



Agenda

City Commission Business Meeting

City of Kalamazoo

Monday, May 4, 2020

7:00 PM

Electronic Meeting

A. CALL TO ORDER/ROLL CALL

B. OPENING CEREMONY

1. Invocation: Michelle Scheidt, Fetzer Institute
2. Introduction of Guests
3. Proclamations

C. ADOPTION OF FORMAL AGENDA

D. COMMUNICATIONS

E. PUBLIC HEARINGS

1. Public hearing to receive comments on an ORDINANCE to approve text amendments to Chapter 50, The Zoning Ordinance for the purpose of updating definitions, permitted uses, districts, lot type standards, and parking regulations following the 2025 Master Plan. **(Action: Motion to adopt the ordinance)**

F. PUBLIC COMMENTS

G. CONSENT AGENDA

(Action: Motion to approve items “1-6” and authorize the City Manager to sign all documents on behalf of the City)

1. Approval of a one-year contract extension for loading, hauling, and disposal of belt press solids with Waste Management in the amount of \$5,538,110; and approval of a budget adjustment in the amount of \$1,158,901.67 to cover the 2020 portion of the contract amount.

2. Approval of a contract and purchase order with SWT Excavating, Inc. for the new water service installation project in the amount of \$723,588.77.
3. Adoption of a RESOLUTION of support for Local Bridge Program Funds for the Gull Road Bridge.
4. Adoption of a RESOLUTION of support for Local Bridge Program Funds for the Inkster Avenue Bridge.
5. Approval of the following first quarter amendments to the 2020 Budget appropriations:
 - General Fund - \$359,000 Increase
 - Major Streets - \$140,000 Increase
 - Local Streets - \$140,000 Reduction
 - Solid Waste - \$379,442 Increase
 - Blight Abatement - \$250,000 Increase
 - Capital Improvement Fund - \$2,000,000 Reduction
 - Water Capital Improvements - \$500,000 Reduction
 - Insurance Fund - \$430,500 Increase
6. Approval of the purchase of 447 East Stockbridge Ave from the County Land Bank in the amount of \$9,882 to construct a segment of the Kalamazoo River Valley Trail that extends south from the Farmers' Market.

H. REGULAR AGENDA

1. Adoption of an ORDINANCE approving the issuance and sale of Water Supply System Revenue Bonds, Series 2020A for an amount not to exceed \$22,000,000; and adoption of a Notice of Sale RESOLUTION. **(Action: Motion to adopt the ordinance and resolution)**
2. Adoption of an ORDINANCE authorizing the issuance of Wastewater Supply System Revenue Bonds, Series 2020 for an amount not to exceed \$11,000,000; and adoption of a Notice of Sale RESOLUTION. **(Action: Motion to adopt the ordinance and resolution)**
3. First reading of an ordinance to amend the text of Appendix A and Chapter 50, the Zoning Ordinance, to allow adult use and medical marihuana uses; and schedule a public hearing for May 18, 2020. **(Action: Motion to offer for first reading and schedule a public hearing)**

4. First reading of an ordinance to amend Chapter 20B of the Kalamazoo City Code to provide for the permitting and regulation of adult-use marihuana businesses. **(Action: Motion to offer for first reading)**

I. REPORTS AND LEGISLATION

1. City Manager's Report

J. UNFINISHED BUSINESS

K. POLICY ITEMS

L. NEW BUSINESS

M. COMMISSIONER COMMENTS

N. CLOSED SESSION

O. ADJOURNMENT

ADDITIONAL INFORMATION

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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.



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **E.1.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, City Manager
Reviewed by: Rebekah Kik
Prepared by: Christina Anderson

DATE: May 4, 2020

SUBJECT: Text Amendments to Chapter 50, The Zoning Ordinance for the purpose of updating definitions, permitted uses, districts, lot type standards, and parking regulations following the 2025 Master Plan.

RECOMMENDATION:

Text Amendments to Chapter 50, The Zoning Ordinance for the purpose of updating definitions, permitted uses, districts, lot type standards, and parking regulations following the 2025 Master Plan.

BACKGROUND:

The text amendments proposed to Chapter 50 are noted in red in the attached document. The changes are generally summarized below, including the reason(s) for the proposed change.

- 1) Article 1 General Requirements. Minor edits to clarify definitions and standards.

These changes are based upon staff use of the code over the last year and a desire to make the language as easy to understand and apply as possible.

- 2) Article 3 Zoning Districts. Addition of 3 new districts in preparation for Downtown zoning in 2020.

These districts start the conversation for the future mapping of Downtown, which is currently mapped as one all-encompassing district (CCBD). Dividing the Downtown into multiple districts allows the City to manage the key retail streets (Priority Streets) in and around the Mall, the areas directly adjacent to these, and then the larger blocks surrounding the core differently in use and scale. Public meetings to map these districts will begin in March.

- 3) Article 4 Uses. There are changes proposed to the Use Table (Table 4.1-1) and to the development standards associated with some uses (noted as PD in the use table).

There are three primary reasons for these changes. First, the changes are based upon staff use of the code over the last year to better clarify language and requirements. Second, these changes are being proposed to ensure that the Live Work 1, Live Work 2, and Node districts can be applied in neighborhoods beyond the Northside, where they were initially mapped. Finally, the changes take into account the inclusion of three new districts that will be considered for Downtown. These districts would, if approved through this text amendment request, not yet exist on a

zoning map. The intent is to create districts that will then be reviewed and mapped later this year. Until then CCBD is the zoning for Downtown Kalamazoo.

- a. Downtown 1 (D1) is the most restrictive district in terms of uses and ground floor treatment, as it focuses on supporting uses that best activate the Priority Streets that serve as the principle walkable shopping district (Kalamazoo Mall and Michigan Avenue).
- b. Downtown 2 (D2) is intended primarily for the blocks adjacent to D1, the uses and lot types are expanded to include civic uses and greater flexibility with residential uses within a building.
- c. Downtown 3 (D3) is intended for the remaining Downtown area. It is a similar district to Live Work 2 except it does not permit industrial uses.

The proposed Downtown districts are added to the Accessory Use and Structure Table (Table 4.5-1). In addition, all residential districts have been incorporated into the table as it relates to accessory uses (home occupations and accessory dwelling units) and structures (secondary buildings).

4) Article 5 Zoning Standards: Lot Types. This article contains the form-based zoning standards associated with the Live Work 1, Live Work 2, and Node districts and the proposed Downtown districts. These districts regulate not only the traditional setback and height requirements, but also such elements as location of building entrance, quantity (percentage) of transparent windows on walls facing streets, and location of parking and driveways. These regulations support a walkable mixed-use environment, which is why these districts are used on key corridors and neighborhood centers.

This article has the largest number of edits. In addition to updating the language for clarity, 2 new lot types were added, and several lot types were edited. These edits are in anticipation of mapping these districts in additional neighborhoods in the coming months.

Updated/new Lot Types:

- a. Cottage Commercial Lot Type. This lot type supports the use of residential-looking structures for commercial uses. Houses along many of our corridors have evolved to contain a mix of uses and in some situations the street facing building façade is converted to storefront closer to the front property line.
- b. Yard Lot Type. The Yard Lot Type is not new. It was previously set up to support the development of both attached and detached structures typically for residential uses. In the edits proposed, this Lot Type has been divided into two different sets of regulations, one set for attached buildings, such as row or townhouses, and one for detached, such as a single-family home.

Other changes to this Article include the following and are proposed to make these districts usable for multiple areas:

- a. An allowance for taller structures in the Live Work 2 and in the proposed Downtown districts when the structure is located on a Connector Street, Main Street, or Priority Street Type (refer to the [2025 Master Plan – Connected City](#) for information on the street types).
- b. Clarification on allowed height in Nodes.
- c. Clarification on the existing Occupied Space requirement. Occupied Space refers to the first 15' inside a building, measured from the front building façade. In some locations, the Zoning Ordinance limits this area being used for internal parking or residential units to promote an active, walkable street. Both the definition and the language in Article 5 were adjusted to be clearer on when the limitation exists.

5) Article 7 Parking & Loading Regulations. Edits to the parking and loading section include the following.

- a. Nodes. Establishing a parking reduction for uses located in the Node District.
- b. Parking Exempt Zone Map. This map was updated to reflect the Downtown Economic Growth Authority (DEGA) boundary.

- c. On-Street Parking Credit. Adjusting the existing on-street parking credit to expand how the credit can be applied.
- d. Single & Attached Dwelling Units. Language to clarify that they are permitted to have two parking spaces per unit.
- e. Hotel/Motel Require Parking. Since the parking regulations were approved in Fall of 2018, two new hotels located in the Community Commercial district requested variances to allow for additional parking. Understanding the location of these hotels (in Community Commercial, near the expressway), the required parking for this type of hotel/motel has been updated, which should prevent the need for similar variance requests in the future.

When considering the text amendment requests, the following should be considered per Chapter 8 of the Zoning Ordinance:

1. Consistency with the 2025 Master Plan. The proposed amendments are in alignment with the 2025 Master Plan and will further the Zoning Ordinance's ability to support the vision of the Master Plan.
2. Change of Conditions that Require an Amendment. Many of the proposed amendments reflect the plan to map Live Work 1, Live Work 2, and Node in additional neighborhoods and corridors. As it relates to the proposed Downtown districts, Downtown continues to grow and evolve, and a single district is not the right tool to support this. For example, one district limits the ability to treat Priority Streets like the Mall and Michigan Avenue with a higher level of design and use regulations that can support these streets as walkable principle shopping streets.
3. Does Amendment Address a Demonstrated Community Need. Yes, the proposed amendments further the City's ability to meet the desired vision outlined by the community during the Imagine Kalamazoo 2025 engagement process and detailed in the 2025 Master Plan, this includes permitting a wide variety of housing options to support community need, supporting economic development by removing barriers to new projects, and supporting development that matches with the character and scale of the corridor or neighborhood.
4. Compatibility with Surrounding Uses. The proposed amendments do not impact the Zoning Map but are changes to the text. The proposed amendments are based on Kalamazoo's context and therefore will be compatible with the character and context of Kalamazoo's neighborhoods and corridors when mapped.
5. Will the Amendment Result in a Logical and Orderly Development Pattern. The proposed amendments were developed based upon the use of the Zoning Ordinance over the last twelve months and the future development vision of the 2025 Master Plan. When mapped they would support logical and orderly development patterns.

STRATEGIC VISION ALIGNMENT:

Strategic Goal Impact:

Having our Zoning Ordinance align with the Strategic Vision and the 2025 Master Plan will assist us in meeting the goals in these documents. Specifically the zoning changes will impact the following Strategic Vision goals.



Inviting Public Places - Vibrant streets, exceptional parks, and welcoming activities.

The zoning changes support vibrant streets by permitting appropriately sized/scaled buildings and uses.



Complete Neighborhoods - residential areas that support the full range of people's daily needs

The zoning changes support complete neighborhoods by creating standards that consider land use and transportation and allowing a mix of uses through the City so residents can meet their daily needs closer to home - by foot, by car, by transit, or by bike.



Connected City - A City networked for walking, biking, riding, and driving

Zoning supports transportation options by allowing mixed use, neighborhood-scaled development along our corridors and neighborhood centers or nodes.



Economic Vitality - A supportive infrastructure for growing businesses and stabilizing the local economy for the benefit of all.

Zoning changes support a wide range of uses and housing options to create a vibrant Downtown and active mixed use corridors.



Environmental Responsibility - A green and healthy City.

The zoning changes support environmental responsibility and responsible development by thoughtfully considering how density can be incorporated along our corridors, in the Downtown, and in neighborhoods while also keeping neighborhood character in mind.



Good Governance- Ensuring the City organization has the capacity and resources to effectively implement the community's Strategic Vision in a way that is sustainable over the long term.

Many of the zoning changes reflect feedback from residents and developers who have used the code over the last 14 months to ensure clarity and correct errors.

COMMUNITY ENGAGEMENT:

Consult (two-way conversation) – the community will have a chance to react to the project through two-way conversation.

Inform (one-way conversation) – no feasible alternatives available due to legal/regulatory restrictions, standards and best practices, or resource limitations; the community will be made aware of the project.

The changes to the code reflect

1) feedback from residents and developers who have utilized the code over the last fourteen months.

- 2) Neighborhood Plan vision for key corridors and nodes.
- 3) Resident feedback from engagement meetings.

A public hearing was held on February 6th by the Planning Commission. It was noticed on both December 30, 2019 and January 22, 2020. The draft was posted online in early January on both Imagine Kalamazoo and the City's web site. Planning Commissioners discussed the draft and took public comment. At the end of the public hearing, the Planning Commissioners unanimously voted to recommend approval to the City Commission.

FISCAL IMPACT:

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 50 “ZONING ORDINANCE” TO CLARIFY EXISTING DEFINITIONS, STANDARDS, AND REQUIREMENTS AND CREATE NEW ZONING DISTRICTS AND PERMITTED USES

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Chapter 50, “Zoning Ordinance” is amended as reflected in the attached document by the text in bold, red and underlined font to provide the following changes:

a. Amend Article 1 “General Requirements” to provide additional definitions and clarifying language to existing definitions;

b. Amend Article 3 “Zoning Districts & Map” to provide for newly defined downtown zoning districts;

c. Amend Article 4 “Uses” to amend Use Table 4.1-1 to add downtown uses and provide development standards for certain permitted uses.

d. Amend Article 5 “Zoning Standards: Lot Types” to add clarifying/edited language to existing lot types and add Cottage Commercial as a new lot type;

e. Amend Article 7 “Parking & Loading Regulations” to clarify and adjust language for existing zoning districts and permitted uses and to update the Parking Exempt Zone Map.

Section 2. Repealer.

All former parts of Chapter 50 of the City Code 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 May 4, 2020. 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.

David F. Anderson, Mayor

Scott A. Borling, City Clerk



Chapter 50: Zoning Ordinance

DRAFT 01/2020

THE CITY OF KALAMAZOO



imagine
kalamazoo
2025

Chapter 50 - Table of Contents

How to Use These Regulations

Article 1. General Requirements

Article 2. Review Bodies and Processes

Article 3 Zoning Districts [& Map](#)

Article 4. Use Regulations

Article 5. [Zoning Standards:](#) Lot Types

Article 6. Zoning Standards: Overlay District Standards

Article 7. Parking & Loading Regulations

Article 8. Landscape & Screening Regulations

Article 9 Signage.

Article 10 Lighting.

How to Use These Regulations

The Live-Work 1, Live-Work 2, and Node zoning districts establish a set of development regulations that focus not only on the use of the building, but also the building's form and impact on the block. These regulations go beyond basic setback lines and maximum height to consider such development components as building entrance, minimum amount of transparent windows, and both minimum and maximum heights. This type of **regulation** is referred to as a form-based zoning. These development components are compiled into Lot Types (refer to 5.6 Lot Types) and each zoning district allows for one or more Lot Type. These regulations are different than the traditional zoning regulations in the City of Kalamazoo, but they are written plainly, organized using tables, and are clearly illustrated for ease of use.

To determine the zoning regulations that apply to a parcel, please follow these steps. The Planning Division is always available to answer questions at 269-337-8044.

- 1 Zoning District.**

What zoning district is your property located?  Locate the property on the Zoning Map (refer to Figure 1.2-1 Zoning Map.)
- 2 Permitted Use.**

What is your desired use? Is it permitted in this location?  Refer to the 4.1-1 Use Table to review what uses are permitted in each Zoning District. Information on Accessory Uses and Structures can be found in Table 4.1-1.
- 3 Zoning Standards.**

What are the requirements for developing or rehabbing a building in this location?  Refer to Table 5.6-1 Lot Types by District to determine which set of development standards are permitted, including dimensional standards that locate a building on a lot and standards for the building facades.

Review the Lot Type Standards in section 5.6, each of which is summarized in a table and with illustrations.

When rehabbing an existing building refer to section 1.4 to determine what activities would result in meeting the requirements of Chapter 50.

Article 50-1. General Requirements.

50-1.1 Purpose.

A. The intent of these requirements is to:

- (1) Create a flexible, market driven approach to the districts defined to promote public health, safety, and general welfare.
- (2) Realize the community's vision as detailed in the Master Plan, including permitting a variety of uses, increased variety of housing infill, and promoting active walkable nodes and corridors through the inclusion of building form requirements.

B. This document should reflect the current adopted Master Plan; if substantial changes occur, this text should be reviewed and amended.

50-1.2 General Provisions.

A. Zoning. Map. The zoning districts detailed in these regulations are mapped according to Figure 1.2-1.

B. Conflicts. If a conflict arises between the regulations in Chapter 50 and those in Appendix A, the regulations of Chapter 50 take precedent unless otherwise approved by the City Planner.

C. Existing Structures. The form-based zoning districts are intended to allow existing structures to remain while integrating new development through the use of the form-based standards.

50-1.3 Definitions.

A. Agriculture. Growing of food crops indoor or outside for personal use, donation, or sale; this excludes the growth of marihuana plants for medicinal or recreational purposes.

B. Alley. A public or private right-of-way intended for accessing rear yards, utilities, trash pick up, and vehicular access to parking or loading areas. The City Planner can approve having existing Courts serve the same functions as Alleys, as it relates to the requirements of this code.

C. Basal Area. A method of determining Woodland density by measuring the cross-sectional area of individual tree stems over a particular unit area.

D. Best Management Practices (BMP). Commercial or professional procedures that are accepted or prescribed as being correct or most effective.

Figure 1.2-1 Zoning Map.

E. Build-to Zone. The designated area on a lot **that** the front or corner side façade of a building must be located. The zone dictates the minimum and maximum distances a building may be placed from the front or corner side lot line. Refer to Figure 1.3-1 Build-to Zone, Property Lines, and Yards.

F. Canopy, Tree. The upper layer of a Woodland formed by the crowns of mature trees.

G. Courtyard. An open-to-the-sky outdoor area enclosed by a building on at least two (2) sides. Parking is not permitted in a Courtyard.

H. Critical Root Zone (CRZ). The zone encompassing the majority of a tree's roots. It is calculated by measuring the diameter of a tree trunk at breast height and measuring outward from the trunk eighteen (18) inches for every inch of trunk diameter. Refer to Figure 1.3-2 Measuring Critical Root Zone.

I. Develop. The construction, removal, or renovation of a primary or accessory structure or other impervious surfaces on a **lot**.

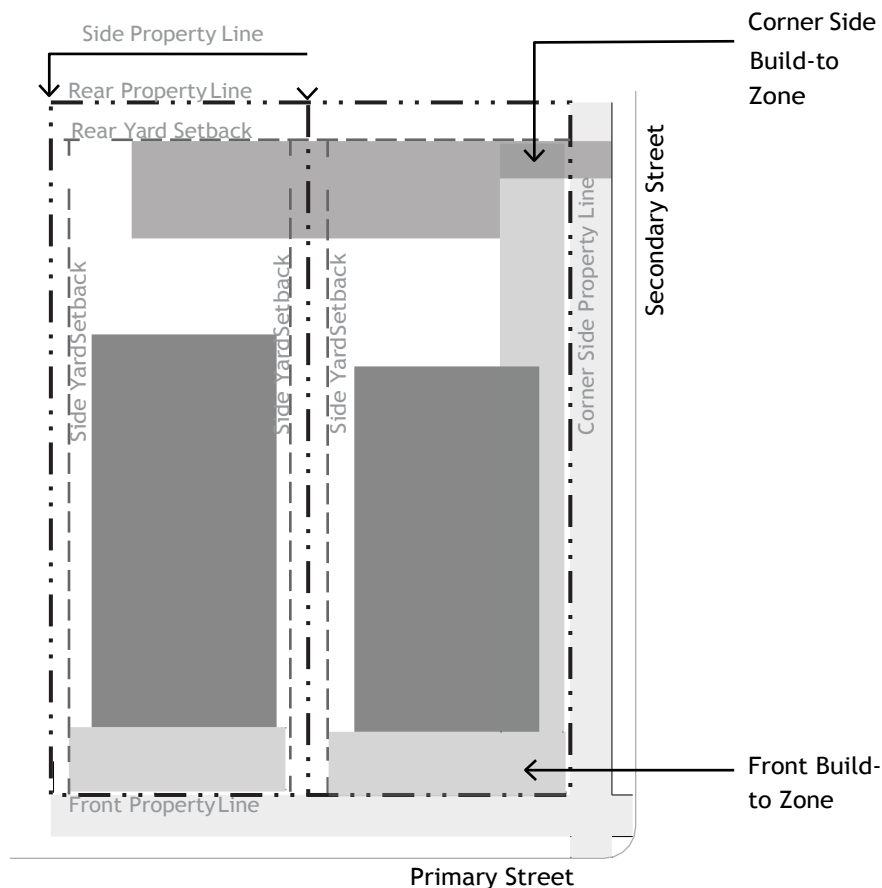


Figure 1.3-1 Build-to Zone, Property Lines, & Yards.

J. Diameter at Breast Height (DBH). The diameter of a tree trunk measured at 4.5 feet above ground level.

K. Disturbance. Includes any of the following: 1) placement of impervious surface or structure; 2) exposure or movement of soil, including removal or addition of soil or other natural or manufactured materials; or 3) clearing, cutting, or removing of vegetation.

L. Ecosystem. A biological community of interacting organisms and their physical environment.

M. Ecosystem Assessment, Woodland. A method for quickly gathering information about the plant density, species diversity, and/or condition of a Woodland habitat.

N. Endangered Species. Any species recognized by the State of Michigan and/or Federal government as being in danger of extinction throughout all or a significant portion of its range.

O. Entrance Treatment. The permitted treatments of the ground story façade, including entrance and window transparency. Refer to 5.2 Entrance Treatment.

P. Façade. The exterior face of a building, including but not limited to the wall, windows, doorways, and design elements. The front façade of a building faces the front property line.

Q. Façade, Street Facing. Façade of a building facing a public or private space, such as a street or park. This does not include building facades along alleys, which would be considered rear facades.

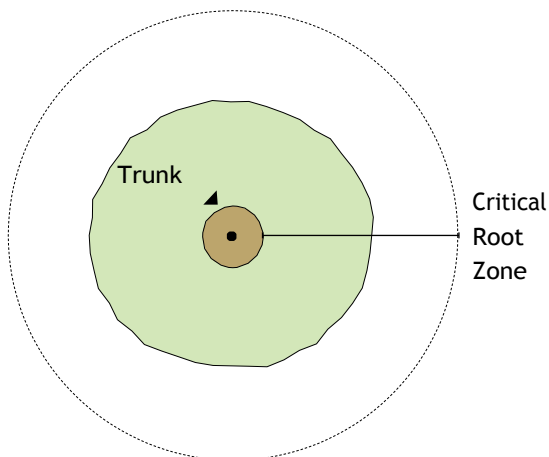


Figure 1.3-2 Measuring Critical Root Zone

R. Graminoids. Grasses, sedges, and rushes.

S. Habitat. The natural home or environment of an animal, plant, or any other living organism.

T. Habitat Corridor. An area of land containing wildlife habitat, generally native vegetation, which joins or provides passage between two or more larger areas containing similar wildlife habitat, and the entire corridor thus formed.

U. Invasive Species. Any living organism that is not native to an ecosystem and causes the ecosystem harm.

V. Lot Type. A lot type is defined by the combination of building siting, form, façade treatment, parking and access, and use. Refer to Chapter 5.

W. Master Plan. City of Kalamazoo Planning document that outlines the community's vision primarily as it relates to land use and transportation.

X. Nativar. A cultivar of a native plant species.

Y. Native Species. A species that normally lives and thrives in a particular place as a result of natural processes, not human introduction, disturbance, or intervention. For the purposes of this Article, a particular place is defined as Kalamazoo County.

Z. Natural Communities. Groups of plants and animals and their physical environment that have experienced minimal human-caused disturbance or recovered from that disturbance.

AA. Natural Features. Features defined in the Natural Feature Protection Overlay, specifically Wetlands, Water Resources, Trees, Woodlands, Floodplains, Slopes, Natural Heritage Areas, and Habitat Corridors.

BB. Natural Vegetation. Plants that grow naturally, especially but not limited to those that provide habitat for wildlife; deep-roots to stabilize banks, shorelines, and slopes; or canopy for shade.

CC. NREPA. Michigan's Natural Resources and Environmental Protection Act, 451 of 1994, as amended, MCL 324.101 - 324. 90106.

DD. Occupied Space. The first fifteen (15) feet inside a building measured from the front facade. In this space, uses such as interior parking, residential units, storage, or utility areas may be restricted. Refer to Article 5 Zoning Standards for more information.

EE. Orbs. Non-woody plants and wildflowers other than grasses.

FF. Ordinary High Water Mark. The upper limit that the water level reaches during regular changes in water level. Refer to Figure 6.2-1 Wetland and Water Resources Setbacks.

GG. Parcel, Parent. The parcel or tract of land lawfully in existence on the effective date of the Natural Features Protection Overlay District.

HH. Preserve. An area of land under common ownership by a tax-exempt nonprofit organization where a management plan for conservation, wildlife, historic resources, or ecological resources or values is actively implemented.

II. Property Line. Also referred to as lot line. Refer to Figure 1.3-1 Build-to Zone, Property Lines, and Yards.

JJ. Property Line, Front. Also referred to as a front lot line. The intersection of the right-of-way and the property or lot; the area from which the front build-to zone is set. Figure 1.3-1 Build-to Zone, Property Lines, and Yards.

(1) When a primary street abuts a through or corner lot, the front property line is that property line along the primary street.

(2) When a lot abuts two (2) or more primary streets or does not abut any primary streets, the front property line shall be determined by the City Planner.

KK. Restoration. The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.

LL. Riparian Area. The area adjacent to a Water Resource or Wetland.

MM. Runoff. The portion of precipitation that does not soak into the ground or evaporate.

NN. Scale. Typically defined by the adjacent buildings and rights-of-way, scale refers to the size or massing of a structure or street.

OO. Semi-pervious Materials. A ground surface covering that allows for at least forty (40) percent absorption of water into the ground or vegetation, such as porous pavement, pavers, crushed stone, or gravel.

PP. Site Characteristics. Minor, physical development features on a lot, including signage, landscaping, parking,

driveway location, and other physical, but non-structural elements of a site.

QQ. Slope. The area of the ground surface where there is a change in elevation over a horizontal distance.

RR. Slope Analysis. An analysis based upon a topographic survey used to calculate the grade of slopes.

SS. Slope Face. The surface area of the slope from Top to Toe of Slope. Refer to Figure 1.3-3 Parts of a Slope.

TT. Slope Percent Grade. The vertical change in the elevation of the ground surface (rise) divided by the specific horizontal distance (run) multiplied by 100.

UU. Slope, Toe of. The lowest part of a slope. Refer to Figure 1.3-2 Parts of a Slope. Refer to Figure 1.3-3 Parts of a Slope.

VV. Slope, Top of. The highest part of a slope. Refer to Figure 1.3-2 Parts of a Slope. Refer to Figure 1.3-3 Parts of a Slope.

WW. Stormwater Best Management Practices (BMP). Tools used to prevent or reduce stormwater runoff and/or associated pollutants as determined by professional associations, State of Michigan, or Federal government, such as the Michigan Low Impact Development Manual.

XX. Stormwater Runoff. Runoff and any other surface water drainage that flows into natural or man-made drainage ways.

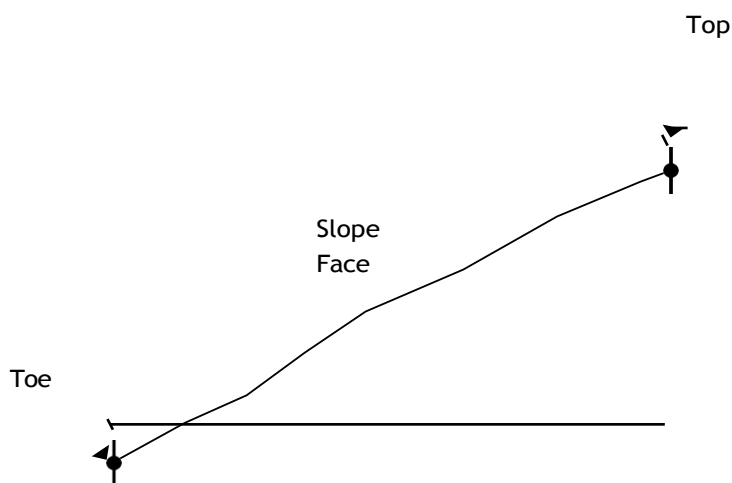


Figure 1.3-3 Parts of a Slope

YY. Street, Types. The types of right-of-ways and associated treatment of vehicular, bicycle, and pedestrian ways within as defined by the Master Plan.

ZZ. Street, Primary. A street designated as having priority over other streets in terms of setting the front lot line, locating building entrance, and façade treatment. On corner lots, the primary street is determined by the street type with the following order of priority: priority street, main street, connector street, and neighborhood street.

AAA. Street, Secondary. A street designated as not having priority over other streets. Secondary streets typically serve as preferred location for vehicular access points and buildings fronting secondary streets may have a reduction in the facade requirements.

BBB. Story, Ground. Also referred to as ground floor. The first floor of a structure that is level to or elevated above the finished grade, measured at the front and corner facades. This excludes partially above-ground basement areas. Refer to Figure 5.3-1 Measuring Height.

CCC. Story, Half. A floor located partially below grade and partially above or a floor located within the roof structure facing that has transparency facing a street.

DDD. Story, Upper. The floors of a structure located above the ground story. Also referred to as upper floor.

EEE. Structure, Primary. A structure that contains the lot's primary use and is located in the front-build to zone. A lot may contain more than one primary structure, refer to 5.6 Lot Types.

FFF. Structure, Accessory. A structure that contains a secondary or accessory use on a lot. Accessory structures are typically smaller in size than the primary structure and located toward the rear of the lot. Refer to 4.5 Accessory Uses and Structures.

GGG. Surface, Pervious. An area that allows for the absorption of water into the ground or vegetation. Also referred to as permeable are.

HHH. Surface, Impervious. Areas covered with surfaces that do not allow at least forty (40) percent absorption of water into the ground, including areas for driveways, parking lots, and walkways and structures.

III. Surface, Semi Pervious. An area that allows for at least forty (40%) absorption of water into the ground or vegetation. Semi-pervious materials can include such materials as porous pavement, pavers, crushed stone, or gravel.

JJJ. Threatened Species. Any species recognized by the State of Michigan and/or Federal government which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

KKK. Turf Grass. Any variety of commercial grasses grown and maintained to form turf.

LLL. Understory. The layer or layers of woody vegetation — including understory trees and shrubs — that naturally grow beneath a Tree Canopy.

MMM. Use, Accessory. May also be referred to as secondary use. This use typically takes up less space than the principal use and is often located in an accessory structure or in side or rear yards.

NNN. Use, Primary. May also be referred to as the principal use. The dominant use of a lot. It is typically located in the lot's primary structure along the front property line.

OOO. Vegetated Buffer. A permanent, maintained strip of vegetation designed to help absorb and slow the velocity of surface Stormwater Runoff, and filter out sediment and other pollutants.

PPP. Wetland Determination. An on-site investigation to determine whether the presence of water, hydric soils, and wetland vegetation occur in such a manner as to meet the definition of a Wetland.

QQQ. Wild-type. A straight species native plant that has not been commercially cultivated for a specific characteristic, which provides for natural genetic diversity, disease resistance, climate resiliency, and reliable pollinator habitat.

RRR. Zoning District, Base. Also referred to as underlying zoning. The zoning regulations applied to a parcel according to the ZoningMap.

SSS. Zoning District, Overlay. A set of standards placed on a parcel in addition to the standards of the Base Zoning District.

50-1.4 Nonconformances.

Refer to Chapter 9. Nonconformities of Appendix A for the management of nonconforming uses of land and nonconforming structures and uses of structures with the following additions.

A. Regulations of Chapter 50 shall be met when,

- (1) Change in Use. The **use** nonconformance exception ends when a change of use will result in a fifty (50) percent or greater change in capacity or intensity, such as an increase in gross floor area, seating, or residential units.

(2) Change in Structure. The structural nonconformance exception ends when the associated structure is modified to change the gross floor area by fifty (50) percent or more.

B. Nonconforming Site Characteristics. Site characteristics may continue in accordance with the following.

(1) Ten Percent Exception. A site characteristic is not considered nonconforming if the size of the nonconformance is less than ten (10) percent of the requirement.

(2) Change In Use. The nonconforming site characteristic exception ends if a change of use will result in a fifty (50) percent or greater change in capacity or intensity, such as an increase in gross floor area, seating, or residential units.

(3) Change in Structure. The nonconforming site characteristic exception ends if the associated structure is modified to change the gross floor area by fifty (50) percent or more.

(4) Exception for Multi-Tenant Signs. Multi-tenant signs are exempt from this requirement in that an individual or tenant is permitted to install a new sign or change out signage within an existing multiple tenant sign provided that the new signage does not increase the amount of nonconformance.

C. Street Facing Façade. When a building located within the build-to zone is renovated, including with no change to the overall square footage of the structure, the regulations of 5.5 Street Facing Facades shall be met when any of the following occur.

(1) Installation of new entrance or change in location of entrance on a street facing façade.

(2) Change in window location or size on a street facing façade by thirty (30) percent or more.

(3) Change or replacement of more than thirty (30) percent of façade materials on a street facing façade with a different material.

Article 50-2. Review Bodies.

Reserved

Article 50-3. Zoning Districts.

50-3.1 Zone Districts. Refer to Figure 1.2-1 for the Zoning Map of the following districts.

A. Node District. Nodes are intended to create walkable, vibrant mixed-use commercial areas in Kalamazoo neighborhoods with a focus on building forms that promote inviting public places. Nodes allow a wide range of commercial uses on the ground floor with commercial and residential uses allowed on upper floors. Nodes locations can be found in the Master Plan, Future Land Development Map.

B. Live-Work 1 District. Live-Work 1 promotes a wide mix of commercial and residential uses in a scale and with a building form compatible with Kalamazoo neighborhoods and corridors. Live Work 1 standards focus on the building

form, specifically along the street, while allowing a flexible list of uses within the building.

C. Live-Work 2 District. Live-Work 2 is intended to promote a wide mix of uses, including residential, commercial, and craftsman industrial users. Typically located adjacent to the Downtown or traditional industrial areas, Live-Work 2 is similar to Live-Work 1, but allows for more urban scaled development.

D. Downtown 1. Downtown 1 supports the key retail blocks of Downtown Kalamazoo by promoting a mix of uses with the most active permitted on the ground floor. This district is intended for the active, walkable principle blocks that focus on retail, entertainment, and service uses, storefronts, pedestrian-scaled signage, and access to shared parking facilities.

E. Downtown 2. This district is similar to Downtown 1, but with more flexibility in its form and permitted uses. It is intended for blocks directly adjacent to those in Downtown 1.

F. Downtown 3. Promotes a wide mix of uses, including residential, commercial, and civic uses in building forms that support the scale and intensity of Downtown Kalamazoo.

50-3.2 Overlay Zone Districts. Refer to Figure 3.2-1 Zoning Overlay District Map of the following overlay districts.

A. Natural Feature Protection (NFP) Overlay District. Natural Features Protection (NFP) Overlay District is an overlay district providing additional development standards for parcels containing or adjacent to Natural Features. Refer to 50-6.2.

Article 50-4. Uses.

50-4.1 General Provisions. The following general provisions apply to the uses outlined in Table 4.1-1 Use Table.

A. Permitted Uses. Uses are either permitted by-right, permitted with development standards, or permitted if a special use permit is granted from the Planning Commission.

B. Lot Type Required. All uses shall be located within a permitted Lot Type, unless otherwise specified.

C. Required Licenses. Any facility that is required to be licensed by the State of Michigan shall have a valid license at all times. It is a violation of this Code to operate at any time without a valid license.

4.1-1 Use Table Key

P	Permitted	S	Special Use
PD	Permitted - Development Standards Required		

Table 4.1-1 Use Table

	Node	LV1	LV2	D1	D2	D3
Residential/Lodging						
Bed & Breakfast		P	P	PD	P	P
Hotel/Motel	P	P	P	P	P	P
Nursing Home/Assisted Living/Rehabilitation Center/Adult Foster Care		PD	P	PD	P	P
Residential (1 & 2 units)	PD	P	PD	PD	P	P
Residential (3 & 4 units)	PD	P	P	PD	P	P
Residential: Multifamily (5 & more units)	PD	P	P	PD	P	P
Rooming House	PD	P	P	PD	P	P
Transitional Residence		P	P			P
Civic/Institutional Uses						
Assembly	PD	P	P	PD	P	P
Assembly, Religious	S	S	S	PD	P	S
College and University	P	P	P		P	P
Hospital		P	P		P	P
Library & Museum	P	P	P	PD	P	P
Parks & Open Space		P	P		PD	P
Police & Fire Station	P	P	P		P	P
School		P	P			P
Commercial						
Agriculture		PD	PD			PD
Day Care	PD	PD	PD		PD	PD
Entertainment Sports (Participant - indoor)	P	P	P	P	P	P
Entertainment Sports (Participant - outdoor)		S	S		S	S
General Retail	P	P	P	P	P	P
General Services	P	P	P	P	P	P
Kennels			PD			PD
Office	P	P	P	P	P	P
Outdoor Sales & Storage		S	S			
Package Liquor	PD			PD	PD	PD
Parking (stand alone)		PD	PD			PD
Vehicle Service		PD	PD			PD
Industrial						
Craftsman Industrial	PD	PD	PD	PD	PD	PD
Industrial			PD			
Warehouse & Distribution			S			

50-4.2 Organization. The uses listed in the Table 4.1-1 are grouped into general categories and shall be interpreted as follows.

A. Unlisted Similar Uses. If a use is not listed, but is similar in character and impact to a use in the permitted, permitted with development standards, or permitted with a special use permit, it may be interpreted by the City Planner as similar.

B. Unlisted Dissimilar Uses. If a use is not listed and cannot be interpreted as similar to a listed use, the use is not permitted.

50-4.3 Use Table. Table 4.1-1 outlines the permitted uses by zoning district. Uses are permitted in one of the following ways.

A. Permitted. Uses in the table noted with “P” are permitted by right in the zoning district(s) in which they are listed.

B. Permitted, Development Standards Required. Uses in the table noted with “PD” are permitted by right in the zoning district(s) in which they are listed provided that they are developed with the listed development standards. The development standards listed are intended to manage potential impacts associated with it, making it appropriate in a location where it might otherwise have not been allowed.

C. Special Use. Uses in the table noted with “S” are permitted with the approval of a special use permit from the Planning Commission in the zoning district(s) in which they are listed.

50-4.4 Use Definition and Standards. The following details the uses listed in Table 4.1-1 and describes any development standards necessary.

A. Residential/Lodging Uses.

(1) Bed and Breakfast. An establishment providing short term lodging and service of at least one (1) meal per day to guests on a lot that also serves as the principal residence of the operator.

(2) Hotel/Motel. An establishment that permits short term lodging with or without an in-room kitchen where the rooms are accessed from an interior corridor or hallway (hotel) or exterior passageway (motel). Restaurant, meeting spaces, and retail are commonly associated with this use.

(3) Nursing Home/Assisted Living/Rehabilitation Center/Adult Foster Care. Residence that provides short or long term lodging with services such as meals, personal care, supervision of self-administered medication, medical care, and therapy. This type of facility would not meet the definition of a hospital. In the districts where it is Permitted with Development Standards (“PD”), the following is required:

(a) A rehabilitation center is permitted for up to six (6) persons.

(b) In Downtown 1, this use is not permitted on the ground floor.

(4) Residential. Dwelling units located within a primary structure on a lot. In the districts where residential is Permitted with Development Standards (“PD”), the following applies.

(a) In Nodes **and Downtown 1**, residential **units are not permitted in a building’s occupied space (refer to 50.1-3.DD Occupied Space). Refer to Article 5 Zoning Standards for details and exceptions.**

(b) In Live Work 2, Yard - Detached Lot Type is permitted only when it contains two or more units.

(5) Residential, Multi Family. Five (5) or more dwelling units located within a primary structure on a lot. In the districts where residential is Permitted with Development Standards (“PD”), residential units are **not permitted in a building’s occupied space (refer to 50.1-3.DD Occupied Space). Refer to Article 5 Zoning Standards for details and exceptions.**

(6) Rooming House. A type of group living use in which space is let primarily for sleeping purposes, with or without meals, by the owner or agent to persons who are not related to the owner or operator by blood, marriage, or adoption. In the districts where a rooming house is Permitted with Development Standards (“PD”), residential units are **not permitted in a building’s occupied space (refer to 50.1-3.DD Occupied Space). Refer to Article 5 Zoning Standards for details and exceptions.**

(7) Transitional Residence. A residential facility that provides temporary accommodations and on-site management, including 24-hour care, for its residents. Transitional residences can accommodate both individuals and families and can serve a variety of populations, such as the homeless, domestic violence victims, or those recovering from addictions. Residency often requires attendance at classes, trainings, or counseling sessions which may occur on-site. Residents typically do not keep personal vehicles on site.

B. Civic/Institutional Uses

(1) Assembly. A use that has organized services, meetings, or programs to educate, entertain, or promote discussion amongst the community. It can be a public or private facility. Examples of Assembly include a club, lodge, theatre or community center. In the districts where assembly is Permitted with Development Standards (“PD”), clubs and lodges and other similar uses with limited hours or private membership are not permitted **in the occupied space of the ground floor in Node and Downtown 1 Districts. Refer to Article 5 Zoning Standards: Lot Types.**

(2) Assembly, Religious. An assembly use that focuses on religion, a house of worship. Residential uses accessory to the religious assembly use, such as convent, rectory, or caretaker’s residence, are permitted with this use. In the districts where Religious Assembly is Permitted with a Special Use Permit (“S”) or **Permitted with Development Standards (“PD”), the following standards apply.**

(a) Facilities that accommodate less than fifty (50) persons are permitted without obtaining a special use permit.

(b) In Downtown 1, Religious Assembly is not permitted on the ground floor.

(3) College and University. An educational institution authorized to award associate, baccalaureate, or other higher

degrees and certificates.

(4) Hospital. A state licensed facility providing in-patient accommodations; a wide range of medical and surgical care; and other in-patient health services for sick or injured persons. Permitted secondary uses with this type of facility may include laboratories, outpatient department, training facilities, central services, offices, residences, dining areas, and retail.

(5) Library and Museum. An establishment housing educational, cultural, artistic, or historic information resources, and exhibits that is open to the public. Permitted secondary uses with this type of facility include retail space, food sales, dining, and meeting rooms.

(6) Parks and Open Spaces. An area of land designed and equipped for passive or active recreation or open air gathering. In the districts where Parks and Open Space is Permitted with Development Standards (“PD”), the following standards apply.

(a) In the D2 District, special design attention should be given to the street wall and character of a block when locating and designing a park and open space.

(7) Police and Fire Stations. A facility that provides protection to a district or entity according to fire, life, and safety code sections. Permitted secondary uses with this type of facility include storage of equipment, indoor and outdoor parking of vehicles, offices, and residences. Police and Fire Stations are exempt from any entrance bay and vehicle access standards noted in 5.6. Lot Types; the use of these standards is encouraged to support this use blending within the neighborhood location.

(8) School. A public or private education facility, including elementary, middle, and high schools. Schools may include space for classrooms, laboratories, gymnasium, pools, theaters, dining services, and outdoor athletic or recreational facilities.

C. Commercial

(1) Agriculture. Growing of food crops indoor or outdoors for personal use, donation, or sale (on or off site); this excludes the growth of marihuana plants for medicinal or recreational purposes. In the districts where Agriculture is Permitted with Development Standards (“PD”), the following standards apply.

(a) Size. Maximum lot size is 10,000 square feet.

(b) Lot Type. No Lot Type is required unless a hoop house, green house, or farm stand are constructed, then 5.6.G Outdoor Market Lot Type apply.

(c) Other Secondary Buildings. Sheds, garages, and other Secondary Buildings not noted in 50.4-4.C(1)(b) shall follow the standards for Accessory Structures, refer to 50-4.5.B

(d) Intensity. Use of outdoor farm machinery is not permitted.

(2) Day Care. A use providing care, protection, and supervision for children or adults on a regular basis away from their primary residence for periods of less than twenty-four (24) hours. In the districts where a day care is Permitted

with Development Standards (“PD”), the following is required.

(a) Outdoor Play Area. At least one (1) outdoor play area will be provided as follows.

[1] Size. The size of this play area will be measured at a rate of 100 square feet for each child the facility is permitted to have at maximum attendance.

[2] Enclosure Requirement. The play area must be enclosed on all sides by building or fencing.

(b) In-Home Day Care Facilities. Day care facilities located in a residence, also referred to as a in-home day care facility, containing seven or more participants require a special use permit.

(3) Entertainment and Sports. An establishment that provides sports and recreation activities for participants. These may occur indoor, including such indoor facilities as bowling alleys, escape rooms, pool, billiards, arcade, and outdoors, such as mini golf, ropes courses, swimming pools, and driving ranges. In the districts where Entertainment and Sports is Permitted with a Special Use Permit (“S”), outdoor facilities using an Outdoor Market Lot Type require a special use permit.

(4) General Retail. A category of uses involving the sale of goods and merchandise. General Retail includes such uses as those listed in table 4.4-1.

(5) General Services. A category of uses that provides patrons services and often retail products related to those services. General Services includes such uses as those listed in table 4.4-1.

(6) Kennels. Care of domestic and small animals, such as dogs and cats, that can include day or overnight care. Kennels can be located inside a building or outside and may also provide grooming and training services. In the districts where a kennel is Permitted with Development Standards (“PD”), outdoor kennels are not permitted.

(7) Office. A category of uses that involve the transactional affairs of a profession service, industry, or government. Patrons of these uses typically have set appointment or meeting times; these businesses do not typically rely on walk-in customers.

(8) Outdoor Sales and Storage. A use that involves the sale, rental, and minor repair of items where the majority of the goods are stored or displayed outdoors. This includes such uses as sale and rental of vehicles with less than 10,000 pounds gross cargo weight, motor homes, and boats and the sale of building or landscape materials such as plants, gravel, or rocks. In the districts where outdoor sales and storage is Permitted with Special Use Permit (“S”), the following standard applies.

(a) **Screening.** Storage of all outdoor items must be screened from view from side and rear property lines; storage of loose materials such as rock, gravel, or soil must be additionally screened from the front and corner side property lines.

(b) **Structure. A building is required to house the office, sales management, on-site security, or other similar functions.**

(c) **Structure Location. When the Outdoor Market Lot Type is utilized, the front facade of the building shall be located within ten (10) feet of the front property line. Refer to 5.6.G Outdoor Market Lot Type.**

Table 4.4-1. Examples of General Retail & Service Uses.

General Retail Uses
Apparel & Accessories
Art, Craft, Hobby Store
Automotive Supply (no service)
Bakery
Bicycle, Scooter, Moped Sales
Book Magazine, Newspaper
Convenience Store
Drug Store/Pharmacy
Florist
Home Furnishing & Accessories
Grocery Store, Specialty Foods
Hardware Store
Office Supplies
Paper, Stationary Store
Pet & Pet Supply Shop
Sporting Goods Sales & Rental
Toy Shop
Video Games & Electronic Sales

General Service Uses
Animal Board, Day Care (no outdoor kennels)
Bank, Financial Services
Catering
<u>Dance or Music Studio</u>
Dry Cleaning, Laundry-mat
Eating & Drinking Establishment, Cafe, Coffee Shop, Brewpub, Tavern, Lounge
Fitness (ex: Gym, Yoga, Pilates, Dance Studio)
Framing
Funeral Home
Locksmith
Mail system, copying, printing
Medical Services, Optical, Urgent Care
Pet Grooming
Personal Services (salon, spa, barber shop)
Repair of Small Goods, household goods, electronics
Tailor & Seamstress
Tattoo, Piercing
Training Center
Travel Agency

Table 4.4-2. Examples of Craftsman Industrial

Craftsman Industrial
Apparel, Accessories, & Finished Fabrics
Art, Glass, Textiles, Ceramics, Pottery, Woodworking
Brewing, Distilling, & Roasting
Commercial Copying & Printing
Construction, Special Trades
Electronic Assembly
Food Preparation & Production- Bakery, Beverages, Desserts, Canning, Preserving, Pasta, Dairy, etc
Furniture & Fixtures, Household Textiles, Home Furnishing & Accessories
Metal Products - Engraving, welding
Music Instruments, Recording Studio
Small Good Manufacturing & Repair

(9) **Packaged Liquor.** A retail establishment licensed by the Michigan Liquor Control Commission selling packaged alcoholic liquors, including beer, wine, and spirituous liquors, for consumption off-site. This use does not include establishments meeting the definition of an eating and drinking establishment or grocery stores. In the districts where packaged liquor is Permitted with Development Standards (“PD”), the following is required.

- (a) A minimum distance of 2,460 feet is required between locations of packaged liquor uses.
- (b) A minimum distance of 500’ is required from parcels containing a religious assembly and school use.
- (c) Calculations to determine the required distance are made along the adjacent street center lines by measuring between two (2) fixed points located on the center line(s) that are determined by drawing perpendicular lines from the closest edge of the building containing the use in question to the center line of the adjacent street.

(10) **Parking Lot (Stand Alone).** A lot in which the primary use is parking of vehicles for public use or private use of adjacent businesses and residences. In the districts where parking lot is Permitted with Development Standards (“PD”), the following is required.

- (a) Parking lots may not be used as towing service storage and storage for inoperable vehicles.
- (b) **Corner Lot.** A parking lot is not permitted on a corner lot.
- (c) **Required Treatment When Fronting on a Street.**
 - [1] **Primary Street.** A parking lot is not permitted on a lot that fronts a primary street without a special use permit unless it is directly adjacent to the building that it serves.
 - [2] **Fence.** Fencing up to forty-two (42) inches in height is permitted in the landscape buffer along a street. Refer to Appendix A 6.3 Screens & Fencing for more information on fences.

(11) **Vehicle Services.** A category of uses that involve the servicing of vehicles and/or the sale of fuel. General retail is often associated with vehicle service uses. This category includes, vehicle service shops, car wash, and gas stations. In the districts where Vehicle Service is Permitted with Development Standards (“PD”), the following standards apply.

- (a) **Use Limitations.**
 - [1] **Gas Stations.**
 - [a] Gas stations require a special use permit.
 - [b] Sale of packaged liquor at gas stations is permitted, but must adhere to the development standards required for the packaged liquor use. Refer to 50.4-4.C(9).
 - [c] Gas stations not permitted in Live Work 2.
 - [2] Car Wash. A car wash requires a special use permit.
 - [a] Outdoor vacuuming is not permitted on lots adjacent to an open space, park, or preserve.
Outdoor vacuuming is not permitted on lots adjacent to a residential zoning district.
 - [b] Car washes are not permitted in Live Work 2.
- (b) **Vehicle Bays.** Bays may not face a primary street.

(c) Outdoor Activities.

- [1] Outdoor vacuuming areas are permitted in the side and rear yards.
- [2] Washing areas are not permitted outside.
- [3] Repair or service activities or equipment are not permitted outside.
- [4] Outdoor storage of vehicles awaiting service is not permitted. Vehicles awaiting pick up are permitted on site for up to three (3) days and shall be located in the rear or side yard.

(d) Screening. Perimeter landscaping or fencing is required along side and rear yards.

(e) Over-sized Vehicles. Services for semi trucks and other oversized vehicles is not permitted.

(f) Lot Types. Gas Stations shall follow the Outdoor Market Lot Type and have the front facade of the building located within the Build-to Zone. Refer to 5.6.G Outdoor Market Lot Type.

D. Industrial.

(1) Craftsman Industrial. A use involving small scale manufacturing, production, assembly, and/or repair that includes a showroom or retail space open to the public with no environmental or nuisance impact; may also be referred to as maker spaces. Refer to table 4.4-2 for examples of uses permitted in Craftsman Industrial. In the districts where Craftsman Industrial is Permitted with Development Standards ("PD"), the following standards apply.

(a) Retail Component.

- [1] At least ten (10) percent of the floor area must be public showroom or retail space.
- [2] Retail and/or showroom component shall be located along the front facade of the building and utilize a storefront or stoop entrance treatment. Refer to 5.5 Street Facing Facades.

(b) Size Requirements. Maximum facility size of 10,000 square feet is permitted in Live-Work 1, Node, Downtown 1, and Downtown 2 districts.(c) Outdoor Storage. Outdoor storage of goods is permitted in Live-Work 2 with Craftsman Industrial uses provided the area used for storage is less than or equal to five (5) percent of the site's lot area. Refer to 4.5.C((7) for additional requirements.

(1) Industrial. A category of uses that allow for the production, processing, assembling, and packaging of goods. This category of uses does not have environmental or nuisance conditions that are detectable at the property lines of the site. Associated with the category are uses such as offices, warehousing, and loading or service bays. In the districts where Industrial is Permitted with Development Standards ("PD"), the following standards apply.

(a) Entrance Bays. Entrance bays are not permitted on facades facing primary streets unless they are located more than fifty (50) feet beyond the building's front facade.

(b) Outdoor Activities.

- [1] Fuel pumps are not permitted.
- [2] Outdoor Storage is permitted. Refer to 4.5.C((7) for additional requirements.

(c) Size. Maximum size of manufacturing facility is 20,000 square feet, this calculated area excludes office, showroom, or retail space. Larger facilities require review through a special use permit.

(3) Warehouse and Distribution. An industrial use involving significant commercial vehicle access and large-scale storage, both indoors and outside. In the districts where Warehouse and Distribution is Permitted with Special Use Permit ("S"), the following standards apply.

(a) Size Requirements. Maximum facility size is 20,000 square feet.

(b) Outdoor Activity. Fuel pumps and outdoor storage are permitted as follows.

[1] Must be located in the rear yard.

[2] Must be screened from all adjacent uses according to 6.2 Landscaping and Open Spaces in Appendix A.

[3] Outdoor Storage shall follow the standards in [4.5.C\(\(7\)\)](#).

(c) **Vehicle** Entrance Bays. Entrance bays are not permitted on facades facing primary streets.

50-4.5 Accessory Uses and Structures.

A. Table. Table 4.5-1 outlines the permitted accessory uses and structures by district. Accessory Uses and Structures are permitted in the following ways.

(1) Permitted. Uses in the table noted with "P" are permitted by right in the zoning district(s) in which they are listed.

(2) Permitted, Development Standards Required. Uses in the table noted with "PD" are permitted by right in the zoning district(s) in which they are listed provided they are developed with the listed development standards. The development standards listed for a use are intended to manage any potential impacts associated with it, making it appropriate in a location where it might otherwise have not been allowed.

(3) Special Use. Uses in the table noted with "S" are permitted with the approval of a special use permit from the Planning Commission in the zoning district(s) in which they are listed.

Table 4.5-1 Accessory Uses & Structures

Uses & Structures	District							Key
	Node	LV1	LV2	D1	D2	D3	All R	
Accessory Dwelling Units (ADU)	PD	PD	PD			PD	PD	P Permitted S Special Use PD Permitted - Development Standards Required
Agriculture	PD	P	P	PD	PD	PD		
Drive Through	PD	PD	PD		PD	PD		
Food Truck	PD	PD	PD		PD	PD		
Home Occupation	PD	PD	PD	PD	PD	PD	PD	
Kiosk	PD	PD	PD		PD	PD		
Outdoor Storage	PD	PD	PD			PD		
Secondary Building	PD	PD	PD	PD	PD	PD	PD	
Sidewalk Café	PD	PD	PD	PD	PD	PD		

B. Development Requirements. All accessory structures will meet the following standards, unless otherwise noted.

- (1) Front Yard. Accessory structures are not permitted in the front yard unless otherwise noted.
- (2) Corner Side Yard. Accessory structures cannot be located closer to the corner-side property line than a principal structure.
- (3) Setback. Accessory structures shall be setback five (5) feet from side and rear property lines.
- (4) Height. Accessory structures shall not exceed the height of the principal structure.
- (5) Lot Coverage. Accessory structures count toward a lot's impervious coverage. Placement of an accessory structure cannot make a lot exceed its impervious coverage requirement.

C. Use Definition and Standards. The following details the accessory uses and structures listed in Table 4.5-1 and detail any development standards necessary.

(1) Accessory Dwelling Unit. A secondary dwelling unit on a lot; it may be located in a secondary building or interior to the principal building.

(a) Units in secondary buildings.

[1] Quantity. One (1) accessory dwelling unit in a primary structure is permitted per lot.

{2} Maximum Unit Size. Maximum unit size is 950 square feet.

(b) Interior Units. An interior accessory dwelling unit is defined as one with a separate exterior entrance. When located interior to the principal structure the following are required.

[1] Quantity. One (1) accessory dwelling unit interior to a principal building is permitted.

{2} Maximum Unit Size. Maximum unit size is less than or equal to thirty (30) percent of the square footage of the primary residential unit or 600 square feet, whichever is larger.

(c) Parking. Space for 1 car per accessory dwelling unit is required. On-street parking, if available overnight, can meet this requirement if located within 660 feet.

(2) Agriculture. Growing of food crops indoor or outside for personal use, donation, or sale; this excludes the growth of marihuana plants for medicinal or recreational purposes as an accessory use on the lot. In the districts where agriculture is Permitted with Development Standards ("PD"), the following standards apply.

(a) Agriculture as an accessory use shall not prevent a lot from meeting its lot type requirements, refer to Article 5 Zoning Standards: Lot Types

(b) Agriculture as an accessory use is permitted in all yards.

(c) Agriculture as an accessory use is permitted within a building, provided that it is not in the occupied space of a building; it is permitted on a buildings roof.

(3) Drive Through. Drive throughs provide service to customers who remain in their vehicle and may be used in conjunction with variety of uses including financial institutions and restaurants. In the districts where a drive through is Permitted with Development Standards (“PD”), the following standards apply, Refer to Figure 4.5-1 Drive Throughs.

(a) Permitted Locations. A drive through is permitted as follows.

[1] Nodes, Downtown 2, and Downtown 3. A drive through is permitted only in the rear yard, fully screened from property lines by structure or landscaping.

[2] Other Districts. A drive through is permitted in the rear yard. If the lot does not front a primary street, a drive through is also permitted in the side yard.

(b) Landscape Screening. Adjacent to the drive through along the rear and/or side property lines shall be screened by a landscaping as defined by Appendix A 6.2 Landscaping and Open Spaces.

(c) Stacking Space. A minimum of three (3) stacking spaces are required, measured from the drive-through window or entrance into the stall or loading area.

(4) Food Truck. Vehicle or trailer used to prepare and/or serve food. In the districts where a food truck is Permitted with Development Standards (“PD”), an approved Site Plan is required as follows.

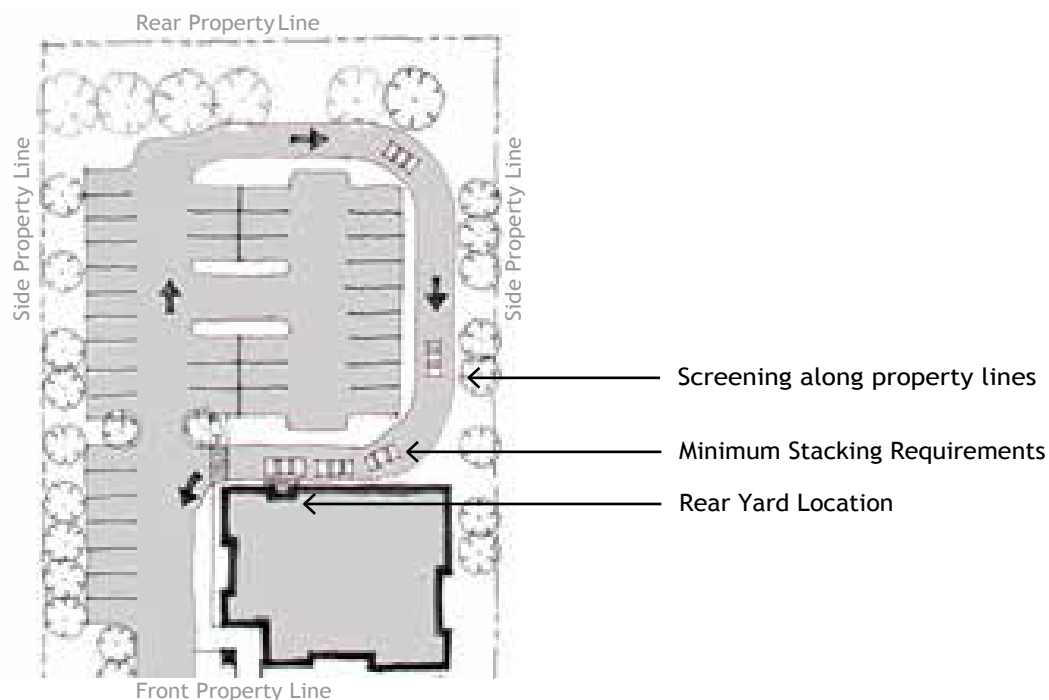


Figure 4.5-1. Drive Through Design

(a) Single Food Truck. Site Plan approval is required when one (1) food truck operates on a lot three (3) or more days a week and utilizes the lot's utilities, such as electrical or water services.

(b) Multiple Food Trucks. Site plan approval is required if multiple food trucks operate on a lot three (3) or more days a week.

(c) Permanent Food Truck Lot. The Outdoor Market Lot Type standards shall be followed. Refer to 5.6.G Outdoor Market Lot Type.

(5) Home Occupation. Types of work that can be conducted in a residence with little to no impact on the surrounding lots. Home occupations are secondary to the primary use of the lot, residential.

(a) Prohibited Uses. Prohibited uses include animal boarding, dispatch center, restaurants, vehicle or large equipment storage and repair.

(b). Resident-Operator. The operator of the home occupation must be a full time resident of the lot in which the business is associated.

(c) Employees. A maximum of two (2) nonresident employees are permitted on premises at one time.

(d) Signs. No more than one nameplate sign permitted with a maximum size of one (1) square foot. It may not be internally illuminated.

(e) Secondary Building. If located in a secondary building on the lot, the home occupation may not take more space than 500 square feet.

(f) Exterior Building Appearance. No exterior building changes are permitted; there must be no visible evidence of the existence of a home occupation beyond the permitted signage, including outdoor storage of materials related to the use.

(g) Operational Impacts. No home occupation or equipment used with a home occupation may cause odor, vibration, noise, electrical interference or fluctuation in voltage measured at the lot line.

(h) Customers. Customers or clients are permitted at the home occupation during the hours of 8:00 AM to 8:00 PM.

[1] No more than two (2) customers or clients are permitted at a given time, except in the case of a classes, such as art, music, cooking, or fitness classes, where up to four (4) clients are permitted at one time.

[2] A Special Use Permit is required for a home occupation providing classes with five (5) or more clients at a time.

(i). Customer Parking. Customer parking may occur off-street or on-street, where permitted.

(j) Deliveries. Deliveries are permitted during the hours of 8:00 AM to 8:00 PM and are permitted through the common residential delivery services.

(k) Medical Marihuana as a Home Occupation. Refer to 4.3.G(16) in Appendix A.

(6) Kiosk. Non-permanent structure that permits a variety of general retail and service uses, may be associated with the use of shipping containers or pop up shops and sheds. In the districts where a kiosk is Permitted with Development Standards (“PD”), the following is required.

(a) Site Plan. An approved Site Plan is required when two (2) or more kiosks are being located on a lot for a period of more than two (2) weeks or when a kiosk is used with the Outdoor Market Lot Type, refer to 5.6.G Outdoor Market Lot Type.

(7) Outdoor Storage. Storage of goods for sale or items related to the use(s) on the lot located outside of a structure. In the districts where a outdoor storage is Permitted with Development Standards (“PD”), the following is required.

(a) Site Plan. A site plan is required to review the size and placement on a lot.

(b) Maximum Size. Outdoor storage is permitted in an area no greater than ten (10) percent of the total lot area; in Live Work 1 no greater than five (5) percent is permitted.

(c) Location. Storage is permitted in the rear yard or side yard.

(d) Screening. Storage must be screened from view from all property lines.

(8) Secondary Building. Secondary buildings include such structures as detached garages, sheds, accessory dwellings, green houses, and hoop houses. In the districts where secondary Buildings are Permitted with Development Standards (“PD”), the following standards apply.

(a) Height. Secondary buildings can be up to two (2) stories in height. Refer to 5.3-1 Measuring Height.

(b) Agricultural Uses. A secondary building associated with an agriculture use, such as a green house, hoop house, or shed, shall set back at least ten (10) feet from the Front and Corner Property Lines.

(9) Sidewalk Cafe. Outdoor eating areas permitted within the right-of-way and on the property in question. In the districts where a sidewalk cafe is Permitted with Development Standards (“PD”), the following standards apply,

(a) Clear Pedestrian Pathway. A minimum pedestrian pathway of five (5) feet must be maintained free of all obstacles.

(b) Permit. If located in the right-of-way, a Right-of-Way Permit is required from the City of Kalamazoo.

Article 5. Zoning Standards: Lot Types.

50-5.1 Lot Type General Requirements.

A. Applicability. The following Lot Types shall apply to all new construction and exterior renovation of existing structures with the parameters noted in 1. General Requirements.

- (1) Zoning District. Lot Types are permitted by zoning district. Refer to Table 5.6-1 Lot Types by Zoning District.
- (2) Uses. Lot Types may each house a variety of uses based upon the zoning district in which it is located. Refer to 4.1-1 Use Table.

B. Lot Type Requirements. A Lot Type is comprised of standards for the following development components.

- (1) Building Siting. The location of the building(s) on a lot, including the following. [Refer to 50-5.2 Building Siting.](#)
 - (a) Street Frontage. Refers to locating the building(s) on a lot.
 - (b) Lot Area and Coverage. Refers to the maximum coverage of a lot with buildings or pavement.
 - (c) Parking, Loading, and Access. Refers to the location of parking areas and access on a lot.
- (2) Height. The minimum and maximum height permitted. [Refer to 50-5.3 Height.](#)
- (3) Uses. The uses permitted on a Lot Type. [Refer to 50-5.4 Use.](#)
- (4) Street Facing Facades. Refers to the entrance location and minimum transparency of windows. [Refer to 50-5.5 Street Facing Facades.](#)
 - (a) Transparency. The percentage of a façade that has clear, non-reflective windows that allow visibility into a building of at least four (4) feet.
 - [1] Ground Floor. Transparency is determined by entrance treatment, unless otherwise noted.
 - [2] Upper Floor. Transparency is determined by Lot Type.
 - (b) Entrance. Refers to permitted ground floor entrance treatments and quantity and location of entrances.
 - (c) Roof Types. The allowance of special roof elements, tower and spire.

50-5.2 Building Siting.

