CITY OF
PORTAGE
A Place for Opportunities to Grow

PLANNING COMMISSION

May 19, 2011

CITY OF PORTAGE PLANNING COMMISSION

A G E N D A

May 19, 2011
(7:00 p.m.)

Portage City Hall Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

* May 5, 2011

SITE/FINAL PLANS:

PUBLIC HEARINGS:

* 1. Preliminary Report: Proposed Medical Marihuana Home Occupation Ordinance

PLATS/RESIDENTIAL CONDOS:

OLD BUSINESS:

* 1. Proposed Business Banner Ordinance (referral from City Council)

NEW BUSINESS:

* 1. 2010 Census of Population and Housing – Analysis and General Trends

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

April 11, 2011 Zoning Board of Appeals meeting minutes
April 26, 2011 City Council meeting minutes

Star (*) indicates printed material within the agenda packet.

PLANNING COMMISSION

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May 5, 2011

The City of Portage Planning Commission meeting of May 5, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 20 citizens were in attendance.

MEMBERS PRESENT:

Bill Patterson, Allan Reiff, Wayne Stoffer, Mark Siegfried and Chairman James Cheesebro.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Jim Pearson, Miko Dargitz, Rick Bosch and Paul Welch.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning and Development Services; Michael West, Assistant City Planner and Randall Brown, City Attorney

PLEDGE OF ALLEGIANCE:

The Planning Commission, staff and the audience recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the April 21, 2011 regular meeting minutes. A motion was made by Commissioner Patterson, seconded by Commissioner Reiff, to approve the minutes as submitted. The minutes were unanimously approved.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

1. Special Land Use Permit: Group Child Care Home (Rogers), 3125 Coachlite Avenue. Mr. West summarized the staff report dated April 29, 2011 regarding the request by Ms. Sarah Rogers to establish a group child care home for up to 12 children at her residence located at 3125 Coachlite Avenue. Mr. West also referred the Commission to several letters included in the original and final agenda packets received from area residents who oppose or expressed concerns regarding the proposed group child care home. Mr. West indicated the application fulfills the requirements for issuance of a special land use permit but did note the ordinance allows the Commission to consider installation of a 6-foot tall screening fence to help mitigate potential impacts.

Ms. Sarah Rogers (applicant) was present to support and explain the application. Ms. Rogers clarified the group child care home would operate from 7:00am to 5:30pm, Monday through Friday, and would not involve any overnight accommodations. Chairman Cheesebro opened the public hearing. No citizens spoke regarding the proposed group child care home. A motion was then made by Commissioner Reiff, seconded by Commissioner Patterson, to close the public hearing. The motion was unanimously approved.

Commissioner Patterson stated the outdoor play area is situated in a low spot on the property with limited visibility from Coachlite Avenue and Rothbury Street. Commissioner Patterson also indicated the backyard was already partially screened with mature trees along the property lines which would seem to minimize the need for a screening fence. Chairman Cheesebro concurred. After additional discussion, a motion was made by

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Commissioner Patterson, seconded by Commissioner Reiff, to approve the Special Land Use Permit for Ms. Sarah Rogers (group child care home), 3125 Coachlite Avenue. The motion was unanimously approved.

2. Rezoning Application #10-02, 4815 West Milham Avenue and 6027 South 12th Street. Mr. West summarized the staff report dated May 5, 2011 and referred the Commission to an April 28, 2011 e-mail communication from Mr. Terry Patterson, on behalf of Milham Crossings LLC, requesting the public hearing for Rezoning Application #10-02 be adjourned to the June 2, 2011 meeting. Mr. West stated that staff advises the Planning Commission to reconvene the public hearing, accept public comment and then adjourn the public hearing to the June 2, 2011 meeting.

The public hearing was reconvened by Chairman Cheesebro. Seven citizens spoke in regards to the proposed rezoning: 1) Dave Szybala, 4836 Golden Ridge Trail; 2) Allan Mueller, 6055 Andover Woods Road; 3) Leonard Mosher, 4868 Golden Ridge Trail; 4) Dorothy Kocharoff, 4694 Golden Ridge Trail; 5) Karen Hecht, 4790 Golden Ridge Trail; 6) Joon Park, 4811 Golden Ridge Trail; and 7) Marcus Anthosen, 4736 Golden Ridge Trail. Mr. Szybala submitted a petition signed by 33 citizens of the Andover Woods neighborhood opposing the rezoning. Mr. Szybala stated the citizens of Andover Woods purchased their homes knowing the adjacent property was zoned B-2 and believe a change to B-3 would negatively impact property values and the quality of life for the residential neighborhood. Mr. Mueller stated he opposes the proposed zoning change that would permit a gas station and expressed concerns regarding health/safety issues and traffic congestion at the West Milham Avenue/South 12th Street intersection. Mr. Mosher also spoke in opposition to the proposed rezoning citing noise, traffic, trash and odor concerns. Ms. Kocharoff, Ms. Hecht and Ms. Park asked several questions regarding the difference between the B-2 and B-3 zones, traffic generation and flow from the site and at the West Milham Avenue/South 12th Street intersection and whether the applicant has provided any specific development proposal. Mr. West discussed the differences between the B-2 and B-3 zoning districts and stated the applicant has not submitted a specific development proposal for the property. Mr. Anthonsen expressed concerns regarding potential loss of property values if the site was rezoned to B-3. No additional citizens spoke regarding the proposed rezoning.

After a brief discussion, a motion was made by Commissioner Stoffer, seconded by Commissioner Patterson, to adjourn the public hearing for Rezoning Application #10-02 to the June 2, 2011 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

1. Proposed Medical Marihuana Home Occupation Ordinance (referral from City Council). Mr. Forth summarized the April 29, 2011 staff report that provided additional background information involving several issues the Commission discussed during the April 21, 2011 meeting: 1) permitting; 2) home occupation versus commercial use; 3) marihuana dispensaries and patient-to-patient transfers; and 4) home occupation distance provisions, requirements and definitions.

The Commission, Mr. Forth and Attorney Brown discussed various aspects of the proposed ordinance. Commissioner Reiff asked for clarification regarding the distance provisions of the ordinance and whether they apply to the two Montessori schools (Otis Academy and Shamrock Academy). Attorney Brown stated that since these are pre-schools, they would not be subject to the distance provisions. Commissioner Patterson stated he still had some concern regarding the lack of permitting or registration so the city and potential caregivers know where caregivers are located in order to satisfy distance provisions of the ordinance. Attorney Brown indicated the revised ordinance eliminates the distance requirements between caregivers and should minimize this concern. Commissioner Stoffer asked what the current legal environmental was on the issue of medical marihuana. Attorney Brown provided a detailed response. Commissioner Reiff stated he believes the City Administration committee put a lot of thought and effort into the ordinance and it is the right direction at this time. The

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Commission had no further comments at this time. Mr. Forth noted the public hearing is scheduled for the May 19, 2011 Planning Commission meeting.

2. Mixed-Use Zoning Ordinance Proposals. Mr. Forth summarized the April 28, 2011 staff report regarding the three mixed-use ordinance proposals referred by City Council. Mr. Forth stated these proposals were previously reviewed and discussed by the Commission during the March 28, 2011 meeting. Mr. Forth reviewed the three different ordinance proposals (City Centre Area – Mixed Use Floating Zone, Commercial Corridor Mixed Use Floating District and Work/Live Accommodations) and changes that were made from the March 28th meeting and discussion.

Commissioners Patterson and Reiff indicated the previous Planning Commission comments regarding the Work/Live Accommodations ordinance had been adequately addressed with the revised ordinance. Chairman Cheesebro asked staff if any additional thought was given to expanding the boundary of the City Centre Area – Mixed Use Floating Zone, particularly further north near Garden Lane. Mr. Forth indicated staff would provide additional information regarding this issue with the preliminary report. After additional discussion, a motion was made by Commissioner Stoffer, seconded by Commissioner Patterson, to set a public hearing for the Mixed-Use Zoning Ordinance Proposals for the June 16, 2011 meeting. Attorney Brown referenced the specific Zoning Code sections that would be added or amended with the proposed mixed-use zoning ordinance proposals. The motion was unanimously approved.

NEW BUSINESS:

1. Proposed Business Banner Ordinance (referral from City Council). Mr. Forth reviewed the April 27, 2011 staff report and the transmittals to City Council regarding the proposed business banner ordinance as referred by City Council. Mr. Forth stated the proposed language would amend the sign ordinance regulations and expand the ability of a business to use a banner by eliminating the provision regarding the "name of business", increasing the area for "copy" to 50% of the banner and by adding the language to all of the business zones (B-1, B-2, B-3, CPD and PD districts). The Commission discussed what meeting date was appropriate to schedule the public hearing. Mr. Forth stated that due to statutory notification requirements, the earliest the public hearing could be scheduled is June 2nd. In the event the Commission desires to further discuss this matter before the scheduled public hearing, Mr. Forth indicated the staff report and proposed ordinance could be included in the May 19th agenda. After a brief discussion, a motion was made by Commissioner Reiff, seconded by Commissioner Stoffer, to set a public hearing for the Proposed Business Banner Ordinance for the June 2, 2011 meeting. The motion was unanimously approved. Attorney Brown stated the specific Zoning Code sections that would be amended with the proposed mixed-use zoning ordinance proposals.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

Commissioner Stoffer stated the Kalamazoo County Marathon was Sunday, May 8, 2011 and asked that the community support this event. There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

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CITY OF
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Department of Community Development

TO: Planning Commission **DATE:** May 13, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Preliminary Report: Ordinance Amendment No. 10-C (Medical Marihuana Home Occupation Ordinance)

I. INTRODUCTION

The proposed medical marihuana home occupation ordinance was originally developed and recommended by a committee of the City Administration. The proposed ordinance language would amend Section 42-129, Home Occupations. As the Planning Commission is aware, on April 12, 2011, City Council referred the medical marihuana home occupation ordinance to the Commission for consideration and to initiate the Zoning Code amendment process. The Planning Commission recommendation is to be submitted to City Council no later than June 3, 2011.

II. MAJOR ORDINANCE PROVISIONS

The following briefly summarizes the major provisions of the proposed ordinance.

- Medical marihuana would only be provided by a primary caregiver as a home occupation.
- Primary caregiver must comply with all statutory requirements.
- The medical marihuana home occupation must be at least 1,000 feet from a school, playground or housing facility owned by a public housing authority and 100 feet from a youth center, public swimming pool or video arcade consistent with the federal Drug Free School Zone requirements. Attached is a map that shows these drug free zones.
- The use must be in compliance with applicable requirements of the Building Code, Noise Ordinance, Safety, Sanitation and Health Code, and Housing/Property Maintenance Code.
- Lighting used in the growing of marihuana that exceeds normal residential use must be shielded between the hours of 11:00 p.m. and 6:00 a.m.
- Patients may only visit the primary caregiver between the hours of 8:00 a.m. and 8:00 p.m.
- Signs identifying the home occupation and use of window displays are not permitted.

III. PLANNING COMMISSION REVIEW/CONSIDERATION

At the April 21, 2011 meeting, the proposed medical marihuana home occupation ordinance was reviewed and discussed by the Planning Commission. The major provisions of the Michigan Medical Marihuana Act ("Act"), the proposed regulatory framework of the ordinance and the basis for the recommended ordinance were reviewed. The Commission also received correspondence from the City Attorney that explained the Michigan Medical Marihuana Act, proposed Medical Marihuana Home Occupation Ordinance and reasons to regulate medical marihuana as a home occupation. The Planning Commission discussed the information and heard comments from Mr. Chris Chiles, who attended the meeting. No other persons spoke during the meeting. After further discussion, the Commission voted

unanimously to set a public hearing for May 19, 2011 to formally consider the Medical Marihuana Home Occupation Ordinance.

The Commission again discussed the proposed medical marihuana home occupation ordinance during the May 5, 2011 meeting. In response to discussion during the April 21st meeting, a supplemental report dated April 29, 2011 was provided that further clarified the four primary topic areas: 1) home occupation permitting (and registration/licensing), 2) home occupation versus commercial use issue, 3) marihuana "dispensary" issue, and 4) home occupation distance provisions/requirements/definitions. Attached is a copy of this report.

IV. RECOMMENDATION

In accordance with the Planning Commission policy of accepting public comment at the initial meeting and concluding the discussion of the ordinance amendment at a subsequent meeting, it is recommended that public comment be received during the May 19, 2011 meeting and the public hearing for Ordinance Amendment No. 10-C be adjourned to the June 2, 2011 meeting.

Attachments: Proposed Medical Marihuana Home Occupation Ordinance
Primary Caregiver Distance Provisions Map
Department of Community Development report dated April 29, 2011

S:\2010-2011 Department Files\Board Files\PLANNING COMMISSION\PC Reports\Ordinance Amendments\Medical Marihuana (No. 10-C)\2011 05 13 Ordinance Amendment 10-C (Medical Marihuana) - preliminary reportvCTF.doc

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-129 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Section 42-129 of Chapter 42, Land Development Regulations, is hereby amended to add Section 42-129(C) as follows:

Section 42-129. Home occupations.

A. No change.
B. No change.

C. Medical Marihuana Home Occupation. A primary caregiver acting in compliance with the General Rules of the Michigan Department of Community Health ("General Rules"), the Michigan Medical Marihuana Act, P.A.2008, Initiated Law, MCL 333.26421, et. seq., (the "Act") and the requirements of this section, shall only be allowed as a home occupation. The conditions and requirements contained in Section 42-129(A) and (B) (Passive and Active Home Occupations) shall not be applicable to medical marihuana home occupations under this section and no permit under the Portage Zoning Code is required for a medical marihuana home occupation. The Act was passed by Michigan Voters through the initiative process. Both the summary of the Act appearing on the ballot and the Act as a whole reflect an intent to create a private and confidential patient/caregiver relationship to facilitate the lawful cultivation, distribution and use of marihuana strictly for medical purposes. The Act does not authorize the broad legalization of the cultivation, distribution or use of marihuana and a reading that permits such broad legalization is inconsistent with the fundamental intent of the Act read as a whole in context with generally applicable Michigan law. A primary caregiver may assist only a qualifying patient to whom he or she is connected through the Department of Community Health's ("Department") registration process for the medical use of marihuana. The following requirements for a primary caregiver as a home occupation shall apply:

1. A primary caregiver shall comply at all times and in all circumstances with the Act and the General Rules of the Department as they may be amended from time to time.

2. The home occupation shall only be conducted in a dwelling unit (as defined by the Zoning Code) where no more than one primary caregiver:

    a. Cultivates up to the maximum number of marihuana plants permitted by the Act (12 for each qualifying patient)

    b. Possesses up to the maximum amount of marihuana permitted by the Act (2.5 ounces for each qualifying patient), including any incidental amounts of seed, stalks and unusable roots; and

c. Assists no more than the maximum number of qualifying patients permitted by the Act (maximum of 5) who have been issued and possess a registry identification card and who are connected with the primary caregiver through the Department's registration process for the medical use of marihuana. Assistance to a qualifying patient by someone other than his or her designated primary caregiver is prohibited.

3. The following shall apply to a primary caregiver conducting a home occupation under this section:

a. To ensure community compliance with the federal "Drug Free School Zone" requirements, the home occupation shall not be located:

i. Within one thousand (1,000) feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, or a playground, or housing facility owned by a public housing authority; or

ii. Within one hundred (100) feet of a public or private youth center, public swimming pool, or video arcade facility.

b. Measurements for purposes of Section 3(a)(i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using a straight line without regard to intervening structures or objects. "Zoning lot" is defined by Article 42, Section 42-112, Definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in Section 3(a) above, as well as the protected areas, is available for review in the Department of Community Development at the Portage City Hall and on the City's website under the Department of Community Development.

c. The distance provisions of this subsection do not apply to a primary caregiver whose qualifying patient(s) (up to the maximum permitted under the Act) are permanent residents of the primary caregiver's household and whose residence is shared with the primary caregiver.

4. If the primary caregiver is not an owner of the premises, nothing contained in this section shall limit an owner of the premises from prohibiting the home occupation on the premises occupied by the primary caregiver nor limit an owner's right to pursue any private right of action allowed by law.

5. All medical marihuana plants shall be contained within the main residential structure in 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. The home occupation shall not be conducted in an attached or detached accessory building or structure.

6. The home occupation shall be conducted consistent with the Portage Code of Ordinances including but not limited to securing all building, electrical, plumbing and mechanical permits 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, compliance with Article 4, Chapter 24 Noise, Article 5, Chapter 24 Safety, Sanitation and Health as well as Article 14, Chapter 42 Housing/Property Maintenance Code.

7. 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 p.m. and 6 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.

8. Qualifying patients may visit the site for the purposes permitted under the Act only during the hours of 8:00 a.m. to 8:00 p.m. No more than 5 qualifying patients may visit the site at any one time.

