

ZONING ORDINANCE

CITY OF HART

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Table of Contents

PART TWELVE - PLANNING AND ZONING CODE.....	1
CHAPTER 1220	1
1220.01 ESTABLISHMENT	1
1220.02 COMPOSITION; TERMS; VACANCIES.....	1
1220.03 COMPENSATION.....	2
1220.04 REMOVAL OF MEMBERS.....	2
1220.05 MEETINGS AND RECORDS.....	2
1220.06 CONTRACTS FOR SERVICES.....	2
1220.07 POWERS AND DUTIES.....	3
1220.08 GIFTS	3
1220.09 REPORTS AND RECOMMENDATIONS	3
CHAPTER 1222	4
SUBDIVISION REGULATIONS	4
1222.01 COMPLIANCE REQUIRED.....	4
1222.02 STREETS.....	4
1222.03 WATER	5
1222.04 SEWERS	5
1222.05 DIVISION OF LOTS; BUILDING PERMITS	6
1222.99 PENALTY	6
CHAPTER 1240	7
TITLE AND PURPOSE	7
1240.01 SHORT TITLE.....	7
1240.02 PURPOSE	7
1240.03 INTERPRETATION; CONFLICTS	7
1240.04 SEPARABILITY	7
CHAPTER 1241	8
DEFINITIONS	8
1241.01 DEFINITIONS	8
CHAPTER 1242	15
ADMINISTRATION, ENFORCEMENT AND PENALTY	15
1242.01 DUTIES OF ZONING ADMINISTRATOR.....	15
1242.02 EXCAVATION, CONSTRUCTION AND ALTERATION; PERMIT REQUIRED	15
1242.03 PERMIT APPLICATIONS	15
1242.04 CERTIFICATES OF OCCUPANCY.....	16
1242.05 PERMIT FEES.....	16
1242.06 AMENDMENTS.....	16
1242.07 PENALTY; EQUITABLE REMEDIES.....	17
CHAPTER 1243	18
GENERAL PROVISIONS RELATING TO ALL DISTRICTS.....	18
1243.01 COMPLIANCE REQUIRED.....	18
1243.02 STRENGTHENING OR RESTORATION OF UNSAFE STRUCTURES	18
1243.03 CHANGE OF USE OR FUNCTION; PERMIT OR VARIANCE REQUIRED.....	18
1243.04 LIMITATIONS ON LOT SPLITS	18
1243.05 OBSTRUCTIONS AT INTERSECTIONS.....	18
1243.07 MORE THAN ONE DWELLING ON A LOT PROHIBITED.....	18
1243.08 STORAGE OF RECREATIONAL VEHICLE	19
1243.09 USE OF BASEMENTS AS LIVING OR SLEEPING QUARTERS	19
1243.10 HEIGHT LIMITATIONS	19
1243.11 RESERVED FOR FUTURE USE.....	19
1243.12 CONSTRUCTION NEAR WATERCOURSES, ETC.	19
1243.13 RESERVED FOR FUTURE USE.....	20
1243.14 REQUIRED STREET FRONTAGE	20
1243.15 MOVING OF BUILDINGS INTO CITY	20
1243.16 ACCESSORY BUILDINGS AND STRUCTURES	20
1243.17 BASEMENTS IN HIGH GROUND WATER AREAS	21
1243.18 REGULATION OF ANTENNAE AND TOWERS.....	21
1243.19 PRIVATE ROADS	22
1243.20 MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE OF MOBILE HOME PARKS	24