A. Street Frontage. Refer to Figure 5.2-1 Building Siting.

- (1) Multiple Principal Buildings. The allowance for more than one (1) principal structure on a lot.
- (2) Front Lot Line Coverage. The minimum percentage of building façade required along the front property line.
 - (a) Measurement. The standard is calculated by taking the width of the principal structure, measured in the build-to zone, divided by the total width of the lot's build-to zone.
 - (b) Multiple Buildings. Multiple principal buildings [can be](#) located on the lot. [The](#) minimum front lot line coverage [must be](#) met.

- (3) Occupation of the Corner. Occupying the corner, the area where the front and corner build-to zones meet, with a principal structure.
- (4) Front Build-to Zone. The build-to zone located parallel to the front property line.
 - (a) If not occupied by a structure, this area will contain landscaping, public or private outdoor space, or sidewalk.
 - (b) Vehicular parking is not permitted in the front build-to zone unless otherwise noted.
- (5) Corner Build-to Zone. The build-to zone located parallel to the corner side property line.
 - (a) If not occupied by a structure, this area will contain landscaping, public or private outdoor space, or sidewalk.
 - (b) Vehicular parking is not permitted unless otherwise noted.
- (6) Encroachment. Certain building elements, such as balconies, awnings, or signage may be permitted to

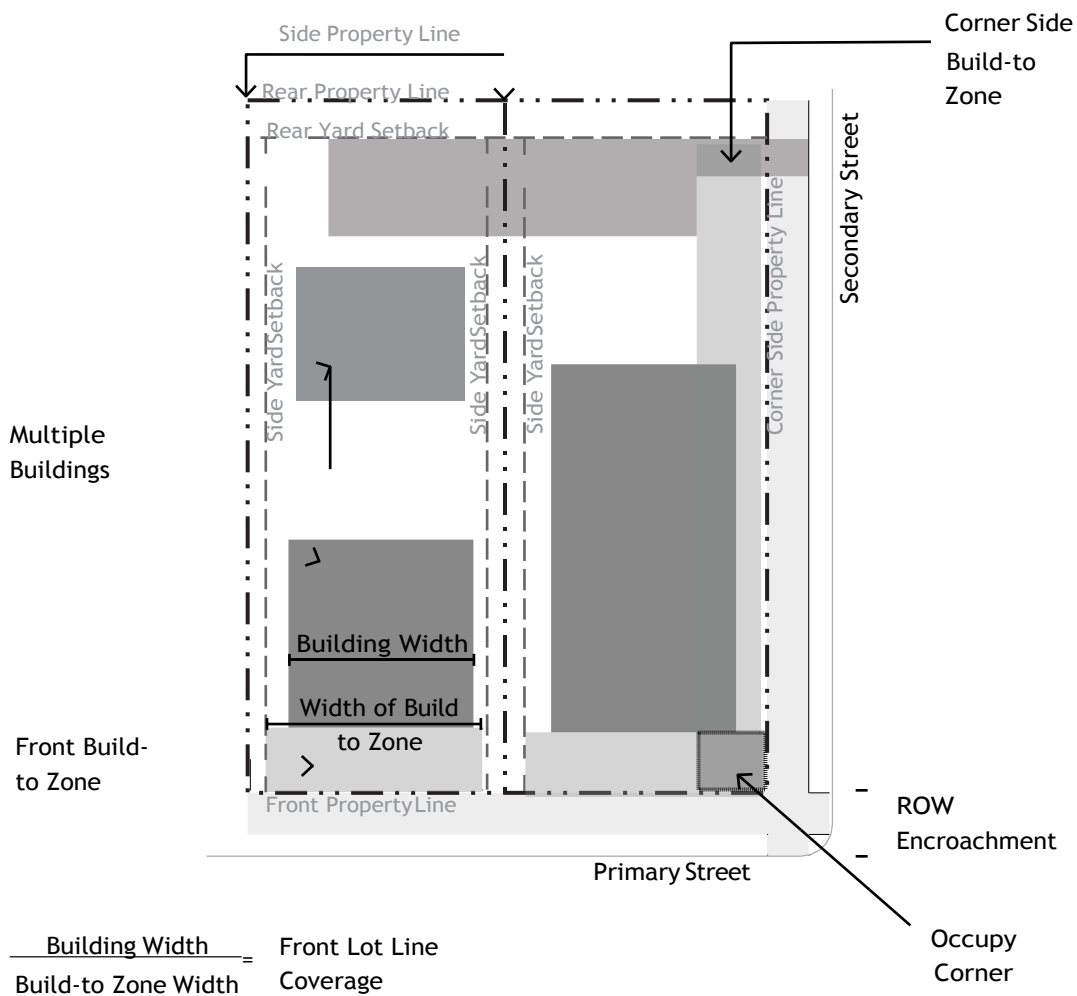


Figure 5.2-1. Building Siting: Street Frontage, Lot Area & Front Lot Line Coverage.

encroach into the right-of-way.

- (a) Where permitted, an encroachment agreement with the City is required.
- (b) Encroachments shall not extend closer than two (2) feet from the back of the curb line.
- (c) A minimum height clearance of eight (8) feet must be maintained.

B. Lot Area.

- (1) Side Yard Setback. The minimum required setback along a side property line.
 - (a) Driveways are permitted in the side yard setback.
- (2) Rear Yard Setback. The minimum required setback along a rear property line

C. Lot Coverage. The maximum percentage of a lot permitted to be covered with not pervious surfaces and the additional amount of semi-pervious surface permitted. Refer to Figure 5.2-2 Lot Coverage.

D. Parking, Loading, and Site Access. .

- (1) Parking Location. The yard in which a parking area and associated drive are permitted.
- (2) Service and Loading Locations. The façade on which access is permitted for servicing, loading, and unloading activities related to that building's use.
- (3) **Vehicle Entrance Bay**. The façade of the building on which an entrance bay to interior parking is permitted.
- (4) Driveway Location. The permitted locations for vehicular access.
 - (a) If an alley is available, driveway access shall be located from the alley.
 - (b) If an alley is not available, driveway location is noted by Lot Type (refer to 5.6 Lot Types).
 - (c) Driveways on corner **lots** must be at least fifty (50) feet from the corner of the Lot.

50-5.3 Height.

A. Height. Overall height for all Lot Types is measured as follows. Refer to Figure 5.3-1 Measuring Height

- (1) Minimum and Maximum Height. The minimum and maximum overall height of a structure.
 - (a) Measurement. Building height is measured in stories.
 - (b) Half stories. Half stories can be found either completely within the roof structure with street-facing windows or in a visible basement exposed up to ½ story above grade.
- (2) Floor Height. Each Lot Type permits a range of height expressed in feet for each story.
 - (a) Floor to Floor. The height of a story is measured between **floors; top of floor to top of floor**. If the building is one (1) story, use the floor of the story to the tallest point of the ceiling.

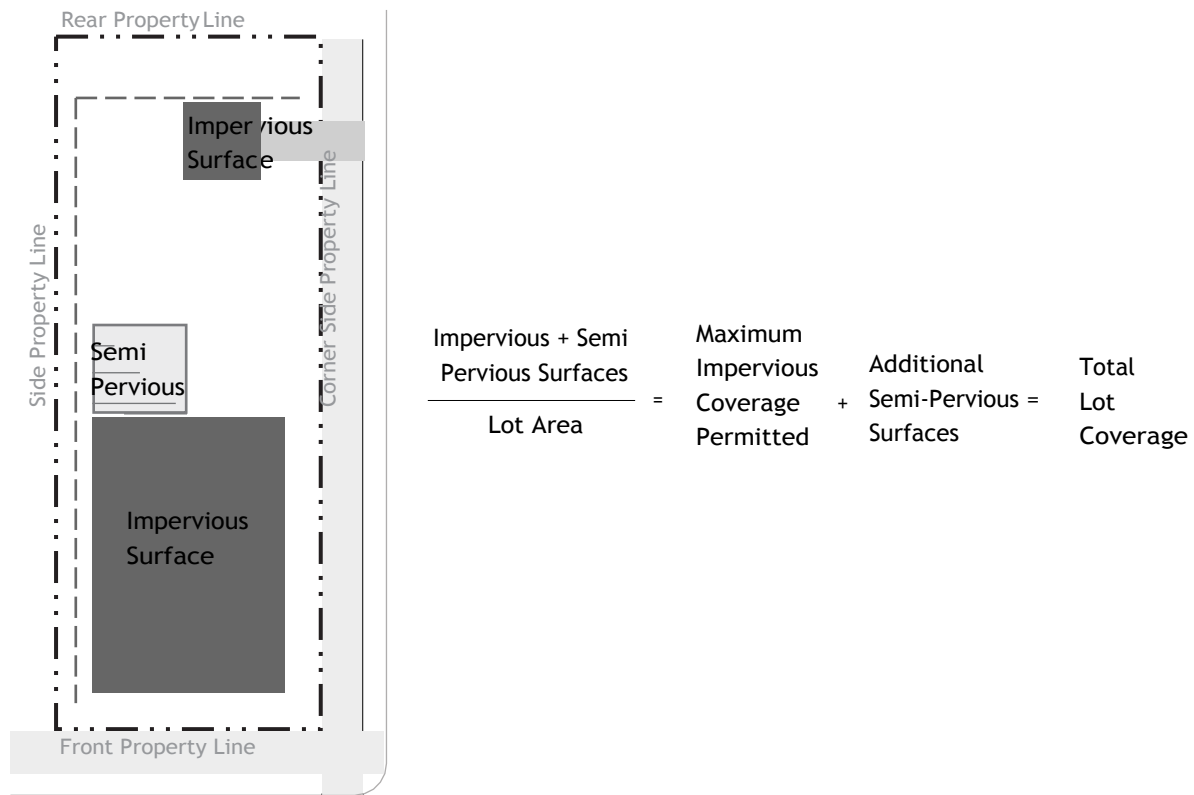


Figure 5.2-2 Lot Coverage

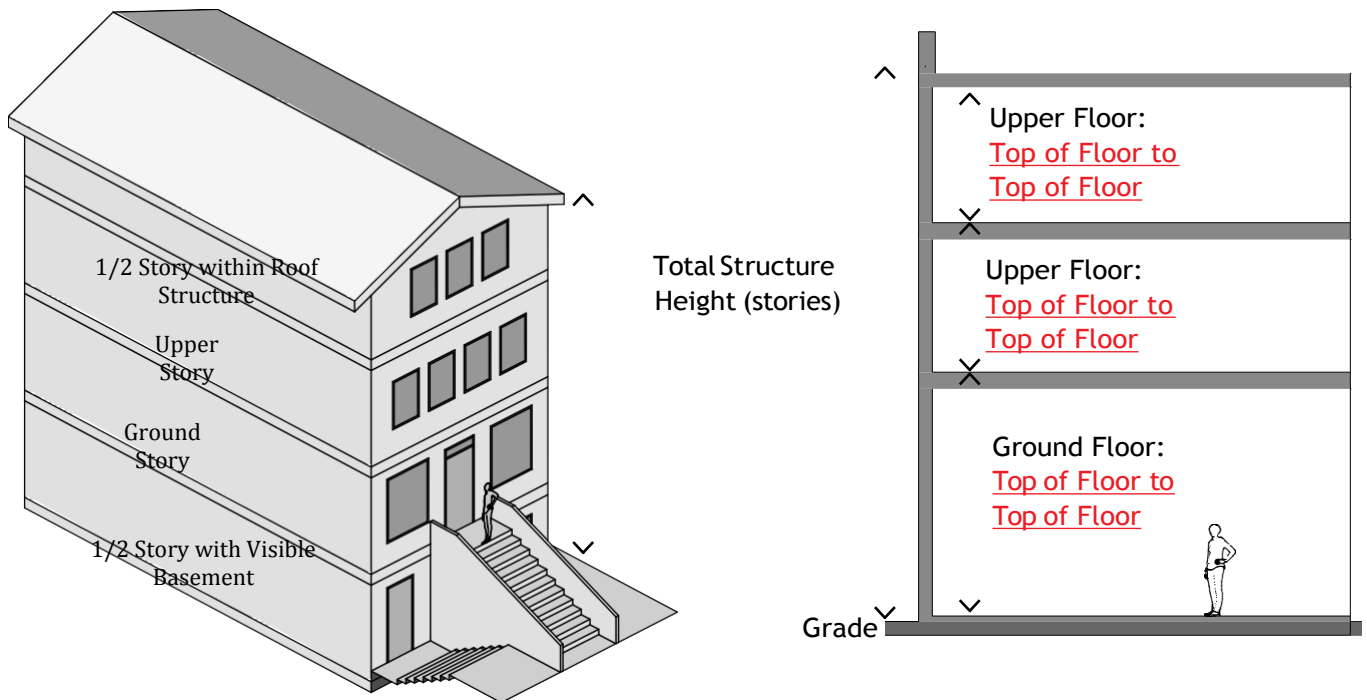


Figure 5.3-1. Measuring Height

- (b) Application. Floor height requirements apply only to principal buildings on street facing facades.

50-5.4 Use.

A. Uses. Each Lot Type includes a list of permitted uses outline in Figure 4.1-1 Use Table. Also refer to Figure 5.4-1 Permitted Uses per Floor

- (1) Ground and Upper Floor. The permitted uses may vary between ground and upper floors.
- (2) Occupied Space. The restriction of internal parking, residential units, storage areas, and utility areas in the occupied space of a building's ground floor, unless otherwise stated in the Lot Types. Refer to 50.1-3.DD Occupied Space for additional information on occupied space.

50-5.5 Street Facing Facades.

A. Street Facing Façade. The following are requirements on street facing building facades.

- (1) Transparency. Measurement of the percentage of a façade that has clear, non-reflective windows that allow clear vision into a building's occupied space. Refer to Figure 5.5-1. Measuring Transparency.
 - (a) Ground Floor. Transparency is determined by entrance treatment, unless otherwise noted in the Lot Type.
 - (b) Upper Floor. Transparency is noted by Lot Type.
 - (c) Full Façade. Transparency measured using the entire front façade rather than only one (1) story of the building.
- (2) Blank Wall Limitations. The maximum area on a façade permitted to be windowless.

B. Entrance. Required entrance locations and treatments.

- (1) Location. Location of the primary, functioning, **public** entrance of the principal building, noted by façade.
- (2) Entrance Treatment. The entrance treatments required on street facing facades. Entrance treatment standards apply to the entire ground story of all front facades, and corner side facades when facing a primary street.
 - (a) Storefront. Storefronts are a highly transparent ground story treatments typically used as display areas for retail and other commercial uses. Refer to Figure 5.5-2 Storefront Entrance Type.
 - [1] Transparency. Minimum transparency is seventy (70) percent, measured between two (2) and eight (8) feet above the grade of the sidewalk. Refer to Figure 5.5-1. Measuring Transparency.
 - [2] Elevation. Storefronts shall be located no more than one (1) foot above the sidewalk.
 - [3] Recess. Entrances may be recessed up to eight (8) feet.
 - [4] Building Entrance. Primary building entrance shall be located off the storefront.
 - [5] Interior Access. Additional entrances to access uses in the upper stories or rear of the ground floor are permitted without having to adhere to the above requirements.

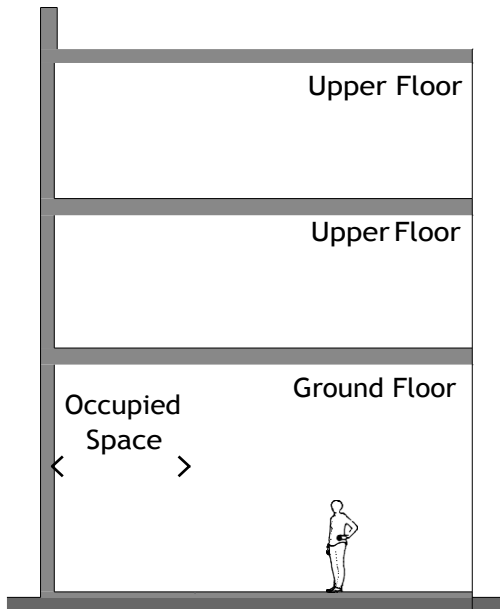


Figure 5.4-1 Permitted Uses Per Floor

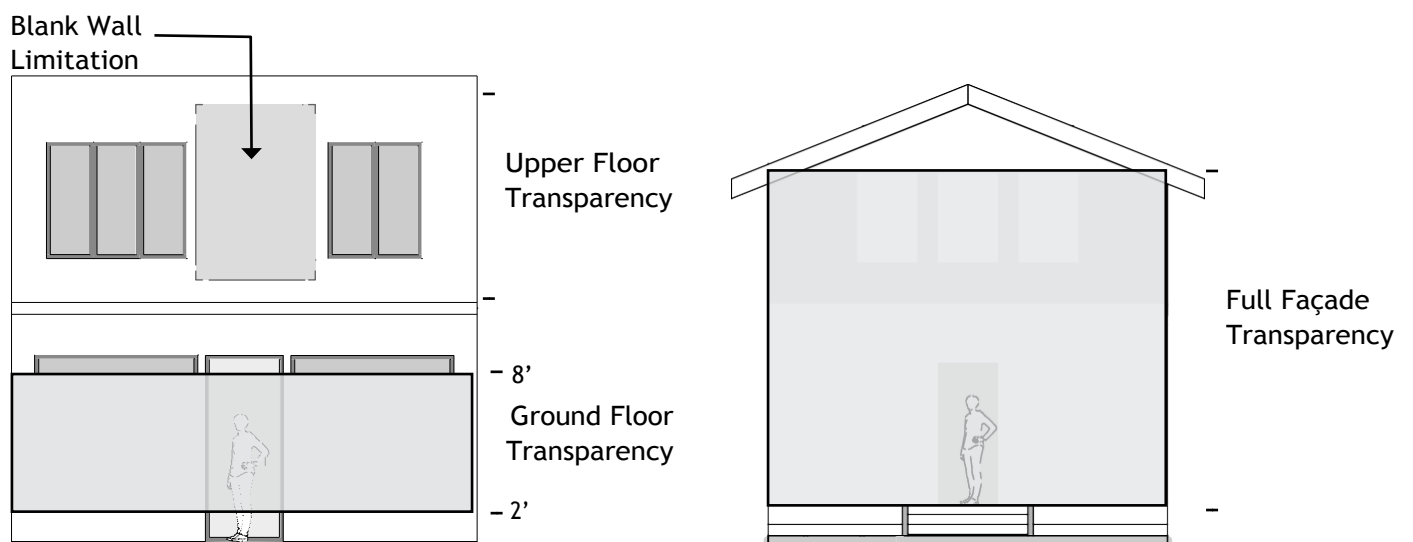


Figure 5.5-1. Measuring Transparency: Ground Floor, Upper Floor, & Full Façade

(b) Stoop. Refer to Figure 5.5-3 Stoop.

[1] Transparency. Minimum transparency is fifty (50) percent, measured between two (2) and eight (8) feet above the grade of the sidewalk. Refer to Figure 5.5-1. Measuring Transparency.

[2] Elevation. Stoops shall be not be elevated more than 3' 6" above the sidewalk, except with a visible basement.

[3] Stoop Size. Stoops shall be a minimum of three (3) feet deep and six (6) feet wide.

[4] Recess. Entrances may be recessed up to five (5) feet

[5] Building Entrance. Entrances shall be located off the stoop.

[6] Interior Access. Additional entrances to access uses in the upper stories or rear of the ground floor are permitted without having to adhere to the above requirements.

(c) Arcade. An arcade is a covered pedestrian walkway within the recess of a ground story. Refer to Figure 5.5-4 Arcade.

[1] Interior Treatment. Arcades must be used in conjunction with storefront or stoop treatment.

[2] Arcade Width. Open air public walkway must be a minimum of six (6) feet.

[3] Columns Spacing. Columns shall be spaced between ten (10) and twelve (12) feet on center.

[4] Arcade Opening. Opening shall not be flush with interior arcade ceiling and may be arched or straight.

(d) Porch Entrance Type. A porch is a raised, roofed platform. Porches can be fully enclosed. Refer to Figure 5.5-5 Porch Entrance Type.

[1] Transparency. Per Lot Type; unless the porch is fully enclosed in which case a minimum of forty (40) percent is applied. Refer to Figure 5.5-1. Measuring Transparency.

[2] Elevation. Porches shall be located a maximum of 4'6" above the sidewalk or average grade measured at the front facade.

[3] Height. A porch may be up to two (2) stories in height to provide a balcony for the second story.

[4] Building Entrance. Primary building entrance shall be located off the porch.

(3) Entrances on Street Facing Facades. The maximum spacing between entrances on a street facing building façade.

(4) Entrances on Other Facades. An entrance is required on side and rear facades when fronting parking areas

C. Roof Type. All roof styles are permitted in the Lot Types, provided that a defined roof style is utilized; special roof types, tower and spire, are permitted per Lot Type.

(1) Tower. A tower is a rectilinear or cylindrical, vertical building element. Refer to Figure 5.5-6 Tower.



Figure 5.5-2. Storefront.

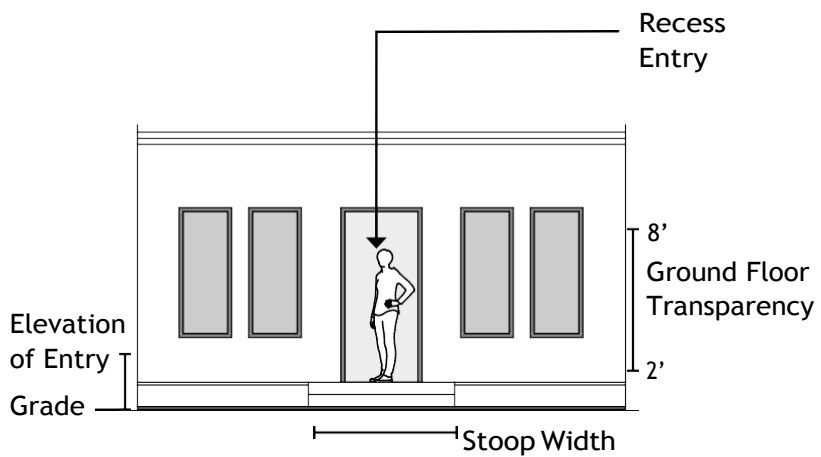


Figure 5.5-3. Stoop.

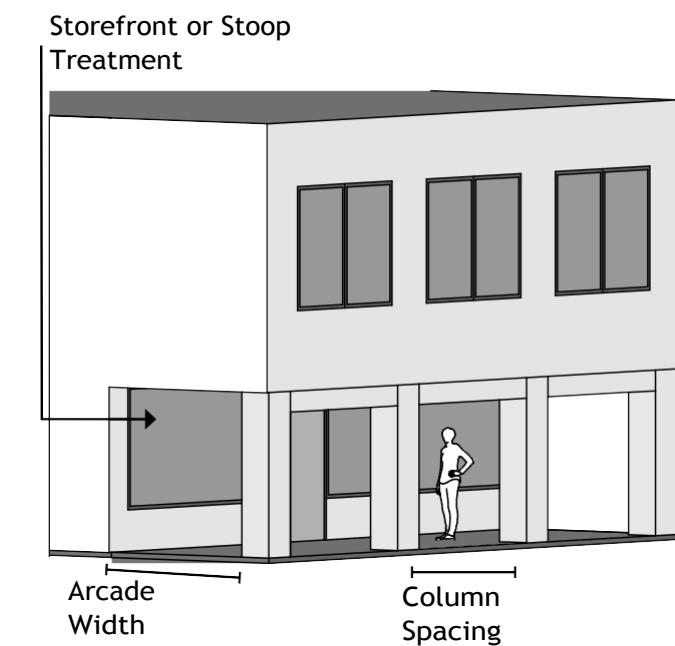


Figure 5.5-4. Arcade

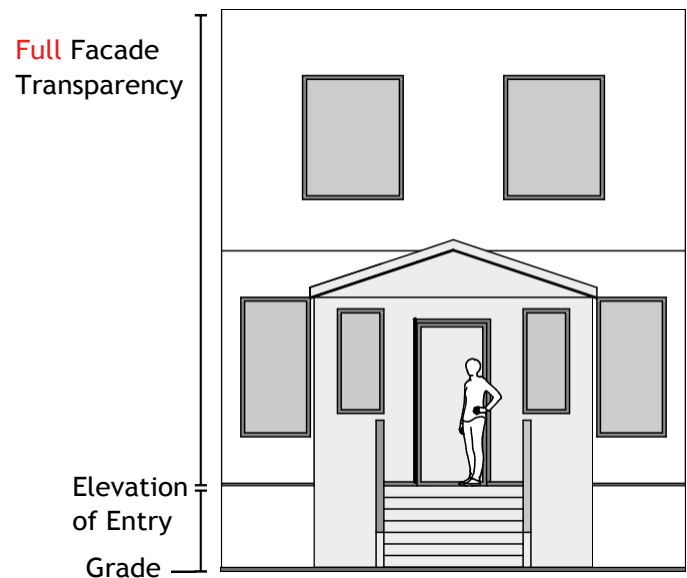


Figure 5.5-5. Porch.

(a) Height. Maximum tower height is equal to the height of one (1) upper story floor of the building onto which the tower is applied.

(b) Width. Maximum tower width along all facades is one-third (1/3) the width of the building or thirty (30) feet, whichever is less.

(c) **Use.** Towers may be utilized by the same uses allowed in the upper stories of the front type in which it is located.

(2) Spire. A spire is a long, tapering design element attached to a tower or the roof of a building. Refer to Figure 5.5-7 Spire.

(a) **Use.** Spire may not contain an occupied space.

50-5.6 Lot Type Standards.

A. Lot Type Descriptions. The following Lot Types are defined and detailed for use in development and redevelopment in the Node, Live-Work 1, and Live-Work 2 Districts. Refer to Table 5.6-1 Lot Types by Zoning District.

(1) Commercial Lot Type. A Lot Type with a high level of transparency on the ground floor that is located at or near the front property line of a lot. This type is ideal for active ground floor uses such as retail or a community center and a mix of uses including residential and commercial on upper stories.

(2) Flex Lot Type. A Lot Type that promotes buildings constructed in a narrow front build-to-zone with a range of entrance treatments that can support a wide variety of uses including commercial, industrial, and residential.

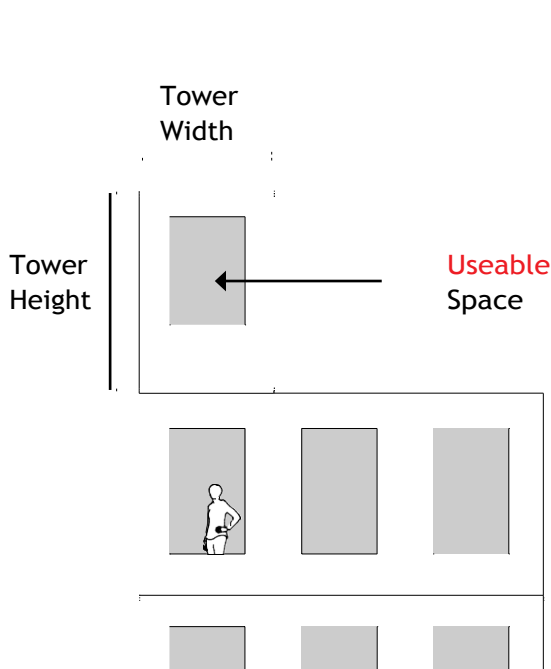


Figure 5.5-6. Tower.

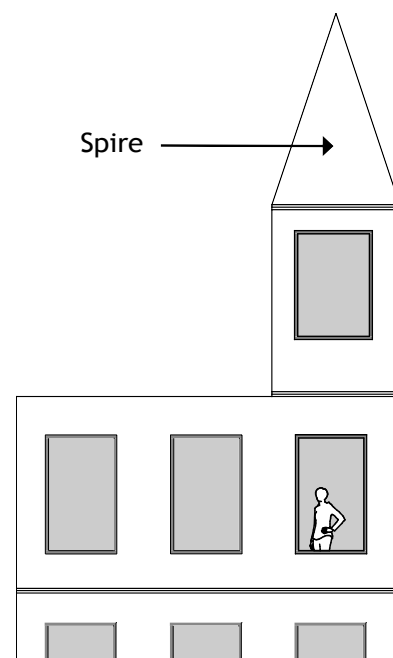


Figure 5.5-7. Spire

- (3) Cottage Commercial Lot Type. A Lot Type that recognizes that many structures residential in character can be used for commercial purposes, at least on the ground floor. These typically have a higher transparency and impervious coverage than the Yard - Detached Lot Type. In the Districts where the Cottage Commercial Building is Permitted with Development Standards (“PD”), the lot type is only permitted in Neighborhood Nodes, as designated in the 2025 Master Plan, Future Land Development Map.
- (4) Civic Lot Type. A Lot Type that allows for the development of unique buildings for civic and institutional uses through flexible building siting and facade treatment standards.
- (5) Warehouse Lot Type. A Lot Type that maintains the urban character of an area while considering the needs of commercial and industrial uses. This types standards include limited entrance treatments requirements.
- (5) Yard - Attached Lot Type. A Lot Type that supports the development of buildings that are slightly set back from the front property line and typically contains residential uses.
- (6) Yard - Detached Lot Type. A residential Lot Type that allows for detached buildings that are set back from the street. Typically they support residential uses.
- (7) Outdoor Market Type. A Lot Type that focuses on the use of outdoor spaces on a lot for such uses as gardening, seating, dining, gathering, and retail. May include limited indoor areas in non-permanent or open air structures, such as shipping containers, kiosks, or pergolas, for the sale of items or preparation of food items for sale, but with limited or no indoor seating. Permanent buildings are also permitted with this Lot Type, provided they account for a small percent of the total lot area.

Table 5.6-1 Lot Types by Zoning District

Lot Type	Zoning District			D1	D2	D3
	Node	LW1	LW2			
Commerce	P			P	P	
Flex		P	P		P	P
<u>Cottage Commercial</u>	PD	P	P			P
Civic		P	P		P	P
Warehouse			P			
<u>Yard - Attached</u>		P	P			P
<u>Yard - Detached</u>		P	P			P
Outdoor Market		P	P			P

B. Lot Type: Commerce

(1) Building Siting (Figure 5.6-1)

(a) Street Frontage		
Multiple Principal Buildings	Yes	1
Front Lot Line Coverage (min)	80% ¹	2
Occupation of Corner	Yes	3
Front Build-to Zone	0'-5'; <u>0-10' if for public space, such as wider</u>	4
Corner Build-to Zone	<u>sidewalks, on-street parking, or cafes</u> ²	
ROW Encroachment	Yes	5
(b) Lot Area		
Side Yard Setback	0'	6
Rear Yard Setback	0', 0' off alley 10' next to R district	
(c) Lot Coverage		
Impervious Surface (max)	100%	
Semi-Impervious Surface	n/a	

(d) Parking, Loading, & Access

Parking Location	Rear Yard	10
Loading & Service Location	Rear, Side, Corner Side Facades ³	11
<u>Vehicle Entrance Bay</u>	<u>Alley; 1 on</u>	
Driveway Location	Corner Side ⁴ , 1 on Front if on an interior lot <u>not located in D1 or D2</u> ⁴	12

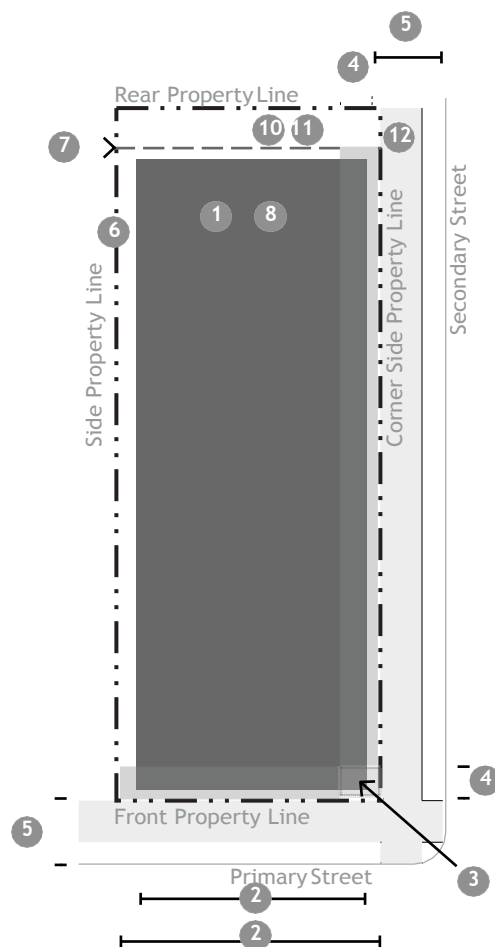


Figure 5.6-1 Building Siting.

Notes:

¹ A courtyard may count toward up to 35% of the minimum coverage.

Lots less than 60' in width, without alley access, and not on a corner have a minimum coverage requirement of 65%.

² Larger BTZ requires review and approval through the site plan review process. Larger BTZ is not permitted in D1.

³ Entrance bays for parking and loading not permitted on primary streets, and never on a Priority Street.

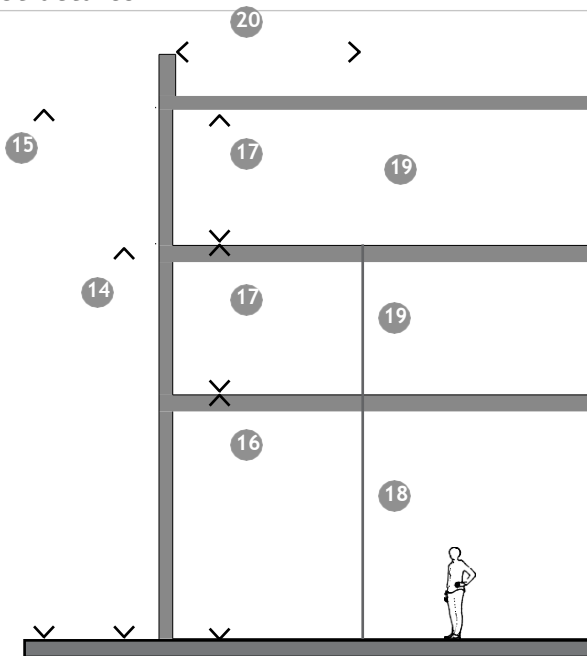
⁴ A 2nd driveway is permitted on lots wider than 200'.

(2) Height (Figure 5.6-2)

Minimum Height	2 stories	14
Maximum Height	<u>NOTE: 3 stories or up to height of tallest building within 330'; D1 & D2: no max. height on Priority Streets; 9 stories on Main Streets</u> 4,5	15
Ground Floor	14'-24' ⁶	16
Upper Floor(s)	9'-14'	17

(3) Uses (Table 4.1-1)

Ground Floor	All permitted uses per district	18
Upper Floor	All permitted uses per district	19
Occupied Space	Yes <u>on first two floors, except Residential/Lodging is permitted per Table 4.1-1</u>	20
Accessory Uses & Structures	See Table 4.5-1	

**(4) Street Facing Facades (Figure 5.6-3)****(a) Transparency (minimum)**

Ground Floor	Per entrance type, see 5.5.B	21
Upper Floor(s)	20% per floor	
Blank Wall Limitations	Yes	23

(b) Entrance

Location	Front Facade, Building Corner	24
Entrance Treatment (see 5.5.B)	Storefront	25
Entrances on Street Facing Facades	1 per 60' of building length	26
Entrances on Other Facades	Yes	

(c) Roof Type

Tower	Permitted	27
Spire	Not Permitted	

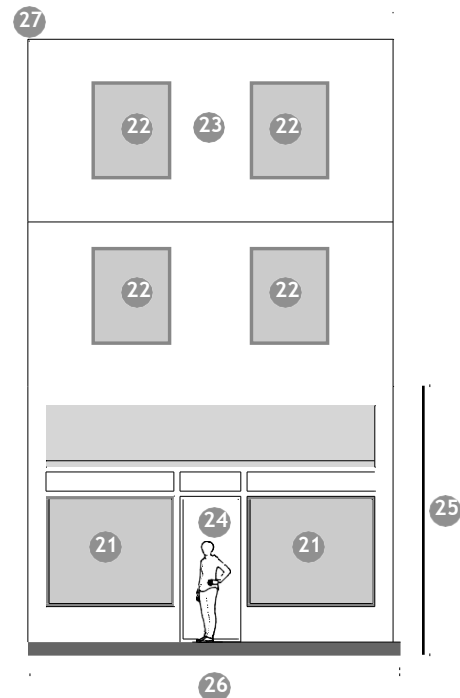


Figure 5.6-2 Height & Use

Notes:

⁴ Tower is allowed to be one (1) story taller than the overall building height.⁵ 330' is measured from outer lot line of the Node District. The height increase is capped at no more than two (2) stories taller than the tallest building in the Node.⁶ A Ground Floor height of 20' or greater will be counted as two (2) stories for overall building height.

Figure 5.6-3 Street Facing Facades.

C. Lot Type: Flex

(1) Building Siting (Figure 5.6-4)**(a) Street Frontage**

Multiple Principal Buildings	Yes	①
Front Lot Line Coverage (min)	70% ¹	②
Occupation of Corner	Yes	③
Front Build-to Zone	0'-10'	④
Corner Build-to Zone	0'-10'	⑤
ROW Encroachment	Yes	⑥

(b) Lot Area

Side Yard Setback	0'
Rear Yard Setback	0', 0' off alley 10' next to R district

(c) Lot Coverage

	75%; 85% in Live
Impervious Surface (max)	Work 2; <u>100%</u> <u>in D2</u>
Semi-Impervious Surface	15%

(d) Parking, Loading, & Access

Parking Location	Rear Yard	⑪
Loading & Service Location	Rear, Side, Corner Side Facades ²	⑫
Vehicle Entrance Bay	Alley; 1 on Corner Side ³ , 1 on Front if an interior lot <u>not</u> <u>located in D1 or</u> <u>D2</u> ³	⑬
Driveway Location		

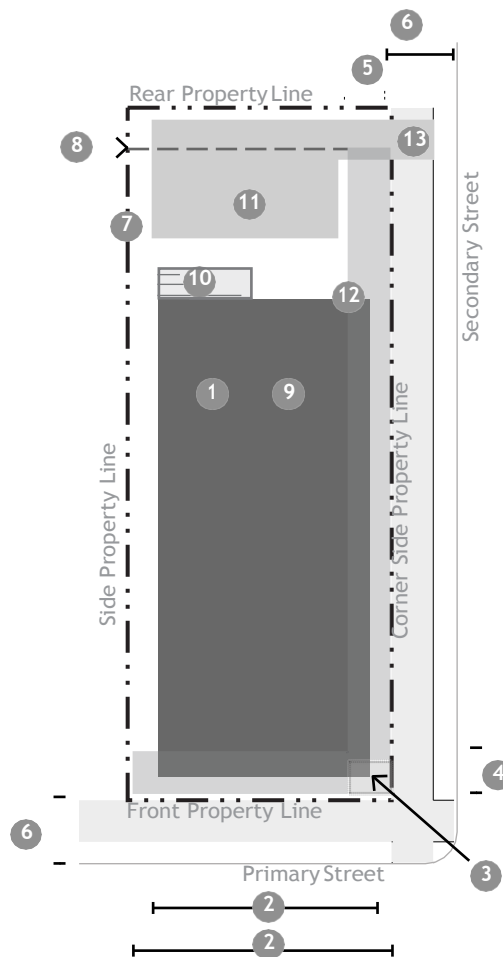


Figure 5.6-4 Building Siting.

Notes:

¹ A courtyard may count toward up to 35% of the minimum coverage. Lots less than 60' in width, without alley access, and not on a corner have a minimum coverage requirement of 65%

² Entrance bays for parking and loading purposes not permitted on primary streets.

³ A 2nd driveway is permitted on lots wider than 200'.

(2) Height (Figure 5.6-5)

Minimum Height	1 story	14
Maximum Height	3 stories; <u>in Live Work 2 & on a Connector Street & in D3 up to 5 stories permitted; D2: no max, height on Priority Streets; and 9 stories on Main Streets;</u> ⁴	15 16 17
Ground Floor	14'-24' ⁵	17
Upper Floor(s)	9'-14'	

(3) Uses (Table 4.1-1)

Ground Floor	All permitted uses per district	18
Upper Floor		
Occupied Space	Yes; <u>except Residential/Lodging permitted per Table 4.1-1</u>	19
Accessory Uses & Structures	See Table 4.5-1	

(a) Transparency (minimum)

Ground Floor	Per entrance type, see 5.5.B	20
Upper Floor(s)	20% per floor	21
Blank Wall Limitations	Yes	22

(b) Entrance

Location	Front Facade, Building Corner	23
Entrance Treatment (see 5.5.B)	Storefront, Stoop	24
Entrances on Street Facing Facades	1 per 60' of building length	25

Other Facade Entrances	Yes	
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(c) Roof Type

Tower	Permitted	26
Spire	Not Permitted	

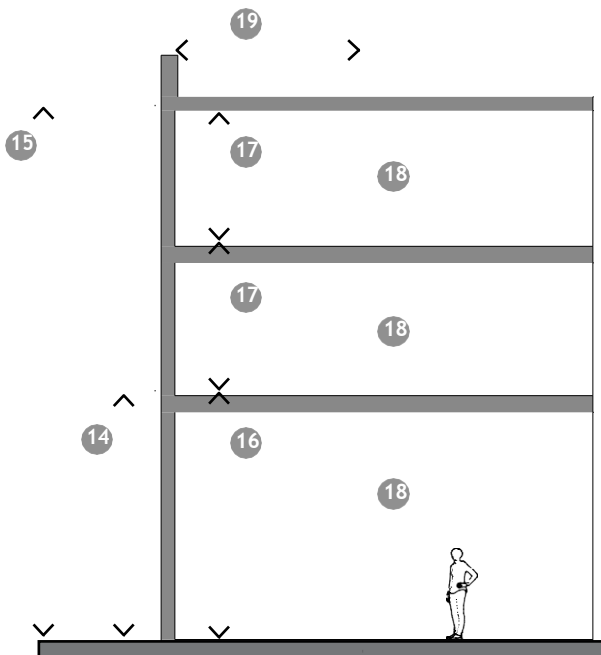


Figure 5.6-5 Height & Use

Notes:

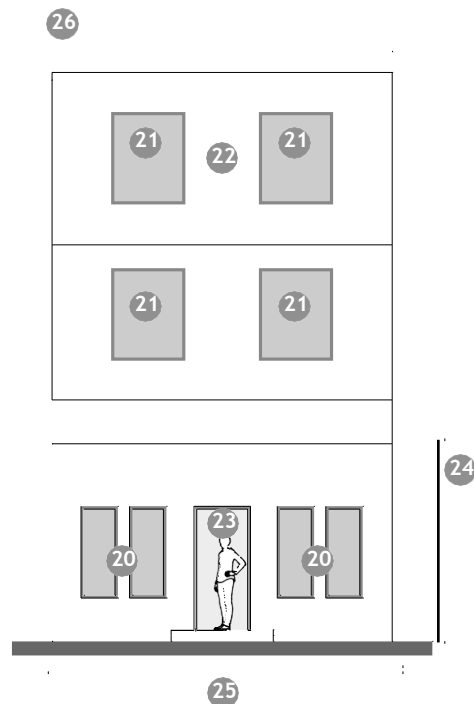
⁴ Tower is allowed to be one (1) story taller than the overall building height.⁵ A ground floor height of 20' or greater will be counted as two (2) stories for overall building height.

Figure 5.6-6 Street Facing Facades.

D. Lot Type: Cottage Commercial

(1) Building Siting (Figure 5.6-7)

(a) Street Frontage

<u>Multiple Principal Buildings</u>	<u>Yes</u>	1
<u>Front Lot Line Coverage (min)</u>		
<u>40%</u>		
<u>Occupation of Corner required</u>	<u>Not</u>	2
<u>Front Build-to Zone in</u>	<u>5'-20'; 0-10'</u>	
	<u>Nodes ¹</u>	3
	<u>5'-20' 5-15' in</u>	
<u>Corner Build-to Zone</u>	<u>Nodes ¹</u>	4
<u>ROW Encroachment</u>	<u>Yes</u>	5
		6

(b) Lot Area

<u>Side Yard Setback</u>	<u>5'</u>	7
<u>Rear Yard Setback</u>	<u>15</u>	8

(c) Lot Coverage

<u>Impervious Surface (max)</u>	<u>65%</u>	9
<u>Semi-Impervious Surface</u>	<u>10%</u>	10

(d) Parking, Loading, & Access

<u>Parking Location</u>	<u>Rear, Side Yards</u>	11
<u>Loading & Service Location</u>	<u>Not Permitted</u>	
<u>Vehicle Entrance Bay</u>	<u>Rear, Side, Corner Side Facades</u>	12
	<u>Alley; 1 on Corner</u>	13
<u>Driveway Location</u>	<u>Side or 1 on Front if an interior lot</u>	

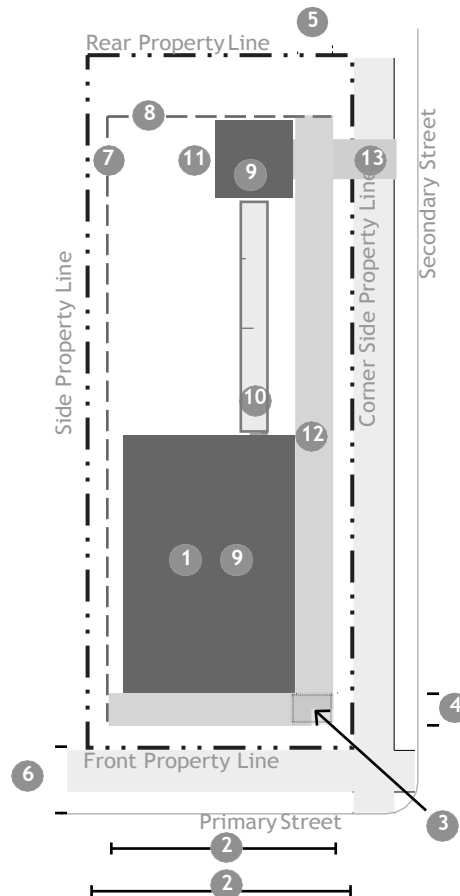


Figure 5.6-7 Building Siting Attached and Detached

Notes:

(2) Height (Figure 5.6.5)

¹ Stoops and porches may be located in the build-to zone.

² Parking entrance bays are not permitted to front primary streets unless located outside of the build-to-zone.

(2) Height (Figure 5.6-8)

Minimum Height	1 story ³	14
Maximum Height	2.5 stories	15
All Floors	9'-14'	16

(3) Uses (Table 4.1-1)

All Floors	Residential/ Lodging, Commercial, Craftsman	17
Occupied Space	Yes	18
Accessory Uses & Structures	See Table 4.5-1	

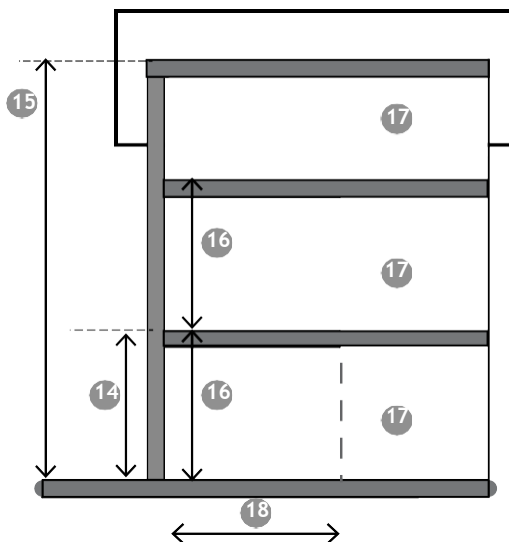


Figure 5.6-8 Height & Use

(4) Street Facing Facades (Figure 5.6-9)**(a) Transparency (minimum)**

Facade Transparency (min)	40% for Stoops and Porches; Storefronts per 5.5.B(2)(a)	19
Blank Wall Limitations	No	20

(b) Entrance

Location	Front Facade, Building Corner	21
Entrance Treatment (see 5.5.B)	Stoop, Porch, Storefront	22
Entrances on Street Facing Facades	1 per building	23
Other Facade Entrances	Not Required	24

(c) Roof Type

Tower	Permitted
Spire	Not Permitted

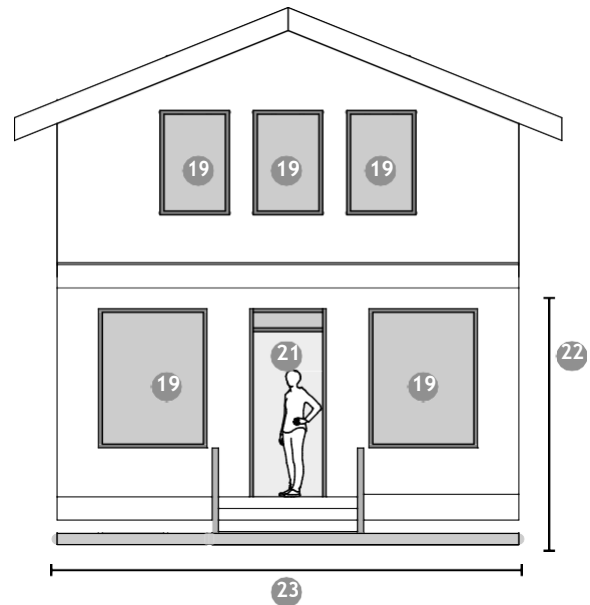


Figure 5.6-9 Street Facing Facades.

³ A one-story addition is permitted on the front facade of a multiple story building.

E. Lot Type: Civic

(1) Building Siting (Figure 5.6-10)**(a) Street Frontage**

Multiple Principal Buildings	Yes	1
Front Lot Line Coverage (min)	Not Required	2
Occupation of Corner	Yes	3
Front Build-to Zone	0'-25'; 0-15' in D2	4
Corner Build-to Zone	0'-15'	5
ROW Encroachment	Yes	6

(b) Lot Area

Side Yard Setback	0'	7
Rear Yard Setback	5', 0' off alley, 10' next to R district	8

(c) Lot Coverage

Impervious Surface (max)	70%,	9
Semi-Impervious Surface	10%	10

(d) Parking, Loading, & Access

Parking Location	Rear, Side Yards	11
Loading & Service Location	Rear, Side Corner Side Facades ¹	12
Vehicle Entrance Bay		
Driveway Location	Alley, 1 on Corner Side ² , 1 on Front if an interior lot except in D2	13

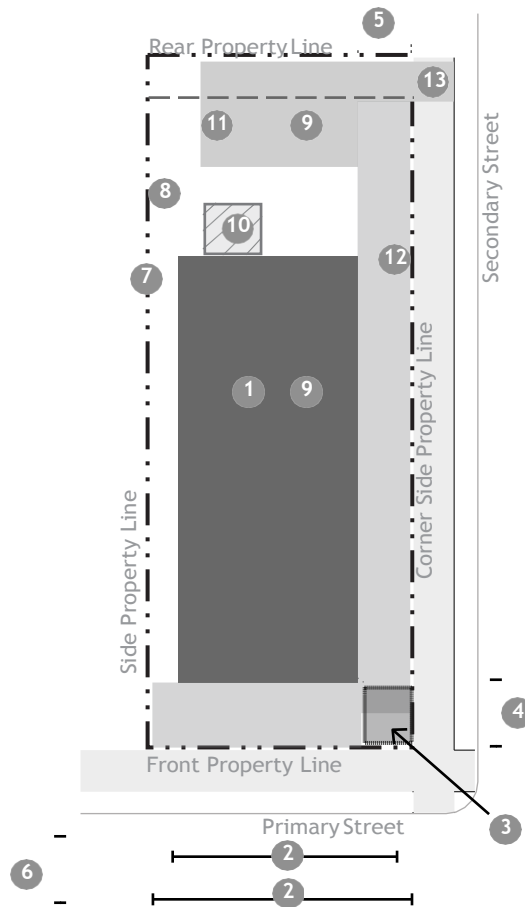


Figure 5.6-10 Building Siting.

Notes:

¹ Entrance bays for parking and loading are not permitted on primary streets² A 2nd driveway is permitted on lots wider than 200'.³ A Tower or a spire is allowed to be one (1) story taller than the overall building height; a tower and a spire can add an additional one and a half (1 1/2) stories to the overall permitted height.

(2) Height (Figure 5.6-11)

Minimum Height	1 stories	14
Maximum Height	3 stories; 5 stories in D2 & D3 ³	15
Ground Floor	15'-30' ⁴	16
Upper Floor	9'-14'	17

(3) Uses (Table 4.1-1)

All Floors	Civic/ Institutional ⁵	18
Occupied Space	Yes ⁵	19
Accessory Uses & Structures	See Table 4.5-1	

(4) Street Facing Facades (Figure 5.6-12)**(a) Transparency (minimum)**

Facade Transparency (min)	15% per street facing facade	20
Blank Wall Limitations	No	21

(b) Entrance

Location	Front Facade, Building Corner	22
Entrance Treatment (see 5.5.B)	Stoop	23
Entrances on Street Facing Facades	1 per 60' of building length	24
Other Facade Entrances	Yes	25

(c) Roof Type

Tower	Permitted	26
Spire	Permitted	27

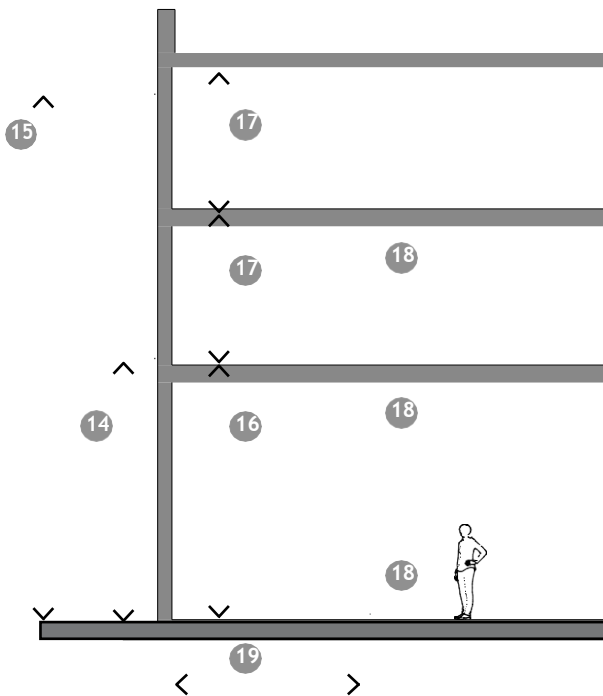


Figure 5.6-11 Height & Use

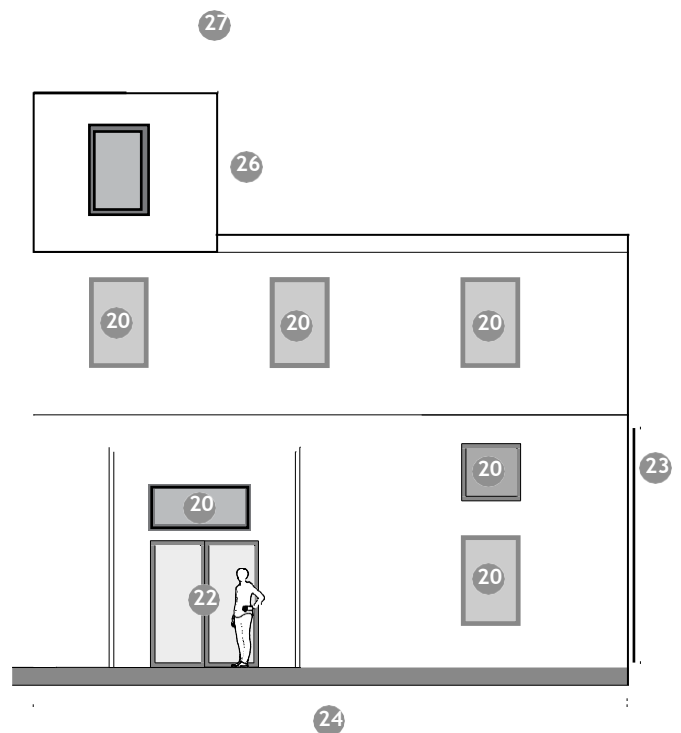


Figure 5.6-12 Street Facing Facades.

Notes:

4 A ground floor height of 20' or greater will be counted as two (2) stories for overall building height.

5 Civic Lot Types existing at the time of this Ordinances' approval may contain any use permitted in the District in which it is located.

F. Lot Type: Warehouse

(1) Building Siting (Figure 5.6-13)

Multiple Principal Buildings	Yes	1
Front Lot Line Coverage (min)	65% ¹	2
Occupation of Corner	Yes	3
Front Build-to Zone	0'-15'	
Corner Build-to Zone	0'-10'	
ROW Encroachment	Yes	

Side Yard Setback	5'
Rear Yard Setback	15', 0' off alley,

(d) Parking, Loading, & Access

Parking Location	Rear, Side Yards	11
Loading & Service Location	Rear, Side, Corner Side Facades ² , & 1 on Front Facade ²	12
Vehicle Entrance Bay		
Driveway Location	Alley, 1 on Corner Side, 1 on Front if an interior lot ³	13

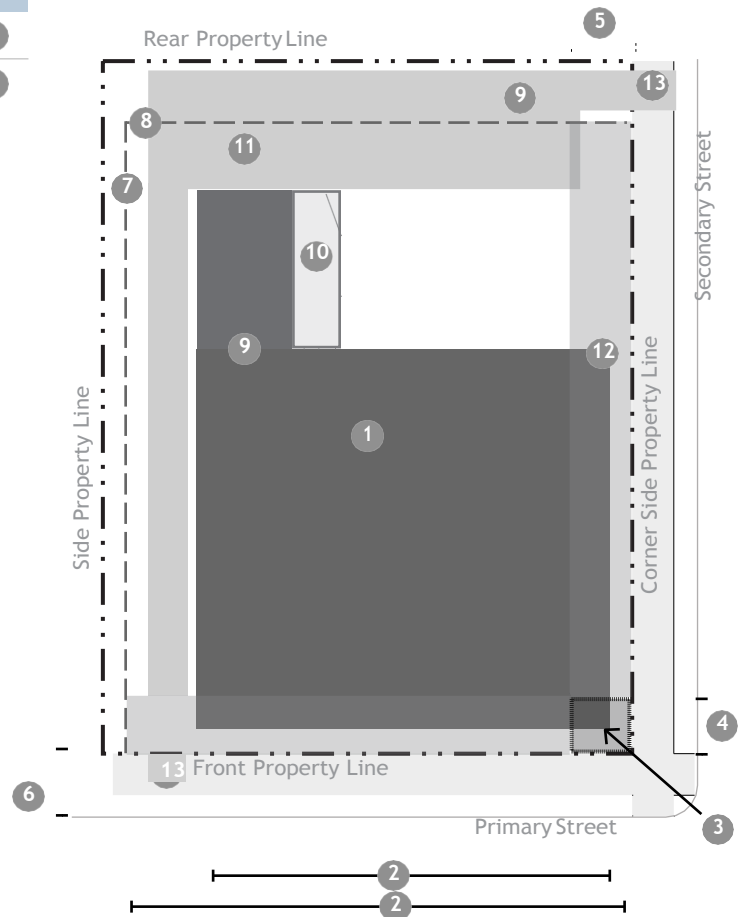


Figure 5.6-13 Building Siting.

Notes:

¹ A courtyard may count toward up to 35% of the minimum coverage.

² Entrance bays for parking and loading not permitted on primary streets unless located at least fifty (50) feet behind the front facade.

³ A 2nd driveway is permitted on lots wider than 200’.

(2) Height (Figure 5.6-14)

Minimum Height	1 stories	
Maximum Height	3 stories ⁴	15
Ground Floor	14'-30' ⁵	16
Upper Floor	9'-15'	17

(3) Uses (Table 4.1-1)

All Floors	Industrial	18
	Not Required, except Craftsman	19
Occupied Space	Industrial retail/showroom uses	
Accessory Uses & Structures	See Table 4.5-1	

(4) Street Facing Facades (Figure 5.6-15)**(a) Transparency (minimum)**

Ground Floor (min)	40% ⁶	19
Upper Floor(s)	10%	20
Blank Wall Limitations	No	21

(b) Entrance

Location	Front Facade, Building Corner	22
Entrance Treatment (see 5.5.B)	Stoop, Storefront	23
Entrances on Street Facing Facades	1 per 75' of building length	24
Other Facade Entrances	Yes	25

(c) Roof Type

Tower	Permitted	26
Spire	Not Permitted	

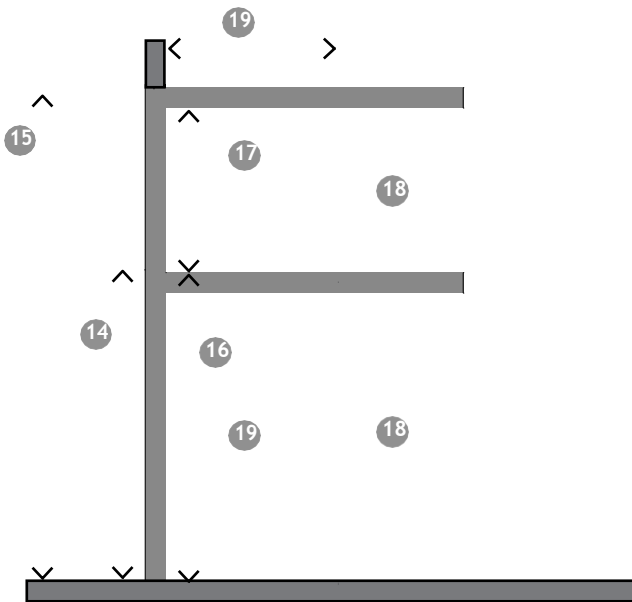


Figure 5.6-14 Height & Use

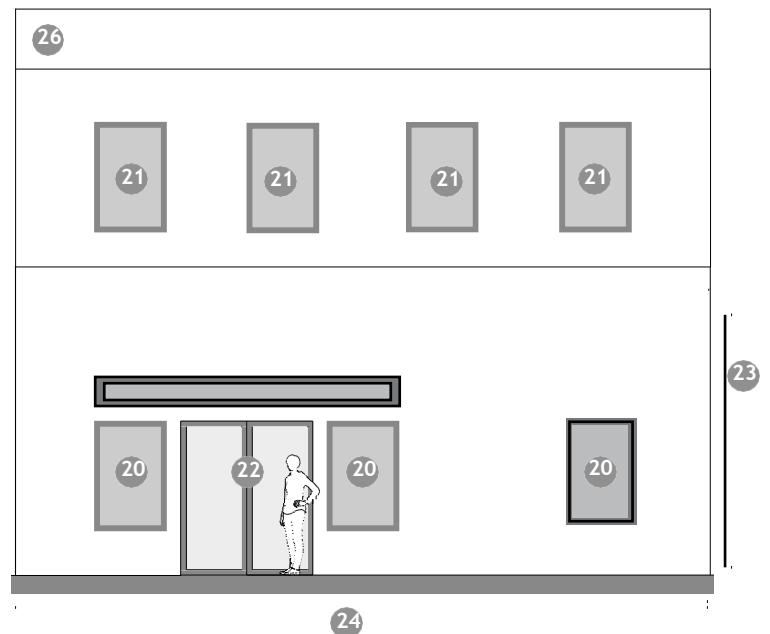


Figure 5.6-15 Street Facing Facades.

Notes:

⁴ Tower is allowed to be one (1) story taller than the overall building height.

⁵ A ground floor height of 20' or greater will be counted as two (2) stories for overall building height.

⁶ Craftsman Industrial uses follow transparency for either the storefront or stoop entrance type. To determine transparency, the measurement can be taken in the location of the retail or showroom element and not along the entire ground floor facade.

G. Lot Type: Yard - Attached

(1) Building Siting (Figure 5.6-16)

(a) Street Frontage

Multiple Principal Buildings	Yes; Up to 5 units may be connected	1
Front Lot Line Coverage (min)	60%	2
Occupation of Corner	Not required	3
Front Build-to Zone	5'-15' ¹	4
Corner Build-to Zone	5'-15' ¹	5
ROW Encroachment	No	6

(b) Lot Area

Side Yard Setback	5' ²	7
Rear Yard Setback	15'	8

(c) Lot Coverage

Impervious Surface (max)	60%	9
Semi-Impervious Surface	15%	10

(d) Parking, Loading, & Access

Parking Location	Rear, Side Yards	11
Loading & Service Location	Not Permitted	
Vehicle Entrance Bay	Rear, Side, Corner Side Facades ³	12
Driveway Location	Alley; 1 on Corner Side or 1 on Front if an interior lot	13

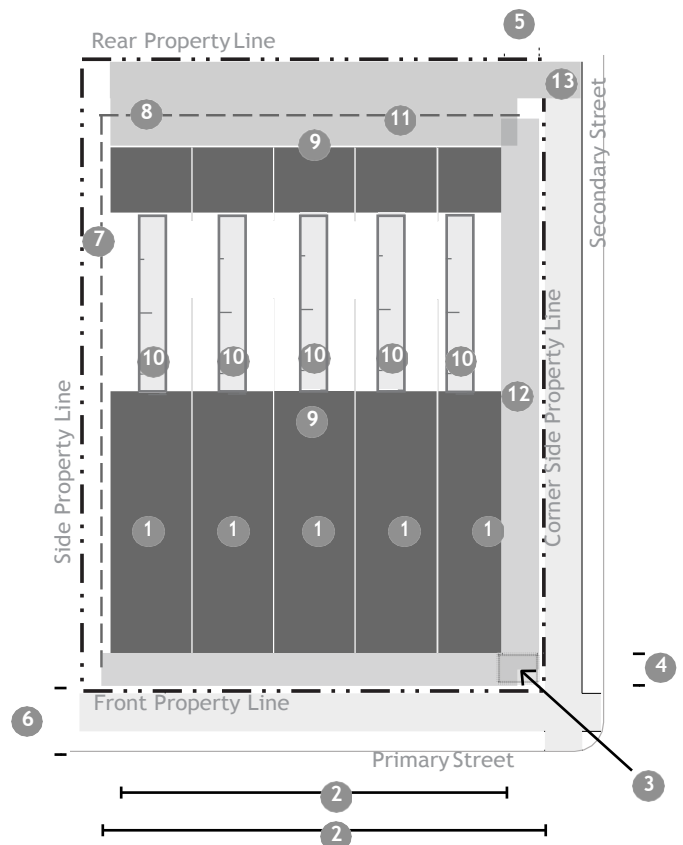


Figure 5.6-16 Building Siting

Notes:

¹ Stoops and unenclosed porches may be located in the build-to zone.

² If buildings are attached, side yard setbacks apply to the set or row of buildings, not each individual building.

³ Vehicle entrance bays are not permitted to front primary streets unless located outside of the build-to-zone.

