making and paying for the repairs in the Spring of 2018, but the repairs had not been started yet.
- indicated the neighborhood did not have a park and expressed frustration that whenever the Association has had an opportunity to buy property for a park the properties have sold before the Association could make the purchase.
- expressed concern about the lack of City services in the neighborhood such as street and pothole repairs, retaining wall maintenance, sidewalks that did not connect, and the absence of a park.
- stated the Association would like to talk with someone at the City who had the authority to make decisions, as it seemed there was a lot of communication about various issues but no action.

Arcadia Neighborhood
Association (cont'd)

Commissioner Urban noted rezoning actions needed to go to the Planning Commission where there would be a public hearing.

In response to Commissioner Urban, Mr. Coyle stated he understood there were opportunities for public input, but it seemed like the decisions had been made by the time those opportunities arrived.

Commissioner Cooney requested that a meeting take place between neighborhood representatives and City staff to discuss these issues.

Mayor Hopewell remarked that every neighborhood talked about need for road repairs, and he explained that the City had \$70 million of needed repairs that had to be prioritized.

Commissioner Urban suggested the City's practice of coordinating road work with utility repairs was having an impact.

Mr. Coyle asked if he could receive a 3- or 5-year schedule of road repairs.

Parks and Recreation Program Coordinator Pete Aerts introduced Counselors in Training (CIT's) and provided an overview of the City's camping programs.

The Community Youth representatives:

Community Youth

- spoke about their roles and jobs at the different camp sites.
- talked about their history with the City's camping programs and offered remarks on what it was like to be a CIT after being a camper.
- described what they liked the most about being CIT's.

In response to a question from Mayor Hopewell, Mr. Aerts indicated 6-8 of the City's 40+ counselors had been CIT's.

In response to questions from Commissioner Cooney, Mr. Aerts stated there were around 40 kids at the larger camping sites, but the numbers fluctuated from week-to-week. Mr. Aerts stated campers read for 20 minutes each day and participated in the Kalamazoo Public Library Summer Reading Challenge.

Community Youth

In response to a question from Commissioner Anderson, Mr. Tribu stated he chose to be a CIT because he liked being around the campers, and it felt like he was in a teaching role.

Northside Association for
Community Development

The Northside Association for Community Development (NACD) representatives:

- reported the Association updated its strategic plan in 2018 with a focus on getting individual benefits, programs with young people, and sustaining income for NACD.
- indicated the Association was partnering with Michigan Rehabilitation Services and other organizations to provide Certified Nursing Assistant training.
- reported the Association was receiving a \$75,000 grant from the Kalamazoo Community Foundation for resident staffers to implement the strategic plan.
- stated the Association was working with Kalamazoo Promise to create a technology center.
- thanked City staff for their hard work.
- described how removing the “no parking, stopping, standing” signs in the Ada Street corridor had impacted the neighborhood and requested the placement of temporary speed bumps, or at least a “children playing sign,” as children were getting hit.
- reported block parties of 200-500 people were happening starting late at night and continuing into the mornings, with two of the worst events happening on June 29 and July 13. Ms. Bell indicated parties were telling residents they could not tell them to leave because there was no such thing as loitering.
- thanked the Kalamazoo Department of Public Safety (KDPS) for their work on this issue, but residents wanted a permanent solution.
- expressed concern that the splash pad on Florence Street was in disrepair, was frequently locked (including on July 4th) and lacked seating.
- expressed concern about speeding vehicles, which were worse on double blocks, and people doing “donuts” in the streets.
- indicated these problems were largely the results of non-residents coming into the neighborhood from outside the City.
- stated they were trying to set up meeting with KDPS to talk about specific problems and solutions.
- provided dates of upcoming events.

When an opportunity was given for general public comments, the following people addressed the City Commission:

Mark Anderson, City resident, spoke about problems with the X-Train and block parties on Woodward Avenue. Mr. Anderson stated a police presence was good, but that presence had lead to other effects, like his assault by police on May 10th and being profiled in a traffic stop. Mr. Anderson stated the officers involved in the traffic stop did not follow the department's Consent to Search Policy and failed to record his race on the tickets he was issued. Mr. Anderson asked to talk with someone about a solution.

Next an opportunity was given for miscellaneous comments by City Commissioners, but no comments were offered.