1243.21	FENCES AND WALLS.....	25
1243.22	LANDSCAPE REGULATIONS.....	26
1243.24	REDUCTION OF FRONT YARD SETBACK AND MAXIMUM SETBACK.....	27
1243.25	ACCESSORY APARTMENTS.....	28
1243.26	WOOD FURNACE OR OUTDOOR WOOD STOVE.....	29
CHAPTER 1244	.....	31
ZONE DISTRICTS AND ZONING MAP	.....	31
1244.01	ESTABLISHMENT.....	31
1244.02	ZONING MAP.....	31
1244.03	CLASSIFICATION OF LOTS IN MORE THAN ONE DISTRICT.....	31
1244.04	CLASSIFICATION OF ANNEXED PROPERTY.....	31
CHAPTER 1245	.....	32
A, RESIDENTIAL ZONE.....		32
1245.01	PURPOSE.....	32
1245.02	PERMITTED USES.....	32
1245.03	SPECIAL USES.....	32
1245.04	DISTRICT REGULATIONS.....	33
1245.05	ADDITIONAL REGULATIONS.....	34
CHAPTER 1246	.....	35
A1, RESIDENTIAL ZONE.....		35
1246.01	PURPOSE.....	35
1246.02	PERMITTED USES.....	35
1246.03	SPECIAL USES.....	35
1246.04	DISTRICT REGULATIONS.....	36
1246.05	ADDITIONAL REGULATIONS.....	37
CHAPTER 1247	.....	38
A2, APARTMENT ZONING DISTRICT.....		38
1247.01	DESCRIPTION AND PURPOSE.....	38
1247.02	PERMITTED USES.....	38
1247.03	SPECIAL USES.....	38
1247.04	DISTRICT REGULATIONS.....	39
1247.04	OPEN SPACE.....	40
1247.05	ACCESS STANDARDS.....	40
1247.06	ADDITIONAL REGULATIONS.....	40
CHAPTER 1248	.....	41
A3 MOBILE HOME PARK RESIDENTIAL DISTRICT.....		41
1248.01	PURPOSE AND REGULATION.....	41
CHAPTER 1249	.....	42
B1, CENTRAL BUSINESS DISTRICT.....		42
1249.01	PURPOSE.....	42
1249.02	PERMITTED USES.....	42
1249.03	SPECIAL USES.....	44
1249.04	DISTRICT REGULATIONS.....	44
1249.05	ADDITIONAL REGULATIONS.....	45
CHAPTER 1250	.....	47
B2, GENERAL BUSINESS DISTRICT.....		47
1250.01	PURPOSE.....	47
1250.02	PERMITTED USES.....	47
1250.03	SPECIAL USES.....	47
1250.04	DISTRICT REGULATIONS.....	48
1250.05	ADDITIONAL REGULATIONS.....	48
CHAPTER 1251	.....	47
C1, RESTRICTED COMMERCIAL.....		47
1251.01	PURPOSE.....	47
1251.02	PERMITTED USES.....	47
1251.03	DISTRICT REGULATIONS.....	47
1251.04	DESIGN STANDARDS.....	48
1251.05	ADDITIONAL REGULATIONS.....	48
CHAPTER 1252A	.....	49
M-I, MEDICAL – INSTITUTIONAL DISTRICT.....		49
1252A.01	PURPOSE.....	49
1252A.02	PERMITTED USES.....	49