9. Off street parking provided for the home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions, of the Portage Code of Ordinances, as amended. There shall be no other vehicular parking other than the off street parking facilities normally required for the residential use.

10. There shall be no sign of any nature identifying the home occupation and the use of window displays are not permitted.

11. Nothing in this section, 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 the Act and the General Rules and this section. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Code. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, 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.

12. Definitions. As used in this section:

a. MARIHUANA

This term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

b. PRIMARY CAREGIVER

A person who is at least 21 years old who has agreed to assist with a patient's medical use of marihuana, who has never been convicted of a felony involving illegal drugs and who has been issued and possesses a registry identification card.

c. QUALIFYING PATIENT

A person who has been diagnosed by a physician as having a debilitating medical condition.

d. REGISTRY IDENTIFICATION CARD

A document issued by the Department that identifies a person as a registered qualifying patient or a registered primary caregiver or a document or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana.

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

_____

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

_____

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to form
Date: _____

_____
City Attorney

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CITY OF PORTAGE
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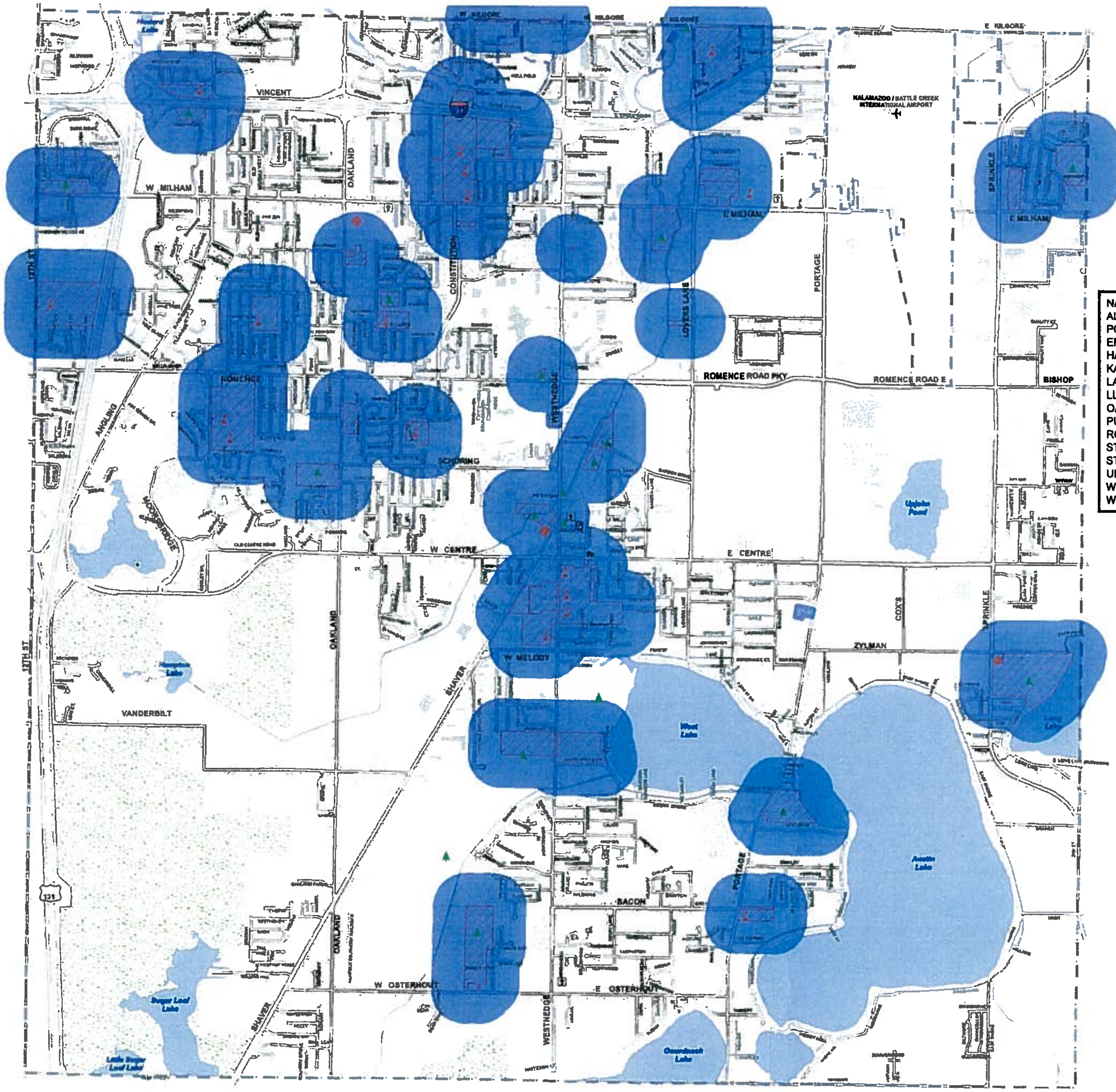
Proposed Medical Marihuana Primary Caregiver Distance Provisions



NAME	ADDRESS	TYPE	DISTANCE
ALL PORTAGE PUBLIC SCHOOLS		SCHOOL	1000
PORTAGE PARKS		PARK	1000
EMPIRE BEAUTY SCHOOL	609 CONSTITUTION	SCHOOL	1000
HACKETT CATHOLIC CENTRAL H.S.	1000 W KILGORE RD	SCHOOL	1000
KALAMAZOO ACADEMY, INC	4221 E MILHAM AV	SCHOOL	1000
LAZAR LAND	8302 PORTAGE RD	ARCADE	100
LLOY NORRIX H.S.	E KILGORE	SCHOOL	1000
OAKLAND ACADEMY	OAKLAND DR	SCHOOL	1000
PUTTERS FAMILY FUN CENTER	7206 S WESTNEDGE AV	ARCADE	100
ROSS MEDICAL	6235 S WESTNEDGE AV	SCHOOL	1000
ST MICHAEL LUTHERAN CHURCH SCHOOL	7211 OAKLAND DR	SCHOOL	1000
ST MONICA SCHOOL	530 W KILGORE RD	SCHOOL	1000
UNIVERSITY OF PHOENIX	950 TRADE CENTRE WA	HIGHER ED	1000
WOODSEDGE LEARNING CENTER (KRESA)	1501 E MILHAM AV	SCHOOL	1000
WRIGHT BEAUTY ACADEMY	6666 LOVERS LN	SCHOOL	1000

Excluded Areas for Primary Caregiver
Schools, Parks etc.
City Boundary
State Game Area

1 in = 0.59 miles

Date: 4/28/2011

CITY OF
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A Place for Opportunities to Grow

Department of Community Development

TO: Planning Commission **DATE:** April 29, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Preliminary Report: Proposed Medical Marihuana Home Occupation Ordinance

At the April 21, 2011 meeting, the proposed medical marihuana home occupation ordinance that was recommended by the City Administration committee (committee) and referred to the Planning Commission by City Council was discussed. The committee is comprised of Attorney Brown and Attorney Bear, Police Chief White, City Manager Evans and me. The committee members, each with areas of expertise – public safety, the legalities of ordinance language, public administration, community planning perspective, and so forth – have dedicated significant time over a number of months to carefully review the subject and a recommended approach for consideration. Copies of the City Council transmittals and the draft ordinance proposal were provided as information. The major provisions of the Michigan Medical Marihuana Act ("Act"), the proposed regulatory framework of the ordinance and the basis for the recommended ordinance were reviewed.

After presenting the City Council transmittals, proposed ordinance and related materials, staff and the planning commissioners discussed the information and heard comments from Mr. Chiles, who attended the meeting and voluntarily disclosed that he is a registered medical marihuana caregiver and patient. No other persons were present at the meeting.

Following is information in response to the discussion at the April 21st meeting that is intended to provide responses to commissioner inquiries and to provide further clarification of the proposal. Four topic areas have been identified based on the Commission discussion including home occupation permitting (and registration/licensing), the home occupation versus commercial use issue, the marihuana "dispensary" issue, and the home occupation distance provisions/requirements/definitions in the proposal.

1. Home Occupation Permitting (and registration/licensing)

The proposal presented to the Commission accommodates the statutory-allowed use of medicinal marihuana as a home occupation in a manner similar to the "passive" category of home occupation recently incorporated into the Zoning Code. No permit would be required, and from a legal perspective, a permit requirement may increase the risks that the confidentiality provisions in the Act may be violated. As discussed with the Commission at the April 21st meeting, the Act sets forth the intent that the relationship is a private/confidential one and the transfer of medical marihuana should be conducted within the strict limits of this relationship. The home occupation activity, as an accessory use to a residential use, is most appropriate to further this stated intention. Additionally, given the privacy and confidentiality provisions contained in the Act, the committee is of the opinion that requirements for a permit, registration, or licensing, are problematic. Storing and keeping caregiver and patient information could result in criminal and monetary sanctions upon release of confidential information: This burden and potential liability to the city is not acceptable. Further, to enforce the ordinance provisions should a complaint be received, it is recognized that research and review will be necessary. This review and research is required regardless of whether or not a permit, registration or licensing is required or granted. Recall that the Act grants immunity from arrest, prosecution and penalty to primary caregivers and qualifying patients who possess registry identification cards for the medical use of marihuana. Compliance with local ordinance provisions will still be necessary, however. Given the variety of issues that are involved, the required research and review is complex and is best conducted by the city police agency and city planning staff in conjunction with the Office of the City Attorney. As the commissioners may know, this joint effort to

administer and enforce the ordinance, should it be necessary, is acknowledged and also incorporated into Section 2-319 Penalty, of the moratorium ordinance adopted by Council.

As final comments on this topic area, the home occupation approach has been successfully used in other communities. The proposed ordinance is similar to the adopted City of Kalamazoo medical marihuana home occupation ordinance. As also discussed and as pertains to all other local ordinances, the responsibility to understand the provisions of the ordinance rests with the medical marihuana caregiver and patient. The proposed ordinance does not regulate the "use" of marihuana and, therefore, the use of marihuana by persons is subject to criminal prosecution if not in compliance with the Act. While the Act is silent as to the authority of municipalities, if no ordinance were adopted, the absence of regulation of the activities of a primary caregiver under the Act could result in undesirable conditions/community impacts associated with this Schedule 1 Controlled Substance, as further discussed below. Given the likelihood that definitive court decisions and/or action by the Michigan Legislature is potentially years away, adopting this ordinance is the preferred option. Also, should the courts and/or legislature further clarify the Act in the future, review of the local ordinance would be accomplished and appropriate changes considered and made as necessary.

2. Home Occupation Versus Commercial Use Issue

Consistent with the Act, the proposed ordinance would regulate the distribution of medical marihuana by a primary caregiver for up to five qualifying patients only. As mentioned, 61% of Portage voters approved this limited, legal use of marihuana by qualifying patients who have a debilitating medical condition. With the clear intent of the Act, which narrowly tailors protections to qualified persons for certain narrowly defined medicinal purposes, the proposed ordinance would not allow dispensaries, or other form of caregiver- or patient-to-patient transfer of marihuana. The Act requires the qualifying patients to be "connected" to a primary caregiver through a State registration process and allows the primary caregiver to have up to 2.5 ounces of marihuana, as well as 12 plants, for each qualifying patient. The Act also states that the primary caregiver can only receive "compensation for costs."

Importantly, the recommended home occupation approach allows the city to avoid issues associated with "business" activities and the "secondary" effects that are referenced in the Michigan Municipal League-commissioned White Paper. These "secondary" effects could be associated with, for example, the operation of a business-like "dispensary" or multiple "dispensaries" in various business zones potentially involving multiple caregivers/patients. It is the opinion of the committee that a regulation confining primary caregiver activities only to commercial, or other similar districts, with the restriction of five qualifying patients, would not be economically feasible. The development of dispensary "business" activities is problematic, and as again emphasized, is not consistent with the personal/confidential relationship that is intended and clearly conveyed by the Act.

3. Marihuana Dispensary Issue (and patient-to-patient transfers)

Although this topic area is also related to the topic addressed in #2, the Act lacks specific direction regarding the dispensation of medical marihuana. While some groups continue to argue that the Act permits the distribution of marihuana by a primary caregiver to more than five qualifying patients as well as patient-to-patient transfers, or as a "dispensary" activity, the committee is of the opinion that this is not permitted by the Act. There is an absence of specific provisions in the Act concerning "dispensaries." This fact can very well mean that it is more likely for Michigan Courts to find that "dispensaries" can be prohibited by local ordinance. As previously conveyed in the communication to City Council, the advantages to the proposed ordinance include the prohibition of commercial dispensaries and prevention of the potential for illicit drug activities and related "secondary" effects referenced above that have been reported by law enforcement officials in California. Similar issues have been the subject of concern in other Michigan municipalities because some groups have asserted that there are ambiguities about distribution in the Act. Nonetheless, per the proposed ordinance, "dispensaries" would not be permitted in Portage.

4. Home Occupation Distance Provisions/Requirements/Definitions

As discussed with the commissioners, the regulatory provisions in the proposed ordinance are self explanatory. Certain standards address several operational issues (activity must be in the main residential structure, lighting requirements, nuisance regulations and sign prohibitions). Location standards are proposed that establish minimum distances from schools, youth centers and other specified uses. As mentioned during the meeting, these provisions were continuing to be refined. Under the proposed ordinance, which would not require the primary caregiver to obtain a permit, or register, the ordinance requirements would be enforced should a complaint be received about the home occupation. As referenced above, the home occupation approach is preferred based on the language in the Act. Additionally, enforcement, when needed, will require joint action of the city police agency, city planning staff and the city attorney. In this coordinated effort, effective administration and assuring compliance with the ordinance requirements can be accomplished.

With regard to refinements in the proposed ordinance, the distance provisions have been further clarified. The distance provisions are best established using the federal Drug Free School Zone provisions. Attached is a copy of the modifications to Section 42-129 C. 3. Essentially, the distance provisions will apply to the specified protected uses/facilities. Removed from the proposed ordinance are adult regulated uses and pubic community centers (there are none of either in Portage). Also removed from the ordinance are day care facilities and other primary caregivers conducting a home occupation under this section (to be consistent with the intent of the Act establishing the private/confidential caregiver-patient relationship). Use of the federal Drug Free School Zone provisions serves to standardize this element and provide consistent guidance concerning the proposed ordinance. While using the federal Drug Free School Zone provisions is a conservative approach, it is used by other Michigan municipalities and is believed to be appropriate in this community. The refined distance provisions that involve a number of identified, protected uses/facilities can be viewed on the attached Distance Provisions Map, which shows the protected uses/facilities and the corresponding excluded areas.

Conclusion

As conveyed to the Commission, the proposed ordinance has been developed in consideration of how medical marihuana would be distributed, the language of the Act, other ordinances passed by other municipalities, the potential impact on the community and taking into account law enforcement issues. Banning the use of medical marihuana, as four Michigan communities have done, is clearly inconsistent with the Act and would invite unwarranted litigation. Also, it is not known when the appellate courts will decide the relevant legal issues and/or the legislature will "fix" the Act. However, it is prudent to move forward with the proposed home occupation approach, which is similar to ordinances that have been adopted in other Michigan communities. It is recognized that future revisions may be necessary as appellate court decisions or legislative actions occur.

As requested by the Commission, following is the link to the White Paper on the internet, which can be found at http://www.mama-online.org/sites/default/files/mimedicalmarijuanawhitepaper.pdf. Commissioners may view the information, print all or the relevant sections, or staff can provide a copy upon request.

Department of Community Development staff and the Office of the City Attorney will be present at the upcoming meeting to further discuss this issue with the commissioners in advance of the scheduled May 19th public hearing.

Attachments

7900 South Westnedge Avenue • Portage, Michigan 49002 • (269) 329-4477

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

TO: Planning Commission **DATE:** April 27, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Proposed Business Banner Ordinance

During the April 12, 2011 meeting, City Council referred the proposed business banner ordinance proposal to the Planning Commission for consideration and to initiate the Zoning Code amendment process. The ordinance language would amend the Sign Ordinance regulations and expand the ability of a business to use a banner by eliminating the regulation about the "name of the business," increasing the area for "copy" to 50% of the banner, and by adding the language in all of the business zones (B-1, B-2, B-3, CPD and PD districts). Attached is the March 30, 2011 communication from the City Manager to the City Council that includes additional background information, copy of the proposed zoning ordinance and a copy of the April 12, 2011 City Council meeting minutes.

The Planning Commission is advised to review the proposed amendment to the Sign Ordinance and set a public hearing. Department Staff and the City Attorney will be present to assist with the preliminary review and discussion on May 1st.

