City of Hart, Michigan

PLANNING COMMISSION

January 2, 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 October 3, 2024 Meeting
4. Public Comments on Agenda Items
5. Action Items
    a. Review and Accept 2024 Planning Commission Annual Report
6. Discussion Items
    a. Consider recommendation to the council to adopt proposed A-Residential Zoning amendments
    b. Consider recommendation to the council to adopt proposed A1-Residential Zoning amendments
    c. Consider recommendation to the council to adopt proposed Landscape Zoning amendments
    d. Consider recommendation to the council to adopt proposed Food Truck Zoning
7. Other business and communications from Commission members
8. Public Comments
9. Adjourn – Next regular meeting on February 6, 2025

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City Of Hart

407 S. State St
Hart, Mi 49420
Planning Commission
Thursday, October 3rd, 2024
Minutes

MEMBERS PRESENT: Betty Root, Jim Cunningham, Cynitha Fout, Gale Goldberg, and Diane LaPorte (late)
ABSENT: None
OTHERS PRESENT: City Clerk – Karla Swihart, Community & Economic Development Director – Nichole Kleiner

- B. Root called the meeting to order at 4:00 pm.

APPROVAL OF AGENDA:

- G. Goldberg moved to approve the agenda and supported by C. Fout
  - Ayes: 5 Nays: 0 Absent: 0

APPROVAL OF MINUTES:

- C. Fout moved to approve minutes from August 1st, 2024, and supported by G. Goldberg
  - Ayes: 5 Nays: 0 Absent: 0

PUBLIC COMMENTS on Agenda Items: NONE

ACTION ITEMS:

- Review, Discuss and consider recommending Master Plan reaffirmation to City Council
  - G. Goldberg moved to accept the existing Master Plan and supported by J. Cunningham.
    - Ayes: 5 Nays: 0 Absent: 0

- Review, Discuss and consider recommending Park and Recreation Plan reaffirmation to City Council
  - G. Goldberg moved to accept the existing Parks and Recs Pan as it exists and supported by J. Cunningham
    - Ayes: 5 Nays: 0 Absent: 0

- Review new Ordinance drawings and consider recommending adoption to the existing zoning code.
  - G. Goldberg moved to accept Ordinance drawings 1243.05 Obstruction At Intersection, 1243.23 Deck & Ramps, 1243.21 Fences, and 1243.16 Sheds and supported by J. Cunningham.
    - Ayes: 5 Nays: 0 Absent: 0

DISCUSSION ITEMS:

- Review Redevelopment Ready Community-directed zoning ordinance requirements and discuss what options may be appropriate for the City of Hart

  1. Providing for Housing Diversity

  Requirement is to reference at least 3 types of traditional housing for our zoning ordinances. The City currently reference the following TWO traditional housing options:

  Accessory dwelling units (section 1243.25 Accessory Apartments)

  - Permitted in B-2 Central Business district: An accessory apartment as part of an owner occupied single-family home, which complies with Section 1243.25, or having an apartment(s) associated with a commercial use.

  Mixed Use – Residential units above commercial (non-residential uses) (Section 1249.02) Permitted uses

  - In the B-1 Zoning District, dwelling units may be permitted within a building where the principal use is commercial subject to the following conditions:

The dwelling unit shall not be located below the second floor of the building
Each dwelling unit shall contain a minimum of 600 square feet of floor area
A building permit shall be obtained.

Acceptable traditional housing options are:

Triplexes, Townhomes or Rowhouses
Cottage housing, bungalow courts
Tiny houses

J. Cunningham moved to add Triplexes, Townhomes or Rowhouses in the A-2 district.

G. Goldberg would like to add discussion regarding allowing 1st floor rentals in the downtown B-1 Commercial business district. N. Kleiner will have that on the agenda for next Planning meeting.

2. Provide for Parking Flexibility

Requirement is to include THREE or MORE of the following flexible parking requirements in our Zoning Ordinance

The City currently reference the following TWO parking Ordinance options:

Shared parking agreements (Joint Use; Section 1260.09 Off-Street Parking & Loading)

- Parking facilities required for a church, theater, bowling alley, dance hall, etc., may be provided wholly or in part by off-street parking facilities serving other uses, such as banks, business offices, retail stores, personal service shops, household equipment or furniture shops, manufacturing buildings and similar uses which are not normally open, used or operated during the same principal operating hours of churches, theaters or the aforementioned establishments. Such joint use may be authorized by the Zoning Administrator upon application showing that participating uses will be adequately served by such joint facilities, and which application shall be accompanied by a properly drawn legal instrument executed by the parties concerned for the joint use of off-street parking facilities. In no case will the number of required car spaces permitted to serve jointly be less than the greatest requirement of this chapter for any one participating establishment.