(2) Height (Figure 5.6-17)

Minimum Height	1 story	14
Maximum Height	3 stories	15
All Floors	9'-14'	16

(3) Uses (Table 4.1-1)

All Floors	Residential/ Lodging	17
Occupied Space	Not Required, except for interior parking	18
Accessory Uses & Structures	See Table 4.5-1	

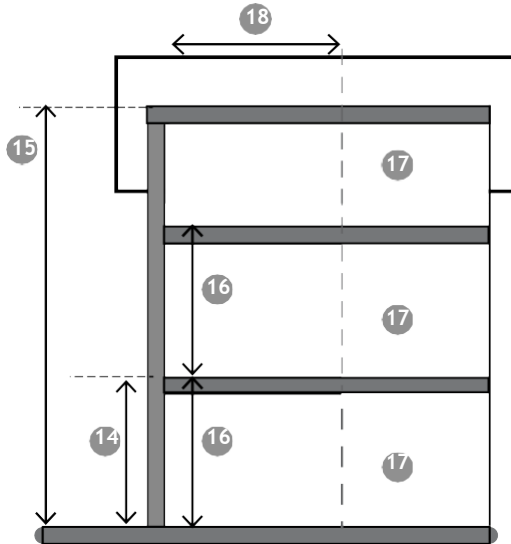


Figure 5.6-17 Height & Use

(4) Street Facing Facades (Figure 5.6-18)**(a) Transparency (minimum)**

Facade Transparency (min)	30%	19
Blank Wall Limitations	Yes	20

(b) Entrance

Location	Front Facade, Building Corner	21
Entrance Treatment (see 5.5.B)	Stoop, Porch	22
Entrances on Street Facing Facades	1 per building ⁴	23
Other Facade Entrances	Not Required	24

(c) Roof Type

Tower	Permitted
Spire	Not Permitted

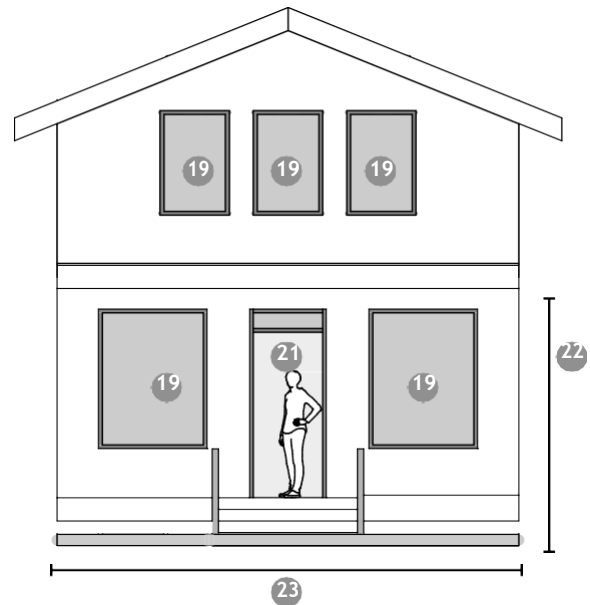


Figure 5.6-18 Street Facing Facades.

Notes:

⁴When multiple detached or attached buildings exist on a lot, entrances on buildings behind the Front and Corner Side Facade shall be located off a shared open space or courtyard or pedestrian pathway.

H. Lot Type: Yard - Detached

(1) Building Siting (Figure 5.6-19)

(a) Street Frontage

Multiple Principal Buildings	Yes	1
Front Lot Line Coverage (min)	40%	2
Occupation of Corner	Not required	3
Front Build-to Zone	10'-25' ¹	4
Corner Build-to Zone	10'-20' ¹	5
ROW Encroachment	No	6

(b) Lot Area

Side Yard Setback	5'	7
Rear Yard Setback	10'	8

(c) Lot Coverage

Impervious Surface (max)	50% ²	9
Semi-Impervious Surface	15%	10

(d) Parking, Loading, & Access

Parking Location	Rear, Side Yards	11
Loading & Service Location	Not Permitted	
Vehicle Entrance Bay	Rear, Side, Corner Side Facades ³	12
Driveway Location	Alley; 1 on Corner Side or 1 on Front if an interior lot	13

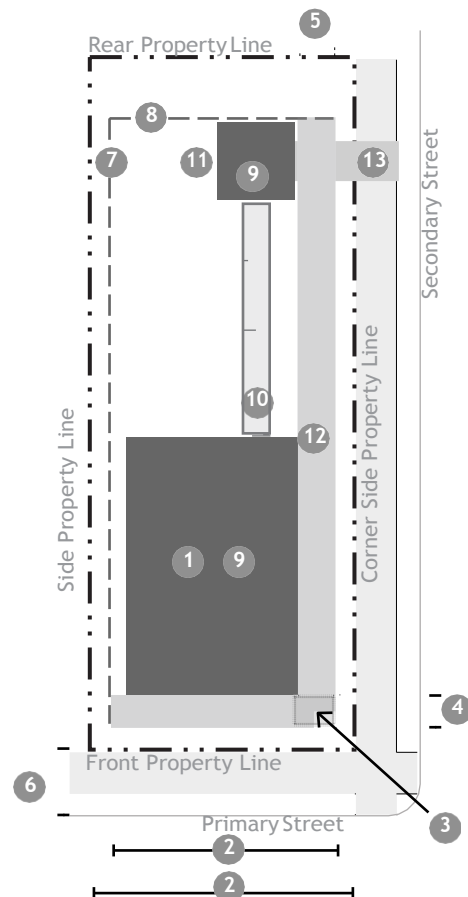


Figure 5.6-19 Building Siting Attached and Detached

Notes:

¹ Stoops and unenclosed porches may be located in the build-to zone.

² 60% impervious surface permitted when two or more principal buildings are on a lot.

³ Vehicle entrance bays are not permitted to front primary streets unless located outside of the build-to-zone.

(2) Height (Figure 5.6-20)

Minimum Height	1 story	14
Maximum Height	2.5 stories	15
All Floors	9'-14'	16

(3) Uses (Table 4.1-1)

All Floors	Residential/ Lodging	17
Occupied Space	Not Required, except for interior parking	18
Accessory Uses & Structures	See Table 4.5-1	

(4) Street Facing Facades (Figure 5.6-21)

Facade Transparency (min)	30%	19
Blank Wall Limitations	Yes	20

(b) Entrance

Location	Front Facade, Building Corner	21
Entrance Treatment (see 5.5.B)	Stoop, Porch	22
Entrances on Street Facing Facades	1 per building ⁴	23
Other Facade Entrances	Not Required	24

(c) Roof Type

Tower	Not Permitted
Spire	Not Permitted

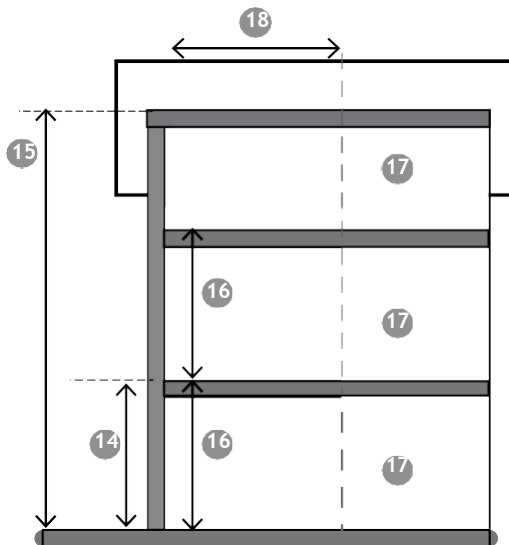


Figure 5.6-20 Height & Use

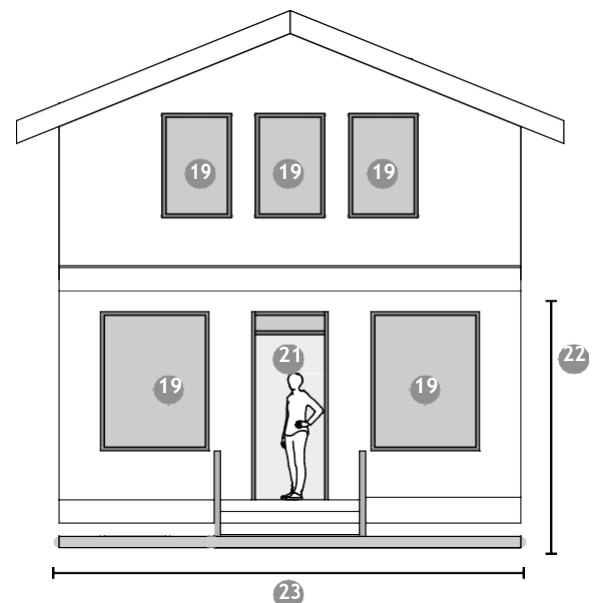


Figure 5.6-21 Street Facing Facades.

Notes:

⁴When multiple detached or attached buildings exist on a lot, entrances on buildings behind the Front and Corner Side Facade shall be located off a shared open space or courtyard or pedestrian pathway.

I. Lot Type: OutdoorMarket

(1) Building Siting (refer to Figure 5.6-22)

(a) Street Frontage

Multiple Principal Buildings	Yes	1
Front Lot Line Coverage	Not Required	
Occupation of Corner	Not Required	
Front Build-to Zone	Not Required ¹	
Corner Build-to Zone		2
ROW Encroachment	Yes	3

(b) Lot Area

Side Yard Setback	10'	4
Rear Yard Setback	15'	5

(c) Lot Coverage

Impervious Surface (max)	65% ²	6
Semi-Impervious Surface	15%	7

(d) Parking, Loading, & Access

Parking Location	Rear Yard	8
Loading & Service Location	Side or Rear Yard	9
Interior Parking Entrance Bay	Not Permitted	
Driveway Location	Alley; 1 on Corner Side' Front if not an interior lot	10

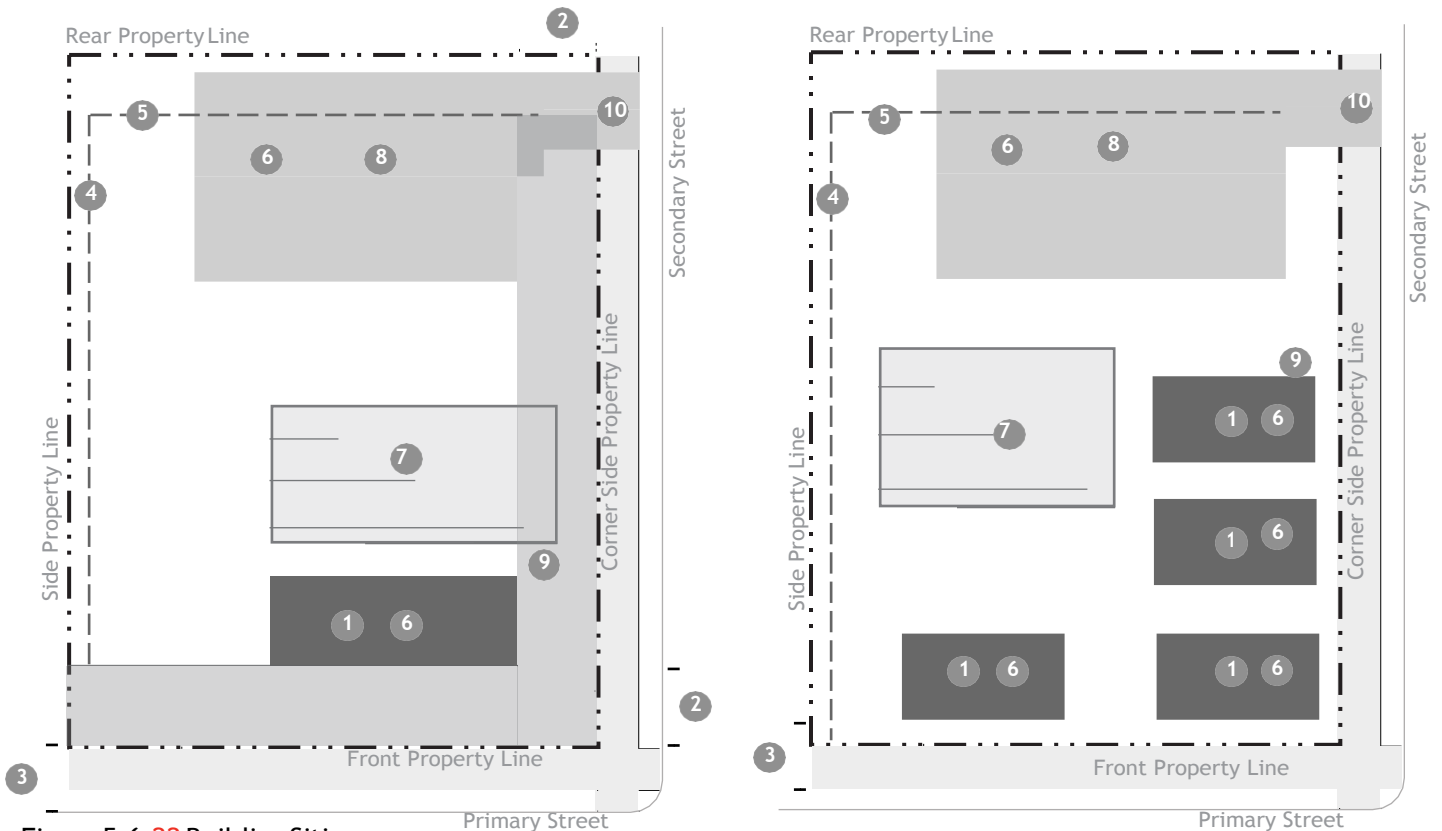


Figure 5.6-22 Building Siting.

(2) Height (Figure 5.6-23)

Minimum Height	1 Story	11
Maximum Height	1 Story	12
Ground Floor	Not Required	
Upper Floor(s)	Not Required	

(3) Uses (Table 4.1-1)

All Floors	Commercial, Park/Open Space	13
Occupied Space	Not Required	14
Accessory Uses & Structures	See Table 4.5-1	

(4) Street Facing Facades (Figure 5.6-23)**(a) Transparency (minimum)**

Ground Floor	Not Required ³	15
Upper Floor(s)	Not Required	
Blank Wall Limitations	Not Required	

(b) Entrance/Counter

Location	Not Required ³	16
Entrance Treatment (see 5.5.B)	Not Required ³	
Entrances on Street Facing Facades	Not Required ³	17
Other Facade Entrances	Not Required	

(c) Roof Type

Tower	Not Permitted	
Spire	Not Permitted	

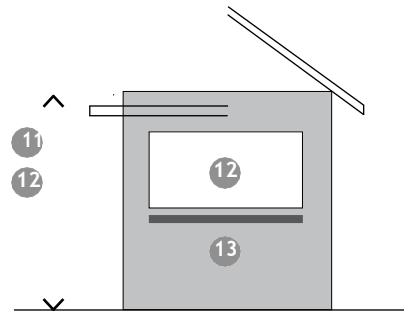


Figure 5.6-23 Street Facing Facades.

Notes:

1 Except: 0-10' BTZ is required for Outdoor Sales & Storage and Vehicle Service.

² A permanent building shall account for no more than twenty-five (25) percent of the impervious coverage allowance. This does not apply to such structures as kiosk, shipping container, greenhouse, or hoop house, which are considered not permanent for the purposes of impervious coverage.

³ When a building is located in the 0-10' Front or Corner Side Build-to Zones, it must have an entrance, windows, or service window/counter on the facade facing the adjacent street. Outdoor Sales & Storage & Vehicle Service uses must be in buildings with a stoop or storefront entrance treatment.

Article 6. Zoning Standards: Overlay District Standards

50-6.1 Overlay District Requirements.

A. Applicability. Overlay Districts are applied to parcels in addition to the base or underlying Zoning District as mapped in the Zoning Map. Unless otherwise provided, an overlay zoning district shall include and be applicable to whole parcels and any parcels subsequently joined or combined with a parcel subject to any overlay zone regulations.

B. Intent. Overlay Districts provide an additional set of requirements for the development and use of parcels with the Overlay

C. Conflict. If a conflict arises between the Overlay District regulations and those of the Base Zoning District, the Overlay District regulations control.

50-6.2 Natural Features Protection Overlay Standards

A. Intent. The NFP Overlay District is intended to protect Natural Features in the City of Kalamazoo, specifically Wetlands, Water Resources, Trees, Woodlands, Floodplains, Slopes, Natural Heritage Areas, and Habitat Corridors.

B. Applicability. The NFP Overlay District standards apply as follows.

- (1) The Natural Features Standards are divided by defined Natural Feature. When a parcel is developed, redeveloped, or the Natural Feature is impacted due to any site alterations, the standards for all applicable Natural Features are applied.
- (2) The Site Development Standards shall be applied to all parcels in the NFP Overlay District.
- (3) Overlay standards shall not eliminate the need to obtain a permit from the Michigan Department of Environmental Quality (MDEQ) or any other State, Federal, or regional permitting agency, if required.
- (4) Structures existing on the effective date of the ordinance creating the NFP Overlay District that do not meet the setbacks required in this Article are permitted and may be altered or expanded provided that they do not increase the amount of their non-conformance with the standards in this Article.

C. Natural Feature Standards: Wetlands. A Wetland is any area, regardless of parcel boundaries, that is characterized by the presence of water at a frequency and duration sufficient to support wetland vegetation or aquatic life, or otherwise defined in Part 303 of the NREPA.

(1) Wetland Determination. If any area on a parcel appears to be supporting wetland vegetation or is identified on the National Wetlands Inventory (NWI) map, one of the following is required.

- (a) The area in question shall be treated as a Wetland and the standards of this Section apply.

- (b) A Wetland Determination shall be completed by a qualified professional, such as a Professional Wetland Scientist to confirm whether the area in question is a Wetland.
- (2) Altering a Wetland. Alteration to a Wetland is prohibited except as allowed by the NREPA. A copy of any required permits obtained from the State to alter a Wetland must be submitted to the City.
- (3) Wetland Setbacks. Setback distance is measured from the outer edge of wetland vegetation. Refer to Figure 6.2-1 Measuring Wetland and Water Resource Setbacks and Figure 6.2-2 Setbacks Across Parcel Boundaries.
- (a) The size of the Wetland setback is based on the size of the parent parcel following the distances in Table 6.2-1 Wetland and Water Resources Setbacks.
- (b) Prohibited Activities. The following activities are prohibited in the setback.
- [1] Development activities, such as structures, impervious surfaces, parking, driveways, etc.
 - [2] New Stormwater BMPs.
- (c) Permitted Activities. The follow activities are permitted in the setback.
- [1] Water and sewer lines, utility lines, bridge abutments or approaches, or semi-pervious, non-motorized trailways, may be developed and maintained within a Wetland setback with approval from all applicable local, State, and/or Federal agencies.
 - [2] Restoration activities, such as planting with native vegetation with approval from all applicable local, State, and/or Federal agencies.
 - [3] Mitigation activities required under the NREPA.
- (4) Protection During Construction. Appropriate erosion control measures must be used according to Chapter 30 of the Kalamazoo CityCode.

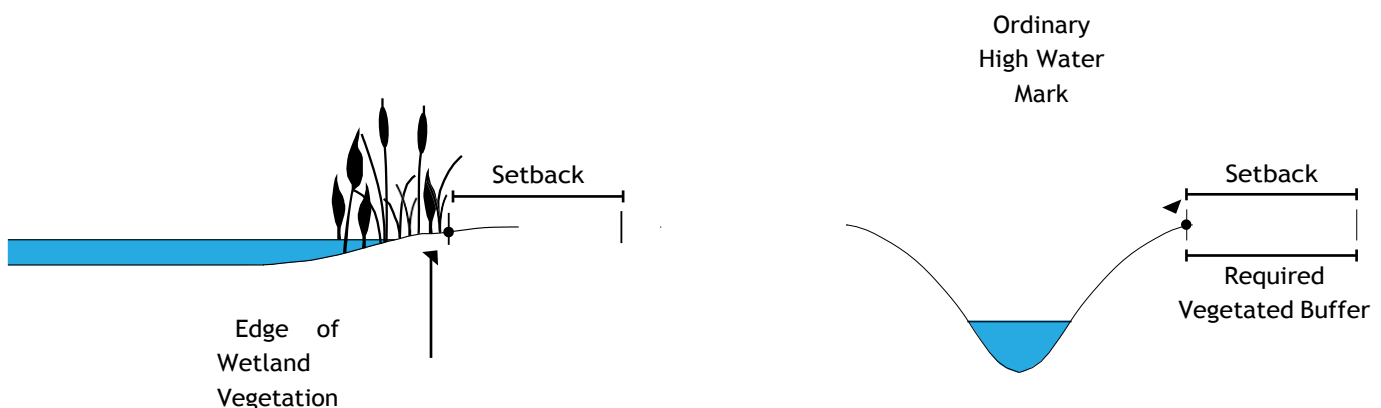


Figure 6.2-1 Measuring Wetland and Water Resource Setbacks

D. Natural Feature Standards: Water Resources. A Water Resource is any lake, pond, or impoundment; a river, stream, or creek which may or may not be serving as a drain; or any other body of water that has defined banks, a bed, and visible evidence of a continued flow or continued occurrence of water, or as otherwise defined in Part 301 of the NREPA.

(1) Altering a Water Resource. Alteration to a Water Resource is prohibited except as allowed by the NREPA. A copy of any required permits obtained from the State to alter a Water Resource must be submitted to the City.

(2) Water Resource Setbacks. Setback distance is measured from the Ordinary High Water Mark of all Water Resources, including when the Water Resource is located off the parcel but within the setback distance. Refer to Figure 6.2-1 Measuring Wetland and Water Resource Setbacks and Figure 6.2-2 Setbacks Across Parcel Boundaries.

(a) The size of the Water Resource setback is based on the size of the parent parcel following the distances in Table 6.2-1 Wetland and Water Resources Setbacks.

(b) Prohibited Activities. The following activities are prohibited in the setback.

- [1] Development activities, such as structures, impervious surfaces, parking, driveways, etc.
- [2] New Stormwater BMPs.

(c) Permitted Activities. The following activities are permitted in the setback.

- [1] Up to twenty (20) percent of the setback area may be developed with semi-pervious materials, such as paths or mowed Turf Grass.

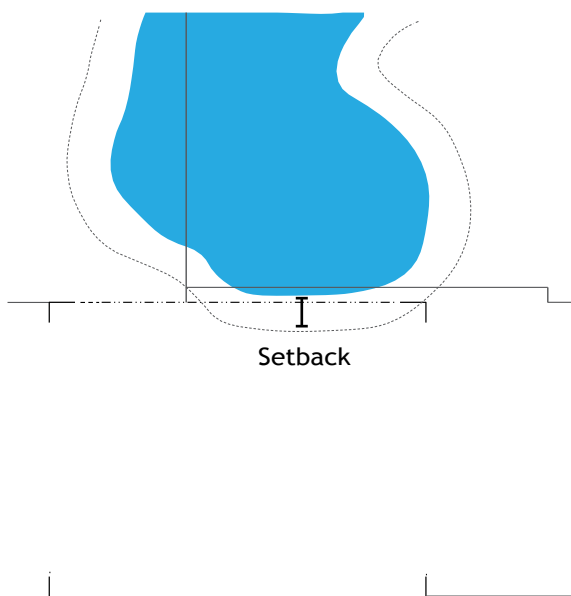


Table 6.2-1 Wetland and Water Resources Setbacks

Size of Parent Parcel	Minimum Required Setback
Greater than 1 acre	25 feet
1/2 acre - 1 acre	20 feet
Less than 1/2 acre	15 feet

Figure 6.2-2 Setbacks Across Parcel Boundaries

[2] Water and sewer lines, utility lines, bridge abutments or approaches, or semi-pervious, non-motorized trailways, may be developed and maintained within a Water Resource setback with approval from all applicable local, State, and/or Federal agencies.

[3] Disturbance to the bank or shoreline, as expressly allowed under State law, is permitted when a restoration plan is prepared by a qualified professional, such as a Michigan Certified Natural Shoreline Professional or Professional Engineer.

[4] Operation and maintenance of existing flood control facilities or Stormwater BMPs.

(3) Required Planting. The setback must contain Natural Vegetation, including a combination of trees, shrubs, grasses, and Forbs to form a Vegetated Buffer in a Riparian area. The Vegetated Buffer must meet one (1) of the following.

(a) Where the bank or shoreline contains Natural Vegetation.

[1] Existing vegetation must remain undisturbed during and after construction activities.

[2] Supplemental planting or seeding is allowed when Native Species are used. Mowed turf grass does not qualify as Natural Vegetation.

[3] Removal of invasive species and/or dead or diseased woody species are allowed, if they are replaced according to the parameters in 50-6.2D(3)(b)[3].

(b) Where the bank or shoreline is not covered in Natural Vegetation.

[1] A Vegetated Buffer must be planted and maintained in the setback.

[2] Soil preparation for planting is allowed with proper soil erosion controls.

[3] A diverse mix of appropriate native species is required, as follows.

[a] At least twelve (12) different species must be planted.

[b] At least two (2) species from each of the following plant types must be planted: shrubs, Graminoids, and Forbs. Refer to Table 6.2-2 Example Plants for Vegetated Buffers.

[c] Trees may be planted if appropriate to the site. Refer to Table 6.2-5 Replacement Tree List.

[4] Any combination of native seed mix, plant plugs, bare root trees or shrubs, and/or container plants, trees, or shrubs are permitted.

(c) Exceptions. The Vegetated Buffer is not required when a structure or parcel is being redeveloped unless the project increases the site's impervious coverage on the parcel by more than ten (10) percent or if the project is being conducted within twenty (20) feet of the Water Resource setback.

(4) Protection During Construction. Appropriate erosion control measures must be used according to Chapter 30 of the Kalamazoo City Code.

(5) Operation and Maintenance Agreement. The Vegetated Buffer must be included in the Stormwater Operation and Maintenance Agreement, if an Agreement is required for the project.

Table 6.2-2 Example Plants for Vegetated Buffers

Common Name	Scientific Name	Type
Silky Dogwood	<i>Cornus amomum</i>	Shrub
Red Osier, Red Twig Dogwood	<i>Cornus stolonifera, sericea</i>	Shrub
Common Elderberry	<i>Sambucus canadensis</i>	Shrub
Atlantic Ninebark	<i>Physocarpus opulifolius</i>	Shrub
Common Winterberry	<i>Ilex verticillata</i>	Shrub
Northern Spicebush	<i>Lindera benzoin</i>	Shrub
Highbush Blueberry	<i>Vaccinium corymbosum</i>	Shrub
Lake Sedge	<i>Carex lacustris</i>	Graminoid
Tussock Sedge	<i>Carex stricta</i>	Graminoid
Bottlebrush Sedge	<i>Carex hystericina</i>	Graminoid
Bebb's Sedge	<i>Carex bebbii</i>	Graminoid
Common Fox Sedge	<i>Carex vulpinoidea</i>	Graminoid
Prairie Cordgrass	<i>Spartina pectinata</i>	Graminoid
Dark-Green Bulrush	<i>Scirpus atrovirens</i>	Graminoid
Cottongrass Bulrush	<i>Scirpus cyperinus</i>	Graminoid
Bluejoint Grass	<i>Calamagrostis canadensis</i>	Graminoid
Common Rush	<i>Juncus effusus</i>	Graminoid
Spotted Joe-Pye-Weed	<i>Eutrochium maculatum</i>	Forb
White Turtlehead	<i>Chelone glabra</i>	Forb
New England American Aster	<i>Symphyotrichum novae-angliae</i>	Forb
Purple-Stem American Aster	<i>Symphyotrichum puniceum</i>	Forb
Flat-Topped White Aster	<i>Doellingeria umbellata</i>	Forb
Common Boneset	<i>Eupatorium perfoliatum</i>	Forb
Swamp Milkweed	<i>Asclepias incarnata</i>	Forb
Cutleaf Coneflower	<i>Rudbeckia laciniata</i>	Forb
Pin Oak	<i>Quercus palustris</i>	Tree
Swamp White Oak	<i>Quercus bicolor</i>	Tree
Black Tupelo, Black Gum	<i>Nyssa sylvatica</i>	Tree
Tamarack, American Larch	<i>Larix laricina</i>	Tree

E. Natural Feature Standards: Floodplains. Reserved.

F. Natural Feature Standards: Trees. Trees that provide special value to the community or ecosystem are protected through the NFP Overlay District.

(1) Tree Criteria. When Trees meet any of the following criteria and are not counted as part of a Woodland, the standards of this Overlay apply.

(a) Trees on the Special Status Tree List in Table 6.2-4.

(b) Any Tree larger than twenty-four (24) inches DBH.

(2) Tree Protection. Trees and their CRZ shall be protected during site development and construction.

(a) Disturbance. No disturbance is allowed within a CRZ, except as follows.

[1] Fences are permitted when they meet all other applicable zoning standards.

[2] Management of other Trees or Woodlands with a plan by a qualified professional, such as an International Society of Arboriculture (ISA) Certified Arborist.

(b) Protection During Construction. The CRZ of Trees shall be protected following the standards of 50-6.2K(8) Protection During Construction.

(3) Tree Removal. Trees may be removed in the following circumstances.

(a) Tree is located such that it impedes access to the site or prevents utility connections.

(b) A qualified professional has determined the tree is diseased, dying, or has sustained substantial damage prior to site work.

(c) Location of the Tree presents a threat to the structural integrity of an existing structure or infrastructure.

(4) Replacement. Any Tree meeting the criteria which is removed from the parcel must be replaced as follows.

(a) Except as otherwise permitted by this subsection, the replacement ratio is 1:1, where for every inch of Tree removed in total from the parcel, an equivalent number of inches must be replaced by newly planted Trees as follows.

[1] Inches of Tree removed shall be measured at DBH.

[2] Replacement Trees shall be selected from the Replacement Tree List in Table 6.2-5. Site context should be taken into consideration when selecting a replacement Tree.

[3] Replacement Trees must be two (2) inch caliper or greater, unless otherwise stated in Table 6.2-5.

(b) A replacement ratio of 3:1 is applicable in the following circumstances (where for every three (3) inches of Tree DBH removed, one (1) inch of new replacement Tree DBH must be planted).

[1] Replacement Tree is four (4) inch caliper or greater.

[2] Replacement Tree has a special value in terms of long-term survival rate, habitat quality, or climate resiliency, as indicated by the ratios in Table 6.2-5 Replacement Tree List.

(c) Location. Replacement Trees shall be located as follows.

- [1] Replacement Trees shall be located on the site from which they are removed.
- [2] The NFP Review Board can approve alternative locations, if on-site replacement is not possible provided that the alternative is within the City of Kalamazoo.
- [3] Replacement Trees cannot be located within a parking lot.

G. Natural Feature Standards: Woodlands. Woodlands provide important ecosystem services and habitat corridors and are protected by the NFP Overlay District.

(1) Woodland Criteria. When trees located on a parcel meet the following criteria, the area shall be considered a Woodland and the standards of this Overlay apply.

- (a) Minimum Area. Trees cover a minimum area of 21,780 square feet or a half (1/2) acre, regardless of parcel boundaries. Refer to Figure 6.2-3 Defining and Delineating a Woodland.
- (b) Tree Count. The area contains the equivalent of at least forty (40) trees per acre of at least two (2) inches DBH and reach or at maturity will reach at least fifty (50) feet in height.
- (c) Natural Ground Cover. No more than twenty-five (25) percent of the ground area is mowed.

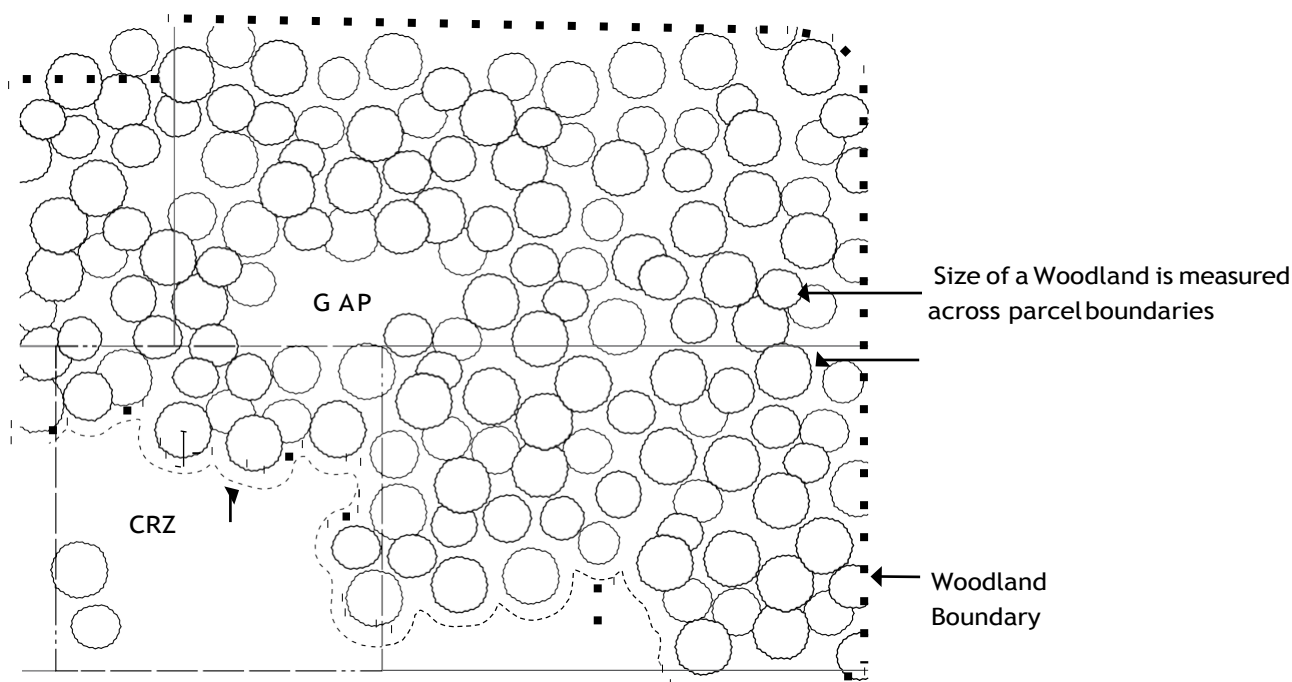


Figure 6.2-3 Defining and Delineating a Woodland

(d) Understory. The area contains a layering of shorter understory trees and/or shrubs and Forbs.

(2) Woodland Delineation and Assessment. Refer to Figure 6.2-3 Defining and Delineating a Woodland. Existing Woodland coverage on the parcel shall be delineated and assessed as follows.

(a) Gaps. Areas without trees or that have sparse trees are common within a Woodland and should be included in area and density measurements except when the gap is larger than 8,000 square feet.

(b) Woodland Assessment Tools. A Woodland must be assessed using a Basal Area, Woodland Ecosystem Assessment, or tree survey conducted by a qualified professional, such as an ISA Certified Arborist.

(3) Woodland Protection. For areas meeting the definition of a Woodland, a portion of the Woodland on the parcel must be preserved as follows.

(a) Woodland Preservation Minimums. Woodlands shall be preserved following the coverage requirements in Table 6.2-3 Woodland Preservation.

(b) Criteria for Woodland Preservation. In determining which areas of a Woodland are to be preserved, the following priorities shall be applied.

[1] Woodlands contiguous to Woodlands on adjacent parcels or areas serving as Habitat Corridors.

[2] Woodlands on or adjacent to another Natural Feature(s), floodplain, or a publicly accessible open space.

[3] Woodlands in the best condition as determined by a qualified professional, such as an ISA Certified Arborist, and based upon the Basal Area score or another Woodland Ecosystem Assessment.

[4] Woodlands with older growth, higher DBH trees, or trees noted in 6.2-4 Special Status Tree List and 6.2-5 Replacement Trees List.

(4) Prohibited Activities.

(a) Disturbance. No disturbance is allowed within a Woodland preserved area, the boundary of which is defined by the CRZ of trees along its edges, except for the following activities.

[1] Fences are permitted when they meet all other applicable zoning standards.

[2] Management of the Woodland vegetation with a plan by a qualified professional, such as an ISA Certified Arborist.

Table 6.2-3 Woodland Preservation

Woodland Coverage of Parent Parcel	Minimum Required Woodland Coverage to be Preserved
75% to 100%	25%
50% up to 75%	50%
25% up to 50%	75%
Less than 25%	90%

Table 6.2-4 Special Status TreeList

Common Name	Scientific Name	DBH (inches)*
Ash	<i>Fraxinus spp. (not culivars)</i>	18"
Basswood, Linden	<i>Tilia americana</i>	18"
Beech	<i>Fagus spp.</i>	18"
Buckeye (Horsechestnut)	<i>Aesculus spp.</i>	18"
Cherry, Black	<i>Prunus serotina</i>	18"
Elm, American	<i>Ulmus americana</i>	18"
Elm, Slippery	<i>Ulmus rubra</i>	18"
Elm, Winged	<i>Ulmus alata</i>	18"
Fir	<i>Abies spp.</i>	18"
Fir, Douglas	<i>Pseudotsuga menziesii</i>	18"
Kentucky Coffeetree	<i>Gymnocladus dioicus</i>	18"
Maple, Red	<i>Acer rubrum</i>	18"
Maple, Silver	<i>Acer saccharinum</i>	18"
Maple, Sugar	<i>Acer saccharum</i>	18"
Pine, Red	<i>Pinus resinosa</i>	18"
Pine, White	<i>Pinus strobus</i>	18"
Spruce	<i>Picea spp.</i>	18"
Sycamore, American	<i>Plantanus occidentalis</i>	18"
Tuliptree	<i>Liriodendron tuliperifera</i>	18"
Walnut, Black	<i>Juglans nigra</i>	18"
Honey Locust	<i>Gleditsia triacanthos</i>	16"
Oak, Black	<i>Quercus velutina</i>	16"
Oak, Bur	<i>Quercus macrocarpa</i>	16"
Oak, Northern Red	<i>Quercus rubra</i>	16"
Oak, White	<i>Quercus alba</i>	16"
Arbor-vitae, Eastern White Cedar	<i>Thuja occidentalis</i>	12"
Birch	<i>Betula spp.</i>	12"
Birch, River	<i>Betula nigra</i>	12"
Cherry, Flowering	<i>Prunus spp.</i>	12"
Crabapple	<i>Malus spp.</i>	12"
Dawn Redwood	<i>Metasequoia glyptostroboides</i>	12"
Eastern Hemlock	<i>Tsuga canadensis</i>	12"
Ginkgo	<i>Ginkgo biloba</i>	12"

Common Name	Scientific Name	DBH (inches)*
Hickory, Bitternut	<i>Carya cordiformis</i>	12"
Hickory, Pignut	<i>Carya glabra</i>	12"
Hickory, Shagbark	<i>Carya ovata</i>	12"
Hickory, Shellbark	<i>Carya laciniata</i>	12"
Oak, Chinkapin	<i>Quercus muehlenbergii</i>	12"
Oak, Northern Pin	<i>Quercus ellipsoidalis</i>	12"
Oak, Swamp White	<i>Quercus bicolor</i>	12"
Pear	<i>Pyrus spp.</i>	12"
Persimmon	<i>Diospyros virginiana</i>	12"
Poplar	<i>Populus spp.</i>	12"
Sassafras	<i>Sassafras albidum</i>	12"
Sweet Gum	<i>Liquidambar styraciflua</i>	12"
Willow, Black	<i>Salix nigra</i>	12"
Yellowwood	<i>Cladrastis lutea</i>	12"
American Chestnut	<i>Castanea dentata</i>	8"
Black Tupelo, Black Gum	<i>Nyssa sylvatica</i>	8"
Butternut	<i>Juglans cinerea</i>	8"
Cedar, Eastern Red	<i>Juniperus virginiana</i>	8"
Hackberry	<i>Celtis occidentalis</i>	8"
Hawthorn	<i>Crataegus crus-galli and other spp.</i>	8"
Larch/Tamarack	<i>Larix laricina</i>	8"
Maple, Mountain/Striped	<i>Acer spicatum/pennsylvanicum</i>	8"
American Hophornbeam	<i>Ostrya virginiana</i>	4"
American Hornbeam, Blue Beech	<i>Carpinus caroliniana</i>	4"
Dogwood, Flowering	<i>Cornus florida (native only)</i>	4"
Dwarf Hackberry	<i>Celtis tenuifolia</i>	4"
Eastern Redbud	<i>Cercis canadensis</i>	4"
Pawpaw	<i>Asimina triloba</i>	4"
Serviceberry	<i>Amelanchier spp.</i>	4"

*Tree species with DBH greater than or equal to the values in this column of the table require replacement with any species on the Replacement Tree List if removed for construction/development.

Gray Highlight = Tree species must be replaced with a different species from the Replacement Tree List.

Table 6.2-5 Replacement Tree List

Common Name	Scientific Name	Replacement Ratio	Condition Code
Basswood, Linden*	<i>Tilia americana</i>	1:1	Cs
American Chestnut	<i>Castanea dentata</i>	3:1, (hybrid)	Cr, F, Cul
American Hophornbeam*	<i>Ostrya virginiana</i>	1:1	P, Cr
American Hornbeam, Blue Beech*	<i>Carpinus caroliniana</i>	3:1	Cr, P
Arborvitae, Eastern White Cedar	<i>Thuja occidentalis</i>	1:1	Cv, Cs
Birch	<i>Betula spp.</i>	1:1	Cv
Birch, River	<i>Betula nigra</i>	1:1	P, Ri
Black Tupelo, Black Gum*	<i>Nyssa sylvatica</i>	3:1	Cr, Ri
Cedar, Eastern Red*	<i>Juniperus virginiana</i>	3:1	Cr, P
Cherry, Wild Black*	<i>Prunus serotina</i>	1:1	
Cherry, Flowering	<i>Prunus spp.</i>	1:1	
Crabapple	<i>Malus spp.</i>	1:1	P
Dawn Redwood	<i>Metasequoia glyptostroboides</i>	1:1	
Dogwood, Flowering*	<i>Cornus florida (native only)</i>	2:1	Cr
Eastern Redbud	<i>Cercis canadensis</i>	3:1	Cr, P
Elm, American	<i>Ulmus americana</i>	3:1	Cul, Cs
Elm, Slippery	<i>Ulmus rubra</i>	1:1	
Hackberry*	<i>Celtis occidentalis</i>	3:1	Cr
Hawthorn*	<i>Crataegus crus-galli and other spp.</i>	3:1	Cr, P
Hickory, Bitternut*	<i>Carya cordiformis</i>	3:1	Cr, F, Ri, Cs
Hickory, Pignut*	<i>Carya glabra</i>	3:1	Cr, F, Cs
Hickory, Shagbark*	<i>Carya ovata</i>	3:1	Cr, F, Cs
Hickory, Shellbark*	<i>Carya laciniosa</i>	3:1	F, Ri, Sc
Honey Locust	<i>Gleditsia triacanthos</i>	3:1	Cr
Kentucky Coffeetree*	<i>Gymnocladus dioicus</i>	3:1	Cr
Larch/Tamarack*	<i>Larix laricina</i>	3:1	Ri, Cs
Maple, Red	<i>Acer rubrum</i>	1:1	Cv, Cs
Maple, Silver*	<i>Acer saccharinum</i>	3:1	Cr, Ri, Cs
Maple, Sugar	<i>Acer saccharum</i>	1:1	Cv, Cul
Oak, Black*	<i>Quercus velutina</i>	3:1	Cr, Cs
Oak, Bur*	<i>Quercus macrocarpa</i>	3:1	Cr, Cul, Cs
Oak, Chinquapin*	<i>Quercus muehlenbergii</i>	3:1	Cr, Cs
Oak, Pin*	<i>Quercus palustris</i>	3:1	Cr, Ri, Cs

Common Name	Scientific Name	Replacement Ratio	Condition Code
Oak, Northern Red*	<i>Quercus rubra</i>	3:1	Cr, Sc
Oak, Swamp White*	<i>Quercus bicolor</i>	3:1	Cr, Ri, Cs
Oak, White*	<i>Quercus alba</i>	3:1	Cr, Cul, Cs
Pawpaw	<i>Asimina triloba</i>	3:1	Cr, F
Persimmon	<i>Diospyros virginiana</i>	3:1	Cr, F
Pine, Red	<i>Pinus resinosa</i>	1:1	
Pine, White	<i>Pinus strobus</i>	1:1	
Populus	<i>Populus spp. (except deltoides, alba)</i>	1:1	Cv
Sassafras	<i>Sassafras albidum</i>	1:1	
Serviceberry*	<i>Amelanchier spp.</i>	1:1	P, F
Spruce	<i>Picea spp.</i>	1:1	
Sycamore, American*	<i>Plantanus occidentalis</i>	3:1	Cr
Tuliptree*	<i>Liriodendron tuliperifera</i>	1:1	Cr, Cs
Walnut, Black	<i>Juglans nigra</i>	3:1	F, Cs
Willow, Black	<i>Salix nigra</i>	1:1	Ri
Ash	<i>Fraxinus spp.</i>	PROHIBITED	
Beech	<i>Fagus spp.</i>	PROHIBITED	
Fir	<i>Abies spp.</i>	PROHIBITED	
Fir, Douglas	<i>Pseudotsuga menziesii</i>	PROHIBITED	
Ginkgo	<i>Ginkgo biloba</i>	PROHIBITED	
Pear	<i>Pyrus spp.</i>	PROHIBITED	
Maple, Mountain/Striped	<i>Acer spicatum/pensylvanicum</i>	PROHIBITED	
Yellowwood	<i>Cladrastis lutea</i>	PROHIBITED	

Condition Codes:

PROHIBITED = Species not to be used as replacement tree

*denotes species where 1" caliper tree may be substituted when Wild-Type is planted (full credit for 2" caliper applies)

Cr = Climate Resilient

P = Suitable for parking lots and roadways

Cs = Carbon sequestration

Ri = Suitable for riparian/wet plantings

Cul = Culturally significant

Cv = Climate vulnerable

F = Food source

- (b) Stormwater. No new Stormwater BMPs within the CRZ.
- (5) Permitted Activities. Operation and maintenance of public utilities is permitted within the CRZ. Directional boring shall be used whenever possible.
- (6) Construction Protection. Woodlands trees and their CRZ shall be protected during site construction following the standards of 50-6.2K(8) Protection During Construction.

H. Natural Feature Standards: Slopes. Slopes associated with Water Resources and other Natural Features are protected by the NFP Overlay District.

- (1) Slope Criteria. Slopes protected by the NFP Overlay District are those with a grade of twenty (20) percent or greater and meet at least one (1) of the following.
 - (a) Slope Face contains a Woodland, refer to 50-6.2G.
 - (b) Slope Face contains Natural Heritage Area, refer to 50-6.2I.
 - (c) Any portion of the Slope Face is within five-hundred (500) feet of a Wetland or Water Resource, refer to 50-6.2C and 50-6.2D.
 - (d) Any portion of the Slope Face extends onto adjacent parcels.
- (2) Slope Determination. If any area on a parcel appears to meet the Slope Criteria, one (1) of the following is required.
 - (a) A Slope Analysis by a professional is not completed and the area is assumed to meet the slope criteria; the standards of this Overlay are applied.
 - (b) A Slope Analysis shall be completed by a licensed surveyor, licensed professional engineer, or a geologist certified by the American Institute of Professional Geoscientists (AIPG) following all acceptable practices to determine whether any part of the Slope Face meets the Slope Criteria.
- (3) Slope Protection. Slopes shall be maintained and protected as follows.

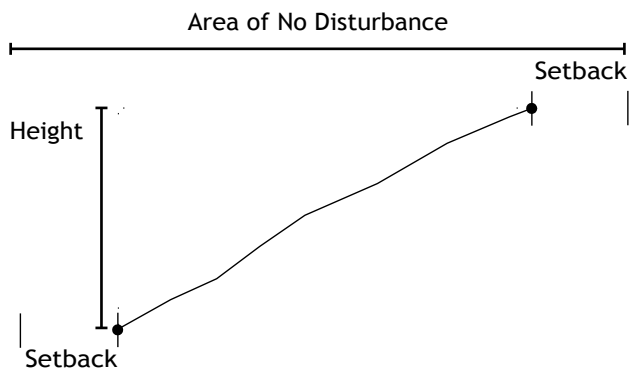


Figure 6.2-4 Protected Slope Setbacks

(a) Setbacks. A setback is required from the Top of Slope and the Toe of Slope equal to half (1/2) the height of the Slope, regardless of whether or not the entire Slope is contained within the parcel, or ten (10) feet, whichever is greater. Refer to Figure 6.2-4 Slope Setbacks.

(b) Permitted Activities in the Setbacks. Setback areas from the Top or Toe of Slope shall remain undisturbed except as follows.

- [1] Any work necessary to maintain the stability of the Slope.
- [2] Restoration and management of other Natural Features provided that they meet the requirements of this Overlay.
- [3] Fences are permitted when they meet all other applicable zoning standards.
- [4] Normal maintenance that does not disturb existing terrain.
- [5] Maintenance of existing impervious surfaces and structures.
- [6] In addition to the requirements in 50-6.2B(4), existing structures located in the setback may be expanded up to twenty-five (25) percent of the existing building footprint as follows.
 - [a] The expansion does not disturb the Slope Face.
 - [b] Ground disturbance is the minimum needed for the expansion.

(c) Permitted Activities in the Slope Face. The Slope Face shall remain undisturbed except as follows.

- [1] Any work necessary to maintain the stability of the Slope Face, including the Top and Toe of Slope.
- [2] Restoration and management of other Natural Features provided that they meet the requirements of this Overlay.
- [3] Normal maintenance that does not disturb existing terrain.
- [4] Maintenance of existing impervious surfaces and structures.
- [5] In addition to the requirements in 50-6.2B(4), existing structures where a portion of the structure is in the Slope Face may be expanded up to twenty-five (25) percent of the existing building footprint as follows.
 - [a] The expansion can only occur on Slopes with a grade of thirty (30) percent or less.
 - [b] Expansion in the Slope Face is limited to no more than fifteen (15) percent of the existing building footprint.
 - [c] Ground disturbance is the minimum needed for expansion.

(d) Prohibited Activities. The following activities are prohibited.

- [1] Surface water shall not be directed toward any Slope regulated by this Overlay.
- [2] Stormwater BMPs are not permitted within the Slope Face or the setbacks, including storm sewer outlets.
- [3] No new underground utilities may be placed within the Slope Face or setbacks.

(e) Construction Protection. The Slope Face and setbacks shall be protected during site development and construction following the standards of 50-6.2K(8) Protection During Construction.

I. Natural Feature Standards: Natural Heritage Areas. Rare species and remnants of historically and culturally significant ecosystems are protected by the NFP Overlay District.

(1) Natural Heritage Area Criteria. A Natural Heritage Area is defined by the presence of either of the following.

(a) Any species considered to be rare, threatened, or endangered by the State of Michigan, Federal government, or listed on the Michigan Natural Features Inventory (MNFI) Database.

(b) Any remnant of a Natural Community listed on the MNFI Michigan's Natural Communities List.

(2) Determination of Natural Heritage Area. The MNFI Natural Heritage Database shall be used to determine if any rare species have been located within a two (2) mile radius of the parcel.

(3) On-Site Survey. When a database search indicates a rare species has been identified within two (2) miles of the parcel, an on-site survey shall be conducted. The survey must be conducted by a consultant with a Michigan Endangered Species Permit or another qualified professional approved by the City Planner.

(4) Natural Heritage Area Protection. If the on-site survey confirms that a Natural Heritage Area exists on the parcel, all State and Federal protections and/or mitigation activities must be followed. A copy of any required permit obtained from a State or Federal agency must be submitted to the City.

J. Natural Feature Standards: Habitat Corridors. Reserved.

K. Site Development Standards. The following standards apply to all properties within the NFP Overlay District.

(1) Building Setbacks. When a conflict exists between meeting the 50-6.2C-J NFP Standards and the required placement of structures, the setbacks or built-to zones or lines may be adjusted to eliminate or reduce the conflict provided that the adjustment is the minimum required to meet the NFP standards.

(2) Use. In addition to the uses permitted in the Base Zoning District, the following apply.

(a) Appendix A 3.5 Wellhead Protection Overlay 10-year use restrictions.

(b) Outdoor storage of loose materials is prohibited within five hundred (500) feet of a Water Resource or Wetland.

(c) Appendix A 3.5 Wellhead Protection Overlay 1-year use restrictions apply within five hundred (500) feet of a Water Resource or Wetland.

(3) Lot Coverage. Areas designated to meet the pervious surface requirement of a the Base Zoning District shall meet the following requirements.

(a) Natural Features. Areas left undisturbed per the standards in 50-6.2C-J can be applied to a parcel's pervious lot coverage requirement, except that Stormwater BMPs shall count at a ratio of two (2) square feet of BMP to one (1) square foot of pervious coverage ratio or at a rate of fifty (50) percent.

(b) Undisturbed Areas. All areas designated to meet a parcel's overall pervious lot coverage requirement must remain undisturbed except in the following circumstances.

[1] Restoration or maintenance of the pervious area when guided by a plan developed by a qualified professional.

[2] Planting or restoration of plants or trees per 50-6.2 Natural Features Standards.

[3] Installation of stormwater BMPs from the Michigan Low Impact Development (LID) Manual BMP Matrix Table in the Runoff Volumes and Infiltration categories.

(c) Location. Areas designated to meet a parcel's overall pervious lot coverage requirement shall be located as follows.

[1] Contiguous. Pervious areas shall be located in one (1) contiguous area or clustered into areas that each equal at least twenty (20) percent of the total pervious area.

[2] Adjacent to Natural Features. Pervious areas shall be located adjacent to defined Natural Features.

(d) Construction. Pervious areas shall be protected during construction and site development through barrier fencing as described in 50-6.2K(8).

(e) Semi-Pervious Allowance. A semi-pervious allowance of up to fifteen (15) percent may be utilized to meet the lot coverage requirement.

(4) Landscape and Screening. Additional landscape and screening activities apply within the NFP Overlay District.

(a) Relief. A reduction in a parcel's required building perimeter, parking lot, loading zone, perimeter screening, or interior landscaping requirements (refer to Appendix A. 6.2 Landscaping and Open Space) may be permitted to eliminate conflicts with meeting the requirements of 50.6-2 Natural Features Standards.

[1] Relief shall be the minimum required to meet the NFP standards.

[2] Landscaping serving as a buffer between residential and non-residential uses and between a vehicular parking lot and a street shall not be reduced.

(b) Plant Selection. Native species must be used for all site landscaping, which includes the use of both Wild-type and Nativar plants. Plants in Table 6.2-6 Prohibited Planting List shall not be planted on any portion of a parcel.

(c) Existing Vegetation. When a parcel's existing vegetation is being preserved and utilized to meet landscaping requirements in Appendix A 6.2 Landscaping and Open Space the following applies.

[1] Existing nonnative plants must be contained within the planting areas.

[2] Existing invasive plants must be removed. Refer to *Meeting the Challenge of Invasive Plants* by MNFI or Table 6.2-6 Prohibited Planting List.

(5) Lighted Signs. Internally illuminated, automatic changeable copy, and blinking and/or flashing lighted signs are not permitted within three hundred (300) feet of a Preserve.

(6) Stormwater Management Criteria. Refer to the City of Kalamazoo Performance Standards for Groundwater Protection within Wellhead Protection Capture Zones for additional information and definitions.

Table 6.2-6 Prohibited Planting List

Common Name	Scientific Name
Trees	
Norway Maple	<i>Acer platanoides</i>
Tree-of-Heaven	<i>Ailanthus altissima</i>
Silktree	<i>Albizia julibrissin</i>
Russian Olive	<i>Elaeagnus angustifolia</i>
Black Locust	<i>Robinia pseudoacacia</i>
Siberian Elm	<i>Ulmus pumila</i>
Callery Pear	<i>Pyrus calleryana</i>
Shrubs	
Japanese Barberry	<i>Berberis thunbergii</i>
Common Barberry	<i>Berberis vulgaris</i>
Autumn Olive	<i>Elaeagnus umbellata</i>
Glossy Buckthorn	<i>Frangula alnus</i>
Common or European Privet	<i>Ligustrum vulgare</i>
Showy Fly Honeysuckle (or hybrid)	<i>Lonicera x.bella</i>
Amur Honeysuckle	<i>Lonicera maackii</i>
Morrow Honeysuckle	<i>Lonicera morrowii</i>
Tatarian Honeysuckle	<i>Lonicera tatarica</i>
Common Buckthorn	<i>Rhamnus cathartica</i>
Multiflora Rose	<i>Rosa multiflora</i>
Japanese Meadowsweet	<i>Spiraea japonica</i>
European Cranberrybush	<i>Viburnum opulus</i>
Vines	
Asian Bittersweet	<i>Celastrus orbiculatus</i>
Black Swallow-wort	<i>Cynanchum louiseae</i>
European Swallow-wort	<i>Cynanchum rossicum</i>
English Ivy	<i>Hedera helix</i>
Japanese Honeysuckle	<i>Lonicera japonica</i>
Grasses	
Reed Canary Grass	<i>Phalaris arundinacea</i>
Common Reed	<i>Phragmites australis</i>

Common Name	Scientific Name
Herbs	
Garlic Mustard	<i>Alliaria petiolata</i>
Spotted Knotweed	<i>Centaurea biebersteinii</i> or <i>C. maculata</i>
Canada Thistle	<i>Cirsium arvense</i>
Bull Thistle	<i>Cirsium vulgare</i>
Leafy Spurge	<i>Euphorbia esula</i>
Dame's Rocket	<i>Hesperis matronalis</i>
Creeping Jenny or Moneywort	<i>Lysimachia nummularia</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Japanese Knotweed	<i>Polygonum cuspidatum</i>
Giant Knotweed	<i>Polygonum sachalinense</i>
Crown Vetch	<i>Securigera varia</i>

(a) Channel Protection Performance Standard. Parcels half (1/2) acre or greater shall maintain the post-development project site runoff volume and peak flow rate at or below pre-development levels for all storms up to the ten (10) year, twenty-four (24) hour event.

(b) Water Quality Treatment Runoff Volume Standard. The first one (1) inch of runoff generated from the entire parcel must be treated using one of the following.

[1] Multiple Methods. Two or more BMPs shall be utilized with at least twenty-five (25) percent of the required runoff volume treated by BMPs from the Low Impact Development Manual for Michigan, Table 7.1 BMP Matrix Table from “Runoff Volume/Infiltration” and “Runoff Volume/Non-infiltration” categories.

[2] Underground Methods. All required runoff shall be treated by underground detention or infiltration BMPs.

[3] Non-Infiltration Methods. Sites requiring non-infiltration BMPs, such as those with contamination or within A3.5 Wellhead Protection Overlay, use BMPs from Low Impact Development Manual for Michigan, Table 7.1 BMP Matrix Table, “Runoff Quality/Non-infiltration” category.

(c) Maintenance Agreement. A Stormwater Operation and Maintenance Agreement is required by and between the City of Kalamazoo and the owner of the property when Stormwater BMPs are used.

(d) Exceptions. Development or redevelopment of a single family home or duplex is exempt from these Stormwater standards.

(7) Fill Materials. Use of fill material containing regulated substances above any State and/or Federal cleanup criteria for soils is prohibited. Fill material shall be sourced as follows.

(a) Fill material shall not be sourced from industrial or commercial sites where hazardous materials were used, handled, or stored or from unpaved parking areas.

(b) Fill material shall not be sourced from sites that contain species that are legally designated by the State of Michigan as prohibited or restricted.

(8) Protection During Construction. A temporary construction fence is required to protect Natural Features and not-to-be disturbed areas, such as those designated to meet pervious lot coverage requirements, during the duration of any site work or construction,

(a) Fence Construction. Construction fences shall be erected as follows.

[1] Fencing must be built using posts six (6) feet in height, spaced no more than eight (8) feet apart on center and buried at least two (2) feet below grade.

[2] Fence must have two (2) cross beams placed approximately at two (2) and six (6) feet above grade.

[3] Plastic mesh barrier fence shall be affixed to the front of the posts.

(b) Fence Placement. Refer to Figure 6.2-5 Placement of Construction Fencing. Fencing shall be located no closer than the required setback or edge of a not-to-be disturbed area.

[1] Where a tree is located in the setback or not-to-be disturbed area, the fencing shall be placed to protect the

CRZ. Refer to Figure 6.2-5 Placement of Construction Fencing.

[2] Trees and Woodlands protected through 50-6.2F and 50-6.2G shall have construction fencing placed outside of the CRZ.

(c) Prohibited Activities. The following activities are prohibited within the construction fencing.

[1] Spreading of soilspoils.

[2] Heavy equipment and vehicle traffic.

[3] Storage of construction materials and debris.

[4] Site grading changes that increase or decrease the moisture conditions within a CRZ on a temporary or permanent basis.

L NFP Review Bodies and Processes. Projects located in the NFP Overlay District require special review.

(1) Project Review. Review of projects in the NFP Overlay District shall occur as follows.

(a) Where Site Plan is not required. Administrative review of the site development or construction permit request shall be completed by the City Planner or designee.

(b) Where Site Plan is required. The NFP Review Board shall review the NFP Plan in conjunction with the Site Plan Review process. NFP Review Board approval is required for a project to achieve Site Plan approval.

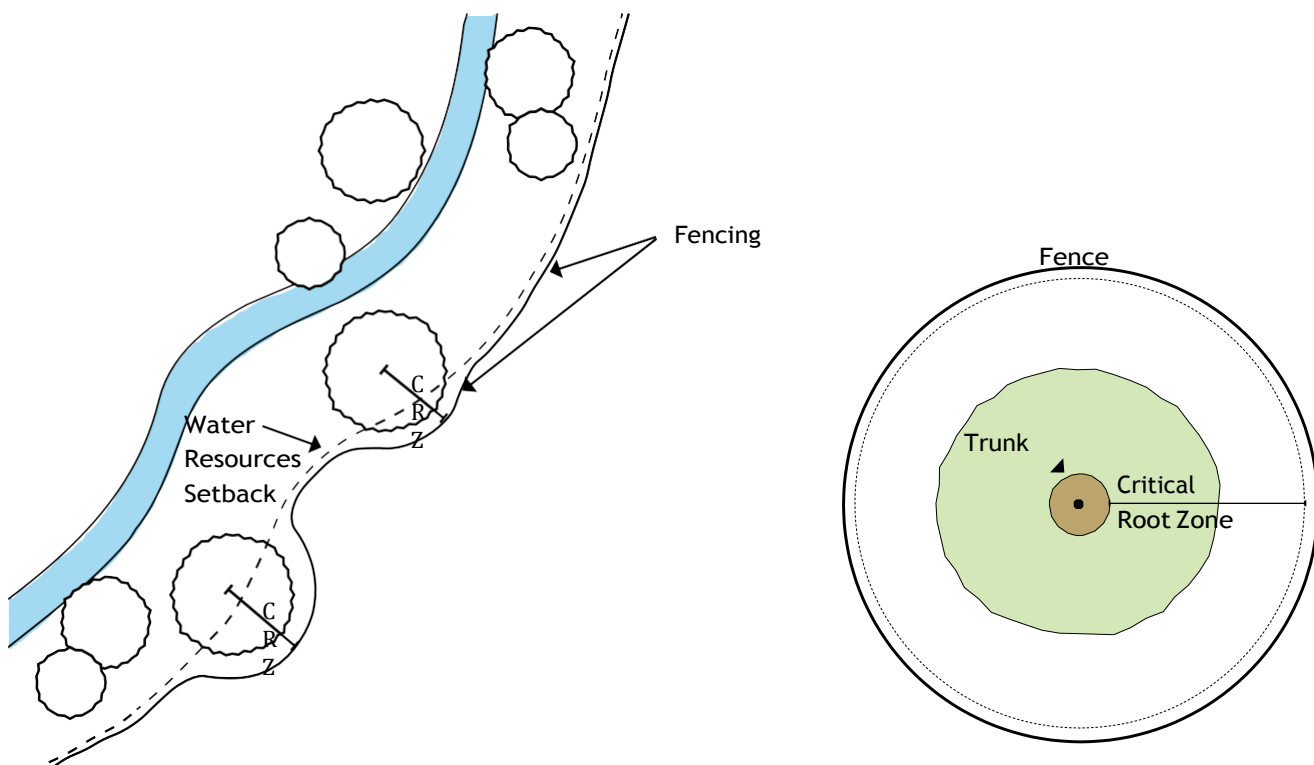


Figure 6.2-5 Placement of Construction Fencing

(c) Where Site Plan is required and a zoning review from the Planning Commission is requested and/or Zoning Board of Appeals is requested or the site is located within one hundred (100) feet of a Wetland or Water Resource or adjacent to land publicly used for open space or recreation, the following shall occur prior to review by the NFP Review Board.

[1] Owner or developer shall send notice by first class postage paid of a project in the NFP Overlay District to all property owners and occupants within three hundred (300) feet of the parcel and the neighborhood association or contact.

[2] Notice shall at a minimum include information on the proposed project, a location (physical or digital) where plans can be reviewed, instructions on how to provide comments, and a timeline for project review and construction.

[3] Notice shall be postmarked a minimum of fourteen (14) days before application is made for review by the NFP Review Board.

(2) NFP Review Board. A board will be formed to review projects in the NFP Overlay District.

(a) Intent. The NFP Review Board will review projects to ensure the standards of the NFP Overlay District are met and assist the City with regular review of the NFP standards, map, outreach, and City-wide education.

(b) NFP Review Board Members.

[1] Board will be comprised of seven (7) members.

[2] Members will be those who live or work in the greater Kalamazoo community.

[3] At a minimum, the Board must have at least one (1) member with education or experience in each of the following features in this Chapter: 1) water resources/wetlands, 2) plants/trees, 3) slopes, and 4) site development/building construction.

[4] Board members are to be appointed by the Mayor and approved by the City Commission.

[5] A City staff will be appointed by the City Planner to be the Board's liaison.

(c) The NFP Review Board is subject to the Open Meetings Act, MCL 15.261 et seq. and shall establish its own by-laws and meeting procedures.

(3) Relief from NFP Overlay District Standards. Relief from the NFP Overlay District Standards may be sought from the Zoning Board of Appeals.

(a) Criteria. Relief from the NFP Overlay District Standards in 50-6.2 may be granted when all the following conditions are met.

[1] The parcel cannot be reasonably utilized for its zoned use without the requested relief.

[2] The extent of relief requested is the minimum needed to permit reasonable utilization of the site.

[3] It is demonstrated that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the NFP Overlay District.

[4] The requested relief is balanced by the use of conservation and/or green development tools and actions, such as utilizing Stormwater BMPs from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a Natural Feature on the site, or use of Wild-type native plants or desired trees as detailed in Table 6.2-5 Replacement Trees.

