



City of Hart, Michigan
PLANNING COMMISSION

September 4, 2025

AGENDA

Hart Council Chambers, 407 State Street, Hart, MI 49420

4:00 PM

1. Call to order / Roll Call: Cunningham, Fout, Goldberg, LaPorte, Mullen, Root
2. Approval of Agenda
3. Approval of Minutes of April 3, 2025 Meeting
4. Public Comments on Agenda Items
5. Action Items
 - a. Reconsider recommendation to the council to adopt proposed A-Residential Zoning amendments – Chapter 1245
 - b. Reconsider recommendation to the council to adopt proposed A1-Residential Zoning amendments – Chapter 1246
 - c. Reconsider recommendation to the council to adopt proposed Landscape Zoning amendments – Chapter 1243
 - d. Reconsider recommendation to the council to adopt proposed Food Truck Zoning – Proposed Chapter 870
6. Discussion Items
7. Other business and communications from Commission members
8. Public Comments
9. Adjourn – Next regular meeting on October 2, 2025

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City Of Hart

407 S. State St
Hart, Mi 49420
Planning Commission
Thursday, April 3, 2025
Minutes

MEMBERS PRESENT: Jim Cunningham, Cynitha Fout, Gale Goldberg, Diane LaPorte, Andrew Mullen, and Betty Root

ABSENT: None

OTHERS PRESENT: City Manager – Rob Splane, Eric Ensay – Mckenna and Deb Brown

- C. Fout called the meeting to order at 4:00 pm.

APPROVAL OF AGENDA:

- B. Root motioned to approve agenda and supported by A. Mullen
 - Ayes: 6 Nays: 0 Absent: 0

APPROVAL OF MINUTES:

- J. Cunningham moved to approve minutes from February 6th, 2025, and supported by D. LaPorte
 - Ayes: 6 Nays: 0 Absent: 0

PUBLIC COMMENTS ON AGENDA ITEMS:

- NONE

PUBLIC HEARING:

- Proposed Special Use Permit – Antenna Tower
 - G. Goldberg motioned to open Public Hearing at 4:05 pm on Proposed Antenna Tower and supported by B. Root
 - Ayes: 6 Nays: 0 Absent: 0
 - J. Cunningham motioned to close Public Hearing on Proposed Antenna Tower and supported by B. Root

ACTION ITEMS:

- Consider Approval of Special Use Permit
A Special Land Use Permit and associated Site Plan application and supporting documentation was submitted for construction of a new 250-ft telecommunications tower to be located at 3123 N. Oceana Drive has been reviewed. The applicant for this request is SMJ International, who will be the responsible party for the construction of the proposed tower. The property owner, who is party to a lease agreement with the applicant, is Engage Real Estate, LLC. Mckenna has reviewed the application and provided our analysis and recommendations as part of this memorandum.

APPLICATION

The site is approximately 14 acres in area and is zoned C-2, Limited Commercial. The application proposes construction of a new 260-foot high wireless communications tower on the subject property (tower structure is 250 feet with a 10-foot high lightning rod at the top). The application includes a 100-foot by 100-foot lease area with a 75-foot by 75-foot fenced in area that will contain the tower and associated equipment. Access to the tower will be by an existing 12-foot wide gravel access drive.

Section 1243.18 of the Planning and Zoning Code indicates that towers are permitted in all zone districts subject to a Special Land Use Permit. The maximum allowed height in the C-2 zone district is 35 feet. However, Section 1243.10 indicates that the applicant can request consideration by the Planning Commission to exceed the height limitation in the zone district, which triggers a Site Plan review by the Planning Commission. Therefore, the Planning Commission will be considering the Special Land Use Permit along with the Site Plan.

ANALYSIS OF APPLICABLE LAND USE CRITERIA

The proposed land use is a wireless telecommunication tower, which is subject to the requirements of Section 1243.18 of the code. The following is a review of the criteria outlined in Section 1243.18 pertaining to the regulation of antennae and towers. The following table is a review of the criteria against the proposed application.

REGULATION OF ANTENNAE AND TOWERS	
Code Criteria	Finding
A) the antenna or tower shall be permanently secured to a stable foundation	<i>In conformance.</i> The proposed tower will require a building permit to ensure a stable foundation and construction.
B) No portion of the antenna shall conduct or display any advertising. Message, or other graphic representation other than the manufacturer's name.	<i>In Conformance.</i> There are none shown on the plans.
C) Freestanding antennae or towers shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the required yard setbacks, whichever is the greater.	<i>In Conformance.</i> The location of the proposed tower is not in the front yard of the subject property. The proposed tower is setback from all property lines as follows: front (east): 292'; side (south): 204'; side (north): 330'; rear (west): 792'. The code requires that the proposed tower be setback a distance of the height of the proposed tower, which in this case is 260 feet. Although the proposed tower complies with the setback requirement from the north, east and west property line, it does not comply with the south setback. However, the applicant has submitted a letter from their engineer that describes that the tower is designed in a manner that would collapse inward in the event of a catastrophic event and not impact adjacent properties. Further they have included information that demonstrates their need for the height as proposed. As a result, the applicant will be required to submit application for a variance to the setback from the Board of Appeals. We recommend any approval of this application be contingent on the applicant either receiving approval of a variance from the Board of Appeals or revising the height of the tower to comply with the setback, in the event that a variance is not approved.
D) An antenna or tower may be mounted on a principal or accessory building, provided it shall not exceed a height of ten feet, as measured from the base of the antenna or tower.	<i>In conformance.</i> This criterion is not applicable to this application.
E) All antennas or towers must be grounded to protect against damage from lightning.	<i>In conformance.</i> The plans indicated a 10-foot lightning rod.
F) An antenna or tower shall not be so located or constructed as to have a serious adverse effect on adjacent or nearby land uses.	<i>In conformance.</i> The location of the tower appears to be far enough away from any property line so as not have a serious adverse impact on adjacent or nearby land uses. Additionally, they have provided a letter from their engineer that demonstrates the tower would collapse inward and not on any adjacent property in the event of a catastrophic