Attachments: March 30, 2011 communication from the City Manager to the City Council and related material
Proposed Business Banner Ordinance
April 12, 2011 City Council meeting minutes

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CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** March 30, 2011

FROM: Maurice S. Evans, City Manager

SUBJECT: City Council Ad Hoc Sign Committee Business Sign Information

ACTION RECOMMENDED: That City Council receive the information from the Ad Hoc Sign Committee and refer the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process.

Information about the work of the Ad Hoc Sign Committee was presented to the City Council at the March 22, 2011 meeting. The following is provided to convey the recommendations made by the Committee for further action by the City Council.

On January 18, 2011, the City Council Ad Hoc Sign Committee met to discuss business signage and the Zoning Code regulations pertaining to signs. The City Administration provided a historical overview of sign issues and regulations within the City of Portage. Business signs permitted by the Zoning Code that provide opportunities for advertising include freestanding signs, wall signs, various temporary signs, the use of banners and changeable copy boards, and electronic message displays. Issues discussed by the Ad Hoc Sign Committee included the history of the sign regulations, current sign provisions in the Zoning Code, the increased potential for "banner signs" to be used by businesses, permit requirements for changes to "business tenant panels" in existing freestanding signs, window displays, and the advantages to educational materials that could be provided to the business community about the current sign regulations.

The City Administration prepared a "Summary Guide To Business Signs," which incorporated Frequently Asked Questions (FAQs), background information on regulatory issues concerning allowing changes to "business tenant panels" in existing freestanding signs and proposed Zoning Code language that included provisions to expand the use and increase the flexibility for businesses to use "banner signs." After additional review by the Ad Hoc Sign Committee at a March 21, 2011 meeting, the Committee concurred that the "Summary Guide To Business Signs" be utilized as an educational/informational brochure and recommended that City Council refer the proposed "banner sign" language to the Planning Commission to consider as a modification to the Zoning Code. Attached are communications from the Community Development Director that were considered by the Ad Hoc Sign Committee with the final version of the "Summary Guide To Business Signs" brochure and the draft language concerning "banner signs."

It is recommended that City Council receive the information from the Ad Hoc Sign Committee and refer the "banner sign" language to the Planning Commission for consideration and to initiate the Zoning Code amendment process as recommended by the Committee.

Attachments: November 3, 2010 communication from the Community Development Director
March 4, 2011 communication from the Community Development Director (with updated attachments)

CITY OF PORTAGE **COMMUNICATION**

TO: Maurice S. Evans, City Manager **DATE:** November 3, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Zoning Code Signage Issues – City Council Retreat Information

Per prior discussions, previous written communications provided on the subject of sign requirements specified in the Zoning Code and the brief City Council discussion at the October 5, 2010 meeting, following is information for your review. The following information is organized to assist the City Council and City Administration as this subject is discussed:

- A brief historical overview/background on sign regulations in the community
- Summary of the Zoning Code sign regulations applicable to businesses
- Review of 2005 – 2010 period and business sign permits
- Overview of 2005 – 2010 Zoning Board of Appeals variance applications

A conclusion/summary is at the end of this communication.

Historical Overview/Background

From time-to-time, signage issues seem to come to the forefront. There are various factors that may generate this discussion that could include the declining economic situation/business environment, efforts by businesses to advertise, attract consumers and differentiate themselves, attempts to adapt new technology/techniques, among others. Notwithstanding these factors, regulations to address the use of advertising signs are common by municipalities across the country. In Michigan, sign regulations were the subject of Michigan Supreme Court decision as early as 1937 (Michigan Zoning and Planning, 3rd Edition, Clan Crawford, Jr., page 328). The intent of sign regulations is straightforward and the Portage Zoning Code intent and purpose section presents the overall objective of community sign regulations:

> "...regulate the use, construction, reconstruction, placement and design of signs in order to protect the public health, safety, peace and general welfare. The regulations involve a recognition that the individual user's right to convey a message must be balanced against the public's right to be free of signs which unreasonably compete, distract drivers and pedestrians, and produce confusion." (Section 42-540 A. and B.)

The Zoning Code identifies several reasons that sign regulations are desirable, which include in summary:

> "...prevent traffic injuries and property damage...minimize risk of damage from signs that are dilapidated, wind blown, electric shock hazards...achieve uniformity...enhance aesthetics of the community...prevent blight...encourage equality among business and property...(and)...protect the public health, safety, peace and general welfare." (Section 42-540 D.)

There is some history to sign regulations in the City of Portage. In the late 1970s, there was considerable concern about signage in the community and the City of Portage Environmental Board was instrumental in the development of the first, comprehensive sign regulations that were incorporated into the Zoning Code. As reflected in the March 17, 1976 Environmental Board meeting minutes, the board members were particularly concerned about the *"...design, size and position of signs as well as with blinking and portable signs which can distract one while driving."* The Board also discussed the existing regulations and expressed concern that the 1976 sign code and zoning ordinance were *"incomprehensible"* (September 16, 1976 meeting minutes). The Planning Commission assisted the Environmental Board over the course of several years, and culminating on August 14, 1979, City Council approved a comprehensive amendment to

the Zoning Code establishing sign regulations with an effective date of September 7, 1979. Attached are several photos of business signage that were taken in the late 1970s within Portage business areas that help illustrate the concerns expressed by the Environmental Board and other community members.

The community discussion about the sign regulations continued for a number of years. Amendments to the sign regulations occurred during this period. In the effort to reach agreeable regulatory compromise, City Council formed ad hoc committees on several occasions in the early to mid 1980s to suggest amendments to the sign regulations. Of note, on December 20, 1983, City Council convened a work session on sign regulations and at the following regular meeting established a seven member Ad Hoc Sign Committee with business, citizen at-large, sign industry, City Administration and Environmental Board participants. The charge to the committee was to report back in February 1984 and: *"...to see what areas they can still improve the overall appearance of our city but still modify the present ordinance to be easier for the businesses to comply."* (December 20, 1983 Council meeting minutes, page 469). The results of this effort are summarized in January 31, 1984 correspondence from the committee chairperson that recommended changes to allow temporary signs (40 square foot sign, increased use/display days and for non-commercial public service events), changes to nonconforming signs (five-year non-conforming sign agreement), and changes to existing freestanding signs (allow changeable copy signage to be permanently attached to a sign).

In 1986, with continuing discussion of signage, a formal survey of residents and businesses was authorized by City Council that involved mailing of 2,142 surveys. All businesses in Portage received a survey and every 12th resident in the Property Tax Master File also received a survey. A very good response rate of 28% (605 returned surveys) resulted. While there were differences between the responses from businesses and the responses from residents about signage, the report to City Council indicated that, in general, respondents believed that the sign regulations in the Zoning Code were reasonable and appropriate. The report concluded that no modifications were recommended. The conclusion was also based, in part, on the concern that too-frequent code changes and modifications would create confusion, inequities and inconsistencies in administration with additional negative impacts on the community.

In December 2001, the Zoning Code was the subject of a comprehensive update that concluded with approval by City Council of the ordinance update on February 18, 2003. In this amendment, 29 substantive changes were recommended, which included sign regulation changes. Additional sign flexibility was incorporated for business wall signage, for example, as were changes to definitions, sign measurements, among others. A copy of the changes to the sign regulations that was summarized and provided to the City Council in January 2003 is attached.

In addition, the sign regulations in the Zoning Code have been the subject of regular review and, where appropriate, amended. The purposes for this review include incorporating emerging sign technology and techniques, clarification and correction of sign provisions and improved/uniform administration. Following is a summary of sign regulation changes since 2003:

<u>2006</u>:
Section 42-552(E), Signs in the B-2/B-3 Zoning Districts -- Distance between two freestanding signs. Before the amendment, this section referred to "a developed B-2 parcel." Consistent with other sections of the Zoning Code, this section was amended to refer to zoning lot since there may be more than one parcel of land. This section also uniformly applies to signs in the B-3 district.

Section 42-553(C)(2), Billboard Sign Area -- When the Zoning Code was updated in 2003, the consultant inadvertently changed the maximum sign area: The maximum area was corrected and is 300 square feet as previously established.

<u>2007</u>:
Section 42-542(I), Electronic or Mechanical Sign Elements -- Electronic message display (EMD) signs added.

2009:
Section 42-545(C), Single-family Residential Subdivision Signs – Construction of a sign to identify a single-family residential subdivision in R-1A, R-1B R-1C R-1D, R-1E and R-1T residential districts has been permitted and now pertains to the PD, planned development district.

2010:
Section 42-545(B)(C), Signs Permitted in the Single-family and Attached Districts -- Increased the size of wall and freestanding signs for non-residential uses permitted in the R-1A through R-1T districts.

Section 42-546(D), Signs Permitted in the RM-1 and RM-2 Districts -- Increased the size of wall and freestanding signs for non-residential uses permitted in the RM-1 and RM-2 districts.

Section 42-550(A), Signs Permitted in the OS-1 and OTR districts; and Section 42-551(A), Signs Permitted in the B-1, local business District. Modifications to these two sections involved clarification of the statement "...with a minimum sign size of 32 square feet..." The changes to Sections 42-550(A) and 42-551(A) clarified that 1) a variance from the ZBA is not required if a smaller sign size is desired by a business owner and 2) the maximum sign size for a lot less than 80 feet in width is 32 square feet.

2010 Zoning Code Sign Regulations Applicable to Businesses

A two-page summary table of the existing sign regulations applicable to the business community is attached. As apparent, freestanding, wall and other types of signage are permitted for all businesses. Signage is regulated by zoning lot and by business use to ensure fairness, consistency and uniformity with applicable law and judicial decisions. A variety of signage is permitted with significant flexibility to assist retail, office, service, specialty business uses that operate in differing situations (i.e., in individual buildings, in multi-use business centers, on small and large parcels, in ownership/lease tenancies, in new business development projects, redevelopment projects, and so forth). Additionally, "temporary" signage is specifically permitted for business purposes and can be standard signs, strings of flags, streamers, balloons, etc., electronic message signs, or other types. These various types of signs are allowed within the context of the applicable sign regulations and in: "... the recognition that the individual user's right to convey a message must be balanced against the public's right to be free of signs which unreasonably compete, distract drivers and pedestrians and produce confusion."

With specific regard to stationary/mobile electronic message signs for business use, these signs are permitted and can be permanent or temporary signs. Stationary/permanent electronic message display (EMD) sign examples include among others the new Sonic Restaurant sign, the Mulligan's Restaurant sign, the electronic elements on the Walgreens signs and, also, the Shoppes at Romence Village sign. For mobile/temporary sign examples, EMD signs can be/have been used as a 40 square foot grand opening, change/going out of business sign and, also, as a 64 square foot public noncommercial service event sign.

Finally, the sign regulations include other elements that provide "flexibility" in the interests of assisting businesses. First, legal, nonconforming signs are allowed to continue to exist and be used. It is intended that these signs conform to the regulations over time. Provisions that allow re-use and encourage eventual conformity have been incorporated into the regulations including allowing unlimited sign changes for a five year period after which the legal nonconforming sign must conform and the attachment of changeable copy signage to any sign to assist businesses with temporary sales, special event activities, and so forth. Also, the standards for variances involving re-use of legal nonconforming signs (i.e., reduction in the degree of nonconformity and replacement signs that are more in conformance with the code) assist the business community. Further, there are unregulated sign/messaging options available to businesses. These options include, among others, advertising on licensed motor vehicles, costumed/mascot advertising in the parking area or along a public street and interior window displays, which are commonly employed by businesses. Finally, the Zoning Code provides the Zoning Board of Appeals with the responsibility to hear appeals and to consider interpretations of code provisions, which can be helpful to businesses seeking clarification or the ability to use certain sign/messaging technologies/techniques.

FY2005 – 2010 Sign Permit and Zoning Board of Appeals Information

A brief analysis of sign permits that were issued and Zoning Board of Appeals (ZBA) sign variance/appeal applications that were acted on during the FY2005/06 to FY2009/10 period was accomplished. With regard to the issuance of permits, 797 sign permits were issued during this five-year period. These permits were for the following sign types:

Permit Type	Number of Permits
Freestanding sign	333
Wall Sign	348
Temporary Sign	116

On an annual basis, 159 sign permits were issued during this period. As for fees, a sign permit cost is as follows – Permanent freestanding or wall sign is $110.00; Temporary sign is $55.00. (The fees associated with sign permits have not been increased since January 2006.) For convenience, sign permits may be submitted by mail, or electronically, for review and approval.

The ZBA applications involving signage that were acted on during this five-year period were also reviewed. A total of 37 signage applications were considered (involving 28 properties), or an average of seven applications annually. Twenty-nine (29) applications were approved by the ZBA (78%), while eight were not approved (22%). Specifically regarding signs for businesses that were considered by the ZBA over the five-year period, 22 applications were considered, with 16 applications (73%) approved. Seven applications involved freestanding signs and required sign area, setback or separation distance. Also, six applications involved changes to nonconforming signs. The next category of business sign application considered by the ZBA was wall sign area (four applications), where a larger wall sign(s) was requested. The remaining five applications involving businesses considered by the ZBA involved one appeal of a denied permit, one roof sign variance and three non-accessory (billboard) requests. In summary, during the past five years, an average of 159 sign permits have been annually issued. During this same period, an average of only seven ZBA sign applications was annually received.

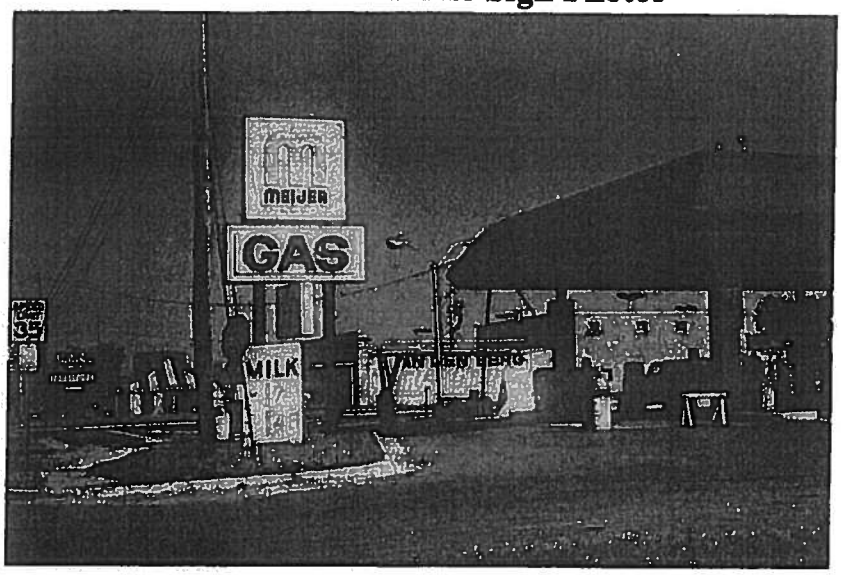
Conclusion

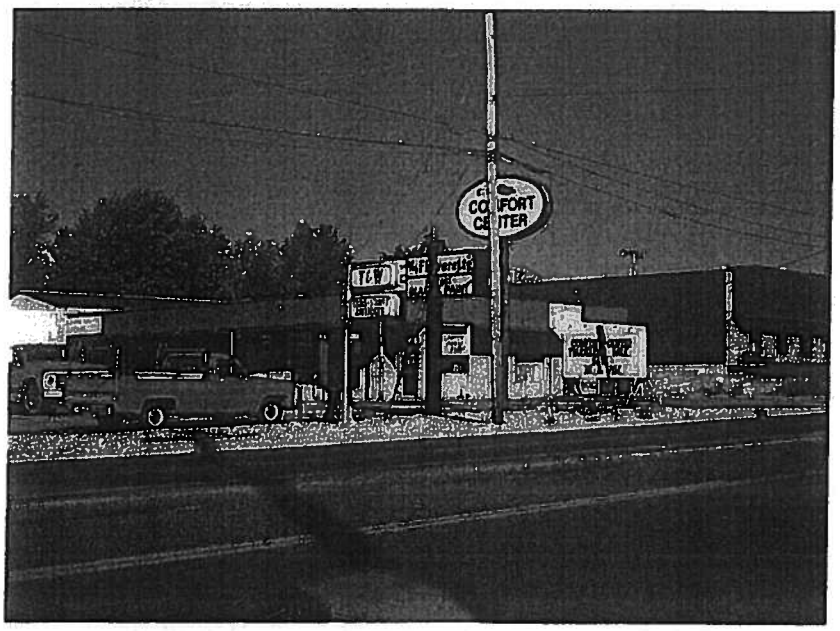
There exists considerable history regarding the subject of sign regulations in the community. A comprehensive sign ordinance amendment occurred in 1979 that more effectively regulated signs that could be erected in the city. Regular efforts have been made to ensure reasonable sign options for businesses by various advisory board, ad hoc committee and professional staff, with the most recent comprehensive amendment approved in 2003. Ongoing review of signage including provisions that provide flexibility for business adverting purposes and to incorporate new technology and techniques is also evident. A significant number of sign permits, including business sign permits, have been issued on an annual basis over the past five fiscal years. Also, comparatively few applications for sign variances submitted by businesses have been considered by the ZBA over this same five-year period. Where the ZBA has considered sign variance applications, a majority of applications by businesses have been approved. The sign regulations appear to have achieved an effective balance between the need for business advertising while reducing clutter and motorist distractions to enhance community quality and traffic safety.