1252A.03	SPECIAL LAND USES	50
1252A.04	DISTRICT REGULATIONS	50
1252A.05	ADDITIONAL REGULATIONS	51
CHAPTER 1252	.....	51
C2, LIMITED COMMERCIAL	.....	51
1252.01	PURPOSE	51
1252.02	PERMITTED USES	51
1252.03	SPECIAL LAND USES	52
1252.04	DISTRICT REGULATIONS	52
1252.05	ADDITIONAL REGULATIONS	52
CHAPTER 1253	.....	51
D1, INDUSTRIAL DISTRICT	.....	51
1253.01	PURPOSE	51
1253.02	PERMITTED USES	51
1253.03	SPECIAL USES	53
1253.04	DISTRICT REGULATIONS	53
1253.05	SITE DEVELOPMENT STANDARDS	54
1253.06	ADDITIONAL REGULATIONS	54
CHAPTER 1254	.....	55
D2 INDUSTRIAL PARK DISTRICT	.....	55
1254.01	PURPOSE	55
1254.02	PERMITTED USES	55
1254.03	DISTRICT REGULATIONS	56
1254.04	SITE DEVELOPMENT STANDARDS	56
1254.05	ADDITIONAL REGULATIONS	57
CHAPTER 1255	.....	58
PLANNED UNIT DEVELOPMENT	.....	58
1255.01	SHORT TITLE	58
1255.02	DESCRIPTION AND PURPOSE	58
1255.03	SPECIFICALLY PERMITTED USES	58
1255.04	SPECIFICALLY PROHIBITED USES	59
1255.05	PROCEDURE	59
1255.06	DEVELOPMENT PLAN REVIEW PROCEDURE	60
1255.07	DEVELOPMENT STANDARDS	60
CHAPTER 1256	.....	62
SPECIAL LAND USES	.....	62
1256.01	PURPOSE	62
1256.02	AUTHORIZATION	62
1256.03	PROCEDURE	62
1256.04	STANDARDS FOR APPROVAL	63
1256.05	CONDITIONS AND SAFEGUARDS	63
1256.06	VALIDITY OF PERMIT	64
1256.07	AMENDMENT OF AN APPROVED SPECIAL LAND USE	64
1256.08	PERFORMANCE STANDARDS	64
1256.09	BED AND BREAKFAST	65
1256.10	CHILD DAY CARE IN THE HOME FOR MORE THAN 6 BUT LESS THAN 12	65
1256.11	CHILD DAY CARE CENTER OUTSIDE OF HOME	66
1256.12	HOUSING FOR THE ELDERLY, RETIRED OR ASSISTED CARE FACILITIES	67
1256.13	ADULT BUSINESSES	67
CHAPTER 1257	.....	71
REVIEW AND APPROVAL OF SITE CONDOMINIUM PROJECTS	.....	71
1257.01	PURPOSE AND SCOPE	71
1257.02	ADMINISTRATION	71
1257.03	SCHEDULE OF FEES	71
1257.04	DEFINITIONS	72
1257.05	REVIEW OF PRELIMINARY PLANS BY THE PLANNING COMMISSION	73
1257.06	REVIEW AND APPROVAL OF FINAL PLANS BY CITY COUNCIL	76
1257.07	CONSTRUCTION IN COMPLIANCE WITH APPROVED FINAL SITE CONDOMINIUM PROJECT PLAN	77
1257.08	REVIEW AND APPROVAL OF CHANGES TO APPROVED SITE CONDOMINIUM PROJECT	78
1257.09	INCORPORATION OF APPROVED PROVISIONS IN THE MASTER DEED	78
1257.10	APPROVAL EFFECTIVE FOR ONE (1) YEAR	78

1257.11	VARIANCES	78
CHAPTER 1258	.....	79
SITE PLAN	.....	79
1258.01	PURPOSES	79
1258.02	SUBMISSIONS IN GENERAL.....	79
1258.03	AUTHORIZATION	80
1258.04	APPLICATION AND PROCEDURES	80
1258.05	SITE PLAN REVIEW	80
1258.06	SITE PLAN APPROVAL	81
1258.07	STANDARDS FOR APPROVAL	81
1258.08	CONDITIONS OF APPROVAL	83
1255.09	VALIDITY OF SITE PLANS.....	83
1258.10	PERFORMANCE GUARANTEE	83
1258.11	AMENDMENTS TO APPROVED SITE PLAN.....	83
1258.12	ACCESS CONTROL STANDARDS	84
CHAPTER 1259	.....	86
SIGNS.....	.....	86
1259.01	PURPOSE	86
1259.02	DEFINITIONS	86
1259.03	SIGNS PERMITTED IN ALL DISTRICTS	87
1259.04	RESIDENTIAL DISTRICTS	88
1259.05	COMMERCIAL DISTRICTS.....	89
1259.06	INDUSTRIAL DISTRICTS	90
1259.07	DESIGN, CONSTRUCTION AND LOCATION STANDARDS	91
1259.08	PORTABLE OR MOVABLE SIGNS.....	91
1259.09	MEASUREMENT OF SIGNS	92
1259.10	NONCONFORMING SIGNS, AND SIGNS ACCESSORY TO NONCONFORMING USES.....	92
1259.11	SIGN PERMITS.....	93
CHAPTER 1260	.....	93
OFF-STREET PARKING AND LOADING.....	.....	93
1260.01	COMPLIANCE REQUIRED	93
1260.02	SIZE AND ACCESS.....	93
1260.03	VEHICLES PERMITTED IN OFFSTREET PARKING AND LOADING SPACES	93
1260.04	LOCATION	93
1260.05	UNITS OF MEASUREMENT	93
1260.06	CHANGE IN USE; ADDITION AND ENLARGEMENTS	94
1260.07	MIXED OCCUPANCIES	94
1260.08	COLLECTIVE PROVISIONS	94
1260.09	JOINT USE	94
1260.10	PARKING SPACES REQUIRED	94
1260.11	EXCEPTIONS	95
1260.12	DEVELOPMENT AND MAINTENANCE OF PARKING AREAS	95
1260.13	REQUIRED LOADING AND UNLOADING SPACES	95
1260.14	DECISIONS BY ZONING ADMINISTRATOR; REDUCTION OF REQUIRED SPACES	96
CHAPTER 1261	.....	97
ZONING BOARD OF APPEALS.....	.....	97
1261.01	MEMBERSHIP.....	97
1261.02	JURISDICTION.....	97
1261.03	PROCEDURES.....	98
1261.04	FILING OF APPEALS	98
1261.05	PUBLIC HEARINGS	99
1261.06	DECISIONS OF THE BOARD OF APPEALS	99
1261.07	LAND USE VARIANCES	100
1261.08	FINDINGS OF FACT	101
1261.09	TIME LIMIT FOR VARIANCE GRANTED.....	101
1261.10	RESUBMISSION	102
1261.11	APPEALS OF BOARD OF APPEAL DECISIONS	102
CHAPTER 1262	.....	102
NONCONFORMING USES AND BUILDINGS .....	.....	102
1262.01	PURPOSE	102
1262.02	NON-CONFORMING USES	102
1262.03	NON-CONFORMING BUILDINGS AND STRUCTURES	102

