



Agenda

City Commission Business Meeting

City of Kalamazoo

Monday, May 18, 2020

7:00 PM

Electronic Meeting

A. CALL TO ORDER/ROLL CALL

B. OPENING CEREMONY

1. Invocation: Pastor Jeff Whittaker, Calvary Bible Church
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 amend the text of Appendix A and Chapter 50, the Zoning Ordinance, to allow adult use and medical marihuana uses. (**Action: Motion to adopt the ordinance**)

F. PUBLIC COMMENTS

G. CONSENT AGENDA

(Action: Motion to approve items “1-7” and authorize the City Manager to sign all documents on behalf of the City)

1. Approval of a sole source purchase in the amount of \$115,275.00 with Solterra Group, LLC of Newark, DE to purchase odor suppressant chemicals.

2. Adoption of a RESOLUTION approving the settlement of a dispute with AT&T that will result in credits to the City's accounts in the amount of \$157,071.16.
3. Adoption of a RESOLUTION confirming the 2020 Assessment Roll.
4. Adoption of a RESOLUTION approving the request of the Downtown Development Authority to levy a tax rate of 1.9638 mills.
5. Adoption of a RESOLUTION supporting pursuit of any needed approvals and funding to design and build U.S. 131 interchange as recommended by Michigan Department of Transportation.
6. Acceptance of a 2020 grant award in the amount of \$39,749 from the Office of Highway Safety Planning for pedestrian and bicycle safety enforcement and education.
7. Acceptance of the 2019 Bulletproof Vest Grant award in the amount of \$25,756.92 from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance.

H. REGULAR AGENDA

1. Adoption 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 adopt the ordinance)**
2. Adoption of a RESOLUTION establishing a Social Equity Policy for Marihuana Businesses; and adoption of a RESOLUTION setting the annual fees for Marihuana Business Operating Permits. **(Action: Motion to adopt the resolutions)**

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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City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **E.1.**

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 18, 2020

SUBJECT: Zoning Text Amendments to Appendix A and Chapter 50 to Allow Adult Use and Medical Marihuana Uses

RECOMMENDATION:

It is recommended the City Commission adopt an ordinance to amend the text of Appendix A and Chapter 50, the Zoning Ordinance, to allow adult use and medical marihuana uses.

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
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 Memorandum

City of Kalamazoo

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

FROM: Clyde Robinson, City Attorney, Christina Anderson, City Planner
& Adult Use Marihuana Staff Working Group

DATE: May 14, 2020

SUBJECT: Adult Use Marihuana: Clarifying Amendments

At the May 4th meeting, the Commission added two amendments to the proposed adult use marihuana zoning text amendments. One of the amendments added a 500' buffer from playgrounds, public pools, and youth centers. To clarify these additions, staff recommends the inclusion of the following two definitions to be added to 50-1.3 Definitions. Both definitions are taken directly from the Federal Drug Free School Zone statute, 21 USC 860(e). This addition is a clarification based on the Commissions discussion on May 4th and not a substantive change to the proposed Ordinance.

PLAYGROUND. Any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

YOUTH CENTER. Any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

It is important to note that Safety Compliance Establishments were not subject to the distance requirements for schools and childcare centers. They will also not be subject to the distance requirements from playgrounds, public pools, and youth centers. Safety Compliance Establishments that test medical marihuana have been revised to match; as it is most likely, and efficient, for one business to have the capabilities to test both types of product.

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.

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.

PLAYGROUND means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

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.

YOUTH CENTER means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities."

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, **public playground, public pool, or youth 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) **when located on a SubUrban, Connector, or Main Street**, 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, **except Safety Compliance Facilities**.

[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



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

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 and City Engineer
Prepared by: James H. Cornell, Wastewater Division Manager

DATE: May 18, 2020

SUBJECT: Sole source purchase in the amount of \$115,275.00 with Solterra Group, LLC of Newark, DE (Bid Ref# 00000-020.49)

RECOMMENDATION:

It is recommended that the City Commission approve a sole source purchase in the amount of \$115,275.00 with Solterra Group, LLC of Newark, DE to purchase odor suppressant chemicals.

BACKGROUND:

The City of Kalamazoo Water Reclamation Plant (KWRP) trialed the Solterra odor suppressant chemical in 2019 to mask odors from biosolids hauling operations. The KWRP has trialed various chemicals and technologies to reduce biosolids odors over the past few years. Solterra's product has proven successful in mitigating odors in the biosolids and fine screen areas of the wastewater treatment plant during the trial period. The use of the suppressant chemicals has reduced the odor complaints from the landfills receiving biosolids. The odor suppressant chemical is a proprietary formulation only provided by Solterra Group, LLC.

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 expenditure was included in the 2020 wastewater O/M budget.
590-542-03-100-729.006 \$115,275.00



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **G.2.**

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

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Tim Dubois, Chief Information Officer
Prepared by: Joseph Ulery, Deputy Chief Information Officer

DATE: May 18, 2020

SUBJECT: Settlement Resolution for a Dispute with AT&T Resulting in Credits to the City's Accounts in the Amount of \$157,071.16

RECOMMENDATION:

It is recommended that the City Commission approve the resolution of the settlement of dispute with AT&T that will result in credits to the City's accounts in the amount of \$157,071.16.

BACKGROUND:

This settlement will release AT&T from any further liability or claim regarding this dispute related to overcharges on accounts.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program:
Program #9066 - Communications Systems Management

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.

Discussion

This process impacts the sub-goal of Organizational Resources by protecting the City's financial resources.

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.

Discussion: This items refers negotiations with a vendor and a credit to our account.

FISCAL IMPACT:

This settlement is a return of funds previously paid for disputed charges.



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **G.3.**

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: Andrew Falkenberg, Assistant Assessor / Assistant Treasurer

DATE: May 18, 2020

SUBJECT: Resolution Confirming the 2020 Assessment Roll

RECOMMENDATION:

It is recommended that the City Commission adopt a resolution confirming the 2020 Assessment Roll.

BACKGROUND:

Section 85 of the City Charter requires the City Commission to confirm the annual Assessment Roll. Since the enactment of Proposal A, the City Commission is required to confirm both the state equalized value (SEV) and taxable value of the rolls. The SEV represents the assessor's value plus/minus any changes required by the County/State, bringing the total value to 50% of "true cash value" (estimated market value), which represents the State's Constitutional requirements. Furthermore, the taxable value of property, which is used to calculate property tax bills, has been further limited based on property tax caps set by the State Constitution and various State statutes.

The resolution will confirm the annual assessment rolls as reviewed and corrected by the Board of Review, the County of Kalamazoo, and the State of Michigan in the amount of \$2,070,749,729 (SEV) and the total taxable value amount of \$1,686,154,079.

The City Commission is also requested to confirm the amount of taxes to be raised for general operating purposes and Solid Waste.

The taxable amount of tax abated properties and qualified properties (in the Renaissance Zones, Neighborhood Enterprise Zones, Tax Increment Financing abatements & Land Bank Properties) are adjusted to arrive at an "effective taxable value". The effective taxable value after the Board of Review is \$1,678,069,261.

This compares favorably to the October 2019 estimate of \$1,645,699,163 which was used to establish the amount of property tax revenue in the Adopted FY 2020 Budget. When anticipated reimbursements from the State of Michigan for Personal Property Tax revenue exempted by Public Act 86 of 2013 are factored in, the result is roughly a \$254,222 increase in General Operating tax revenue after Brownfield and TIF capture vs. the Adopted FY 2020 Budget.

The cause of the improvement is due in part to the following:

- A smaller filing than anticipated for the Eligible Manufacturing Personal Property (EMPP) exemption. October estimates included the assumption that most (if not all) qualifying industrial properties would file for the exemption.
- Increased commercial construction at the end of the year across the City including some particularly large downtown projects (303 N Rose, 155 W Michigan, 180 E Water, 400 S Rose, 400 John).
- Increased personal property filing by new and existing business. October estimates were based on existing personal property accounts. Businesses file for 2020 by the end of February 2020.
- Increase sale transactions in the residential and commercial market.