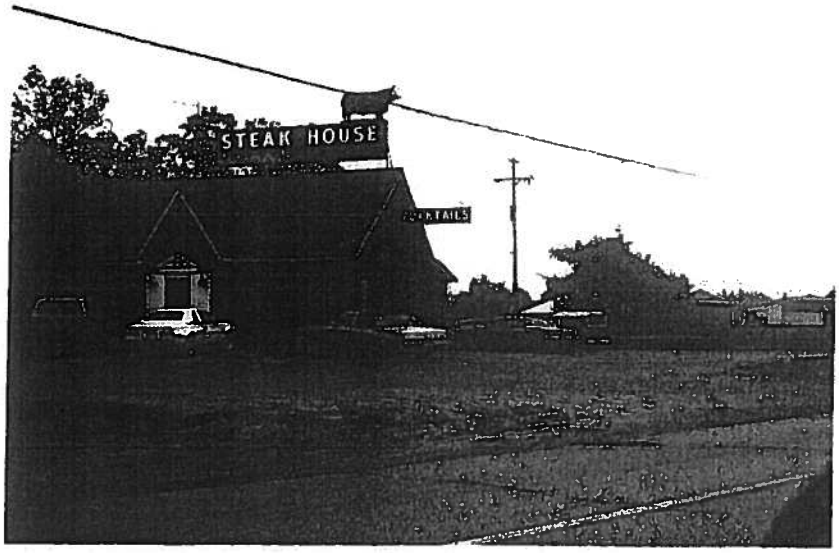
Attachments: Sign Photos from 1979-era City of Portage
2003 Zoning Code Update: Sign changes (#25 Signs)
2010 Zoning Code Sign Regulations Applicable to Businesses Table

c: Brian J. Bowling, Deputy City Manager

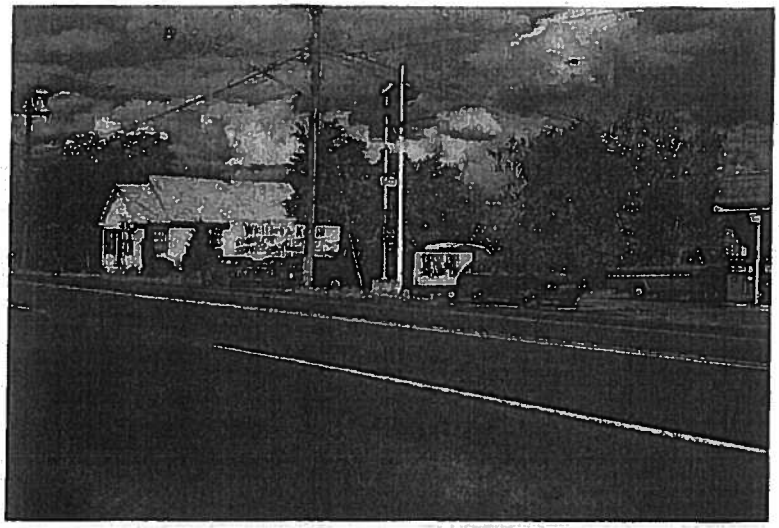
Historical Business Sign Photos

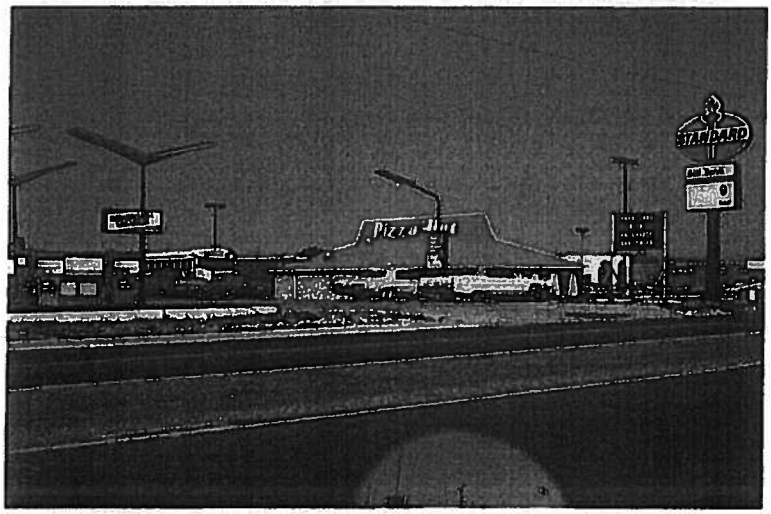


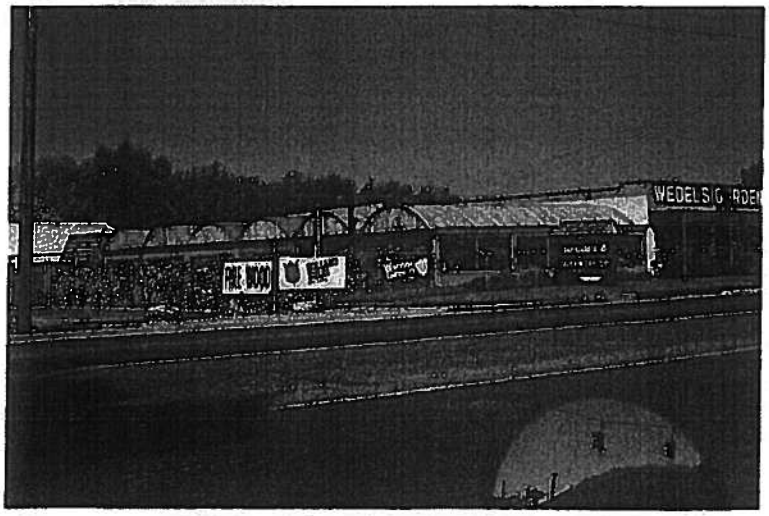




Historical Business Sign Photos







2003 Zoning Code Update – Sign Changes

25. Signs (Division 6, Subdivision 2)

    a. The Intent and Purpose section has been added.
    b. Several definitions were added including sign face, awning/canopy sign, construction sign and identification sign.
    c. A section related to sign measurements has been added to eliminate confusion on how to calculate and locate signage.
    d. The erection of a one-family residential construction sign identifying the builder, contractor or subcontractor is now permitted. No permit is required.
    e. A 64 square foot maximum has been established for public event signs. The current code section did not specify a maximum square footage.
    f. A section has been added which requires removal of a nonconforming sign if a substantial improvement is made to the site or building that equals or exceeds 25% of the market value of the structure or site improvement.
    g. The R-1E, OTR and CPD zoning districts have been added.
    h. In response to court decisions and Zoning Board of Appeals (ZBA) decisions involving the size of wall signs, a section has been added that allows an increase in the size of wall signs based on the size of the wall and the setback distance from a public or private street. The proposed increases are consistent with recent ZBA variances granted to several retail establishments.
    i. The current sign regulations permit one additional freestanding sign if the property is within 200 feet of any US-131 or I-94 interchange. This section has been eliminated. Uses intended to attract the interest of freeway motorists are encouraged to use the Michigan Logo Signing Program. This program allows eligible businesses to display their business logos to motorists at interchanges along freeways. Elimination of this section will create several nonconforming signs at the South Westnedge and Portage Road interchange areas. An inventory of these signs has been completed.

CITY OF PORTAGE **COMMUNICATION**

TO: Maurice S. Evans, City Manager **DATE:** March 4, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Business Sign Issues – City Council Sign Committee

The City Council Sign Committee met during the morning of January 18, 2011 to discuss the above issue. As you know, the Committee was provided with a copy of the November 3, 2010 communication on sign issues as background information. There was a further discussion of several sign issues and Zoning Code regulations including temporary signs, changes in "business tenant panels" in existing freestanding signs and permit requirements, banner signs, window displays, a method to convey sign regulatory information to the business community such as in frequently asked question (FAQ) format that included "visuals" for general use and posting on the city website.

The City Administration indicated to the Committee that an ordinance proposal would be prepared that addressed the "business tenant panels" and permit matter, and the suggested more popular use of "banners" by businesses. An FAQ format with some "visuals" would also be prepared for discussion purposes. A subsequent Committee meeting would be scheduled at which further discussion of the business sign issues would occur.

Attached please find two items that can be considered by the City Administration and with your approval, forwarded to the Committee for discussion purposes:

1. A draft of a proposed Summary Guide to Business Signs with FAQs that incorporates photographs of signs from award entries to an annual sign competition by the International Sign Association based in Alexandria, VA. The guide is four pages and is intended to cover the basics regarding Zoning Code requirements for business signs. The guide incorporates the intent and purpose of the sign regulations, a summary table of business signs and temporary and other signs that are permitted in the Portage Zoning Code.
2. A draft of proposed regulations that would allow accomplish two things:
    a. The changes to Section 42-542 would allow changes to business tenant panels in existing, freestanding signs where changes are permitted with no review or sign permit.
    b. The changes to Section 42-548, 42-551 and 42-552 would allow a banner sign and expands the ability of a business to use a banner by eliminating the regulation about the "name of the business," increasing the area for "copy" to 50% of the banner, and by adding the language in all of the business zones (B-1, B-2, B-3, CPD and PD districts).
    (This draft is shown in ordinance format, but has not been reviewed by the City Attorney and is a preliminary proposal for further discussion.)

With regard to 2.a., while this approach may be considered to be more business friendly, it is noted that challenges with the proper administration of the sign regulations may arise as a result of allowing permanent or temporary business sign changes in some, or only limited, situations with no permit. First, basic administration and enforcement involves uniform and consistent application of the applicable code requirements. Essentially, for businesses, freestanding signs

are based on property frontage and wall signs are based on building wall area. There are many situations where a formal review of an existing sign – freestanding, wall, other – is necessary and appropriate. These situations occur because businesses (tenants) open and close, property is bought and sold, or divided and combined, buildings are altered or enlarged including business tenant suites, public infrastructure is constructed/reconstructed/streets widened, and Zoning Code sign regulations are modified to achieve community objectives. Review of applications to change business signage together with permit approval and issuance, then, will allow proper and effective administration and enforcement and avoid confusion within the business community and the assertion of unfairness, or other charge. Second, some freestanding and wall signs may be legal, nonconforming signs, but not known by the business tenant, owner, or sign company. This fact would place the city and the tenant/owner/sign company in the unenviable position of needing a variance after the change has occurred, and which may not be granted. Third, a limited number of businesses, certainly a minority number, do not apply for, or obtain, required sign permits. With primary reliance on a complaint basis for administration and enforcement, issues of fairness and consistency now occur and could increase. From experience, there is no positive outcome in these "catch me if you can" situations, which will potentially increase with allowing business sign changes in some "no permit" situations. Finally, these above-noted problems have surfaced in the City of Wyoming, where staff has indicated that administration and enforcement where the ordinance has been changed to allow some changes with "no permit" has caused added problems and concern expressed by some of the business community.

To address the above-noted problems and issues, an alternative approach could be considered where a "reduced fee" permit could be established. As an example, if a permit is needed to change a freestanding sign and it is determined to be in conformance with the Zoning Code, a fee equal to one-half of the normal fee could be charged. While there will be review and research required by the City Administration to ensure fair and consistent application of the ordinance, it is believed that a minor change to an existing, freestanding sign, such as only a replacement business tenant, for example, should necessitate less time to review and be more easily finalized for permit issuance purposes.

The Department understands the importance of balancing the goal to be "business friendly" regarding the conduct and cost of business, the identification of businesses and consumer information, while at the same time ensuring that community objectives are also met in terms of appearance of business properties along commercial corridors, pedestrian and motorist safety and so forth.

I am available to meet with you to further discuss this matter at your convenience.

Attachments: draft Sign Guide and FAQs
draft ordinance-format language

c: Brian J. Bowling, Deputy City Manager

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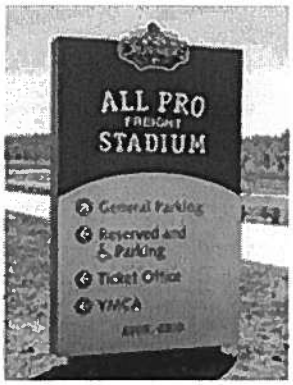
Summary Guide To Business Signs

The City of Portage recognizes the importance of signs to local businesses and the economy. Standards have been adopted by Portage that promote the effective use of signs as a directional and communication tool, while protecting public safety and property values, and promoting community character. The intent and purpose of Portage sign regulations[1] is to:

- Balance the right to identify a business location and attract customers with the public right to be free of signs that unreasonably compete, distract drivers and pedestrians, and produce confusion.
- Provide businesses with equal opportunity to attract customers by achieving uniformity in the size, number and placement of signs.
- Protect public health and safety by regulating the construction of signs.
- Enhance the aesthetics of the community.

In addition to the specifications included in city sign regulations, businesses are encouraged to carefully consider the following design elements regarding signs[2]:

- Signs should use creative and dynamic design, yet be compatible with the surroundings.
- Signs should be designed and located in a manner that enhances sign legibility.
- Signs should be constructed and designed to avoid hazards and distractions.
- Signs should be located so they do not block pedestrian or motorist vision or line of sight.
- Signs should be constructed of durable, quality material, and should be kept in good repair.



[1] The Code of Ordinances is available on the city web site at: www.portagemi.gov. (See the Code of Ordinances, Land Development Regulations, Chapter 42 of the Code of Ordinances, Article 4, Zoning, and Article 11, Signs.)

[2] Photos of select award entries in the 2010 Sign Competition by the International Sign Association (Alexandria, VA)

If you have additional questions about business signs, please contact the Department of Community Development at 269-329-4477

Frequently Asked Questions Regarding Signs

1. *What type of sign requires a sign permit?*
   Sign permits are required to ensure that signs situated on business-zoned property meet applicable city codes. This ensures fairness and consistency for all businesses. A sign is defined in the Zoning Code, as are the rules for various freestanding signs and wall signs that are permitted. A permit is required for new signs and alterations or changes to existing signs on business-zoned property and for some temporary signs.

2. *Are there business signs that do not require a sign permit?*
   - Signs that do not require a sign permit (and must meet location, size and duration of display requirements) include: real estate signs, election campaign signs, construction signs, holiday decorations, and household goods signs (e.g., garage/yard sale). Signs inside a building do not require a sign permit.
   - Interior window displays and advertising on the inside of a building window glass are not regulated by the Zoning Code, and provide added business advertising options.

3. *How much does a sign permit cost?*
   Fees are annually established by City Council. The current fee for a sign permit is: $110 for a wall sign permit application; $110 for a freestanding sign permit application; and $55 for a temporary sign or a directional sign permit application.

4. *What kinds of temporary signs are permitted to promote my business?*
   Businesses can promote special events and sales by using an electronic message display (EMD) or changeable copy sign display. These types of signs can be incorporated into or added to a freestanding sign, for example. In addition, a temporary wall sign or a freestanding sign is permitted for business grand openings, change of business or going out of business events and must meet location, size and duration of display requirements.

5. *How many freestanding signs and wall signs can a business use?*
   - For *freestanding signs* on the property, the number and size permitted is dependent on the business zone where the property is located, the amount of frontage on the street and the number of business uses or tenants on the property.
   - For *wall signs* on the building, the number and size permitted is dependent on the business zone where the property is located, and the wall area of the building where the business is located (*building width x building height*).
   - Also, additional freestanding signs and wall signs are permitted for a business-zoned property that has frontage on more than one street, such as a corner property.

6. *What is a "legal nonconforming sign" and can changes be made to the sign?*
   A sign is a "legal nonconforming sign" if it does not fulfill the sign requirements in the Zoning Code, but did comply with the sign requirements when it was placed on the business-zoned property. Changes are allowed in the following instances:
   - The sign face may be changed after an "Agreement to Remove Nonconforming Sign" is completed by the sign owner, property owner and the City of Portage.
   - The sign may be changed after an application for a variance is requested and approved by the City of Portage Zoning Board of Appeals. A variance may be authorized if the Zoning Code provisions for a variance are met.