	event. The existing vegetation provides screening of the tower from adjacent properties.
G) Freestanding antennae or towers (including satellite dish antennas, excluding amateur radio antennae) exceeding a height of twenty-five feet above grade, or exceeding a dimension of twenty-five feet in any direction, including any mounting structure, shall require approval by the Planning Commission as a Special Land Use. A building permit shall be obtained before installation.	<i>In conformance.</i> The application has provided a site plan that can be utilized for review by the Planning Commission. The applicant will also be required to obtain a building permit, should the Planning Commission approve the proposed Special Land Use Permit and Site Plan.
H) A commercial or public antenna or tower, including accessory buildings or structures, shall be fully enclosed by a sturdy fence, securely gated, having such height as reasonably determined by the Planning Commission	<i>In conformance.</i> The Site Plan includes a proposed 6-foot high chain link fence with gate surrounding the proposed tower to safely enclose the tower and all equipment.
I) The antenna or tower and the construction, installation, maintenance, and operation thereof shall comply with all federal, state, and local law, ordinances, and regulations.	<i>In conformance.</i> The applicant will comply with this requirement.
J) The Planning Commission, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use and maintenance of any such antenna or tower. Such other terms and conditions may include, though need not be limited to, the following: 1) the screening of an antenna, tower, or any accessory structure or structures. 2) the timely removal of unused or unsafe antenna, towers, or accessory buildings or structures. 3) the prohibition on the construction or occupancy of dwelling units or other buildings or the construction and use of other structures within a specified isolation distance from an antenna or tower.	<i>In conformance.</i> Due to the location of the proposed tower on the site and the existence of the surrounding wooded screening, no additional terms or conditions are necessary to impose on the proposed tower.
K) The regulations of this section must not preclude amateur service communications and the installation of amateur radio antenna (being antenna operated for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 or the U.S. Code and operated under a license by the Federal Communications Commission). Rather, these regulations must reasonably accommodate such communications and must constitute the minimum practicable regulations to accomplish the City's legitimate purpose in regulating such communications.	<i>In conformance.</i> This criterion is not applicable to this project.

Based on the findings outlined in the table above. Mckenna believes that the proposed telecommunication tower is consistent with the land use criteria outline in the code, subject to the condition that the applicant either receive approval from the Board of Appeals for a variance from the south setback or redesign the tower to comply with the setback.

ANALYSIS OF APPLICABLE REVIEW CRITERIA

Mckenna has reviewed the proposed application for compliance with all applicable review criteria for each of the application types required for consideration by the Planning Commission. Special

Land Use Permit and Site Plan. This section of the memorandum will include McKenna's findings based on the type of application.

SPECIAL LAND USE PERMIT:

Section 1256.04 stipulates the standards required for approval of a Special Land Use Permit by the Planning Commission. The following table is an analysis of those requirements against the proposed development.

SPECIAL LAND USE PERMIT	
Standard for Approval	Finding
a) Be designed, constructed, operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not result in a detrimental change to the essential character of the area in which it is proposed.	<i>In Conformance.</i> The proposed tower is located on the site in a manner to minimize the impact of surrounding properties and the community. The C-2 zone district allows for commercial and light industrial uses. The proposed tower is consistent with the general character of those uses.
b) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.	<i>In Conformance.</i> The proposed tower facility is adequately served by essential public facilities. However, the nature of the proposed uses with no habitable employees effectively does not impact public facilities.
c) Not create excessive additional requirements at public cost for public facilities and services.	<i>In Conformance.</i> No additional costs associated with providing services to the site are anticipated.
d) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be overly detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.	<i>In Compliance.</i> The proposed tower will not increase traffic or effectively result in additional noise, smoke, fumes or odors. Because the proposed tower is in excess of the 200-foot height threshold, it will need to comply with FAA requirements for safety visibility, which includes a proposed flashing light at the top. The applicant has provided documentation of the need for proposed height of the tower provided RF coverage and indicated that they will comply with FAA requirements for safety visibility. Due to the safety requirement associated with the flashing light at the top of the tower, we do not believe this will be detrimental to adjacent property, and in fact is common with telecommunication towers.
e) Be consistent with the intent and purpose of the zoning district in which such use will be located.	<i>In Conformance.</i> The proposed tower is compatible with land uses in the C-2 zone district.
f) Be compatible with and in accordance with City Master Plan.	<i>In Conformance.</i> The proposed tower will provide enhanced telecommunications for wireless providers in the area. There are not any conflicts with the City's Master Plan.