(b) Process. The following process shall be followed when relief is sought from 50.6-2 NFP Overlay District.

[1] NFP Review Board shall review the request using the NFP Site Plan documentation and make a recommendation on the requested relief to the Zoning Board of Appeals.

[2] Application for relief from the Zoning Board of Appeals must include the NFP Review Board's recommendation.

M. Bonding of Projects.

(1) Intent. To ensure the protection of Natural Features, a financial assurance will be required when seeking site development permits for a lot or structure from the City of Kalamazoo.

(2) Applicability. The following financial assurances shall be required for NFP projects that require Site Plan approval.

(a) A bond is required for projects in the NFP Overlay District valued at \$100,000 or more.

(b) A lien shall be applied to parcels for projects in the NFP Overlay District valued under \$100,000.

(3) Financial Assurance Amount. The amount of the assurance shall be in an amount satisfactory to the City to restore and/or stabilize a Natural Features that has been disturbed, not properly managed during site work or construction, or has been abandoned for more than six (6) months.

(4) Release of Financial Assurance. The assurance shall be released when a Certificate of Occupancy is granted. Except when a project includes a vegetated buffer or required tree planting where the assurance may be reduced by sixty (60) percent at the time of the Certificate of Occupancy is granted with the remaining percentage released no sooner than three (3) years after the granting of the Certificate of Occupancy.

N. Penalty. A violation of the provisions of this Chapter is a municipal civil infraction punishable as follows.

(1) Any person, firm, or corporation violating any provision of this Chapter is responsible for a municipal civil infraction and shall be fined up to \$2,500 for each violation. A civil infraction citation for a violation of this Chapter may be issued by the Building Official, or by such person as the City Commission or City Manager may designate.

(2) Each day a violation exists or continues shall be deemed as a separate offense.

(3) Any person, firm, or corporation found responsible for a subsequent violation of this Chapter within two years of having been found or admitted responsible for a violation of this Chapter shall be responsible for a civil fine of up to \$5,000.

- (4) Imposition of court-imposed costs.
- (5) Issuance of an order by the court to replace, mitigate, or restore a Natural Feature damaged or destroyed by a violation.

Article 7. Parking & Loading Regulations

50-7.1 General Requirements.

A. Applicability. Unless otherwise stated, parking and loading shall be provided as is outlined in this Chapter.

B. General Provisions.

(1) Accessible Parking. Parking facilities accessible for persons with disabilities shall be in compliance with or better than the standards detailed in the state and federal building or accessibility requirements, including quantity, size, location, and accessibility.

(2) Requirements for Unlisted Uses. Parking spaces will be provided as detailed in Table 7.2-1. If a use is not listed, the City Planner is authorized to apply standards for a use deemed as similar. In the instance where an equivalent may not be clearly determined, the City Planner may require a parking study, transportation management plan, or other evidence that will help determine the appropriate requirements.

C. Exempt Areas.

(1) Downtown. Lots located in the Downtown Exempt Parking Area (refer to Figure 7.1-1) are exempt from the requirement to provide off-street parking spaces. Spaces that are provided must adhere to all applicable requirements including design, layout, and landscaping.

(2) Nodes. Lots in the Node Districts are subject to a twenty-five (25) percent reduction of the required off-street parking. Spaces that are provided must adhere to all applicable requirements, including design, layout and landscaping.

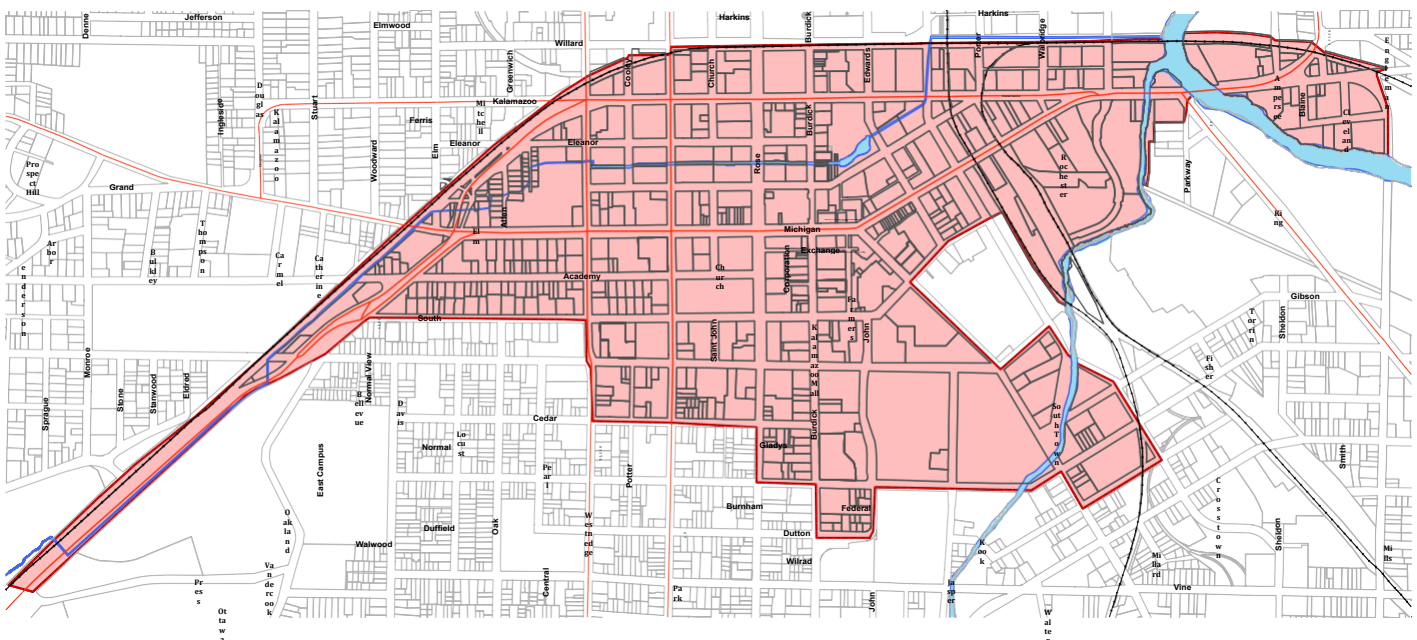


Figure 7.1-1 Downtown Exempt Parking Map

(3) Small Commercial Establishments. A commercial establishment, including the non-manufacturing element of craftsman industrial, containing up to 2,000 square feet of floor area, located in a building constructed on or before October 18, 2005, and not located in the Community Commercial zoning district, shall be exempt from all requirements to provide off-street parking spaces.

50-7.2 Required Vehicular Off-Street Parking Spaces.

A. Required Parking Table. Table 7.2-1 outlines the required off-street parking spaces. Total required vehicular parking spaces should be determined using the following parameters in addition to Table 7.2-1.

(1) Fractions. In determining the number of spaces required, any fraction of spaces required under 1/2 shall be disregarded; a fraction equal to or greater than 1/2 shall be rounded up to count as one (1) space.

(2) Maximum Parking Spaces Provided. Off-street parking may not be provided in an amount greater than 110% of the minimum parking requirement.

(3) On-Street Parking Credit.

(a) Up to twenty (20) percent of the parking requirement for commercial and industrial-craftsman uses can be met with on-street parking located within 660' of the site.

(b) Up to twenty (20) percent of the parking requirement for residential uses can be met with on-street parking located within 660' of the site where overnight parking is permitted.

(4) Shared Parking. Credit for shared off-street parking is calculated as follows.

(a) Off-Site Location. Spaces in off-site parking facilities within 660' can be applied to the parking requirements for a lot.

(b) Multiple Uses Credit. When multiple uses share parking facilities, the quantity of spaces provided should be calculated as follows.

[1] Shared Peak Demand Times. Businesses with the same peak parking demand times that share parking facilities shall reduce the quantity provided by five (5) percent.

[2] Different Peak Demand Times. Business with different peak parking demand times, can reduce their required parking spaces using Table 7.2-2 Parking Times Per Use Category.

[a] Determine the required number of spaces per use, following Table 7.2-1 Required Parking Table.

[b] Applying the percentages in Table 7.2.2, determine the number of spaces needed per use in each of the six (6) time periods.

[c] For each time period, add the number of spaces needed for all applicable use categories to obtain a total for each of the six (6) time periods.

[d] The time period with the highest total of parking spaces, is the number of spaces required for the site.

Table 7.2-1 Required Parking Table

Use	Required Spaces
Residential/Lodging	
Hotel/Motel	<u>.75 spaces/1 guest room plus 1 space/employee on largest shift;</u> <u>CC District: 1 space/1 guest room plus 1 space/employee on largest shift</u>
Bed & Breakfast	1 space/guest room, 1 space for innkeeper/home occupant
Dormitory	1 space/3 beds or per City Approved Campus Master Plan
Nursing Home/Assisted Living/ Rehabilitation Center/Adult Foster Care	1 space/employee on largest shift, 1 space/facility vehicle, 1 space/5 beds
Residential	1 space/dwelling unit ¹
Residential: Senior Housing	.5 space/dwelling unit
Residential: Off-Campus Student Housing/RM-15C	2 spaces/dwelling unit
Rooming House	1 space/unit or bedroom
Transitional Residence	1 space/2 employees on largest shift
Civic/Institutional Uses	
Assembly/Theatre	1 space/3 persons permitted at maximum occupancy
Assembly, Religious	1 space/6 seats in worship area or 1 space/40 square feet without seats
College and University	Based on similar use or per City Approved Campus Master Plan
Hospital	1 space/3 beds or per City Approved Campus Master Plan
Library & Museum	1 space/3 persons permitted at maximum occupancy
Police & Fire Station/Utilities & Public Services	1 space/employee on largest shift
¹ School	2 spaces/3 employees as largest shift, plus 1 space/10 students enrolled in grades 10-12 <u>For detached and attached dwelling units, up to 2 spaces per unit are permitted.</u>

Use	Required Spaces
Commercial	
Agriculture	1 space/employee on largest shift
Day Care	1 space/employee on largest shift, in addition commercial facilities: 1 space/5 children permitted at maximum occupancy
Eating & Drinking Establishments	1 space/5 persons at maximum occupancy, 1 space/2 employees at largest shift
Entertainment Sports (Participant)	1 space/5 persons at maximum occupancy, 1 space/2 employees at largest shift
Entertainment Sports (Spectator)	1 space/6 fixed seats or 1 space/40 square feet without seats
Retail/Services	1 space/330 square feet
Kennels	1 space/employee on largest shift, 1 space/3 animals permitted at maximum occupancy
Office	1 space/300 square feet
Outdoor Sales & Storage	1 space/employee at largest shift, 1 space/2,500 square feet outdoor sales area
Vehicle Service	1 space/200 square feet floor area; in addition vehicle repair 2 spaces/repair bay or area
Vehicle Service: Car Wash	1 space/employee on largest shift
Industrial	
Craftsman Industrial	1 space/employees on largest production shift, 1 space/500 square feet retail
Industrial	1 space/2 employees on largest shift

Table 7.2-2 Parking Times Per Use Category

Uses Category	Weekdays			Weekends		
	Midnight - 7 AM	7 AM - 6 PM	6 PM - Midnight	Midnight - 7 AM	7 AM - 6 PM	6 PM - Midnight
Residential	100%	50%	80%	100%	80%	80%
Hotel/Motel/Bed & Breakfast	100%	65%	100%	100%	65%	100%
Assembly- Religious	0%	30%	50%	0%	100%	75%
Retail & Services	5%	100%	80%	5%	100%	60%
Eating & Driving Establishments	50%	70%	100%	70%	60%	100%
Entertainment (Spectator, Participant) & Assembly	5%	30%	100%	5%	80%	100%
Office	5%	100%	5%	5%	5%	5%

(5) Bicycle Facilities. For every ten (10) required bicycle parking spaces, the required number of vehicular spaces may be reduced by one (1). Refer to 50-7.3 Required Bicycle Parking.

(6) Administrative Reduction. City Planner may reduce the number of required parking spaces by up to ten (10) percent if the applicant can document that the required number of parking spaces will not be fully utilized.

B. Vehicular Parking Design and Location. Vehicular parking facilities shall be provided using the following standards.

(1) Design, Vehicular parking shall be designed as follows.

(a) Space Dimension. Parking space design shall follow the dimensions in Table 7.2-3 Parking Space and Aisle Dimensions and Figure 7.2-1 Parking Space and Drive Aisle Dimensions

(b) Wheel Stops, Wheel stops or bumper guards are required for spaces adjacent to property lines, landscape buffers, and pedestrian pathways, internal to site or in public right-of-way.

(c) Tandem Spaces. Tandem spaces are permitted as follows.

[1] Two (2) spaces may be placed in tandem provided one (1) space is accessible by an aisle, driveway, or alley.

[2] Tandem spaces are permitted for use by residential units only and must be utilized by the occupants of the same dwelling unit.

(d) Slope. All parking areas, driveways, and sidewalk access to parking areas shall meet the requirements of the American Disabilities Act.

(e) Materials. Parking areas may be designed with impervious or semi-pervious materials, such as concrete, asphalt, macadam, brick, and stone.

[1] Gravel and crushed stone are permitted for parking lots for residential parking areas up to ten (10) spaces and for all parks and open space uses. Additional application of these types of material may be permitted with approval of the City Planner.

(f) Landscape Areas.

[1] Areas not used for sidewalks, parking spaces, drive aisles, loading, or refuse shall be constructed and maintained as landscaped areas.

[2] The perimeter of a parking lot shall be treated with fencing and/or landscaping along all property lines following Appendix A 6.2 Landscaping and Open Spaces

(g) Lighting. Parking areas with fifty (50) or more spaces must be lit per Appendix A 6.4 Lighting.

(h) Pedestrian Access. Parking lots with more than two (2) double-loaded aisles will provide internal pedestrian access both through the lot, and if directly adjacent to right-of-way, from the adjacent right-of-way to the structure(s).

[1] Dimension. The pedestrian access pathway shall be at least six (6) feet in width.

[2] Location. The pathway(s) shall be centrally located.

Table 7.2-3 Parking Space & Aisle Dimensions

Angle of Parking	Stall Dimensions			Drive Aisle Width	
	Curb Length	Stall Width	Stall Depth	One-Way	Two-Way
0 Degrees (Parallel)	18'	8'	18'	12'	20'
45 Degrees	12'	8.5'	18'	12'	20'
60 Degrees	10'	8.5'	18'	18'	20'
90 Degrees	8.5'	8.5'	18'	20'	20'

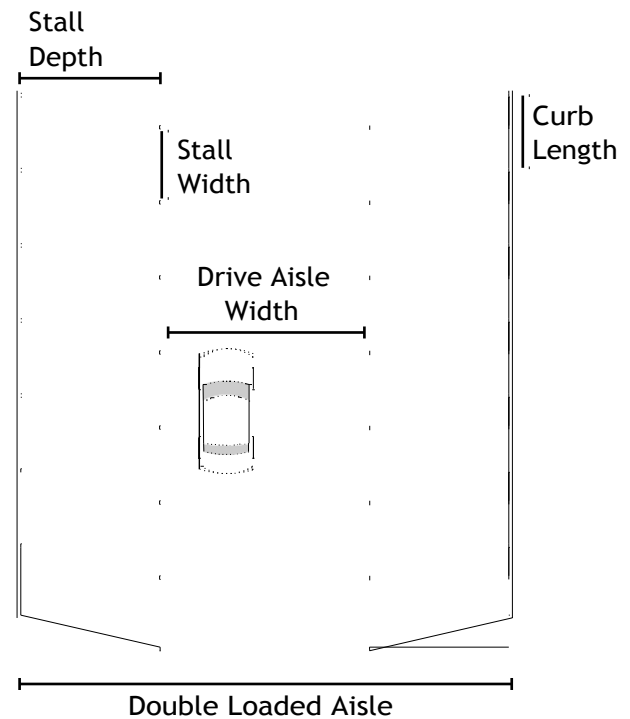


Figure 7.2-1 Parking Space and Drive Aisle Dimensions.

[3] Buffer. The pathway shall be buffered from drive aisles with landscaping or designated parking stalls and delineated with paint where it crosses drive aisles.

(2) Vehicular Parking Location. If located in a district with lot type standards, refer to these standards for parking lot location. In addition the following applies.

(a) Access. All spaces, unless otherwise noted, shall front an drive aisle, driveway, or right-of-way, providing direct access the parking space.

(b) Parking in Yards. Parking of motorcycles and personal vehicles are not allowed in front yards except on driveways, permitted parking area, or within structures.

(c) Recreational Vehicles. Trailers, motor homes, recreational vehicles, boats, or other similar vehicles may be parked as follows.

[1] Recreational Vehicles shall not be stored in a front yard or front or corner build-to zone unless in a garage or carport; except vehicles may be parked for up to seventy-two (72) hours for loading and unloading purposes.

[2] Recreational Vehicles can be stored in the side or rear yards.

[3] Recreational Vehicles must be kept in good repair and carry a current license and registration.

[4] A maximum of two (2) recreational vehicles can be stored out of doors on a lot at a time; there is no limit as it relates to vehicles within fully enclosed structures.

Table 7.3-1 Required Bicycle Parking Table

Use	Required Spaces
Residential/Lodging	
Bed & Breakfast/Hotel/Motel	1 space/7 employees
Dormitory	1 space/5 beds or per City Campus Master Plan
Nursing Home/Assisted Living/ Rehabilitation Center/Adult Foster Care	1 space/7 employees
Residential	1 space/5 dwelling units
Civic/Institutional Uses	
Assembly/Theatre	1 space/50 persons permitted at maximum occupancy
Assembly, Religious	1 space/50 seats in worship area or 100 square feet without seats
College and University	Based on similar use or per City Approved Campus Master Plan
Hospital	1 space/15 employees or per City Approved Campus Master Plan
Library & Museum	1 space/7 employees
Parks & Open Space	1 space/5,000 square feet of land area or per City Parks & Recreation Plan
School	2 spaces/classroom
Commercial & Industrial	
Agriculture	1 space/5 employees or gardeners
Eating & Drinking Establishments & Entertainment Sports (Participant)	1 space/15 persons permitted at maximum occupancy
Office/Employment Uses/Other	1 space/7 employees
Parking, Stand Alone Surface Lot or Garage/Ramp	1 space/15 parking spaces
Retail/Services	1 space/7 employees

50-7.3 Required Bicycle Parking.

A. Required Bicycle Parking Table. Table 7.3-1 outlines the required spaces for bicycle parking. Total required bicycle parking spaces should be determined using the following parameters in addition to Table 7.3-1.

(1) Calculation. At least one (1) space is required. Beyond the first space, in determining the number of spaces required, any fraction of spaces required under 1/2 shall be disregarded; a fraction greater than 1/2 shall be rounded up to count as one (1) space.

(2) Public Bicycle Parking Spaces. Parking facilities within public spaces, such as street rights-of-way, can count toward the requirement for non-residential uses. All facilities located within a public right-of-way, require review and approval of an encroachment agreement with the City.

B. Bicycle Parking Design and Location. Bicycle parking facilities shall be provided using the following standards.

(1) Design, Bicycle parking shall be designed as follows.

(a) Space Size. Each bicycle parking space must be at least six (6) feet long and two (2) feet wide with a five (5) foot access aisle.

(b) Bicycle Racks. Bicycle racks must be designed as follows.

[1] Be a fixed-in-place stand that is securely anchored to the ground and/or wall.

[2] Provide at least two (2) points of contact to allow locking of frame and at least one (1) wheel.

[3] Be constructed of materials that resist cutting, rusting, bending, or deformation.

(c) Lockers. Lockers must be designed as follows.

[1] Be a fixed-in-place stand that is securely anchored to the ground and/or wall.

[2] Be secured by means of a lockable door or configured internally to allow locking of the frame and at least one (1) wheel.

(2) Location. Bicycle parking shall be located as follows.

(a) Visible Location. If not visible from the street or public entrance, a directional sign must be posted indicating location. Adherence to the Manual On Uniform Traffic Control Devices for signage is recommended.

(b) Structured Parking. If more than fifty (50) percent of a site's vehicular parking is in a covered area or structure, the required spaces shall also be located in the covered area or structure or otherwise protected from the weather.

50-7.4 Off-Street Loading Requirements.

A. Off-Street Loading. Construction of new buildings that are expected to have deliveries by vehicles rated as heavy duty must provide off-street loading facilities as follows.

(1) Design. Each loading space shall be a minimum of ten (10 feet) in width, twenty-five (25) feet in length, and fourteen (14) feet in height.

(2) Location. Loading areas shall be located as follows.

(a). All off-street loading areas. Regardless of truck type, loading areas shall not be located in the front build-to zone and may not occupy any part of a required front or corner yard.

(b) Loading areas shall not be located closer than fifty (50) from a residentially zoned lot unless it is wholly enclosed within the building or by walls.

(c) Loading areas must be separate from pedestrian facilities and pathways.

50- 7.5 Driveway Access Design.

A. Driveways. Driveways will be designed as follows.

(1). Driveway Width. Driveway width is measured at the front property line and shall adhere to the following.

(a) Single-lane Driveways. Single-lane driveways shall be between eight (8) feet and twelve (12) feet.

(b) Double-lane Driveway. Double-lane driveways shall be between twenty (20) feet and twenty-four (24) feet, unless the driveway serves the off-street loading area, where a larger driveway may be required based on site plan review.

(2) Double Track Driveways. Double-track, wheel strip, or ribbon driveways are permitted as follows.

(a) The first two (2) feet of the entire driveway width, measured from the property line, must paved or covered with a permitted material..

(b) Wheel strip shall be at least eighteen (18) inches in width

(c) Area between the wheel strips must be landscaped with living ground cover.

(3) Materials. Driveways may be designed with impervious or semi-pervious materials. such as concrete, asphalt, macadam, brick, and stone.

(a) Gravel and crushed stone are permitted for residential driveways accessing parking areas up to ten (10) spaces. Additional application of these types of material may be permitted with approval of the City Planner.

(4) Maximum Coverage of Front Yard. Driveways cannot account for more than thirty (30) percent of the front yard of a lot.



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **G.1.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: James J. Baker, PE, Public Services Director & City Engineer
Prepared by: James H. Cornell, Wastewater Division Manager

DATE: May 4, 2020

SUBJECT: Belt Press Solids Hauling & Disposal Contract Extension Bid Ref# 968-71-013.3

RECOMMENDATION:

It is recommended that the City Commission approve a one-year contract extension for loading, hauling, and disposal of belt press solids with Waste Management in the amount of \$5,538,110. A budget adjustment of \$1,158,901.67 is requested to cover the 2020 portion of the contract amount.

BACKGROUND:

Approximately 80,000 to 95,000 wet tons of biosolids are generated every year at the KWRP as part of various wastewater treatment processes. The current method of disposal for most of the biosolids produced at the WRP is placement in regional landfills. This method of disposal is currently the most economical for most treatment plants. This method of disposal requires loading and hauling of these biosolids to these landfills for ultimate disposal. Generally, these biosolids need to be mixed with other municipal solid waste to ensure that proper compaction of waste materials occurs in the landfill. The disposal of the biosolids in the landfill increases the amount of bio-gas that the landfill generates and collects.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program (program name and description):

Solids Handling - Landfill disposal and hauling of wastewater treatment plant solids

Strategic Goal Impact:

Safe Community

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement Internal

Discussion:

Engagement/Communication Tools

FISCAL IMPACT:

This represents an approximate 20% increase in overall contract price and an increase of approximately 20.3 % to \$56.13 a ton for routine loading, hauling, and disposal. One of the factors for the large increase is that landfills across the country are facing reduced residential waste to mix with the belt press biosolids. The result is handling issues at the landfills, reduced structural stability and increased potential of side slope failures. As a result, biosolids are hauled a longer distance to landfills that have capacity to accept additional biosolids loads. Other factors contributing to increased landfill costs are regulatory requirements of landfill leachate to meet Wastewater treatment plant Industrial Pretreatment requirements for the disposal of landfill leachate and regulatory agency notices of violation for exceedances. This contract extension will run from June 1, 2020 to May 31, 2021. The 2020 portion of this contract will be \$3,230,564.17 and the 2021 portion of this contract will be \$2,307,545.83. A budget adjustment of \$1,158,901.67 is being requested to cover the 2020 portion of this contract. The 2021 portion of the contract will be budgeted for in the 2021 Wastewater treatment budget.

590-542-03-100-845.001 \$3,230,645.17



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **G.2.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: James J. Baker, PE, Public Services Director & City Engineer
Prepared by: Stephen A. Skalski, PE, Assistant City Engineer – Water Resources

DATE: May 4, 2020

SUBJECT: Contract and Purchase Order with SWT Excavating, Inc. for the 2020 New Water Service Installation Project (Bid Reference #91244-005.0)

RECOMMENDATION:

It is recommended that the City Commission approve a contract and purchase order with SWT Excavating, Inc. for the New Water Service Installation Project in the amount of \$723,588.77. It is further recommended to amend the Water Fund Capital Improvement budget by \$208,588.77 to be funded by anticipated increases in contributions in aid of capital.

BACKGROUND:

The City of Kalamazoo currently performs all small (1 ¼ inch) water service installations system wide. Public Services recently posted the New Water Service Installations bid, to obtain a contractor to install water services when city crews are busy performing other water system tasks.

Bids were opened for the project on March 26, 2020. Two bids were received, with SWT Excavating, Inc. being the low responsive bidder. SWT Excavating, Inc. has performed well on similar work in the past and Public Services recommends approval of this contract.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program (program name and description):

New Water Distribution, Supply, and Treatment Construction Engineering - Reviews plans for water system expansion. Designs and oversees the construction of new water distribution system

New Water Main & Service Inspection - Inspection of new water mains and service connections.

Strategic Goal Impact:
Safe Community

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement
Internal

Discussion:

Engagement/Communication Tools
The water service application is available on the City of Kalamazoo's website.

FISCAL IMPACT:

The funding for the project is Contribution In Aid, and all costs associated with the work shall be captured prior to construction. Public Services is requesting a budget amendment in addition to the programmed amount available in the City's 2020 Water Capital Improvement Budget. Project funding and estimated costs are as follows:

Funding:

wat0600459	\$515,000.00
budget amendment	\$208,588.77
	\$723,588.77

Costs:

Construction	\$723,588.77
--------------	--------------

BID RESULTS SUMMARY

PROJECT: 2020 New Water Service Installations

DATE: April 1, 2020

BIDDERS SOLICITED: 170

BIDDERS RESPONDED: 2

MBE/WBE BIDS SOLICITED: 27

MBE/WBE BIDDERS RESPONDED: 0

BID REFERENCE NO: 91244-005.0

MBE/WBE AWARDED: No

ISSUE DATE: February 27, 2020

BID OPENING: March 26, 2020

APPROVAL REQUIRED: City Commission

FUNDED BY: City

<u>BIDDERS</u>	<u>AMOUNT BID</u>	<u>LOCATION</u>
SWT Excavating, Inc.	\$723,588.77	Galesburg, MI
Balkema Excavating, Inc.	\$1,240,728.00	Monroe, MI

Purchasing procedures have been followed and City Attorney has reviewed as to form.



Melissa Fuller
*Deputy Director of Mgmt Services/
Purchasing Agent*



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **G.3.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: James J. Baker, PE, Public Services Director & City Engineer
Prepared by: Anthony Ladd, PE, Acting Public Works Division Manager

DATE: May 4, 2020

SUBJECT: Resolution of Support for Local Bridge Program Funds for Gull Road Bridge

RECOMMENDATION:

It is recommended that the City Commission adopt a resolution of support for Local Bridge Program Funds for Gull Road Bridge.

BACKGROUND:

During Biennial Bridge Inspections performed by OHM Advisors, it was noted that Gull Road Bridge was in need of a preventative maintenance project consisting of joint replacement and resurfacing the deck and sidewalks.

The City of Kalamazoo is applying for funding through MDOT's Local Bridge Program. The application requires a resolution of support from the local governing body. Approval of the attached resolutions will complete the application submittal.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program (program name and description):

Strategic Goal Impact:

Connected City – Gull Road connects communities across the Kalamazoo River

Complete Neighborhoods – This bridge encourages safe pedestrian and vehicle travel.

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement
Internal

Discussion:

Engagement/Communication Tools

FISCAL IMPACT:

Project cost is estimated to be \$240,000.00. If the application is approved, Major Streets will include the local share of \$32,000.00 in the 2023 Major Streets Capital Improvement Budget.

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4674

BRIDGE SAFETY INSPECTION REPORT

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition
GULL	42.2987 / -85.5724	394353800157B01	Good Condition(7)
Feature	Length / Width / Spans	Owner	
KALAMAZOO RIVER	199.8 / 64.3 / 3	City: KALAMAZOO(3538)	
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status
IN KALAMAZOO	1992 / / /	Kalamazoo(16)	A Open, no restriction(A)
Region / County	Material / Design	Last NBI Inspection	Scour Evaluation
Southwest(5) / Kalamazoo(39)	5 Prestressed Concrete / 05 Box Bm/Gird- Multiple	08/08/2018 / Z9UK	8 Stable Above Footing



NBI INSPECTION

Z9UK

Inspector Name	Agency / Company Name	Insp. Freq.	Insp. Date
Alan Halbeisen	Orchard, Hiltz, & McCliment	24	08/08/2018

GENERAL NOTES

DECK

	08/14	08/16	08/18	
1. Surface (SIA-58A)	8	7	7	Diagonal cracks and spall at NE corner patched with HMA. (08/18) Diagonal cracks and spall at NE corner patched with HMA. Spalling in WB at W abut inside lane. (08/16) Diagonal cracks and spall at NE corner patched with HMA. (08/14)
2. Expansion Joints	7	7	6	Piers 1 and 2, joint partially filled with dirt and vegetation. Spalling at pier 1 w, north curb. Spalling at pier 2 west, outside EB lane (08/18) Piers 1 and 2, joint partially filled with dirt and vegetation. Spalling at pier 1 w, north curb. (08/16) Piers 1 and 2, joint partially filled with dirt (08/14)
3. Other Joints	6	6	6	HPR seal is partially missing, east & west abutments. (08/18) HPR seal is partially missing, east & west abutments. (08/16) HPR seal is partially missing, east & west abutment (EB lanes). (08/14)
4. Railings	8	8	8	Three tube railing with small lower tube added for ped child protection. (08/18) Three tube railing with small lower tube added for ped child protection. (08/16) Three tube railing with small lower tube added for ped child protection. (08/14)
5. Sidewalks or Curbs	6	6	6	Minor spall at base of curb, north side in west span and at west pier. Transverse cracks in north sidewalk, east and west spans. Transverse cracks in south sidewalk, span 2 at east pier. (08/18) Minor spall at base of curb, north side in west span and at west pier. Transverse cracks in north sidewalk, east and west spans (08/16) Minor spall at base of curb, north side in west span and at west pier. Transverse cracks in north sidewalk, east and west spans (08/14)
6. Deck Bottom Surface (SIA-58B)	N	N	N	Side by side concrete box beams. (08/18) Side by side concrete box beams. (08/16) Side by side concrete box beams. (08/14)
7. Deck (SIA-58)	8	8	8	Concrete deck over box beams. (08/18) Concrete deck over box beams. (08/16) Concrete deck over box beams. (08/14)
8. Drainage				Curb and gutter drains off and bridge on VC crest (08/18) Curb and gutter drains off and bridge on VC crest (08/16) (08/14)

SUPERSTRUCTURE

	08/14	08/16	08/18	
9. Stringer (SIA-59)	8	8	8	Side by side concrete box beams (08/18) Side by side concrete box beams (08/16) Side by side concrete box beams (08/14)

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4674

BRIDGE SAFETY INSPECTION REPORT

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10. Paint (SIA-59A)	N	N	(08/18) (08/16) (08/14)
11. Section Loss		N	(08/18) (08/16) (08/14)
12. Bearings	8	8	8 Elastomeric pads. (08/18) Elastomeric pads. (08/16) (08/14)

SUBSTRUCTURE

	08/14	08/16	08/18	
13. Abutments (SIA-60)	7	7	7	Cracks in mask walls at corners. (08/18) Cracks in mask walls at corners. (08/16) Cracks in mask walls at corners. (08/14)
14. Piers (SIA-60)	7	7	7	Large delam on east side of W pier under beams 4 and 5N. (08/18) Large delam on east side of W pier under beams 4 and 5N. (08/16) Large delam on east side of W pier under beams 4 and 5N. (08/14)
15. Slope Protection	8	N	N	(08/18) Sheet piling and concrete slope paving in front of east abutment. 1" settlement 2 panels north of storm outlet. Dirt banks in west span (typically dry span). (08/16) Sheet piling and concrete slope paving in front of east abutment. 1" settlement 2 panels north of storm outlet. Dirt banks in west span (typically dry span). (08/14)
16. Channel (SIA-61)	8	7	7	No debris noted on south (upstream) nose of piers. No water in west span. Debris lodged in east span next to sheet piling. (08/18) No debris noted on south (upstream) nose of piers. No water in west span. Debris lodged in east span next to sheet piling. (08/16) No debris noted on south (upstream) nose of piers. No water in west span. Debris lodged in east span next to sheet piling. Water depths 6 feet at south nose of east pier. WS to top of sidewalk 14.2 ft at west pier. (08/14)
17. Scour Inspection		7	7	Sheet piling and concrete slope paving in front of east abutment. 1" settlement 2 panels north of storm outlet. Dirt banks in west span (typically dry span). (08/18) Sheet piling and concrete slope paving in front of east abutment. 1" settlement 2 panels north of storm outlet. Dirt banks in west span (typically dry span). (08/16) (08/14)

APPROACH

	08/14	08/16	08/18	
18. Approach Pavement	7		7	Cracks and spall (patched) in east approach slab (spall in EB lanes). Transverse crack in east and west approach slabs. New HMA on west approach (1 lane EB, 1 lane center, and 2 lanes WB). HMA potholes and crack at end of east approach (08/18) Cracks and spall (patched) in east approach slab (spall in EB lanes). Transverse crack in east and west approach slabs. (08/16) Cracks and spall (patched) in east approach slab (spall in EB lanes). Transverse crack in west approach slab (08/14)
19. Approach Shoulders Sidewalks	7	7	7	Settlement of 1.5" SW quad and 0.5" NW & SE quads. Heavy vegetation in SE quad overhanging the sidewalk. (08/18) Settlement of 1.5" SW quad and 0.5" NW & SE quads. (08/16) Settlement of 1.5" SW quad and 0.5" NW & SE quads. (08/14)
20. Approach Slopes				Departing guardrail at SE quad is damaged (08/18) (08/16) (08/14)

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4674

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21. Utilities

Gas line in south bay on galv supports. Out of service Water pipe in north bay under sidewalk, replaced by new pipe on north fascia. (08/18)
 Gas line in south bay on galv supports. Water pipe in north bay under sidewalk. Pipe has horizontal kinks in spans 1 and 2E and over west pier. Dripping water from break in east span (line to be replaced and has been capped off). (08/16)
 Gas line in south bay on galv supports. Water pipe in north bay under sidewalk. Pipe has horizontal kinks in spans 1 and 2E and over west pier. Dripping water in center span. (08/14)

**22. Drainage
Culverts**

(08/18)
(08/16)
(08/14)

MISCELLANEOUS

Guard Rail

<u>Item</u>	<u>Rating</u>
36A. Bridge Railings	1
36B. Transitions	1
36C. Approach Guardrail	1
36D. Approach Guardrail Ends	1

Other Items

<u>Item</u>	<u>Rating</u>
71. Water Adequacy	7
72. Approach Alignment	7
Temporary Support	0 No Temporary Supports
High Load Hit (M)	No
Special Insp. Equipment	
Underwater Insp. Method	2

False Decking (Timber) Removed to Complete Inspection

N/A - No False Decking

Critical Feature Inspections (SIA-92)

	<u>Freq</u>	<u>Date</u>
92A. Fracture Critical		
92B. Underwater		
92C. Other Special		
92D. Fatigue Sensitive		

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4674

STRUCTURE INVENTORY AND APPRAISAL

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition
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Bridge History, Type, Materials		Route Carried By Structure(ON Record)		Route Under Structure (UNDER Record)	
27 - Year Built	1992	5A - Record Type	1	5A - Record Type	
106 - Year Reconstructed		5B - Route Signing	5	5B - Route Signing	
202 - Year Painted		5C - Level of Service	0	5C - Level of Service	
203 - Year Overlay		5D - Route Number	02005	5D - Route Number	
43 - Main Span Bridge Type	5 05	5E - Direction Suffix	0	5E - Direction Suffix	
44 - Appr Span Bridge Type		10L - Best 3m Unclr-Lt	0 0	10L - Best 3m Unclr-Lt	
77 - Steel Type	0	10R - Best 3m Unclr-Rt	99 99	10R - Best 3m Unclr-Rt	
78 - Paint Type	0	PR Number		PR Number	
79 - Rail Type	4	Control Section		Control Section	
80 - Post Type	3	11 - Mile Point	0	11 - Mile Point	
107 - Deck Type	1	12 - Base Highway Network	0	12 - Base Highway Network	
108A - Wearing Surface	1	13 - LRS Route-Subroute	0000000074 07	13 - LRS Route-Subroute	
108B - Membrane	0	19 - Detour Length	2	19 - Detour Length	
108C - Deck Protection	1	20 - Toll Facility	3	20 - Toll Facility	
Structure Dimensions		26 - Functional Class	16	26 - Functional Class	
34 - Skew	0	28A - Lanes On	4	28B - Lanes Under	
35 - Struct Flared	0	29 - ADT	16444	29 - ADT	
45 - Num Main Spans	3	30 - Year of ADT	1997	30 - Year of ADT	
46 - Num Apprs Spans	0	32 - Appr Roadway Width	47.9	42B - Service Type Under	5
48 - Max Span Length	66.9	32A/B - Ap Pvt Type/Width	4 48	47L - Left Horizontal Clear	
49 - Structure Length	199.8	42A - Service Type On	1	47R - Right Horizontal Clear	
50A - Width Left Curb/SW	7.2	47L - Left Horizontal Clear	0.0	54A - Left Feature	
50B - Width Right Curb/SW	7.2	47R - Right Horizontal Clear	61.7	54B - Left Underclearance	99 99
33 - Median	0	53 - Min Vert Clr Ov Deck	99 99	54C - Right Feature	
51 - Width Curb to Curb	46.9	100 - STRAHNET	0	54D - Right Clearance	99 99
52 - Width Out to Out	64.3	102 - Traffic Direct	2	Under Clearance Year	
112 - NBIS Length	Y	109 - Truck %	8	55A - Reference Feature	N
Inspection Data		110 - Truck Network	0	55B - Right Horiz Clearance	99.9
90 - Inspection Date	08/08/2018	114 - Future ADT	21377	56 - Left Horiz Clearance	0
91 - Inspection Freq	24	115 - Year Future ADT	2017	100 - STRAHNET	
92A - Frac Crit Req/Freq	N	Freeway	0	102 - Traffic Direct	
93A - Frac Crit Insp Date		Structure Appraisal		109 - Truck %	
92B - Und Water Req/Freq	N	36A - Bridge Railing	1	110 - Truck Network	
93B - Und Water Insp Date		36B - Rail Transition	1	114 - Future ADT	
92C - Oth Spec Insp Req/Freq	N	36C - Approach Rail	1	115 - Year Future ADT	
93C - Oth Spec Insp Date		36D - Rail Termination	1	Freeway	
92D - Fatigue Req/Freq	N	67 - Structure Evaluation	7	Proposed Improvements	
93D - Fatigue Insp Date		68 - Deck Geometry	2	75 - Type of Work	
176A - Und Water Insp Method	2	69 - Underclearance	N	76 - Length of Improvement	
58 - Deck Rating	8	71 - Waterway Adequacy	7	94 - Bridge Cost	
58A/B - Deck Surface/Bottom	7 N	72 - Approach Alignment	7	95 - Roadway Cost	
59 - Superstructure Rating	8	103 - Temporary Structure		96 - Total Cost	
59A - Paint Rating	N	113 - Scour Criticality	8	97 - Year of Cost Estimate	
60 - Substructure Rating	7	Miscellaneous		Load Rating and Posting	
61 - Channel Rating	7	37 - Historical Significance	5	31 - Design Load	5
62 - Culvert Rating	N	98A - Border Bridge State		41 - Open, Posted, Closed	A
Navigation Data		98B - Border Bridge %		63 - Fed Oper Rtg Method	1
38 - Navigation Control	0	101 - Parallel Structure	N	64F - Fed Oper Rtg Load	109.1
39 - Vertical Clearance	0	EPA ID		64MA - Mich Oper Rtg Method	
40 - Horizontal Clearance	0	Stay in Place Forms		64MB - Mich Oper Rtg	187
111 - Pier Protection		143 - Pin & Hanger Code		64MC - Mich Oper Truck	
116 - Lift Brdg Vert Clear		148 - No. of Pin & Hangers		65 - Inv Rtg Method	1
				66 - Inventory Load	89.2
				70 - Posting	5
				141 - Posted Loading	
				193 - Overload Class	

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4674

WORK RECOMMENDATIONS

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition
GULL	42.2987 / -85.5724	394353800157B01	Good Condition(7)
Feature	Length / Width / Spans	Owner	
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WORK RECOMMENDATIONS

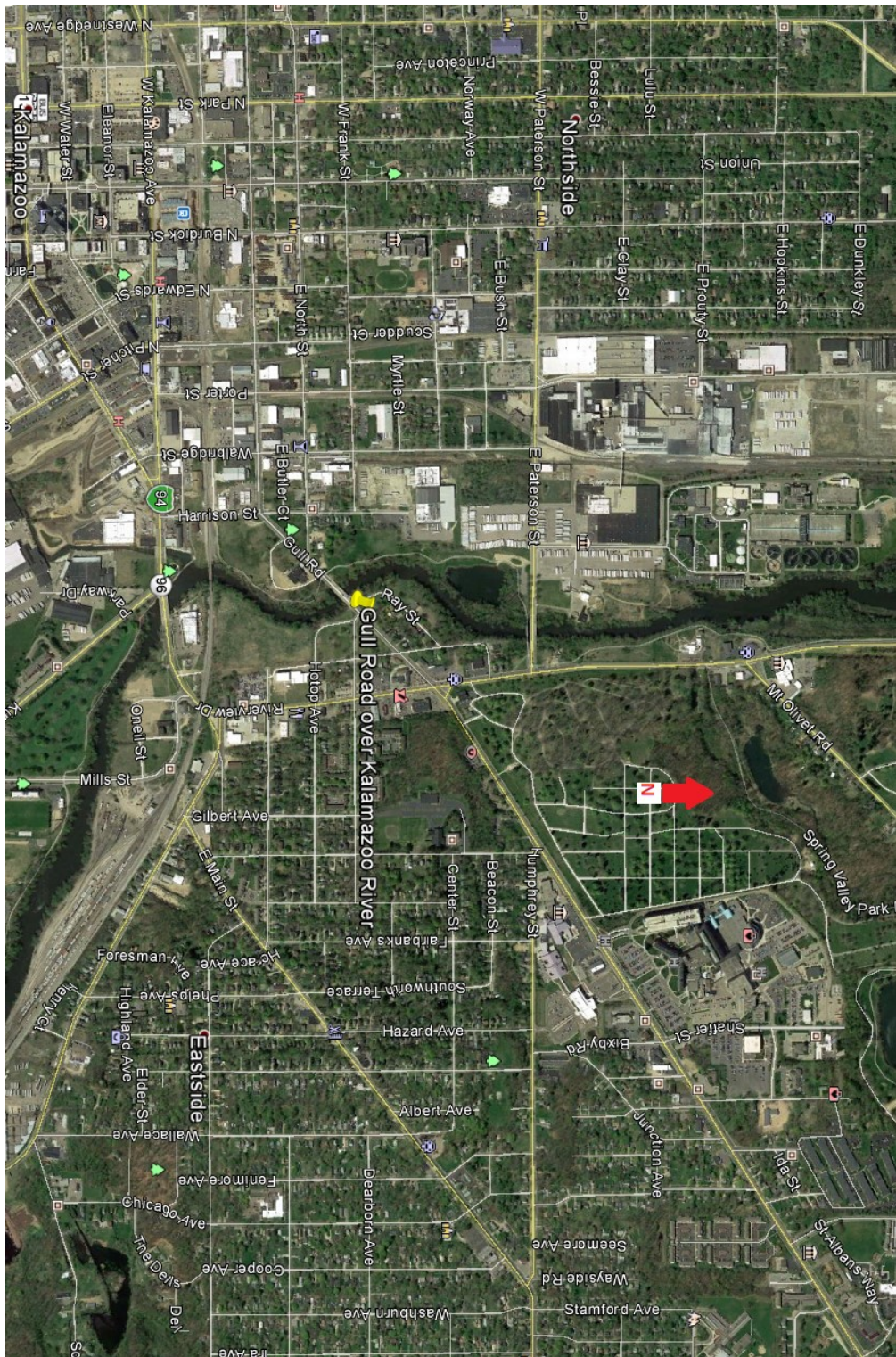
Z9UK

Inspector Name	Agency / Company Name	Insp. Freq.	Insp. Date
Alan Halbeisen	Orchard, Hiltz, & McCliment	24	08/08/2018

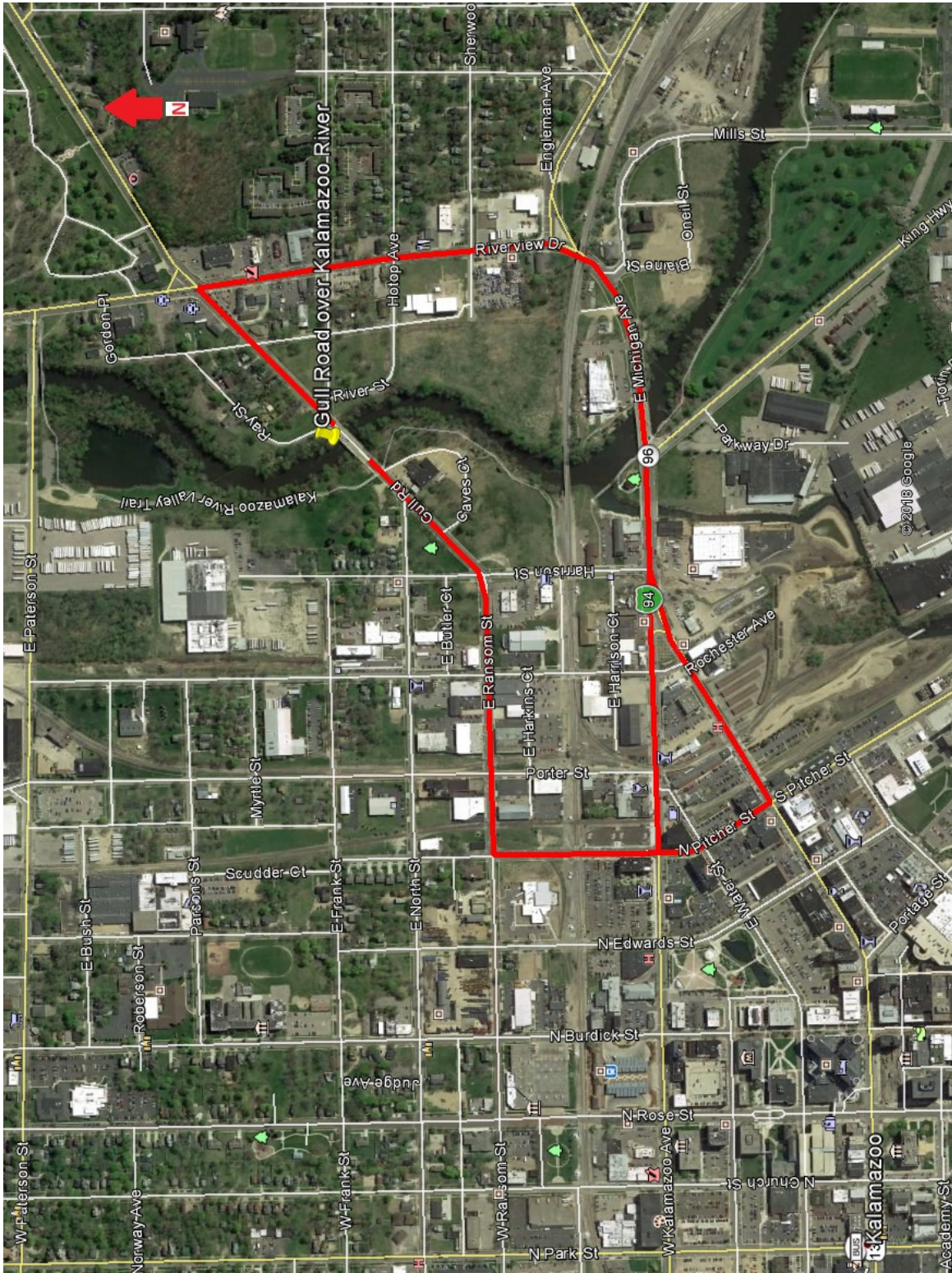
RECOMMENDATIONS & ACTION ITEMS

Recommendation Type	Priority	Description
Joint Repair	H	Replace joints
Deck Patching	H	Patch and seal deck
Overlay	M	Thin epoxy overlay

2a. Situation Map



2b. Detour Map



Gull to Riverview
To Michigan
To Pitcher
To Ransom
To Gull

Detour Length: 1.83 Miles

3. Photographs



East Approach slab cracked



Gull approach looking NE



Pier 1W joint



Pier 2W joint

4. Application Requirements for Gull Road over Kalamazoo River

A. Local Agency Contact Person

James Baker, PE
City Engineer
bakerj@kalamazoocity.org
269-337-8768

B. The purpose of this application is for the preventative maintenance of the bridge carrying Gull Road over Kalamazoo River. Funding requested for an epoxy overlay, joint replacements, and approach work.

C. Economic Importance of the Structure

The Gull Road bridge is located 0.20 miles west of the M-43/Gull Road and Riverview Drive intersection. The bridge is a three span bridge consisting side by side pre-stressed concrete box beams with a reinforced concrete deck. The deck width includes four lanes of traffic and sidewalks on each side.

Gull Road is classified as a principal arterial. It connects areas in the northeast of Kalamazoo and Comstock to downtown Kalamazoo. It is a very heavily traveled road seeing over 16,000 vehicles a day. Many commuters use the road to reach their jobs downtown. The area immediately west of the bridge is industrial in nature and to the east is retail and neighborhoods. The Burgess Hospital is approximately 0.5 miles east of the bridge on M-43/Gull Road.

The bridge is in overall good condition and rated a 7. The deck is rated a 7 with some diagonal cracks and a spall patched with HMA in the northeast corner. The expansion joints are rated a 6 and have some spalling at the joints between spans 1 and 2 and spans 2 and 3. The approaches have wide transverse cracks with settlement that span the whole width. To maintain the condition of the bridge, it is recommended that the expansion joints be replaced and an epoxy overlay be placed on the traveled way. The replacement of the expansion joints will repair the spalling that is occurring and also keep water off of the ends of the beams and the substructure. The epoxy overlay will seal and prevent water from penetrating the deck, preserving the condition of the deck. The concrete approaches should also be replaced to provide a smooth transition to the bridge and to reduce impact loads.

D. If there is a current detour, what does it affect?

Currently the bridge is open to traffic and there is no detour.

E. If the structure were to be closed, what would the detour affect?

If the structure were to be closed, the detour would affect the residents, Burgess Hospital, city services, industrial areas, and truck traffic that use the bridge. Burgess Hospital is located about 0.65 miles to the east of the bridge on M-43/Gull Road. With the bridge closed, emergency vehicles would have to go to the south across the M-43 bridge to get to the industrial areas and houses to the west of the Gull Road bridge. As every minute matters in an emergency, this extra travel time could cause significant issues for the wellbeing of the public. All traffic to the industrial area to the west of the bridge would have to go through downtown if coming from the east. Gull Road enables these trucks to avoid the downtown area, reducing traffic through an already congested area. The neighborhoods to the west of the bridge also would have to drive downtown and across the M-43 bridge if they wanted to reach the areas east of the bridge.

F. The structure is not currently closed.

G. Maintenance of the Structure

The structure was built in 1992. In 2016 a new water main support system was built on the north fascia.

5. Estimated Rehabilitation Costs

<u>Epoxy Overlay, Joint Replacements, and Approach Work</u>	
A. Approach Construction	\$ 78,000.00
B. Structure Construction	\$ 162,000.00
Total (A & B)	\$ 240,000.00

For a breakdown of Construction costs, see Appendix A.

6. Priority List

1. Inkster Avenue over Bronson Blvd.
2. **Gull Road over Kalamazoo River**

7. Resolution

The resolution is attached in Appendix B.

8. Previous Applications

It is understood that all previous applications have been discarded and that this application will be used to select funding.

APPENDIX A

2020

LAP - BRIDGE COST ESTIMATE WORKSHEET

REV. 2/1/2020

- CPM, REHAB, REPLACE -

DATE: 4/10/2020

OWNER: KALAMAZOO
REGION: Southwest
TSC: Kalamazoo

FISCAL YEAR: 2023

PR: #N/A MP: #N/A

LENGTH 199.8
Out to Out WIDTH 64.3
Curb to Curb WIDTH 46.9

ENGINEER: ALH

STRUCTURE ID: 4674
BRIDGE ID: N/ALOCATION: GULL over KALAMAZOO RIVER
PRIMARY WORK ACTIVITY: Overlay - Epoxy
OTHER WORK: Joint Replacement and Approach WorkDECK AREA: 12,847 SFT
CLEAR ROADWAY: 9,371 SFT
STR. TYPE: Prestressed Concrete
Box Beam or Girders - Mu

WORK ACTIVITY	Michigan Bridge Design Manual	QUANTITY	UNIT	UNIT COST	TOTAL
NEW BRIDGE (increase deck area based on design standards and hydraulic requirements)					
Single or Multiple Spans, Grade Separation	(add demo, approach, MOT)		SFT	\$220.00 /SFT	
Single Span, Over Water	Length < 100ft (add demo, approach, MOT)		SFT	\$350.00 /SFT	
Multiple Spans, Over Water	Length > 100ft (add demo, approach, MOT)		SFT	\$220.00 /SFT	
Precast Culvert	Length < 40ft (add demo, approach, MOT)		SFT	\$350.00 /SFT	
NEW SUPERSTRUCTURE					
New Superstructure, Grade Separation	(incl. remove exist deck/super; add MOT & approach)		SFT	\$170.00 /SFT	
New Superstructure, Over Water	(incl. remove exist deck/super; add MOT & approach)		SFT	\$200.00 /SFT	
WIDENING					
Structure Widening, _____ ft	(incl. deck/super/sub widening, add approach transition)		SFT	\$270.00 /SFT	
NEW DECK					
New Bridge Deck & Barrier	(incl. remove exist deck/railing, add approach, MOT)		SFT	\$75.00 /SFT	
DEMOLITION					
Entire Structure, Grade Separation			SFT	\$33.00 /SFT	
Entire Structure, Over Water			SFT	\$46.00 /SFT	
DECK REPAIR / TREATMENTS					
Bridge Railing Replacement	(incl. removal and replacement)		FT	\$400.00 /FT	
Concrete Brush Block / Curb Patch	(incl. hand chipping and formwork)		FT	\$24.00 /FT	
Concrete Barrier Patch	(incl. hand chipping and formwork)		SFT	\$45.00 /SFT	
Concrete Deck Patch	(incl. hand chipping)	20.0	SFT	\$30.00 /SFT	\$600
Deep Overlay	(incl. joint repl & hydro)		SFT	\$33.00 /SFT	
Epoxy Overlay	(incl. warranty)	1,041.2	SYD	\$30.00 /SYD	\$31,235
Expansion Joint Gland Replacement	(remove and replace elastomeric gland)		FT	\$85.00 /FT	
Expansion Joint Replacement	(incl. removal)	128.6	FT	\$600.00 /FT	\$77,160
Full Depth Patch			SFT	\$76.00 /SFT	
Healer / Sealer	(penetrates cracks in bridge deck)	266.7	SYD	\$15.00 /SYD	\$4,000
HMA Overlay with WP membrane			SYD	\$53.00 /SYD	
Overlay Removal	(Epoxy: \$8/syd Latex: \$16/syd HMA: \$7/syd)		SYD	\$16.00 /SYD	
Reseal Bridge Joints			FT	\$16.00 /FT	
Shallow Overlay	(incl. joint repl & hydro)		SFT	\$22.00 /SFT	
SUPERSTRUCTURE REPAIR					
Bearing Realignment / Replacement	(incl. temporary supports)		EA	\$5,000.00 EA	
Heat Straightening	(incl. clean and coat)		EA	\$50,000.00 EA	
Pack Rust Repair	(greater than 3/8" separation)		FT	\$500.00 /FT	
Paint - Complete	(incl. clean & coat)		SFT	\$20.00 /SFT	
Paint - Partial / Spot / Zone	(incl. clean & coat - \$20k minimum)		SFT	\$40.00 /SFT	
PCI Beam End Blockout	(incl. temporary supports)		EA	\$7,200.00 EA	
Pin & Hanger Replacement	(incl. temporary supports)		EA	\$8,000.00 EA	
Structural Steel Repair	(based on 6ft length; for stiffeners use \$1,200 ea)		EA	\$3,000.00 EA	
SUBSTRUCTURE REPAIR					
Substructure Patching	(measured x 2) replace if repair area > 30%		CFT	\$300.00 /CFT	
Substructure Replacement	(incl. temporary supports, excavation)		CFT	\$180.00 /CFT	
Substructure Horizontal Surface Sealer			SYD	\$40.00 /SYD	
Temporary Supports	(add \$1,200 for ea steel beam - stiffeners)		EA	\$2,500.00 EA	
MISCELLANEOUS					
Articulating Concrete Block System (ACB)			SYD	\$150.00 /SYD	
Concrete Surface Coating			SYD	\$28.00 /SYD	
Culvert Cleanout			FT	\$30.00 /FT	
Epoxy Crack Injection	(structural crack repair)		FT	\$50.00 /FT	
Metal Mesh Panels	(48" width, max 6'-6" length)		SFT	\$20.00 /SFT	
Pressure Relief Joint	(use when approach concrete roadway exceeds 1,000ft)		FT	\$100.00 /FT	
Riprap	(assume 10ft distance around perimeter of substructure)		SYD	\$175.00 /SYD	
Silane Treatment	(penetrating sealer for concrete surfaces)		SFT	\$4.50 /SFT	
Slope Protection Repairs			SYD	\$100.00 /SYD	
Other					
STRUCTURE CONSTRUCTION BUDGET					\$112,995
ROAD WORK					
Approach Pavement, 12" RC	(incl. removal; add curb, gutter, guardrail) 20' ea. end	208.9	SYD	\$175.00 /SYD	\$36,556
Approach Curb & Gutter	(incl. removal) 20' ea. quadrant	80.0	FT	\$56.00 /FT	\$4,480
Guardrail Anchorage to Bridge	(each quadrant)		EA	\$1,600.00 /EA	
Guardrail	(incl. removal) < 200ft beyond reference line	25.0	FT	\$28.00 /FT	\$700
Guardrail Terminal	(each quadrant)	1.0	EA	\$2,300.00 /EA	\$2,300
Roadway Approach Work	(beyond approach pavement)		LSUM		
Utilities			LSUM		
TRAFFIC CONTROL Unit Cost to be determined by Region or TSC Traffic & Safety					
Part Width Construction			LSUM		
Crossovers			EA	\$300,000.00 /EA	
Temporary Traffic Signals			set	\$25,000.00 /set	
RR Flagging			LSUM		
Detour		1.0	LSUM	\$10,000.00 /LSUM	\$10,000
RELATED ROAD/TRAFFIC CONSTRUCTION BUDGET					\$54,036
CONTINGENCY	(10% - 20%) (use higher contingency for small projects)	20	%	\$167,000.00	\$33,000
MOBILIZATION	(estimate at 10%)	10	%	\$200,000.00	\$20,000
INFLATION	(assume 3% per year, beginning in 2021)	9	%	\$220,000.00	\$20,000
TOTAL CONSTRUCTION BUDGET					\$240,000

(Does not include PE or CE)

APPENDIX B

RESOLUTION NO.2020 - _____

**RESOLUTION OF THE CITY OF KALAMAZOO REQUESTING
THAT THE MICHIGAN DEPARTMENT OF TRANSPORTATION
INCLUDE THE BRIDGE ON
GULL ROAD OVER THE KALAMAZOO RIVER
IN THE LOCAL BRIDGE PROGRAM FOR 2023 FUNDING**

WHEREAS, OHM Advisors, Consulting Engineers for the City of Kalamazoo, has completed inspections of the City bridges and,

WHEREAS, based on the inspections, the Consulting Engineers prepared Bridge Inspection Reports; and has made the recommendation that the bridge on Gull Road over the Kalamazoo River is in need of preventive maintenance consisting of joint replacement and resurfacing the deck and sidewalks,

WHEREAS, based on the findings and recommendations of the Consulting Engineers, the Director of the Department of Public Services recommends that the City Commission authorize the City Manager to make application to the Michigan Department of Transportation to include the bridges on Gull Road on the Local Bridge Program for preventive maintenance.

NOW, THEREFORE, BE IT RESOLVED that the City of Kalamazoo is actively seeking financial participation for the bridges and authorizes its City Manager to make application to the Michigan Department of Transportation to include the bridge on the State Local Bridge Program list for funding, to make application for financial assistance from the State of Michigan and Federal government and to do those things reasonably necessary or required in order to accomplish the resurfacing and preventive maintenance of this bridge.

ON MOTION OF _____ SUPPORTED BY _____

_____ the foregoing Resolution was adopted by the following vote:

ROLE CALL:

AYE _____ NAY _____ ABSENT _____

I, _____, Clerk for the City of Kalamazoo, hereby certify that the foregoing is a true and accurate copy of a Resolution adopted by the City Commission for the City of Kalamazoo at a regular meeting held on the 4th day of May, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meeting 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.

_____, City Clerk



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **G.4.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: James J. Baker, PE, Public Services Director & City Engineer
Prepared by: Anthony Ladd, PE, Acting Public Works Division Manager

DATE: May 4, 2020

SUBJECT: Resolution of Support for Local Bridge Program Funds for Inkster Avenue Bridge

RECOMMENDATION:

It is recommended that the City Commission adopt a Resolution of Support for Local Bridge Program Funds for Inkster Avenue Bridge.

BACKGROUND:

During Biennial Bridge Inspections performed by OHM Advisors, it was noted that Inkster Avenue Bridge was in need of replacement. This recommendation was based on inspection of the deck and superstructure condition and repair history including those performed this year. The City of Kalamazoo is applying for funding through MDOT's Local Bridge Program. The application requires a resolution of support from the local governing body. Approval of the attached resolutions will complete the application submittal.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program (program name and description):

Strategic Goal Impact:

Connected City – Inkster Avenue connects communities across Bronson Blvd.

Complete Neighborhoods – This bridge encourages safe pedestrian and vehicle travel.

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement
Internal

Discussion:

Engagement/Communication Tools

FISCAL IMPACT:

Project cost is estimated to be \$849,000.00. If the application is approved, Major Streets will include the local share of \$302,025.00 in the 2023 Major Streets Capital Improvement Budget.

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4684

BRIDGE SAFETY INSPECTION REPORT

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition	
INKSTER AVENUE	42.2669 / -85.5936	395353800197S01	Serious Condition(3)	
Feature	Length / Width / Spans	Owner		
BRONSON BOULEVARD	77.8 / 31.8 / 3	City: KALAMAZOO(3538)		
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status	
IN CITY OF KALAMAZOO	1990 / / / 2011	Kalamazoo(16)	K Closed to all traffic(K)	
Region / County	Material / Design	Last NBI Inspection	Scour Evaluation	
Southwest(5) / Kalamazoo(39)	7 Wood or Timber / 01 Slab	03/05/2020 / KJHC	N Not Over Waterway	

NBI INSPECTION

KJHC

Inspector Name	Agency / Company Name	Insp. Freq.	Insp. Date
Alan Halbeisen	Orchard, Hiltz, & McCliment	3	03/05/2020

GENERAL NOTES

Posted 14 tons. Rating reduced due to poor distribution of loads between panels.

Recommend replacement due to issues with sidewalk supports, railing separation, panel joints and deflection of timber panels.

Reduce inspection frequency to 3 months until repairs are completed on north girder bearings and south railing.