If you have additional questions about business signs, please contact the Department of Community Development at 269-329-4477

SUMMARY OF SIGN REGULATIONS APPLICABLE TO BUSINESSES

ZONING DISTRICT	FREESTANDING SIGNS[1]	WALL SIGNS[1]
OS-1, Office Service and **OTR, Office, Technology Research** and **B-1, Local Business**	Sign(s) per business-zoned property (zoning lot): ▪ One (with additional sign for a zoning lot with more than 300 ft. of street frontage) ▪ In an OTR district, 1 additional sign is permitted for each vehicular entrance Sign Area: ▪ 32 sq. ft. minimum to 50 sq. ft. maximum, with area based on street frontage ▪ May be increased up to 50% for multiple use zoning lots, or from 48 sq. ft. to 75 sq. ft. Sign Setback / Height: 10 ft. from all property lines, 15 ft. next to one-family residential / 15 ft. high	Sign(s) per business-zoned property (zoning lot): One or more wall signs permitted per business use Sign Area: ▪ 15% of the wall area per street frontage, up to 100 sq. ft. ▪ If no freestanding sign, wall sign area may be increased by 33% per street frontage Sign Setback / Height: NA
B-2, Community Business and **B-3, General Business** and **CPD, Commercial Planned Development**	Sign(s) per business-zoned property (zoning lot): ▪ One, with an additional sign for a: - zoning lot with more than 320 ft. of street frontage - zoning lot that is on a street corner, or - zoning lot with frontage on more than one street Sign Area: ▪ 50 sq. ft. minimum to 120 sq. ft. maximum, with area based on street frontage ▪ May be increased up to 50% for multiple use zoning lots, or from 75 sq. ft. to 180 sq. ft. ▪ For corner lot, if only one sign, area may be increased 100% up to a maximum of 120 sq. ft. Sign Setback / Height: 10 ft. from all property lines / 25 ft. high	Sign(s) per business-zoned property (zoning lot): One or more wall signs permitted per business use Sign Area: ▪ 15% of the wall area per street frontage, up to 100 sq. ft. ▪ May be increased, up to an additional 125 sq. ft. for buildings with at least 200 ft. of lineal wall frontage. ▪ Area may be further increased, up to an additional 125 sq. ft. for buildings with 200 ft. of lineal wall frontage and a building setback of 300 ft. or greater ▪ If no freestanding sign, wall sign area may be increased by 33% per street frontage Sign Setback / Height: NA
PD, Planned Development	Sign(s) per business-zone property (zoning lot): One (with additional sign for a zoning lot with more than 300 ft. of street frontage) Sign Area: ▪ Up to 50 sq. ft. ▪ May be increased up to 50% for multiple use zoning lots, or up to 75 sq. ft. Sign Setback / Height: 10 ft. from all property lines, which increases based on sign area, when abutting one-family zones / 15 ft. high	Sign(s) per business-zoned property (zoning lot): One or more wall signs permitted per business use Sign Area: ▪ 15% of the wall area per street frontage, up to 100 sq. ft. ▪ If no freestanding sign, wall sign area may be increased by 33% per street frontage Sign Setback / Height: NA

[1] Electronic Message Displays (EMD): These signs may be stationary/permanent freestanding signs or wall signs, (and electronically or mechanically changed) and are permitted in zoning districts per the provisions in the Zoning Code. For example, EMD sign messages must be static (limited motion/movement) and may change not more than once per four seconds. To protect neighborhoods, the EMD message may not change between 10 p.m. and 7 a.m., when the EMD sign is located 200 feet from a residential zoning district and use.

If you have additional questions about business signs, please contact the Department of Community Development at 269-329-4477

TEMPORARY AND OTHER SIGNS ALLOWED IN BUSINESS ZONING DISTRICTS

- Copy Board Sign: An additional 15 square foot changeable letter/panel sign may be added to any freestanding sign including a legal, nonconforming sign in any zoning district (except on new EMD signs erected since October 2007)

- Banner Sign: One 20 square foot banner sign per business-zoned property to identify business with additional banner permitted for each 2 acres of zoning lot subject to location requirements (B-2, B-3, CPD zoning districts only)

- Directional Sign: Up to 4 square feet in area (no limit on the number of directional signs)

- Grand Opening, Change of Business, or Going out of Business Sign:
  - One 40 square foot sign per business use on a business-zoned property for 14 days (with an additional 30-days if permanent sign not available, or other important reason)
  - Flags, banners, balloons, etc. may be used in lieu of, or in combination, up to the maximum 40 square foot sign area

- Development Sign: One, 64 square foot sign per development on the property may be displayed during active development for a period of up to 2 years

- Real estate Sign: One, 64 square foot sign per building or property, while the building or property is on the market for sale/rent/lease and 30 days thereafter (No permit required)

- Holiday Decorations: Decorations associated with a national, state, local or religious holidays may be displayed for not more than 10 days [except decorations may be displayed from the day after Thanksgiving to January 2nd] (No permit required)

- Public (noncommercial service) Event Sign:
  - One, 64 square foot sign for a property and for each street where the property has frontage on the street with an additional 64 square foot sign for each 2 acres of property (zoning lot)
  - The public event sign may be displayed 7 days before and 2 days after event

- 20 square foot Public Event Banner Sign: A banner may be mounted on a municipal pole on public property/right-of-way for up to 60 days per calendar year with the approval of a permit from the City of Portage to use the municipal pole

The Department of Community Development is available and happy to assist businesses, property owners, and sign companies with verifying the number, size and location of permitted signs.

Thank you and please call on us for assistance!

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If you have additional questions about business signs, please contact the Department of Community Development at 269-329-4477

DRAFT

**ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTION 42-542 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Sections 42-548, 42-551, and 42-552 of Chapter 42, Land Development Regulations, are hereby amended as follows:

Section 42-548. PD, planned development district.

F. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:

1. The banner shall be setback ten feet from any property line.
2. The banner shall not exceed 25 feet in height.
3. The banner shall be not less than six feet from the surface of the ground.
4. The banner shall not exceed 20 square feet in area per side.
5. The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.
6. The banner shall not devote more than a total of 10 square feet to sign copy.
7. The owner of the zoning lot or banner shall keep the banner in reasonable repair.

G. (former F.)
H. (former G.)

42-551. B-1, local business district.

C. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:

1. The banner shall be setback ten feet from any property line.
2. The banner shall not exceed 25 feet in height.
3. The banner shall be not less than six feet from the surface of the ground.
4. The banner shall not exceed 20 square feet in area per side.
5. The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.
6. The banner shall not devote more than a total of 10 square feet to sign copy.
7. The owner of the zoning lot or banner shall keep the banner in reasonable repair.

Section 42-552. B-2, community business; B-3, general business; and CPD, commercial planned development districts.

J. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:

1. The banner shall be setback ten feet from any property line.
2. (no change)
3. (no change)
4. (no change)
5. (no change)
6. The banner shall not devote more than a total of 10 square feet to sign copy.
7. (no change)

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Mayor Pro Tem Sackley cited other facilities in the community that could be used for meetings and indicated that City Hall should not be in competition with them. He said that the use of the facility by any elected official outside working hours, where there is additional cost, the elected official should be advised that there is a cost. He said that if the elected official has an office in the community, he or she should use his or her own facility, but under no circumstances should the official be charged as it is inappropriate. Discussion followed.

Motion by Randall to have the Customer Service Committee look into creating an Administrative Order that would open up the use of City Hall by elected officials (with day time being exempt) and to possibly look into reimbursement for weekends and after hours for cost incurred. Mayor Strazdas asked City Attorney Brown whether the motion was construed narrowly enough and Mr. Brown answered in the affirmative, but the Committee would be creating a "Council Policy" or directing the Administration to devise an "Administrative Order," and Councilmember Randall indicated her preference for a Council Policy. The motion was then seconded by Councilmember Reid.

Councilmember Reid asked that the Committee consider how scheduling would be handled. Mayor Pro Tem Sackley asked that the Committee consider or discuss reimbursement for weekends and after hours for cost for elected officials outside campaign times, not that there has to be a charge schedule. Upon a roll call vote, motion carried 7 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Board of Education Regular Business of February 21 and Special Meeting and Committee of the Whole Work Session of March 7, 2011.
Portage Historic District Commission of March 2, 2011.
Portage Park Board of March 2, 2011.
Portage Planning Commission of March 17 and March 28, 2011.

AD HOC COMMITTEE REPORTS:

CITY COUNCIL AD HOC SIGN COMMITTEE BUSINESS SIGN INFORMATION: At the request of Councilmember Urban, Councilmember Campbell indicated that permit requirements on multitenant buildings to accommodate changes more easily needs further review and Councilmember Reid referred to a request to make the language in the sign ordinance more easily understood by local business owners and she referred to the new chart enclosed in the Agenda Packet. Councilmember Urban reviewed the suggested banner ordinance amendment and explained the reasoning behind the proposed changes. Discussion followed. Motion by Urban, seconded by Reid, to receive the information from the Ad Hoc Sign Committee and refer the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process. Upon a roll call vote, motion carried 7 to 0.

COMMUNITY SURVEY COMMITTEE: Councilmember Reid reviewed the plan by the Survey Committee to seek approval of the contract with the Kercher Center to phrase the questions to get the information needed and to present the overview of the questions anticipated, the questions that were dropped, the questions that were modified and the questions that were added and to obtain input from the City Council and Western Michigan University Kercher Center for the contract. Discussion followed.

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

TO: Planning Commission **DATE:** May 13, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: 2010 Census of Population and Housing – Analysis and General Trends

Attached is a report that analyzes the initial release of 2010 Decennial Census data for the City of Portage and other surrounding communities. The following briefly summarizes the information contained in the report:

- The population of Portage increased from 44,897 in 2000 to 46,262 in 2010, the third highest population gain in the county.
- From a historical perspective, the City of Portage population has more than doubled from 20,181 in 1960 to 46,292 in 2010.
- Overall, the population of Kalamazoo County increased 4.9%.
- The population of the city continues to diversify. In 1990, the minority population was 6% of the total. The minority population increased to 9.2% in 2000 and to 13.1% in 2010.
- The youth population continues to remain stable. In 2000, 26% of the population was under the age of 18 and in 2010 the population under the age of 18 declined slightly to 25% of the total population.
- Housing unit growth continues. Between 2000 and 2010, the total number of housing units increased by 1,679 units, second highest in the county.
- Housing unit vacancy rate increased. In 2000, the housing unit vacancy was 3.9% of the total. In 2010, the vacancy rate increased to 6.6%. For comparison and historical purposes, the vacancy rate in 1990 was 6%.

Additional analysis of the 2010 Census information will be provided to the Commission as it is released by the Census Bureau.

If the Planning Commission has any questions or comments regarding the attached report, Department staff will be present at the upcoming meeting to further discuss this matter with the commissioners.

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CITY OF
PORTAGE
A Place for Opportunities to Grow
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2010 CENSUS OF POPULATION AND HOUSING

❖ Analysis and General Trends ❖

United States Census 2010

Department of Community Development

May 2011

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2010 CENSUS OF POPULATION AND HOUSING
❖ Analysis and General Trends ❖

I. INTRODUCTION

In March 2011, the U.S. Census Bureau released the first population and housing data from the 2010 Decennial Census for the City of Portage. The data that was released is also available at the census tract and block levels (smaller geographic areas within each census tract) and includes the following:

- Total Population
- Number of housing units
- Population 18 years of age and older
- Occupancy status
- Race

Although only a limited amount of data has been released to date, a preliminary analysis has been prepared involving demographic information for the entire city, comparison with other Kalamazoo County communities and a brief ten year comparison of census tract data. While the State of Michigan population decreased, Kalamazoo County and the City of Portage experienced population growth. This report will conclude with the identification of several noteworthy trends. The Census Bureau has scheduled the release of additional information, which is shown in Appendix A and further analysis and identification of additional trends will be accomplished.

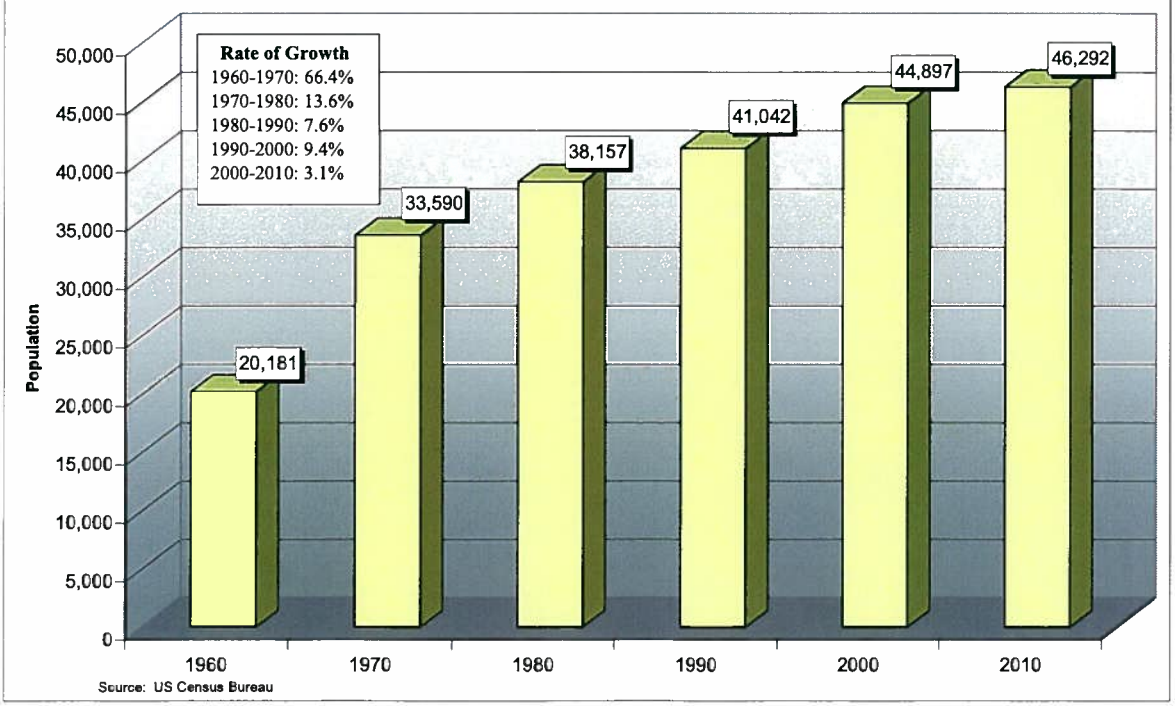
Analysis of data at the block level is typically accomplished as part of a specific project need (e.g. identification of Community Development Block Grant eligible neighborhoods). As the Census Bureau releases additional block level data, the data can be extracted and analyzed on an as needed basis. The purpose of this report is to provide a more general overview of the census information released to date.

II. POPULATION CHARACTERISTICS

Total Population

During the past 50 years, the City of Portage has more than doubled in population from 20,181 in 1960 to 46,292 in 2010 (refer to Figure 1). More than one-half (51%) of this population increase occurred during the 1960's when the population surged from 20,181 to 33,590 (13,409 persons or 66.4%) due to, among others, consumer demand to live outside of congested urban areas, affordable automobile transportation, an expanding roadway and highway system and efforts by developers/contractors to offer affordable, single-

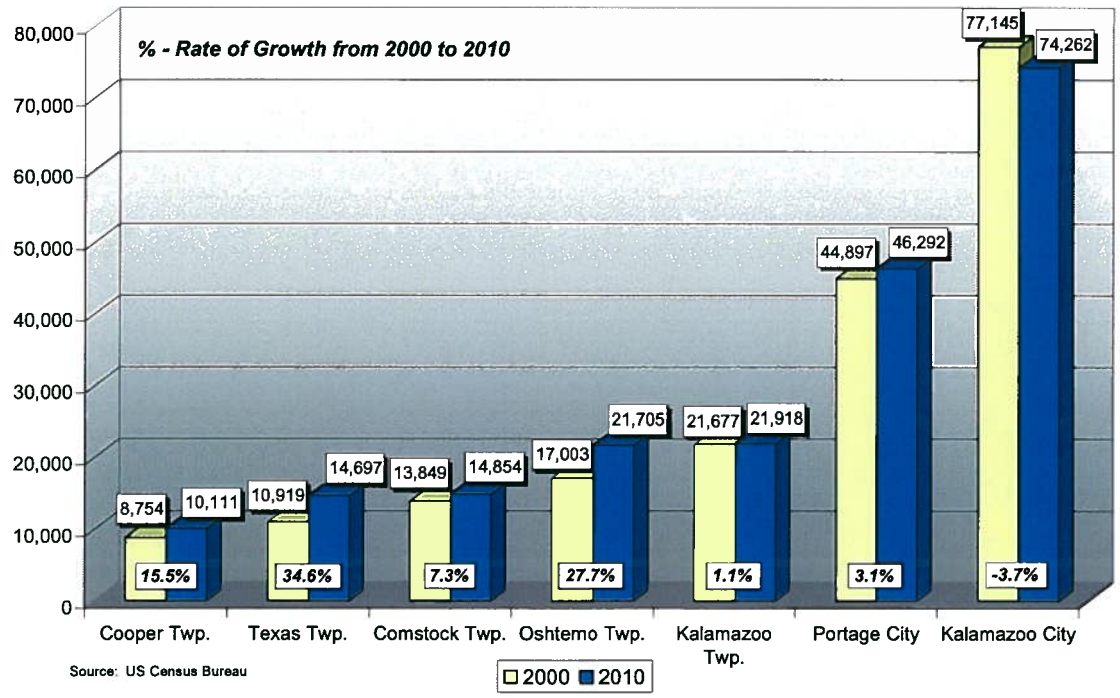
Figure 1: City of Portage Population - 1960-2010



family residential homes in a suburban setting. Between 1970 and 2010, the population continued to expand but at a much more modest rate. The population increased another 38% (12,702 persons) from 33,590 in 1970 to 46,292 in 2010. The rate of growth during this 40 year period continued to slow for each successive 10 year period with the exception of the 1990's when the growth rate increased to 9.4%. The 2000's represented the least amount of population growth (1,395 persons) and the slowest rate of growth (3.1%) for any 10 year period since 1960.