There will be no Headlee rollback as the Foundation for Excellence holds the general operating tax at 12 mills rollback (MCL 211.34d) to the 2020 millage rates . The rates as adopted by resolution #20-03 are as follows:

General Operating	12.0000
Solid Waste	1.8000

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program:

9157 - Property Tax Administration

9346 - Assessment Roll & Property Record Maintenance

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.

Discussion

This item assists with achieving nearly all Good Governance sub-goals: Communication and Outreach; Organizational Principles; Organizational Resources; Insights & Analysis; and, Data and Record Management.

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.

Discussion: This work was done in conjunction with the City's Board of Review work in the spring of 2020. That work involved property owners and the board discussing assessment values and the subsequent re-aligning if recommended by the Board.

FISCAL IMPACT:

Based on the effective taxable value of \$1,678,069,261; the anticipated revenues are \$20,152,157 for the General Fund and \$3,022,737 for the Solid Waste Fund for a total of \$23,174,894 prior to Brownfield and TIF capture.

Per the adopted budget, anticipated reimbursements from the State of Michigan for Personal Property Tax revenue exempted by Public Act 86 of 2013 is estimated to be \$1,484,407 bringing the total revenue to for General Fund and Solid Waste to \$24,659,301.

The initial General Fund revenue in the 2020 budget was calculated on an estimate of the 2020 effective taxable value at \$1,645,699,163. The actual effective taxable value is \$1,678,069,261 (1.96% higher), resulting in an increase in revenue.

The changes in tax revenue vs. the Adopted FY 2020 Budget are as follows:

<i>Effective Taxable Values</i>	Adopted FY 2020 Budget	2020 Tax Roll Confirmation	Difference
Total Property	\$1,645,699,163	\$1,678,069,261	\$32,370,098

Revenue prior to Brownfield and TIF capture

- GENERAL FUND Increase of \$388,441
- SOLID WASTE Increase of \$ 58,266

Net Operating Revenue less Brownfield and TIF capture

- GENERAL FUND Increase of \$254,222
- SOLID WASTE Increase of \$ 38,047

CITY OF KALAMAZOO, MICHIGAN

RESOLUTION NO. _

A RESOLUTION CONFIRMING THE 2020 ASSESSMENT ROLL

Minutes of a regular meeting of the City Commission of the City held on May 18 2020, at 7:00 o'clock p.m. local time, at City Hall.

PRESENT, Commissioners:

ABSENT, Commissioners:

WHEREAS, Section 85 of the City Charter of the City of Kalamazoo requires the City Commission to fully and finally confirm the annual assessment rolls upon completion of the review and correction of said rolls by the Board of Review, the County of Kalamazoo, and the State of Michigan; and

WHEREAS, said assessment rolls has been reviewed and corrected by the Board of Review, the County of Kalamazoo, and the State of Michigan:

NOW, THEREFORE, BE IT RESOLVED, that the 2020 assessment rolls as reviewed and corrected by the Board of Review, the County of Kalamazoo, and the State of Michigan in the total State Equalized Value amount of \$2,070,749,729 and the total Taxable Value amount of \$1,686,154,079 is hereby fully and finally confirmed.

BE IT FURTHER RESOLVED, that the amount to be raised by property taxes for general operating purposes and debt service in the 2020 Budget Resolution levied against the effective taxable value shall be approximately \$20,152,157.

BE IT FURTHER RESOLVED, that the amount to be raised by extra millage for solid waste and recycling programs levied against the effective taxable value shall be approximately \$3,022,737 pursuant to Public Act 298 of 1917, as amended.

The above resolution as offered by_ and supported by_

AYES, Commissioners:

NAYS, Commissioners:

ABSTAIN, Commissioners:

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on May 18, 2020. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267,1976). Minutes of the meeting will be available as required by said Act.

Scott Borling, City Clerk _



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **G.4.**

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: Andrew Falkenberg, Assistant Assessor / Assistant Treasurer

DATE: May 18, 2020

SUBJECT: Approval of DDA Tax Levy

RECOMMENDATION:

It is recommended that the City Commission adopt a resolution approving the request of the Downtown Development Authority to levy a tax rate of 1.9638 mills.

BACKGROUND:

The Downtown Development Authority adopted a resolution requesting that the City of Kalamazoo levy the DDA two-mill levy on its behalf. On January 21, 2020, the City Commission approved the 2019 DDA two-mill Budget.

The DDA levy was subject to a Headlee rollback in 2004. The millage rollback occurred as a result of the district's taxable value increasing at a greater rate than the rate of inflation for that year. The rollback permanently reduces the DDA tax levy from 2 mills to 1.9638 mills.

STRATEGIC VISION ALIGNMENT:

Relevant Priority Based Budgeting Program:

9157 - Property Tax Administration

9346 - Assessment Roll & Property Record Maintenance

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 revenue to be generated by the 1.9638 mill levy, after the reduction for Tax Increment Financing, is approximately \$325,225.

CITY OF KALAMAZOO

RESOLUTION NO. _____

A RESOLUTION APPROVING THE REQUEST OF THE DOWNTOWN DEVELOPMENT AUTHORITY TO LEVY A 1.9638 MILL TAX ON ALL REAL AND TANGIBLE PERSONAL PROPERTY NOT EXEMPT BY LAW AND AS FINALLY EQUALIZED IN THE DOWNTOWN DEVELOPMENT DISTRICT PURSUANT TO ACT NO. 197 OF THE PUBLIC ACTS OF 1975 FOR FISCAL YEAR 2020.

Minutes of a regular meeting of the City Commission of the City held May 18, 2020, at 7:00 p.m., local time, at the City Hall.

PRESENT, Commissioners:

ABSENT, Commissioners:

WHEREAS, the Downtown Development Authority Act, being Act No.197 of the Public Acts of 1975 as amended, authorizes the Downtown Development Authority to levy not more than two mills of tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district, and

WHEREAS, the Authority hereby finds and determines that the levying of such tax is necessary to carry out the purposes for which it was created; and

WHEREAS, the City of Kalamazoo has approved the levy of said tax for the years immediately preceding to halt property value deterioration and increase property valuation where possible in the business district and to eliminate the causes of that deterioration and to promote economic growth.

NOW, THEREFORE, BE IT RESOLVED, that the City of Kalamazoo approves the levy of a 1.9638 mill ad valorem tax on all real and tangible personal property not exempt by law and as finally equalized in the downtown district.

BE IT FURTHER RESOLVED, that all officials and employees of the Downtown Development Authority of Kalamazoo and the City of Kalamazoo are hereby directed and authorized to take whatever action is necessary and proper to levy the 1.9638 mills for 2020.

The above resolution was offered by _____
and supported by _____.

AYES, Commissioners:

NAYS, Commissioners:

ABSTAIN, Commissioners

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on May 18, 2020. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by said Act.

Scott A. Borling
City Clerk



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **G.5.**

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

FROM: James K. Ritsema, City Manager
Reviewed by: Jeff Chamberlain, Deputy City Manager
Prepared by: Rebekah Kik, Director CPED

DATE: May 18, 2020

SUBJECT: Resolution of Support for a U.S. 131 Interchange

RECOMMENDATION:

It is recommended the City Commission adopt a RESOLUTION supporting pursuit of any needed approvals and funding to design and build U.S. 131 interchange as recommended by Michigan Department of Transportation.

BACKGROUND:

Since January 2015 the US-131 interchange has been studied for potential improvements. Its design location is primarily located in Oshtemo Township, northwest of the City of Kalamazoo. This interchange would be important for industry that would expand or to be located in the area and create a more direct route for connection to the freeway for both business and local residents.