Weight limit signs in place on both ends of bridge	YES
Weight limit shown on signs at bridge	14 _____
Required advance warning weight limit signs in place	YES
Weight limit shown on advance warning signs	14 _____

DECK

03/18 03/19 03/20

1. Surface (SIA-58A)	5	4	3	HMA replaced in 2011 but deteriorates quickly due to deflection of deck. Long. cracks center each lane and transverse cracks at piers and midspan. Cracks increasing at piers. Patched potholes at Pier 1W north lane and Pier 2W@ at centerline. Large pothole with exposed timber deck at SE corner. (03/20) HMA replaced in 2011 but deteriorates quickly due to deflection of deck. Long. cracks center each lane and transverse cracks at piers and midspan. Cracks increasing at piers. Potholes at Pier 1W north lane and Pier 2W@ at centerline. (03/19) New HMA in 2011. Long. cracks center each lane and transverse cracks at piers and midspan. Cracks increasing at piers. Pothole at SE corner. (03/18)
2. Expansion Joints			N	(03/20) (03/19) (03/18)
3. Other Joints	5	4	4	Cracking and potholes at reference lines. (03/20) Cracking and potholes at reference lines. (03/19) New HMA at joints and approach. Cracking at reference lines. (03/18)
4. Railings	5	4	3	Timber railings on bridge. Lower rail added on north side adjacent to sidewalk. South vehicular railing is pushing outwards and rotated out of plumb, due to separation between nail laminated deck panel timbers. (03/20) Timber railings on bridge. Lower rail added on north side adjacent to sidewalk. South vehicular railing is pushing outwards, possible separation from timber panel. Ice covered during inspection. (03/19) Timber railings on bridge. Lower rail added on north side adjacent to sidewalk. South railing appears to bow out at center span, possible separation in timber panel. (03/18)

MICHIGAN DEPARTMENT OF TRANSPORTATION

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5. Sidewalks or Curbs	5	5	5	New timber boards installed in 2015 to replace sections damaged by snow removal equipment. Replaced 14 boards (center and west spans) and top of curb board at west end. Timber curb damaged by snow plows. Sidewalk does not support snow removal equipment. Section of curb board missing at NW. (03/20) New timber boards installed in 2015 to replace sections damaged by snow removal equipment. Replaced 14 boards (center and west spans) and top of curb board at west end. Timber curb damaged by snow plows. Sidewalk does not support snow removal equipment. (03/19) New timber boards installed in 2015 to replace sections damaged by snow removal equipment. Replaced 14 boards (center and west spans) and top of curb board at west end. Timber curb damaged by snow plows. Sidewalk does not support snow removal equipment. (03/18)
6. Deck Bottom Surface (SIA-58B)	5	4	4	Stains under deck at east pier. Splinters in east fascia at mid span. Noted several locations of split boards within timber panels of center span; panel 1S, board 3s near east pier and sleeper beam at each end, panel 3S in board 2N two locations near east pier and panel 4S (north) in board 3N and wide gaps between boards near center. 3S has 3 cracks in same board near the joint with 4S. 1s panel has several boards with cracks at east pier. (03/20) Stains under deck at east pier. Splinters in east fascia at mid span. Noted several locations of split boards within timber panels of center span; panel 1S, board 3s near east pier and sleeper beam at each end, panel 3S in board 2N two locations near east pier and panel 4S (north) in board 3N and wide gaps between boards near center. 3S has 3 cracks in same board near the joint with 4S. 1s panel has several boards with cracks at east pier. (03/19) Stains under deck at east pier. Splinters in east fascia at mid span. Noted several locations of split boards within timber panels of center span; panel 1S, board 3s near east pier and sleeper beam at each end, panel 3S in board 2N two locations near east pier and panel 4S (north) in board 3N and wide gaps between boards near center. 3S has 3 cracks in same board near the joint with 4S. 1s panel has several boards with cracks at east pier. (03/18)
7. Deck (SIA-58)	5	4	3	Deck covered by HMA. Larger separation of panels and between boards at north and south fascia, resulting in lateral force on north sidewalk girder and south rail. (03/20) Deck covered by HMA. Some separation of panels and between boards transversely, resulting in longitudinal cracks along south rail and along panel joints. (03/19) Deck covered by HMA. Some separation of panels and between boards transversely, resulting in longitudinal cracks along south rail and along panel joints. (03/18)
8. Drainage				Water seeps thru deck. Bridge at bottom of hills from each approach. (catch basins west of bridge) (03/20) Water seeps thru deck. (03/19) (03/18)

SUPERSTRUCTURE

03/18 03/19 03/20

9. Stringer (SIA-59)	5	4	3	Timber deck panels, 4 panels in width. Same as deck rating. Visible sag in center span. 16 inch deck panels. End spans have 10 inch deck panels. Cracked lap boards at joints between the panels. Glulam beams on north fascia to support sidewalk, separate from panels for vehicle deck. Center span beam bows outward and has longitudinal cracks at ends at each pier. North Girder has larger distortion, out of plumb and cracks above the bearing angles. (03/20) Timber deck panels, appear to be 4 panels in width. Same as deck rating. Visible sag in center span. 16 inch deck panels. End spans have 10 inch deck panels. Glulam beams on north fascia to support sidewalk, separate from panels for vehicle deck. Center span beam bows outward and has some longitudinal cracks at ends at each pier. (03/19) Timber deck panels, appear to be 4 panels in width. Same as deck rating. Visible sag in center span. 16 inch deck panels. End spans have 10 inch deck panels. Glulam beams on north fascia to support sidewalk, separate from panels for vehicle deck. Center span beam bows outward and has some longitudinal cracks at ends at each pier. (03/18)
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MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4684

BRIDGE SAFETY INSPECTION REPORT

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Feature	Length / Width / Spans	Owner		
BRONSON BOULEVARD	77.8 / 31.8 / 3	City: KALAMAZOO(3538)		
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status	
IN CITY OF KALAMAZOO	1990 / / / 2011	Kalamazoo(16)	K Closed to all traffic(K)	
Region / County	Material / Design	Last NBI Inspection	Scour Evaluation	
Southwest(5) / Kalamazoo(39)	7 Wood or Timber / 01 Slab	03/05/2020 / KJHC	N Not Over Waterway	

10. Paint (SIA-59A)	N	(03/20) (03/19) (03/18)	
11. Section Loss	N	(03/20) (03/19) Timber panels do not distribute loads well due to poor spacing of spreader beams. Assumed width of panels reduced for load rating. (03/18)	
12. Bearings	7	7	Timber on timber caps. Girder under sidewalk at north side is twisting due to lateral force. Fixed laterally by steel angles the girder has cracked at the bearing. (03/20) Timber on timber caps. (03/19) Timber on timber caps. (03/18)

SUBSTRUCTURE

	03/18	03/19	03/20	
13. Abutments (SIA-60)	7	7	7	Timber piles and backwalls. Timber piles and backwalls. (03/20) Timber piles and backwalls. (03/19) Timber piles and backwalls. (03/18)
14. Piers (SIA-60)	7	7	7	Timber piles and pier caps. (03/20) Timber piles and pier caps. (03/19) Timber piles and pier caps. (03/18)
15. Slope Protection	8	8	8	Concrete slope protection behind sidewalk under end spans. (03/20) Concrete slope protection behind sidewalk under end spans. (03/19) Concrete slope protection behind sidewalk under end spans. (03/18)
16. Channel (SIA-61)	N	N	N	(03/20) (03/19) (03/18)
17. Scour Inspection	N	N	N	(03/20) (03/19) (03/18)

APPROACH

	03/18	03/19	03/20	
18. Approach Pavement	6	5		HMA cracking. Large area of patched potholes in EB lane, west of bridge (03/20) HMA cracking. Potholes in EB lane, west of bridge (03/19) New HMA in 2011. Some cracking. (03/18)
19. Approach Shoulders Sidewalks	7	7	7	Concrete sidewalks on north side approaches. (03/20) Concrete sidewalks on north side approaches. (03/19) (03/18)
20. Approach Slopes				Fence on east side of road under bridge is loose at top. (03/20) Fence on east side of road under bridge is loose at top. (03/19) Fence on east side of road under bridge has been secured. (03/18)
21. Utilities				None in bridge. Overhead lines on each side. (03/20) (03/19) (03/18)
22. Drainage Culverts				(03/20) (03/19) (03/18)

MISCELLANEOUS

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4684

BRIDGE SAFETY INSPECTION REPORT

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Feature	Length / Width / Spans	Owner		
BRONSON BOULEVARD	77.8 / 31.8 / 3	City: KALAMAZOO(3538)		
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status	
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Region / County	Material / Design	Last NBI Inspection	Scour Evaluation	
Southwest(5) / Kalamazoo(39)	7 Wood or Timber / 01 Slab	03/05/2020 / KJHC	N Not Over Waterway	

Guard Rail

<u>Item</u>	<u>Rating</u>
36A. Bridge Railings	1
36B. Transitions	0
36C. Approach Guardrail	0
36D. Approach Guardrail Ends	0

Other Items

<u>Item</u>	<u>Rating</u>
71. Water Adequacy	N
72. Approach Alignment	6
Temporary Support	0 No Temporary Supports
High Load Hit (M)	No
Special Insp. Equipment	
Underwater Insp. Method	0

False Decking (Timber) Removed to Complete Inspection

N/A - No False Decking

Critical Feature Inspections (SIA-92)

	<u>Freq</u>	<u>Date</u>
92A. Fracture Critical		
92B. Underwater		
92C. Other Special		
92D. Fatigue Sensitive		

MICHIGAN DEPARTMENT OF TRANSPORTATION

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STRUCTURE INVENTORY AND APPRAISAL

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition	
INKSTER AVENUE	42.2669 / -85.5936	395353800197S01	Serious Condition(3)	
Feature	Length / Width / Spans	Owner		
BRONSON BOULEVARD	77.8 / 31.8 / 3	City: KALAMAZOO(3538)		
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status	
IN CITY OF KALAMAZOO	1990 / / / 2011	Kalamazoo(16)	K Closed to all traffic(K)	
Region / County	Material / Design	Last NBI Inspection	Scour Evaluation	
Southwest(5) / Kalamazoo(39)	7 Wood or Timber / 01 Slab	03/05/2020 / KJHC	N Not Over Waterway	

Bridge History, Type, Materials

27 - Year Built	1990
106 - Year Reconstructed	
202 - Year Painted	
203 - Year Overlay	2011
43 - Main Span Bridge Type	7 01
44 - Appr Span Bridge Type	
77 - Steel Type	0
78 - Paint Type	0
79 - Rail Type	9
80 - Post Type	0
107 - Deck Type	1
108A - Wearing Surface	1
108B - Membrane	0
108C - Deck Protection	0

Structure Dimensions

34 - Skew	5
35 - Struct Flared	N
45 - Num Main Spans	3
46 - Num Apprs Spans	0
48 - Max Span Length	42
49 - Structure Length	77.8
50A - Width Left Curb/SW	6.6
50B - Width Right Curb/SW	.3
33 - Median	0
51 - Width Curb to Curb	24
52 - Width Out to Out	31.8
112 - NBIS Length	Y

Inspection Data

90 - Inspection Date	03/05/2020
91 - Inspection Freq	3
92A - Frac Crit Req/Freq	N
93A - Frac Crit Insp Date	
92B - Und Water Req/Freq	N
93B - Und Water Insp Date	
92C - Oth Spec Insp Req/Freq	N
93C - Oth Spec Insp Date	
92D - Fatigue Req/Freq	N
93D - Fatigue Insp Date	
176A - Und Water Insp Method	0
58 - Deck Rating	3
58A/B - Deck Surface/Bottom	3 4
59 - Superstructure Rating	3
59A - Paint Rating	N
60 - Substructure Rating	7
61 - Channel Rating	N
62 - Culvert Rating	N

Navigation Data

38 - Navigation Control	N
39 - Vertical Clearance	0
40 - Horizontal Clearance	0
111 - Pier Protection	
116 - Lift Brgd Vert Clear	

Route Carried By Structure(ON Record)

5A - Record Type	1
5B - Route Signing	5
5C - Level of Service	0
5D - Route Number	00000
5E - Direction Suffix	0
10L - Best 3m Unclr-Lt	0 0
10R - Best 3m Unclr-Rt	99 99
PR Number	
Control Section	
11 - Mile Point	
12 - Base Highway Network	0
13 - LRS Route-Subroute	0000000041 07
19 - Detour Length	1
20 - Toll Facility	3
26 - Functional Class	19
28A - Lanes On	2
29 - ADT	650
30 - Year of ADT	1998
32 - Appr Roadway Width	24
32A/B - Ap Pvt Type/Width	4 23.95
42A - Service Type On	5
47L - Left Horizontal Clear	0.0
47R - Right Horizontal Clear	24.0
53 - Min Vert Clr Ov Deck	99 99
100 - STRAHNET	0
102 - Traffic Direct	2
109 - Truck %	3
110 - Truck Network	0
114 - Future ADT	1000
115 - Year Future ADT	2010
Freeway	0

Structure Appraisal

36A - Bridge Railing	1
36B - Rail Transition	0
36C - Approach Rail	0
36D - Rail Termination	0
67 - Structure Evaluation	4
68 - Deck Geometry	4
69 - Underclearance	3
71 - Waterway Adequacy	N
72 - Approach Alignment	6
103 - Temporary Structure	
113 - Scour Criticality	N

Miscellaneous

37 - Historical Significance	5
98A - Border Bridge State	
98B - Border Bridge %	
101 - Parallel Structure	N
EPA ID	
Stay in Place Forms	0
143 - Pin & Hanger Code	0
148 - No. of Pin & Hangers	0

Route Under Structure (UNDER Record)

5A - Record Type	2
5B - Route Signing	5
5C - Level of Service	0
5D - Route Number	02005
5E - Direction Suffix	0
10L - Best 3m Unclr-Lt	0 0
10R - Best 3m Unclr-Rt	16 0
PR Number	
Control Section	
11 - Mile Point	
12 - Base Highway Network	0
13 - LRS Route-Subroute	0000000068 10
19 - Detour Length	0
20 - Toll Facility	3
26 - Functional Class	17
28B - Lanes Under	2
29 - ADT	6700
30 - Year of ADT	1978
42B - Service Type Under	1
47L - Left Horizontal Clear	0
47R - Right Horizontal Clear	39.7
54A - Left Feature	H
54B - Left Underclearance	0 0
54C - Right Feature	H
54D - Right Clearance	16 0
Under Clearance Year	
55A - Reference Feature	H
55B - Right Horiz Clearance	
56 - Left Horiz Clearance	
100 - STRAHNET	0
102 - Traffic Direct	2
109 - Truck %	3
110 - Truck Network	0
114 - Future ADT	999999
115 - Year Future ADT	1977
Freeway	0

Proposed Improvements

75 - Type of Work	35 1
76 - Length of Improvement	200
94 - Bridge Cost	30
95 - Roadway Cost	5
96 - Total Cost	35
97 - Year of Cost Estimate	2010

Load Rating and Posting

31 - Design Load	6
41 - Open, Posted, Closed	K
63 - Fed Oper Rtg Method	7
64F - Fed Oper Rtg Load	.78
64MA - Mich Oper Rtg Method	7
64MB - Mich Oper Rtg	.53
64MC - Mich Oper Truck	18
65 - Inv Rtg Method	7
66 - Inventory Load	.5
70 - Posting	0
141 - Posted Loading	14NNNN
193 - Overload Class	

MICHIGAN DEPARTMENT OF TRANSPORTATION

STR 4684

WORK RECOMMENDATIONS

Facility	Latitude / Longitude	MDOT Structure ID	Structure Condition	
INKSTER AVENUE	42.2669 / -85.5936	395353800197S01	Serious Condition(3)	
Feature	Length / Width / Spans	Owner		
BRONSON BOULEVARD	77.8 / 31.8 / 3	City: KALAMAZOO(3538)		
Location	Built / Recon. / Paint / Ovly.	TSC	Operational Status	
IN CITY OF KALAMAZOO	1990 / / / 2011	Kalamazoo(16)	K Closed to all traffic(K)	
Region / County	Material / Design	Last NBI Inspection	Scour Evaluation	
Southwest(5) / Kalamazoo(39)	7 Wood or Timber / 01 Slab	03/05/2020 / KJHC	N Not Over Waterway	

WORK RECOMMENDATIONS

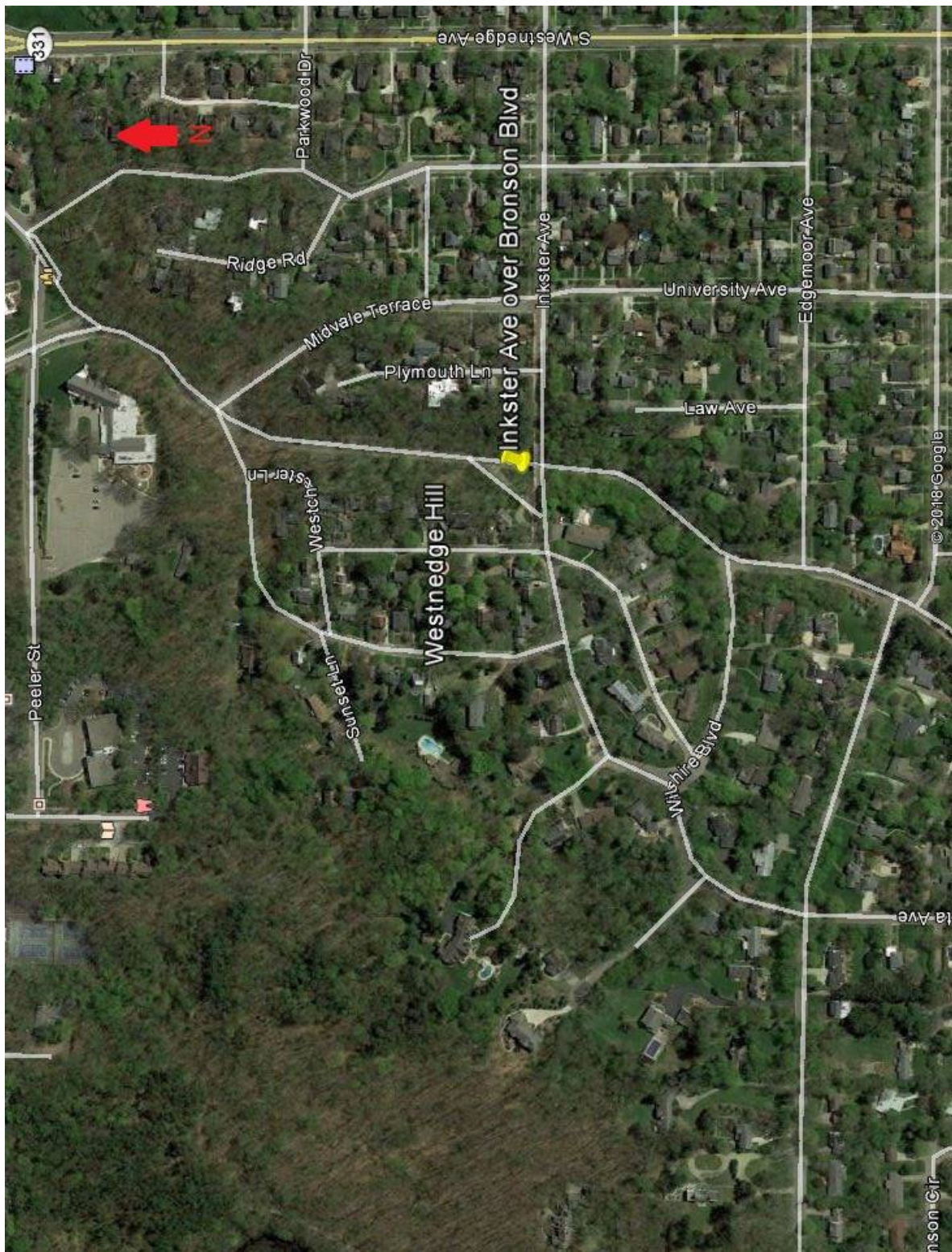
KJHC

Inspector Name	Agency / Company Name	Insp. Freq.	Insp. Date
Alan Halbeisen	Orchard, Hiltz, & McCliment	3	03/05/2020

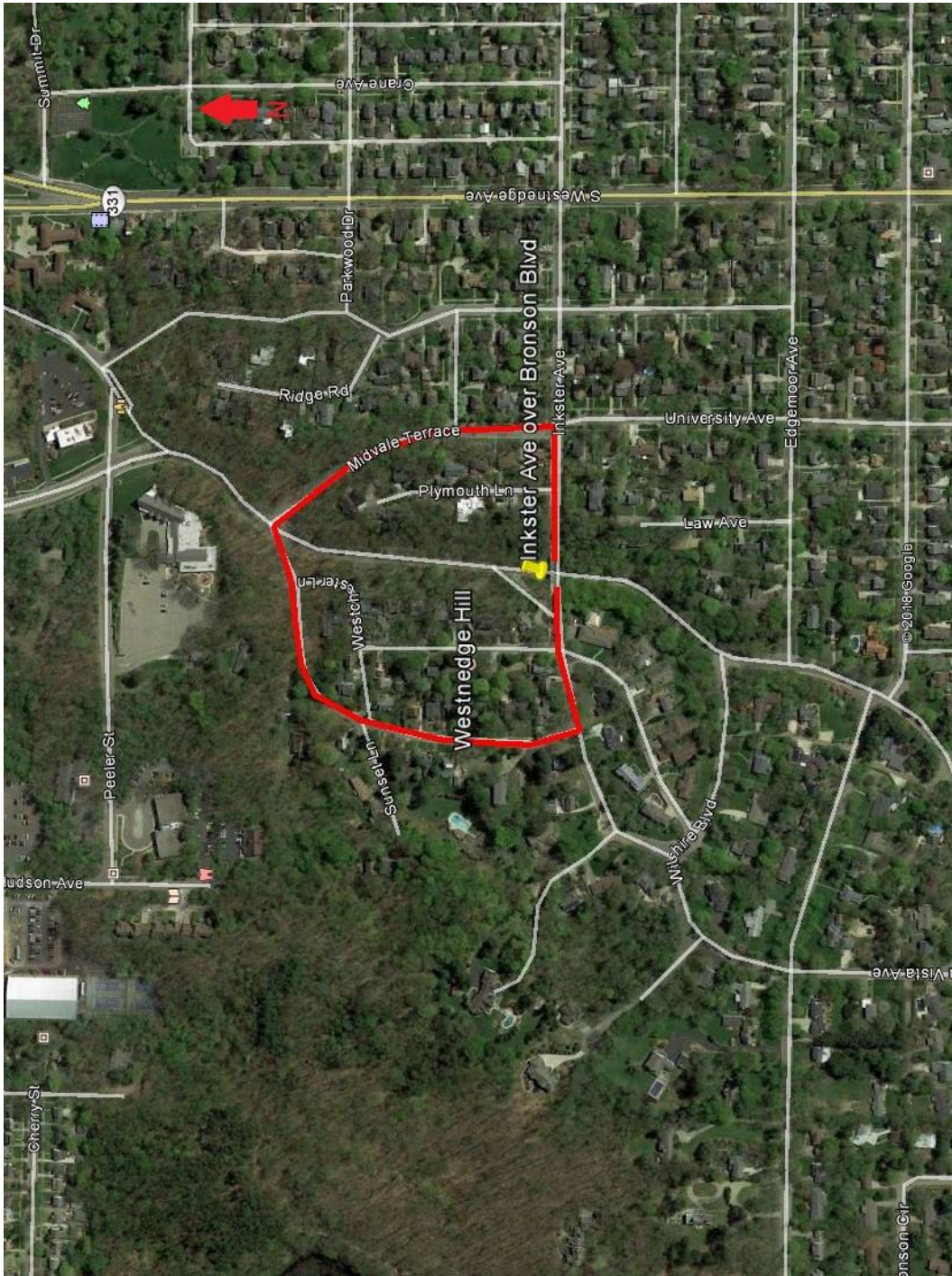
RECOMMENDATIONS & ACTION ITEMS

Recommendation Type	Priority	Description
Bearing Repair	H	Re-align and repair girder ends at center span bearings.
Bridge Repl.	H	Recommend application for funding for bridge replacement.

2a. Situation Map



2b. Detour Map



Inkster to Springhill
To Forest Glen
To Midvale Terrace
To Inkster

Detour Length: 0.57 Miles

3. Photos



East approach looking west



South Elevation



South railing



Distortion of north girder, center span under north sidewalk



Under center span, north sidewalk, looking east



Timber panels center span, Panel 3S



North Elevation after bearing re-alignment and end repairs



Barrier to protect south railing

4. Application Requirements for Inkster Avenue over Bronson Boulevard

A. Local Agency Contact Person

James Baker, PE
City Engineer
bakerj@kalamazoocity.org
269-337-8768

B. The purpose of this application is for the replacement of the bridge for Inkster Avenue over Bronson Boulevard.

Inspections of the bridge noted that the deck panels have cracking in individual boards and transverse separation of the boards, which has affected the load distribution on the deck and resulted in distortion of the north girder and the south railing. Due to these conditions the bridge roadway has been narrowed to limit traffic on the south side and an emergency repair contract was issued to re-align bearings and repair the beam ends on the north girder.

A single span concrete box beam or steel tub girder bridge can replace the timber span while maintaining the required vertical clearance over the roadway below.

C. Economic Importance of the Structure

This structure is located approximately 0.20 miles west of Westnedge Avenue and 0.45 miles north of Whites Road on the south side of the City of Kalamazoo. The bridge is located in a residential area. The area is known as the Westnedge Hill neighborhood. The neighborhood is hilly and the bridge links the west and east parts over Bronson Boulevard. Municipal services such as trash collection, police, fire, and mail would be forced to add approximately a half mile to their routes to reach the west part of Westnedge Hill from Westnedge Avenue. As any delay is detrimental in an emergency, the bridge is important for public safety.

D. If there is a current detour, what does it affect?

After repairs were completed in March the bridge was re-opened to traffic and there is no detour in place. However, truck traffic is restricted by the weight limits and the 'No Trucks' posting.

E. If the structure were to be closed, what would the detour affect?

If the structure were to be closed, the detour would affect the residents in the area. Inkster Avenue links the east and west parts of the Westnedge Hill neighborhood and would inhibit traffic between the two areas.

F. The structure is not currently closed.

The bridge was closed in March 2020 due to problems noted during a routine inspection, including warping of the north girder under the sidewalk and separation of the timber deck that resulted in rotation out of plumb of the south railing. On March 27 concrete barriers were placed along the south side to protect the deck and railing from vehicle loads, reducing the clear width of the roadway to 19 feet. On March 27 the north girder was repaired by re-alignment of the bearings and the addition of steel splice plates at the ends. After reviewing the load rating the bridge was re-opened to traffic on April xx, 2020. The bridge weight limit of **14** tons is still in effect and the City is further posting to restrict truck use of the bridge.

G. Maintenance of the Structure

In 2010 the bridge was resurfaced and the timber spreader beams were tightened. The sidewalk on the north side of the bridge had planks replaced in 2010 and again in 2015 when snow removal equipment damaged some planks. In March 2020 an emergency repair of the north girder was completed and the roadway width was reduced with barriers to protect the south railing from vehicle loading.

5. Estimated Replacement Costs

Bridge Replacement	
A. Approach Construction	\$ 86,000.00
B. Structure Construction	\$ 763,000.00
Total (A & B)	\$ 849,000.00

For a breakdown of Construction costs, see Appendix A.

6. Priority List

- 1. Inkster Avenue over Bronson Blvd.**
2. Gull Road over Kalamazoo River

7. Resolution

The resolution is attached in Appendix B.

8. Previous Applications

It is understood that all previous applications have been discarded and that this application will be used to select funding.

APPENDIX A

2020

LAP - BRIDGE COST ESTIMATE WORKSHEET

REV. 2/1/2020

- CPM, REHAB, REPLACE -

DATE: 4/10/2020

OWNER: KALAMAZOO
REGION: Southwest
TSC: Kalamazoo

FISCAL YEAR: 2023

PR: #N/A MP: #N/A

LENGTH 77.8
Out to Out WIDTH 31.8
Curb to Curb WIDTH 24.0

ENGINEER: ALH

STRUCTURE ID: 4684
BRIDGE ID: N/ALOCATION: INKSTER AVENUE over BRONSON BOULEVARD
PRIMARY WORK ACTIVITY Bridge Replacement
OTHER WORK:DECK AREA: 2,474 SFT
CLEAR ROADWAY: 1,867 SFT
STR. TYPE: Timber Slab

WORK ACTIVITY	Michigan Bridge Design Manual	QUANTITY	UNIT	UNIT COST	TOTAL
NEW BRIDGE (increase deck area based on design standards and hydraulic requirements)					
Single or Multiple Spans, Grade Separation	(add demo, approach, MOT)	2,040.0	SFT	\$220.00 /SFT	\$448,800
Single Span, Over Water	(add demo, approach, MOT)		SFT	\$350.00 /SFT	
Multiple Spans, Over Water	(add demo, approach, MOT)		SFT	\$220.00 /SFT	
Precast Culvert	(add demo, approach, MOT)		SFT	\$350.00 /SFT	
NEW SUPERSTRUCTURE					
New Superstructure, Grade Separation	(incl. remove exist deck/super; add MOT & approach)		SFT	\$170.00 /SFT	
New Superstructure, Over Water	(incl. remove exist deck/super; add MOT & approach)		SFT	\$200.00 /SFT	
WIDENING					
Structure Widening, _____ ft	(incl. deck/super/sub widening, add approach transition)		SFT	\$270.00 /SFT	
NEW DECK					
New Bridge Deck & Barrier	(incl. remove exist deck/railing, add approach, MOT)		SFT	\$75.00 /SFT	
DEMOLITION					
Entire Structure, Grade Separation		2,474.0	SFT	\$33.00 /SFT	\$81,643
Entire Structure, Over Water			SFT	\$46.00 /SFT	
DECK REPAIR / TREATMENTS					
Bridge Railing Replacement	(incl. removal and replacement)		FT	\$400.00 /FT	
Concrete Brush Block / Curb Patch	(incl. hand chipping and formwork)		FT	\$24.00 /FT	
Concrete Barrier Patch	(incl. hand chipping and formwork)		SFT	\$45.00 /SFT	
Concrete Deck Patch	(incl. hand chipping)		SFT	\$30.00 /SFT	
Deep Overlay	(incl. joint repl & hydro)		SFT	\$33.00 /SFT	
Epoxy Overlay	(incl. warranty)		SYD	\$30.00 /SYD	
Expansion Joint Gland Replacement	(remove and replace elastomeric gland)		FT	\$85.00 /FT	
Expansion Joint Replacement	(incl. removal)		FT	\$600.00 /FT	
Full Depth Patch			SFT	\$76.00 /SFT	
Healer / Sealer	(penetrates cracks in bridge deck)		SYD	\$15.00 /SYD	
HMA Overlay with WP membrane			SYD	\$53.00 /SYD	
Overlay Removal	(Epoxy: \$8/syd Latex: \$16/syd HMA: \$7/syd)		SYD	\$16.00 /SYD	
Reseal Bridge Joints			FT	\$16.00 /FT	
Shallow Overlay	(incl. joint repl & hydro)		SFT	\$22.00 /SFT	
SUPERSTRUCTURE REPAIR					
Bearing Realignment / Replacement	(incl. temporary supports)		EA	\$5,000.00 EA	
Heat Straightening	(incl. clean and coat)		EA	\$50,000.00 EA	
Pack Rust Repair	(greater than 3/8" separation)		FT	\$500.00 /FT	
Paint - Complete	(incl. clean & coat)		SFT	\$20.00 /SFT	
Paint - Partial / Spot / Zone	(incl. clean & coat - \$20k minimum)		SFT	\$40.00 /SFT	
PCI Beam End Blockout	(incl. temporary supports)		EA	\$7,200.00 EA	
Pin & Hanger Replacement	(incl. temporary supports)		EA	\$8,000.00 EA	
Structural Steel Repair	(based on 6ft length; for stiffeners use \$1,200 ea)		EA	\$3,000.00 EA	
SUBSTRUCTURE REPAIR					
Substructure Patching	(measured x 2) replace if repair area > 30%		CFT	\$300.00 /CFT	
Substructure Replacement	(incl. temporary supports, excavation)		CFT	\$180.00 /CFT	
Substructure Horizontal Surface Sealer			SYD	\$40.00 /SYD	
Temporary Supports	(add \$1,200 for ea steel beam - stiffeners)		EA	\$2,500.00 EA	
MISCELLANEOUS					
Articulating Concrete Block System (ACB)			SYD	\$150.00 /SYD	
Concrete Surface Coating			SYD	\$28.00 /SYD	
Culvert Cleanout			FT	\$30.00 /FT	
Epoxy Crack Injection	(structural crack repair)		FT	\$50.00 /FT	
Metal Mesh Panels	(48" width, max 6'-6" length)		SFT	\$20.00 /SFT	
Pressure Relief Joint	(use when approach concrete roadway exceeds 1,000ft)		FT	\$100.00 /FT	
Riprap	(assume 10ft distance around perimeter of substructure)		SYD	\$175.00 /SYD	
Silane Treatment	(penetrating sealer for concrete surfaces)		SFT	\$4.50 /SFT	
Slope Protection Repairs			SYD	\$100.00 /SYD	
Other					
STRUCTURE CONSTRUCTION BUDGET					\$530,443
ROAD WORK					
Approach Pavement, 12" RC	(incl. removal; add curb, gutter, guardrail) 20' ea. end	152.0	SYD	\$175.00 /SYD	\$26,600
Approach Curb & Gutter	(incl. removal) 20' ea. quadrant	80.0	FT	\$56.00 /FT	\$4,480
Guardrail Anchorage to Bridge	(each quadrant)	4.0	EA	\$1,600.00 /EA	\$6,400
Guardrail	(incl. removal) < 200ft beyond reference line	100.0	FT	\$28.00 /FT	\$2,800
Guardrail Terminal	(each quadrant)	4.0	EA	\$2,300.00 /EA	\$9,200
Roadway Approach Work	(beyond approach pavement)		LSUM		
Utilities			LSUM		
TRAFFIC CONTROL Unit Cost to be determined by Region or TSC Traffic & Safety					
Part Width Construction			LSUM		
Crossovers			EA	\$300,000.00 /EA	
Temporary Traffic Signals			set	\$25,000.00 /set	
RR Flagging			LSUM		
Detour		1.0	LSUM	\$10,000.00 /LSUM	\$10,000
RELATED ROAD/TRAFFIC CONSTRUCTION BUDGET					\$59,480
CONTINGENCY	(10% - 20%) (use higher contingency for small projects)	20	%	\$590,000.00	\$118,000
MOBILIZATION	(estimate at 10%)	10	%	\$708,000.00	\$71,000
INFLATION	(assume 3% per year, beginning in 2021)	9	%	\$779,000.00	\$70,000

(Does not include PE or CE)

TOTAL CONSTRUCTION BUDGET **\$849,000**

APPENDIX B

RESOLUTION NO.2020 - _____

**RESOLUTION OF THE CITY OF KALAMAZOO REQUESTING
THAT THE MICHIGAN DEPARTMENT OF TRANSPORTATION
INCLUDE THE BRIDGE ON INKSTER AVENUE OVER BRONSON BOULEVARD
IN THE LOCAL BRIDGE PROGRAM FOR 2023 FUNDING**

WHEREAS, OHM Advisors, Consulting Engineers for the City of Kalamazoo, has completed inspections of the City bridges and,

WHEREAS, based on the inspections, the Consulting Engineers prepared Bridge Inspection Reports; and has made the recommendation that the bridge on Inkster Avenue over Bronson Boulevard is in need of replacement and,

WHEREAS, based on the findings and recommendations of the Consulting Engineers, the Director of the Department of Public Services recommends that the City Commission authorize the City Manager to make application to the Michigan Department of Transportation to include the bridge on Inkster Avenue on the Local Bridge Program for replacement.

NOW, THEREFORE, BE IT RESOLVED that the City of Kalamazoo is actively seeking financial participation for the bridges and authorizes its City Manager to make application to the Michigan Department of Transportation to include this bridge on the State Local Bridge Program list for replacement funding, to make application for financial assistance from the State of Michigan and Federal government and to do those things reasonably necessary or required in order to accomplish the replacement of the Inkster Avenue bridge.

ON MOTION OF _____ SUPPORTED BY

_____ the foregoing Resolution was adopted by the following vote:

ROLE CALL:

AYE _____ NAY _____ ABSENT _____

I, _____, Clerk for the City of Kalamazoo, hereby certify that the foregoing is a true and accurate copy of a Resolution adopted by the City Commission for the City of Kalamazoo at a regular meeting held on the 4th day of May, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meeting 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.

_____, City Clerk



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **G.5.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Steve Vicenzi, Director of Management Services/CFO
Prepared by: Jennifer Clark, Budget and Accounting Division Manager

DATE: May 4, 2020

SUBJECT: Approval of 2020 First Quarter Budget Amendments

RECOMMENDATION:

It is recommended that the City Commission approve the first quarter amendments to the 2020 Budget appropriations. The total amendments of \$5,328,485 are as follows by Fund:

- General Fund - \$359,000 Increase
- Major Streets - \$140,000 Increase
- Local Streets - \$140,000 Reduction
- Solid Waste - \$379,442 Increase
- Blight Abatement - \$250,000 Increase
- Capital Improvement Fund - \$2,000,000 Reduction
- Water Capital Improvements - \$500,000 Reduction
- Insurance Fund - \$430,500 Increase

BACKGROUND:

The City's Budget Policies adopted by the City Commission and State law require that the City's legislatively appropriated expenditures be adequate to cover actual expenditures. In addition, the City's policies require City Commission approval for operating carry forwards. Based on these requirements, the City recommends the following adjustments.

RECOMMENDATION:

A complete list of the requested amendments are included in the attachments of this document in the 2020 Quarter 1 Budget Amendment List. They are summarized here as follows:

GENERAL FUND (101) - Increase 2020 appropriations by \$359,000

The General Fund requests this amendment for planned and a budgeted items in 2019, that will not be fully executed until 2020. The amendment includes adjustments for 311 Customer Service Advertising, City Hall improvements, and Information Technology equipment.

SPECIAL REVENUE FUNDS

Major Streets (202) - Increase 2020 appropriations by \$140,000

This amendment is requested to correct an error in the 2020 adopted budget where the Local Streets fund listed capital improvement projects that are classified as Major Streets projects.

Local Streets (203) - Decrease 2020 appropriates by \$140,000

This amendment is requested to correct an error in the 2020 adopted budget where the Local Streets fund listed capital improvement projects that are classified as Major Streets projects.

Solid Waste (226) - Increase 2020 appropriations by \$379,442

This amendment is requested for planned and a budgeted items in 2019, that will not be fully executed until 2020. The adjustment includes hazardous tree removal and infrastructure capital outlay for a leaf composit site.

Blight Abatement (231) - Increase 2020 appropriations by \$250,000

This amendment is requested for planned and a budgeted items in 2019, that will not be fully executed until 2020. The approval of this amendment will continue the efforts identified by the City Commission in 2018 for housing demolitions and blight elimination.

Foundation for Excellence Aspirational Projects (251) - Increase 2020 appropriations by \$6,409,543.

This amendment is requested for planned and a budgeted items in 2019, that will not be fully executed until 2020. A detailed listing of the Aspirational projects in progress and carried forward into 2020 is included in the attachments to this recommendation.

CAPITAL IMPROVEMENT PROJECTS (495) - Decrease 2020 appropriations by \$2,000,000.

This amendment is requested to correct an error in the 2020 adopted budget where the Capital Improvements Project Fund listed Foundation for Excellence Aspiraitonal projects. The planned project is also appropriated and will be expended in the FFE Aspirational Projects Fund (251) and therefore was duplicated in total in the City's 2020 budget.

WATER CAPITAL IMPROVEMENT PROJECTS (591) - Decrease 2020 appropriations by \$500,000

This amendment is requested to correct an error in the 2020 adopted budget where the Water Capital Improvements Projects listed Foundation for Excellence Aspirational projects. The planned project is also appropriated and will be expended in the FFE Aspirational Projects Fund (251) and therefore was duplicated in total in the City's 2020 budget.

INSURANCE FUND (677) - Increase 2020 appropriations by \$430,500

This amendment is requested for planned and a budgeted items in 2019, that will not be fully executed until 2020. The amendment includes adjustments for the Health Clinic building improvements.

INFORMATIONAL:

CAPITAL IMPROVEMENT PROJECTS (CARRY FORWARD)-

The City's budget policies provide for the automatic approval of capital project carry forward for projects in progress, but not complete at the end of the City's fiscal year. However, the policies require that the City share this information with the City Commission. A complete list of capital carry forwards is provided in the attachments to the document. The City's total capital project carry forwards of \$33,018,464 is summarized as follows by Fund:

- General Capital Improvements Projects Fund (495) - \$4,376,833
- Major Streets Fund (202) - \$5,934,996
- Local Streets Fund (203) - \$926,312
- Wastewater Fund (590) - \$8,875,770
- Water Fund (591) - \$12,904,554

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program (program name):

Annual Budget Preparation

Strategic Goal Impact:



Good Governance- Ensuring the City organization has the capacity and resources to effectively implement the community's Strategic Vision in a way that is sustainable over the long term.

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

Inform (one-way conversation) – no feasible alternatives available due to legal/regulatory restrictions, standards and best practices, or resource limitations; the community will be made aware of the project.

FISCAL IMPACT:

The adjustments bring forward expenditures planned but not completed in 2019 or correct an error in the 2020 budget document as outlined in the background information. The increased expenditures are less than or equal to the reserve balance created through prior savings in each fund.

2020 QUARTER 1 BUDGET AMENDMENTS

Department	Fund #	Fund Name	Funding Account Description	Expenditure Account Description	Amount	Description
Items in the 2019 Budget in Progress:						
Customer Service	101	General Fund	Reserves	Advertising 311	5,000	Advertising for the new 311 number, not approved by AT&T until 2020.
Public Services	101	General Fund	Reserves	City Maintenance City Hall Building Improvements	40,000	Drive-up drop box was not completed in 2019 and is planned for 2020.
Information Technology	101	General Fund	Reserves	Computer Equipment	300,000	Replacement of computer equipment for compatability of the workforce.
Information Technology	101	General Fund	Reserves	Kronos Equipment Rental:Workforce Ready	14,000	Timeclock rental for Kronos HRIS systems.
		Subtotal General Fund			359,000	
Public Services	226	Solid Waste	Reserves	Hazardous Tree Removal	97,967	For additional efforts in the Hazardous Trees
Public Services	226	Solid Waste	Reserves	Leaf Compost Site	281,475	Construction in progress at year-end.
Community Planning & Econon	231	Blight Abatement	Reserves	Blight Abatement Services	250,000	FY2018 approval to assist with housing demolitions of burned and condemned units within the City limits. Requesting remaining balance and interest earnings to be used in 2020 to continue efforts.
Foundation for Excellence	251	FFE Aspirational Projects	Reserves	See Separate List of Projects	6,409,543	Continued FFE Aspirational efforts into 2020
Risk Management	677	Insurance Fund	Reserves	Building Improvements	430,500	Health Clinic construction in progress at year-end to be completed in 2020.
Correction to 2020 Budget- Major Streets Projects included as Local Streets Projects:						
Public Services	202	Major Streets	Bond Proceeds	2020 Adopted Portage Street Raised Sidewalks	75,000	Projects were inadvertently included as a Local Streets Capital Project in the Adopted Budget and should have been Major Streets. The transfer corrects this error and capitures project costs in the appropriate fund.
Public Services	203	Local Streets	Bond Proceeds	2020 Adopted Portage Street Raised Sidewalks	(75,000)	
Public Services	202	Major Streets	Bond Proceeds	2020 Adopted South & Westnedge	65,000	
Public Services	203	Local Streets	Bond Proceeds	2020 Adopted South & Westnedge	(65,000)	

2020 QUARTER 1 BUDGET AMENDMENTS

Department	Fund #	Fund Name	Funding Account Description	Expenditure Account Description	Amount	Description
Correction to 2020 Budget- FFE Aspirational Funds Budgeted in Receiving Fund and Operational Projects Fund:						
Parks and Recreation	495	Capital Improvement Fund	FFE Funding	Parks and Recreation Capital - Farmer's Market	(2,000,000)	The Funding and Expenditures of the Aspirational Projects will be directed to the Aspirational Projects Fund. The adopted budget duplicated this project and resources in the Capital Improvement Program Budgets and Aspirational Projects Fund.
Public Services	591	Water Fund	FFE Funding	Water Capital - Lead Services	(500,000)	
TOTAL BY FUND:						

101	General Fund	359,000
202	Major Streets	140,000
203	Local Streets	(140,000)
226	Solid Waste	379,442
231	Blight Abatement	250,000
251	FFE Aspirational Projects	6,409,543
495	Capital Improvement Fund	(2,000,000)
591	Water Fund	(500,000)
677	Insurance Fund	430,500

Grand Total: 5,328,485

KALAMAZOO FOUNDATION FOR EXCELLENCE

AS OF DECEMBER 31, 2019	Total FFE Budget	2019 Exp	Remaining FFE Budget	2019-2020 Amendment
FFE ASPIRATIONAL OPERATIONS				
FFE COORDINATOR	94,061	94,061	(0)	-
COMMUNICATION & EVALUATION	148,269	57,828	90,441	90,441
FFE OPERATING EXPENSES	204,500	185,000	19,500	-
CONTINGENCY HOLDING	97,982	-	97,982	97,982
TOTAL	544,812	336,889	207,923	188,423
YOUTH DEVELOPMENT & EMPLOYMENT				
YOUTH DEVELOPMENT COORDINATOR	65,297	64,700	597	-
SUPER REC	162,000	129,004	32,996	32,996
YOUTH EMPLOYMENT-KRESA	829,337	753,510	75,827	75,827
ALL THINGS POSSIBLE	104,000	79,492	24,508	-
TOTAL	1,160,634	1,026,705	133,929	108,824
SHARED PROSPERITY KALAMAZOO				
SHARED PROSPERITY COORDINATOR	80,859	80,859	0	-
SPK HIGH IMPACT FUND	2,000,000	327,621	1,672,380	1,672,380
TOTAL	2,080,859	408,479	1,672,380	1,672,380
COMPLETE NEIGHBORHOODS				
TREE TRIMMING	554,918	399,617	155,301	155,301
TREE PLANTING	162,500	3,446	159,054	159,054
TRAFFIC CALMING	202,350	122,050	80,300	80,300
TRAINFO	164,355	12,126	152,229	152,229
NEIGHBORHOOD SIDEWALKS	1,207,137	541,286	665,851	665,851
SIDEWALK 50/50 PROGRAM	10,000	-	10,000	10,000
INFRASTRUCTURE-PROJECTS TBD	-	-	-	-
MILLING/PAVING-OAKLAND-LOVELL TO HOWARD	-	-	-	-
DREDGING-CROSSTOWN PONDS	850,000	733,374	116,626	116,626
MILLING/PAVING-NORWAY-ROSE TO WESTNEDGE	127,974	127,974	(0)	-
SIDEWALK-WOODWARD-PATTERSON TO DUNKLEY	-	-	-	-
SIDEWALK-MABEL-WESTNEDGE TO COBB	30,620	30,620	0	-
MILLING/PAVING-SUN VALLEY	140,956	96,645	44,311	44,311
MILLING/PAVING-LAKE-NON-MOTORIZED PATH	-	-	-	-
MILLING/PAVING-LOCUST-VINE TO LOVELL	52,287	52,287	-	-
HENDERSON TOT-LOT	17,858	15,358	2,500	2,500
DAVIS STREET PARK	12,140	12,140	-	-
ROCKWELL PARK	289,698	209,623	80,075	80,075
FRAYS PARK	26,220	26,220	(0)	-
REED STREET PARK	145,000	145,000	-	-
UPJOHN PARK	254,357	1,248	253,110	253,110
NEIGHBORHOOD ACTIVATOR	82,243	82,243	-	-
NEIGHBORHOOD ENGAGEMENT EVENTS	200,863	79,912	120,951	120,951
TOTAL	4,531,476	2,691,169	1,840,307	1,840,307
INVITING PUBLIC SPACES				
DKI INVITING PUBLIC SPACES	366,722	109,607	257,115	257,115
CONNECTED CITY				
YOUTH MOBILITY	250,000	126,164	123,836	123,836
ECONOMIC VITALITY				
CPED GRANTS & LOANS	1,681,299	787,641	893,658	893,658
LISC-ECONOMIC DEVELOPMENT	1,250,000	-	1,250,000	1,250,000
LISC-AFFORDABLE HOUSING	1,500,000	1,500,000	-	-
TOTAL	4,431,299	2,287,641	2,143,658	2,143,658
CAPITAL IMPROVEMENTS				
LEAD SERVICE REMOVAL/REPLACEMENT	500,000	500,000	-	-
PROJECT TOTALS				
	13,865,802	7,486,655	6,379,148	6,334,543
New 2020 Project - Farmers Market	75,000	-	75,000	75,000
	13,940,802	7,486,655	6,454,148	6,409,543

City of Kalamazoo
2019-2020 Capital Project Budget Carryforwards

2019-2020 Capital Project Budget Carryforwards			FUNDING SOURCE			
Project Name	Project Number	2019-2020 Carryforward	Outside Funding	Foundation for Excellence	Other City Funding	Reserves
CAPITAL IMPROVEMENT PROGRAM (FUND 495)						
NEW STATION #2 (BRYANT)	cip0200032	\$ 1,346,276				\$ 1,346,276
KDPS RADIO REPLACEMENT	cip0200045	\$ 6,197				\$ 6,197
Public Safety		\$ 1,352,473	\$ -	\$ -	\$ -	\$ 1,352,473
						\$ -
HENDERSON TOT LOT	cip0300052	\$ 2,500		\$ 2,500		
BRONSON PARK IMPROVEMENTS	cip0300056	\$ 382,220	\$ 382,220			
FARMERS MARKET REDEVELOPMENT	cip0300057	\$ 675,098				\$ 675,098
ROCKWELL PARK IMPROVEMENTS	cip0300060	\$ 80,074		\$ 80,074		
NORTHSIDE SPLASH PAD	cip0300062	\$ 754				\$ 754
REED STREET PARK REDEVELOPMENT	cip0300066	\$ 1,989				\$ 1,989
VERBURG PARK IMPROVEMENTS	cip0300067	\$ 4,272				\$ 4,272
MILHAM PARK IMPROVEMENTS	cip0300068	\$ -				\$ -
MILHAM PARK DAM REMOVAL	cip0300069	\$ 11,149				\$ 11,149
UPJOHN PARK RESURFACING	cip0300070	\$ 253,110		\$ 253,110		
Parks & Recreation		\$ 1,411,166	\$ 382,220	\$ 335,684	\$ -	\$ 693,262
FIBER OPTIC NETWORK	cip0500034	\$ 38,980				\$ 38,980
311 SYSTEM IMPLEMENTATION	cip0500050	\$ 19,652				\$ 19,652
IT NETWORK REFRESH	cip0500057	\$ 74,898				\$ 74,898
DATA CENTER CONSOLIDATION	cip0500058	\$ 1,153				\$ 1,153
CYBER SECURITY	cip0500059	\$ 17,296				\$ 17,296
2019 SERVERS, INFRASTRUCTURE & EQUIPMENT	cip0500060	\$ 84,177				\$ 84,177
CPED ROSE ST IT EQUIPMENT	cip0500062	\$ 41,787				\$ 41,787
CPED ROSE ST LEASEHOLD IMPROVEMENTS	cip0500061	\$ 57,742				\$ 57,742
CITY FIBER REDESIGN	cip0500063	\$ 117,312				\$ 117,312
General CIP		\$ 452,996	\$ -	\$ -	\$ -	\$ 452,996
KAL RIVER VALLEY TRAIL-DOWNTOWN CONNECT	cip0600026	\$ 5,013				\$ 5,013
PARKING ACCESS AND REV CONTROL SYS	cip0600034	\$ 369,123	\$ 369,123			
KRVT - PORTAGE CREEK TRAIL PH (3)	cip0600036	\$ 55,193				\$ 55,193
CITY HALL 4TH FLOOR UPGRADES - FAN COIL	cip0600037	\$ 180,235				\$ 180,235
FLEET HEAVY EQUIPMENT	cip0600039	\$ 455,228				\$ 455,228
Public Services		\$ 1,064,791	\$ 369,123	\$ -	\$ -	\$ 695,668
Contingency Bond Reserves	cip0100000	\$ 95,406	\$ -	\$ -	\$ -	\$ 95,406.43
TOTAL CIP		\$ 4,376,833	\$ 751,343.03	\$ 335,683.81	\$ -	\$ 3,289,805.76
MAJOR STREETS CAPITAL IMPROVEMENT (FUND 202)						
DRAKE ROAD SHARED USE PATHWAY	mst0100171	\$ 79,602	\$ 79,602			\$ -
BURDICK STREET TRAFFIC SIGNAL UPGRADE	mst0100176	\$ 136,030				\$ 136,030
PORTAGE (SHERIDAN TO STOCKBRIDGE)	mst0100179	\$ 107,000				\$ 107,000
VINE (WESTNEDGE TO CROSSTOWN)	mst0100180	\$ 107,016				\$ 107,016
VINE (DAVIS TO OAK)	mst0100181	\$ 204,545				\$ 204,545
ROSE (ACADEMY TO WATER)	mst0100182	\$ 36,001				\$ 36,001
CORK (PORTAGE TO SPRINKLE)	mst0100186	\$ 1,155,957				\$ 1,155,957
HARRISON TRAFFIC SIGNAL	mst0100188	\$ 12,138				\$ 12,138
HOWARD ST PEDESTRIAN IMPROVEMENTS	mst0100189	\$ 176,074				\$ 176,074
W MI/HOWARD RESURFACING & SIGNAL WORK	mst0100194	\$ 159,237				\$ 159,237
PITCHER STREET RECONSTRUCTION	mst0100197	\$ 253,608				\$ 253,608
HOWARD ST REPAVING (STADIUM TO OAKLAND)	mst0100198	\$ 113,213				\$ 113,213
DREDGING - CROSSTOWN PONDS	mst0100205	\$ 116,626		\$ 116,626		\$ -
PORTAGE-STOCKBRIDGE TO PORT/PITCHER CONN	mst0100206	\$ 858,990	\$ 850,000			\$ 8,990
HARRISON ST EXTENSION - PHASE II	mst0100209	\$ 116,837				\$ 116,837
OAKLAND (PARKVIEW TO HOWARD)	mst0100210	\$ 3,540				\$ 3,540
CORK ST ROAD (4 TO 3 LANE CONVERSION)	mst0100211	\$ 149,887				\$ 149,887
PARKVIEW AVE (OAKLAND TO GREENLEAF)	mst0100212	\$ 400,000				\$ 400,000
STADIUM DR (DRAKE TO LOVELL)	mst0100213	\$ 400,000				\$ 400,000
BURDICK & NORTH (TRAFFIC SIGNAL UPGRADE)	mst0100214	\$ 22,500				\$ 22,500
STREETLIGHTS-STADIUM (RAMBLING TO SOUTH)	mst0100217	\$ 600,000				\$ 600,000
BANK ST RE-ALIGNMENT	mst0100218	\$ 80,628				\$ 80,628
NORTH ST SIGNAL MODIFICATION	mst0100232	\$ 24,294				\$ 24,294
WATER & EDWARDS SIGNAL CABINET RELOCATIO	mst0100235	\$ 3,097				\$ 3,097
DRAKE RD CMAQ TRAFFIC SIGNAL PROJECT	mst0100236	\$ 2,438				\$ 2,438
MAJOR STREETS CONTINGENCY BOND RESERVES	mst0100000	\$ 615,739				\$ 615,739
Major Streets		\$ 5,934,996	\$ 929,602	\$ 116,626	\$ -	\$ 4,888,768

City of Kalamazoo
2019-2020 Capital Project Budget Carryforwards

2019-2020 Capital Project Budget Carryforwards			FUNDING SOURCE			
Project Name	Project Number	2019-2020	Outside Funding	Foundation for Excellence	Other City Funding	Reserves
		Carryforward				
LOCAL STREETS CAPITAL IMPROVEMENT (FUND 203)						
BROADWAY AVE - PARKVIEW TO LORRAINE	Ist0100215	\$ 11,805				\$ 11,805
STORM WATER COLLECTION STUDY	Ist0100219	\$ 149,532	\$ 149,532			\$ -
SUN VALLEY	Ist0100220	\$ 444,311		\$ 44,311		\$ 400,000
BANK STREET (LAKE TO REED)	Ist0100230	\$ 81,600				\$ 81,600
CEDAR STREET (DAVIS TO OAK)	Ist0100234	\$ 25,214				\$ 25,214
DENNER STREET (ALAMO TO NORTH)	Ist0100236	\$ 45,090				\$ 45,090
GLENDALE STREET (CURB & GUTTER)	Ist0100237	\$ 13,500				\$ 13,500
KONKLE STREET (CORK NORTH TO SCHOOL/PT 1	Ist0100241	\$ 23,100				\$ 23,100
KONKLE STREET (CORK TO BLOOMFIELD/PT 2)	Ist0100242	\$ 22,512				\$ 22,512
MONTROSE (BRONSON TO WESTNEDGE)	Ist0100245	\$ 37,800				\$ 37,800
PROUTY STREET (EDWARDS TO PITCHER)	Ist0100248	\$ 18,258				\$ 18,258
WHITTLER (CORK TO CAMBRIDGE)	Ist0100255	\$ 37,750				\$ 37,750
LOCAL STREETS CONTINGENCY BOND RESERVES	Ist0100000	\$ 15,840				\$ 15,840
Local Streets		\$ 926,312	\$ 149,532	\$ 44,311	\$ -	\$ 732,468
WASTEWATER CAPITAL IMPROVEMENT (FUND 590)						
ASSET MGMT-MOBILE WORK ORDER	wwr0100079	\$ 33,197				\$ 33,197
LIFT STATIONS RADIOS	wwr0100163	\$ 27,792				\$ 27,792
WRP ROAD RESURFACING	wwr0100165	\$ 115,993				\$ 115,993
SW & PORTAGE INTERCEPTOR ACCESS RD	wwr0100169	\$ 1,440				\$ 1,440
TERTIARY MCC UPGRADE-SECONDARY BLDG #11	wwr0100170	\$ 104,549				\$ 104,549
SOLIDS HANDLING PROCESS-UPGRADE	wwr0100179	\$ 3,283,793				\$ 3,283,793
FINE SCREENS PROCESS UPGRADE	wwr0100180	\$ 990,147				\$ 990,147
LABORATORY RENOVATION	wwr0100187	\$ 13,638				\$ 13,638
TERTIARY PROCESS UPGRADE	wwr0100196	\$ 70,000				\$ 70,000
LOAD CENTER 5 GENERATOR	wwr0100198	\$ 398,659				\$ 398,659
BAR SCREEN 1	wwr0100200	\$ 858,725				\$ 858,725
RAW PUMP REPLACEMENT	wwr0100201	\$ 12,200				\$ 12,200
WASTEWATER COLLECTION - ASSET MGMT	wwr0100203	\$ 673,393	\$ 673,393			
WOODS LAKE GENERATOR	wwr0100204	\$ 23,507				\$ 23,507
WHITES LAKE GENERATOR	wwr0100205	\$ 58,822				\$ 58,822
ALTERNATE FORCE MAIN & GRIT SYSTEM	wwr0100206	\$ 475,000				\$ 475,000
CLARIFIER DRIVES & SWEEPS (5-8)	wwr0100212	\$ 169,895				\$ 169,895
AGGREGATE STORAGE BIN	wwr0100214	\$ 68,337				\$ 68,337
SCHIPPERS DAM & CULVERT REPLACEMENT	wwr0100220	\$ 327,850				\$ 327,850
POWER STATION SWITCHGEAR	wwr0100223	\$ 42,719				\$ 42,719
KILGORE SANITARY SEWER EMERGENCY REPAIR	wwr0100227	\$ 204,980				\$ 204,980
ROSE STREET SANITARY SEWER	wwr0200049	\$ 29,860				\$ 29,860
CIPP SEWER LINERS, MH & LATERALS -ANNUAL	wwr0200057	\$ 196,855				\$ 196,855
CAMERON RELIEF SANITARY SEWER RR XING	wwr0200060	\$ 9,250				\$ 9,250
NEWTON CT SANITARY SEWER	wwr0200066	\$ 250				\$ 250
FELLOWS CT SANITARY SEWER REPLACEMENT	wwr0200067	\$ 250				\$ 250
BANK STREET SANITARY SEWER REALIGNMENT	wwr0200068	\$ 10,000				\$ 10,000
LEAF COMPOST SITE	wwr0400051	\$ 281,475				\$ 281,475
WASTEWATER BOND CONTINGENCY	wwr0100000	\$ 377,742				\$ 377,742
Wastewater		\$ 8,860,319	\$ 673,393	\$ -	\$ -	\$ 8,186,926
Wastewater Capital Projects - Moved to Operating Capital:						
COMPUTER REPLACEMENT		\$ 1,799				\$ 1,799
ACCESS CONTROL AND SECURITY UPGRADES		\$ 8,392				\$ 8,392
ELECTRICAL INSTRUMENTATION AND CONTROLS		\$ 5,260				\$ 5,260
Wastewater Operating Capital		\$ 15,451	\$ -	\$ -	\$ -	\$ 15,451.13
TOTAL WASTEWATER		\$ 8,875,770	\$ 673,393	\$ -	\$ -	\$ 8,202,377

City of Kalamazoo
2019-2020 Capital Project Budget Carryforwards

2019-2020 Capital Project Budget Carryforwards				FUNDING SOURCE			
Project Name	Project Number	2019-2020					
		Carryforward	Outside Funding	Foundation for Excellence	Other City Funding	Reserves	
WATER CAPITAL IMPROVEMENTS (FUND 591)							
STA #22-ELEVATED STORAGE/BOOSTER	wat0200060	\$ 857,636				\$ 857,636	
WELL #4-6 REPLACEMENT	wat0200062	\$ 5,200				\$ 5,200	
WELL #8-5 REPLACEMENT	wat0200063	\$ 64,462				\$ 64,462	
HENSON & SHAFFER AIR RELEASE VALVES	wat0200066	\$ 3,800				\$ 3,800	
PUMP STATION #14 ROOF REPLACEMENT	wat0200067	\$ 28,804				\$ 28,804	
SAMPLE SITE UPGRADES	wat0200069	\$ 30,774				\$ 30,774	
STA #11 UPGRADES	wat0200073	\$ 337,966				\$ 337,966	
STA #25 UPGRADES	wat0200075	\$ 647,914				\$ 647,914	
PHOSPHATE UPGRADE	wat0200077	\$ 802,427				\$ 802,427	
STATION ROADWAY IMPROVEMENTS	wat0200078	\$ 41,859				\$ 41,859	
SUPER HIGH PRESSURE TANK DISTRICT	wat0200080	\$ 101,640				\$ 101,640	
STA #24 UPGRADES	wat0200082	\$ 735,169				\$ 735,169	
STA #5 BOOSTER PUMP HOUSE REPLACEMENT	wat0200083	\$ 96,541				\$ 96,541	
CENTRAL STATION PUMPING UPGRADES	wat0200084	\$ 214,140				\$ 214,140	
STATION #12 UPGRADES	wat0200088	\$ 125,016				\$ 125,016	
STATION #14 RECHARGE BASIN EROSION CONTR	wat0200090	\$ 37,320				\$ 37,320	
PORTAGE RD-REPLACE 11 HYDRANTS	wat0400185	\$ 70				\$ 70	
VINE STREET-REPLACE 2 HYDRANTS	wat0400186	\$ 3,745				\$ 3,745	
1381 S DRAKE RD - NEW HYDRANT	wat0400199	\$ 15,000				\$ 15,000	
4510 W KAL AVE PROVISIONING CENTER HYDRA	wat0400225	\$ 4,183	\$ 4,183				
110 W CORK ST HYDRANT	wat0400226	\$ 2,216	\$ 2,216				
ROSE STREET MAIN REPLACEMENT	wat0500264	\$ 17,076				\$ 17,076	
383 S PITCHER - WATER MAIN	wat0500296	\$ -				\$ -	
CORK STREET - PORTAGE TO SPRINKLE	wat0500300	\$ 2,040,741				\$ 2,040,741	
KALAMAZOO COUNTY ANIMAL CONTROL	wat0500303	\$ 2,004	\$ 2,004				
WMU BTR PHASE II	wat0500304	\$ 2,473	\$ 2,473				
APPLEGATE WOODS PHASE 2	wat0500305	\$ -	\$ -				
30TH STREET WATER MAIN CONSTRUCTION	wat0500307	\$ 191,130				\$ 191,130	
PORTAGE ST (STOCKBRIDGE TO WALNUT)	wat0500308	\$ 50				\$ 50	
400 S ROSE	wat0500309	\$ -	\$ -				
CD12 - 180 E WATER ST	wat0500311	\$ 2,985	\$ 2,985				
KPS TRANSPORTATION BUILDING	wat0500313	\$ 2,764	\$ 2,764				
AUTUMN WOODS #4	wat0500314	\$ -	\$ -				
KALAMAZOO HUMANE SOCIETY/2272 RIVER ST	wat0500315	\$ 1,597	\$ 1,597				
HARRISON CIRCLE PROJECT	wat0500316	\$ -	\$ -				
KVCC WATER MAIN EXTENSION	wat0500317	\$ -	\$ -				
OAKLAND DRIVE - HOWARD TO PARKVIEW	wat0500319	\$ 9,480				\$ 9,480	
FORESMAN WATER MAIN	wat0500320	\$ 315,468				\$ 315,468	
BANK STREET RE-ALIGNMENT	wat0500321	\$ 6,794				\$ 6,794	
RICHLAND WATER MAIN EXTENSION	wat0500322	\$ 1,705,747	\$ 1,705,747				
APPLEGATE POINT	wat0500324	\$ 3,397	\$ 3,397				
GILMORE FARMS WEST	wat0500327	\$ -	\$ -				
SCHUPAN ALUMINUM	wat0500328	\$ 422	\$ 422				
805 JOHN ST - BRONSON MED PAVILION 2	wat0500330	\$ 4,395	\$ 4,395				
FLETCHERS	wat0500331	\$ -	\$ -				
ADVIA CREDIT UNION	wat0500332	\$ 4,915	\$ 4,915				
WMU SOUTH NEIGHBORHOOD PROJECT	wat0500333	\$ 8,545	\$ 8,545				
HARBOR FARMZ	wat0500336	\$ 1,172	\$ 1,172				
GULL LAKE SCHOOLS/RYAN INTERMEDIATE WATE	wat0500341	\$ 1,108	\$ 1,108				
COOPER TOWNSHIP WATER MAIN	wat0500342	\$ 254,358	\$ 254,358				
GLENDAL BLVD WATER MAIN REPLACEMENT	wat0500343	\$ 13,044	\$ 13,044				
FORMAN GLASS BUILDING/8689 KRUM	wat0500344	\$ 2,681				\$ 2,681	
KALAMAZOO CREAMERY/1101 PORTAGE ST	wat0500345	\$ 1,789				\$ 1,789	
BRACKETT AVE - WATER MAIN RELOCATION	wat0500346	\$ 8,260				\$ 8,260	
BRONSON - WEST MAIN PRIMARY	wat0500347	\$ 2,087	\$ 2,087				
BRONSON - RICHLAND PRIMARY CARE	wat0500348	\$ 1,704				\$ 1,704	
KALAMAZOO COUNTRY CLUB	wat0500349	\$ -	\$ -				
PHOENIX HIGH SCHOOL	wat0500350	\$ 878	\$ 878				
OSHTEMO SEWER EXTENSION PH 1, CONTRACT B	wat0500358	\$ -	\$ -				
26TH ST WATER MAIN EXTENSION	wat0500368	\$ -				\$ -	
CLARENDON WATER MAIN PROJECT	wat0500369	\$ 10,000				\$ 10,000	
RICHLAND WATER MAIN PROJECT (DWRF)	wat0500379	\$ 58,698	\$ 58,698				
400 S ROSE ST - VALVE REPAIR	wat0500385	\$ -				\$ -	
CITY OF KALAMAZOO - SERVICE EXTENSIONS	wat0600026	\$ 7,175					
LEAD SRVC REPLACEMENT - EPA REGULATION	wat0600026	\$ 96,057					
RICHLAND SERVICE EXTENSIONS	wat0600083	\$ 220,000	\$ 220,000				
CITY OF KZOO LEAD SERVICES REPLACEMENT	wat0600396	\$ 723,447				\$ 723,447	
2015 SCHIPPERS LN	wat0600397	\$ 2,397	\$ 2,397				
3270 S 26TH ST - GREEN MEADOWS PARK	wat0600410	\$ -	\$ -				
NEWELL/RUBBERMAID 3300 RESEARCH WAY	wat0600429	\$ 273	\$ 273				
3525 & 3537 N CIRCLE DR	wat0600430	\$ 709	\$ 709				

City of Kalamazoo
2019-2020 Capital Project Budget Carryforwards

2019-2020 Capital Project Budget Carryforwards			FUNDING SOURCE			
Project Name	Project Number	2019-2020	Outside Funding	Foundation for Excellence	Other City Funding	Reserves
		Carryforward				
WATER CAPITAL IMPROVEMENTS (FUND 591), continued						
10538 E MICHIGAN 89/KOOPER'S MARINE	wat0600437	\$ 4,641				\$ 4,641
WOODLAND TERRACE RICHLAND	wat0600446	\$ 1,366	\$ 1,366			
DHHS (ALCOTT)	wat0600447	\$ 511	\$ 511			
303 N ROSE - HILTON	wat0600448	\$ 2,049	\$ 2,049			
COOPER TOWNSHIP SERVICES	wat0600455	\$ 382,936	\$ 382,936			
PARCHMENT LEAD SERVICE REPLACEMENT	wat0600456	\$ 1,512,118	\$ 1,512,118			
3717 E CORK ST - AVID HOTEL	wat0600458	\$ 1,192	\$ 1,192			
SMALL SERVICES	wat0600459	\$ 193,807	\$ 193,807			
BRONSON - TEXAS CORNERS PRIMARY CARE	wat0600460	\$ 1,839	\$ 1,839			
BRONSON - S 9TH ST PRIMARY CARE	wat0600461	\$ 5,742				\$ 5,742
563 PORTAGE ST, MTP CRIBS	wat0600466	\$ 2,667				\$ 2,667
1919 FACTORY STREET	wat0600468	\$ -	\$ -			
PARCHMENT WATER METER REPLACEMENT	wat0700013	\$ 47,957				\$ 47,957
ASSET MGMT-MOBILE WORK ORDER	wat0800021	\$ 6,161				\$ 6,161
SCADA HARDWARE AND SOFTWARE	wat0800033	\$ 179,413				\$ 179,413
CENTRAL ROOF & MAU REPLACEMENT	wat0800046	\$ 609,279				\$ 609,279
STOCKBRIDGE FACILITY UPGRADES	wat0800047	\$ 10,924				\$ 10,924
WATER CONTINGENCY BOND RESERVES	wat0800000	\$ 40,041				\$ 40,041
Water		\$ 12,884,346	\$ 4,396,186	\$ -	\$ -	\$ 8,384,928
Water Capital Projects - Moved to Operating Capital:						
SMART METER PROGRAM		\$ 4,024				\$ 4,024
COMPUTER REPLACEMENT		\$ 8,233				\$ 8,233
SECURITY UPGRADES		\$ 7,952				\$ 7,952
Water Operating Capital		\$ 20,208	\$ -	\$ -	\$ -	\$ 20,208.26
TOTAL WATER		\$ 12,904,554	\$ 4,396,186	\$ -	\$ -	\$ 8,405,136
TOTAL 2019 CAPITAL CARRYFORWARD						
		\$ 33,018,464	\$ 6,900,057	\$ 496,621	\$ -	\$ 25,518,555



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **G.6.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Sean Fletcher
Prepared by: Sean Fletcher

DATE: May 4, 2020

SUBJECT: Approve the purchase of 447 East Stockbridge.