1262.04	REPAIR, MAINTENANCE AND RECONSTRUCTION	102
1262.05	STRUCTURES UNDER CONSTRUCTION	103
1262.06	BUILDINGS BECOMING NONCONFORMING	103
1262.07	NON-CONFORMING RESIDENTIAL LOTS OF RECORD.....	103
	EFFECTIVE DATE.....	104

CODIFIED ORDINANCES OF HART

PART TWELVE - PLANNING AND ZONING CODE

TITLE TWO - Planning

Chap. 1220. Planning Commission.

Chap. 1222. Subdivision Regulations.

CHAPTER 1220

Planning Commission

1220.01	Establishment.	1220.06	Contracts for services.
1220.02	Composition; terms; vacancies.	1220.07	Powers and duties.
1220.03	Compensation.	1220.08	Gifts.
1220.04	Removal of members.	1220.09	Reports and recommendations.
1220.05	Meetings and records.		

CROSS REFERENCES

Planning Commission - see CHTR. Sec. 16.6

Municipal planning commissions - see M.C.L.A. Secs. 125.31 et seq.

County planning commissions - see M.C.L.A. Secs. 125.101 et seq.

1220.01 ESTABLISHMENT

There is hereby established a Planning Commission in and for the City. Said Commission is created pursuant to and in accordance with the provisions of Act 110 of the Public Acts of 2006, as amended, and as authorized in Sections 16.6 of the City Charter. Such Commission shall have all of the duties and powers and shall perform all of the functions provided by said Act, as amended. (Ord. 94. Passed 6-6-67.)

1220.02 COMPOSITION; TERMS; VACANCIES

The City Planning Commission shall consist of nine members, who shall represent, insofar as is possible, different professions or occupations, and shall be residents of the City of Hart. The members shall be appointed by the Mayor, subject to the approval of the City Council. The term of each member of the City Planning Commission, shall be for three years and each member

shall hold office until his or her successor has been appointed. Vacancies occurring otherwise than through the expiration of a term shall be filled for the remainder of the unexpired term by the Mayor, subject to approval by the City Council. The City Manager shall be a member ex-officio of the City Planning Commission and shall attend all of its meetings and may participate in all of its discussions, but he or she shall not have power to vote.

The Mayor, upon recommendation of the City Manager, may designate not more than two additional City employees to serve ex-officio on the City Planning Commission, and to assist said Commission in its work.

(Ord. 102. Passed 3-2-71.)