Figure 2 compares the population of Portage to several other Kalamazoo County communities. For comparison purposes, the communities included in the survey involve only the larger communities (population greater than 10,000 at the time of the 2010 Census). As shown in Figure 2, all communities recorded a population increase during the 2000's with the exception of the City of Kalamazoo that declined by 2,883 persons. Portage showed the third highest population gain of 1,395 persons, slightly more than Cooper Township that gained 1,357 persons. Oshtemo Township and Texas Township showed the largest population gain of 4,702 and 3,778 persons, respectively.

Figure 2: 2000-2010 Population of Select Kalamazoo County Communities



Source: US Census Bureau

With regard to rate of growth, Texas Township recorded the highest rate of growth at 34.6% followed by Oshtemo Township at 27.7%. The growth rate of Portage (3.1%) ranked 5th of the seven surveyed communities. Although not shown in Figure 2, several other smaller townships and villages also experienced double digit population growth rates during the 2000's including the villages of Vicksburg and Richland as well as Richland Township. Included in Appendix B is a table prepared by the Michigan Department of Technology, Management and Budget that compares the 2000 with 2010 population figures of all Kalamazoo County communities.

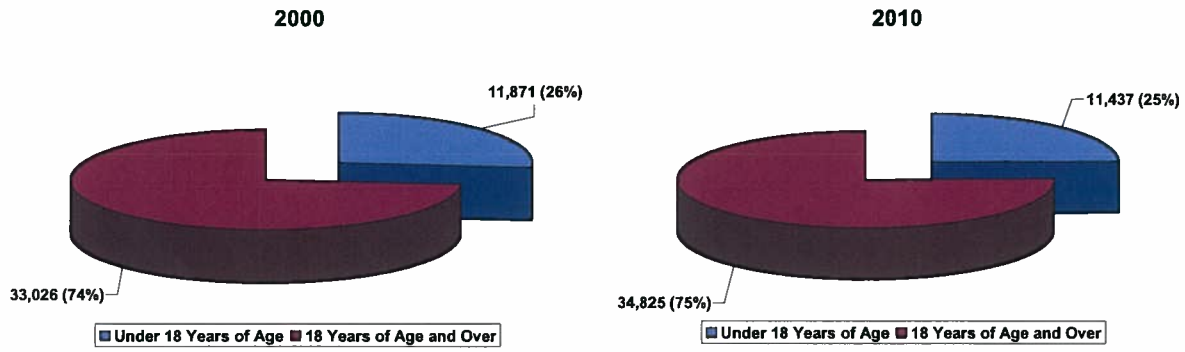
In terms of the entire Kalamazoo County area, Portage represents 18.5% of the total population, which is slightly less than the 18.8% of the total population recorded in 2000. The population of the two fastest growing communities in the county during the 2000's, Oshtemo Township and Texas Township, increased from 7.1% to 8.7% and from 4.6% to 5.9%, respectively.

Population over and under the age of 18 years

The Census Bureau has not yet released data regarding individual age cohorts, but population information involving persons 18 years of age and over has been released. This information has been analyzed to determine if the youth population (under the age of 18) is increasing, decreasing or remaining stable.

Figure 3 shows the 2000 and 2010 population in the City of Portage for persons over and under the age of 18 years. In 2000, 26% (11,871) of the population was under the age of 18. Based on 2010 Census information, the under the age of 18 age group declined slightly but can be considered stable at nearly 25% (11,437) of the total population.

Figure 3: 2000-2010 Population Over and Under the Age of 18



Source: US Census Bureau

Table 1 again compares the City of Portage with several other Kalamazoo County communities. Three of the seven surveyed communities experienced an increase in population under the age of 18. Texas Township recorded the highest percent increase of 32.1% followed by Oshtemo Township (12.9%) and Kalamazoo Township (0.8%). However, the percent of the 2010 under the age of 18 total compared to the 2000 percent of total declined slightly in Texas and Oshtemo Townships

Table 1: Persons Under the Age of 18 for Select Kalamazoo County Communities

Community	2000 Census			2010 Census			2000-2010 percent change
	Total Population	Population Under 18	Percent of Total	Total Population	Population Under 18	Percent of Total	
Cooper Twp.	8,754	2,344	27%	10,111	2,281	22.6%	-2.7%
Texas Twp.	10,919	3,204	29	14,697	4,232	28.8	32.1
Comstock Twp.	13,851	3,707	27	14,854	3,502	23.6	-5.5
Oshtemo Twp.	17,003	3,542	21	21,705	4,000	18.4	12.9
Kalamazoo Twp.	21,675	4853	22	21,918	4,890	22.3	0.8
Portage City	44,897	11,871	26	46,292	11,467	24.8	-3.4
Kalamazoo City	77,145	15,655	20	74,262	15,201	20.5	-2.9

Source: U.S. Census Bureau

The remaining four communities, including the City of Portage experienced a small decline in population under the age of 18. Of the 24 communities in Kalamazoo County (cities, villages and townships), 17 experienced a decrease in the population under 18 years of age. In terms of absolute numbers, the cities of Kalamazoo and Portage experienced the greatest decline: Kalamazoo declined 454 and Portage declined 404. However, the Cities of Kalamazoo and Portage also account for 48% of the total county population. As a whole, Kalamazoo County experienced a 0.8% (465 persons) decline between 2000 and 2010.

Compared to other counties in the region, a much greater decline in the under 18 years of age population has occurred: Allegan County – 4%, Barry and Cass Counties – 6%, Calhoun and St. Joseph Counties –

8% and Van Buren County – 9%. Of the 83 Michigan Counties, 78 experienced a decline in the under 18 years of age population. The Kalamazoo Promise and amenities associated with a college community have been credited with attracting and retaining young families.[1]

Population Distribution by Race

The 2010 Census collects both race and Hispanic or Latino origin information based on federal standards promulgated by the U.S. Office of Management and Budget. The 2010 Census includes five race categories: White, Black or African American, American Indian or Alaska Native, Asian and Native Hawaiian or other Pacific Islander. If a person is unable to identify with any of the five categories, a sixth category, Some Other Race, can be selected. This category first appeared in the 2000 Census and was continued in the 2010 Census. Also beginning with the 2000 Census, an option was made available for a person to self-identify with more than one race. The 2010 Census definitions for the categories are included in Appendix C.

Additionally, the 2010 Census requires a respondent to identify with one of two ethnicities: "Hispanic or Latino" and "Not Hispanic or Latino." The official 2010 Census Bureau definition of Hispanic or Latino Origin is included in the Appendix. Hispanic origin is viewed as the heritage, nationality group, linage, or county of birth of the person or person's parent or ancestors before their arrival in the United States. People who identify their origin as Hispanic, Latino or Spanish may be any race. Hispanic origins are considered ethnicities and not a race because in the federal statistical system, Hispanic origin is a separate concept from race.[2]

As shown in Table 2, the City of Portage population continues to diversify. The minority population increased from 9.2% in 2000 to 13.1% in 2010 (for comparison and historical purposes, the total minority population in 1990 was 6%). The population for Black or African American, Asian, Hispanic or Latino of any race and persons of two or more races had the largest increase in numbers during the 2000's.

Table 2: 2000 – 2010 Population and Race

Demographic	2000		2010		2000-2010 Change	
	Number	Percent	Number	Percent	Number	Percent
Total population	44,897	100	46,292	100.0	1,395	3.1
RACE						
One race	44,069	98.2	44,909	97.0	840	1.9
White	40,746	90.8	40,217	86.9	-529	-1.3
Black or African American	1,676	3.7	2,252	4.9	576	34.4
American Indian and Alaska Native	135	0.3	202	0.4	67	49.6
Asian	1,187	2.6	1,763	3.8	576	48.5
Native Hawaiian and Other Pacific Islander	10	0.0	21	0.0	11	110.0
Some Other Race	315	0.7	454	1.0	139	44.1
Two or More Races	828	1.8	1,383	3.0	555	67.0
Hispanic or Latino (of any race)	868	1.9	1,413	3.1	545	62.8
Minority Population	4,151	9.2	6,075	13.1	1,924	46.3
HISPANIC OR LATINO AND RACE						
Not Hispanic or Latino	44,029	98.1	44,879	96.9	850	1.9
One race	43,274	96.4	43,654	94.3	380	.9
White	40,220	89.6	39,427	85.2	-793	-1.9
Black or African American	1,649	3.7	2,195	4.7	546	33.1
American Indian and Alaska Native	124	0.3	183	0.4	59	47.6
Asian	1,185	2.6	1,761	3.8	576	48.6
Native Hawaiian and Other Pacific Islander	10	0.0	17	0.0	10	70.0
Some Other Race	86	0.2	71	0.2	-15	-17.4
Two or More Races	755	1.7	1,225	2.6	470	62.3

Source: U.S. Census Bureau

[1] Mack, J. & Hoogterp, E. (2011, April 10). Kalamazoo bucks census trend on kids. *Kalamazoo Gazette*, pp. A1, A6.

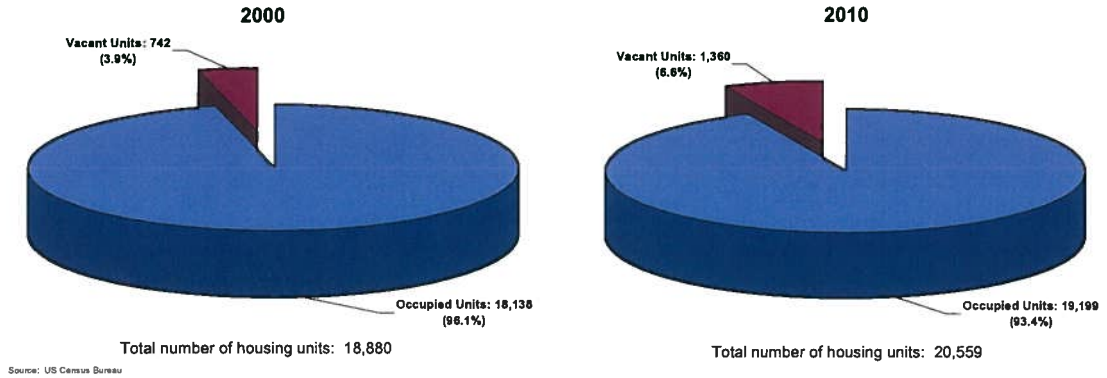
[2] Humes, K., Jones, N. & Ramirez, R. (March 2011), *Overview of Race and Hispanic Origin: 2010*, Washington DC, U.S. Department of Commerce

III. HOUSING UNITS AND OCCUPANCY STATUS

Housing Units

Figure 4 depicts the number of housing units and occupancy status for 2000 and 2010. Between 2000 and 2010, the total number of housing units increased by 1,679 units from 18,880 in 2000 to 20,559 in 2010, but less than the 2,747 housing units constructed during the 1990's and the 2,500 units constructed during the 1980's.

Figure 4: 2000-2010 Housing Units and Occupancy Status

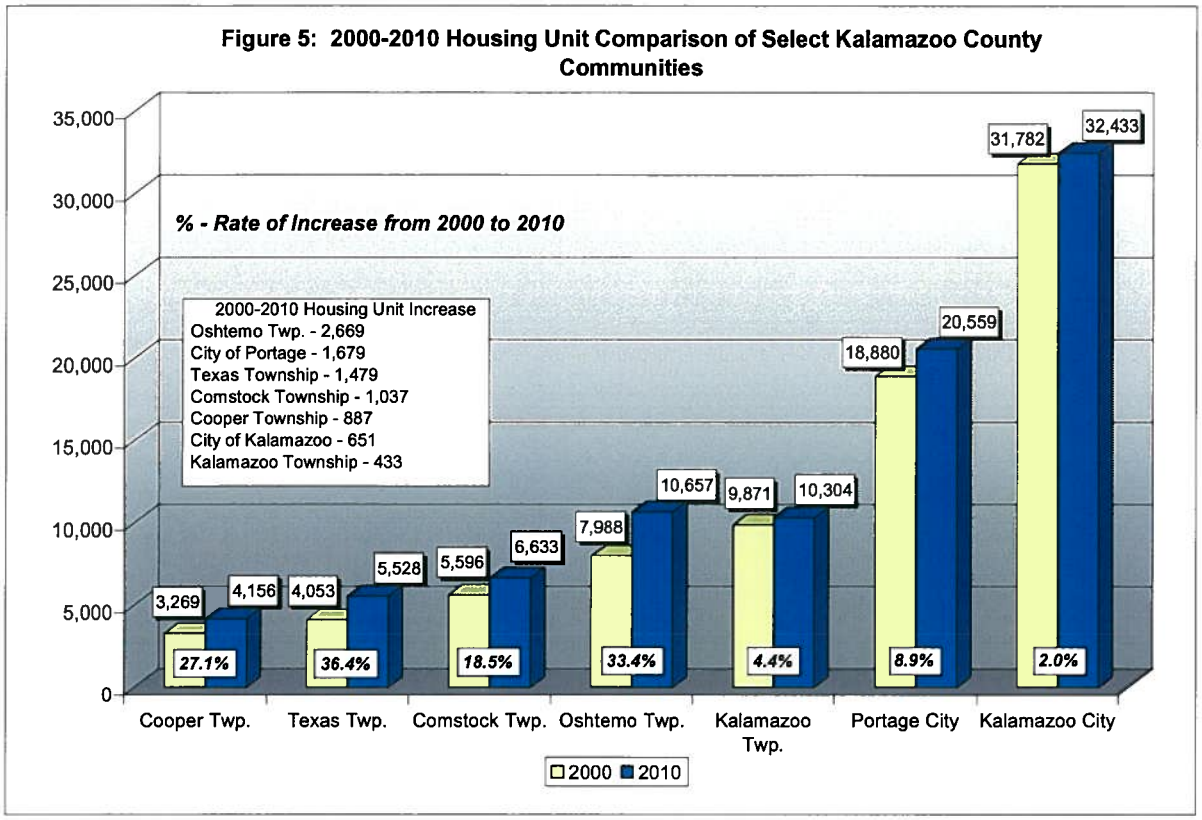


Occupancy Status

Figure 4 also includes information related to housing unit occupancy status. As shown in Figure 4, the number of vacant units has increased from 742 units (3.9% of the total) in 2000 to 1,360 units (6.6% of the total) in 2000. (For comparison and historical purposes, the vacancy rate in 1990 was 6%.) The increase in vacancy rate from 2000 to 2010 is likely can be attributed, in part, to the economic recession that began during the late 2000's and the related high rate of home foreclosures.

Figure 5 compares the number of total housing units in a number of select Kalamazoo County communities between 2000 and 2010. During this ten year period, 1,679 housing units were added in the City of Portage, second only the Oshtemo Township that had an increase of 2,669 housing units. However, 66% of the Oshtemo Township housing units constructed between 2000 and 2009 were apartments primarily oriented toward college students.[3] Texas and Comstock Townships experienced the next highest increase in housing units: 1,479 and 1,039, respectively. Kalamazoo Township had the least amount of new housing units (433) constructed during the 10 year period. With regard to rate of increase, Texas Township and Oshtemo Township had the largest rates of increase at 36.4% and 33.4%, respectively. The City of Portage had the fifth largest rate of increase at 8.9%. The City of Kalamazoo had the lowest rate of increase at 2.0%.