Based on the findings outlined in the above table, McKenna recommends approval of the proposed application for Special Use Permit.

SITE PLAN:

Section 1258.07 outlines the standards for Site Plan approval that are to be considered by the Planning Commission. The following table is an analysis of those requirements against the proposed application.

SITE PLAN:	
Standards for approval	Findings

a) Landscaping and buffer strips shall be provided and designed in accordance with the City's landscape provisions.	<i>In Conformance.</i> There are significant wooded areas to be preserved around the proposed tower site that will provide adequate buffering of the tower.
b) All elements of the site plan shall be designed to take into account the topography, size and type of lot, character of adjoining property, and try and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Zoning Code.	<i>In Conformance.</i> The location of the proposed tower has been designed in a manner consistent with this provision.
c) The landscape shall be preserved in its natural state, insofar as practical. A development shall respect the natural resources of the City as recommended in the Hart Master Plan	<i>In Conformance.</i> The proposed tower will require the removal of some plant materials to accommodate construction. However, the plan indicated that the vast majority of the existing tree area will be preserved.
d) Areas of natural drainage shall be protected and preserved insofar as practical in their natural state to provide areas of natural habitat, preserve drainage patterns, and maintain the natural characteristics of the land.	<i>In Conformance.</i> The location of the proposed tower does not impact any areas of natural drainage.
e) Provide reasonable visual and sound privacy for all dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.	<i>In Conformance.</i> The applicant proposes construction of a 6-foot-high chain link fence to reasonably secure the proposed tower.
f) All buildings shall be arranged so as to permit necessary emergency vehicle access.	<i>In Conformance.</i> The plans indicate that the applicant will provide an extension of a 12-foot gravel access drive to provide access to the facility.
g) A pedestrian circulation system, separated from the vehicular circulation system, may be required. To ensure public safety, special pedestrian measures may be required in the vicinity of schools, playgrounds, shopping areas, and other uses which generate a considerable amount of pedestrian traffic.	<i>In Conformance.</i> This criterion is not applicable to the proposed application.
h) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian pathways in the area. Streets and drives which are part of existing or planned street patterns serving adjacent development shall be of a width appropriate to the traffic volume they will carry.	<i>In Conformance.</i> This criterion is not applicable to the proposed application.
i) All streets and driveways shall be developed in accordance with Chapter 1222 or Michigan Department of Transportation specifications, unless developed as a private road in accordance with the requirements for private roads in the City.	<i>In Conformance.</i> This supplication includes the extension of an existing 12-foot private road on site. The application proposes extension of the proposed gravel road to access the tower.
j) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion particularly during construction, and the formation of dust. The use of retention ponds may be	<i>In Conformance.</i> This criterion is not applicable to the proposed application.

required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles on paved areas. Catch basins may be required to contain filters or traps to prevent contaminants from being discharged to the natural drainage system.	
k) Exterior lighting shall be arranged so that illumination is deflected away from adjacent properties and so that it does not interfere with the vision of the motorist along adjacent streets.	In Conformance. The only lighting associated with the proposed application is a flashing light at the top required by the FAA for safety of aircraft. As a result, the proposed application will not have lighting that would interfere with motorists on adjacent streets. Additionally, because of the location of the tower on the property along with the existing trees surrounding the site, there will be no impact of lighting on adjacent properties.
l) All loading, unloading areas, and outside storage areas including dumpsters which face or are visible from residential districts or public thoroughfares shall be vertically screened by a structure or plant material no less than six feet in height. The finished side of any wall, fence, or other screen shall face adjacent properties.	In Conformance. This criterion is not applicable to the proposed application.
m) Site plans shall conform to all applicable requirements of county, state, and federal statutes and approval may be conditional upon the applicant receiving necessary county, state, and federal permits before final site plan approval or an occupancy permit is granted.	In Conformance. The proposed application is in compliance with all applicable requirements and subsequent proof of compliance with those agencies will be required before any final occupancy or sign-off will be granted by the City.

Section 1258.12 outlines Access Control Standards that the Planning Commission shall use in reviewing vehicle access and circulation associated with Site Plan. The following table is an analysis of those requirements against the proposed application.

ACCESS CONTROL STANDARDS	
Standards for Approval	Findings
a) The Planning Commission shall have the authority to require a frontage road or service drive for contiguous parcels along Polk Road, Oceana Drive, State Street or on other streets as deemed necessary. The Planning Commission shall also have the authority to limit the number of driveways for a site, to require that parking lots on contiguous parcels be connected, that driveways for contiguous parcels be shared, and that opposite driveways be directly aligned.	In Conformance. This criterion is not applicable to the proposed application.
b) [other considerations] For uses along Polk Road, Oceana Drive, State Street, and other streets as deemed necessary.	In Conformance. There is currently one driveway that accesses the site. The proposed tower will be accessed from the existing private driveway. No additional driveways or right-of-way access points are proposed.

Based on review of all applicable standards for approval and access control standards for Site Plan applications, Mckenna recommends approval of proposed Site Plan.

CONCLUSION

One component to consider when reviewing telecommunication tower request is that these facilities also are regulated by the FCC and are subject to certain federal requirements. Certain

studies and information are required by the FCC in review of telecommunication towers beyond local regulations. This procedure is a necessary step performed by the applicant that is separate from local review.