1220.03 COMPENSATION

The members of the Planning Commission, excluding ex-officio members, shall be compensated at such rate as the Council, in its discretion, may determine.

(Ord. 102. Passed 3-2-71.)

1220.04 REMOVAL OF MEMBERS

Members of the City Planning Commission may, after public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office, provided that such removal must be approved by the City Council.

(Ord. 94. Passed 6-6-67.)

1220.05 MEETINGS AND RECORDS

The City Planning Commission shall annually elect its Chairperson from amongst the appointed members and create and fill such other of its offices as it may determine. The City Planning Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its proceedings. The record shall be public and open to inspection in the office of the City Clerk.

(Ord. 94. Passed 6-6-67.)

1220.06 CONTRACTS FOR SERVICES

The City Planning Commission may contract with city planners, engineers, architects and other consultants for such specified services as it may require. In addition, the services of regular City employees may be obtained as found necessary for its work, provided, that the City Planning Commission shall not expend any funds or enter into any contracts or agreements for expenditures in excess of the amounts appropriated for such purposes by the City Council. The City Council may appropriate such funds for City planning as it may deem advisable. (Ord. 94. Passed 6-6-67.)

1220.07 POWERS AND DUTIES

The City Planning Commission shall have such powers concerning the preparation and adoption of a master plan or any part thereof, for making of surveys as a basis for such plan, for the approval of public improvements, for the carrying out of educational and publicity programs, and for the approval of plats, and such other rights, powers, duties and responsibilities as are provided in Act 110 of the Public Acts of 2006, as amended (Ord. 94. Passed 6-6-67.) (Ord. _Passed -06)

1220.08 GIFTS

The City Planning Commission may receive gifts for the purpose of carrying out its objectives and may expend any funds received in the form of a gift in such manner as the Commission may deem to be proper. (Ord. 94. Passed 6-6-67.)

1220.09 REPORTS AND RECOMMENDATIONS

The City Planning Commission shall make reports and recommendations to the City Council, provided that no such recommendation shall be binding upon the City Council. (Ord. 94. Passed 6-6-67.)

CHAPTER 1222

SUBDIVISION REGULATIONS

1222.01	Compliance required.	1222.05	Division of lots; building
1222.02	Streets.		permits.
1222.03	Water.	1222.99	Penalty.
1222.04	Sewers.		

CROSS REFERENCES

Approval of plats; street system - see M.C.L.A. Sec. 125.43

Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L.A. Sec. 125.44

Approval or disapproval of plats; procedure; effect - see M.C.L.A. Sec. 125.45

Certification of City plats - see M.C.L.A. Secs. 125.51 et seq.

Subdivision Control Law - see M.C.L.A. Secs. 560.101 et seq.

1222.01 COMPLIANCE REQUIRED

Any person, firm or corporation hereafter presenting to the Council of the City of Hart a plat of lands located within the incorporated limits of said City and requesting the Council's approval thereof, shall, in addition to complying with all statutory provisions governing the platting of such lands, also comply with each of the provisions of this chapter. (Ord. 33. Passed 6-16-53.)

1222.02 STREETS

- (a) Streets included in the plat shall be dedicated sixty-six feet in width, except where a street joins an existing street in an adjoining plat, in which case such street may be dedicated the width of the street in the adjoining plat, but in no event shall the street in the proposed plat be dedicated less than sixty feet in width.
- (b) The proprietor of the plat shall establish the grade of each street proposed to be dedicated to the satisfaction of the City.
- (c) The proprietor shall surface each street dedicated within the plat a minimum width of eighteen feet, with 22A, Gravel, as per State of Michigan specifications and to a depth of four inches compact.

- (d) The proprietor shall establish a grade for each sidewalk on each side of the street proposed to be dedicated, the grade to be established to the satisfaction of the city. (Ord. 33. Passed 6-16-53.)