The current interchange is one-way directional, with southbound US-131 traffic able to exit on eastbound US-131BR towards the City of Kalamazoo. Northbound US-131 traffic cannot exit to eastbound US-131BR at this location. Westbound traffic travelling on US-131BR, from Kalamazoo can only proceed north on US-131 and are not able to enter southbound US-131. There is an existing, full movement interchange at Main Street which is approximately 2.5 miles south of this location and at D Avenue, approximately 3 miles to the north.

The attached resolution indicates that the city of Kalamazoo supports the creation of the full interchange and lends its support to future funding requests to federal and state agencies.

STRATEGIC VISION ALIGNMENT:

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

Short- and mid-range planning project management/implementation:

On-going city planning efforts such as neighborhood planning, district/sub-area plans, transportation project planning, Redevelopment Ready Communities Program, and continuous review of Master Plan for implementation of goals and action items. Includes meeting with developers prior to official plan review process to explain process, design review, and alignment with the Master Plan.

Strategic Goal Impact:



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

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

The community identified the US 131 By Pass during transportation discussions that were noted in the IK 2025 Master Plan.

Discussion: As the Design Team continues to meet with our Metropolitan Planning Organization and elected officials future engagement may be necessary.

Engagement/Communication Tools

Public meetings

FISCAL IMPACT:

The adoption will not have any fiscal impact for the U.S. 131 By Pass resolution. The resolution asks that future items related to the U.S. 131 project are considered a priority. Items that might come forward could include: letters of support for grant funding, assistance with match, addition of the project to city or regional planning documents.

CITY OF KALAMAZOO
KALAMAZOO COUNTY, MICHIGAN
RESOLUTION SUPPORTING PURSUIT OF ANY NEEDED APPROVALS AND FUNDING
TO DESIGN AND BUILD U.S. 131 INTERCHANGE AS RECOMMENDED BY MICHIGAN
DEPARTMENT OF TRANSPORTATION.

Whereas, in the spring of 2019 the respective Boards of the Townships of Kalamazoo, Oshtemo, Cooper and Comstock, and of Kalamazoo County; and the City Council for the City of Parchment approved resolutions declaring a full interchange at U.S. 131 and Business Route 131 in the northeast corner of Oshtemo Township as a high priority; and

Whereas, the City of Kalamazoo and several local businesses and lawmakers provided letters of support for the above interchange; and

Whereas, the proposal of the expansion of the interchange is already spurring positive economic growth in these communities; and

Whereas, the expansion is integral to the transportation planning and changes underway in the City of Kalamazoo; and

Whereas, the Michigan Department of Transportation (MDOT) has done a preliminary study on the design and costs of such an interchange; and

Whereas, MDOT is recommending plans 1.1 and 2.1, (see attached report) which involve the least amount of right of way, the avoidance of powerlines and the KalHaven Trail tunnel; and the construction of the minimum number of bridges.

Now therefore be it hereby resolved that the City of Kalamazoo Commission supports pursuit of any needed approvals and funding to design and build an interchange based on plans 1.1 and 2.1 in the attached document as recommended by the Michigan Department of Transportation at a meeting with MDOT and local officials on Monday, February 24, 2020.

US-131 BR / Northside Transportation Connectivity

February 24, 2020

How We Got Here

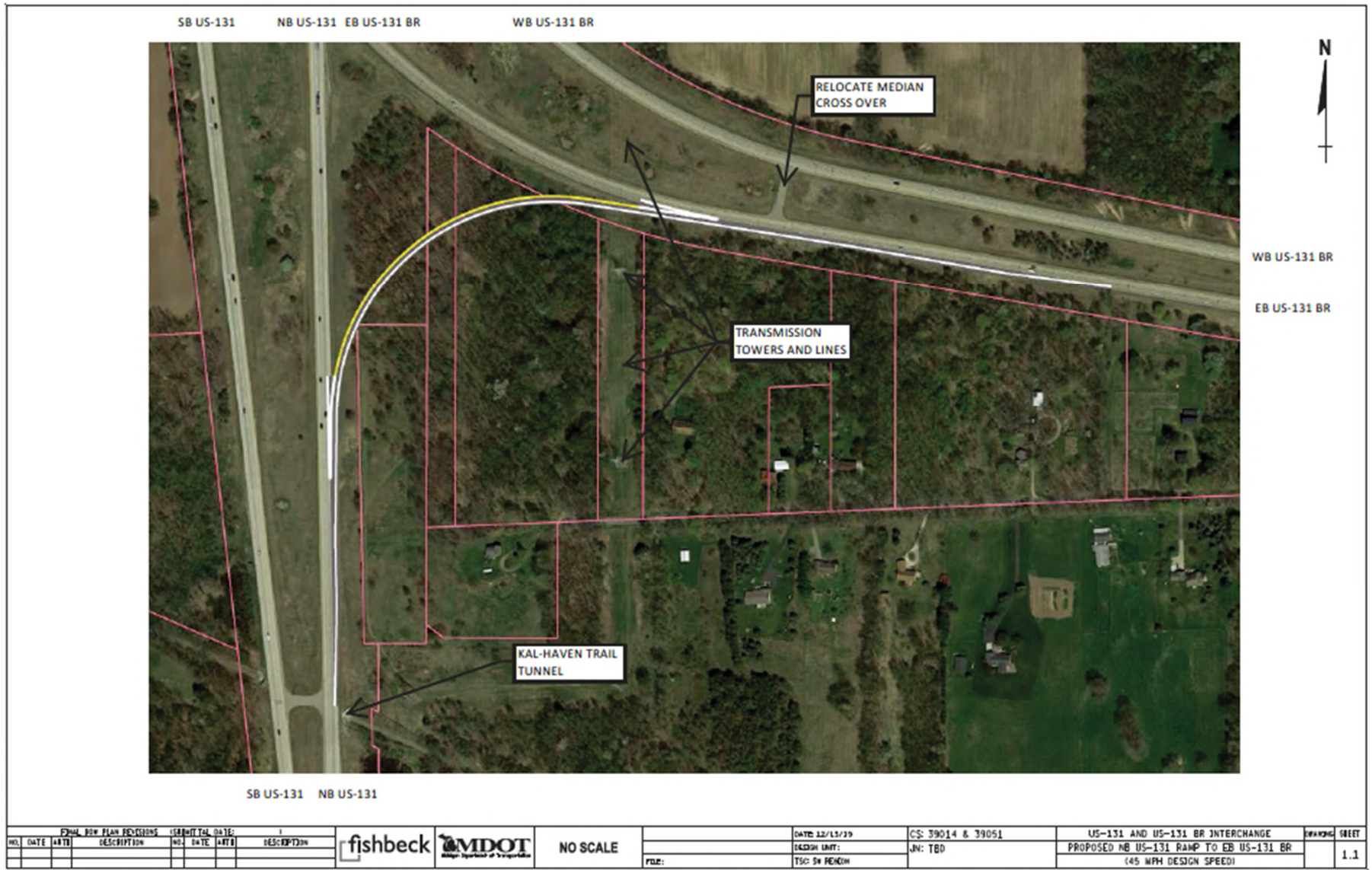
- April 2019 – Meeting with Representative Hoadley
- May 2019 – Discussions of GPI expansion/MEDC investment
- September 2019 – Northside Transportation Connectivity Discussion
- October 2019 – Study Kickoff
- December 2019 – Study Results
- February 2020 – Present Results to You

Study Objectives

- Develop geometrically feasible freeway ramp options to connect WB Business Loop to SB US-131 and NB US-131 to EB Business Loop
- Develop rough preliminary cost estimates
- Maintain existing bridge carrying SB US-131 to EB Business Loop traffic
- Identify impacts: Consumers Energy power lines, KalHaven Trail tunnel, existing sand/gravel mining operation, wetlands, etc.