Elimination of parking requirements in the Central Business District (Additional Regulations; Section 1249.05)

- In the B-1 Central Business District (which is the core downtown area), Section 1249.05(a) states that, “off-street parking regulations of CHAPTER 1260 shall not apply to uses in the B-1 Zone. If parking is provided, it shall be set back at least 30 feet behind the front build-to-area”

Acceptable parking flexibility options are:

Connections between parking lots
Parking Waivers
Electric vehicle charging stations
Bicycle parking
Payment in lieu of parking
Banked/deferred parking

C. Fout moved parking waivers

D. LaPorte moved Bicycle parking and EV charging stations

3. Standards for Green Infrastructure:

Requirement is to include THREE or MORE of the following Green Infrastructure Standards.

The City currently reference the following TWO green standard:

Internal Parking Lot Landscaping Standards (Section 1243.22 Landscape Regulations):

Parking and landscaping

- 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.

- 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.
- Landscape islands or peninsulas at the end of parking rows which are more than twenty spaces long. Within such rows a landscaped island shall be installed every twenty spaces.
- 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.
- Each island or peninsula within a parking area shall contain a minimum of one canopy tree.
- Landscaping in and adjacent to parking areas shall be of a height and location which will not block the vision of drivers or pedestrians.

Open Space Preservation Development (Section 1247.05 Open Space)

- Open Space – For Multi Family developments consisting of more than one acre, a minimum of ten percent of the gross site area shall be preserved and maintained as common open space for use by all residents and property owners of the development. Play structures, tennis courts, swimming pools may be utilized in lieu of fifty percent of the required open space.

Acceptable Green infrastructure options are
Low Impact development techniques
Rainwater collection
Green Roofs
Permeable Pavement
Steep Slope protections
Street tree planting standards
Tree preservation standards
Required native or low-maintenance plantings
Renewable Energy
Buffering standards around water bodies or other natural resources
Off-site stormwater regulations allowing site developers to participate in district-scale stormwater management plan
Recommendations are Permeable Pavement, Renewable Energy and tree Preservation Standards.

- Review Draft of ZBA by-laws
  ZBA is not recommended to hold scheduled meetings, but if a zoning application is denied and the applicant feels they have a right they will request to meet with the Zoning Board of Appeals.

OTHER BUSINESS:

- G. Goldberg Do we know what area City Center Overlay is going to cover and who sets the guidelins? (Will wait for Rob to answer)

Public Comments Non-Agenda Items:

- None

ADJOURN:

- There being no further business to come before the Planning Commission, the meeting adjourned upon a motion by G. Goldberg and supported by J. Cunningham. The next scheduled meeting will be held on November 7th, 2024.

Karla Swihart

Karla Swihart
City Clerk

Memorandum

To:	**City of Hart Planning Commission**
Date:	**January 2, 2025**
From:	**Robert Splane, City Manager**
RE:	**Planning Commission Annual Report**

Overview

The Michigan Planning Enabling Act requires the Planning Commission to provide an annual written report to the City Council concerning its operations and the status of planning activities, recommendations, and goals. Please find the following summary information for 2024 and potential goals for 2025.

Action Summary Table

Type	2020	2021	2022	2023	2024
Meetings	7	6	4	2	5
Text Amendments	0	0	2	0	0
Site Plans	1	2	0	0	1
Special Land Uses	1	0	0	1	0
Plats	0	0	0	0	1
Site Condos	0	0	0	0	0
Rezoning	2	1	0	2	1

2024 Attendance

Month	Betty Root, Chair	Jim Evans, Councilor	Diane LaPorte, Member	Gale Goldberg, Member	Cynthia Fout, Member	Jim Cunningham, Member	Justin Adams, Councilor
Meetings	**5/5**	**1/5**	**5/5**	**5/5**	**4/5**	**4/5**	**3/5**

2024 Reviews

Date	Application	Decision	Vote
2-1-24	Site Plan Review – Dollar General, 4128 Polk Rd	Recommended	5-0
3-7-24	PUD amendment and re-plat Creeks Subdivision	Recommended	5-0
6-6-24	Rezone 3 E Main Street from B-2 to PUD	Recommended	4-0

2024 Discussions

1. Joint city council retreat with planning commission members

2025 Goals

1. Continuing work on Redevelopment Ready Community Initiatives
2. Revisit food truck ordinance
3. Short-term rental ordinance
4. Continue regular review of all existing ordinances and suggest updates as necessary
5. Refine potential creation of overlay district using form-based code

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 feet tall 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.