Following review of the application and supporting information provided by the applicant, the Special Land Use Permit application and Site Plan are ***recommended for approval, subject to conditions***. McKenna recommends that if the Planning Commission does approve the proposed Special Land Use Permit and Site Plan that a condition be included that the approval is contingent of the applicant receiving approval of a variance to the south setback by the Board of Appeals, or the tower will need to be revised to comply with the setback requirements.

- J. Cunningham motioned to consider approval of Special Use Permit and supported by D. LaPorte.

○ Ayes: 6 Nays: 0 Absent: 0

DISCUSSION ITEMS:

- None

PUBLIC COMMENTS ON NON-AGENDA ITEMS:

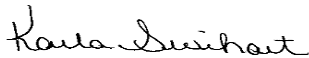
- NONE

OTHER BUSINESS:

- NONE

ADJOURN:

- There being no further business to come before the Planning Commission, the meeting adjourned upon a motion by D. LaPorte and supported by B. Root. The next meeting scheduled will be held on May 1st, 2025.



Karla Swihart
City Clerk

CHAPTER 1245

A, Residential Zone

[1245.01](#) Purpose.

[1245.02](#) Permitted uses.

[1245.03](#) Special uses.

[1245.04](#) District regulations.

[1245.05](#) Additional regulations.

CROSS.REFERENCES

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Effect of zoning ordinance or zoning decision in presence of demonstrated need for certain land use - see M.C.L.A. Sec. 125.592

1245.01 PURPOSE.

This district provides primarily for single family dwelling units and includes the majority of the existing residential areas in the City. This district is intended to be served by public water and sanitary sewer. Regulations contained within this chapter also provide for the development of certain non-residential facilities as special land uses which can provide convenient services while at the same time maintaining the overall residential character of the district.

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99.)

1245.02 PERMITTED USES.

Land and structures in the A, Residential Zone may be used for the following purposes only.

- (a) Single family detached dwellings.

- (b) Child and adult day care homes with no more than six minor children and adults.
- (c) State licensed adult foster care family homes with no more than six adults. Such facilities shall be at least 1500 feet apart as measured between property lines.
- (d) Home occupations.
- (e) Private communication antenna not exceeding twenty-five feet in height as regulated by Section [1243.18](#).
- (f) Accessory uses, buildings and structures customarily incidental to any of the above uses as regulated by Section [1243.16](#).
- (g) Essential public service equipment.
- (h) Two-family dwellings (duplexes) including the conversion of single family dwellings to a two-family dwelling. Two off-street parking spaces for each dwelling shall be provided on the same parcel as the two-family dwelling. Such dwelling shall have the exterior appearance of a one-family dwelling.
- (i) Churches, synagogues or other similar places of worship and customary related uses.
- (j) Public and institutional uses.
- (k) Public and private schools and school administration buildings.
- (l) Accessory apartments as regulated by Section [1243.25](#).

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99.)

1245.03 SPECIAL USES.

The following uses may be permitted as a special land use subject to the applicable general and specific requirements and standards of [Chapter 1256](#).

- (a) Antenna and towers exceeding a height of twenty-five feet as regulated by Section [1243.18](#).
- (b) Non-commercial parks, playgrounds and play fields.
- (c) Essential public service buildings and structures.
- (d) Housing for the elderly, retired or those requiring assisted care including nursing homes.
- (e) Public and private golf courses.

(f) Child day care homes which provide care to more than six but not more than twelve minor children.

(g) Child day care centers.

(h) Bed and breakfast establishments.

(i) Foster care group home for seven or more persons.

(j) Domestic farm animals and fowls penned and housed more than 200 feet from any dwelling other than the dwelling occupied by the owner of the farm animals or fowls, and located on a parcel of land containing three acres or more.

(k) Duplexes.

(l) Boarding houses.

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99; Ord. 2005-6. Passed 6-28-05; Ord. 2014-01. Passed 1-7-13.)

1245.04 DISTRICT REGULATIONS.

Buildings and structures shall not be erected or enlarged unless the following requirements are met and maintained.

	Minimum Lot Area	Minimum Lot Width	Minimum Front Setback	Minimum Rear Setback	Side Setback Total/Min. One Side
Lots with both public sewer and water	6,000 s.f.	45 ft.	15 ft. local 30 ft. major street or state highway	25 ft.	15 ft. / 5 ft.
Lots with public sewer or water	9,000 s.f.	65 ft.	Same as above	25 ft.	15 ft. / 5 ft.
Lots with no public sewer and water	12,000 s.f.	100 ft.	Same as above	25 ft.	15 ft. / 10 ft.

(a) Corner Lots. The setback along the principal street shall be the minimum required by this section while the setback along the secondary street shall be at least fifteen feet. The Zoning Administrator shall determine which is the principal and which is the secondary street. Generally, the principal street will have a greater volume of traffic than the secondary street. Corner lots shall have two front lot lines and two side lot lines and no rear lot line.

(b) Maximum height - 35 feet.

(c) Minimum floor area:

(1) One story - ~~720~~ 400 square feet.

(2) Two story - ~~600~~ 500 square feet on the ground floor.

(3) Split level, bi-level and raised ranch – ~~800~~ 700 square feet total.

(4) Two-family dwelling – ~~720~~ 600 square feet per dwelling.