1222.03 WATER

- (a) The City and the proprietor of the plat shall install necessary water mains from the terminus of the then existing City water mains to the property proposed to be platted, the proprietor and City to pay the expense equally. However, in the event the City determines that a water main of a greater size would be advisable to provide a water capacity greater than that needed to service said subdivision, the City shall have the privilege of installing mains of larger diameter than that required to service the subdivision, but the additional cost of installing a main larger than that required to service the subdivision shall be borne solely by the City, the proprietor and the City to share in the actual expense of the cost of a main of the diameter required to service the subdivision. In the event other persons, firms or corporations require water use from such water mains, the City shall have the privilege of furnishing water from such mains to the persons requesting the same, charging such costs to the user thereof in proportion to the City's expense in the installation of such water main.
- (b) At such time as the City deems it is necessary to do so and the City Council in its judgment believes it is economically possible for the City to do so, such decision to be made solely by said City Council, the City shall install lateral water mains within the subdivision, at no cost or expense to the proprietor of the plat or any subsequent purchaser or purchasers of lands within the plat. (Ord. 33. Passed 6-16-53.)

1222.04 SEWERS

- (a) At such time as the City shall deem it necessary to install or require installation of sewers within the subdivision, the City shall have the right and privilege of making the installation thereof, the cost and expense thereof to be paid as follows. One-half of the cost of any trunk line sewer built from the terminus of the existing City trunk line sewer to the subdivision and the entire cost of all lateral sewers within the subdivision shall be paid for by the owners of all the lands within said subdivision at the time of the installation thereof, collection of the landowner's share to be made by a special assessment as provided by statute and in accordance with the terms of any ordinance thereafter enacted by the City of Hart. In the event the City deems it advisable to install a trunk line sewer from the terminus of the then existing trunk line sewer to the subdivision, of a diameter greater than necessary to service said subdivision, the owners of the lands within said subdivision shall be liable for only one-half of the cost of a sewer of sufficient diameter to service the subdivision. The matter of deciding the diameter necessary to service the subdivision shall rest solely in the judgment of the City Council. All costs and expenses of installation of the trunk line sewer to the subdivision, which are not imposed upon the owners of the lands within said subdivision, as hereiribefore provided, shall be borne by the City. In the event persons, firms or corporations occupying lands which are not located within the plat of said subdivision desire the use of

sewer facilities discharging into the trunk line financed and paid for equally by the owners of the lands in the subdivision and by the City, the City shall have the privilege of allowing use thereof by such occupants of lands not included in the subdivision, on the condition such users pay to the City a proportionate cost of the City's expense in the installation thereof.

- (b) The City, at no cost or expense to the proprietor of the plat or to any subsequent purchasers of lands within said plat, shall install necessary storm sewers in said subdivision when, in the judgment of the City Council, it is deemed necessary to install the same and when it is, in the opinion of the Council, economically possible for said City to make the installation thereof. (Ord. 33. Passed 6-16-53.)

1222.05 DIVISION OF LOTS; BUILDING PERMITS

- (a) The division of a lot in a recorded plat is prohibited, unless approved by resolution of the City Council following application to the City Clerk.
- (b) Said application shall state the reasons for the proposed division and shall be in affidavit form.
- (c) No lot in a recorded plat shall be divided into more than four parts and the resulting lots shall be not less than sixty-five feet at the front line or less than 12,000 square feet in area.
- (d) The minimum width and area requirements of subsection (c) hereof shall not apply to
 - (1) Lots being served by public sewer and public water systems;
 - (2) Lots being divided for the purpose of adding to the existing building site or sites.
- (e) No building permits shall be issued or any building construction commenced until the division has been approved by the City Council and the suitability of the land for building sites has been approved by the Building Inspector. (Ord. 97. Passed 11-19-68.)

1222.99 PENALTY

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 1240**TITLE AND PURPOSE****1240.01 SHORT TITLE**

This Title Four of Part Twelve of these Codified Ordinances shall be known and may be cited as the "Zoning Ordinance of the City of Hart, Oceana County, Michigan," or just the "Zoning Code."

1240.02 PURPOSE

The purpose of this Zoning Code shall be the purposes set forth in Act 110 of the Public Acts of 2006, as amended.

1240.03 INTERPRETATION; CONFLICTS

Where private restrictions imposed by deed, covenant or contract apply to land or buildings, the provisions of this Zoning Code shall not supersede such private rights or obligations, provided, however, that if the terms of this Zoning Code are more restrictive, this Zoning Code shall apply.