RECOMMENDATION:

It is recommended that the City Commission approve the purchase of 447 East Stockbridge in the amount \$9,882 to construct a segment of the Kalamazoo River Valley Trail that extends south from the Farmers' Market.

BACKGROUND:

The parcel #06-22-453-059 is located where the southern end of trail segment that will take people from the Farmers' Market south toward Stockbridge. The lot is owned by the County Land Bank and is required to construct the segment of trail.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program (program name and description):

Inviting Public Places - Placemaking, Invest in Parks and Recreation
Shared Prosperity - Community Partnerships, Family, Entrepreneurial Opportunities
Complete Neighborhood - Access to Daily Needs

Strategic Goal Impact:

COMMUNITY ENGAGEMENT:

The Parks and Recreation Department has worked closely with the People's Food Co-Op and Farmers' Market vendors to refine the plans for the market. A meeting with market vendors was held in November to obtain input about some of the finer details of

the market based on the current plan. The meeting was attended by 26 vendors.

The concept rendering of the market site was on display at the final Farmers' Market held Saturday, November 23rd. Approximately forty people stopped to comment on the concept rendering and ask questions. Each person that stopped to view the rendering was very excited about the improvements. This direct form of engagement with Farmers' Market visitors was very beneficial for staff and the visitors themselves.

Engagement/Communication Tools

FISCAL IMPACT:

Funding for the purchase of the property is available in the Farmers' Market project #cip0300057 Farmers Market Redevelopment 2019 Capital Improvement budget.

**Kalamazoo County Land Bank (KCLB)
Property Transfer Application**



To purchase a Kalamazoo County Land Bank owned property AS IS, with or without a structure, complete this form and return to the Kalamazoo County Land Bank. Complete a separate application for each parcel. To purchase a property adjacent to your property as a side-lot, fill out a side-lot application located at www.kalamazoolandbank.org. The following requirements must be met to purchase a property from the Kalamazoo County Land Bank:

Check All That Apply

- ☒ The applicant does not own any property that is tax delinquent.
- ☒ The applicant does not own any property that is subject to any un-remediated citation of violation of state and local ordinance.
- ☒ The applicant has not lost property through tax foreclosure within the past three years.
- ☒ The applicant must reside in Michigan or designate a local agent authorized to accept notice on behalf of the purchaser.

Property and Contact Information

Name of Applicant:	CITY OF KALAMAZOO
Mailing Address:	241 W. SOUTH ST
City, State, Zip:	KALAMAZOO MI 49007
Daytime Phone #:	269-337-8191
Email:	FLETCHERS@KALAMAZOOCITY.ORG
Fax (optional):	
List all properties you own:	CITY FACILITIES AND PARKS
How many are currently complete and occupied?	N/A
For those not complete, please provide an attachment documenting the timeline for completion and secured funding.	
Have you ever lost property through tax foreclosure? If yes, please provide details.	NO

Property Information

KCLB Property Address and Parcel ID requested:	447 EAST STOCKBRIDGE
	06-22-453-059
Description of Property in its existing condition:	VACANT LOT / SIDE LOT IN USE BY NEIGHBOR
State Equalized Value:	Appraised Value: \$9,882
Purchase Offer Amount:	\$9,882 2

***You must submit proof of funding with this application. Your application will not be processed without proof of adequate funds.**

It is the responsibility of the prospective purchaser to do their own research as to the use of the land for the purpose and to make a personal inspection of the property on the ground to determine if it will be suitable for the purposes for which it is being purchased. The Land Bank makes neither representations nor claims as to fitness for purpose, ingress/egress, conditions, covenants, or restrictions.

Have you contacted the local planning department about this property/project? Yes No

Proposed Property Reuse/Redevelopment

Property will be used for: Residential Commercial Industrial Other
Property will be occupied by: Owner Family Member Renter Business

Description of planned improvements/renovations:

SEGMENT OF KRV T TRAIL WILL PASS
THROUGH THIS LOT

Timeline for renovation/improvements: TRAIL SHOULD BE INSTALLED
FALL 2020

Total projected cost of the renovation: PART OF FARMERS' MKT PROJECT

Description of how the project improvements/renovations will be financed: \$7.5M
CAPITAL IMPROVEMENT PROJECT & DNR GRANT

Have you owned properties in forfeiture? N/A

At time of purchase, property with structure will be sold by warranty deed with standard title policy. All property will be sold as is, where is.

The information provided in this application is true to the best of my knowledge. I understand that the Land Bank staff will review this request and determine if it is in compliance with Land Bank policies and procedures and existing Land Bank and neighborhood plans. If this application is approved, I will care for and maintain the property requested, comply with all fair housing and market regulations, and use the property consistent with current zoning requirements of the respective municipality.

Signature: Sean [Signature]

Date: 4-6-2020

Please allow at least 30 days for your application to be processed, however, incomplete forms will not be processed. This form is a statement of interest only. By receiving it, the Kalamazoo County Land Bank does not commit to transfer property.

Return Form to: Kalamazoo County Land Bank, 1523 Riverview Drive, Suite A, Kalamazoo, MI 49004

Phone: 269-762-6191 Fax: 269-216-6345

Website: www.KalamazooLandBank.org

PROPERTY PURCHASE AGREEMENT
447 East Stockbridge Avenue, Kalamazoo, MI 49001
KALAMAZOO COUNTY LAND BANK AUTHORITY

1. The Parties.

The parties to this agreement are the **KALAMAZOO COUNTY LAND BANK AUTHORITY**, (Land Bank), a Michigan municipal corporation, whose address is 1523 Riverview Drive, Kalamazoo, Michigan 49004, and the **CITY OF KALAMAZOO**, (Buyer), a Michigan municipal corporation, whose address is 241 West South Street, Kalamazoo, MI 49007.

2. Property to be Conveyed.

The Land Bank hereby agrees to convey title by quit claim deed to 447 East Stockbridge Avenue, Kalamazoo, MI 49001, which is described as follows:

Legal Description:

41836 ASSESSORS PLAT OF SOUTH SIDE ANNEX, Liber 9 of Plats, Page 3; Part of Lot 59 Beginning on the north line of East Stockbridge Avenue 400ft West of the west line of Bank Street; thence North 163.25ft; thence West 20ft; thence South 33.25ft parallel with the Easterly line of the NYC Railroad right-of-way to the center line of a driveway; thence South 130ft more-or-less to the north line of East Stockbridge Avenue at a point 35.5ft West of the point of beginning; thence East 35.5ft along the north line of East Stockbridge Avenue to the point of beginning.

Parcel Id: 06-22-453-059

3. Purchase Price.

The Buyer will pay to the Land Bank as consideration for conveyance of the property the sum of NINE THOUSAND EIGHT HUNDRED EIGHTY TWO (\$9,882) DOLLARS.

4. As Is Condition.

The Buyer acknowledges that it has been afforded the opportunity to inspect the condition and all aspects of the property, including but not limited to its physical condition, its environmental condition, including the existence of any contamination and the condition of title and boundary lines. The Buyer also acknowledges that this property may have been transferred to the Land Bank as a result of tax forfeiture proceedings, and the Land Bank makes no warranties as to the condition of title to the property. Buyer acknowledges that the Land Bank has made no representations as to the condition of the property that have

induced Buyer to purchase the property; rather, Buyer is purchasing the property in reliance of its opportunity to conduct due diligence for its own benefit. Buyer's closing on and purchase of the property is an acknowledgement that all conditions and contingencies concerning its purchase of the property have been met or waived, and Buyer acknowledges that it is obtaining the property in its "as is, where is" condition, as of the date of closing, with no warranties regarding the property.

5. Contingency

The Land Bank's obligation to sell this property for \$9,882 is contingent upon MHA agreeing to release their lien.

The Buyer understands that the Land Bank will utilize Hardest Hit Grant Funds to perform demolition of the house located on this property. That as a result of utilizing the funds, MHA will place a lien on the property in the amount of all demolition costs, (yet to be determined). The Land Bank shall request release of this lien from MHA. MHA has released liens on other parcels for sales to governmental units, however the Land Bank has no control over the decision to release the lien. In the event that MHA fails to release the lien, the only way to purchase the property would be for the Buyer to pay the full lien amount.

6. Closing.

The date of the closing on this matter shall be on such date as mutually agreeable by the parties. There will be no property taxes to prorate.

The Kalamazoo County Land Bank
Authority by Executive Director Kelly
Clarke

_____, 2018

4-6, 2018 2020

The City of Kalamazoo by

Sean [Signature]

PARKS & RECREATION DIRECTOR



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **H.1.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Steve Vicenzi, Management Services Director / CFO
Prepared by: Steve Vicenzi, Management Services Director / CFO

DATE: May 4, 2020

SUBJECT: Ordinance Authorizing Water Supply System Revenue Bonds, Series 2020

RECOMMENDATION:

It is recommended that the City Commission adopt the attached Ordinance Authorizing Water Supply System Revenue Bonds, Series 2020 in the amount not to exceed \$22,000,000; and adopt the Notice of Sale Resolution.

BACKGROUND:

The City Commission on March 2, 2020, adopted a Notice of Intent Resolution to issue Water Supply System Revenue Bonds, Series 2020. This Resolution initiated the process of issuing debt to finance the Water System's FY 2020 Capital Improvement program in the amount not to exceed \$45.5 million, in accordance with the Adopted FY 2020 Budget. The total amount not to exceed was planned to be split between standard revenue bonds and state Drinking Water Revolving Fund (DWRf) bonds.

Under the provisions of the Resolution and State law, the public was notified of the City's intent to issue this debt, and has been provided with a 45-day period to circulate petitions for a referendum. That 45-day period will expire in May; if that occurs with no petition having been issued to the City, the City will be authorized to issue this debt at that time.

STRATEGIC VISION ALIGNMENT:

Strategic Goal Impact:



Good Governance- Ensuring the City organization has the capacity and resources to effectively implement the community's Strategic Vision in a way that is sustainable over the long term.

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

Inform (one-way conversation) – no feasible alternatives available due to legal/regulatory restrictions, standards and best practices, or resource limitations; the community will be made aware of the project.

FISCAL IMPACT:

The annual debt service on this bond service is included in the City's Adopted FY 2020 Budget.

NOTICE OF SALE RESOLUTION _____
WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2020A

City of Kalamazoo
County of Kalamazoo, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Kalamazoo, County of Kalamazoo, State of Michigan, conducted electronically in conformity with Governor Whitmer's Executive Order No. 2020-42 (COVID-19), on the 4th day of May, 2020 at 7:00 o'clock p.m., prevailing Eastern Time.

PRESENT: Members: _____

ABSENT: Members: _____

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, the City of Kalamazoo, County of Kalamazoo, State of Michigan (the "City"), has by an Ordinance duly adopted as of the date hereof (the "Ordinance"), authorized the issuance and sale of not to exceed Twenty-Two Million Dollars (\$22,000,000) in principal amount of the City's Water Supply System Revenue Bonds, Series 2020A (the "Bonds"); and

WHEREAS, it is necessary to authorize and approve the publication of a notice of sale in accordance with the Ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization to Fix Date of Sale. The City's Director of Management Services and Chief Financial Officer is hereby authorized and directed to fix the date for the sale of the Bonds.

2. Publication of Notice of Sale. The City Clerk shall cause an official Notice of Sale of the Bonds to be published in the Bond Buyer, New York, New York at least seven (7) full days before the date fixed for sale.

3. Form of Notice of Sale. The Notice of Sale of the Bonds shall be in substantially the following form:

OFFICIAL NOTICE OF SALE
\$22,000,000*
CITY OF KALAMAZOO
COUNTY OF KALAMAZOO, STATE OF MICHIGAN
WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2020A
**Subject to adjustment as set forth in this Notice of Sale*

Bids for the purchase of the above bonds will be received in the manner described in this Official Notice of Sale on Wednesday, May 27, 2020 until 12:00 p.m., prevailing Eastern Time, at which time and place said bids will be publicly opened and read.

ELECTRONIC BIDS: Bidders may submit bids for the purchase of the above bonds as follows:

Electronic bids may be submitted to the Municipal Advisory Council of Michigan at munibids@macmi.com; provided that electronic bids must arrive before the time of sale and the bidder bears all risks of transmission failure.

Electronic bids will also be received on the same date and until the same time by Bidcomp/Parity as agent of the undersigned. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Anthony Leyden or CLIENT SERVICES, 1359 Broadway, Second Floor, New York, New York 10010, (212) 849-5021. IF ANY PROVISION OF THIS NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BIDCOMP/PARITY, AS THE APPROVED PROVIDER OF ELECTRONIC BIDDING SERVICES, THIS NOTICE SHALL CONTROL.

Bidders may choose any means or location to present bids but a bidder may not present a bid in more than one location or by more than one means.

BOND DETAILS: The bonds will be registered bonds of the denomination of \$5,000 or multiples thereof not exceeding for each maturity the maximum principal amount of that maturity, originally dated as of the date of delivery, numbered in order of registration, and will bear interest from their date payable on September 1, 2020, and semiannually thereafter.

The bonds will mature on the 1st day of September in each of the years, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2021	\$675,000	2034	\$865,000
2022	685,000	2035	890,000
2023	695,000	2036	915,000
2024	705,000	2037	940,000
2025	715,000	2038	970,000
2026	730,000	2039	1,000,000
2027	740,000	2040	1,030,000
2028	750,000	2041	1,065,000
2029	765,000	2042	1,100,000

2030	780,000	2043	1,135,000
2031	800,000	2044	1,175,000
2032	820,000	2045	1,215,000
2033	840,000		

***ADJUSTMENT OF TOTAL PAR AMOUNT OF BONDS AND PRINCIPAL MATURITIES:** The City reserves the right to decrease the aggregate principal amount of the bonds after receipt of the bids and prior to final award, if necessary, so that the purchase price of the bonds will provide an amount determined by the City to be sufficient to construct the project and to pay costs of issuance of the bonds. The adjustments, if necessary, will be in increments of \$5,000. The purchase price will be adjusted proportionately to the increase or decrease in issue size, but the interest rates specified by the successful bidder for all maturities will not change. The successful bidder may not withdraw its bid as a result of any changes made within these limits.

***ADJUSTMENT TO PURCHASE PRICE:** Should any adjustment to the aggregate principal amount of the bonds be made by the City, the purchase price of the bonds will be adjusted by the City proportionally to the adjustment in principal amount of the bonds. The adjusted purchase price will reflect changes in the dollar amount of the underwriter's discount and original issue discount/premium, if any, but will not change the per-bond underwriter's discount as calculated from the bid and initial reoffering prices.

TERM BOND OPTION: The initial purchaser of the bonds may designate any one or more maturities from 2021 to 2045, inclusive as term bonds and the consecutive maturities on or after the year 2021 which shall be aggregated in the term bonds. The amount of the maturities which are aggregated in a designated term bond shall be subject to mandatory redemption on September 1 of the years and in the amounts set forth in the above maturity schedule at a redemption price of par, plus accrued interest to the date of mandatory redemption. Term bonds or portions thereof mandatorily redeemed shall be selected by lot. Any such designation must be made at the time bids are submitted and must be listed on the bid.

PRIOR REDEMPTION OF BONDS: Bonds maturing in the years 2021 to 20__, inclusive, shall not be subject to redemption prior to maturity. Bonds or portions of bonds in multiples of \$5,000 maturing in the year 20__ and thereafter shall be subject to redemption prior to maturity, at the option of the City, in any order of maturity and by lot within any maturity, on any date on or after September 1, 20__, at par and accrued interest to the date fixed for redemption.

In case less than the full amount of an outstanding bond is called for redemption, the transfer agent, upon presentation of the bond called for redemption, shall register, authenticate and deliver to the registered owner of record a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owner of any bond or portion thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. A bond or portion thereof so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the transfer agent to redeem said bond or portion thereof.

INTEREST RATE AND BIDDING DETAILS: The bonds shall bear interest at a rate or rates not exceeding six percent (6%) per annum, to be fixed by the bids therefor, expressed in multiples of 1/8 or 1/20 of 1%, or both. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. The difference between the highest and lowest interest rates bid shall not exceed four percent (4%) per annum. No proposal for the purchase of less than all of the bonds or at a price less than (____%) of their par value will be considered.

BOOK-ENTRY ONLY: The bonds will be issued in book-entry only form as one fully registered bond per maturity and will be registered in the name of Cede & Co., as bondholder and nominee for The Depository Trust Company (“DTC”), New York, New York. DTC will act as securities depository for the bonds. Purchase of the bonds will be made in book-entry-only form, in the denomination of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their interest in bonds purchased. It will be the responsibility of the purchaser to obtain DTC eligibility. Failure of the purchaser to obtain DTC eligibility shall not constitute cause for a failure or refusal by the purchaser to accept delivery of and pay for the bonds.

TRANSFER AGENT AND REGISTRATION: Principal shall be payable at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner of record not less than 60 days prior to an interest payment date. Interest shall be paid by check mailed to the registered owner of record as shown on the registration books of the City as of the 15th day of the month preceding an interest payment date. The bonds will be transferred only upon the registration books of the City kept by the transfer agent.

PURPOSE AND SECURITY: The bonds are issued under the provisions of Act 94, Public Acts of Michigan, 1933, as amended, and certain Ordinances of the City, for the purpose of defraying the cost of acquiring and constructing additions, extensions and improvements to the City’s Water Supply System (the “System”). The bonds are payable solely and only from the Net Revenues of the System and any additions thereto, and a statutory first lien on said Net Revenues has been established by said Ordinances. The bonds and said lien are of equal standing and priority of lien as to said Net Revenues with the City’s Water Supply System Revenue Refunding Bonds, Series 2014, in the outstanding principal amount of \$9,705,000, the City’s Water Supply System Revenue Bonds, Series 2015, in the outstanding principal amount of \$2,655,000, the City’s Water Supply System Revenue and Revenue Refunding Bonds, Series 2017, in the outstanding principal amount of \$6,930,000, the City’s Water Supply System Revenue Bonds, Series 2018, in the outstanding principal amount of \$9,160,000, and the City’s Water Supply System Revenue Bonds, Series 2019, in the outstanding principal amount of \$10,270,000 (together the “Outstanding Bonds”). The Bonds are of senior standing and priority of lien as to said Net Revenues with the City’s Water Supply System Junior Lien Revenue Bonds, Series 2019B (the “Outstanding Junior Lien Bonds”). The City has covenanted and agreed to fix and maintain at all times while any of such bonds shall be outstanding such rates for service furnished by the System as shall be sufficient to provide for payment of the necessary expenses of operation, maintenance and administration of the System, to produce net revenues equal to one-hundred twenty percent (120%) of the annual principal and interest on all of said bonds when due, to maintain a bond reserve account therefor, and to provide for such other expenditures and funds for the System as are required by said Ordinances.

The rights or remedies of bondholders may be affected by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally now existing or hereafter enacted and by the application of general principles of equity including those relating to equitable subordination.

ADDITIONAL BONDS: For the terms upon which additional bonds of equal standing with the bonds of this issue and the Outstanding Bonds as to the Net Revenues of the System may be issued, reference is made to the above described Ordinances.

GOOD FAITH: A good faith deposit in the form of a certified or cashier's check drawn upon an incorporated bank or trust company, or wire transfer, in the amount of \$_____ payable to the order of the Treasurer of the City will be required of the successful bidder. The successful bidder is required to submit its good faith deposit to the City as instructed by the City not later than Noon, prevailing Eastern Time, on the next business day following the sale. The good faith deposit will be applied to the purchase price of the bonds. In the event the purchaser fails to honor its accepted bid, the good faith deposit will be retained by the City. No interest shall be allowed on the good faith check. The good faith check of the successful bidder will be cashed and payment for the balance of the purchase price of the bonds shall be made at the closing.

AWARD OF BONDS-TRUE INTEREST COST: The bonds will be awarded to the bidder whose bid produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on September 1, 2020 and semi-annually thereafter) necessary to discount the debt service payments from their respective payment date to June 17, 2020 in an amount equal to the bid price, excluding accrued interest, if any. For the purpose of computing the true interest cost, the bonds shall be deemed to become due in the principal amounts and at the times set forth above, whether the bonds are serial bonds or mandatory sinking fund redemptions for such term bonds. Each bidder shall state in its bid the true interest cost to the City, computed in the manner specified above.

TAX MATTERS: In the opinion of Miller, Canfield, Paddock and Stone, P.L.C., bond counsel, under existing law, assuming compliance with certain covenants, interest on the bonds is excludable from gross income for federal income tax purposes as described in the opinion, and the bonds and interest thereon are exempt from all taxation by the State of Michigan or by any taxing authority within the State of Michigan except estate taxes and taxes on gains realized from the sale, payment or other disposition thereof.

ISSUE PRICE: The winning bidder shall assist the City in establishing the issue price of the bonds and shall execute and deliver to the City at closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached either as Appendix H or Appendix I of the preliminary official statement, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City and Bond Counsel.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the bonds) will apply to the initial sale of the bonds (the "Competitive Sale Requirements") because:

- a. the City is disseminating this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- b. all bidders shall have an equal opportunity to bid;
- c. the City anticipates receiving bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- d. the City anticipates awarding the sale of the bonds to the bidder who submits a firm offer to purchase the bonds at the lowest true interest cost, as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the bonds, as specified in the bid.

In the event that all of the Competitive Sale Requirements are not satisfied, the City shall so advise the winning bidder. The City will not require bidders to comply with the “hold-the-offering price rule,” and therefore does not intend to use the initial offering price to the public as of the sale date of any maturity of the bonds as the issue price of that maturity, though the winning bidder, in consultation with the City, may elect to apply the “hold-the-offering price rule” (as described below). Bids will not be subject to cancellation in the event the Competitive Sale Requirements are not satisfied. Unless a bidder intends to apply the “hold-the-offering price rule” (as described below), bidders should prepare their bids on the assumption that all of the maturities of the bonds will be subject to the 10% Test (as described below). The winning bidder must notify the City of its intention to apply either the “hold-the-price rule” or the 10% Test at or prior to the time the bonds are awarded.

If the winning bidder does not request that the “hold-the-offering price rule” apply to determine the issue price of the bonds, the following two paragraphs shall apply:

- a. The City shall treat the first price at which 10% of a maturity of the bonds (the “10% Test”) is sold to the public as the issue price of that maturity, applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% Test as of the date and time of the award of the bonds; and
- b. Until the 10% Test has been satisfied as to each maturity of the bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the closing date has occurred, until either (i) all bonds of that maturity have been sold or (ii) the 10% Test has been satisfied as to the bonds of that maturity, provided that, the winning bidder’s reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the City or bond counsel.

If the winning bidder does request that the “hold-the-offering price rule” apply to determine the issue price of the bonds, then the following three paragraphs shall apply:

- a. The winning bidder, in consultation with the City, may determine to treat (i) pursuant to the 10% Test, the first price at which 10% of a maturity of the bonds is sold to the public as the issue price of that maturity and/or (ii) the initial offering price to the public as of the sale date of any maturity of the bonds as the issue price of that maturity (the “hold-the-offering price rule”), in each case applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the bonds satisfies the 10% Test as of the date and time of the award of the bonds. The winning bidder shall promptly advise the City, at or before the time of award of the bonds, which maturities of the bonds shall be subject to the 10% Test or shall be subject to the hold-the-offering price rule or both.
- b. By submitting a bid, the winning bidder shall (i) confirm that the underwriters have offered or will offer the bonds to the public on or before the date of the award at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder, and (ii) if the hold-the-offering-price rule applies, agree, on behalf of the underwriters participating in the purchase of the bonds, that the underwriters will neither offer nor sell unsold bonds of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:
 - i. the close of the fifth (5th) business day after the sale date; or
 - ii. the date on which the underwriters have sold at least 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public;

The winning bidder shall promptly advise the City when the underwriters have sold 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

- c. The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the bonds to the public, the agreement of each broker-dealer that is a party to such agreement to

comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in the third-party distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement to comply with its corresponding agreement to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds.

By submitting a bid, each bidder confirms that:

- a. any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the bidder is a party) relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, (A)(i) to report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder, and (ii) to comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder and as set forth in the related pricing wires, (B) to promptly notify the winning bidder of any sales of bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the bonds to the public (each such term being used as defined below), and (C) to acknowledge that, unless otherwise advised by the underwriter, dealer or broker-dealer, the winning bidder shall assume that each order submitted by the underwriter, dealer or broker-dealer is a sale to the public.
- b. any agreement among underwriters or selling group agreement relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the bonds to the public to require each broker-dealer that is a party to such third-party distribution agreement to (i) report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder or such underwriter that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation

after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder or such underwriter, and (ii) comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder or the underwriter and as set forth in the related pricing wires.

- c. sales of any bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Sale.

Further, for purposes of this Notice of Sale:

- a. “public” means any person other than an underwriter or a related party,
- b. “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead Underwriter to form an underwriting syndicate) to participate in the initial sale of the bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the bonds to the public);
- c. a purchaser of any of the bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other); and
- d. “sale date” means the date that the bonds are awarded by the City to the winning bidder.

NOT QUALIFIED TAX EXEMPT OBLIGATIONS: The City has not designated the bonds as “qualified tax exempt obligations” for purposes of deduction of interest expense by financial institutions pursuant to the Code.

LEGAL OPINION: Bids shall be conditioned upon the approving opinion of Miller, Canfield, Paddock and Stone, P.L.C., attorneys of Detroit, Michigan, a copy of which opinion will be furnished without expense to the purchaser of the bonds at the delivery thereof. The fees of Miller, Canfield, Paddock and Stone, P.L.C. for services rendered in connection with such approving opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue its approving opinion as to validity of the above bonds, Miller, Canfield, Paddock and Stone, P.L.C. has not been requested to examine or review and has not examined or reviewed any financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the bonds, and accordingly will not express any

opinion with respect to the accuracy or completeness of any such financial documents, statements or materials. In submitting a bid for the bonds, the bidder agrees to the representation of the City by Miller, Canfield, Paddock and Stone, P.L.C., as bond counsel.

DELIVERY OF BONDS: The City will furnish bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser through DTC in New York, New York. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the bonds, will be delivered at the time of delivery of the bonds. If the bonds are not tendered for delivery by twelve o'clock noon, prevailing Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful bidder may on that day, or any time thereafter until delivery of the bonds, withdraw its proposal by serving notice of cancellation, in writing, on the undersigned in which event the City shall promptly return the good faith deposit. Payment for the bonds shall be made in Federal Reserve Funds.

CUSIP NUMBERS: It is anticipated that CUSIP identification numbers will be printed on the bonds, but neither the failure to print such numbers on any bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds. Application for CUSIP numbers will be made by Robert W. Baird & Co., financial advisors to the City. The CUSIP Service Bureau's charge for the assignment of CUSIP identification numbers shall be paid by the purchaser.

OFFICIAL STATEMENT: A preliminary Official Statement that the City deems to be final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12 of the Securities and Exchange Commission, has been prepared and may be obtained from Robert W. Baird & Co., financial advisors to the City, at the address and telephone listed under FINANCIAL ADVISOR below. Robert W. Baird & Co. will provide the winning bidder with 150 final Official Statements within 7 business days from the date of sale to permit the purchaser to comply with Securities and Exchange Commission Rule 15c2-12. Additional copies of the Official Statement will be supplied by Robert W. Baird & Co., upon request and agreement by the purchaser to pay the cost of additional copies. The request for additional copies should be made to Robert W. Baird & Co., within 24 hours of the time of sale.

BOND INSURANCE AT PURCHASER'S OPTION: If the Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the bidder/purchaser, the purchase of any such insurance policy or the issuance of any such commitment shall be at the option and expense of the purchaser of the Bonds. Any and all increased costs of issuance of the Bonds resulting from such purchase of insurance shall be paid by the purchaser, except that if the City has requested and received a rating on the Bonds from a rating agency, the City shall pay the fee for the requested rating. Any other rating agency fees shall be the responsibility of the purchaser. FAILURE OF THE MUNICIPAL BOND INSURER TO ISSUE THE POLICY AFTER THE BONDS HAVE BEEN AWARDED TO THE PURCHASER SHALL NOT CONSTITUTE CAUSE FOR FAILURE OR REFUSAL BY THE PURCHASER TO ACCEPT DELIVERY OF THE BONDS FROM THE CITY.

CONTINUING DISCLOSURE: As described more fully in the Official Statement, the City has agreed to provide or cause to be provided, in accordance with the requirements of Rule

15c2-12 promulgated by the Securities and Exchange Commission, or prior to the last day of the sixth month after the end of each fiscal year commencing with the fiscal year ended December 31, 2019, (i) certain annual financial information and operating data, including audited financial statements for the preceding fiscal year, generally consistent with the information contained or cross-referenced in the Official Statement relating to the bonds, (ii) timely notice of the occurrence of certain material events with respect to the bonds and (iii) timely notice of a failure by the City to provide the required annual financial information on or before the date specified in (i) above.

FINANCIAL ADVISOR: Further information relating to the bonds may be obtained from Robert W. Baird & Co., 1001 Bay Street, Traverse City, Michigan 49684. Telephone (231) 933-8850. Fax (231) 933-8448.

BIDDER CERTIFICATION: NOT “IRAN-LINKED BUSINESS” By submitting a bid, the bidder shall be deemed to have certified that it is not an “Iran-Linked Business” as defined in Act 517, Michigan Public Acts of 2012, being MCL 129.311 et. seq.

THE RIGHT IS RESERVED TO REJECT ANY AND ALL BIDS.

Scott A. Borling
City Clerk
City of Kalamazoo

4. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members: _____

NAYS: Members: _____

RESOLUTION DECLARED ADOPTED.

Scott A. Borling, City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo, County of Kalamazoo, State of Michigan, at a regular meeting held on May 4, 2020, 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, as temporarily modified by Governor Whitmer's Executive Order No. 2020-48 (COVID-19), and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Scott A. Borling, City Clerk

35702759.2\046053-00226

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF WATER SUPPLY SYSTEM REVENUE BONDS TO PAY THE COST OF THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE WATER SUPPLY SYSTEM OF THE CITY AND TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS AND CERTAIN OUTSTANDING BONDS OF THE SYSTEM; TO PROVIDE AN ADEQUATE RESERVE FUND FOR THE BONDS AND OUTSTANDING BONDS OF THE SYSTEM; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS AND OUTSTANDING BONDS OF THE SYSTEM IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE SYSTEM AND THE BONDS AND OUTSTANDING BONDS OF THE SYSTEM.

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

- (a) “Act 94” means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) “Authorized Officers” means either the City Manager, Deputy City Manager or Director of Management Services and Chief Financial Officer.
- (c) “Bonds” means the Series 2020A Bonds, the Outstanding Bonds and any additional Bonds of equal standing hereafter issued.
- (d) “Issuer” or “City” means the City of Kalamazoo, County of Kalamazoo, State of Michigan.
- (e) “Outstanding Bonds” means the Series 2014 Bonds, the Series 2015 Bonds, the Series 2017 Bonds, the Series 2018 Bonds and the Series 2019 Bonds.
- (f) “Outstanding Junior Lien Bonds” means the Series 2019B Bonds.
- (g) “Outstanding Ordinances” means Ordinances Nos. 1539, 1919, 1933, 1947, 1948, 1961 and 1989 of the City.
- (h) “Project” means the additions, extensions and improvements to the System including water main and service line improvements and replacements, treatment plant improvements, tank and storage improvements, pump station and booster

improvements, well replacement and water meter improvements, together with all necessary equipment, furnishings and all appurtenances and attachments.

(i) “Revenues” and “Net Revenues” mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to “Revenues”, the earnings derived from the investment of moneys in the various funds and accounts established by the Outstanding Ordinances and this Ordinance.

(j) “Sale Order” means the Sale Order to be executed by an Authorized Officer of the Issuer respecting the sale of the Series 2020A Bonds.

(k) “Series 2014 Bonds” means the Water Supply System Revenue Refunding Bonds, Series 2014, dated May 1, 2014, in the outstanding principal amount of Nine Million Seven Hundred Five Thousand Dollars (\$9,705,000).

(l) “Series 2015 Bonds” means the Water Supply System Revenue Bonds, Series 2015, dated December 10, 2015, in the outstanding principal amount of Two Million Six Hundred Fifty-Five Thousand Dollars (\$2,655,000).

(m) “Series 2017 Bonds” means the Water Supply System Revenue Refunding Bonds, Series 2017, dated May 2, 2017, in the outstanding principal amount of Six Million Nine Hundred Thirty Thousand Dollars (\$6,930,000).

(n) “Series 2018 Bonds” means the Water Supply System Revenue Bonds, Series 2018, dated May 23, 2018, in the outstanding principal amount of Nine Million One Hundred Sixty Thousand Dollars (\$9,160,000).

(o) “Series 2019 Bonds” means the Water Supply System Revenue Bonds, Series 2019, dated June 25, 2019, in the outstanding principal amount of Ten Million Two Hundred Seventy Thousand Dollars (\$10,270,000).

(p) “Series 2019B Bonds” means the Water Supply System Junior Lien Revenue Bonds, Series 2019, dated June 25, 2019, in the outstanding principal amount of One Million Seven Hundred Thirty Thousand Dollars (\$1,730,000).

(q) “Series 2020A Bonds” means the Water Supply System Revenue Bonds, Series 2020A, authorized pursuant to this ordinance.

(r) “Sufficient Government Obligations” means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds and the principal and redemption premium, if any, on the Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust

company, and if any of the Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given to the paying agent.

(s) “System” means the entire Water Supply System of the City as defined in the Outstanding Ordinances.

(t) “Transfer Agent” means The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan.

Section 2. Necessity; Public Purpose; Estimated Cost and Life of Project. It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project. The estimated cost of acquiring and constructing the Project, including contingencies, engineering, legal and financing expenses, in an amount of not to exceed Twenty-Two Million Dollars (\$22,000,000), is hereby approved. The Issuer does hereby estimate the period of usefulness of the Project to be at least twenty-six (26) years.

Section 3. Payment of Cost; Bonds Authorized. To pay the costs associated with acquiring and constructing the Project, including all legal, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2020A Bonds, the Issuer shall borrow the sum of not to exceed Twenty-Two Million Dollars (\$22,000,000), as finally determined in the Sale Order and issue the Series 2020A Bonds pursuant to the provisions of Act 94. The remaining costs, if any, shall be defrayed from System funds on hand and legally available for such use.

Except as amended by or expressly provided to the contrary in this Ordinance, all of the provisions of the Outstanding Ordinances shall apply to the Series 2020A Bonds issued pursuant to this Ordinance, the same as though each of said provisions were repeated in this Ordinance in detail; the purpose of this Ordinance being to authorize the issuance of additional revenue bonds of equal standing and priority of lien as to the Outstanding Bonds and senior in standing and priority of lien with respect to the Outstanding Junior Lien Bonds to finance the cost of acquiring additions, extensions and improvements to the System, additional bonds of equal standing and priority of lien as to the Outstanding Bonds and senior standing and priority of lien with the Outstanding Junior Lien Bonds for such purpose being authorized by the provisions of the Outstanding Ordinances, upon the conditions therein stated, which conditions have been fully met.

Section 4. Bond Details. The Series 2020A Bonds shall be designated WATER SUPPLY SYSTEM REVENUE BONDS, SERIES 2020A, shall be payable solely and only out of the Net Revenues, as set forth more fully herein, shall consist of bonds of the denomination of \$5,000, or integral multiples of \$5,000 not exceeding in any one year the amount maturing in that year, dated as of the date of delivery or such other date as shall be determined in the Sale Order, numbered in order of authentication, and shall mature on September 1st in the years and amounts as follows, or such other years of maturity and principal amounts as shall be determined in the Sale Order:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2021	\$675,000	2034	\$865,000
2022	685,000	2035	890,000
2023	695,000	2036	915,000
2024	705,000	2037	940,000
2025	715,000	2038	970,000
2026	730,000	2039	1,000,000
2027	740,000	2040	1,030,000
2028	750,000	2041	1,065,000
2029	765,000	2042	1,100,000
2030	780,000	2043	1,135,000
2031	800,000	2044	1,175,000
2032	820,000	2045	1,215,000
2033	840,000		

The Series 2020A Bonds shall bear interest at the rate specified in the Sale Order, but not to exceed six percent (6%) per annum, payable on September 1 and March 1 of each year, commencing September 1, 2020, or such later date as shall be determined in the Sale Order, by check or draft mailed by the Transfer Agent to the person or entity which is, as of the 15th day of the month preceding the interest payment date, the registered owner at the registered address as shown on the registration books of the Issuer maintained by the Transfer Agent. The date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the Issuer to conform to market practice in the future. The principal of the Series 2020A Bonds shall be payable at the designated corporate trust office of the Transfer Agent. The Series 2020A Bonds shall be sold at a price not than less ninety-six percent (96%) of their par value.

The Series 2020A Bonds may be subject to redemption prior to maturity at the times and prices and in the manner finally determined in the Sale Order.

In case less than the full amount of an outstanding Bond is called for redemption, the Transfer Agent upon presentation of the Bond called in part for redemption shall register, authenticate and deliver to the registered owner a new bond in the principal amount of the portion of the original bond not called for redemption. Notice of redemption shall be given in the manner specified in the form of the Bonds contained in Section 14 of this Ordinance.

Section 5. Execution of Bonds. The Series 2020A Bonds shall be executed in the name of the Issuer with the manual or facsimile signatures of the Mayor and the City Clerk and shall have a facsimile of the Issuer's seal printed on them. No Bond executed by facsimile signatures shall be valid until authenticated by an authorized signer of the Transfer Agent. The Series 2020A Bonds shall be delivered to the Transfer Agent for authentication and be delivered by the Transfer Agent to the purchaser thereof in accordance with instructions from an Authorized Officer of the Issuer upon payment of the purchase price for the Series 2020A Bonds in accordance with the bid therefor when accepted. Executed blank bonds for registration and

issuance to transferees shall simultaneously, and from time to time thereafter as necessary, be delivered to the Transfer Agent for safekeeping.

Section 6. Registration and Transfer. Any Bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the transfer agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount. The Transfer Agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The Transfer Agent shall not be required (i) to issue, register the transfer of or exchange any Bond during a period beginning at the opening of business 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of Bonds contained herein and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange any Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part.

The Transfer Agent shall keep or cause to be kept, at its principal office, sufficient books for the registration and transfer of the Series 2020A Bonds, which shall at all times be open to inspection by the Issuer; and, upon presentation for such purpose, the Transfer Agent shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, Bonds as hereinbefore provided.

If any Bond shall become mutilated, the Issuer, at the expense of the holder of the Bond, shall execute, and the Transfer Agent shall authenticate and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon surrender to the Transfer Agent of the mutilated Bond. If any Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the Transfer Agent and, if this evidence is satisfactory to both and indemnity satisfactory to the Transfer Agent shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended ("Act 354"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the Issuer, at the expense of the owner, shall execute, and the Transfer Agent shall thereupon authenticate and deliver, a new Bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the Transfer Agent may pay the same without surrender thereof.

The Bonds may be issued in book-entry-only form through the Depository Trust Company in New York, New York ("DTC") and any officer of the City is authorized to execute such custodial or other agreement with DTC as may be necessary to accomplish the issuance of the Bonds in book-entry-only form and to make such changes in the Bond form with the parameters of this resolution as may be required to accomplish the foregoing.

Section 7. Payment of Series 2020A Bonds. The Series 2020A Bonds and the interest thereon shall be payable solely and only from the Net Revenues, and to secure such payment, there is hereby recognized a statutory lien upon the whole of the Net Revenues which shall be a first lien to continue until payment in full of the principal of and interest on all Bonds payable from the Net Revenues, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all Bonds of a series then outstanding, principal and interest on such Bonds to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. The statutory first lien referred to herein shall be of equal standing and priority with the Outstanding Bonds and senior in standing and priority with the City's Outstanding Junior Lien Bonds. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to that series of Bonds, the holders of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds of that series shall no longer be considered to be outstanding under this Ordinance.

Section 8. Bondholders' Rights; Receiver. The holder or holders of the Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the Issuer, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Series 2020A Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the Issuer and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the Issuer more particularly set forth herein and in Act 94.

The holder or holders of the Series 2020A Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Series 2020A Bonds and the security therefor.

Section 9. Rates and Charges. The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date hereof, as the same shall be increased from time to time.

Section 10. No Free Service or Use. No free service or use of the System, or service or use of the System at less than the reasonable cost and value thereof, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the Issuer.

Section 11. Fixing and Revising Rates. The rates presently in effect in the City are estimated to be sufficient to provide for the payment of the expenses of administration and

operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable, and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. In addition, the rates shall be set from time to time so that there shall be produced Net Revenues in an amount equal to 120% of the principal of and interest on the Bonds coming due in each fiscal year. The rates shall be reviewed not less than once a year and shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

Section 12. Bond Reserve Fund. The Reserve Account in the Bond and Interest Redemption Fund, as established by the Outstanding Ordinances shall be adjusted in such amounts, so that upon issuance of the Series 2020A Bonds, the Bond Reserve Account shall total a sum equal to the lesser of (a) the maximum annual principal and interest requirements on the Bonds outstanding after issuance of the additional Bonds, (b) 125% of the average annual debt service on the Bonds after issuance of the additional Bonds, or (c) an amount equal to 10% of the principal amount of the Bonds (the "Bond Reserve Requirement"). The City may satisfy the Bond Reserve Requirement by cash, a letter of credit, a surety bond, or an insurance policy if the provider or issuer thereof shall be rated by a nationally recognized bond rating agency as high or higher than the Series 2020A Bonds at the time of the delivery of the Series 2020A Bonds. Except as hereinafter provided, the moneys credited to the Bond Reserve Account shall be used solely for the payment of the principal of, redemption premiums (if any) and interest on the Bonds as to which there would otherwise be a default. If at any time it shall be necessary to use the moneys or the letter of credit, surety bond or insurance policy credited to the Bond Reserve Account for such payment, then the moneys so used shall be replaced or repaid over a period of not more than 5 years, or such other period as required by the letter of credit, surety bond, or insurance policy securing the Bond Reserve Account, from the Net Revenues first received thereafter which are not required for current principal and interest requirements.

If a letter of credit, a surety bond, or an insurance policy is deposited into the Bond Reserve Account for Bonds issued on or after January 1, 2017, the Bond Reserve Account shall be segregated into separate accounts for Bonds issued before January 1, 2017 and for Bonds issued on or after January 1, 2017. For Bonds issued before January 1, 2017, the Reserve Requirement shall be satisfied exclusively by moneys deposited into the Bond Reserve Account pursuant to the Outstanding Ordinances. For Bonds issued on or after January 1, 2017, the Reserve Requirement may be satisfied by cash, letter of credit, surety bond or an insurance policy as described in this Section. In the event of a drawdown on the Bond Reserve Account, funds available to replenish cash in the Bond Reserve Account and to repay the issuer of a letter of credit, a surety bond, or an insurance policy shall be paid on a pro rata basis.

In the event that the amount in said Reserve Account is greater than the Bond Reserve Requirement, such excess amount shall be transferred to the Bond and Interest Redemption Fund described herein. If it is necessary to increase the amount in the Bond Reserve Account, the City shall deposit a sum from the moneys on hand in the System prior to delivery of the Bonds so that the Bond Reserve Account is fully funded as of the delivery of the Bonds.

Section 13. Disposition of Bond Proceeds. There is hereby established in a bank insured by the Federal Deposit Insurance Corporation to be selected by the Director of Management Services and Chief Financial Officer, a separate depository account to be designated “Water Supply System Revenue Bonds, Series 2020A Construction Fund”, the moneys from time to time on deposit to be used solely to pay the cost of the Project and the incidental costs set forth in Section 4 of this Ordinance. The proceeds of sale of the Series 2020A Bonds shall be allocated and used as follows, or as set forth in the Sale Order:

First, any premium and accrued interest for the Series 2020A Bonds, if any, shall be deposited into the Bond and Interest Redemption Fund established by the Outstanding Ordinances.

Second, an amount necessary to fully fund the Bond Reserve Account shall be deposited into the Reserve Account in the Bond and Interest Redemption Fund.

Third, the amount of funds necessary to pay the costs of the Project, as set forth in the Sale Order, shall be deposited in the Water Supply System Revenue Bonds, Series 2020A Construction Fund. Moneys in the Construction Fund shall be applied solely in payment of the cost of the acquisition and construction of the Project, including any engineering expenses incident thereto and costs of issuance related to the Series 2020A Bonds.

Any unexpended balance of the proceeds of sale of the Bonds in the Construction Fund remaining after completion of the Project may, in the discretion of the Issuer, be used for further improvements and extensions to the System. Any remaining balance after such expenditure, or in the event no such expenditure is made, the entire unexpended balance shall be paid into the Bond and Interest Redemption Fund and used for the redemption or purchase of callable Bonds or for any other purpose permitted by Act 94. The proceeds of sale of said bonds may be invested in whole or in part in the manner provided by Act 94.

Section 14. Bond Form. The Series 2020A Bonds shall be in substantially the following form with such changes as may be approved by an Authorized Officer and Bond Counsel:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF KALAMAZOO

CITY OF KALAMAZOO
WATER SUPPLY SYSTEM REVENUE BOND, SERIES 2020A

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
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September 1, 20____, 2020

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ Dollars (\$_____)

The City of Kalamazoo, County of Kalamazoo, State of Michigan (the "Issuer"), for value received, hereby promises to pay, solely and only out of the hereinafter described Net Revenues of the Issuer's Water Supply System (hereinafter defined) the Principal Amount shown above in lawful money of the United States of America to the Registered Owner shown above, or registered assigns, on the Maturity Date shown above, unless prepaid prior thereto as hereinafter provided, with interest thereon (computed on the basis of a 360-day year consisting of twelve 30-day months) from the Date of Original Issue shown above or such later date to which interest has been paid, until paid, at the Interest Rate per annum shown above, first payable on September 1, 2020, and semiannually thereafter. Principal of this bond is payable upon surrender of this bond at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan (the "Transfer Agent") or such other Transfer Agent as the Issuer may hereafter designate by notice mailed to the registered owner not less than 60 days prior to any interest payment date. Interest on this bond is payable by check or draft mailed by the Transfer Agent to the person or entity who is, as of the 15th day of the month preceding the interest payment date, the registered owner of record, at the registered address as shown on the registration books of the Issuer kept by the Transfer Agent. For prompt payment of principal and interest on this bond, the Issuer has irrevocably pledged the revenues of the Water Supply System of the Issuer (the "System"), including all appurtenances, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory first lien thereon is hereby recognized and created.

This bond is one of a series of bonds of even Date of Original Issue aggregating the principal sum of \$_____, issued pursuant to Ordinances Nos. 1539, 1919, 1933, 1947, 1948, 1961, 1989 and _____ of the Issuer, duly adopted by the City Commission of the Issuer (together, the "Ordinances"), and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying the cost of acquiring and constructing additions, extensions and improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal standing as to the Net Revenues may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinances. The bonds of this issue are of equal standing and priority of lien as to the Net Revenues with the Issuer's (a) Water Supply System Revenue Refunding Bonds, Series 2014, (b) Water Supply System Revenue Bonds, Series 2015, (c) Water Supply System Revenue and Revenue Refunding Bonds, Series 2017, (d) Water Supply System Revenue Bonds, Series 2018, and (e) Water Supply System Revenue Bonds, Series 2019 (together the "Outstanding Bonds"). The bonds of this issue are senior in standing and priority of lien as to the Net Revenues with the Issuer's Water Supply System Junior Lien Revenue Bonds, Series 2019B in the outstanding principal amount of \$1,730,000 (the "Outstanding Junior Lien Bonds").

Bonds of this issue maturing in the years 2021 to ____, inclusive, are not subject to redemption prior to maturity. Bonds or portions of bonds in multiples of \$5,000 maturing in the year 20__ and thereafter may be redeemed at the option of the Issuer, in such order as the Issuer shall determine and within any maturity by lot, on any date on or after September 1, 20__ at par and accrued interest to the date fixed for redemption.

[insert any mandatory redemption or extraordinary redemption provisions]

In case less than the full amount of an outstanding bond is called for redemption the Transfer Agent upon presentation of the bond called in part for redemption shall register, authenticate and deliver to the registered owner a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption of any bond or portion thereof shall be given by the Transfer Agent at least thirty (30) days prior to the date fixed for redemption by mail to the registered owner at the registered address shown on the registration books kept by the Transfer Agent. Bonds shall be called for redemption in multiples of \$5,000 and any bond of a denomination of more than \$5,000 shall be treated as representing the number of bonds obtained by dividing the denomination of the bond by \$5,000 and such bond may be redeemed in part. Notice of redemption for a bond redeemed in part shall state that upon surrender of the bond to be redeemed a new bond or bonds in aggregate principal amount equal to the unredeemed portion of the bonds surrendered shall be issued to the registered owner thereof. No further interest on a bond or portion thereof called for redemption shall accrue after the date fixed for redemption, whether presented for redemption or not, provided funds are on hand with the Transfer Agent to redeem the bond or portion thereof.

This bond is a self-liquidating bond and is not a general obligation of the Issuer and does not constitute an indebtedness of the Issuer within any constitutional, statutory or charter debt limitation of the Issuer but is payable solely and only, both as to principal and interest, from the Net Revenues of the System. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned.

The Issuer has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be

outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest on and the principal of the bonds of this issue, the Outstanding Bonds and any additional bonds of equal standing as and when the same shall become due and payable, and to create and maintain a bond redemption fund (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinances.

This bond is transferable only upon the books of the Issuer kept for that purpose at the office of the Transfer Agent by the registered owner hereof in person, or by the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinances authorizing the bonds, and the Outstanding Bonds, and upon the payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this bond and the series of bonds of which this is one have been done and performed in regular and due time and form as required by law.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City of Kalamazoo, County of Kalamazoo, State of Michigan, by its City Commission, has caused this bond to be executed with the facsimile signatures of its Mayor and its City Clerk and a facsimile of its corporate seal to be printed on this bond, all as of the Date of Original Issue.

CITY OF KALAMAZOO

By: _____
Mayor

(Seal)

Countersigned:

City Clerk

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinances.

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.**, Detroit, Michigan
Transfer Agent

By: _____
Authorized Signatory

Date of Registration: _____

Section 15. Adjustment of Bond Terms. The Authorized Officers are each hereby authorized to adjust the final bond details as set forth herein to the extent necessary or convenient to complete the sale of the Series 2020A Bonds and in pursuance of the forgoing are each authorized to exercise the authority and make the determinations pursuant to Sections 7a(1)(c)(i) and (v) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, date of issuance, interest payment dates, redemption rights, and other matters within the parameters established by this Ordinance.

Section 16. Notice of Sale; Sale Order; Award of Sale of Series 2020A Bonds. The Authorized Officers are each hereby authorized to fix a date of sale for the Series 2020A Bonds and to publish a notice of sale of the Series 2020A Bonds in The Bond Buyer, New York, New York, which notice of sale shall be in the form as recommended by the City's Bond Counsel. The Authorized Officers are each hereby authorized on behalf of the City to execute a Sale Order awarding the sale of the Series 2020A Bonds to the bidder whose bid meets the requirements of law and the terms of the Official Notice of Sale as published.

The Authorized Officers are each hereby authorized on behalf of the City to execute a Sale Order evidencing the final terms of the Series 2020A Bonds, and to take all other necessary actions required to effectuate the sale, issuance and delivery of the Series 2020A Bonds within the parameters authorized in this Ordinance.

Section 17. Tax Covenant. The Issuer shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Series 2020A Bonds from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditures and investment of the proceeds of the Series 2020A Bonds and moneys deemed to be proceeds of the Series 2020A Bonds.

Section 18. Continuing Disclosure. The City covenants to enter into a continuing disclosure undertaking for the benefit of the holders and beneficial owners of the Bonds in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, and the Authorized Officers are each hereby authorized to execute such undertaking prior to delivery of the Series 2020A Bonds.

Section 19. Other Matters. The Authorized Officers are each authorized and directed to (a) approve the circulation of a preliminary official statement describing the Bonds and to deem the preliminary official statement "final" for purposes of Rule 15c2-12 of the SEC; (b) solicit bids for and approve the purchase of a municipal bond insurance policy for the Bonds; (c) apply for ratings on the Bonds; and (d) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the Bonds.

Section 20. Appointment of Bond Counsel. The appointment of the law firm of Miller, Canfield, Paddock and Stone, P.L.C. of Detroit, Michigan, as Bond Counsel for the Bonds is hereby confirmed, notwithstanding its periodic representation in unrelated matters of potential parties to the Bonds.

Section 21. Savings Clause. The Outstanding Ordinances shall continue in effect, except as specifically supplemented or altered herein.

Section 22. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 23. Publication and Recordation. This Ordinance shall be published in full in the *Kalamazoo Gazette*, a newspaper of general circulation in the City, qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Issuer and such recording authenticated by the signatures of the Mayor and City Clerk.

Section 24. Effective Date. Pursuant to the provisions of Section 6 of Act 94, this Ordinance shall be approved on the date of first reading and accordingly this Ordinance shall immediately be effective upon its adoption.

Adopted and signed this 4th day of May, 2020.

Signed: _____
Mayor

Signed: _____
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Commission of the City of Kalamazoo, County of Kalamazoo, Michigan, at a Regular Meeting held on the 4th day of May, 2020, 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, as temporarily modified by Governor Whitmer's Executive Order No. 2020-48 (COVID-19), and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting: _____
and that the following Members were absent: _____.

I further certify that Member _____ moved adoption of said Ordinance, and that said motion was supported by Member _____.

I further certify that the following Members voted for adoption of said Ordinance: _____
and that the following Members voted against adoption of said Ordinance: _____.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and City Clerk.

City Clerk

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City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **H.2.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Steve Vicenzi, Director of Management Services / CFO
Prepared by: Steve Vicenzi, Director of Management Services / CFO

DATE: May 4, 2020

SUBJECT: Ordinance Authorizing Wastewater Supply System Revenue Bonds, Series 2020

RECOMMENDATION:

It is recommended that the City Commission adopt the attached Ordinance Authorizing Wastewater Supply System Revenue Bonds, Series 2020 in the amount not to exceed \$11,000,000; and adopt a Notice of Sale Resolution.

BACKGROUND:

The City Commission on March 2, 2020, adopted a Notice of Intent Resolution to issue Wastewater Supply System Revenue Bonds, Series 2020. This Resolution initiated the process of issuing debt to finance the Wastewater System's FY 2020 Capital Improvement program in the amount not to exceed \$11 million, in accordance with the Adopted FY 2020 Budget.

Under the provisions of the Resolution and State law, the public was notified of the City's intent to issue this debt, and has been provided with a 45-day period to circulate petitions for a referendum. That 45-day period will expire in May; if that occurs with no petition having been issued to the City, the City will be authorized to issue this debt at that time.

STRATEGIC VISION ALIGNMENT:

Strategic Goal Impact:



Good Governance- Ensuring the City organization has the capacity and resources to effectively implement the community's Strategic Vision in a way that is sustainable over the long term.

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

Inform (one-way conversation) – no feasible alternatives available due to legal/regulatory restrictions, standards and best practices, or resource limitations; the community will be made aware of the project.

FISCAL IMPACT:

The annual debt service on this bond service is included in the City's Adopted FY 2020 Budget.

NOTICE OF SALE RESOLUTION _____
WASTEWATER SYSTEM REVENUE BONDS, SERIES 2020

City of Kalamazoo
County of Kalamazoo, State of Michigan

Minutes of a regular meeting of the City Commission of the City of Kalamazoo, County of Kalamazoo, State of Michigan, conducted electronically in conformity with Governor Whitmer's Executive Order No. 2020-42 (COVID-19), on the 4th day of May, 2020 at 7:00 o'clock p.m., prevailing Eastern Time.

PRESENT: Members: _____

ABSENT: Members: _____

The following preamble and resolution were offered by Member _____ and supported by Member _____:

WHEREAS, the City of Kalamazoo, County of Kalamazoo, State of Michigan (the "City"), has by an Ordinance duly adopted as of the date hereof (the "Ordinance"), authorized the issuance and sale of not to exceed Eleven Million Dollars (\$11,000,000) in principal amount of the City's Wastewater System Revenue Bonds, Series 2020 (the "Bonds"); and

WHEREAS, it is necessary to authorize and approve the publication of a notice of sale in accordance with the Ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization to Fix Date of Sale. The City's Director of Management Services and Chief Financial Officer is hereby authorized and directed to fix the date for the sale of the Bonds.

2. Publication of Notice of Sale. The City Clerk shall cause an official Notice of Sale of the Bonds to be published in the Bond Buyer, New York, New York at least seven (7) full days before the date fixed for sale.

3. Form of Notice of Sale. The Notice of Sale of the Bonds shall be in substantially the following form:

OFFICIAL NOTICE OF SALE
\$11,000,000*
CITY OF KALAMAZOO
COUNTY OF KALAMAZOO, STATE OF MICHIGAN
WASTEWATER SYSTEM REVENUE BONDS, SERIES 2020
**Subject to adjustment as set forth in this Notice of Sale*

Bids for the purchase of the above bonds will be received in the manner described in this Official Notice of Sale on Wednesday, May 27, 2020 until 11:30 a.m., prevailing Eastern Time, at which time and place said bids will be publicly opened and read.

ELECTRONIC BIDS: Bidders may submit bids for the purchase of the above bonds as follows:

Electronic bids may be submitted to the Municipal Advisory Council of Michigan at munibids@macmi.com; provided that electronic bids must arrive before the time of sale and the bidder bears all risks of transmission failure.

Electronic bids will also be received on the same date and until the same time by Bidcomp/Parity as agent of the undersigned. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Anthony Leyden or CLIENT SERVICES, 1359 Broadway, Second Floor, New York, New York 10010, (212) 849-5021. IF ANY PROVISION OF THIS NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BIDCOMP/PARITY, AS THE APPROVED PROVIDER OF ELECTRONIC BIDDING SERVICES, THIS NOTICE SHALL CONTROL.

Bidders may choose any means or location to present bids but a bidder may not present a bid in more than one location or by more than one means.

BOND DETAILS: The bonds will be registered bonds of the denomination of \$5,000 or multiples thereof not exceeding for each maturity the maximum principal amount of that maturity, originally dated as of the date of delivery, numbered in order of registration, and will bear interest from their date payable on October 1, 2020, and semiannually thereafter.

The bonds will mature on the 1st day of October in each of the years, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2021	\$335,000	2034	\$430,000
2022	340,000	2035	445,000
2023	350,000	2036	455,000
2024	355,000	2037	470,000
2025	360,000	2038	485,000
2026	365,000	2039	500,000
2027	370,000	2040	515,000
2028	375,000	2041	535,000
2029	385,000	2042	550,000
2030	390,000	2043	570,000

2031	400,000	2044	585,000
2032	410,000	2045	605,000
2033	420,000		

***ADJUSTMENT OF TOTAL PAR AMOUNT OF BONDS AND PRINCIPAL MATURITIES:** The City reserves the right to decrease the aggregate principal amount of the bonds after receipt of the bids and prior to final award, if necessary, so that the purchase price of the bonds will provide an amount determined by the City to be sufficient to construct the project and to pay costs of issuance of the bonds. The adjustments, if necessary, will be in increments of \$5,000. The purchase price will be adjusted proportionately to the increase or decrease in issue size, but the interest rates specified by the successful bidder for all maturities will not change. The successful bidder may not withdraw its bid as a result of any changes made within these limits.

***ADJUSTMENT TO PURCHASE PRICE:** Should any adjustment to the aggregate principal amount of the bonds be made by the City, the purchase price of the bonds will be adjusted by the City proportionally to the adjustment in principal amount of the bonds. The adjusted purchase price will reflect changes in the dollar amount of the underwriter's discount and original issue discount/premium, if any, but will not change the per-bond underwriter's discount as calculated from the bid and initial reoffering prices.

TERM BOND OPTION: The initial purchaser of the bonds may designate any one or more maturities from 2021 to 2045, inclusive as term bonds and the consecutive maturities on or after the year 2021 which shall be aggregated in the term bonds. The amount of the maturities which are aggregated in a designated term bond shall be subject to mandatory redemption on October 1 of the years and in the amounts set forth in the above maturity schedule at a redemption price of par, plus accrued interest to the date of mandatory redemption. Term bonds or portions thereof mandatorily redeemed shall be selected by lot. Any such designation must be made at the time bids are submitted and must be listed on the bid.

PRIOR REDEMPTION OF BONDS: Bonds maturing in the years 2021 to 20__, inclusive, shall not be subject to redemption prior to maturity. Bonds or portions of bonds in multiples of \$5,000 maturing in the year 20__ and thereafter shall be subject to redemption prior to maturity, at the option of the City, in any order of maturity and by lot within any maturity, on any date on or after October 1, 20__, at par and accrued interest to the date fixed for redemption.

In case less than the full amount of an outstanding bond is called for redemption, the transfer agent, upon presentation of the bond called for redemption, shall register, authenticate and deliver to the registered owner of record a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption shall be given to the registered owner of any bond or portion thereof called for redemption by mailing of such notice not less than thirty (30) days prior to the date fixed for redemption to the registered address of the registered owner of record. A bond or portion thereof so called for redemption shall not bear interest after the date fixed for redemption provided funds are on hand with the transfer agent to redeem said bond or portion thereof.

INTEREST RATE AND BIDDING DETAILS: The bonds shall bear interest at a rate or rates not exceeding six percent (6%) per annum, to be fixed by the bids therefor, expressed in multiples of 1/8 or 1/20 of 1%, or both. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. The difference between the highest and lowest interest rates bid shall not exceed four percent (4%) per annum. No proposal for the purchase of less than all of the bonds or at a price less than (___%) of their par value will be considered.

BOOK-ENTRY ONLY: The bonds will be issued in book-entry only form as one fully registered bond per maturity and will be registered in the name of Cede & Co., as bondholder and nominee for The Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the bonds. Purchase of the bonds will be made in book-entry-only form, in the denomination of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their interest in bonds purchased. It will be the responsibility of the purchaser to obtain DTC eligibility. Failure of the purchaser to obtain DTC eligibility shall not constitute cause for a failure or refusal by the purchaser to accept delivery of and pay for the bonds.

TRANSFER AGENT AND REGISTRATION: Principal shall be payable at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner of record not less than 60 days prior to an interest payment date. Interest shall be paid by check mailed to the registered owner of record as shown on the registration books of the City as of the 15th day of the month preceding an interest payment date. The bonds will be transferred only upon the registration books of the City kept by the transfer agent.

PURPOSE AND SECURITY: The bonds are issued under the provisions of Act 94, Public Acts of Michigan, 1933, as amended, and certain Ordinances of the City, for the purpose of defraying the cost of acquiring and constructing additions, extensions and improvements to the City's Wastewater System (the "System"). The bonds are payable solely and only from the Net Revenues of the System and any additions thereto, and a statutory first lien on said Net Revenues has been established by said Ordinances. The bonds and said lien are of equal standing and priority of lien as to said Net Revenues with the City's Wastewater System Revenue Refunding Bonds, Series 2011, in the outstanding principal amount of \$360,000, the City's Wastewater System Revenue Bonds, Series 2012, in the outstanding principal amount of \$4,335,000, the City's Wastewater System Revenue Refunding Bonds, Series 2014, in the outstanding principal amount of \$1,830,000, the City's Wastewater System Revenue Bonds, Series 2018, in the outstanding principal amount of \$5,695,000, and the City's Wastewater System Revenue Bonds, Series 2019, in the outstanding principal amount of \$9,600,000 (together the "Outstanding Bonds"). The City has covenanted and agreed to fix and maintain at all times while any of such bonds shall be outstanding such rates for service furnished by the System as shall be sufficient to provide for payment of the necessary expenses of operation, maintenance and administration of the System, to produce net revenues equal to one-hundred ten percent (110%) of the annual principal and interest on all of said bonds when due, to maintain a bond reserve account therefor, and to provide for such other expenditures and funds for the System as are required by said Ordinances.