What We Looked At

- Illustrative Alternatives (10)
 - Northbound to Eastbound Access
 - 3 Options
 - Westbound to Southbound Access
 - 7 Options
- Practical Alternatives (5)
 - Northbound to Eastbound Access
 - 2 Options
 - Westbound to Southbound Access
 - 3 Options

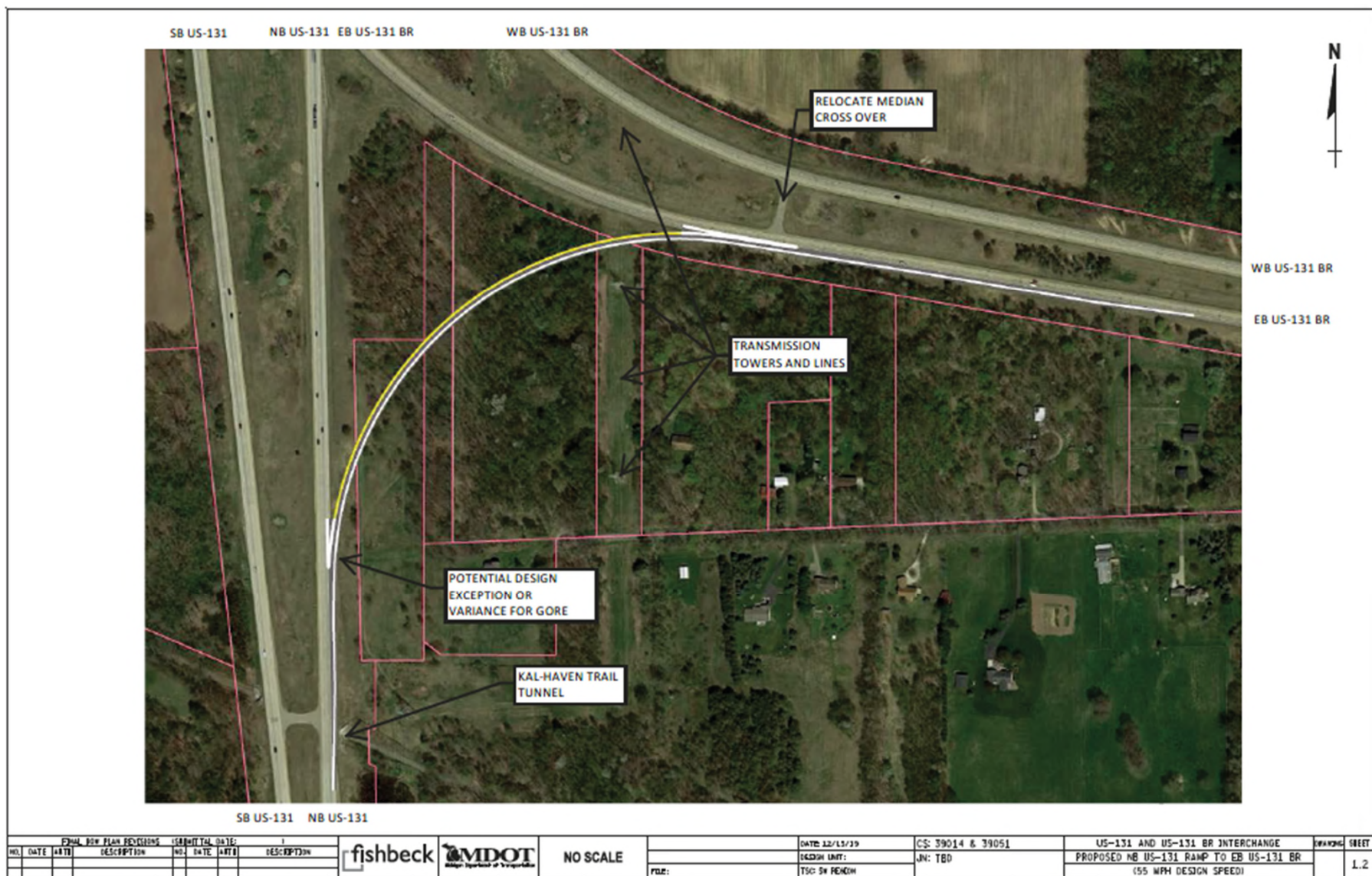


NB US-131 to EB Business Route



Proposed Alternative 1.1

- Least amount of ROW needed
 - 3 parcels
- Avoids power lines
- Avoids KalHaven Trail tunnel
- 45 MPH curve



NB US-131 to EB Business Route



Proposed Alternative 1.2

- Requires more ROW
 - 4 parcels
- Easement needed from Consumers Energy – further study to ensure no impacts to towers and/or lines
- May require design exception to avoid impact to KalHaven Trail
- 55 MPH curve

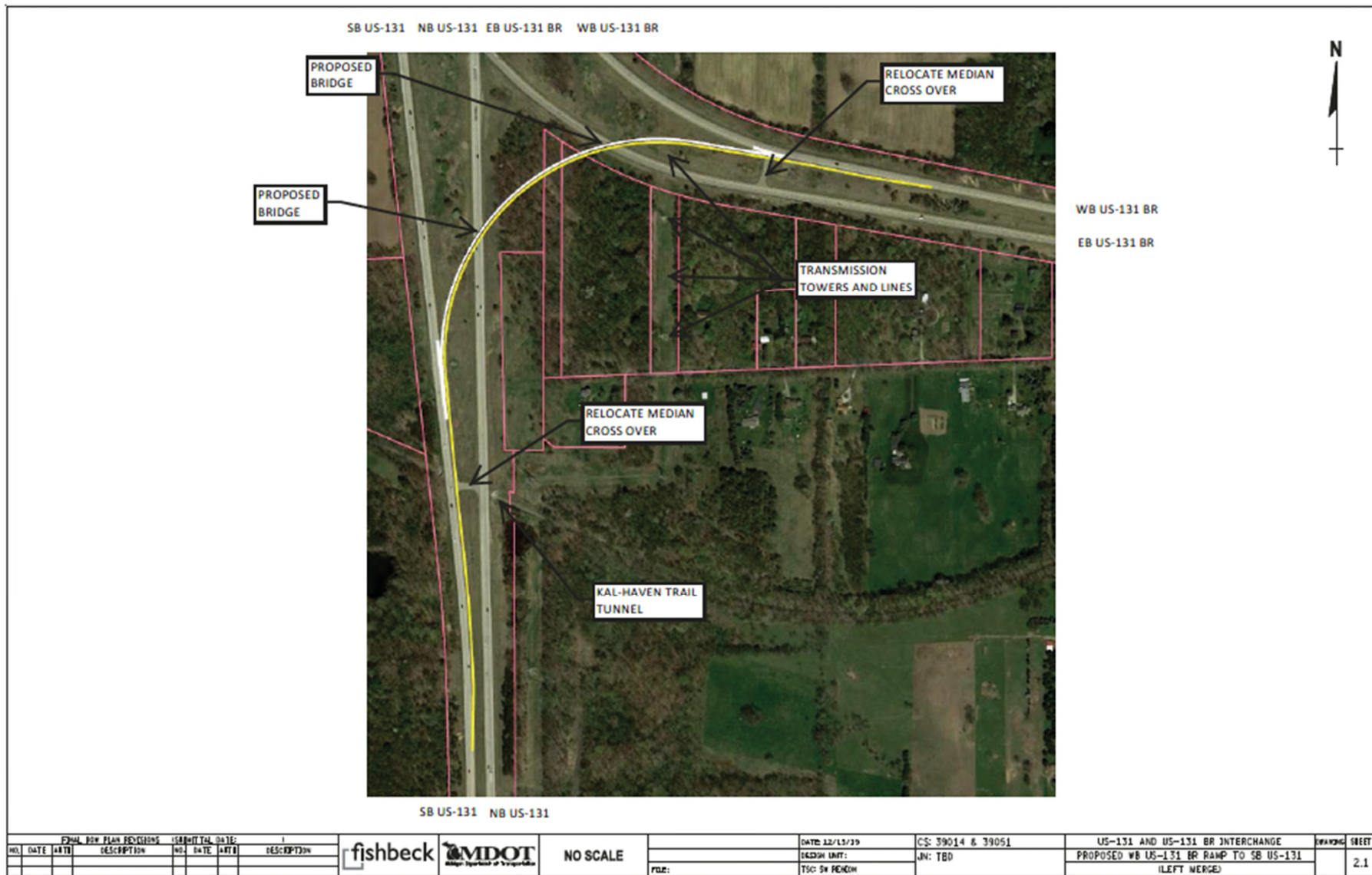
NB US-131 to EB Business Route

Proposed Alternative 1.1

- Least amount of ROW needed
 - 3 parcels
- Avoids power lines
- Avoids KalHaven Trail tunnel
- 45 MPH curve