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99; Ord. 06-02. Passed 11-28-06; Ord. 2007-04. Passed 11-13-07.)

1245.05 ADDITIONAL REGULATIONS.

(a) Off-street parking shall be regulated by [Chapter 1260](#).

(b) Signs shall be regulated by [Chapter 1259](#).

(c) Site plan review as regulated by [Chapter 1258](#) is required for all special land uses.

(d) Site condominiums shall be regulated by [Chapter 1257](#).

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99.)

CHAPTER 1246

A-1, Residential Zone

[1246.01](#) Purpose.

[1246.02](#) Permitted uses.

[1246.03](#) Special uses.

[1246.04](#) District regulations.

[1246.05](#) Additional regulations.

CROSS.REFERENCES

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Effect of zoning ordinance or zoning decision in presence of demonstrated need for certain land use - see M.C.L.A. Sec. 125.592

1246.01 PURPOSE.

This district allows for single family dwellings as the predominant land use on minimum lot sizes which are larger than those required in the A Zone.

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99.)

1246.02 PERMITTED USES.

Land and structures in the A-1 Residential Zone may be used for the following purposes only.

- (a) Single family detached dwellings.
- (b) Child and adult day care homes with no more than six minor children and adults.
- (c) State licensed adult foster care family homes with no more than six adults. Such facilities shall be at least 1500 feet apart as measured between property lines.

(d) Home occupations.

(e) Private communication antenna not exceeding twenty-five feet in height as regulated by Section [1243.18](#).

(f) Accessory uses, buildings and structures customarily incidental to any of the above uses as regulated by Section [1243.16](#).

(g) Essential public service equipment.

(h) Two-family dwellings (duplexes) including the conversion of single family dwellings to a two-family dwelling. Two off-street parking spaces for each dwelling shall be provided on the same parcel as the two-family dwelling. Such dwelling shall have the exterior appearance of a one-family dwelling.

(i) Churches, synagogues or other similar places of worship and customary related uses.

(j) Public and institutional uses.

(k) Public and private schools and school administration buildings.

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99.)

1246.03 SPECIAL USES.

The following uses may be permitted as special land use subject to the applicable general and specific requirements and standards of [Chapter 1256](#).

(a) Antennae and towers exceeding a height of twenty-five feet as regulated by Section [1243.18](#).

(b) Non-commercial parks, playgrounds and play fields.

(c) Essential public service buildings and structures.

(d) Housing for the elderly, retired or those requiring assisted care including nursing homes.

(e) Public and private golf courses.

(f) Child day care homes which provide care to more than six but not more than twelve minor children.

(g) Child day care centers.

(h) Bed and breakfast establishments.

(i) Accessory apartments as regulated by Section [1243.25](#).

(j) Foster care group home for seven or more children or adults.

(k) Domestic farm animals and fowls penned and housed more than 200 feet from any dwelling other than the dwelling occupied by the owner of the farm animals or fowls, and located on a parcel of land containing three acres or more.

(l) Boarding houses.

(m) Buildings containing 3 or 4 dwelling units.

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99; Ord. 2014-01. Passed 1-7-14.)

1246.04 DISTRICT REGULATIONS.

Buildings and structures shall not be erected or enlarged unless the following requirements are met and maintained.

(a) Minimum lot area and width.

(1) Single family dwellings: 12,000 square feet and 100 feet of lot width.

(2) Non-residential uses: 15,000 square feet and 100 feet of lot width.

(b) Minimum required building setbacks.

(1) Front yard - 25 feet.

(2) Side yard. For dwelling units a total of 30 feet provided no side setback shall be less than 10 feet. For all other uses 25 feet on each side.

(3) Corner lots. The setback along the principal street shall be a minimum of 25 feet while the setback along the secondary street shall be at least 15 feet. The Zoning Administrator shall determine which is the principal and which is the secondary street. Generally, the principal street will have a greater volume of traffic than the secondary street. Corner lots shall have two front lot lines and two side lot lines and no rear lot line.

(4) Rear yard - 25 feet.

(c) Maximum building height - 35 feet.

(d) Minimum floor area:

(1) One story - ~~720~~ 400 square feet.

(2) Two story - ~~600~~ 500 square feet on the ground floor.

(3) Split level, bi-level and raised ranch – ~~800~~ 700 square feet total.

(4) Two-~~four unit~~ family dwellings – ~~720~~ 600 square feet per dwelling unit.

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99; Ord. 2007-04. Passed 11-13-07.)

1246.05 ADDITIONAL REGULATIONS.

(a) Off-street parking shall be regulated by [Chapter 1260](#).

(b) Signs shall be regulated by [Chapter 1259](#).

(c) Site plan review as regulated by [Chapter 1258](#) is required for all special land uses.

(d) Site condominiums shall be regulated by [Chapter 1257](#).

(Ord. 182. Passed 5-12-98; Ord. 184. Passed 5-25-99.)

GENERAL PROVISIONS RELATING TO ALL DISTRICTS:

1243.22 LANDSCAPE REGULATIONS.

(a) The intent of this section is to set forth minimum standards for landscaping. Landscaped areas are intended to maintain or improve air quality, stabilize soils, increase groundwater infiltration, decrease wind velocity, reduce noise, and create zones of privacy.