The rights or remedies of bondholders may be affected by bankruptcy, insolvency, fraudulent conveyance or other laws affecting creditors' rights generally now existing or hereafter enacted and by the application of general principles of equity including those relating to equitable subordination.

ADDITIONAL BONDS: For the terms upon which additional bonds of equal standing with the bonds of this issue and the Outstanding Bonds as to the Net Revenues of the System may be issued, reference is made to the above described Ordinances.

GOOD FAITH: A good faith deposit in the form of a certified or cashier's check drawn upon an incorporated bank or trust company, or wire transfer, in the amount of [\$_____] payable to the order of the Treasurer of the City will be required of the successful bidder. The successful bidder is required to submit its good faith deposit to the City as instructed by the City not later than Noon, prevailing Eastern Time, on the next business day following the sale. The good faith deposit will be applied to the purchase price of the bonds. In the event the purchaser fails to honor its accepted bid, the good faith deposit will be retained by the City. No interest shall be allowed on the good faith check. The good faith check of the successful bidder will be cashed and payment for the balance of the purchase price of the bonds shall be made at the closing.

AWARD OF BONDS-TRUE INTEREST COST: The bonds will be awarded to the bidder whose bid produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on October 1, 2020 and semi-annually thereafter) necessary to discount the debt service payments from their respective payment date to June 17, 2020 in an amount equal to the bid price, excluding accrued interest, if any. For the purpose of computing the true interest cost, the bonds shall be deemed to become due in the principal amounts and at the times set forth above, whether the bonds are serial bonds or mandatory sinking fund redemptions for such term bonds. Each bidder shall state in its bid the true interest cost to the City, computed in the manner specified above.

TAX MATTERS: In the opinion of Miller, Canfield, Paddock and Stone, P.L.C., bond counsel, under existing law, assuming compliance with certain covenants, interest on the bonds is excludable from gross income for federal income tax purposes as described in the opinion, and the bonds and interest thereon are exempt from all taxation by the State of Michigan or by any taxing authority within the State of Michigan except estate taxes and taxes on gains realized from the sale, payment or other disposition thereof.

ISSUE PRICE: The winning bidder shall assist the City in establishing the issue price of the bonds and shall execute and deliver to the City at closing an "issue price" or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached either as Appendix H or Appendix I of the preliminary official statement, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City and Bond Counsel.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the bonds) will apply

to the initial sale of the bonds (the “Competitive Sale Requirements”) because:

- a. the City is disseminating this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- b. all bidders shall have an equal opportunity to bid;
- c. the City anticipates receiving bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- d. the City anticipates awarding the sale of the bonds to the bidder who submits a firm offer to purchase the bonds at the lowest true interest cost, as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the bonds, as specified in the bid.

In the event that all of the Competitive Sale Requirements are not satisfied, the City shall so advise the winning bidder. The City will not require bidders to comply with the “hold-the-offering price rule,” and therefore does not intend to use the initial offering price to the public as of the sale date of any maturity of the bonds as the issue price of that maturity, though the winning bidder, in consultation with the City, may elect to apply the “hold-the-offering price rule” (as described below). Bids will not be subject to cancellation in the event the Competitive Sale Requirements are not satisfied. Unless a bidder intends to apply the “hold-the-offering price rule” (as described below), bidders should prepare their bids on the assumption that all of the maturities of the bonds will be subject to the 10% Test (as described below). The winning bidder must notify the City of its intention to apply either the “hold-the-price rule” or the 10% Test at or prior to the time the bonds are awarded.

If the winning bidder does not request that the “hold-the-offering price rule” apply to determine the issue price of the bonds, the following two paragraphs shall apply:

- a. The City shall treat the first price at which 10% of a maturity of the bonds (the “10% Test”) is sold to the public as the issue price of that maturity, applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the Bonds satisfies the 10% Test as of the date and time of the award of the bonds; and
- b. Until the 10% Test has been satisfied as to each maturity of the bonds, the winning bidder agrees to promptly report to the City the prices at which the unsold bonds of that maturity have been sold to the public. That reporting obligation shall continue, whether or not the closing date has occurred, until either (i) all bonds of that maturity have been sold or (ii) the 10% Test has been satisfied as to the bonds of that maturity, provided that, the winning bidder’s reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the City or bond counsel.

If the winning bidder does request that the “hold-the-offering price rule” apply to determine the issue price of the bonds, then the following three paragraphs shall apply:

- a. The winning bidder, in consultation with the City, may determine to treat (i) pursuant to the 10% Test, the first price at which 10% of a maturity of the bonds is sold to the public as the issue price of that maturity and/or (ii) the initial offering price to the public as of the sale date of any maturity of the bonds as the issue price of that maturity (the “hold-the-offering price rule”), in each case applied on a maturity-by-maturity basis. The winning bidder shall advise the City if any maturity of the bonds satisfies the 10% Test as of the date and time of the award of the bonds. The winning bidder shall promptly advise the City, at or before the time of award of the bonds, which maturities of the bonds shall be subject to the 10% Test or shall be subject to the hold-the-offering price rule or both.
- b. By submitting a bid, the winning bidder shall (i) confirm that the underwriters have offered or will offer the bonds to the public on or before the date of the award at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder, and (ii) if the hold-the-offering-price rule applies, agree, on behalf of the underwriters participating in the purchase of the bonds, that the underwriters will neither offer nor sell unsold bonds of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:
 - i. the close of the fifth (5th) business day after the sale date; or
 - ii. the date on which the underwriters have sold at least 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public;

The winning bidder shall promptly advise the City when the underwriters have sold 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

- c. The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set

forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter or dealer who is a member of the selling group is a party to a third-party distribution agreement that was employed in connection with the initial sale of the bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, as set forth in the third-party distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds, and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a third-party distribution agreement to comply with its corresponding agreement to comply with the requirements for establishing issue price of the bonds, including, but not limited to, its agreement to comply with the hold-the-offering-price rule, if applicable to the bonds.

By submitting a bid, each bidder confirms that:

- a. any agreement among underwriters, any selling group agreement and each third-party distribution agreement (to which the bidder is a party) relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such third-party distribution agreement, as applicable, (A)(i) to report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder, and (ii) to comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder and as set forth in the related pricing wires, (B) to promptly notify the winning bidder of any sales of bonds that, to its knowledge, are made to a purchaser who is a related party to an underwriter participating in the initial sale of the bonds to the public (each such term being used as defined below), and (C) to acknowledge that, unless otherwise advised by the underwriter, dealer or broker-dealer, the winning bidder shall assume that each order submitted by the underwriter, dealer or broker-dealer is a sale to the public.
- b. any agreement among underwriters or selling group agreement relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter or dealer that is a party to a third-party distribution agreement to be employed in connection with the initial sale of the bonds to the public to require each broker-dealer that is a

party to such third-party distribution agreement to (i) report the prices at which it sells to the public the unsold bonds of each maturity allocated to it, whether or not the closing date has occurred, until either all bonds of that maturity allocated to it have been sold or it is notified by the winning bidder or such underwriter that the 10% Test has been satisfied as to the bonds of that maturity, provided that, the reporting obligation after the closing date may be at reasonable periodic intervals or otherwise upon request of the winning bidder or such underwriter, and (ii) comply with the hold-the-offering-price rule, if applicable, if and for so long as directed by the winning bidder or the underwriter and as set forth in the related pricing wires.

- c. sales of any bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Sale.

Further, for purposes of this Notice of Sale:

- a. “public” means any person other than an underwriter or a related party,
- b. “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead Underwriter to form an underwriting syndicate) to participate in the initial sale of the bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the bonds to the public (including a member of a selling group or a party to a third-party distribution agreement participating in the initial sale of the bonds to the public);
- c. a purchaser of any of the bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) more than 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other); and
- d. “sale date” means the date that the bonds are awarded by the City to the winning bidder.

NOT QUALIFIED TAX EXEMPT OBLIGATIONS: The City has not designated the bonds as “qualified tax exempt obligations” for purposes of deduction of interest expense by financial institutions pursuant to the Code.

LEGAL OPINION: Bids shall be conditioned upon the approving opinion of Miller, Canfield, Paddock and Stone, P.L.C., attorneys of Detroit, Michigan, a copy of which opinion will be furnished without expense to the purchaser of the bonds at the delivery thereof. The fees

of Miller, Canfield, Paddock and Stone, P.L.C. for services rendered in connection with such approving opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue its approving opinion as to validity of the above bonds, Miller, Canfield, Paddock and Stone, P.L.C. has not been requested to examine or review and has not examined or reviewed any financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the bonds, and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials. In submitting a bid for the bonds, the bidder agrees to the representation of the City by Miller, Canfield, Paddock and Stone, P.L.C., as bond counsel.

DELIVERY OF BONDS: The City will furnish bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser through DTC in New York, New York. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the bonds, will be delivered at the time of delivery of the bonds. If the bonds are not tendered for delivery by twelve o'clock noon, prevailing Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful bidder may on that day, or any time thereafter until delivery of the bonds, withdraw its proposal by serving notice of cancellation, in writing, on the undersigned in which event the City shall promptly return the good faith deposit. Payment for the bonds shall be made in Federal Reserve Funds.

CUSIP NUMBERS: It is anticipated that CUSIP identification numbers will be printed on the bonds, but neither the failure to print such numbers on any bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds. Application for CUSIP numbers will be made by Robert W. Baird & Co., financial advisors to the City. The CUSIP Service Bureau's charge for the assignment of CUSIP identification numbers shall be paid by the purchaser.

OFFICIAL STATEMENT: A preliminary Official Statement that the City deems to be final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12 of the Securities and Exchange Commission, has been prepared and may be obtained from Robert W. Baird & Co., financial advisors to the City, at the address and telephone listed under FINANCIAL ADVISOR below. Robert W. Baird & Co. will provide the winning bidder with 150 final Official Statements within 7 business days from the date of sale to permit the purchaser to comply with Securities and Exchange Commission Rule 15c2-12. Additional copies of the Official Statement will be supplied by Robert W. Baird & Co., upon request and agreement by the purchaser to pay the cost of additional copies. The request for additional copies should be made to Robert W. Baird & Co., within 24 hours of the time of sale.

BOND INSURANCE AT PURCHASER'S OPTION: If the Bonds qualify for issuance of any policy of municipal bond insurance or commitment therefor at the option of the bidder/purchaser, the purchase of any such insurance policy or the issuance of any such commitment shall be at the option and expense of the purchaser of the Bonds. Any and all increased costs of issuance of the Bonds resulting from such purchase of insurance shall be paid by the purchaser, except that if the City has requested and received a rating on the Bonds from a rating agency, the City shall pay the fee for the requested rating. Any other rating agency fees shall be the responsibility of the purchaser. **FAILURE OF THE MUNICIPAL BOND INSURER TO ISSUE THE POLICY AFTER THE BONDS HAVE BEEN AWARDED TO THE PURCHASER SHALL NOT CONSTITUTE CAUSE FOR FAILURE OR REFUSAL BY THE PURCHASER TO ACCEPT DELIVERY OF THE BONDS FROM THE CITY.**

CONTINUING DISCLOSURE: As described more fully in the Official Statement, the City has agreed to provide or cause to be provided, in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, or prior to the last day of the sixth month after the end of each fiscal year commencing with the fiscal year ended December 31, 2019, (i) certain annual financial information and operating data, including audited financial statements for the preceding fiscal year, generally consistent with the information contained or cross-referenced in the Official Statement relating to the bonds, (ii) timely notice of the occurrence of certain material events with respect to the bonds and (iii) timely notice of a failure by the City to provide the required annual financial information on or before the date specified in (i) above.

FINANCIAL ADVISOR: Further information relating to the bonds may be obtained from Robert W. Baird & Co., 1001 Bay Street, Traverse City, Michigan 49684. Telephone (231) 933-8850. Fax (231) 933-8448.

BIDDER CERTIFICATION: NOT "IRAN-LINKED BUSINESS" By submitting a bid, the bidder shall be deemed to have certified that it is not an "Iran-Linked Business" as defined in Act 517, Michigan Public Acts of 2012, being MCL 129.311 et. seq.

THE RIGHT IS RESERVED TO REJECT ANY AND ALL BIDS.

Scott A. Borling
City Clerk
City of Kalamazoo

4. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members: _____

NAYS: Members: _____

RESOLUTION DECLARED ADOPTED.

Scott A. Borling, City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo, County of Kalamazoo, State of Michigan, at a regular meeting held on May 4, 2020, 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, as temporarily modified by Governor Whitmer's Executive Order No. 2020-48 (COVID-19), and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Scott A. Borling, City Clerk

35705290.2\046053-00228

ORDINANCE NO. _____

CITY OF KALAMAZOO, MICHIGAN

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF WASTEWATER SYSTEM REVENUE BONDS TO PAY THE COST OF THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE WASTEWATER SYSTEM OF THE CITY AND TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS AND CERTAIN OUTSTANDING BONDS OF THE SYSTEM; TO PROVIDE AN ADEQUATE RESERVE FUND FOR THE BONDS AND OUTSTANDING BONDS OF THE SYSTEM; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; TO PROVIDE FOR THE RIGHTS OF THE HOLDERS OF THE BONDS AND OUTSTANDING BONDS OF THE SYSTEM IN ENFORCEMENT THEREOF; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE SYSTEM AND THE BONDS AND OUTSTANDING BONDS OF THE SYSTEM.

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Definitions. Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

- (a) “Act 94” means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) “Authorized Officers” means either the City Manager, Deputy City Manager or Director of Management Services and Chief Financial Officer.
- (c) “Bonds” means the Series 2020 Bonds, the Outstanding Bonds and any additional Bonds of equal standing hereafter issued.
- (d) “Issuer” or “City” means the City of Kalamazoo, County of Kalamazoo, State of Michigan.
- (e) “Outstanding Bonds” means the Series 2011 Bonds, the Series 2012 Bonds, the Series 2014 Bonds, the Series 2018 Bonds and the Series 2019 Bonds.
- (f) “Outstanding Ordinances” means Ordinance No. 1718, 1875, 1892, 1918, 1960 and 1988 of the City.
- (g) “Project” means the additions, extensions and improvements to the System, including new and replacement mains, treatment plant improvements and other facilities improvements, together with all necessary structures, equipment, furnishings, site improvements and all appurtenances and attachments.

(h) “Revenues” and “Net Revenues” mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to “Revenues”, the earnings derived from the investment of moneys in the various funds and accounts established by the Outstanding Ordinances and this Ordinance.

(i) “Sale Order” means the Sale Order to be executed by an Authorized Officer of the Issuer respecting the sale of the Series 2020 Bonds.

(j) “Series 2011 Bonds” means the Wastewater System Revenue Refunding Bonds, Series 2011, dated July 26, 2011, in the outstanding principal amount of Three Hundred Sixty Thousand Dollars (\$360,000).

(k) “Series 2012 Bonds” means the Wastewater System Revenue Bonds, Series 2012, dated March 29, 2012, in the outstanding principal amount of Four Million Three Hundred Thirty-Five Thousand Dollars (\$4,335,000).

(l) “Series 2014 Bonds” means the Wastewater System Revenue Refunding Bonds, Series 2014, dated May 1, 2014, in the outstanding principal amount of One Million Eight Hundred Thirty Thousand Dollars (\$1,830,000).

(m) “Series 2018 Bonds” means the Wastewater System Revenue Bonds, Series 2018, dated May 23, 2018, in the outstanding principal amount of Five Million Six Hundred Ninety-Five Thousand Dollars (\$5,695,000).

(n) “Series 2019 Bonds” means the Wastewater System Revenue Bonds, Series 2019, dated June 25, 2019, in the outstanding principal amount of Nine Million Six Hundred Thousand Dollars (\$9,600,000).

(o) “Series 2020 Bonds” means the Wastewater System Revenue Bonds, Series 2020, authorized pursuant to this ordinance.

(p) “Sufficient Government Obligations” means direct obligations of the United States of America or obligations the principal and interest on which is fully guaranteed by the United States of America, not redeemable at the option of the issuer, the principal and interest payments upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the interest as it comes due on the Bonds and the principal and redemption premium, if any, on the Bonds as it comes due whether on the stated maturity date or upon earlier redemption. Securities representing such obligations shall be placed in trust with a bank or trust company, and if any of the Bonds are to be called for redemption prior to maturity, irrevocable instructions to call the Bonds for redemption shall be given to the paying agent.

(q) “System” means the entire Wastewater System of the City as defined in the Outstanding Ordinances.

(r) “Transfer Agent” means The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan.

Section 2. Necessity; Public Purpose; Estimated Cost and Life of Project. It is hereby determined to be a necessary public purpose of the Issuer to acquire and construct the Project. The estimated cost of acquiring and constructing the Project, including contingencies, engineering, legal and financing expenses, in an amount of not to exceed Eleven Million Dollars (\$11,000,000), is hereby approved. The Issuer does hereby estimate the period of usefulness of the Project to be at least twenty-five (25) years.

Section 3. Payment of Cost; Bonds Authorized. To pay the costs associated with acquiring and constructing the Project, including legal, financial and other expenses incident thereto and incident to the issuance and sale of the Series 2020 Bonds, the Issuer shall borrow the sum of not to exceed Eleven Million Dollars (\$11,000,000), as finally determined in the Sale Order and issue the Series 2020 Bonds pursuant to the provisions of Act 94. The remaining costs, if any, shall be defrayed from System funds on hand and legally available for such use.

Except as amended by or expressly provided to the contrary in this Ordinance, all of the provisions of the Outstanding Ordinances shall apply to the Series 2020 Bonds issued pursuant to this Ordinance, the same as though each of said provisions were repeated in this Ordinance in detail; the purpose of this Ordinance being to authorize the issuance of additional revenue bonds of equal standing and priority of lien as to the Outstanding Bonds to finance the cost of acquiring additions, extensions and improvements to the System, additional bonds of equal standing and priority of lien as to the Outstanding Bonds for such purpose being authorized by the provisions of the Outstanding Ordinances, upon the conditions therein stated, which conditions have been fully met.

Section 4. Bond Details. The Series 2020 Bonds shall be designated WASTEWATER SYSTEM REVENUE BONDS, SERIES 2020, shall be payable solely and only out of the Net Revenues, as set forth more fully herein, shall consist of bonds of the denomination of \$5,000, or integral multiples of \$5,000 not exceeding in any one year the amount maturing in that year, dated as of the date of delivery or such other date as shall be determined in the Sale Order, numbered in order of authentication, and shall mature on October 1st in the years and amounts as follows, or such other years of maturity and principal amounts as shall be determined in the Sale Order:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2021	\$335,000	2034	\$430,000
2022	340,000	2035	445,000
2023	350,000	2036	455,000
2024	355,000	2037	470,000
2025	360,000	2038	485,000
2026	365,000	2039	500,000
2027	370,000	2040	515,000
2028	375,000	2041	535,000
2029	385,000	2042	550,000

2030	390,000	2043	570,000
2031	400,000	2044	585,000
2032	410,000	2045	605,000
2033	420,000		

The Series 2020 Bonds shall bear interest at the rate specified in the Sale Order, but not to exceed six percent (6%) per annum, payable on October 1 and April 1 of each year, commencing October 1, 2020, or such later date as shall be determined in the Sale Order, by check or draft mailed by the Transfer Agent to the person or entity which is, as of the 15th day of the month preceding the interest payment date, the registered owner at the registered address as shown on the registration books of the Issuer maintained by the Transfer Agent. The date of determination of registered owner for purposes of payment of interest as provided in this paragraph may be changed by the Issuer to conform to market practice in the future. The principal of the Series 2020 Bonds shall be payable at the designated corporate trust office of the Transfer Agent. The Series 2020 Bonds shall be sold at a price not less than ninety-six percent (96%) of their par value.

The Series 2020 Bonds may be subject to redemption prior to maturity at the times and prices and in the manner finally determined in the Sale Order.

In case less than the full amount of an outstanding Bond is called for redemption, the Transfer Agent upon presentation of the Bond called in part for redemption shall register, authenticate and deliver to the registered owner a new bond in the principal amount of the portion of the original bond not called for redemption. Notice of redemption shall be given in the manner specified in the form of the Bonds contained in Section 14 of this Ordinance.

Section 5. Execution of Bonds. The Series 2020 Bonds shall be executed in the name of the Issuer with the manual or facsimile signatures of the Mayor and the City Clerk and shall have a facsimile of the Issuer's seal printed on them. No Bond executed by facsimile signatures shall be valid until authenticated by an authorized signer of the Transfer Agent. The Series 2020 Bonds shall be delivered to the Transfer Agent for authentication and be delivered by the Transfer Agent to the purchaser thereof in accordance with instructions from the Director of Management Services and Chief Financial Officer of the Issuer upon payment of the purchase price for the Series 2020 Bonds in accordance with the bid therefor when accepted. Executed blank bonds for registration and issuance to transferees shall simultaneously, and from time to time thereafter as necessary, be delivered to the Transfer Agent for safekeeping.

Section 6. Registration and Transfer. Any Bond may be transferred upon the books required to be kept pursuant to this section by the person in whose name it is registered, in person or by the registered owner's duly authorized attorney, upon surrender of the Bond for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Transfer Agent. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the transfer agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount. The Transfer Agent shall require payment by the bondholder requesting the transfer of any tax or other governmental charge required to be paid with respect to the transfer. The Transfer Agent shall not be required (i) to issue, register the

transfer of or exchange any Bond during a period beginning at the opening of business 15 days before the day of the giving of a notice of redemption of Bonds selected for redemption as described in the form of Bonds contained herein and ending at the close of business on the day of that giving of notice, or (ii) to register the transfer of or exchange any Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part.

The Transfer Agent shall keep or cause to be kept, at its principal office, sufficient books for the registration and transfer of the Series 2020 Bonds, which shall at all times be open to inspection by the Issuer; and, upon presentation for such purpose, the Transfer Agent shall, under such reasonable regulations as it may prescribe, transfer or cause to be transferred, on said books, Bonds as hereinbefore provided.

If any Bond shall become mutilated, the Issuer, at the expense of the holder of the Bond, shall execute, and the Transfer Agent shall authenticate and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon surrender to the Transfer Agent of the mutilated Bond. If any Bond issued under this Ordinance shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the Transfer Agent and, if this evidence is satisfactory to both and indemnity satisfactory to the Transfer Agent shall be given, and if all requirements of any applicable law including Act 354, Public Acts of Michigan, 1972, as amended ("Act 354"), being sections 129.131 to 129.135, inclusive, of the Michigan Compiled Laws have been met, the Issuer, at the expense of the owner, shall execute, and the Transfer Agent shall thereupon authenticate and deliver, a new Bond of like tenor and bearing the statement required by Act 354, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the Transfer Agent may pay the same without surrender thereof.

The Bonds may be issued in book-entry-only form through the Depository Trust Company in New York, New York ("DTC") and any officer of the City is authorized to execute such custodial or other agreement with DTC as may be necessary to accomplish the issuance of the Bonds in book-entry-only form and to make such changes in the Bond form with the parameters of this resolution as may be required to accomplish the foregoing.

Section 7. Payment of Series 2020 Bonds. The Series 2020 Bonds and the interest thereon shall be payable solely and only from the Net Revenues, and to secure such payment, there is hereby recognized a statutory lien upon the whole of the Net Revenues which shall be a first lien to continue until payment in full of the principal of and interest on all Bonds payable from the Net Revenues, or, until sufficient cash or Sufficient Government Obligations have been deposited in trust for payment in full of all Bonds of a series then outstanding, principal and interest on such Bonds to maturity, or, if called for redemption, to the date fixed for redemption together with the amount of the redemption premium, if any. The statutory first lien referred to herein shall be of equal standing and priority with the Outstanding Bonds. Upon deposit of cash or Sufficient Government Obligations, as provided in the previous sentence, the statutory lien shall be terminated with respect to that series of Bonds, the holders of that series shall have no further rights under this Ordinance except for payment from the deposited funds, and the Bonds of that series shall no longer be considered to be outstanding under this Ordinance.

Section 8. Bondholders' Rights; Receiver. The holder or holders of the Series 2020 Bonds representing in the aggregate not less than twenty percent (20%) of the entire principal amount thereof then outstanding, may, by suit, action, mandamus or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officers of the Issuer, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Series 2020 Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the Issuer and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the Issuer more particularly set forth herein and in Act 94.

The holder or holders of the Series 2020 Bonds shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Series 2020 Bonds and the security therefor.

Section 9. Rates and Charges. The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates shall be those in effect on the date hereof, as the same shall be increased from time to time.

Section 10. No Free Service or Use. No free service or use of the System, or service or use of the System at less than the reasonable cost and value thereof, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the Issuer.

Section 11. Fixing and Revising Rates. The rates presently in effect in the City are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the Bonds as the same become due and payable, and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. In addition, the rates shall be set from time to time so that there shall be produced Net Revenues in an amount equal to 110% of the principal of and interest on the Bonds coming due in each fiscal year. The rates shall be reviewed not less than once a year and shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the foregoing.

Section 12. Bond Reserve Fund. The Reserve Account in the Bond and Interest Redemption Fund, as established by the Outstanding Ordinances shall be adjusted in such amounts, so that upon issuance of the Series 2020 Bonds, the Bond Reserve Account shall total a

sum equal to the lesser of (a) the maximum annual principal and interest requirements on the Bonds outstanding after issuance of the additional Bonds, (b) 125% of the average annual debt service on the Bonds after issuance of the additional Bonds, or (c) an amount equal to 10% of the principal amount of the Bonds (the “Bond Reserve Requirement”). In the event that the amount in said Reserve Account is greater than the Bond Reserve Requirement, such excess amount shall be transferred to the Bond and Interest Redemption Fund described herein. If it is necessary to increase the amount in the Bond Reserve Account, the City shall deposit a sum from the moneys on hand in the System prior to delivery of the Bonds so that the Bond Reserve Account is fully funded as of the delivery of the Bonds.

Section 13. Disposition of Bond Proceeds. There is hereby established in a bank insured by the Federal Deposit Insurance Corporation to be selected by the Director of Management Services and Chief Financial Officer, a separate depository account to be designated “Wastewater System Revenue Bonds, Series 2020 Construction Fund”, the moneys from time to time on deposit to be used solely to pay the cost of the Project and the incidental costs set forth in Section 4 of this Ordinance. The proceeds of sale of the Series 2020 Bonds shall be allocated and used as follows, or as set forth in the Sale Order:

First, any premium and accrued interest for the Series 2020 Bonds, if any, shall be deposited into the Bond and Interest Redemption Fund established by the Outstanding Ordinances.

Second, an amount necessary to fully fund the Bond Reserve Account shall be deposited into the Reserve Account in the Bond and Interest Redemption Fund.

Third, the amount of funds necessary to pay the costs of the Project, as set forth in the Sale Order, shall be deposited in the Wastewater Supply System Revenue Bonds, Series 2020 Construction Fund. Moneys in the Construction Fund shall be applied solely in payment of the cost of the acquisition and construction of the Project, including any engineering expenses incident thereto and costs of issuance related to the Series 2020 Bonds.

Any unexpended balance of the proceeds of sale of the Bonds in the Construction Fund remaining after completion of the Project may, in the discretion of the Issuer, be used for further improvements and extensions to the System. Any remaining balance after such expenditure, or in the event no such expenditure is made, the entire unexpended balance shall be paid into the Bond and Interest Redemption Fund and used for the redemption or purchase of callable Bonds or for any other purpose permitted by Act 94. The proceeds of sale of said bonds may be invested in whole or in part in the manner provided by Act 94.

Section 14. Bond Form. The Series 2020 Bonds shall be in substantially the following form with such changes as may be approved by an Authorized Officer and Bond Counsel:

UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF KALAMAZOO

**CITY OF KALAMAZOO
WASTEWATER SYSTEM REVENUE BOND, SERIES 2020**

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
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	October 1, 20__	_____, 2020	
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REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ Dollars (\$ _____)

The City of Kalamazoo, County of Kalamazoo, State of Michigan (the “Issuer”), for value received, hereby promises to pay, solely and only out of the hereinafter described Net Revenues of the Issuer’s Wastewater System (hereinafter defined) the Principal Amount shown above in lawful money of the United States of America to the Registered Owner shown above, or registered assigns, on the Maturity Date shown above, unless prepaid prior thereto as hereinafter provided, with interest thereon (computed on the basis of a 360-day year consisting of twelve 30-day months) from the Date of Original Issue shown above or such later date to which interest has been paid, until paid, at the Interest Rate per annum shown above, first payable on October 1, 2020, and semiannually thereafter. Principal of this bond is payable upon surrender of this bond at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan (the “Transfer Agent”) or such other Transfer Agent as the Issuer may hereafter designate by notice mailed to the registered owner not less than 60 days prior to any interest payment date. Interest on this bond is payable by check or draft mailed by the Transfer Agent to the person or entity who is, as of the 15th day of the month preceding the interest payment date, the registered owner of record, at the registered address as shown on the registration books of the Issuer kept by the Transfer Agent. For prompt payment of principal and interest on this bond, the Issuer has irrevocably pledged the revenues of the Wastewater System of the Issuer (the “System”), including all appurtenances, extensions and improvements thereto, after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the “Net Revenues”), and a statutory first lien thereon is hereby recognized and created.

This bond is one of a series of bonds of even Date of Original Issue aggregating the principal sum of _____ Dollars (\$ _____), issued pursuant to Ordinances Nos. 1718, 1875, 1892, 1918, 1960, 1988 and ____ of the Issuer, duly adopted by the City Commission of the Issuer (together, the “Ordinances”), and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended, for the purpose of paying the cost of acquiring and constructing additions, extensions and improvements to the System.

For a complete statement of the revenues from which and the conditions under which this bond is payable, a statement of the conditions under which additional bonds of equal standing as to the Net Revenues may hereafter be issued and the general covenants and provisions pursuant to which this bond is issued, reference is made to the Ordinances. The bonds of this issue are of equal standing and priority of lien as to the Net Revenues with the Issuer's (a) Wastewater System Revenue Refunding Bonds, Series 2011, (b) Wastewater System Revenue Bonds, Series 2012, (c) Wastewater System Revenue Refunding Bonds, Series 2014, (d) Wastewater System Revenue Bonds, Series 2018, and (e) Wastewater System Revenue Bonds, Series 2019 (together the "Outstanding Bonds").

Bonds of this issue maturing in the years 2021 to 20__, inclusive, are not subject to redemption prior to maturity. Bonds or portions of bonds in multiples of \$5,000 maturing in the year 20__ and thereafter may be redeemed at the option of the Issuer, in such order as the Issuer shall determine and within any maturity by lot, on any date on or after October 1, 20__ at par and accrued interest to the date fixed for redemption.

[insert any mandatory redemption or extraordinary redemption provisions]

In case less than the full amount of an outstanding bond is called for redemption the Transfer Agent upon presentation of the bond called in part for redemption shall register, authenticate and deliver to the registered owner a new bond in the principal amount of the portion of the original bond not called for redemption.

Notice of redemption of any bond or portion thereof shall be given by the Transfer Agent at least thirty (30) days prior to the date fixed for redemption by mail to the registered owner at the registered address shown on the registration books kept by the Transfer Agent. Bonds shall be called for redemption in multiples of \$5,000 and any bond of a denomination of more than \$5,000 shall be treated as representing the number of bonds obtained by dividing the denomination of the bond by \$5,000 and such bond may be redeemed in part. Notice of redemption for a bond redeemed in part shall state that upon surrender of the bond to be redeemed a new bond or bonds in aggregate principal amount equal to the unredeemed portion of the bonds surrendered shall be issued to the registered owner thereof. No further interest on a bond or portion thereof called for redemption shall accrue after the date fixed for redemption, whether presented for redemption or not, provided funds are on hand with the Transfer Agent to redeem the bond or portion thereof.

This bond is a self-liquidating bond and is not a general obligation of the Issuer and does not constitute an indebtedness of the Issuer within any constitutional, statutory or charter debt limitation of the Issuer but is payable solely and only, both as to principal and interest, from the Net Revenues of the System. The principal of and interest on this bond are secured by the statutory lien hereinbefore mentioned.

The Issuer has covenanted and agreed, and does hereby covenant and agree, to fix and maintain at all times while any bonds payable from the Net Revenues of the System shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the interest on and the principal of the bonds of this issue, the Outstanding Bonds and any additional bonds of equal standing as and when the same shall become due and payable, and

to create and maintain a bond redemption fund (including a bond reserve account) therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinances.

This bond is transferable only upon the books of the Issuer kept for that purpose at the office of the Transfer Agent by the registered owner hereof in person, or by the registered owner's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or the registered owner's attorney duly authorized in writing, and thereupon a new registered bond or bonds in the same aggregate principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinances authorizing the bonds, and the Outstanding Bonds, and upon the payment of the charges, if any, therein prescribed.

It is hereby certified and recited that all acts, conditions and things required by law precedent to and in the issuance of this bond and the series of bonds of which this is one have been done and performed in regular and due time and form as required by law.

This bond is not valid or obligatory for any purpose until the Transfer Agent's Certificate of Authentication on this bond has been executed by the Transfer Agent.

IN WITNESS WHEREOF, the City of Kalamazoo, County of Kalamazoo, State of Michigan, by its City Commission, has caused this bond to be executed with the facsimile signatures of its Mayor and its City Clerk and a facsimile of its corporate seal to be printed on this bond, all as of the Date of Original Issue.

CITY OF KALAMAZOO

By: _____
Mayor

(Seal)

Countersigned:

City Clerk

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinances.

**THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.**, Detroit, Michigan
Transfer Agent

By: _____
Authorized Signatory

Date of Registration: _____

Section 15. Adjustment of Bond Terms. The Authorized Officers are each hereby authorized to adjust the final bond details as set forth herein to the extent necessary or convenient to complete the sale of the Series 2020 Bonds and in pursuance of the forgoing are each authorized to exercise the authority and make the determinations pursuant to Sections 7a(1)(c)(i) and (v) of Act 94, including but not limited to determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, date of issuance, interest payment dates, redemption rights, and other matters within the parameters established by this Ordinance.

Section 16. Notice of Sale; Sale Order; Award of Sale of Series 2020 Bonds. The Authorized Officers are each hereby authorized to fix a date of sale for the Series 2020 Bonds and to publish a notice of sale of the Series 2020 Bonds in The Bond Buyer, New York, New York, which notice of sale shall be in the form as recommended by the City's Bond Counsel. The Authorized Officers are each hereby authorized on behalf of the City to execute a Sale Order awarding the sale of the Series 2020 Bonds to the bidder whose bid meets the requirements of law and the terms of the Official Notice of Sale as published.

The Authorized Officers are each hereby authorized on behalf of the City to execute a Sale Order evidencing the final terms of the Series 2020 Bonds, and to take all other necessary actions required to effectuate the sale, issuance and delivery of the Series 2020 Bonds within the parameters authorized in this Ordinance.

Section 17. Tax Covenant. The Issuer shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Series 2020 Bonds from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditures and investment of the proceeds of the Series 2020 Bonds and moneys deemed to be proceeds of the Series 2020 Bonds.

Section 18. Continuing Disclosure. The City covenants to enter into a continuing disclosure undertaking for the benefit of the holders and beneficial owners of the Bonds in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, and the Authorized Officers are each hereby authorized to execute such undertaking prior to delivery of the Series 2020 Bonds.

Section 19. Other Matters. The Authorized Officers are each authorized and directed to (a) approve the circulation of a preliminary official statement describing the Bonds and to deem the preliminary official statement "final" for purposes of Rule 15c2-12 of the SEC; (b) solicit bids for and approve the purchase of a municipal bond insurance policy for the Bonds; (c) apply for ratings on the Bonds; and (d) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the Bonds.

Section 20. Appointment of Bond Counsel. The appointment of the law firm of Miller, Canfield, Paddock and Stone, P.L.C. of Detroit, Michigan, as Bond Counsel for the Bonds is hereby confirmed, notwithstanding its periodic representation in unrelated matters of potential parties to the Bonds.

Section 21. Savings Clause. The Outstanding Ordinances shall continue in effect, except as specifically supplemented or altered herein.

Section 22. Severability; Paragraph Headings; and Conflict. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 23. Publication and Recordation. This Ordinance shall be published in full in the *Kalamazoo Gazette*, a newspaper of general circulation in the City, qualified under State law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the Issuer and such recording authenticated by the signatures of the Mayor and City Clerk.

Section 24. Effective Date. Pursuant to the provisions of Section 6 of Act 94, this Ordinance shall be approved on the date of first reading and accordingly this Ordinance shall immediately be effective upon its adoption.

Adopted and signed this 4th day of May, 2020.

Signed: _____
Mayor

Signed: _____
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Commission of the City of Kalamazoo, County of Kalamazoo, Michigan, at a Regular Meeting held on the 4th day of May, 2020, 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, as temporarily modified by Governor Whitmer's Executive Order No. 2020-48 (COVID-19), and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

I further certify that the following Members were present at said meeting: _____
and that the following Members were absent: _____.

I further certify that Member _____ moved adoption of said Ordinance, and that said motion was supported by Member _____.

I further certify that the following Members voted for adoption of said Ordinance: _____
and that the following Members voted against adoption of said Ordinance: _____.

I further certify that said Ordinance has been recorded in the Ordinance Book and that such recording has been authenticated by the signatures of the Mayor and City Clerk.

35697816.2\046053-00228

City Clerk



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **H.3.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Rebekah Kik
Prepared by: Christina Anderson

DATE: May 4, 2020

SUBJECT: First Reading & Scheduling of a Public Hearing for Zoning Text Amendments to Appendix A and Chapter 50 to Allow Adult Use and Medical Marihuana Uses

RECOMMENDATION:

It is recommended the City Commission offer for first reading an ordinance to amend the text of Appendix A and Chapter 50, the Zoning Ordinance, to allow adult use and medical marihuana uses; and schedule a public hearing for May 18, 2020.

BACKGROUND:

On October 7, 2019, the City Commission adopted an Ordinance to delay the City's opt-in of permitting commercial adult-use marihuana establishments in the City until June 1, 2020. Since that time staff from Planning, Economic Development, Community Investment, and the City Attorney's office have been working to create the framework to allow adult use marihuana. There are 3 pieces for review and approval to allow adult use marihuana in Kalamazoo: zoning rules, social equity policy, and updates to licensing and business operation. The work to create these was guided by the input received from the community meetings in February, small group focused discussions on social equity and the current medical marihuana industry, review of other Michigan cities' codes, and with the lens of social equity in Kalamazoo.

This report focuses on the updates to Chapter 50 Zoning Ordinance. The zoning text amendments for your review include 1) new text to permit adult use marihuana in Kalamazoo, which has been the focus of staff's work, and 2) moving the medical marihuana text from Appendix A to Chapter 50 with some minor revisions.

Adult Use Marihuana Establishments & Licenses Under Consideration.

The text amendments to permit adult use marihuana detail 8 different marihuana establishments and permit them with varying development standards in a number of commercial and

manufacturing districts throughout the City. The types included in the proposed text amendments are as follows.

The first five are similar to those already permitted in the City of Kalamazoo with medical marihuana:

- Grower (the number of plants permitted in each class is different for adult use than three medical)
- Processor
- Safety Compliance (testing laboratory)
- Secure Transport (transportation services)
- Retailer (note that for medical marihuana the shops were called provisioning centers).

The State of Michigan created five new establishment or licenses, of which 3 are included in the proposed zoning text amendments.

- Microbusiness. An establishment that can grow up to 150 plants, process the plants, and sell the product on site.
- Excess Grower, A license which gives a grower the permission to have a very large grow operation through the stacking of multiple grow licenses.
- Designated Consumption Lounge. A commercial business which allows the consumption, but not the sale, of adult use marihuana.

The remaining two new adult use licenses focus on the ability to organize a marihuana focused event and a license to have the event. These would not be included in the Zoning Ordinance but would fall under the licensing and business operation rules. Staff recommends that these two licenses be considered for inclusion later in 2020 or early 2021.

General Location Criteria.

All of the proposed adult use marihuana establishments, with the exception of the Safety Compliance Establishment (testing laboratory), must be located 1000' from a K-12 school and 500' from a State licensed childcare center.

- Schools were specifically listed by the State as a protected use for adult use marihuana and staff felt that adding childcare centers was a logical extension.
- Note, this is different than the State act for medical marihuana which listed numerous uses as protected, allowing City's to establish required separations between marihuana uses and a wider list of protected uses.

Proposed Location Summary.

Grower (Classes A, B, C), Excess Grower, and Processor are permitted in the Limited Manufacturing (M-1), and General Manufacturing (M-2) and the Class A Grower, which allows up to 100 plants, is also permitted in the Community Commercial (CC) District.

- The size of a Class A operation and its impacts on such elements as transportation and the environment is very similar to that of a commercial greenhouse, which is permitted in the Community Commercial (CC) District.
- The State of Michigan requires that all applicants for these establishments already hold a medical marihuana license until Fall of 2021, except for the Class A Grower. The only requirement for a Class A Grower is Michigan residency.

Safety Compliance Establishments are proposed to be permitted in Community Commercial (CC), Live Work 1 (LW-1), Live Work 2 (LW-2), Business Technology, and Research (BTR), Limited Manufacturing (M-1), and General Manufacturing (M-2).

- The laboratory use is the only establishment not subject to the required separation from a K-12 school or State-licensed childcare center.
- The State did not impose any residency or industry license requirements on Safety Compliance Establishments.

Secure Transport Establishments are proposed to be permitted in Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).

- In order to obtain a license for Secure Transport from the State, one must already hold a medical marihuana license.

Retailer Establishments are proposed to be permitted in Live Work 1 (LW-1) and Community Commercial (CC), and in Limited Manufacturing (M-1), and General Manufacturing (M-2) when co-locating with a Grower or Processor.

- Medical marihuana provisioning centers are permitted in the Community Commercial (CC) District. Live Work 1 (LW1) was added here knowing that the updates to the zoning map include many areas where LW1 is proposed to replace Community Commercial (CC), including some areas with existing medical marihuana dispensaries.
- All retailer establishments must be 1000' feet away from each other, which is also required for medical marihuana provisioning centers. Staff created an exception to allow a 500' separation when the majority of the ownership is by someone(s) who are residents of the City of Kalamazoo and either 1) live in the Shared Prosperity designated Census Tracts or 2) have been convicted of a crime involving a controlled substance, except distribution to a minor.

- In order to obtain a State license for Retailer, one must already hold a medical marihuana license. It was one intent of staff to create an incentive for existing medical marihuana license holders to partner with Kalamazoo residents to open Retailer Establishments.

Microbusinesses are proposed to be permitted in Community Commercial (CC), Live Work 2 (LW-2), Limited Manufacturing (M-1), and General Manufacturing (M-2).

- Like Class A Growers, staff considered the size of the establishment and its potential impacts on surrounding properties and an existing similar use of Craftsman Industrial (allows production of goods provided that there is a showroom or retail component).
- Since this use includes processing, the proposed text amendments include restrictions on the types of processing that can be utilized outside of the Manufacturing Districts.
- In Community Commercial (CC) and Live Work 2 (LW2) there is a 500' separation required. Staff created an exception to this required separation to allow 250' between Microbusinesses that mirrors the exception for Retailers
- The State does not have a medical marihuana licensing requirement for a Microbusiness, but it does require residency in the State of Michigan.

Designated Consumption Lounge is proposed to be permitted in Community Commercial (CC). The State does not have residency or medical marihuana license requirements for this type of establishment.

Text Amendment Review Criteria.

When considering the zoning text amendment request, the following should be considered per Chapter 8 of the Zoning Ordinance:

1. Consistency with the 2025 Master Plan. The proposed amendments are in alignment with the 2025 Master Plan to update its zoning code and support several of the Strategic Goals, including Economic Vitality and Shared Prosperity
2. Change of Conditions that Require an Amendment. The citizens of Michigan approved the Michigan Regulation And Taxation of Marihuana Act(MRTMA) in November of 2018. The majority of Kalamazoo residence supported this initiative.The City Commission opted out only temporarily and directed staff to prepare ordinance amendments to allow Adult Use Marihuana businesses.
3. The Extent to Which the Proposed Amendment Addresses a Demonstrated Community Need. The citizens of Michigan approved the Michigan Regulation And Taxation of Marihuana Act (MRTMA) in November of 2018. The majority of Kalamazoo residence supported this initiative.The proposed text amendments further the City Commission's directive to adopt ordinances creating a regulatory framework for Adult Use Marihuana business.
4. Compatibility with Surrounding Uses. Considering both the existing Medical Marihuana rules and the State Adult Use rules, the proposed text amendments consider the impacts of the establishment types on surrounding uses and include standards to minimize and potential impacts. In addition, separation distances are proposed for K-12 schools and State licensed childcare centers.and in between Retailers and Provisioning Centers and certain Microbusinesses. Theses considerations will minimize any potential impacts. Also, it is important to note that these are text changes and not zoning map changes.
5. The Extent to Which the Proposed Amendments Result in a Logical and Orderly Development Pattern. The process of developing ordinance regulations for Medical Marihuana in 2017 has aided in drafting these amendments.Orderly dispersal of marihuana facilities resulted from the regulatory framework approved in April of 2018 for Medical Marihuana businesses.Many license types for Medical Marihuana and Adult Use Marihuana are similar. These ordinance amendments coupled with the new Social Equity Policy will provide a new roadmap for an orderly development pattern.

STRATEGIC VISION ALIGNMENT:

Strategic Goal Impact:



Shared Prosperity - Abundant opportunities for all people to prosper

Discussion:

The Adult Use Marihuana Ordinance implements the City's Social Equity Policy. First, the proposed zoning text amendments were developed to allow a wide range of Marihuana business uses in a wide variety of locations. The intent of this is to increase the opportunities for Kalamazoo residents to start or participate in a marihuana business. The second element of social equity policy expressed in the proposed text amendments is the potential relief in the required separation between Retailers and Microbusinesses. Relief of the required separation distance can be granted when the majority of the business is owned by a City resident who either lives in a designated SPK Census Tract or was convicted of a marihuana crime. This is designed to open up opportunities for local entrepreneurs. The proposed Social Equity Policy includes other elements beyond the zoning code that focus on licensing and community impact.



Economic Vitality - A supportive infrastructure for growing businesses and stabilizing the local economy for the benefit of all.

Discussion:

As mentioned in Shared Prosperity, these text amendments were created with desire to support business opportunities for both local entrepreneurs and those who may already be in the industry. This meets with the economic vitality goals, specific economic assistance and business opportunities.

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

Consult (two-way conversation) – the community will have a chance to react to the project through two-way conversation.

- November 2, 2019 - Marihuana panel discussion at Millwood Neighborhood Watch Meeting
- February 5, 2020 - Public feedback meeting at City Hall

- February 11, 2020 – Public feedback meeting at City Hall
- February 26, 2020 - Marihuana panel discussion at the Douglass Community Center; organized by Commissioner Cunningham
- February 28, 2020 - Draft zoning text amendments released
- February 2020 – Small group discussions focused on social equity and marihuana as an industry
- March 23, 2020 – Draft of social equity policy released. PowerPoint presentation summarizing the proposed zoning, social equity, and licensing posted in English and Spanish, and with audio
- April 9, 2020 – Virtual townhall meeting with City Commissioners and staff with real time Questions & Answers
- April 14, 2020 – Townhall recording and summary of Q & A posted online
- April 15, 2020 – Virtual Planning Commission Public Hearing – unanimous vote to recommend zoning text amendments to City Commission
- April 27, 2020 – City Commission Work Session

FISCAL IMPACT:

The fiscal impact for adult use marihuana or medical marihuana is closely tied to the licensing and the edits to Chapter 20B.

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE TO ADDRESS THE ZONING OF MARIHUANA BUSINESSES BY
AMENDING CHAPTER 50 “ZONING ORDINANCE” AND REPEALING PORTIONS
OF APPENDIX A OF THE CITY CODE OF ORDINANCES**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Chapter 50, Section 50-1.3 Definitions, is amended to add the following terms:

“CULTIVATE. To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

EQUIVALENT LICENSE. Any of the following when held by a single licensee:
(1) grower license of any class under both the MRTMA and MMFLA;
(2) processor licenses under both the MRTMA and MMFLA;
(3) secure transporter licenses under both the MRTMA and MMFLA;
(4) safety compliance facility licenses under both the MRTMA and MMFLA; and
(5) a retailer license under the MRTMA and a provisioning center license under the MMFLA

INDUSTRIAL HEMP. Any part of the plant, whether growing or not, Cannabis sativa L or the genus cannabis with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant regardless of moisture content. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

MARIHUANA. All parts of the plant Cannabis sativa L. or of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this ordinance, marihuana does not include:

- (1) the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;
- (2) industrial hemp; or
- (3) any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

DRAFT APRIL 22, 2020

MARIHUANA ESTABLISHMENT, ADULT USE. An adult use marihuana commercial business operation licensed pursuant to the MRTMA and permitted to operate by City ordinance.

MARIHUANA FACILITY, MEDICAL. A medical marihuana commercial business operation licensed pursuant to the MMFLA and permitted to operate by City ordinance.

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

MMFLA. The acronym for the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101 et seq.

MRTMA. The acronym for the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27051 et seq.

PROCESS or PROCESSING. The activity to separate or otherwise prepare parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.”

Section 2. Chapter 50, Section 50-4.4 Use Definition and Standards, is amended to add the following text:

“E. Adult-Use Marihuana. A category of uses permitting adult use establishments licensed pursuant to the MRTMA and Chapter 20B of the City ordinances.

(1) General Provisions. The following apply to all adult use marihuana establishments, unless otherwise noted.

(a) General Requirements.

[1] All location criteria and required separation distances apply to both new marihuana establishments and to any proposed change in the location of an existing marihuana establishment.

[2] All location criteria and required separation distances apply to both marihuana establishments and similar protected uses located in adjacent governmental jurisdictions.

[3] A marihuana establishment is prohibited from operating in any residential zoning district or in a residential unit.

[4] A licensee may not operate a marihuana establishment at any place in the City other than the address provided in the application on file with the City Clerk.

[5] A licensee must operate the licensed establishment in compliance with all applicable State and City regulations for that type of establishment.

(b) Location Criteria. All marihuana establishment types must meet the following location criteria, except Safety Compliance Operations:

[1] Required Distance.

[a] A marihuana establishment must not operate within one thousand (1,000) feet of a pre-existing private or public school, providing education in kindergarten or any grades 1 through 12.

[b] A marihuana establishment must not operate within five hundred (500) feet of a pre-existing State-licensed childcare center.

[2] Measuring the Required Distance. The required distance is measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana establishment is located.

(c) Shared Location. Marihuana establishments may operate from a location shared with an equivalent licensed marihuana facility.

(2) Grower Establishments. Growers are licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments. The three (3) grower license types are Class A (authorized to grow up to 100 plants); Class B (authorized to grow up to 500 plants); and Class C authorized to grow up to 2000 plants). An Excess Grower holds five (5) Class C Adult Use Marihuana Grower & at least two (2) Class C Medical Marihuana Grower licenses. In the zoning districts where a Grower Establishment is Permitted with Development Standards, the following standards apply.

(a) Class A Grower Establishments are permitted as follows:

[1] In Zones Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).

[2] In Zone CC, all grow operations must be conducted within an enclosed building.

(b) Class B and Class C Grower Establishments are permitted in Zones Limited Manufacturing (M-1), and General Manufacturing (M-2).

(c) Excess Grower Establishments are permitted in Zone General Manufacturing (M-2).

(d) Permitted Outdoor Activities. All Grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area under the following conditions.

[1] Area is contiguous with the facility building.

[2] Area is fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view.

[3] Marihuana plants cannot grow above the height of the fence or barrier.

[4] The fence is secured and only accessible to authorized persons and emergency personnel.

[5] Area is located at least five hundred (500) feet from a residential zone district.

(3) Processor Establishments. Processors are licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments. In the zoning districts where a Processor Establishment is Permitted with Development Standards, the following standards apply:

- (a) Permitted in Limited Manufacturing (M-1), and General Manufacturing (M-2).
- (b) All processing operations must be conducted within an enclosed building.

(4) Safety Compliance Operations Establishment. Safety Compliance Establishments are licensed to test marihuana, including certification for potency and the presence of contaminants. Safety Compliance Operations are permitted in in Zones Community Commercial (CC), Live Work 1 (LW-1), Live Work 2 (LW-2), Business Technology, and Research (BTR), Limited Manufacturing (M-1), and General Manufacturing (M-2).

(5) Secure Transporter Establishment. Secure Transporter Establishments are licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments. In the zoning districts where Secure Transporter Establishment is Permitted with Development Standards, the following standards apply:

- (a) Permitted in Zones Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).
- (b) In Zone CC warehousing activity is only permitted as an accessory use to the principal permitted Secure Transporter use.

(6) Retailer Establishment. Retailer Establishments are licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older. In the zoning districts where a Retailer Establishment is Permitted with Development Standards, the following standards apply:

- (a) Permitted in Zones Live Work 1 (LW-1), and Community Commercial (CC).
- (b) Permitted in Zones Limited Manufacturing (M-1) and General Manufacturing (M-2) when operated as part of a single establishment engaged in Grower and Processor operations.
- (c) All Retailer activities must be conducted within an enclosed building.
- (d) A Retailer is not permitted on the same property or parcel or within the same building where any of the following are located:
 - [1] A package liquor store.
 - [2] A convenience store that sells alcoholic beverages.
 - [3] A fueling station that sells alcoholic beverages.
- (e) A separation distance of one thousand (1000) feet is required from any other Retailer or Provisioning Center with the following exceptions:
 - [1] A separation distance of five hundred (500) feet is permitted when an applicant or a group of applicant-owners with 51% or more ownership in the Retailer Establishment is one of the following

[a] A City of Kalamazoo resident living within Census Tracts 1, 2.02, 3, 9, and 10 for the past three (3) years

[b] A City of Kalamazoo resident with a marihuana conviction that does not involve distribution of a controlled substance to a minor.

[2] A location shared with a licensed Provisioning Center

(f) A Retailer is not allowed within six hundred sixty (660) feet of the following intersections: 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.

(7) Microbusiness Establishment. Microbusiness Establishments are licensed to cultivate not more than one hundred and fifty (150) marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance establishment, but not to other marihuana establishments. In the zoning districts where a Microbusiness Establishment is Permitted with Development Standards, the following standards apply:

(a) Permitted in Zones Community Commercial (CC), Live Work 2 (LW-2), Limited Manufacturing (M-1), and General Manufacturing (M-2).

(b) In Zones CC and LW-2 the following requirements apply:

[1] All business activities must be conducted within an enclosed building.

[2] The use of any substances with a flashpoint below one hundred (100) degrees Fahrenheit for processing is prohibited.

(c) A separation distance of five hundred (500) feet is required from another Microbusiness Establishment with the following exceptions:

[1] A separation distance of two hundred and fifty (250) feet is permitted when an applicant or a group of applicant-owners with 51% or more ownership in the Microbusiness Establishment is one of the following.

[a] A City of Kalamazoo resident living within Census Tracts 1, 2.02, 3, 9, and 10 for the past three (3) years.

[b] A City of Kalamazoo resident with a marihuana conviction that does not involve distribution of a controlled substance to a minor.

[2] No separation distance is required within Zones Limited Manufacturing (M-1) or General Manufacturing (M-2).

(8) Designated Consumption Establishment. A designated Consumption Establishment is a commercial space that is licensed for the consumption of marihuana products by persons 21 and older. Designated Consumption Establishments are permitted in Zone Community Commercial (CC).

F. Medical Marihuana. A category of uses permitting medical marihuana facilities licensed to operate pursuant to the MMFLA and Chapter 20B of the City ordinances.

(1) General Provisions. The following apply to all medical marihuana facilities, unless otherwise noted.

- (a) General Requirements.
 - [1] All location criteria and required separation distances apply to both new medical marihuana facilities and to any proposed change in the location of an existing medical marihuana facility.
 - [2] All location criteria and required separation distances apply to both medical marihuana facilities and similar protected uses located in adjacent governmental jurisdictions.
 - [3] A medical marihuana facility must not operate in any residential zoning district or in a residential unit.

- (b) Location Criteria. All marihuana facility types must meet the following location criteria from protected uses.
 - [1] Required Distance.
 - [a] A marihuana facility must not operate within one thousand (1,000) feet of the following:
 - i.) A pre-existing private or public preschool, elementary, secondary, vocational or trade school, college or university.
 - ii.) A public library.
 - iii.) A housing facility owned by a public housing authority.
 - [b] A marihuana facility must not operate within five hundred (500) feet of the following.
 - i.) A state-licensed childcare center.
 - ii.) Religious assembly.
 - iii.) A public pool, recreation facility, park or playground.
 - iv.) A public or private youth center.
 - v.) A transitional residence, correctional facility or substance abuse rehabilitation or treatment center.
 - [2] Measuring the Required Distance. The required distance is measured in a straight line from the nearest property line of a protected use to the nearest portion of the building or unit in which the marihuana facility is located.

- (c) Shared Location. Marihuana facilities may operate from a location shared with an equivalent licensed marihuana establishment.

(2) Grower Facility. A licensee that is a commercial entity located in this state that cultivates, dries, trims or cures and packages marihuana for sale to a processor or provisioning center. The three (3) grower license types are Class A (authorized to grow up to 500 plants); Class B (authorized to grow up to 1,000 plants); and Class C authorized to grow up to 1,500 plants). In the Districts where Grower Facility is Permitted with Development Standards, the following standards apply.

- (a) Grower Facilities are permitted in Limited Manufacturing (M-1) and General Manufacturing (M-2).

(b) Permitted Outdoor Activities. All Grower facilities and operations must be within an enclosed building, except cultivation may occur in an outdoor area under the following conditions.

[1] Area is contiguous with the facility building.

[2] Area is fully enclosed by fences or barriers that block outside visibility of the marihuana plants from public view.

[3] Marihuana plants cannot grow above the height of the fence or barrier.

[4] The fence is secured and only accessible to authorized persons and emergency personnel.

[5] Area is located at least five hundred (500) feet from a residential zone district.

(c) Multiple Facilities on a Lot. The following applies for multiple facilities on one lot.

[1] Except as permitted by State regulatory rules for Class C growers, only one (1) Medical Marihuana Grower facility license is allowed per parcel or lot.

[2] Licensees may occupy the same premises if holding separate Grower and Processor licenses for the premises.

(3) Processor Facility. A licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center. In the Districts where Processor Facility is Permitted with Development Standards, the following standards apply.

(a) Processor Facility is permitted in Limited Manufacturing (M-1) and General Manufacturing (M-2)

(b) Only one Medical Marihuana Processor facility license permitted per parcel or lot

(c) All Processing operations must be conducted within an enclosed building

(d) Licensees may occupy the same premises if holding a separate Grower and Processor licenses for the premises.

(4) Secure Transporter Facilities. A licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee. In the Districts where Secure Transporter Facility is Permitted with Development Standards, the following standards apply.

(a) Secure Transporter Facility is permitted in Community Commercial (CC), Limited Manufacturing (M-1), and General Manufacturing (M-2).

(b) In Zone CC, warehousing activity is only permitted as an accessory use to the principal permitted Secure Transporter use.

(5) Safety Compliance Facility. A licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for

contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility. Safety Compliance Facility is permitted in Community Commercial (CC), Live Work 1 (LW-1), Live Work 2 (LW-2), Business Technology, and Research (BTR), Limited Manufacturing (M-1), and General Manufacturing (M-2).

(6) Provisioning Center. A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning Center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article. In the Districts where Provisioning Center Facility is Permitted with Development Standards, the following standards apply.

- (a) Provisioning Center Facility is permitted in the Community Commercial District.
- (b) Only one Provisioning Center license is permitted per parcel or lot.
- (c) All Provision Center activities must be conducted within an enclosed building.
- (d) A Provisioning Center is not allowed within six hundred sixty (660) feet of the following intersection: 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.
- (e) A separation distance of one thousand (1000) feet is required from any other Provisioning Center or Retailer, except when operating from a shared location,
- (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:
 - [1] A package liquor store.
 - [2] A convenience store that sells alcoholic beverages.
 - [3] A fueling station that sells alcoholic beverages.
- (g) The sale, consumption, or serving of food to visitors is prohibited on Provisioning Center premises."

Section 3. Use Table 4.1-1 in Chapter 50 is amended to reflect:

Section 4. Chapter 50, Section 50.4-5 Accessory Uses and Structures, Subsection C. Use Definition and Standards, paragraph (5)(k) addressing Medical Marihuana as a Home Occupation, is amended to read:

"(k) Medical Marihuana. Medical Marihuana is a permitted home occupation when 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. In the districts where medical marihuana is Permitted with Development Standards, the following standards apply:

[1] Michigan Medical Marihuana Act Compliance. 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”) pursuant to the Act, as they may be amended from time to time.

[2] Location Criteria. Medical Marihuana as a home occupation must comply with the following location criteria.

[a] A primary caregiver must be located 1000’ from an existing public or private elementary, vocational, or secondary school; public or private college, junior college, or university; playground; housing facility owned by a public housing authority; or public library or private library open to the public.

[b] A primary caregiver must be 100’ from an existing public or private youth center, public swimming pool, or video arcade facility to ensure community compliance with State and Federal “Drug-Free School Zone” requirements.

[3] Number of Caregivers. One primary caregiver is permitted within a dwelling unit to service qualifying patients, who do not reside with the primary caregiver.

[4] Number of Patients Permitted. A primary caregiver is permitted up to five qualifying patients.

[5] Consent of the Property Owner. If the primary caregiver is not the owner of the property in which they live and operate from, written consent must be obtained from the property owner to ensure the owner’s knowledge of the use of the premises as permitted and 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.

[6] Growing. All medical marihuana plants shall be secured in one of the following ways.

[a] 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.

[b] Plants cultivated outdoors must be fully enclosed by fences or barriers that blocks 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.

[7] Processing. The separation of plant resin from a marihuana plant using any substances with a flashpoint below one hundred (100) degrees Fahrenheit for processing is prohibited.

[8] Lighting. 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

[9] Required Permits. 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.

[10] 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.”

Section 5. Section 4.2 AA “Marihuana Facilities” in Appendix A “Zoning Ordinance” is repealed.

Section 6. Section 4.3 G (16) in Appendix A “Zoning Ordinance” addressing Medical Marihuana as a Home Occupation is repealed.

Section 7. Use Table (Attachment 3) in Appendix A “Zoning Ordinance” is amended by the deletion of those entries addressing “Medical Marihuana Facilities”

Section 8. Repealer.

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

Section 9. 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 10. 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 _____, 2020. 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.

David F. Anderson, Mayor

Scott A. Borling, City Clerk

Subject: Social Equity Policy
Marihuana

Date: May 18, 2020 **No.**

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PURPOSE:

This goal of this policy is to put forth a plan to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact communities. This policy applies to all marihuana licenses. Current license holders will be required to abide by this policy upon renewal.

SCOPE:

- Allows targeted focus on disproportionately impacted individuals and neighborhoods
- Breaks down entry barriers into the marihuana industry specific to Kalamazoo
- Provide funding for the development and activities that support the Kalamazoo community in alignment with Shared Prosperity in Kalamazoo (SPK)

POLICY:

Social Equity Policy in Local Licenses

Fee reductions:

25% reduction in City license fee for the following

- 51+% of business ownership is by one or more persons who are residents of City Census Tracts 1 (Eastside), 9, 10, (Edison), and 2.02, 3 (Northside)
- City resident with a marihuana conviction that does not involve distribution to a minor

10% reduction in City license fee for registered care givers if you have been a registered primary caregiver for at least 2 years between 2008 and 2017.

Note: If you are applying as an entity, qualifying individuals will need to hold majority ownership (greater than 50%) for the entity to receive fee reductions.

Social Equity Policy – Locations/Zoning Code

Allow marihuana businesses in a wide number of locations
Allow a variety of marihuana business types in Kalamazoo

Retailer Exception to Required Standards

A separation of 500 feet is permitted when ...

- an applicant(s) is a City resident within City Census Tracts 1 (Eastside), 9, 10 (Edison), and 2.02, 3 (Northside) for the past 3 years and has 51% or more ownership in the business

**Subject: Social Equity Policy
Marihuana**

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or

- A City resident with a marihuana conviction that does not involve distribution to a minor and has 51% or more ownership in the business

Microbusiness Exception to Required Standards

A separation of 250 feet is permitted when ...

- an applicant(s) is a City resident within City Census Tracts 1 (Eastside), 9, 10 (Edison), and 2.02, 3 (Northside) for the past 3 years and has 51% or more ownership in the business

or

- A City resident with a marihuana conviction that does not involve distribution to a minor and has 51% or more ownership in the business

Social Equity for Community Impact

The City of Kalamazoo will use a minimum of 25% of fees and tax generated revenue in the following ways:

1. Support the following programs/initiatives:
 - a. Training to help educate people of color to prepare for ownership/operations of future marijuana establishments.
 - b. Provide community outreach and education on topics such as adult use marijuana, difference between state and federal laws concerning marijuana and adult use in general.
 - c. Support Shared Prosperity Kalamazoo priorities
 - i. Strong Youth
 - ii. Strong Families
 - iii. Good jobs
 - d. Blight Elimination
2. When any person or entity receives more than \$10,000 in contract value or benefit from the City, the City will require a good faith effort to hire employees with prior marihuana convictions or that live in Census Tracts 1 (Eastside); 9, 10 (Edison); or 2.02, 3 (Northside).
 - a. \$10,000 contract benefit could include, but is not limited to tax abatements, participation in the Brownfield Authority Act program, and façade and/or building improvement funds or work.
3. The City will require that all marijuana businesses make a good faith effort to hire employees with prior marijuana convictions or that live in Census Tracts 1 (Eastside); 9,10 (Edison) of 2.02, 3 (Northside).

Compliance to Social Equity Plan

Subject: Social Equity Policy
Marihuana

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1. Individuals or entities that have received fee reductions and/or reduced separation opportunities based on this social equity policy must provide proof of continued eligibility at time of license renewal.
 - a. If eligible, they will receive fee deductions when renewing.
 - b. If no longer eligible
 - i. They will not receive fee deductions
 - ii. If the individual or entity took advantage of reduced separation opportunities, they would no longer be eligible to operate the business at that location.
2. Existing businesses can submit documentation to apply for social equity fee reductions during the license renewal process.