Proposed Alternative 1.2

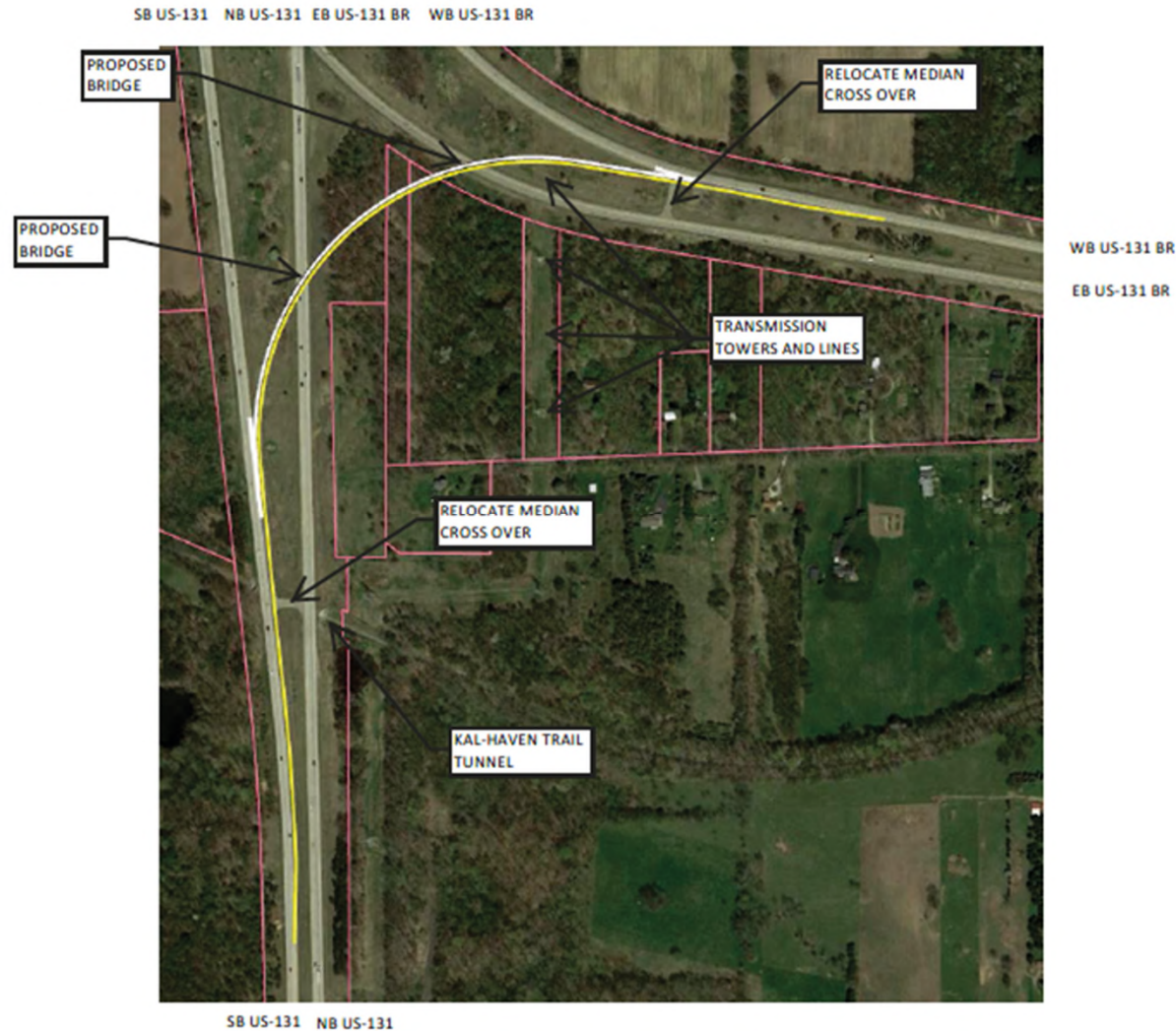
- Requires more ROW
 - 4 parcels
- Easement needed from Consumers Energy – further study to ensure no impacts to towers and/or lines
- May require design exception to avoid impact to KalHaven Trail
- 55 MPH curve