The meeting adjourned at 7:07 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on September 3, 2019

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: September 3, 2019

Public Comments

Commissioner
Comments

Adjournment



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Knott, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sean Fletcher, Parks & Recreation Director

SUBJECT: Purchase of 636 Lake Street

RECOMMENDATION

It is recommended that the City Commission approve the purchase of 636 Lake Street in the amount of \$37,000 plus closing costs and authorize the City Manager or his designee to sign the purchase agreement with Armtelio Zavala and all related documents to complete the sale of this property.

BACKGROUND

The Farmers' Market Master Plan was developed in 2015 and includes the realignment of Bank Street, which currently curves northwest toward railroad tracks. The intersection proves to be a challenge for motorists when traffic is heavy, in addition to not being pedestrian-friendly. Public Services has been consulted and is supportive of the realignment of Bank Street to create a better and safer intersection. The purchase of 636 Lake Street is one of several properties needed to realign Bank Street. The City Attorney's Office created a purchase agreement in cooperation with the homeowner, Armtelio Zavala. The agreed upon price for the property is \$37,000.00 plus all closing costs.

POLICY CONSIDERATIONS

The Farmers' Market improvement project aligns with Imagine Kalamazoo 2025, Shared Prosperity (Entrepreneurial Opportunities), Economic Vitality (Business Opportunities), Inviting Public Places (Invest in Parks and Recreation, Placemaking), and Complete Neighborhoods (Healthy Environment).

COMMUNITY RESOURCES CONSULTED

The Farmers' Market Master Plan was developed with public input. A steering committee comprised of City staff, People's Food Co-op Staff, and Farmers' Market vendors has continued the planning efforts for the improvement project.

FISCAL IMPACT

Funds for the purchase of the property are budgeted in the Capital Improvement Program budget for the Bank Street Farmers' Market improvement project.

ALTERNATIVES

There is the alternative to not authorize the purchase of the property at 636 Lake Street, but that option is not

being recommended.

ATTACHMENTS:

Type	Description
	Agreement 636 Lake Street Purchase Agreement

REAL ESTATE PURCHASE AGREEMENT

This Agreement is entered between CITY OF KALAMAZOO a Michigan municipal corporation whose address is 241 West South Street, Kalamazoo, Michigan 49007 ("the City"), and Armtemio Zavala whose address is 636 Lake Street, Kalamazoo, Michigan, 49001 ("Seller"), and
NOW, THEREFORE, the parties agree as follows:

Recitals:

- A. The City through its Parks and Recreational department is interested in purchasing this property located at 636 Lake Street, Kalamazoo Michigan parcel number 06-22-430-024 for its Farmers' Market Project and Bank Street realignment plan to aid in the flow of traffic through the area and increase access to the Farmers' Market.
- B. Additionally, this property is in a flood plain and is beneficial for the Seller to sell the property.
- C. The City and Seller desire to enter into this Purchase Agreement ("Agreement") for the mutual benefit of both parties, subject to the following terms and conditions.

1. Consideration

The Seller agrees to convey by warrant deed the parcels that he, parcel number 06-22-430-024, which are more fully described in Exhibit A. In return, the City will pay to the Seller the amount of THIRTY-SEVEN THOUSAND DOLLARS (\$37,000.00).

2. Release of Mortgage

At or before the closing, the Seller will obtain a release of mortgage, if any, security interest or lien of any kind from all banks or other parties that have such an interest in the parcel.

3. Reasonable Access

After this agreement has been signed but before the closing, the City will be entitled to have reasonable access to the parcels involved herein for the purpose of inspection, testing, etc.

4. Closing

The date of closing on this matter shall be on such date as is mutually agreeable by the parties, but in no event later than 90 days after the City Commission has approved this transaction. At closing, Seller agrees to execute a warrant deed for said

parcel in exchange for receipt of cash, bank check, or title company check in the amount of the purchase price.

All property taxes shall be prorated on a calendar year basis. Any unpaid special assessments shall be paid off by the Seller, as shall all transfer taxes.

The parties are responsible for their own closing cost.

The Seller may remove any fixture, structure and/or other personal property from the property not more than 14 days after closing.

However, any removal of property must not leave the property in a dangerous, or blighted condition as defined by local and state laws. In addition, the property cannot be open to casual entry.