[3] Oshtemo Charter Township, *2011 Oshtemo Charter Township Master Plan*, Michigan, 2011



IV. CENSUS TRACT ANALYSIS

Table 3 compares population, housing units and vacancy status within the 2010 census tract boundaries that are identified within the City of Portage. For 2010, the Census Bureau has incorporated one change to the census tract boundaries: Census tracts 19.02 and 19.04 located north the Milham Avenue between the Oakland Drive and the Kalamazoo/Battle Creek International Airport have been combined and assigned census tract number 35 (a map of the 2010 census tracts is contained in the Appendix D). As a result of this change, the number of census tracts has been reduced from eleven to ten. In 2000, census tract 19.04 was the smallest tract in the city in terms of population (1,194 persons) and housing units (472).

Table 3: Census Tract Comparison of Population, Housing Units and Vacancy Status

Census Tract	2000				2010				2000-2010 Change			
	Population	Housing Units	Vacancy		Population	Housing Units	Vacancy		Population	Housing Units	Vacancy	
			Units	Pct.			Units	Pct.			Units	Pct.
19.02[1]	3,471	1,427	64	4.5	--	--	--	--	--	--	--	--
19.04[1]	1,194	472	15	3.2	--	--	--	--	--	--	--	--
19.05	5,355	2,478	145	5.9	5,060	2,463	297	12.1	-295	-15	152	104.8
19.06	4,845	2,323	70	3.0	4,693	2,424	229	9.4	-152	101	159	227.1
19.07	4,088	1,871	86	4.6	4,034	1,941	132	6.8	-54	70	46	53.5
20.02	3,506	1,570	85	5.4	3,575	1,697	93	5.5	69	127	8	9.4
20.03	4,695	1,833	85	4.6	5,973	2,402	140	5.8	1,278	569	55	64.7
20.04	3,884	1,585	48	3.0	3,905	1,675	82	4.9	21	90	34	70.8
20.05	4,458	1,548	17	1.1	4,134	1,651	59	3.6	-324	103	42	247.1
21.01	6,845	2,706	74	2.7	7,591	3,165	138	4.4	746	459	64	86.5
21.02	2,556	1,067	53	5.0	2,906	1,247	92	7.4	350	180	39	42.4
35[2]	--	--	--	--	4,421	1,894	98	5.2	-244	-5	19	24.1
Total	**44,897**	**18,880**	**742**	**3.9**	**46,292**	**20,559**	**1,360**	**6.6**	**1,395**	**1,679**	**618**	**83.3**

[1] In 2010, census tracts 19.02 and 19.04 were combined and assigned census tract number 35

[2] 2010 census tract 35 is compared to combined 2000 census tracts 19.02 and 19.04

As shown in Table 3, one-half of the census tracts gained population while the other half lost population. The largest increase in population occurred in census tracts 20.03 and 21.01, which increased by 1,278 and 746 persons, respectively. These two census tracts also had the greatest increase in housing units (single and multi-family): The housing units in census tract 20.03 increased 569 units and in census tract 21.01 increased 459 units. Census tracts 20.05 and 19.05 had the greatest decreases in population of 324 and 295 persons, respectively. These two census tracts also had a high rate of increase in the number of vacant units between 2000 and 2010: The vacancy rate for census tract 20.05 increased 247.1% and for census tract 19.05 it increased 104.8%. In terms of absolute numbers, census tracts 19.05 (152 units) and 19.06 (159 units) had the largest increase in the number of vacant units.

V. CONCLUSIONS

Several noteworthy trends relevant to the general population and housing for the City of Portage can be identified.

1. Although the population continues to increase, the amount of increase and rate of growth have slowed compared to previous ten year periods. However, given several positive local and regional factors such as the continued availability of developable land, investment in the Portage Public School facilities, presence of several higher educational facilities in the county and the planned investments being made, among others, the population can be expected to continue to increase.
2. Other adjacent communities, particularly Texas and Oshtemo Townships, can also be anticipated to grow and compete with the City of Portage.
3. The population will continue to diversify. The minority population has increased from 6% in 1990, 9.2% in 2000 and to 13.1% in 2010. The diversification of the population is likely due to several factors such as the presence of several nearby colleges and universities, large corporations such as Pfizer and Stryker, among others
4. The population over and under the age of 18 remains stable in the City of Portage. A stable "under age of 18 years" continues to suggest Portage remains a place for families.
5. While there has been an overall increase in population, the population has decreased 1,069 persons in five of the ten census tracts.
6. The total number of housing units increased by 1,679 units from 18,880 in 2000 to 20,559 in 2010. An increase in the number of housing units is expected to continue as population growth occurs.
7. Although the housing unit increase during the 2000's is considered significant in comparison to other Kalamazoo County communities, the increase is less than the number of units constructed during the previous 20 year period. This slow down in the number of new housing units during 2000's can be attributed to several factors including corporate downsizing, growth occurring in other Kalamazoo County communities, the early 2000's national economic recession, among others.
8. The number of vacant units has increased from 742 units (3.9% of the total) in 2000 to 1,360 units (6.6% of the total) in 2000. This increase in vacancy likely occurred during the late 2000's as a result of the national economic recession and high rate of home foreclosures.

APPENDIX A

2010 U.S. Census Bureau Data Release Schedule

United States Census 2010

2010 Census Data Products: United States

At a Glance (Version 1.3)

Revised 4/15/2011

PDF Version [91.5k]

Planned Release Date[1]	Data Products	Lowest Level Geography
States: *Released February 3, 2011 – March 24, 2011*	**2010 Census Redistricting Data (P.L. 94-171) Summary File (XLS):** • State population counts for race and Hispanic or Latino categories • State housing unit counts by occupancy status (occupied units, vacant units) *Media: Internet tables, DVD, download capability*	Blocks
National: *Released April 14, 2011*	**National Summary File of Redistricting Data:** • Population and housing unit counts for the United States, regions, divisions, and American Indian, Alaska Native, and Native Hawaiian Areas *Media: Internet tables, download capability*	American Indian, Alaska Native, and Native Hawaiian areas
MAY 2011	**Demographic Profile (PDF)** : • Selected population and housing characteristics • Includes Congressional Districts of the 111th Congress *Media: Internet quick tables, download capability*	Places/Functioning Minor Civil Divisions[2]
States: JUN 2011 – AUG 2011	**Summary File 1 (SF 1) (XLS):** • Population counts for 63 race categories and Hispanic or Latino ..... • Population counts for many detailed race and Hispanic or Latino categories, and American Indian and Alaska Native tribes..... • Selected population and housing characteristics.....	Blocks Census Tracts Blocks/Census Tracts
National Update:	**National Update:**	

NOV 2011	• Counts for the United States, regions, divisions, and geographic areas that cross state lines such as American Indian Areas and Core-Based Statistical Areas	American Indian Areas
Urban/Rural Update: OCT 2012	**Urban/Rural Update:** [3] • Addition of urban and rural population and housing unit counts ..... • Addition of characteristics for urbanized areas and urban clusters	Blocks Urban Clusters
Redefined CBSA Update: JUL 2013 – AUG 2013	**Redefined Core-Based Statistical Areas Update:** • Addition of counts and characteristics for redefined Core-Based Statistical Areas as defined by the Office of Management and Budget following the 2010 Census *Media: Internet tables, DVD (state and national only),[4] download capability*	Principal cities
States: DEC 2011 – APR 2012	**Summary File 2 (SF 2) (XLS):** • Population and housing characteristics iterated for many detailed race and Hispanic or Latino categories, and American Indian and Alaska Native tribes	Census Tracts
National Update: MAY 2012	**National Update:** • Counts for the United States, regions, divisions, and geographic areas that cross state lines such as American Indian Areas and Core-Based Statistical Areas	American Indian Areas
Urban/Rural Update: JAN 2013	**Urban/Rural Update:** • Addition of urban and rural population and housing unit counts ..... • Addition of characteristics for urbanized areas and urban clusters ..... Threshold: To be determined *Media: Internet tables, DVD (state and national only),[4] download capability*	Census Tracts Urban Clusters
MAY 2012 – DEC 2012	**Summary Population and Housing Characteristics Report Series (XLS)** • Data tables on age, sex, race, Hispanic origin, households, families, housing tenure and occupancy, population density, and area measurements • Reports for each state, the District of Columbia, and Puerto Rico; and a U.S. Summary • Similar to the Census 2000 PHC-1 report series *Media: Internet (PDF) only*	Places
APR 2013 – SEP 2013	**Population and Housing Unit Counts Report Series** • Data tables providing selected historical population and housing	Places

	unit counts • Includes tables on population density and area measurements • Reports for each state, the District of Columbia, and Puerto Rico; and a U.S. Summary • Similar to the Census 2000 PHC-3 report series *Media: Internet (PDF), paper (printed reports)*	
JAN 2013 (and every 2 years thereafter for states where redistricting occurs)	**Congressional District Summary File (113th Congress)** • Retabulation of Summary File 1 for newly redistricted Congressional Districts (113th Congress) *Media: Internet tables, DVD, download capability*	Census Tracts within Congressional Districts
JUN 2013 (and every 2 years thereafter for states where redistricting occurs)	**State Legislative District Summary File** • Retabulation of Summary File 1 for State Legislative Districts drawn following the 2010 Census *Media: Internet tables, DVD, download capability* **Legislative District Geographic Supplement** • Files containing current geographic attributes for blocks within State Legislative Districts • No characteristics – only total population and housing unit counts *Media: DVD, download capability*	Places Blocks
DEC 2012	**American Indian and Alaska Native Summary File** • Population and housing characteristics iterated for many detailed American Indian and Alaska Native tribes • Same content as Summary File 2 Threshold: To be determined *Media: Internet tables, DVD, download capability*	American Indian and Alaska Native Areas
APR 2013	**Characteristics of American Indians and Alaska Natives by Tribe Report** • Population and housing characteristics for selected American Indian and Alaska Native tribes • Similar to the Census 2000 PHC-5 report, but only for 100-percent data *Media: Internet (PDF), paper (printed report)*	States
Released March 24, 2011 – FEB 2012	**<u>2010 Census Briefs</u>** • Analysis of topics including graphs and tables • Topics based on 2010 Census questions • Similar to the Census 2000 Briefs series	Largest Places

	Media: Internet (PDF), paper (printed reports)	
JUN 2011 - JUN 2013	**2010 Census Special Reports** • Detailed analysis of topics including graphs, tables, and maps • Similar to the Census 2000 Special Report series • Includes an "Atlas" *Media: Internet (PDF), paper (printed reports)*	Largest Places
To be determined	**Public Use Microdata Sample (PUMS) Files** • Includes age, sex, race, Hispanic or Latino origin, household type and relationship, and tenure data with identifying information removed *Media: DVD, download capability*	PUMAs of 100,000+ population

FOOTNOTES –

[1] The dates in this column refer to the first medium of release. Actual release dates are italicized.

[2] Functioning Minor Civil Divisions (MCDs) in 20 states.

[3] Includes the production of a download file that provides users with urban/rural population and housing unit counts not available with previous SF 1 releases. The lowest level geography is blocks.

[4] One DVD containing state and national data will be produced following the release of the National Update.

GENERAL – The 2010 Census data products meet a variety of data needs for different segments of the data user community. The data products described here provide a summary of the general tabulation and publication program for the 50 states, the District of Columbia, and Puerto Rico (which is treated as a state equivalent for most data products).

Summary Files will include all or some of the following: quick tables (including demographic profiles), geographic comparison tables, and ranking tables. Thematic maps will be available as a function in DADSII. Download capability includes FTP and DADSII download options.

PDF Version [91.5k] Short Narrative Product Descriptions [288k]

Back to Population and Household Economic Topics

Source: U.S. Census Bureau, Population Division
Questions?

APPENDIX B

Population Comparison of Kalamazoo County Communities

Population of Michigan Cities, Villages, Townships, and Remainders of Townships: 2000 and 2010

Area Name	Resident Population								
	2000				2010			Change from 2000-2010	
	Original Count	Revised Count	Percent of Total	Rank	Original Count	Percent of Total	Rank	Percent Change	Rank
Michigan	9,938,444	9,938,823	100.00%	--	9,883,640	100.00%	--	-0.6%	--
Kalamazoo County	**238,603**	**238,603**	**2.40%**	**--**	**250,331**	**2.53%**	**--**	**+4.9%**	**--**
Alamo township	3,820	3,820	0.04%	424	3,762	0.04%	447	-1.5%	1,011
Vicksburg village (pt.)	682	682	0.01%	1,450	635	0.01%	1,478	-6.9%	1,445
Balance of Brady township	3,581	3,581	0.04%	455	3,613	0.04%	460	+0.9%	792
Augusta village (pt.)	32	32	0.00%	1,818	33	0.00%	1,819	+3.1%	625
Balance of Charleston township	1,781	1,781	0.02%	876	1,942	0.02%	817	+9.0%	327
Climax village	791	791	0.01%	1,395	767	0.01%	1,403	-3.0%	1,136
Balance of Climax township	1,621	1,621	0.02%	946	1,696	0.02%	918	+4.6%	540
Comstock charter township	13,851	13,849	0.14%	123	14,854	0.15%	124	+7.3%	402
Cooper charter township	8,754	8,751	0.09%	202	10,111	0.10%	185	+15.5%	167
Galesburg city	1,988	1,988	0.02%	798	2,009	0.02%	791	+1.1%	776
Kalamazoo city	77,145	77,145	0.78%	15	74,262	0.75%	16	-3.7%	1,211
Kalamazoo charter township	21,675	21,677	0.22%	86	21,918	0.22%	84	+1.1%	769
Oshtemo charter township	17,003	17,003	0.17%	107	21,705	0.22%	85	+27.7%	71
Parchment city	1,936	1,936	0.02%	823	1,804	0.02%	880	-6.8%	1,442
Pavilion township	5,829	5,829	0.06%	288	6,222	0.06%	274	+6.7%	435
Portage city	44,897	44,897	0.45%	36	46,292	0.47%	37	+3.1%	628
Prairie Ronde township	2,086	2,086	0.02%	757	2,250	0.02%	719	+7.9%	372
Richland village	593	593	0.01%	1,501	751	0.01%	1,416	+26.6%	77
Balance of Richland township	5,898	5,901	0.06%	285	6,829	0.07%	262	+15.7%	164
Augusta village (pt.)	867	869	0.01%	1,343	852	0.01%	1,352	-2.0%	1,048
Balance of Ross township	4,180	4,178	0.04%	388	3,812	0.04%	436	-8.8%	1,563
Schoolcraft village	1,587	1,587	0.02%	965	1,525	0.02%	982	-3.9%	1,219
Vicksburg village (pt.)	1,638	1,638	0.02%	938	2,271	0.02%	711	+38.6%	30
Balance of Schoolcraft township	4,035	4,035	0.04%	396	4,418	0.04%	381	+9.5%	314
Texas charter township	10,919	10,919	0.11%	163	14,697	0.15%	126	+34.6%	40
Wakeshma township	1,414	1,414	0.01%	1,032	1,301	0.01%	1,092	-8.0%	1,523

Source: U.S. Census Bureau.

Note: The Resident Population is the number of persons with a usual residence in a given geographic area as of April 1.

The revised count for 2000 was used as the base for the postcensal estimates for 2009 that were released in June, 2010. It reflects boundary changes between January 1, 2000 and January 1, 2009 as well as official corrections made through the Count Question Resolution Program and unofficial corrections based on review by the Census Bureau.

The resident population for 2010 is the initial published count from the 2010 Census that was released in March, 2010.

APPENDIX C

2010 U.S. Census Definitions of Race

DEFINITION OF RACE CATEGORIES AND HISPANIC OR LATINO ORIGIN AS USED IN THE 2010 CENSUS

White – Refers to a person having origins in any of the original peoples of Europe, the Middle East, or North Africa. It includes people who indicated their race(s) as "White" or reported entries such as Irish, German, Italian, Lebanese, Arab, Moroccan, or Caucasian.

Black or African American – Refers to a person having origins in any of the Black racial groups of Africa. It includes people who indicated their race(s) as "Black, African Am., or Negro" or reported entries such as African American, Kenyan, Nigerian, or Haitian.

American Indian or Alaska Native – Refers to a person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment. This category includes people who indicated their race(s) as "American Indian or Alaska Native" or reported their enrolled or principal tribe, such as Navajo, Blackfeet, Inupiat, Yup'ik, or Central American Indian groups or South American Indian groups.

Asian – Refers to a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. It includes people who indicated their race(s) as "Asian" or reported entries such as "Asian Indian," "Chinese," "Filipino," "Korean," "Japanese," "Vietnamese," and "Other Asian" or provided other detailed Asian responses.

Native Hawaiian or Other Pacific Islander – Refers to a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. It includes people who indicated their race(s) as "Pacific Islander" or reported entries such as "Native Hawaiian," "Guamanian or Chamorro," "Samoan," and "Other Pacific Islander" or provided other detailed Pacific Islander responses.