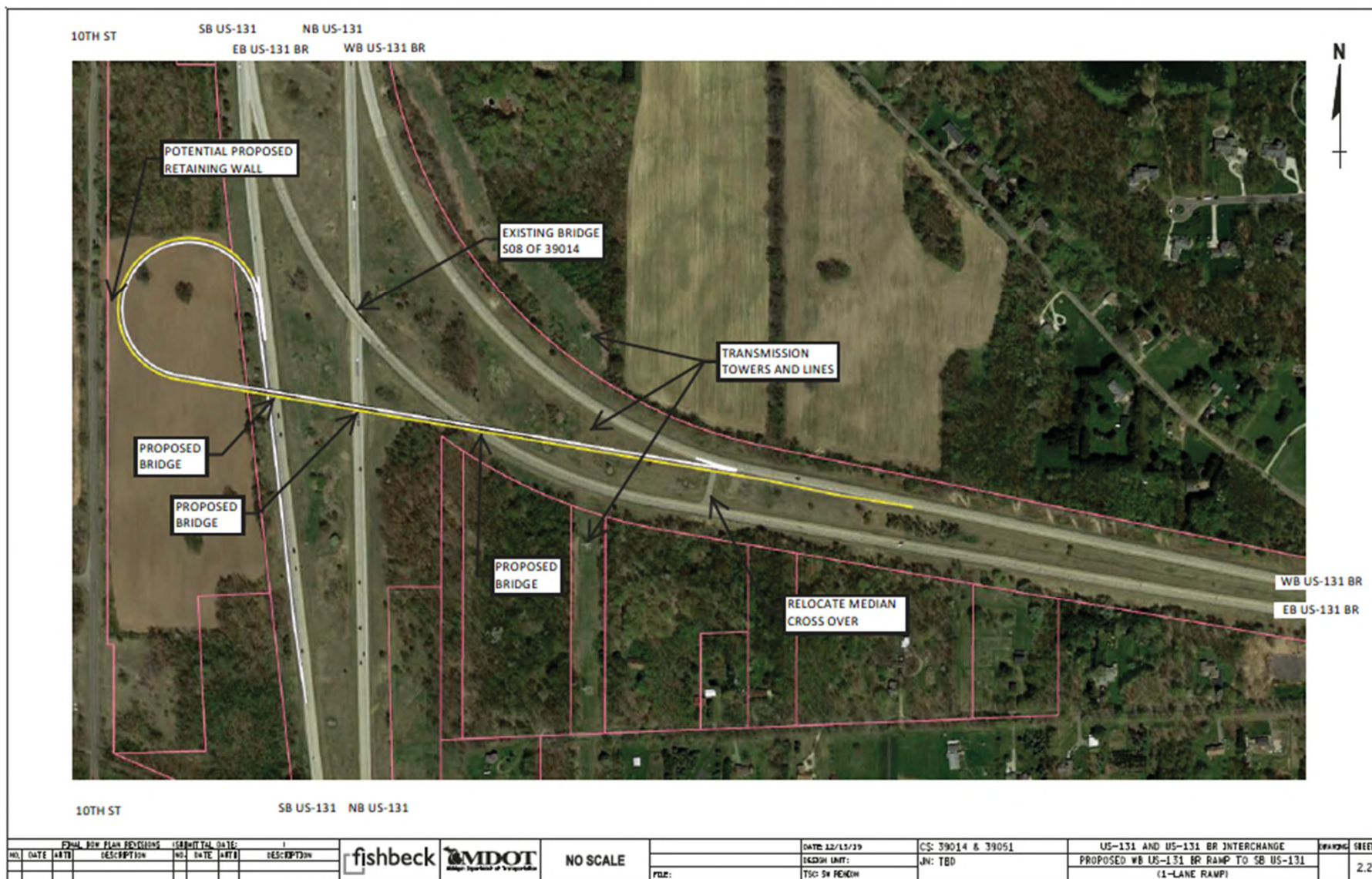


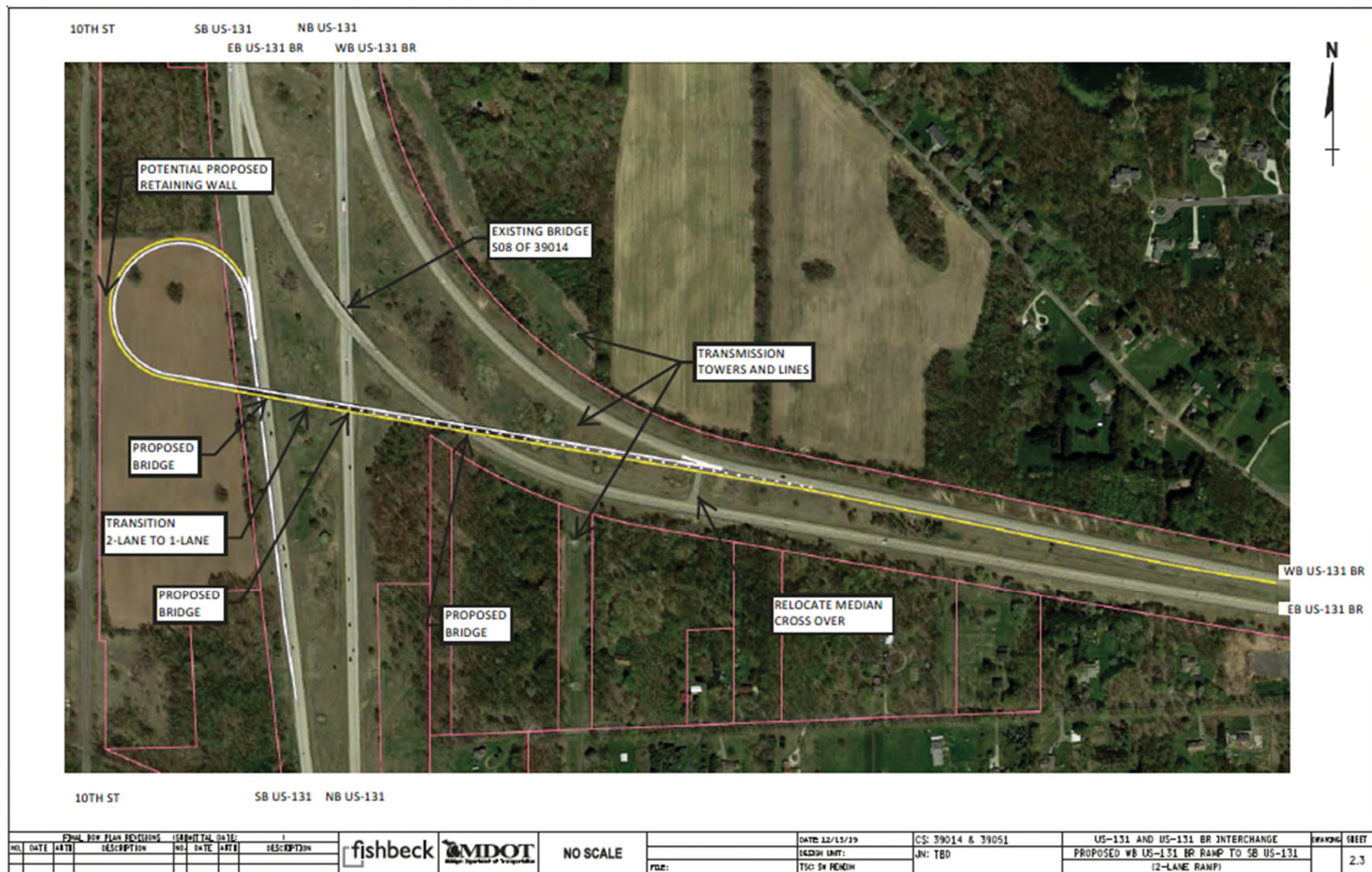
WB Business Route

Proposed Alternative 2.1

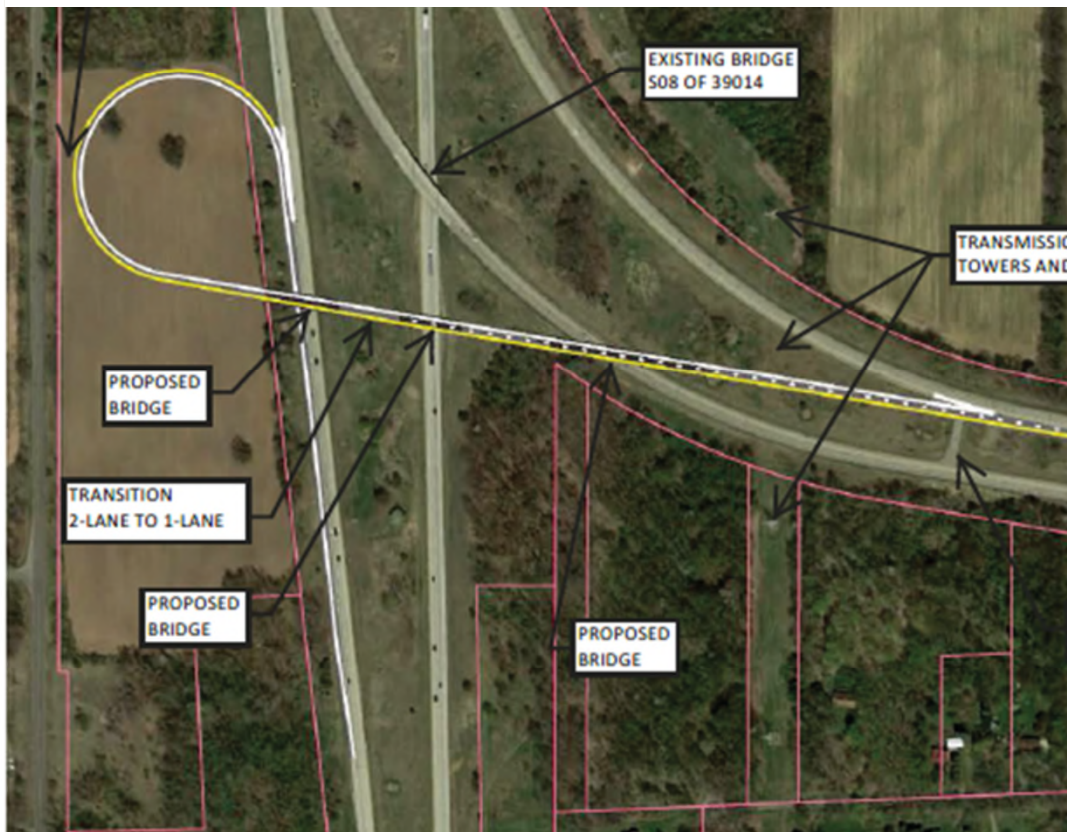
- Same ROW as Alternative 1.1
- Appears to avoid power lines
- Avoids KalHaven Trail tunnel
- Left exit from WB 131BR
- Left entrance to SB US-131
- Construction of 2 new bridges