(b) For site plans requiring Planning Commission review, buffer strips shall be required where an industrial use abuts any other nonindustrial use or where any parking lot exceeding fifteen parking spaces abuts residential, public, or religious use. Where a landscape buffer strip or greenbelt is required, the following minimum landscape requirements shall be observed.

(1) Two trees plus one additional tree for each twenty-five feet in length of the buffer strip measured along the outer periphery of the required landscape area.

(2) One shrub for every twenty feet in length of the buffer strip measured along the outer periphery of the required landscape area.

(3) All plantings in the buffer strip shall be maintained in a neat and orderly manner. Dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season.

(c) Landscaping shall be located so it does not obstruct the vision of drivers or pedestrians entering or leaving a site.

(d) Parking area landscaping.

(1) All parking areas more than 5,000 square feet in area, except those parking areas for industrial uses which are located in the rear yard, shall be landscaped with one canopy and one evergreen tree for every ten parking spaces, with a minimum of two trees shall be planted, adjacent to the parking area.

(2) Landscape islands or peninsulas shall be installed at the end of those parking rows which are more than twenty spaces long. Within such rows a landscaped island shall be installed every twenty spaces.

(3) Landscape islands or peninsulas at the end of parking rows shall be a minimum of ten feet in width by the length of the parking space or spaces, with an appropriate curb radius. Islands within parking rows shall be a minimum of six feet wide by the length of the parking space or spaces. Islands shall be separated from the parking area by a rolled or stand-up curb.

(4) Each island or peninsula within a parking area shall contain a minimum of one canopy tree.

(5) Landscaping in and adjacent to parking areas shall be of a height and location which will not block the vision of drivers or pedestrians.

(e) Limitations on Removing Existing Trees.

(1) **Applicability.** The tree removal regulations in this Section shall apply when compliance with other landscaping standards is required under Section 1243.22. The regulations of this section shall not apply to any construction project that does not require approval from the Planning Commission or Administrative Site Plan Review Committee. Lots containing one single family home shall also be exempt from this section.

(2) **Exempt Activities.** The following activities shall be exempt for this section.

(a) Tree trimming and other routine maintenance that does not result in the destruction, relocation, or cutting of a tree so that no portion larger than a stump remains intact on the site, or the mutilation of a tree to the point of near certain death.

(b) Removal or trimming made necessary by emergency caused by natural events, such as tornado, windstorm, flood, or other natural disaster, in which the removal of the tree would prevent injury or damage to persons or property.

(c) The removal or trimming of dead trees, diseased trees or discouraged species.

(3) **Exempt Organizations.** The following organizations shall be exempt for this section.

(a) **Public Utilities.** The removal or trimming of trees necessitated by the installation, repair or maintenance work performed in a public utility easement or approved private easement for public utilities grants such permission.

(b) **Public Agencies.** The removal or trimming of trees if performed by or on behalf of the City, County, State or other public agencies in a public right-of-way, on public property or on an easement for public utilities in connection with a publicly awarded construction project, such as the installation of public streets or public sidewalks.

(c) **Tree Farms,** where the primary purpose of the operation is to grow trees for wholesale or retail.

(4) Tree Removal Restriction. Any tree greater than twelve (12) inches in Diameter at Breast Height (DBH), except those exempted by Sections 1243.22e(2-3), shall be replaced in accordance with Section 1243.22e(5) if it is removed from a site. "Removed" shall mean the destruction, relocation, or cutting of a tree so that no portion larger than a stump remains intact on the site, or the mutilation of a tree to the point of near certain death.

(5) Replacement Requirement. Replacement Trees shall be provided to replace each tree to be removed in accordance with the following schedule. When the number of Replacement Trees results in a fraction, any fraction up to one-half shall be disregarded, and any fraction over and including one-half shall require one Replacement Tree. The minimum size at planting for Replacement Trees is 8 feet in height for coniferous trees and 2.5 inches DBH for deciduous trees.

(a) If the replacement trees are coniferous trees:

(i) A replacement tree under 6 feet tall replaces 0.5 removed trees.

(ii) A replacement tree between 6 and 8 feet tall replaces 1 removed tree.

(iii) A replacement tree between 8 and 10 feet tall replaces 1.5 removed trees

(iv) A replacement tree over 10 feet tall replaces 2 removed trees

(b) If the replacement trees are deciduous trees:

(i) A replacement tree under 2.5 inches DBH replaces 0.5 removed trees.

(ii) A replacement tree between 2.5 and 3.5 inches DBH replaces 1 removed tree.

(iii) A replacement tree between 3.5 and 4.5 inches DBH replaces 1.5 removed trees

(iv) A replacement tree over 4.5 inches DBH replaces 2 removed trees

(6) Standards for Replacement Trees. Replacement trees must meet the requirements of Section 1243.22b-c.

(7) Relationship to Landscape Requirements. Replacement trees may be counted as required trees for other requirements of this section, provided they are located in such a way as to fulfill the requirement in question.

(fe) Landscape modifications. The landscape requirements of this section may be modified by the Planning Commission or Zoning Administrator in consideration of existing trees on site, proposed building setbacks, existing and proposed uses on adjacent lands, topographical elevations on a site and on adjacent lands. In deciding whether to modify the landscape regulations of this section the Planning Commission or Zoning Administrator shall determine that the intent of the regulations will still be met if modifications are allowed.

(Ord. 182. Passed 5-12-98.)