Some Other Race – Includes all other responses not included in the White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander race categories described above. Respondents reporting entries such as multiracial, mixed, interracial, or a Hispanic or Latino group (for example, Mexican, Puerto Rican, Cuban, or Spanish) in response to the race question are included in this category.

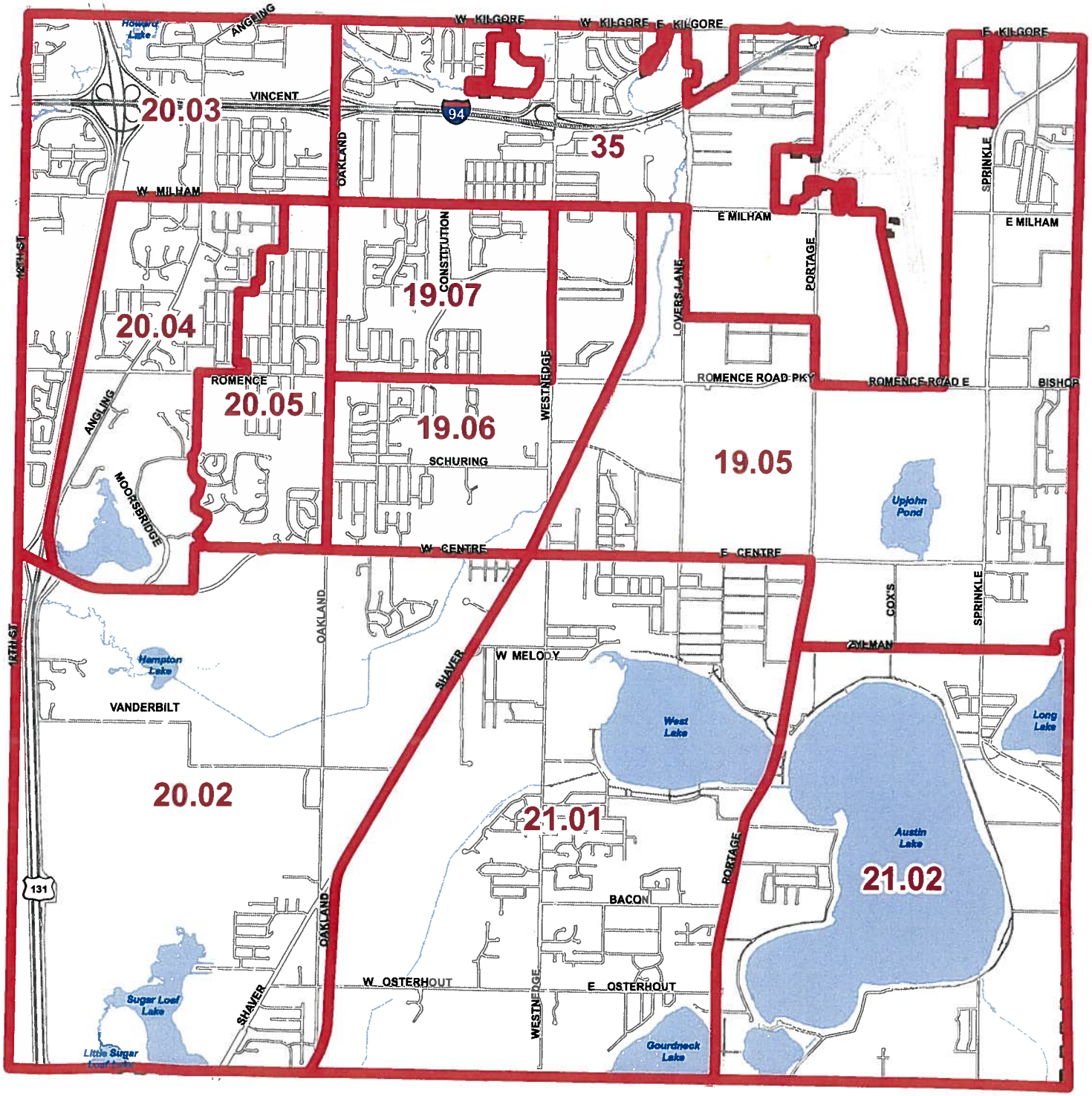
Hispanic or Latino Origin – Refers to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

APPENDIX D

2010 Census Tract Map

Census Tracts

2010 Boundaries



Legend

Census tract 2010

0 2,000 4,000 8,000 Feet

Path: R:\GISADMIN\karl\projects\DEPTS\COM DEV\census tracts_2010.mxd

MATERIALS TRANSMITTED

CITY OF PORTAGE ZONING BOARD OF APPEALS
Minutes of Meeting – April 11, 2011

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Rob Linenger at 7:00 p.m. in the Council Chambers. One person was in the audience.

MEMBERS PRESENT: Timothy Bunch, David Felicijan, Rob Linenger, Betty Schimmel, Donald Mordas, Lowell Seyburn, Daniel Rhodus, Jeff Bright

MEMBERS EXCUSED: Marianna Singer

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator, Charles Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: Felicijan moved and Mordas seconded a motion to approve the March 14, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 10-15, 710 East Milham Avenue: Staff summarized the request for a variance to replace an existing 61 square-foot Walnut Trail nonconforming non-accessory sign with a new 29 square-foot sign. Jim Hall was present on behalf of the applicant, and explained the history of the Walnut Trail development and indicated the original zoning lot consisted of the Walnut Trail and Newport Village Apartments, and also the office developments at what is now 6070 Newport Road, 636 and 710 East Milham Avenue. Mr. Hall stated that while the office properties along East Milham were subsequently sold off, they continue to identify their business location in relation to the Walnut Trail sign. Seyburn observed the proposed replacement sign would be significantly smaller. Felicijan requested clarification on whose property the subject sign was located. Mr. Hall stated the sign was on property now owned by Yeo & Yeo, but the applicant had a perpetual easement to maintain the sign. Rhodus inquired if the city could do more to prevent the creation of nonconformities in situations like this. Staff responded the city had no say in this matter, as zoning lots are determined by property owners and developers. The applicant sold the property at 710 East Milham to Yeo & Yeo, and as new owners/developers they subsequently applied for their own freestanding sign permit, and made their own determination they were a separate zoning lot. Felicijan inquired what the largest sign Walnut Trail could have. Staff clarified that the code permitted no off-premise sign of any size at this location, but the matter before the Board was to decide whether the proposal to replace the existing nonconforming sign with a sign less than half its size was a reduction in nonconformity and in keeping with the spirit and intent of the ordinance.

A public hearing was opened. Susan Wright of Michigan Commerce Bank, 800 East Milham Avenue, spoke in favor of the request. The public hearing was closed.

A motion was made by Seyburn, supported by Bright, to grant a variance to replace an existing 61 square-foot Walnut Trail nonconforming non-accessory sign with a new 29 square-foot sign for the following reasons: there are exceptional circumstances applying to the property which include the sign proposed is half its current size and is necessary for identification; the variance will not be detrimental to adjacent property; and the variance will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Upon roll call vote: Linenger-Yes, Schimmel-Yes, Felicijan-No, Mordas-Yes, Bunch-Yes, Seyburn-Yes, Bright-Yes, the motion carried 6-1.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:24 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator

S:\2010-2011 Department Files\Board Files\ZBA\Minutes\2011 03 14 JAM ZBA minutes.doc

CITY COUNCIL MEETING MINUTES FROM APRIL 26, 2011

The Regular Meeting was called to order by Mayor Strazdas at 7:30 p.m.

Mayor Strazdas asked for a moment of silence for deceased Kalamazoo Public Safety Officer Eric Zapata and, at the request of Mayor Strazdas, Elder Chris VandenOever of the First Reformed Church of Portage gave the invocation. Mayor Strazdas invited Cub Scout Troop 288 to lead City Council and the audience in reciting the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Cory A. Bailes, Elizabeth A. Campbell, Patricia M. Randall, Claudette S. Reid and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and City Clerk James R. Hudson.

PROCLAMATIONS: Mayor Strazdas issued the 21st National Arbor Day Proclamation in the City of Portage and the National Children's Mental Health Awareness Day Proclamation. Discussion followed.

APPROVAL OF MINUTES: Motion by Sackley, seconded by Campbell, to approve the March 22, 2011 Special Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0 with Councilmember Urban abstaining.

Motion by Reid, seconded by Urban, to approve the April 12, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

Motion by Bailes, seconded by Randall, to approve the April 14, 2011 Special Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0 with Councilmembers Urban and Reid abstaining.

Motion by Reid, seconded by Urban, to approve the April 19, 2011 Budget Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Councilmember Reid asked that Item F.6, West Milham Avenue/12th Street/Texas Drive/ Intersection Improvements, be removed from the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF APRIL 26, 2011:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of April 26, 2011. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS:

* **SPECIAL ASSESSMENT PETITION – 226, 230 AND 420 TRADE CENTRE WAY:** Motion by Urban, seconded by Reid, to receive a special assessment petition in favor of creating a special assessment district at Trade Centre Way for the purpose of installing a public street (curb and gutter, fencing, lighting, undergrounding of utilities and landscaping) street realignment, street intersection, utility infrastructure improvements, and storm water drainage and retention. Upon a roll call vote, motion carried 7 to 0.

James Pearson, 3004 East Shore Drive, asked that City Council consider posting all City Council Subcommittee meetings on the website, especially those that have as their focus the topics covered at the City Council Retreat, and he named Housing and Neighborhood Services, Customer Service, Dealing with Businesses and the Sign Ordinance as topics of particular interest. Discussion

followed. With regard to the issue of posting all subcommittee meetings on the website, City Attorney Randy Brown indicated that a requirement to post subcommittee meetings is questionable, that the trend under the law was that these meetings should have notice, and there are cases "going the other way." He indicated that the bulletin board at the entrance to City Hall satisfies the Open Meetings Act and there is no requirement that the notice be on the website, but the City can decide to post them on the website. City Council discussed the pro's and con's of such a policy. Mayor Strazdas asked City Manager Maurice Evans to meet with Mr. Brown and formulate an opinion for City Council review for the May 10, 2011 Regular City Council Meeting.

REPORTS FROM THE ADMINISTRATION:

* **PUBLIC HEARING ON FISCAL YEAR 2011-2012 BUDGET:** Motion by Urban, seconded by Reid, to adopt the Resolution setting a public hearing on May 10, 2011, for the Fiscal Year 2011-2012 proposed city budget and the proposed 2011 tax levy, as computed in accordance with Public Act 5 of 1982. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 193 of City of Portage Resolution Book No. 44.

* **TAX INCREMENT FINANCING PLAN/2011 DEVELOPMENT PLAN:** Motion by Urban, seconded by Reid, to consider adoption of the resolution receiving an amended development plan, which is part of an amended tax increment financing plan, from the City of Portage Downtown Development Authority and set a public hearing for May 24, 2011; and consider approval of the first reading of an ordinance amendment to approve the 2011 Amended Plan, with final action scheduled for June 28, 2011. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 195 of City of Portage Resolution Book No. 44.

* **TRADE CENTRE WAY RELOCATION, PROJECT #997-R:** Motion by Urban, seconded by Reid, to adopt Resolution No. 1 for Trade Centre Way Relocation Project #997-R, approve the special assessment for properties contained within the preliminary special assessment roll, accept the City Manager Report and request preparation of Resolution No. 2. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 199 of City of Portage Resolution Book No. 44.

* **2011 UTILITY RATE FINANCIAL STUDY:** Motion by Urban, seconded by Reid, to establish a public hearing for May 10, 2011, at 7:30 p.m. or as soon thereafter as may be heard, to consider resolutions to: adopt a sewer commodity rate increase from $4.65 to $4.81 per 1,000 gallons of metered water; adopt a water commodity rate increase from $3.01 to $3.10 per 1,000 gallons of metered water; adopt the recommendation that adjustments be made to both the sewer and water base quarterly charges; adopt the recommendation that the new rates become effective on October 1, 2011; and adopt the recommended water and sewer franchise area fees and other service fees and charges as outlined in the 2011 Utility Rate Financial Study. Upon a roll call vote, motion carried 7 to 0.

* **MICHIGAN DEPARTMENT OF TRANSPORTATION CONTRACT – 2011 MAJOR STREET RECONSTRUCTION PROGRAM:** Motion by Urban, seconded by Reid, to approve Contract 11-5170 between the Michigan Department of Transportation (MDOT) and the City of Portage pertaining to funding for the 2011 Major Street Reconstruction Program and adopt a resolution authorizing the City Manager to sign all documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 201 of City of Portage Resolution Book No. 44.

WEST MILHAM AVENUE/12TH STREET/TEXAS DRIVE INTERSECTION IMPROVEMENTS: Councilmember Reid referred to the proposed inter-local agreement cited in the April 21, 2011 City Manager Communication to City Council and indicated that it sets forth

responsibilities for design, construction, irrigation and annual maintenance costs for the landscaping portion of the project, and asked how much are the expenses that will be evenly divided between Texas Township and Portage under the agreement. City Manager Evans responded that the amount would be $8,000 and Transportation & Utilities Director Chris Barnes explained the types of landscaping that would be utilized and that the $500 maintenance cost was for water for the plants. He confirmed that for Councilmember Randall that Wedels, Inc., 5020 Texas Drive, Texas Township, would be doing the design and the landscaping portion of the project would then be open to competitive bid. Discussion followed. Motion by Reid, seconded by Campbell, to approve an inter-local agreement with Texas Township for the design, construction, and maintenance of landscaping improvements at the 12th Street/Texas Drive/West Milham Avenue intersection and authorize the City Manager to execute all documents related to this matter. Upon a roll call vote, motion carried 7 to 0.

* **DOWNTOWN DEVELOPMENT AUTHORITY ANNUAL REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the Downtown Development Authority Annual Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **MARCH 2011 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the March 2011 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATIONS:

COMMUNICATION FROM MARC MEULMAN, CHAIR OF THE HUMAN SERVICES BOARD: Human Services Board Chair Marc Meulman reminded City Council that Bill Lenehan is term limited and, by City Council action on November 2, 2010, is serving as the Human Service Board representative on behalf of the City of Portage to the Metro Transit ADA Local Advisory Committee ending October 1, 2011. He indicated that at the April 11, 2011 Human Services Board Meeting, a motion was approved to recommend that he, Marc Meulman, be appointed to serve as the Human Service Board representative on behalf of the City of Portage to the Metro Transit ADA Local Advisory Committee, effective October 1, 2011. Discussion followed.

Motion by Campbell, seconded by Reid, to receive the communication from Marc Meulman, Chair of the Human Services Board, and appoint Marc Meulman as the Human Service Board representative on behalf of the City of Portage to the Metro Transit ADA Local Advisory Committee, effective October 1, 2011. Mayor Strazdas thanked Bill Lenehan for his years of service. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

PRESENTATION BY MARC MEULMAN, HUMAN SERVICES BOARD CHAIR: City Council received the Presentation by Human Services Board Chair Marc Meulman.

UNFINISHED BUSINESS:

* **TAX EXEMPTION FOR KALAMAZOO FAMILY NON-PROFIT HOUSING CORPORATION:** Motion by Urban, seconded by Reid, to amend the Code of Ordinances of the City of Portage, Michigan, by amending Article 2 of Chapter 70, Taxation, to add Division 9, Kalamazoo Family Non-Profit Housing Corporation providing for a service charge (payment) in lieu of taxes for

1506 Schuring Road. Upon a roll call vote, motion carried 7 to 0. Ordinance recorded on page 165 of City of Portage Ordinance Book No. 12.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Human Services Board of March 3, 2011.
Portage Environmental Board of March 8, 2011.
Portage Zoning Board of Appeals of March 14, 2011.
Portage Youth Advisory Committee of March 14 and March 28, 2011.
Kalamazoo County Board of Commissioners Regular of March 15 and Regular of April 5, 2011.
Portage Board of Education Special of March 17, Special and Regular of March 21, Policy Governance Session Revised of March 24, Special of March 28 and Special of March 30, 2011.
Portage Planning Commission of April 7, 2011.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: James Pearson, 3004 East Shore Drive, announced that a public hearing will be held by the Governmental Austin Lake Board at 6 p.m., Wednesday, May 18, 2011, City Hall Council Chambers on the feasibility (practicability) of doing Bioaugmentation and Aeration of Austin Lake.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: City Council and Mayor Strazdas expressed condolences and heartfelt sorrow to the family, friends and colleagues of recently deceased City of Kalamazoo Public Safety Officer Eric Zapata.

City Manager Evans complimented the Finance Department on receipt of its 24th consecutive Government Finance Officers Association Award for distinguished budget presentation.

Mayor Strazdas congratulated the students who did a fantastic job putting on another successful Greenathon at Bicentennial Park on Saturday, April 23, 2011.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:35 p.m.

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James R. Hudson, City Clerk

***Indicates items included on the Consent Agenda.**