WB Business Route to SB US-131



Proposed Alternative 2.2 & 2.3

- Additional ROW west of US-131
 - Currently owned by Kalamazoo Nature Center
- Avoids impacts to power lines
- Avoids KalHaven Trail tunnel
- Left exit from WB 131BR
- Right entrance to SB US-131
- Slow merge
- Large retaining wall
- Construction of 3 new bridges

WB Business Route to SB US-131

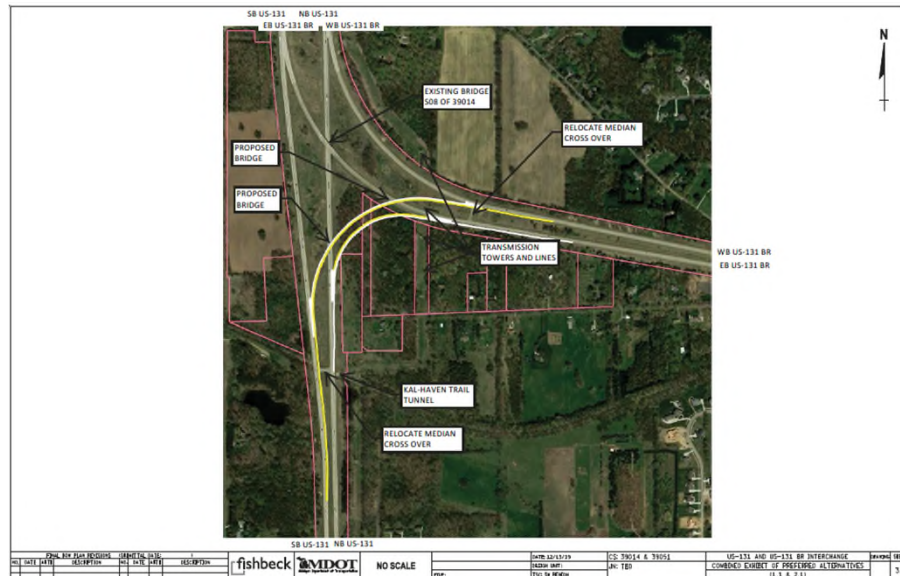
Proposed Alternative 2.1

- Same ROW as Alternative 1.1
- Appears to avoid power lines
- Avoids KalHaven Trail tunnel
- Left exit from WB 131BR
- Left entrance to SB US-131
- Construction of 2 new bridges

Proposed Alternative 2.2 & 2.3

- Additional ROW west of US-131
 - Currently owned by Kalamazoo Nature Center
- Avoids impacts to power lines
- Avoids KalHaven Trail tunnel
- Left exit from WB 131BR
- Right entrance to SB US-131
- Slow merge
- Large retaining wall
- Construction of 3 new bridges

Preferred Alternative



- Least impact to Consumers Energy property/towers/lines
- Least ROW impact
- Avoids KalHaven Trail tunnel
- Lowest cost
- Design exceptions for left merge to SB US-131 and left diverge from Business Loop
- FHWA review

	NB to EB Ramp	WB to SB Ramp	Overall Project Cost*
Estimated construction cost	\$3,150,000	\$11,795,000	
PE phase (min)	\$378,000	\$1,415,400	
CE phase (min)	\$315,000	\$1,179,500	
Total	\$3,843,000	\$14,389,900	\$18,232,000
ROW phase (min)			\$200,000
Total Cost*			\$18,432,000

*All costs in 2020 dollars

Next Steps

- No funding identified to move forward
- Not in MDOT's 5 Year Plan
- Alternative funding options
 - Private funding
 - Local agency funded via BUILD, INFRA or other grant programs
- In the future if funding was identified...
 - Further environmental analysis needed
 - Full survey of project area
 - FHWA coordination



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **G.6.**

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

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Karianne Thomas, Public Safety Chief
Prepared by: Ryan Tibbets, Assistant Chief

DATE: May 18, 2020

SUBJECT: 2020 Pedestrian and Bicycle Safety Grant Acceptance

RECOMMENDATION:

It is recommended that the City Commission accept a 2020 grant award in the amount of \$39,749 from the Office of Highway Safety Planning for pedestrian and bicycle safety enforcement and education and authorize the City Manager to sign associated award documents.

BACKGROUND:

In early 2018, representatives from the Michigan State Police - Office of Highway Safety Planning (OHSP) met with Public Safety personnel to review the pedestrian and bicycle traffic crashes in the City of Kalamazoo from 2010-2015. The historical aggregated data outlined the areas of the City of Kalamazoo with the highest propensity to have pedestrian and bicycle traffic crashes by the time of day, the day of the week and month of the year. Based on the data, Public Safety proposed a strategy to provide enforcement and education based on traffic safety laws.

The grant period is from March 4, 2020-September 30, 2020. Funding in the amount of \$39,749 has been approved by OHSP with a 20% city match in the form of vehicle usage in the amount of \$11,760.

STRATEGIC VISION ALIGNMENT:

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

Police Proactive Calls for Service

Strategic Goal Impact:

Safe Community

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

N/A

Discussion:

Engagement/Communication Tools

FISCAL IMPACT:

The authorized funding through OHSP is \$39,749 with in-kind local funding (20%) of \$11,760 in the form of vehicle usage.



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **G.7.**

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

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Karianne Thomas, Public Safety Chief
Prepared by: Ryan Tibbets, Assistant Chief

DATE: May 18, 2020

SUBJECT: 2019 Bullet Proof Vest Grant Acceptance

RECOMMENDATION:

It is recommended that the City Commission accept the 2019 Bulletproof Vest Grant award in the amount of \$25,756.92 from the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance.

BACKGROUND:

The U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has awarded Kalamazoo Public Safety \$25,756.92 under the Bulletproof Vest Program (BVP) for the purchase of bulletproof vests in 2018. The Bulletproof Vest Grant Act of 1998 (Public Law 105-181) was reauthorized by the BVP Act of 2000 (Public Law 106-517). The purpose of the Act is to save the lives of law enforcement officers by helping units of local government equip their sworn law enforcement officers with armor vests.

If the City of Kalamazoo accepts the 2019 Bulletproof Vest Grant award, grant funding will pay for 50% of the cost of bulletproof vests. The current and recommended replacement cycle for bulletproof vests is five (5) years.

STRATEGIC VISION ALIGNMENT:

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

Police Proactive and Reactive Calls for Service. KDPS personnel respond to 911 calls for service and requests for assistance.

Strategic Goal Impact:

Safe Community

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement

N/A

Discussion:

Engagement/Communication Tools

FISCAL IMPACT:

Kalamazoo Public Safety has been awarded \$25,756.92 to purchase bullet proof vests, the 50% match amount of \$25,756.92 is contained the in the Public Safety general fund budget.



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **H.1.**

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

FROM: Clyde J. Robinson, City Attorney

DATE: May 18, 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:



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.

Discussion

The details of this ordinance amendment pertain primarily to the of permitting and regulation of these business, which falls under the Good Governance strategic goal. Sub-goals touched upon by this regulatory ordinance is Organizational Principles.