EFFECTIVE DATE: May 18, 2020

David Anderson, Mayor

HISTORY:

City of Kalamazoo
PLANNING COMMISSION
Minutes
April 15, 2020
DRAFT

Electronic meeting
under the authority of Executive Order 2020-15
issued by Governor Gretchen Whitmer

Members Present: Gregory Milliken, Chair; Emily Greenman Wright, Vice Chair; Shardae Chambers; Derek Wissner; Coreen Ellis; Brian Pittelko; Alfonso Espinosa; Sakhi Vyas; James Pitts

Members Excused:

City Staff: Clyde Robinson, City Attorney; Christina Anderson, City Planner; Pete Eldridge, Assistant City Planner; Dorla Bonner, Diversity, Equity and Inclusion Director; Beth Cheeseman, Executive Administrative Assistant; Joseph Ulery, Deputy Chief Information Officer; Neal Conway, Communications Coordinator

A. CALL TO ORDER

Commissioner Milliken called the meeting to order at 7:04 p.m.

B. ROLL CALL

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

C. ADOPTION OF FORMAL AGENDA

Commissioner Greenman Wright, supported by Commissioner Espinosa, moved approval of the April 15, 2020 Planning Commission agenda as presented. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES

Commissioner Greenman Wright, supported by Commissioner Ellis, moved approval of the March 5, 2020 Planning Commission minutes. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

Planner Anderson explained the process for the public to comment on agenda and non-agenda items during the meeting.

F. NEW BUSINESS

None.

G. PUBLIC HEARINGS

1. P.C. #2020.06:

1) Text amendments to Section 4.1 Use Table and Section 4.2 Use-Specific Standards of Appendix A – Zoning Ordinance for the purpose of moving the regulations for medical marihuana facilities to Chapter 50.

2) Text amendments to Chapter 50, Article 1: General Requirements and Article 4: Use Regulations for the purpose of adding adult use marihuana establishments to Chapter 50.

Planner Eldridge presented the staff report. He explained the history of the adult use marihuana proposal and reviewed the timeline of public outreach. In November, City staff had their first marihuana panel discussion. In February, a draft of zoning was released to the public, there were two public feedback meetings, a panel discussion, and small group discussions on the Social Equity policy. The draft of the Social Equity policy was released for public comment in March, and a virtual town hall meeting with City Commissioners was held in April. Planner Eldridge stated that they had also received written correspondence from the public.

Planner Eldridge said that the State of Michigan created 10 license types for adult use. He pointed out that many license types are the same or similar as medical marihuana with some differences in the quantity of plants and the definitions. Planner Eldridge shared that some adult-use licenses require proof of Michigan residency or that the person already holds a medical marihuana license from the State (requirement until 2021). He also explained the new recreational license types: Excess Grower, Microbusiness, Designated Consumption Establishment, Event Organizer, and Event License. Planner Eldridge stated that the City Commission will consider Event Organizer and Event License through the license ordinance.

Planner Eldridge said there was one universal standard regarding marihuana license types. That standard is a 1000' separation from pre-existing public and private schools (K-12), and a 500' separation from State licensed child-care centers. He said this would also include schools and child-care centers in adjacent municipalities.

Planner Eldridge reviewed the zoning and special requirements for Grower, Processor, Safety Compliance, Secure Transport, Retailer, Microbusiness, Excess Grower Establishment, and Designated Consumption Establishments. He also explained the spacing reductions allowed under the Social Equity policy. For those eligible, Retailers separation would be reduced to 500' and Microbusinesses separation would be reduced to 250'. Planner Eldridge explained that they are using the zoning code, reductions in separation distances and reduction of fees for those in key census tracts, and good faith hiring to impact social equity.

Planner Eldridge talked about the text amendments. He said there were adjustments to definitions; changes that make medical and adult use marihuana businesses more similar in their regulations; the restriction on sale of food items was removed for provisioning centers. Some formatting was done for better organization and clarity, including to match the format of Chapter 50. City staff's rationale for the text amendments were: Consistency with the Master Plan, Change of Conditions, Demonstrated Community Need, Compatibility with Surrounding Uses and Results in a Logical and Orderly Development Pattern.

Staff recommends approval of these amendments to the City Commission.

Commissioner Greenman Wright asked about the impression staff got from the public regarding the text amendments. Planner Anderson said that, overall, people were positive and supportive of the work. Residents seemed focused on the details, even if they had specific concerns or questions. She said there wasn't a lot of feedback from the draft that was posted online. Planner Anderson shared that one of the themes of the February meetings was the Social Equity policy. People wanted to talk about the details, the benefit to the community, and accessibility for locals to get involved in the industry.

Planner Eldridge shared about the meetings held in the City Commission Chambers in February. He said people in the industry wanted to make sure they can dual license and they to know when they could apply for adult-use licenses. Citizens seemed concerned that separation distances and dispersing of the facilities around the City would continue. Planner Eldridge said they had to talk about the differences between the medical marihuana act and the adult-use initiative and why they didn't list out all protected land uses.

Commissioner Espinosa commented that it was difficult to distinguish between CC and LW2 on the maps because they are all blue and purple shades. He also asked if the separation standards are staying the same for medical marihuana facilities or if they will be changed in the future. Planner Anderson stated those are not proposed to be changed. Planner Eldridge added there have been concerns of removing certain separations for protected land uses. He stated that is a piece which will require more public feedback. At this time, if people want a dual license facility, they will need to abide by the more restrictive uses in the medical marihuana ordinances. Planner Anderson agreed that changing the separation standards for medical marihuana would require a larger discussion than they have been able to have at this point. She reminded Planning Commissioners that the zoning code is never static. It can be changed if it is not working.

Commissioner Espinosa asked for clarification if a greenhouse would be considered an enclosed building for the CC zone. Planner Eldridge responded that a greenhouse is considered a closed building. The greenhouse would have to meet State requirements for security which would require solid walls. He was not sure they would approve a plastic-sided greenhouse for a grow operation. Commissioner Espinosa commented that the cost of growing in an enclosed building is high, and greenhouses allow you to have an operation in colder months.

Commissioner Milliken asked about language added to permit outdoor activities for Grower Establishments. He quoted the language for Class A establishments in zone CC along with subparagraphs regarding outdoor activities. Commissioner Milliken asked for clarification of whether outdoor activities

are allowed in CC. Planner Anderson stated it is not allowed in CC, but that option is available in manufacturing districts. Commissioner Milliken suggested they investigate the language of that section, so they don't have interpretation questions down the line.

Commissioner Ellis invited Ms. Bonner to speak about the Social Equity policy.

Ms. Bonner said they wanted to make sure the equity policy was approved with the ordinance and the zoning because those in medical joining the adult-use side will be required to do the same things because they will be the largest manufacturers. The State has a Social Equity policy and Kalamazoo was one of the communities disproportionately impacted by the war on drugs and it has a high rate of poverty. Anyone applying for recreational licenses in this community are required to submit a Social Equity plan to the State. Kalamazoo was allowed to further refine and develop a local equity policy to make sure the community benefits from the adult-use marihuana business. It was modeled after the State in terms of the licensing deductions. The goal was to make sure that impacted people really benefit from the adult-use business and have wealth building opportunities. Ms. Bonner said they requested that 25% of all fees and tax generated go toward community impact. They hope to use funding to help people prepare to enter the business in 2021; to support the Shared Prosperity of Kalamazoo priorities of Strong Youth, Strong Families, and Good Jobs; to provide down payment assistance to those impacted by the war on drugs; to provide supportive funding for blight elimination in the core communities of Edison, Eastside and Northside. Those are the communities in the City with the highest level of poverty that are the most racially concentrated. They want to make sure to follow their focus in Shared Prosperity of Kalamazoo to impact those communities.

Commissioner Espinosa and Commissioner Pitts asked questions regarding the qualification of living in a neighborhood for three years. They wondered if a person would still be eligible if they moved after three years. Ms. Bonner responded that it needs to be their current residence. They want to make sure people are committed to the neighborhood by longevity.

Commissioner Milliken opened up the public comment portion of the hearing.

Mr. Omar Fakhouri, stated concern about the number of dispensaries/provisioning centers to be permitted in the City if ordinance passes as is. He believed the ordinance would allow over 40 dispensaries at 1000' or over 60 at 500' for social equity applicants. Mr. Fakhouri stated that would cause most businesses to fail unless they are wealthy corporations. He cited Ann Arbor as an example of a city that is more than twice the size of Kalamazoo that has less of a number of permitted facilities. He said, as a small business owner, he has invested his life savings into his provisioning center, and he has a lot at stake. Mr. Fakhouri stated support of social equity but feels it hard to support it as presented. He wondered, if the City thinks 1000 or 2000' separation distances between facilities is appropriate to mitigate risks and saturation, why would 500' make sense for a different type of applicant. Mr. Fakhouri expressed support for disproportionately impacted people getting a foot in the industry, but he believes this ordinance does the complete opposite. He thinks there will be so much competition that only the wealthy, well-funded corporations will survive. He recommended allowing approved provisioning centers to be grandfathered in and have access to cannabis for their community. He also suggested increasing separation to 2000 feet and allow only applicants with social equity eligibility to apply and open it to others after that.

Mr. Todd Levy, Representative of Gage Cannabis, said he believed that some of the language in the proposed zoning ordinance should be changed or tweaked. The buffers should be 500' from facility to facility or there should be a clarification on units of measurement. He said the ordinance currently says it is measured from marihuana building to lot line of buffered use. Mr. Levy suggested measuring from building to building because some lots are shaped irregularly. He said that would be an acceptable alternative.

Mr. Joey Kejbou, Attorney with a focus in the cannabis arena, said there was one segment in the ordinance and FAQ responses related to that segment that he believes to be inaccurate and inconsistent. The proposed ordinance would result in a significant saturation for marihuana facilities. He said the prior buffers in place for the medical marihuana ordinance have been lifted with the exception of schools (K-12) and daycares. Mr. Kejbou stated that in the City's FAQ responses, it is suggested that the reasoning behind less restrictive buffers is because Michigan's adult-use State laws prevent a municipality from restricting adult-use licensees from operating near anything except schools and daycares. He said there is nothing in MRTMA which would prevent a municipality from restricting licensees from being near parks, churches, or any other criteria that a municipality believes to be creating a reasonable restriction on adult-use facilities. Section 6 of MRTMA specifically states that the municipality may regulate the time, place, and manner of marihuana establishments. He said this provides any municipality with broad discretion to implement any regulations and buffer restrictions that would be beneficial to their local economy and environment. Mr. Kejbou asked Planning Commissioners to reconsider current buffers and expand the scope of sensitive uses to other sensitive uses so that the current adult-use ordinance is similar to the medical marihuana ordinance.

Sandy, resident of Kalamazoo, expressed concerned about the tidal wave of marihuana businesses the City wants to bring into our community. She said she is not against marihuana but does not want it to be too normalized for children. She suggested the City go slower with the number of dispensaries and not to allow consumption lounges. Sandy asked why staff thinks it makes sense to have dispensaries next to churches or drug rehabilitation facilities. She wondered why they have less restrictive measures than with medical marihuana. Sandy recommended limiting the amount of businesses by separating them with larger buffers than what is proposed. She urged Planning Commissioners to keep them away from churches, schools, parks and universities, and then review the situation again in a couple years.

Mr. Jevin Weyenberg said he is part of a group who holds two medical licenses in the City. He praised City staff and Attorney Robinson for their work with ordinance. Mr. Weyenberg believes it will provide for excellent opportunities for many residents in the City of Kalamazoo. He is looking forward to the small businesses that will be created because of the excellent work of the City.

Ms. April Ouweleen, President of the Kalamazoo Eastside Neighborhood Association, feels that dispensaries on the Eastside might bring better businesses to their area and help eliminate some of the blight that surrounds them. She said there are many empty buildings that could be dispensaries and vacant lots where buildings could be put up to grow the marihuana. Ms. Ouweleen feels the marihuana laws and different zonings will bring an improvement in certain areas of the City.

Mr. Jack Urban, City Commissioner, asked Planning Commissioners to comment on issues with odor complaints. He asked if the proposed ordinance will provide enough protection to people who will be annoyed by the odors of these operations.

Jonathan shared that he strongly feels they should maintain the same language as was used for medical marihuana – 1000’ from building to building, not property line to property line. He believes this will help to make sure that Kalamazoo has a healthy and robust landscape and not have over-saturation.

Commissioner Milliken commented that several questions were raised about the differences between the adult-use regulations and medical-use regulations. He asked staff to explain why they are different. Planner Anderson said they are different, in general, because they come from two different acts that lay out different standards. Medical marihuana was developed by the legislature and the 2018 activity was a voter initiative. The standards, definitions, and regulatory issues are different. She said they don’t merge easily, but they tried to bring them together whenever possible. Planner Anderson stated that one major difference was buffered protected uses. The State act for medical laid out several specific uses: 1000’ from schools, 500’ from daycare, parks, churches, public housing, rehab facilities, and public pools. Those buffered protected uses were not something discussed with the public for adult-use marihuana, so they followed the State statute for schools and daycare.

Attorney Robinson agreed with Planner Anderson’s remarks. He added that one person’s comments regarding the time, place, manner language being broad is correct. Attorney Robinson said there is nothing to preclude the City from giving the same protections to the same protected uses. He indicated that some of that is a good idea as referenced by the drug-free zones under State and Federal law. They could extend to recreation centers, parks, pools, and places where families with children gather. Attorney Robinson said they were reluctant to do that because they didn’t talk to the public about it. He said they can make that change if the Planning Commission wanted to do that.

Commissioner Wissner stated that, regarding the social equity piece, he understood the motivation of providing easier access to those who might have been adversely affected with prior marihuana issues. He understood the fees, but had a harder time understanding the distancing. Commissioner Wissner said the reduction in separation distance seems as if it is taking the incentive and placing it not on the individual applying, but on the community as a whole. He thought there may be more dense areas just because people might be applicants.

Planner Anderson stated that a retailer already must hold a medical license by the State. That will limit who is able to be a retailer in the City of Kalamazoo through 2021. She said in order to impact the ability for social equity eligible Kalamazoo residents to own a retailer, they incentivized that if the majority of a business is owned by someone who meets the qualifications, they would get the reduction. Planner Anderson said they wanted to give an advantage as far as distance to support that ownership piece. This is tied specifically to our local policy which needs to benefit residents in our community.

Commissioner Milliken brought up the question regarding odor complaints. Planner Eldridge stated that they have language in place for medical marihuana facilities which would be applicable to adult use facilities. The language is very specific to odor control for growers, processors and safety compliance

facilities. Planner Eldridge quoted the ordinance, “No medical marihuana facility shall permit the emission of marihuana odor resulting in a detectable odor that leaves the facility’s premises upon which it originated and interferes with the reasonable and comfortable use and enjoyment of another’s property.” Planner Eldridge also commented that the Michigan mechanical code has a section for ventilation requirements. He said there are several safeguards to eliminate odor issues. If they aren’t dealt with properly, we can turn to our ordinances.

Attorney Robinson added that any of these businesses must be run in conformity with statutes and administrative rules. The administrative rules for medical marihuana and adult-use marihuana are required to meet certain exhaust ventilation requirements. He said there is some concern that the State allows outdoor grow operations. They have tried to mitigate that by limiting that type of operation to the manufacturing areas and requiring a 500’ buffer to any residential zone close to the manufacturing area.

Commissioner Espinosa asked for clarification regarding location criteria related to in-home caregivers. He said the primary caregiver must be located 1000’ from a school or 100’ from a youth center. He wondered if that was correct.

Attorney Robinson said that 1000 and 100 is correct and was taken directly from the federal law. He said there are more protections for schools than a youth center. It is related to the drug-free schools zone law in the federal statutes.

Commissioner Milliken asked for the remainder of the public comments.

Mr. John Hilliard, Millwood Neighborhood Association, asked about Public Safety’s input; how many marihuana facilities of any type will be allowed in any one neighborhood; rules and regulations for Event organizers and Event licenses; enforcement and auditing. He stated the opinion that Microbusinesses should be in designated neighborhoods and allowed 500’ apart and not 250’ apart.

Mr. Jay Fleming congratulated staff on the ordinance. He said he has seen a lot of these local ordinances, and he feels this is the best hope locals have of getting into the industry in Kalamazoo. The lowering of buffers and some of things they are doing for social equity is fantastic. Mr. Fleming stated the biggest issue locals have getting into the industry is real estate. He felt the Planning Commission and staff have done a fantastic job of looking at ways to make that available. Leaving more space for small businesses, microbusinesses and consumption lounges allow more possibility for wealth for individuals in the community. Mr. Fleming suggested lowering some of the buffers even further for locals.

Attorney Robinson stated that Public Safety had a lot of input on the medical side, and they are aware of what is being done. They know these businesses pose a potential target for break-in. They are aware of that and they are welcoming of these businesses with the hope it will move some illegal traffic off the street into legitimate businesses.

Planner Anderson said it is hard to determine how many businesses may be in any one neighborhood. Because of distance requirements between retailers, it depends on where the first one goes, then it will go from there. Retail licenses will go first to those with medical licenses. Planner Eldridge added that they

attempted to anticipate the number of medical marihuana facilities along one corridor and ended up with about half of what they anticipated. He said it is hard to predict in each neighborhood.

Planner Anderson stated that Event organizer and Event licenses would be discussed through licensing at the City Commission level and not zoning. She indicated that auditing and enforcement would be handled through the annual renewal for local and State licenses. She said there is a review process carried out by the Economic Development Corporation board. License holders will have to report on their compliance with the standards and the Social Equity plan. Planner Eldridge shared they have had some discussion of how to spread out the license reviews to allow for an adequate review period for each license holder.

Commissioner Milliken closed the public hearing.

Planner Anderson announced that the call line was open to leave messages for non-agenda items.

Planner Anderson announced a correction. She said the 500' spacing distance between Microbusinesses is not intended to be applied in manufacturing districts. This is for separation when they are in the CC and LW2 districts. Planner Anderson requested that be put forward as a correction in the document.

Commissioner Greenman Wright asked why the spacing adopted for liquor stores was not applied to the distancing requirements to retail locations. Attorney Robinson said they don't know if marihuana retailers will be more like a liquor store or more like a pharmacy. There are places where, if there aren't tight controls, people can congregate, and it can create a problem. He said they've attempted to mitigate that through the spacing requirements and through the permitted zoning. The staff made the best guess on how this will play out in the community.

Commissioner Espinosa commented that many of the substances that can cause problems for individuals come from the corner store pharmacy. Commissioner Espinosa noted the skepticism behind marihuana, but he believes there are great benefits to individuals.

Commissioner Pitts asked for clarity regarding those who are eligible with a conviction. Attorney Robinson stated that under the statute adopted, an individual is eligible to get an adult-use license regardless of past criminal history of marihuana offenses except if found guilty of distribution to a minor.

Commissioner Espinosa, supported by Commissioner Vyas, moved to recommend the approval of the text amendments to the City Commission for Section 4.1 Use Table and Section 4.2 Use-Specific Standards of Appendix A – Zoning Ordinance for the purpose of moving the regulations for medical marihuana facilities to Chapter 50 and Text amendments to Chapter 50, Article 1: General Requirements and Article 4: Use Regulations for the purpose of adding adult use marihuana establishments to Chapter 50, with the condition that the Microbusiness 500' separation distance is only applicable within the CC and LW2 districts.

Attorney Robinson said there was nothing wrong with the motion but suggested restating it to say there is no separation distance under M-1 and M-2 because there is currently an exception under Microbusiness.

Commissioner Espinosa thought City staff did a great job of reaching the general public and receiving public comment and talking to people in the industry. When it comes to ordinances, they're not always perfect, but this opens doors to individuals and communities that want to do something different and get involved in industries. He is looking forward to seeing how things develop and what challenges and issues will come.

Commissioner Vyas agreed with Commissioner Espinosa's comments. She said she is proud of City staff for their work on this. Commissioner Vyas believed it was a lot of detail-oriented work, in addition to making sure they're not boxed into a lot of rules. She thought they did a great job of finding that balance.

Commissioner Ellis was happy that anyone who is not able to watch the meeting will be able to watch it online and reminded viewers that all the information is online. She thanked City staff for being on top of it and getting things pushed on and moving along.

Commissioner Milliken brought up that, previously, they had created three new commercial zoning districts with the intention of eliminating CCBD zoning. He didn't think it made sense to involve CCBD zoning in this amendment when they intend to eliminate that district and create the new ones. Commissioner Milliken expressed concern that they would be creating non-conformities as a result of this action. He suggested hitting the pause button on anything downtown until the three new zoning districts are finalized. They can then revisit them and determine the particular uses acceptable in those zoning districts.

Planner Anderson agreed that Commissioner Milliken was correct. They did approve text amendments that created three new districts. She reminded them that those districts are not mapped. The public process to map those has not started, and the City Commission has not voted on those text amendments. Planner Anderson wasn't sure about businesses getting through the licensing vs. the time it would take for mapping and readjusting D1, 2, 3. She thought it was a possibility. Non-conforming businesses would be grandfathered in. Planner Anderson asked Attorney Robinson how non-conforming businesses would work with the annual license renewal.

Attorney Robinson reminded Planning Commissioners that use runs with the land. A person/entity would have to demonstrate an intent to abandon an existing use.

Commissioner Milliken said he thinks it will make it simpler to wait until they have more knowledge of those districts.

Attorney Robinson stated that they can amend the motion to eliminate locating in the CCBD for now.

Per Commissioner Espinosa's request, Commissioner Milliken restated his suggestion that CCBD (Consumption Establishments and Retailers) be removed from this zoning district until the zoning process is completed for D1, D2, and D3.

Commissioner Wissner, supported by Commissioner Pittelko, made the motion to amend the ordinance to remove CCBD from the two uses that it is stated in, the Designated Consumption and the Retailer.

Commissioner Espinosa asked if they can add a timeline on the amendment. Planner Anderson responded that she wants zoning done as soon as possible, and downtown is next on agenda. However, they are not in normal circumstances, so it is difficult to know when/how they will be able to engage with the downtown businesses and users. Planner Anderson shared that if a Commissioner would like to direct staff to review an issue to be brought back forward, they can do that.

Commissioner Espinosa wanted to review the specifics of the newly created districts. Planner Anderson gave a quick review. D1: most restrictive with active ground floor districts to support principal shopping streets. D2: ground floor uses but opened to allow a wider variety of civic uses and open space uses. D3: downtown, pretty wide open with residential and commercial on the ground floor. This district is much more flexible with its uses for residential and commercial.

Commissioner Espinosa asked if it will add anything that makes a business non-compliant once they change. Planner Anderson shared that it will depend on how the community maps the districts. She said she hasn't heard anything against having marihuana businesses in downtown. After community discussion and public input to map those districts, there may be a desire to adjust uses so one of these businesses would not be permitted. Planner Anderson agreed, in theory, it could open the door to something non-conforming in the future.

Commissioner Espinosa confirmed with Planner Anderson that non-conforming businesses would be grandfathered in. Commissioner Espinosa believed it would be challenging to add something non-conforming since it is already in a business district.

Commissioner Greenman Wright wondered if temporarily banning them from CCBD would create an over-concentration in nearby neighborhoods. Planner Eldridge said that because they would have to be in the CC zone district to open up a Consumption Establishment or a Retailer and would have to meet separation distances, he didn't think it would generate a concentration.

Commissioner Milliken commented that the time it takes to set up one of these businesses and get the licensing vs. the time to complete the zoning work, won't result in a significant proliferation of these uses. He suggested that since they know this is in process, they should be prudent with their work and not put something in the ordinance that they know is going away.

Commissioner Milliken restated the motion made by Commissioner Wissner and supported by Commissioner Pittelko.

Roll call vote was taken: Commissioner Espinosa voted no, all other Planning Commissioners voted yes. The motion passed.

Planner Anderson reminded Planning Commissioners of the two conditions: remove CCBD from the Designated Consumption and Retailer uses and Microbusinesses should not have the 500' separation distance applied to M-1 and M-2.

Commissioner Espinosa asked to clarify the motion to say we are going to revisit the Designated Consumption and Retailer uses downtown instead of eliminating it. Attorney Robinson said that can be

taken as direction to staff. Planner Anderson said it is duly noted there is interest in moving that along as quickly as possible.

Commissioner Milliken asked for a roll call vote on the motion with the two conditions recently stated.

Roll call vote was taken, and the motion passed unanimously.

H. OTHER BUSINESS

None.

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

Mr. Richard Stuart asked, as a resident and business owner on Portage Street, for a 6-month moratorium on any design or zoning changes that effect the business corridor on Portage Street. He requested to be contacted in response to his comment.

J. CITY COMMISSION LIAISON COMMENTS

None.

K. CITY PLANNER'S REPORT

Thank you for participating in this new format.

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioner Milliken urged Planning Commissioners to watch for emails regarding public meetings as work is still being done regardless of the pandemic. He thanked City staff for their assistance with setting up and helping with the meeting. He also expressed thanks for donations on behalf of Bronson.

Commissioner Chambers thanked the City Commissioners and Planners for coming together to get public comment and helping to move this process along. Stay safe.

Commissioner Pitts said it was good to see everybody. Stay safe.

Commissioner Greenman Wright appreciated the investment of time the City staff made in making the meeting secure and setting up the phone number. She thought this is a really good way for public engagement and to make it as much like a real business meeting as possible.

Commissioner Ellis hoped everyone had a great holiday. She believes the City is doing a great job. She said they did receive emails about medical marihuana. She hoped everyone is being safe too.

M. ADJOURNMENT

Commissioner Milliken adjourned the meeting at 9:25 pm.



City Commission Agenda Report

City of Kalamazoo

Date: **5/4/2020**

Item: **H.4.**

TO: Mayor Anderson, Vice Mayor Griffin, and City Commissioners

FROM: Clyde J. Robinson, City Attorney

DATE: May 4, 2020

SUBJECT: Marihuana Business Ordinance

RECOMMENDATION:

It is recommended that the City Commission approve an amendment to the City Code of Ordinances to provide for the permitting and regulation of adult-use marihuana businesses.

BACKGROUND:

In 2018 the City Commission adopted, as authorized by Medical Marihuana Facilities Licensing Act (MMFLA), an ordinance requiring medical marihuana businesses to secure a City-issued permit in addition to State licensure before beginning operations in the City. At present there are 9 medical marihuana businesses operating in the City.

In October 2019 the City Commission adopted an ordinance delaying the City's opt-in to permitting adult-use marihuana businesses to operate in the City until June 1, 2020. Since then City staff has reviewed the ordinances of other municipalities which have authorized the operation of adult-use marihuana establishments and engaged in outreach to the community so as to put in place both zoning and licensing ordinances that seek to address the areas where such business should be allowed to operate, provide for the issuance of a local permit to operate and, perhaps most importantly, given the designation of Kalamazoo as a community disproportionately impacted by marihuana enforcement efforts, put in a place a viable social equity program.

The proposed licensing ordinance amends Chapter 20B which originally only addressed medical marihuana facilities to incorporate adult-use marihuana establishments. The title of the chapter will be amended to "Marihuana Commercial Businesses" to reflect this change. In large measure the language tracks what was in place for medical marihuana business, but also reflects the changes required for the ordinance to track the language and requirements of the Michigan Regulation and Taxation of Marihuana Act (MRTMA) as approved by voters in November

2018. Although the ordinance permits two (Excess Grower and Designated Consumption Establishments) of the special licenses authorized by the State, at present the ordinance does not permit Event Organizer or Temporary Marihuana Events. This issue will be revisited once the nation is safely out of the current COVID-19 health crisis and crowds may safely gather at public social events and festivals.

Additionally, the ordinance will repeal Chapter 20C which addresses Adult-Use Marihuana Establishments by precluding their operation until June 1, 2020.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program (program name and description):

Strategic Goal Impact:

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

This ordinance, along with its sister zoning code amendments, are the product of extensive public outreach and input through public meetings, on-line comments, and a recently held City Commission workshop.

Discussion:

Engagement/Communication Tools

FISCAL IMPACT:

This is difficult to estimate. The City will collect an annual \$5000 permit fee from each medical and adult-use business. Further, by allowing adult-use retailers and microbusinesses to operate in the City, means the City will get its prorata share of the 10% excise tax collected by the State on adult-use marihuana retail sales. However, since it unknown how much tax revenue the State will collect, or the number of retailers/microbusinesses State-wide, an accurate estimate of anticipated revenue cannot be made at this time.

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 20B BY RENAMING IT “MARIHUANA
COMMERCIAL BUSINESSES” AND PROVIDING FOR THE REGULATION AND
PERMITTING OF MEDICAL MARIHUANA FACILITIES AND ADULT-USE
MARIHUANA ESTABLISHMENTS WITHIN THE CITY**

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Chapter 20B of the Kalamazoo City Code is renamed “Marihuana Commercial Businesses” and amended to read as follows:

**“Article I
General Provisions**

§ 20B-1 Title.

This chapter is to be known and may be cited as the "City of Kalamazoo Marihuana Commercial Business Ordinance."

§ 20B-2 Purpose and intent.

- A. Purpose. The purpose of this chapter is to implement the provisions of Public Act 281 of 2016, being the Michigan Medical Marihuana Facilities Licensing Act (MMFLA) and 2018 Initiated Law No. 1, being the Michigan Regulation and Taxation of Marihuana Act so as to protect the public health, safety, and welfare of residents of the City by setting forth the manner in which marihuana commercial businesses can be operated in the City. Further, the purpose of this chapter is to:
- (1) Authorize the establishment of marihuana businesses within the City and provide standards and procedures for the review, issuance, renewal, and revocation of City-issued permits for such businesses;
 - (2) Impose fees to defray and recover the cost to the City of the administrative and enforcement costs associated with marihuana businesses;
 - (3) Coordinate with State laws and regulations addressing marihuana businesses.
- B. Legislative intent. This chapter authorizes the establishment of marihuana businesses within the City of Kalamazoo consistent with the provisions of the Michigan Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Act, subject to the following:
- (1) Use, distribution, cultivation, production, possession, and transportation of marihuana remains illegal under federal law, and marihuana remains classified as a

"controlled substance" by federal law. Nothing in this chapter is intended to promote or condone the production, distribution, or possession of marihuana in violation of any applicable law. Nothing in this chapter is intended to grant immunity from any criminal prosecution under state or federal law. This chapter does not protect patients, caregivers, or the owners of properties on which a marihuana commercial operation is occurring from prosecution or having their property seized by federal law enforcement authorities.

(2) This chapter is to be construed to protect the public health, safety and welfare over commercial marihuana business interests. The operation of a licensed marihuana business is a revocable privilege and not a right in the City. Nothing in this chapter is to be construed to grant a property right for an individual or business entity to engage, obtain, or have renewed a City-issued permit to engage in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise in the City.

(3) Any individual or business entity which purports to have engaged in the use, distribution, cultivation, production, possession, transportation or sale of marihuana as a commercial enterprise in the City without obtaining the required authorization required by this chapter is deemed to be an illegally established nuisance, and as such is not entitled to legal nonconforming status under this chapter, the City Zoning Code, or state statutory or common law.

(4) Nothing in this chapter is intended to grant immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, the Marihuana Tracking Act, the Michigan Regulation and Taxation of Marihuana Act, and all applicable rules promulgated by the State of Michigan regarding the commercialization of marihuana. Strict compliance with all applicable state laws and regulations is deemed a requirement for the issuance or renewal of any permit issued under this chapter, and noncompliance with any applicable state law or regulation is grounds for the revocation or nonrenewal of any permit issued under the terms of this chapter.

C. Indemnification of City.

(1) By accepting a permit issued pursuant to this chapter, the holder waives and releases the City, its officers, elected officials, and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of marihuana business owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.

(2) By accepting a permit issued pursuant to this chapter, the holder agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, and insurers, against all liability, claims or demands arising on account of any claim of diminution of property value by a property owner whose property is located in proximity to a licensed operating marihuana business, arising out of, claimed to have arisen out of, or in any manner connected with the operation of a marihuana business or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1964(c).

D. Reservation of legislative prerogative.

(1) The City Commission reserves the right to amend or repeal this chapter in any manner, including, but not limited to the complete prohibition of any type of marihuana business or limiting the number and types of marihuana businesses authorized to operate in the City.

(2) Nothing in this chapter is to be construed to grant or grandfather any marihuana business a vested right, license, permit or privilege for continued operations within the City.

(3) Given the adoption of 2018 Initiated Law No. 1, which legalized the possession and use of marihuana in Michigan by persons age 21 and older, Section 199 of the City Charter providing for the establishment of medical cannabis dispensaries, by its own terms, is null and void. Therefore, there is no rational basis to treat or make allowances for treating a medical cannabis dispensary apart from a provisioning center.

§ 20B-3 Definitions.

A. Unless defined by this chapter, any term used in this chapter that is defined by the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act, Michigan Regulation and Taxation of Marihuana Act, or the Administrative Rules promulgated by the Michigan Department of Licensing and Regulatory Affairs addressing marihuana shall have the definition given in those Acts and Rules.

B. As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT

A person who applies for a City-issued permit to operate a marihuana commercial business in accordance with the terms of this chapter and the City Zoning Code. With respect to disclosures in an application and for purposes of ineligibility for a permit, the term "applicant" includes a managerial employee of the applicant, any person who holds any direct or indirect ownership interest of more than 10% in the marihuana commercial business, and the following for each type of applicant:

- (1) For an individual or sole proprietorship: the proprietor and spouse.
- (2) For a partnership and limited liability partnership: all partners and their spouses. For a limited partnership and limited liability limited partnership: all general and limited partners, not including a limited partner holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the partnership, and their spouses. For a limited liability company: all members and managers, not including a member holding a direct or indirect ownership interest of 10% or less and who does not exercise control over or participate in the management of the company, and their spouses.
- (3) For a privately held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
- (4) For a publicly held corporation: all corporate officers or persons with equivalent titles and their spouses, all directors and their spouses, and all stockholders, not including those holding a direct or indirect ownership interest of 10% or less, and their spouses.
- (5) For a multilevel ownership enterprise: any entity or person that receives or has the right to receive more than 10% of the gross or net profit from the enterprise during any full or partial calendar or fiscal year.
- (6) For a nonprofit corporation: all individuals and entities with membership or shareholder rights in accordance with the articles of incorporation or the bylaws and their spouses.

CULTIVATE

To propagate, breed, grow, harvest, dry, cure, or separate parts of the marihuana plant by manual or mechanical means.

DEPARTMENT

The Michigan Department of Licensing and Regulatory Affairs, or its successor agency.

DESIGNATED CONSUMPTION LOUNGE

A licensed marihuana-related business authorized to permit individuals 21 years of age and older to consume marihuana products on the premises.

EQUIVALENT LICENSE

Any of the following State operating licenses when held by a single licensee:

- (1) Grower licenses of any class under both the MMFLA and MRTMA
- (2) Processor licenses under both the MMFLA and MRTMA
- (3) Secure Transporter licenses under both the MMFLA and MRTMA
- (4) Safety Compliance Facility licenses under both the MMFLA and MRTMA
- (5) A Provisioning Center license under the MMFLA and a Retailer license under the MRTMA

EXCESS GROWER

The holder of 5 Class C Grower licenses under the MRTMA and at least 2 Class C Grower licenses under the MMFLA.

GROWER

A licensee that cultivates, dries, trims, or cures and packages marihuana for sale or transfer to a processor, provisioning center or retailer, or another grower. The term also includes a licensed excess grower.

INDUSTRIAL HEMP

Any part of the plant, whether growing or not, *Cannabis sativa* L or the genus *cannabis* with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant regardless of moisture content. Industrial hemp includes industrial hemp commodities and products and topical or ingestible animal and consumer products with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

INDUSTRIAL HEMP RESEARCH AND DEVELOPMENT ACT

Public Act 547 of 2014, as may be amended.

LICENSEE

A person holding a state license to operate a marihuana facility or marihuana establishment.

MARIHUANA

All parts of the plant *Cannabis sativa* L. or of the genus *cannabis*, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this ordinance, marihuana does not include industrial hemp.

MARIHUANA COMMERCIAL BUSINESS or MARIHUANA BUSINESS

(1) Includes the following medical marihuana facilities, whether operated for profit or not for profit:

- (a) A grower.
- (b) A processor.
- (c) A secure transporter.
- (d) A provisioning center.
- (e) A safety compliance facility.

(2) Includes the following adult-use marihuana establishments, whether operated for profit or not for profit:

- (a) A grower and excess grower.
- (b) A processor.
- (c) A secure transporter.
- (d) A retailer.
- (e) A safety compliance facility.
- (f) A microbusiness.
- (g) Any other type of marihuana-related business licensed by the Department and permitted by this Chapter.

MARIHUANA ESTABLISHMENT or ESTABLISHMENT

A location at which a licensee is licensed to operate under the MRTMA and this chapter.

MARIHUANA FACILITY or FACILITY

A location at which a licensee is licensed to operate under the MMFLA and this chapter.

MARIHUANA PLANT

Any plant of the species *Cannabis sativa* L. or genus *cannabis* but does not include industrial hemp.

MARIHUANA-INFUSED PRODUCT

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

MARIHUANA-RELATED BUSINESS

An adult-use marihuana establishment operating pursuant to a special license issued by the Department and includes designated consumption lounges, excess marihuana growers, marihuana event organizers and temporary marihuana events.

MICHIGAN MEDICAL MARIHUANA ACT or MMMA

2008 Initiated Law 1, MCL § 333.26421 *et seq.*, as may be amended.

MICHIGAN MEDICAL MARIHUANA FACILITIES LICENSING ACT or MMFLA

Public Act 281 of 2016, MCL § 333.27101 *et seq.*, as may be amended.

MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT or MRTMA

2018 Initiated Law 1, MCL § 333.27951 *et seq.*, as may be amended.

MICROBUSINESS

A marihuana establishment authorized to cultivate not more than 150 marihuana plants, process and package marihuana, and sell or transfer marihuana to individuals 21 years of age and older and to a safety compliance facility, but not to other marihuana establishments.

OPERATING PERMIT or PERMIT

The permit issued pursuant to this chapter authorizing the operation of a marihuana commercial business in the City.

PERMITTEE

A person who holds a permit issued by the City pursuant to this chapter to operate a marihuana business.

PERSON

An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity and includes persons within the definition of “applicant” as that term is used in this chapter.

PROCESS OR PROCESSING

The separation or preparation of parts of the marihuana plant and to compound, blend, extract, infuse, or otherwise make or prepare marihuana concentrate or marihuana-infused products.

PROCESSOR

A licensee that purchases or obtains marihuana from a grower and processes the marihuana and sells or transfers it in packaged form to a provisioning center, retailer, or another processor. A processor is not prohibited from handling, processing, marketing or brokering industrial hemp pursuant to the Industrial Hemp Research and Development Act.

PROVISIONING CENTER

A licensee that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers and includes medical cannabis dispensaries. A noncommercial location used by a registered primary caregiver to assist a qualifying patient connected to the caregiver through the Department's marihuana registration process in accordance with the Michigan Medical Marihuana Act is not a provisioning center for purposes of this chapter.

REGISTERED PRIMARY CAREGIVER or CAREGIVER

A primary caregiver who has been issued a current registry identification card under the MMMA.

REGISTERED QUALIFYING PATIENT or PATIENT

A qualifying patient who has been issued a current registry identification card under the MMMA or a visiting qualifying patient as that term is defined in the MMMA.

RETAILER

A licensee that obtains marihuana from marihuana establishments and sells or otherwise transfers marihuana to marihuana establishments and to individuals who are 21 years of age or older.

RULES

The general administrative rules promulgated and from time to time amended by the Department to implement the MMFLA and MRTMA.

SAFETY COMPLIANCE FACILITY

A licensee that receives marihuana from a marihuana business or from a registered primary caregiver, tests the marihuana and provides certification of the potency of tetrahydrocannabinol and other cannabinoids, and the presence of contaminants. A safety compliance facility may receive industrial hemp for testing pursuant to the Industrial Hemp Research and Development Act.

SECURE TRANSPORTER

A licensee that stores marihuana and transports marihuana between marihuana businesses for a fee.

SOCIAL EQUITY-QUALIFIED BUSINESS

A marihuana establishment operated by an applicant that qualifies for the benefits offered under the social equity program administered by either the Department or the City.

STATE OPERATING LICENSE or LICENSE

A license that is issued by the Department under the MMFLA or MRTMA that allows the licensee to operate a marihuana commercial business, as specified in the license.

Article II Licensing of Marihuana Businesses

§ 20B-4 Number of permitted businesses.

A. The maximum number of each type of medical marihuana facility permitted in the City is as follows:

Type of Facility	Number
Grower	No limit
Processor	No limit
Secure transporter	No limit
Provisioning center	No limit
Safety compliance facility	No limit

B. The maximum number of each type of adult-use marihuana establishment permitted in the City is as follows:

Type of Establishment	
Grower	No limit
Processor	No limit
Secure transporter	No limit
Retailer	No limit
Microbusiness	No limit
Safety compliance facility	No limit
Marihuana-related businesses	
Designated consumption lounge	No limit
Marihuana Event Organizer	Not presently permitted

Type of Establishment

Temporary Marihuana Event
Excess Grower

Not presently permitted
No limit

§ 20B-5 License and annual fee required; exception.

- A. No person shall establish or operate a marihuana commercial business in the City without first having obtained a permit from the City and a state operating license for each such marihuana business to be operated. Permit and license certificates shall be kept current and publicly displayed within the business. Failure to maintain or display current state and City certificates is a violation of this chapter.
- B. There shall be an annual nonrefundable fee to defray the administrative and enforcement costs associated with marihuana businesses located in the City of not more than \$5,000 per licensed business as set by resolution adopted by the City Commission.
- C. The annual nonrefundable fee required under this section is due and payable with the application for a permit and upon the application for renewal of any such permit under this chapter. The permit and fee requirements of this chapter apply to all marihuana commercial businesses, whether operated for profit or not for profit.
- D. The permit fee requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any state regulatory agency, or by City ordinance, including, by way of example, any applicable fees for site plan review, zoning review, inspections, or building permits.
- E. The issuance of any permit pursuant to this chapter does not create an exception, defense, or immunity to any person regarding any potential criminal liability the person may have for the production, distribution, or possession of marihuana under federal law.
- F. A separate permit is required for each marihuana business located at a premises from which a marihuana commercial business is operated. Operation of a grower and processor facility at the same location is authorized, provided that each facility is separately licensed and permitted. Operation of a provisioning center and/or retailer at the same location as a grower or processing facility is authorized when in conformance with the City Zoning Code.
- G. This chapter is not applicable to a registered primary caregiver operating a medical marihuana home occupation in accordance with the City Zoning Code.

§ 20B-6 Location criteria.

- A. No marihuana business is eligible to receive a permit unless at the time the application for the marihuana business operating permit is submitted, the location of the proposed business operation complies with the requirements set forth in the City of Kalamazoo Zoning Ordinance as required for the specific type of marihuana commercial business for which the permit is being sought.
- B. Mobile marihuana businesses and drive-through operations are prohibited.
- C. A licensee shall not operate a marihuana business at any place in the City other than the address provided in the application on file with the City Clerk. A permit issued under this chapter may be transferred to a different location upon receiving written approval from the City Clerk. In order to request approval to transfer the location of a permit, the licensee must make a written request to the City Clerk, indicating the current license location and the proposed license location. Upon receiving the written request, the City Clerk will forward a copy of the request to affected service areas and departments of the City to determine whether the proposed location complies with all applicable laws, rules and regulations. No permit transfer will be approved unless the proposed location meets the standards identified in this chapter and the City Zoning Code.

§ 20B-7 General permit application requirements.

- A. A person seeking a permit pursuant to the Medical Marihuana Facilities Licensing Act or the Michigan Regulation and Taxation of Marihuana Act and the provisions of this chapter must submit an application in writing to the City Clerk on forms provided by the City. At the time of application, the application must be accompanied by a nonrefundable application fee to defray the costs incurred by the City for processing of the application. In addition, the applicant shall present a suitable copy of government-issued photographic identification to accompany the application.
- B. The applicant must also provide the following information, under the penalty of perjury, on the City-provided form for the applicant, the proposed manager of the marihuana facility, and all persons who are true parties of interest in the marihuana business that is the subject of the application:
 - (1) If the applicant is an individual or sole proprietorship, the proprietor and their spouse, if any, shall provide their name, address, date of birth, business address, business telephone number, email address, social security number, and, if applicable, federal tax identification number;
 - (2) If the applicant is not an individual or sole proprietorship, information regarding the business entity, including, without limitation, the name and address of the entity, website address, (if any), type of business organization, proof of registration

with, or a certificate of good standing from the State of Michigan, as applicable, and the names, dates of birth, addresses, email addresses, phone numbers of each applicant, and the federal tax identification number of the business entity;

(3) The identity of every person having a 10% or more ownership interest in the applicant with respect to which the license is sought, provided however a social equity-qualified business must be able to demonstrate 51% ownership by qualifying applicants;

(4) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for a marihuana business;

(5) A copy of any deed reflecting the applicant's ownership of, or lease reflecting the right of the applicant to possess, or an option reflecting the applicant's right to purchase or lease, the proposed licensed premises;

(6) A description of the type of the proposed marihuana commercial operation and its physical address;

(7) A to-scale diagram of the proposed licensed premises, no larger than 11 inches by 17 inches, showing, without limitation, building floor plan and layout, all entryways, doorways, or passageways, and means of public entry and exits to the proposed licensed premises, loading zones, available on-site parking spaces, fencing at the premises, and all areas in which marihuana will be stored, grown, manufactured or dispensed;

(8) A lighting plan showing the lighting outside of the marihuana business for security purposes and compliance with applicable City outdoor lighting requirements;

(9) A staffing plan which describes the anticipated or actual number of employees, including an estimate of the number and type of jobs that the business is expected to create, the amount and type of compensation (including benefits) expected to be paid for such jobs;

(10) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents to be achieved by the facility, including plans for community outreach and worker training programs, through the grant of a marihuana business permit;

(11) A statement that no applicant is in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City;

(12) A statement that the applicant has reviewed and agrees to conform its hiring and public accommodation practices to the City's Antidiscrimination Ordinance provisions;

(13) A social equity plan that (a) promotes and encourages participation in the marihuana industry by local residents that have been disproportionately impacted by marihuana prohibition and enforcement and (b) positively impacts local residents.

(14) A statement that no applicant is ineligible from holding a State license to operate a marihuana commercial business;

(15) Attestation that the applicant consents to inspections, examinations, searches and seizures required or undertaken pursuant to enforcement of this chapter; and

(16) Any additional information that the City Clerk or Public Safety Chief reasonably determines to be necessary in connection with the investigation and review of the application.

- C. Upon receipt of a completed application, the City Clerk may circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations.
- D. If the City Clerk identifies or is informed of a deficiency in an application, the applicant has five business days to correct the deficiency after notification by the City Clerk.

§ 20B-8 Denial of application.

- A. The City Clerk shall reject any application that does not meet the requirements of the MMFLA, the MRTMA, the Rules, or this chapter. The City Clerk shall reject any application that contains any false, misleading or incomplete information.
- B. An applicant whose application is rejected or denied because of missing, incomplete, erroneous, false, or misleading information, or because of a lack of submission of the full amount of the fees due, does not have a right to appeal the decision of the City Clerk whose decision is final.

§ 20B-9 Issuance of provisional approval certificate.

- A. Beginning June 1, 2020, the City Clerk will begin to accept permit applications for City-issued marihuana commercial business permits. A marihuana business whose inspection, background checks, and all other information available to the City verifies that the applicant has submitted a full and complete application, has made or has secured permits for making improvements to the business location consistent with the type of facility applied for, complies with applicable zoning and location requirements,

and is prepared to operate the business as set forth in the application, will be reviewed by the office of the City Clerk for completeness and compliance with the requirements of this chapter.

- B. The City Clerk shall issue a provisional marihuana business approval certificate to each applicant whose application is complete and if the inspection, background checks, and all other information available to the City verify that the applicant complies with applicable zoning and location requirements, and is prepared to operate the business as set forth in the application, and in compliance with the City Code of Ordinances and any other applicable law, rule, or regulation.
- C. A provisional marihuana business approval certificate only means that the applicant has submitted a valid application for a marihuana business operating permit and is eligible to receive the appropriate marihuana business license from the Department. The applicant shall not locate or operate a marihuana business in the City without obtaining a State operating license approved by and issued by the Department. A provisional certificate issued by the City will expire and be void after one year if State approval is not diligently pursued to completion by the applicant, or on the date that State approval is denied by a final order to the applicant, whichever first occurs; provided, however, that due to the deliberateness of the State in issuing operating licenses, provisional certificates issued by the City Clerk prior to June 1, 2020 and which would have otherwise expired after March 24, 2020 will be extended for a period of 91 days due to the issuance of Executive Orders by the Governor suspending activities not necessary to sustain or protect life due to the COVID-19 health crisis. For the purposes of this section, a provisional medical marihuana facility approval certificate issued prior to June 1, 2020 is deemed to be a provisional marihuana business approval certificate.
- D. Within 30 days from the issuance of a provisional marihuana business approval certificate by the City Clerk, the applicant must submit proof to the City Clerk that the applicant has submitted a partial application with the Department for prequalification for a state operating license or has submitted full application for such license. If the applicant fails to submit such proof, then the provisional approval will be canceled by the City Clerk.
- E. If the Department issues a final determination either denying an applicant prequalification for a state operating license or denying a full application for a state operating license, then the provisional approval certificate will be canceled by the City Clerk.
- F. Provisional certificates are not transferable to another person or entity without the submission of an application by the person or entity to whom the certificate is to be transferred and the approval of the City Clerk.

§ 20B-10 Issuance of City marihuana business operating permit.

- A. An applicant holding an unexpired provisional certificate issued pursuant to this chapter and for which a marihuana facility or marihuana establishment state operating license has been issued shall provide proof of same to the City Clerk.
- B. An inspection of the proposed marihuana business by the City is required prior to issuance of the City operating permit. Such inspection shall occur after the premises are ready for operation, but prior to the stocking of the business with any marihuana or marihuana-infused product, and prior to the opening of the business or commencement of operations, unless the applicant holds a State operating license and is seeking a permit for an equivalent license. The inspection is to verify that the business premises are constructed and can be operated in accordance with the application submitted and the applicable requirements of this chapter and any other applicable law, rule, or regulation.
- C. After verification that the business premises are constructed and can be operated in accordance with the application submitted and the applicable requirements of this chapter and any other applicable law, rule, or regulation, and the issuance of a permanent certificate of occupancy for the building, the City Clerk shall issue a City marihuana business operating permit for a term of one year. The City-issued permit must be prominently displayed within the business.
- D. Maintaining a valid state operating license is a condition for the issuance and maintenance of the City marihuana business operating permit issued under this chapter and the continued operation of any marihuana business.
- E. Proof of insurance.
 - (1) A permittee shall at all times maintain full force and effect for duration of the permit, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000 per occurrence and an aggregate limit of \$2,000,000 issued from a company licensed to do business in Michigan having an AM Best rating of at least B++. A permittee shall provide proof of insurance to the City Clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number, and the names of the additional insureds. The policy shall name the City of Kalamazoo and its officials and employees as additional insureds to the limits required by this section. A permittee or its insurance broker shall notify the City of any cancellation or reduction in coverage within seven days of receipt of insurer's notification to that effect. The permittee shall obtain and submit proof of substitute insurance to the City Clerk within five business days in the event of expiration or cancellation of coverage.

(2) A secure transporter must provide proof of no-fault automobile insurance with a company licensed to do business in Michigan with limits of liability not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage, vehicle registration, and registration as a commercial motor vehicle for all vehicles used to transport marihuana or marihuana-infused product.

(3) Any failure to maintain or lapse in the insurance coverage required by this chapter is grounds for revocation of the City-issued operating permit.

F. A condition of the issuance of a marihuana business operating permit includes, at a minimum, operation of the business in compliance with all the plans and the information provided to the City as part of the application. A permittee must update any change in the information provided to the City as part of the application within five business days of such change during the term of the permit. The failure to timely update a change in information will be grounds for suspension or revocation of the operating permit.

§ 20B-11 Permit forfeiture.

In the event that a marihuana business does not commence and maintain operations within one year of issuance of a City operating permit, the permit will be deemed forfeited; the business may not recommence operations and the permit is not eligible for renewal.

§ 20B-12 Permit renewal.

A. A valid marihuana business operating permit may be renewed on an annual basis by submission of a renewal application upon a form provided by the City Clerk and payment of the annual license fee set by City Commission resolution. An application to renew a marihuana business operating permit shall be filed no sooner than 90 days and at least 60 days prior to the date of its expiration. The failure to timely file for renewal is sufficient grounds to deny renewal of a permit to operate a marihuana business in the City and is not subject to appeal.

B. Prior to the issuance of a renewed marihuana business operating permit by the City, the premises must be inspected to assure that it and its systems comply with the requirements of this chapter.

C. In determining whether to grant a renewal of a permit, the members of the City's Economic Development Corporation Board will evaluate the permit holder's compliance with the statements it provided with its initial application and submission with its request for renewal of the following information:

(1) The staffing plan for the business which describes the actual number of employees, including the number and type of jobs that the facility has created, and the amount and type of compensation (including benefits) paid for such jobs;

(2) An explanation, with supporting factual data, of the economic benefits to the City and the job creation for local residents achieved by the business, results of efforts for community outreach and worker training programs;

(3) An explanation, with supporting factual data, of the efforts and success achieved by the social equity plan of the business to promote and encourage participation in the marihuana industry by local residents that have been disproportionately impacted by marihuana prohibition and enforcement, and the positive impact of the social equity plan on local residents

(4) A statement that the business is not in default to the City for any property tax, special assessment, utility charges, fines, fees or other financial obligation owed to the City;

(5) A statement that the hiring and public accommodation practices of the facility conforms to the City's Antidiscrimination Ordinance provisions;

- D. If a licensee demonstrates compliance with the requirements for renewal of an operating permit, the City Clerk shall renew the existing permit for a period of one year, on the condition that the state operating license for the facility is renewed.

§ 20B-13 Transfer of permit.

- A. A marihuana business permit is valid only for the owner named thereon, the type of business disclosed on the application for the permit, and the location for which the permit is issued.
- B. Each operating permit is exclusive to the permittee and a permittee or any other person must apply for a permit with the City Clerk before a permit is transferred, sold, or purchased. The attempted transfer, sale, or other conveyance of an interest in a permit without prior application for a City operating permit with the City Clerk is grounds for suspension or revocation of the existing permit.

§ 20B-14 Permit as revocable privilege.

An operating permit granted by this chapter is a revocable privilege granted by the City and is not a property right. Granting a permit does not create or vest any right, title, franchise, or other property interest.

§ 20B-15 Nonrenewal, suspension or revocation of permit.

- A. The City may, after notice and hearing, suspend, revoke or refuse to renew a permit for any of the following reasons:

(1) The permit holder, or his or her agent, manager or employee, has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions or provisions of this chapter or with any applicable state or local law or regulation;

- (2) The permit holder, or its agent, manager or employee, has failed to comply with any special terms or conditions of its license pursuant to an order of the state or local licensing authority, including those terms and conditions that were established at the time of issuance of the license and those imposed as a result of any disciplinary proceedings held subsequent to the date of issuance of the license;
 - (3) The Economic Development Corporation Board determined that the permit holder did not meet or failed to comply with one or more of the requirements set forth at § 20B-12C.
 - (4) The marihuana commercial business has been operated in a manner that adversely affects the local public health, safety or welfare; or
 - (5) The permit holder failed to timely submit all necessary documents and or fees to renew the City-issued permit or state operating license.
- B. Evidence to support a finding under this section may include, without limitation, a continuing pattern of conduct, a continuing pattern of drug-related criminal conduct within the premises of the marihuana business or in the immediate area surrounding such business, a continuing pattern of criminal conduct directly related to or arising from the operation of the marihuana business, or an ongoing nuisance condition emanating from or caused by the marihuana business. Criminal conduct is limited to the violation of a state law or regulation or City ordinance.
- C. Except as otherwise provided in this chapter, the Planning Commission shall hear and decide questions that arise in the administration of this chapter, including appeals of suspension and revocations of City operating permits. The concurring vote of a majority of the members of the Planning Commission is necessary to reverse an order, requirement, decision, or determination of an administrative official in the application of this chapter. The decision of the Planning Commission is final. This section is not to be construed to grant the Planning Commission authority to hear any matter that is within the powers and duties of the Zoning Board of Appeals.

Article III

Specific Marihuana Business Requirements

§ 20B-16 Grower classes.

A grower may not hold more than one class of grower state operating license. A grower may hold more than one Class C grower license at a single location. A qualifying grower may hold an excess grower license.

§ 20B-17 Separation of licensed premises.

A grower, processor, and retailer or an equivalent license in the same location are separate marihuana commercial businesses requiring separate licenses and separate permits. In

addition to all other application requirements for separate businesses, each business, if sharing a building or structure, shall be distinctly partitioned from each other from floor to roof, have separate operations, ventilation, security and fire suppression systems, and separate entrances and exits.

§ 20B-18 Secure transporter.

- A. A secure transporter which operates from a premises located within the City shall secure a permit from the City. A state-licensed secure transporter which does not have a facility located in the City may, without securing a license from the City, operate on public streets and highways within the City.
- B. A driver transporting marihuana or marihuana-infused products must possess a valid operator's license issued by the state.
- C. Each vehicle engaged in the transportation of marihuana or marihuana-infused products must always be operated by a two-person crew with at least one individual remaining with the vehicle.
- D. A secure transporting vehicle must not bear any markings or any other indication that it is carrying marihuana or marihuana-infused products.

§ 20B-19 Provisioning centers and retailers.

- A. The licensee, manager, operator and employees of a provisioning center or retailer shall strictly comply with all rules addressing security (including but not limited to an operating video surveillance system), storage of marihuana and marihuana-infused products to prevent direct customer access and use of a separate room as a point of sale area.
- B. It is unlawful for the licensee, manager, operator or employees of a provisioning center or retailer to:
 - (1) Permit the sale, consumption, or use of alcohol beverages or tobacco products on the licensed premises or engage in food service on the licensed premises (As used in this paragraph, “food service” means the preparation of food or drink for direct consumption by members of the public through service on the premises.);
 - (2) Sell, give, dispense or otherwise distribute marihuana, marihuana-infused products, or marihuana paraphernalia from any outdoor location on the licensed premises;
 - (3) Offer or distribute samples of marihuana or marihuana-infused products to a consumer free of charge.
 - (4) Permit the use or consumption of marihuana or marihuana-infused products

on the licensed premises.

(5) Operate a licensed provisioning center or retailer at any time other than between the hours of 7:00 a.m. and 10:00 p.m. daily.

(6) Keep or grow marihuana plants within the provisioning center or retailer.

- C. Registered patients and registered primary caregivers with valid registry cards and persons 21 years of age and older are permitted in a dedicated point of sale area; a separate waiting area may be created for visitors not authorized to enter the marihuana business. Provisioning centers and retailers shall be wheelchair accessible, and disability accommodations shall be provided upon request.
- D. Provisioning centers and retailers may engage in the home delivery of marihuana and marihuana-infused products in strict compliance with Department-approved procedures and rules.
- E. Provisioning centers and retailers shall prominently display a sign near the point of sale area which carries the following warning:

WARNING: Marihuana use by pregnant or breastfeeding women, or by women planning to become pregnant, may result in fetal injury, preterm birth, low birth weight, or developmental problems for the child.

§ 20B-20 Other Marihuana-Related Businesses

A. A microbusiness is subject to all applicable provisions in this chapter related to growers, processors, and retailers.

B. A designated consumption lounge shall:

(1) Install and maintain an operable ventilation and filtration system to remove smoke to the outside of the building and eliminate odor at the property line of the premises if consumption of marihuana by inhalation is permitted;

(2) Prominently display a sign near the entrance of the business which carries the following warning:

WARNING: Marihuana use by pregnant or breastfeeding women, or by women planning to become pregnant, may result in fetal injury, preterm birth, low birth weight, or developmental problems for the child.

Article IV

General Requirements

§ 20B-21 Compliance with rules; inspections.

- A. A permittee shall strictly comply with the rules that may from time to time be promulgated by the Department.
- B. All marihuana commercial business shall obtain all other required permits or licenses related to the operation of the marihuana business, including, without limitation, any development approvals or building permits required by any applicable code or ordinance.
- C. Any failure by a permittee to comply with Department rules or the provisions of this chapter is a violation of this chapter, and any infraction or violation, however slight, is sufficient grounds for suspension and revocation of the permit issued under this chapter.

§ 20B-22 Signage and advertising.

- A. All signage and advertising for a marihuana business shall comply with all applicable provisions of this Code and the City Zoning Code. In addition, it shall be unlawful for any licensee to:
 - (1) Use advertising material that is misleading, deceptive or false or
 - (2) As evidenced by the content of the advertising material or by the medium or the manner by which the advertising material is disseminated, is designed to appeal to individuals aged 20 or younger;
- B. Only one sign per street frontage, which complies with the size restrictions set forth in the City Zoning Code, is permitted for a provisioning center, retailer, microbusiness, or safety compliance center. Neon or gas-lighted, and flashing signs are prohibited.

§ 20B-23 Security requirements.

- A. Security measures at all licensed premises must comply with the requirements of all applicable rules and regulations promulgated by the Department.
- B. Prior to commencing operations, a description of the security plan for the business must be submitted to the Department of Public Safety. The security plan shall include details of the video surveillance system to be employed at the business and procedures that meet or exceed applicable state rules addressing security.
- C. The security system is required to be maintained in good working order and provide continuous twenty-four-hour-per-day recorded coverage. A separate security system is required for each business.

§ 20B-24 Fire suppression; hazardous materials.

- A. A marihuana business is required to install a fire suppression system and fire alarm system for the premises which meets the requirements imposed by applicable law, rule, or regulation. Unless a higher standard is required by applicable law or regulation, there must be a minimum of a one-hour fire separation between a marihuana business and any adjacent business.
- B. A description of all toxic, flammable, or other materials, including all chemical compounds and pesticides used for cultivation, processing or testing of marihuana that will be used or kept at the premises, specifying the location of such materials on the premises, and how such materials will be stored and disposed of shall be filed with the Fire Marshal prior to the marihuana business commencing operations.

§ 20B-25 Waste management.

- A. A marihuana business is required to institute and employ waste management protocols and practices that comply with applicable rules and regulations that includes a plan for disposal of any marihuana or marihuana-infused product that is not sold, and any portion of a plant or the residue from any grow, production or testing process that precludes any portion being disposed of from being possessed or ingested by any person or animal.
- B. If determined as being necessary by the Director of Public Services, wastewater generated from the cultivation or processing of marihuana or marihuana-infused products may require pretreatment before introduction in the City wastewater system.

§ 20B-26 Visibility of activities.

- A. All activities of marihuana commercial operations shall be conducted indoors and out of public view, except cultivation may occur in an outdoor area, provided that the area is contiguous with the building containing the marihuana business operations, 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 fences are secured and only accessible to authorized persons and emergency personnel.
- B. No marihuana, marihuana-infused product, or paraphernalia shall be displayed or kept in a business so as to be visible from outside the licensed premises.

§ 20B-27 Odor control.

- A. Growers, processors, and safety compliance facilities are required to install and maintain in operable condition an appropriate exhaust ventilation system which precludes the emission of detectable marihuana odor resulting from any grow or production process or operations from the premises. Exhaust and ventilation equipment must be installed, operated, and maintained in compliance with the Michigan

Mechanical Code, R.408.30901 et seq.

- B. No marihuana business shall permit the emission of marihuana odor resulting in detectable odors that leave the business premises upon which they originated and interfere with the reasonable and comfortable use and enjoyment of another's property.
- C. Whether a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of a property shall be measured against the objective standards of a reasonable person of normal sensitivity.

§ 20B-28 Reports of crime.

Reports of all criminal activities or attempts of violation of any law at the marihuana business or related thereto shall be reported to the Kalamazoo Department of Public Safety within 24 hours of occurrence, or its discovery, whichever is sooner. The failure to timely report criminal activity is a violation of this chapter and may result in sanctions up to and including the suspension, revocation or nonrenewal of the business' City operating permit.

§ 20B-29 Inspection of licensed premises.

- A. During all business hours and other times when the premises are occupied by the licensee or an employee or agent of the licensee, all licensed premises shall be subject to examination and inspection by the Department of Public Safety and all other City departments for the purpose of investigating and determining compliance with the provisions of this chapter and any other applicable state and local laws or regulations.
- B. Consent to inspection. Application for a marihuana business permit or operation of a marihuana business, or leasing property to a marihuana business constitutes consent by the applicant, and all owners, managers, and employees of the business, and the owner of the property to permit the City Manager or the designee thereof to conduct routine examinations and inspections of the medical marihuana business to ensure compliance with this chapter or any other applicable law, rule, or regulation. For purposes of this chapter, examinations and inspections of marihuana businesses and recordings from security cameras in such businesses are part of the routine policy of enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the marihuana business, and the adjoining properties and neighborhood.
- C. Application for a marihuana business permit constitutes consent to the examination and inspection of the business as a public premises without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports, or other materials required as a condition of a marihuana business permit without a search warrant.
- D. A licensee, or an employee or agent of the licensee, shall not threaten, hinder or obstruct a law enforcement officer or a City inspector or investigator in the course of making an examination or inspection of the licensed premises and shall not refuse, fail, or neglect to cooperate with a law

enforcement officer, inspector, or investigator in the performance of his or her duties to enforce this chapter, the MMFLA, MRTMA, or applicable state administrative rules.

§ 20B-30 Other laws remain applicable.

To the extent the state adopts in the future any additional or stricter law or regulation governing the sale or distribution of marihuana, the additional or stricter regulation shall control the establishment or operation of any marihuana commercial business in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any permit under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any permit issued hereunder.

§ 20B-31 Grant of administrative authority.

The City Clerk is granted the power and duty to fully and effectively implement and administer the permit application process and issuance of provisional approval certificates and operating permits issued by the City under this chapter. The City Clerk, after consultation with other City departments, shall promulgate such rules as necessary to implement and administer this chapter.

§ 20B-32 Violations and penalties.

- A. Any person, including, but not limited to, any licensee, manager or employee of a marihuana commercial operation, or any customer of such business, who violates any of the provisions of this chapter shall be responsible for a municipal civil infraction punishable by a civil fine of \$500, plus court-imposed costs and any other relief that may be imposed by the court.
- B. In addition to any civil fine imposed for a municipal civil infraction violation, a violation of this chapter shall also be sufficient grounds for the suspension, revocation or nonrenewal of the City operating permit.
- C. In addition to the possible denial, suspension, revocation or nonrenewal of the permit issued under the provisions of this chapter, the City Attorney is authorized to seek such other relief that may be available and provided by law or equity, including filing a public nuisance action or seeking injunctive relief against a person alleged to be in violation of this chapter or the City Zoning Code.

Section 2. Repealer.

Chapter 20C “Adult Use Marihuana Establishments” is 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 _____, 2020. 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.

David F. Anderson, Mayor

Scott A. Borling, City Clerk

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