5. Environmental

The Seller states that he is not aware of the existence of any environmental contaminants or pollutants on the parcel.

The City reserves the right, before closing, to conduct or cause to be conducted an environmental assessment of the property. If that assessment reveals a significant environmental problem, the City reserves the right to declare this agreement void, in which case the parties shall have no further obligation to each other or to cause the transfer of title to occur.

6. Authority

The approval by the City Commission for the City of Kalamazoo is required before this Agreement is effective and binding. If such approval is not made within 90 days after Seller has signed this Agreement, it shall be deemed null and void and of no force and effect.

7. Notices

Any notice or other communication under this Agreement by one party to the other shall be in writing, signed by an authorized representative and delivered in person or by certified mail, postage prepaid with return receipt requested to the following:

Seller: Artemio U. Zavala
636 Lake St.
Kalamazoo, MI 49001

City: City of Kalamazoo
ATTN: City Manager
241 West South Street
Kalamazoo, MI 49007

w/copies to the City Attorney at above address

Each party shall notify the other of any changes in the address for the receipt of notices.

8. Real Estate Brokers

Neither party has retained the services of a real estate broker regarding this transaction. If a broker makes a claim for remuneration in connection with the Purchase, the party against whom the claim is made is responsible for paying any commission or other compensation for which the broker is entitled to receive.

9. Miscellaneous

A. This Agreement shall bind and benefit the City, Seller and their respective successors or assigns.

B. This Agreement may not be amended, altered or modified unless done in writing and signed by representatives of the parties who are so authorized.

C. This Agreement may be signed in counterparts, which together shall comprise a single agreement.

D. This Agreement and the exhibits to this Agreement contain all of the representations and statements by the City and Seller to one another and express the entire understanding between them with respect to the Purchase. All prior and contemporaneous communications concerning the Purchase are merged in and replaced by this Agreement.

CITY OF KALAMZOO

FORM APPROVED
ROC
CITY ATTORNEY
8-9-2019

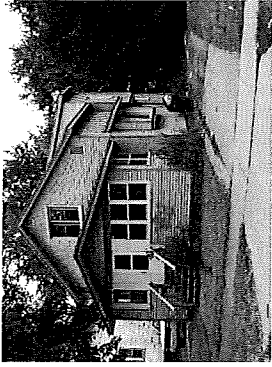
Date: _____, 2019 By: _____

Its: _____

Date: 08-09-19, 2019 Artemio U. Zavala
Artemio U. Zavala

636 LAKE ST Kalamazoo, MI 49001 (Property Address)

Parcel Number: 06-22-430-024 Account Number: LAD00063607



Item 1 of 5 4 Images / 1 Sketch

Property Owner: ZAVALA, ARTEMIO U **UB Customer Name:** ZAVALA ARTEMIO U

Summary Information

- > Residential Building Summary
 - Year Built: 1923
 - Full Baths: 1
 - Sq. Feet: 1,118
- Bedrooms: 3
- Half Baths: 0
- Acres: 0.201
- > Utility Billing information found
- > Assessed Value: \$11,300 | Taxable Value: \$11,300
- > Property Tax information found
- > 19 Building Department records found

Customer Information

Name ZAVALA ARTEMIO U **Parcel Number** 06-22-430-024
Address 636 LAKE ST **Account Number** LAD00063607
Kalamazoo, MI 49001

Amount Due

Total Amount Due **\$72.22**

Pay Now

Enroll in Recurring Payments

Current Bill

[Click here for a printer friendly version](#)

Amount Due \$72.22 **Bill From** 12/17/2018
Due Date 04/11/2019 **Bill To** 03/12/2019

Billing Item	Previous Amount	Current Amount	Penalties & Interest	Balance
SEWER - LINKED	\$0.00	\$20.00	\$0.00	\$20.00
SEWER OMR QT IS 5/8"	\$0.00	\$8.29	\$0.00	\$8.29
WATER - METERED	\$0.00	\$16.90	\$0.00	\$16.90
WATER DEP FEE	\$0.00	\$0.00	\$0.00	\$0.00
WATER OMR QT IS 5/8"	\$0.00	\$27.03	\$0.00	\$27.03
	\$0.00	\$72.22	\$0.00	\$72.22