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 \$5,000 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

f:\ord**



City Commission Agenda Report

City of Kalamazoo

Date: **5/18/2020**

Item: **H.2.**

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

FROM: James K. Ritsema, ICMA-CM, City Manager
Reviewed by: Patsy A. Moore, Deputy City Manager / Operations
Prepared by: Dorla Bonner, Director of Diversity, Equity and Inclusion

DATE: May 18, 2020

SUBJECT: Resolutions to Approve a Social Equity Policy and Set Permit Fees for Marihuana Licenses

RECOMMENDATION:

It is recommended that the Commission adopt the Social Equity Policy for Marihuana Licenses.

BACKGROUND:

Section 8 of the Michigan Regulation and Taxation of Marijuana Act (MRTMA) requires the Marijuana Regulatory Agency (MRA) to promulgate rules including “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: (MCL 333.27958, 2018 IL 1). The State’s plan focuses on communities in Michigan that were highly impacted by marihuana enforcement and have a 30% poverty level. There were 41 communities given this designation, including Kalamazoo.

This goal of the Kalamazoo 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 including the requirement to submit a social equity plan.

Section 8 of the Michigan Regulation and Taxation of Marijuana Act (MRTMA) requires the Marijuana Regulatory Agency (MRA) to promulgate rules including “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: (MCL 333.27958, 2018 IL 1). The State’s plan focuses on communities in Michigan that were highly impacted by marihuana enforcement and have a 30% poverty level.

There were 41 communities given this designation, including Kalamazoo.

This goal of the Kalamazoo policy is to put forth a plan to further 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 including the requirement to submit a social equity plan.

STRATEGIC VISION ALIGNMENT:

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



Shared Prosperity - Abundant opportunities for all people to prosper

Discussion

The goal of the policy is to include people that may have normally not been included in the business.



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

Discussion

This policy support the development of new businesses in Kalamazoo.

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.

Discussion:

Eleven opportunities were given to the public to provide input on social equity policy and zoning for marijuana licenses. This included four pubic feedback meetings, small group sessions with medical marihuana providers, a virtual town hall with commissioners, a virtual planning commission meeting. The policy was included in an online power point presentation that was presented in both English and Spanish with audio.

FISCAL IMPACT:

Subject: Marihuana Social Equity Policy**Date:** May 18, 2020 **No.** 30.9**Page:** 1 of: 3**PURPOSE:**

This goal of this policy is to promote and encourage participation in the marihuana industry by people from communities that have been disproportionately impacted by marihuana 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 including the requirement to submit a social equity plan.

SCOPE:

This policy seeks to:

- Allow targeted focus on disproportionately impacted individuals and neighborhoods
- Reduce barriers to entering the marihuana industry specific to Kalamazoo residents
- Provide funding for the development and activities that support the Kalamazoo community in alignment with Shared Prosperity in Kalamazoo (SPK)

POLICY:**A. Fee reductions**

The City marihuana business permit fee required of qualifying individuals and business entities is reduced as follows:

1) A 25% reduction in the City permit fee for either of the following:

- A sole proprietor who is a resident, or a business entity composed of majority (51% or more) ownership by one or more persons who are residents, of City Census Tracts 1 (Eastside), 9, 10, (Edison), and/or 2.02, 3 (Northside) for 3 years prior to applying for a marihuana business permit; or
- A City resident or group of City residents with a marihuana-related conviction that does not involve distribution to a minor, who have 51% or more ownership interest in the business. and who has or have resided in the City for 3 years prior to applying for a marihuana business permit.

2) An additional 10% reduction in the City permit fee if a sole proprietor or a member of the business entity holding at least a 10% ownership interest in the business has been a registered primary caregiver for at least 2 years between 2008 and 2017.

Subject: Marihuana Social Equity Policy**Date:** May 18, 2020 **No.** 30.9**Page: 2 of: 3**

B. Zoning Code Exceptions

1) A business entity operating as a marihuana retailer may locate 500 feet from another retailer in conformity with the City zoning code if:

- An applicant, or a majority (51% or more) of the applicant-owners is a City resident within City Census Tracts 1 (Eastside), 9, 10 (Edison), and/or 2.02, 3 (Northside) for the 3 years prior to applying for a marihuana business permit; or
- A City resident or group of City residents with a marihuana-related conviction that does not involve delivery or distribution to a minor and who has 51% or more ownership interest in the business

2) A business entity operating as a marihuana microbusiness may locate 250 feet from another microbusiness in conformity with the City zoning code if:

- An applicant, or a majority (51% or more) of the applicant-owners is a City resident within City Census Tracts 1 (Eastside), 9, 10 (Edison), and/or 2.02, 3 (Northside) for the past 3 years; or
- A City resident or group of City residents with a marihuana-related conviction that does not involve delivery or distribution to a minor and who has 51% or more ownership interest in the business

C. Community Impact

1) At least 25% of marihuana business fee and tax revenue received by the City will be set aside and used to support the following programs/initiatives:

- a. Training to help educate people of color to prepare for ownership/operations of future marihuana establishments.
- b. Provide community outreach and education on topics such as use of marihuana by pregnant women, the difference between state and federal laws concerning marihuana and adult use of marihuana in general.
- c. Support Shared Prosperity Kalamazoo priorities
 - i. Strong Youth
 - ii. Strong Families
 - iii. Good jobs
- d. Blight Elimination

Subject: Marihuana Social Equity Policy**Date:** May 18, 2020 **No.** 30.9**Page:** 3 of: 3

2) The City requires that all marihuana businesses make a good faith effort to hire employees with prior marihuana convictions (excepting a conviction for delivery or distribution to a minor) or that live in Census Tracts 1 (Eastside); 9,10 (Edison) and/or 2.02, 3 (Northside).

D. Compliance with Social Equity Plan

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 City permit 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 may 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, MICHIGAN

RESOLUTION NO. 20-

**A RESOLUTION TO ESTABLISH ANNUAL FEES FOR ~~MEDICAL~~ MARIHUANA
BUSINESS ~~FACILITY~~ OPERATING PERMITS**

Minutes of a regular meeting of the City Commission of the City held on May 18, 2020, at or after 7:00 p.m., local time, at City Hall.

PRESENT: Commissioners:

ABSENT: Commissioners:

WHEREAS, Section 20B-5 of the Code of Ordinances for the City of Kalamazoo allows the City to charge an annual fee to defray the administrative and enforcement costs associated with Marihuana Businesses located in the City; and

WHEREAS, the proposed fees are a reasonable estimate of the costs the City of Kalamazoo will incur for these activities; and

WHEREAS, the maximum fees allowed under MCL Section 333.27205 and MCL 333.27956 is \$5,000 for all types of Marihuana Businesses.

NOW, THEREFORE, BE IT RESOLVED that the following fees shall be due and payable in full for each Marihuana Business Operating Permit at the time application is made for such permits or their renewal:

<u>Facility Type</u>	<u>Permit Fee</u>
Provisioning Center	\$5,000
Retailer	\$5,000
Grower (All Classes)	\$5,000
Processor	\$5,000
Microbusiness	\$5,000
Secure Transporter	\$5,000
Safety Compliance Facility	\$5,000
Excess Grower	\$2,500
Designated Consumption Establishment	\$250

BE IT FURTHER RESOLVED that 10% of each permit fee is designated for costs associated with administration of the application process and is non-refundable; and the remaining portion of each fee is designated for costs associated with ongoing administration and enforcement and may be refunded if a Marihuana Business Operating Permit is not issued.

BE IT FURTHER RESOLVED that the above schedule is modified as required by City Commission Policy 30.9 permitting the partial waiver of application and renewal fees for qualifying Social Equity applicants.

The above resolution was offered by _____ and supported by _____.

AYES, Commissioners:

NAYS, Commissioners: None

ABSTAIN, Commissioners: None

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

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

Scott A. Borling, City Clerk