CITY OF HART ORDINANCE NO. _____

AN ORDINANCE TO REGULATE THE OPERATION OF TRANSITORY FOOD SERVICE UNITS AND THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR TRANSITORY FOOD SERVICE UNITS

THE CITY OF HART ORDAINS:

Section 1. Purpose

The purpose of this Ordinance is to establish a policy to regulate and manage Transitory Food Service Units in the City of Hart (the “City”); to permit and regulate Transitory Food Service Units in the City; to reduce vehicular and pedestrian traffic congestion; to encourage new business; and to protect the health, safety, and welfare of the City’s business district and the City’s people.

Section 2. Definition

Transitory Food Service Unit means a motorized vehicle, including pulled mobile trailer, a temporary food service station, cart, smoker, grill, freezing or cutting unit, or similar apparatuses that engages in the storage, preparation, service, sale, or distribution of ready-to-eat or immediately consumable food items to the public directly from the unit. Transitory Food Service Unit includes a “special transitory food unit” and a “temporary food establishment” as defined under the Michigan Food Law, MCL 289.1111.

Section 3. Permit Requirements

Except as otherwise authorized under this Ordinance, no Transitory Food Service Unit may engage in the preparation, service, sale, or distribution of food in the City on public or private property without first obtaining a permit from the City in the manner prescribed in this ordinance. The application fee will be set from time to time by resolution of the City Council. All fees must be paid to the City Treasurer at the time the application is submitted. All permits issued pursuant to this Ordinance must be available on site for inspection upon request by the City Zoning Administrator or law enforcement officer. Permits must be conspicuously displayed on the premises or any cart, stand, booth, motorized vehicle, mobile trailer, or similar apparatus used in the business at all times. No person may carry or display any expired, suspended, or revoked permit, or any license or permit for which a duplicate has been issued. Additionally, the Transitory Food Service Unit must comply with all applicable state licensing requirements, including but not limited to filing a Notification of Intent to Operate a Special Transitory Food Unit, and must further comply with all applicable requirements of the Oceana County Health Department. Failure to comply with all applicable licensing and regulatory requirements may result in revocation of the permit by the City.

Section 4. Permit Exceptions

A Transitory Food Service Unit may engage in the preparation, service, sale, or distribution of food in the City on public or private property without a permit required under Section 3 of this Ordinance if:

1. Operating at a single location for less than 2 hours;
2. The operator is a USA veteran licensed to sell goods under Mich. Public Act 359 of 1921 or is otherwise exempt from the permitting requirements of this Ordinance under state or federal law;
3. The operator is operating under the invitation of a special event permit holder, or a special event held by the City of Hart, or one of its agencies.

The City reserves the right to request documentation in support of any exemption.

Section 5. Applications

1. A person requesting a Transitory Food Service Unit permit must submit a written application no more than 6 months in advance, and no less than 7 days prior to the proposed operation date.
2. Applications are to be on forms provided by the City and must state under oath such facts as may be required for, or applicable to, the granting of the permit. The City reserves the right to request additional information or documentation regarding the application to ensure proper compliance with this Ordinance and the safety of the general public.
3. The applicant must pay a fee of in an amount set by City Council from time to time by resolution. Fees must be made payable to “The City of Hart”. All payments must be made by cash , check, credit card, or electronic fund transfers.
4. The application fee is nonrefundable and does not guarantee approval by the City.
5. Permits are valid for 14 consecutive days. Each additional period of 14 days or less requires an additional application submitted in the same manner as an original application. Longer-term permits may be granted only by city council resolution.
6. A Transitory Food Service Unit that is engaged in the business of selling prepared food that is cooked or heated with a device or appliance using any gas or liquid may not receive a permit until and unless the motor vehicle, conveyance, cart, stand, booth or other similar structure or fixture, device or appliance is reviewed or inspected by the Oceana County Health Department.
7. Application Process
 - A. Applications must be submitted to: City of Hart, 407 South State Steet, Hart MI 49455 in accordance with the requirements this Ordinance for approval by either the City Manager or the Chief of Police.

- B. The City reserves the right to deny the application for incompleteness. No permit may be granted to any person owing any personal property taxes, money judgments, or any other indebtedness to the city, except for real property taxes and special assessments, or to any person using any personal property in the operation of a business upon which personal property taxes are delinquent.
- C. If, within 14 days from application submission, the applicant is unable to furnish any required or requested initial or supplemental documentation and/or delinquent payments, the application will be considered abandoned.

Section 6. Regulations

All the following regulations must be followed at all times by any Transitory Food Service Unit operating in the City:

1. Transitory Food Service Units may operate in zoning districts B-1 and B-2, as designated by the current City of Hart Zoning Map on private property. Those applying for a permit to operate on public property may only operate in designated areas under an approved special event permit or otherwise approved by city council.
2. No Transitory Food Service Unit may operate within the vicinity of a hospital entrance or within 100 ft of the main entrance of a brick-and-mortar food service establishment unless the unit is an accessory use of the restaurant.
3. Transitory Food Service Units may operate within the hours of 7:00 am and 10:00 pm on Sundays through Thursdays and 7:00 am and 12:00 am on Fridays and Saturdays unless the City Council approves additional permitted hours upon request of a Transitory Food Service Unit.
4. No Transitory Food Service Units may be left overnight, or unattended on public property, unless authorized by city council by resolution or under an approved special event permit.
5. No Transitory Food Service Unit may block, obstruct, restrict, or otherwise interfere with the movement of vehicular traffic, or designated public parking.
6. No Transitory Food Service Unit may block, obstruct, restrict, or otherwise interfere with the flow of pedestrian foot traffic, movement or access to public walkways, trails or public amenities.
7. No furnishings are allowed on curbs, sidewalks, trails, in roads, pedestrian or vehicular right of ways. This includes, but is not limited to, lights, signs, banners, chairs, tables, or external waste receptacles.
8. The City of Hart reserves the right to permit furnishings on any public lawn, lot, park, or space. All furnishings must be included on a site plan and submitted with application

and must be in good quality condition. Furnishings are subject to approval by the City Manager or Chief of Police.

9. No liquid, solid, or food waste, or debris will be permitted to emit from the Transitory Food Service Unit. The permittee must keep the premises whereon said Transitory Food Service Unit is located free from their own rubbish, waste products, cans, bottles and debris including napkins, straws, paper cups and plates and other waste material.
10. Only reasonable vapors, steam or exhaust will be permitted to emit from the Transitory Food Service Unit.
11. Use of generators may be prohibited if its use, location, or condition is anticipated to create a nuisance to neighbors or pedestrians.
12. The Transitory Food Service Unit must comply with all local, state, and federal laws set forth by the Michigan Food Code, Michigan Health Department, USDA, Michigan Department of Agriculture, Michigan Secretary of State, Michigan Liquor Control Code, Internal Revenue Service, Oceana County Health Department, or any other agency or entity with lawful jurisdiction over the Transitory Food Service Unit, its operation, and product sales.
13. Transitory Food Service Unit must comply with all regulations herein, and subsequent recommendations by the City of Hart. The Transitory Food Service Unit must furnish all documents as outlined, and any other proofs, or documents requested by Chief of Police.

Section 7. Indemnification

A Transitory Food Service Unit permit holder, and private property owner, agrees to hold harmless and indemnify the City of Hart, its agencies, its employees, or agents in all matters arising from the permitted application, and/or the operation of the Transitory Food Service Unit.

Section 8. Insurance

A Transitory Food Service Unit permit holder, operating on public property, must have no less than \$1,000,000.00 business liability insurance naming the City of Hart as an additional insured for approved dates of operation. Proof of business insurance must be submitted with permit application. Proof of insurance is due prior to the Transitory Food Service Unit permitted operation dates.

Section 9. Impoundment

Any equipment associated with a Transitory Food Service Unit that is not in compliance with this Ordinance and is left on public property may be impounded at the owner's sole expense.

Section 10. Non-exclusivity:

No provision in this chapter limits or intends to limit in any way the Transitory Food Service Unit, or its operator the right to offer or sell its products to the general public, other business entities, municipalities, or agencies before, during or after the operation permitted herein. The permit does not limit the City of Hart from freely engaging other persons, organizations, or businesses to provide the same or similar products or services at any time. Approval for a permit does not constitute approval or agreement to approve future applications.

Section 11. Revocation, Suspension, or Refusal; Appeal

Once a permit has been issued, the Zoning Administrator may, at any time, revoke or suspend a license for failure to comply with the provisions of this Ordinance or any rules or regulations promulgated by the City included, but not limited to one or more of the following reasons:

1. Failure to pay all required fees;
2. Fraud, misrepresentation or false statement contained in the application for a permit;
3. Fraud, misrepresentation or false statement made in the operation of a business;
4. Any violation amounting to a felony, or misdemeanor involving moral turpitude, resulting from or related to operation of a business in the City;
5. Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a nuisance per se to the health, safety or welfare of the public;
6. Failure to comply with an requirement of any authorized city official as it relates to the operation or business pertaining to the permit;
7. The failure of any applicant or permittee (including all employees, agents and representatives of the applicant or permittee) to meet and satisfy any provision of this Code or any other duly established rule or regulation of the city applicable to the business for which the permit has been requested or granted;
8. Failure to obtain any other required license or permit for the business from any federal, state or local agency or authority and lack of any evidence that such state license or permit has been obtained and proof that all fees pertaining thereto have been paid;
9. Failure to provide any information reasonably requested by the Zoning Administrator related to the application;
10. Failing to comply with this Ordinance.

The City must provide a permittee with reasonable notice and an opportunity to be heard before revoking or suspending a permit.

If a permit application is denied or a permit is revoked or suspended, the aggrieved party may appeal to the City Council in writing within ten days. If no appeal is timely filed, then the denial, revocation, or suspension is final.

Section 12. Other Permits

A permit obtained does not relieve any Transitory Food Service Unit of its responsibility for obtaining any other permit or license or authorization required by any other ordinance, statute, law or administrative rule promulgated by any entity with jurisdiction over the location or conduct considered within this Ordinance.

Section 13. Validity and Severability

Should any portion of this Ordinance be found invalid for any reason, such holding will not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 14. Repealer Clause

Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 15. Violation

A violation of this ordinance is a municipal civil infraction and, in addition, the City of Hart is entitled to enforce this ordinance by seeking injunctive relief or any other remedy allowed by law.

Section 16. Effective Date

This ordinance is effective 30 days after publication.