1240.04 SEPARABILITY

If any clause, sentence, subdivision, paragraph, section or part of this Zoning Code is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

CHAPTER 1241

DEFINITIONS

1241.01 DEFINITIONS

For the purposes of this Zoning Code, certain terms are herein defined. When not inconsistent with the text, words used in the present tense include the future, words used in the singular number include the plural, and words in the plural number may include the singular; the word "person" may be taken for persons, associations, copartnership or corporations; the word "structure" includes buildings; the word "occupied" includes designed or intended to be used; the word "shall" is always mandatory and not merely directive; and the word "used" includes designed or intended to be used. Other words and terms shall leave the following respective meanings:

"Accessory use" means a use naturally and normally incidental and subordinate to the main use of the premises.

"Accessory building or structure" means a subordinate structure on the same lot with a main building, or a portion of the main building, occupied or devoted exclusively to an accessory use.

"Adult Day Care" means a private dwelling in which persons 18 years or older are provided supervision, personal care and protection for periods of less than 24 hours a day, operated by a person who permanently resides as a member of the dwelling.

"Adult Foster Care Family Home" means a private residence with the state approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

"Adult Foster Care Group Home" means a private residence with the state-approved capacity to receive more than 6 adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

"Alley" means a public way not more than twenty feet wide which affords only a secondary means of access to abutting property.

"Automobile repair - minor" means minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks.

"Basement" means a story in a building having more than three of its four walls or more than seventy-five percent of its circumference below the average grade of the adjoining ground. A basement shall not be counted as a story for height measurement.

"Bed and Breakfast Establishment" means a private residence that offers overnight accommodations to lodgers in the innkeeper's (owner or operator) principal residence and serves breakfast at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed and breakfast establishment for fewer than thirty (30) consecutive days.

"Billboard" or "sign board" means any structure or a portion thereof situated on private premises on which lettered, figured or pictorial matter is displayed for advertising purposes. This definition shall not be held to include a real estate sign advertising the sale or rental of the property upon which it stands.

"Boarding house" or "lodging house" means a building or part thereof, other than a hotel or restaurant, where meals and/or lodging are provided for compensation for two or more persons who are not transients.

"Breezeway" means a covered structure connecting an accessory building with the principal use. For purposes of determining yard and area requirements such connected building shall be considered as one integral unit.

"Building" means any structure having a roof supported by columns or walls designed or intended for the support, enclosure, shelter or protection of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum requirements for side yards as hereinafter provided.

"Building Height" means the vertical distance measured from the lowest point -of elevation of the surface of the ground anywhere around the perimeter of a building, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to a point which is half way between the eaves and the ridge of gable, hip, or gambrel roofs.

"Child Care Center" means a facility in which one or more children are given care and supervision for periods of less than 24 hours a day on a regular basis. Child care centers do not include Family or Group Day Care Homes, or schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not

"Church, Mosque, or Synagogue" means a building, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses and which qualifies for tax exemption under Section 501 (C) (3) of the U.S. Internal Revenue Code.

"Deck" means an uncovered platform which extends above grade.

"District" means a section of the City of Hart, in all parts of which the regulations of this Zoning Code governing the height, area and use of buildings and premises are the same.

"Dwelling, Multiple Family" means a building designed for occupancy by three or more families living independently of each other.

"Dwelling, Single-family Detached" means a detached building designed exclusively for and occupied exclusively by one family.

"Dwelling, Two-family" means a building used for occupancy by two families living independently of each other.

"Dwelling Unit" means a building, or portion of a building, designed for use and occupancy by one family for living and sleeping purposes, with housekeeping facilities.

"Essential Public Service Structures or Buildings" means buildings or structures owned and operated by public utilities or municipal departments and used for gas, electrical, steam, fuel, water or sewage treatment or disposal, electrical substations, sewage lift stations which are not located entirely underground, and similar structures or buildings necessary to furnish adequate service within the City, but not including Essential Public Service Equipment.

"Essential Public Service Equipment" means wires, mains, drains, sewers, pipes, valves, pumps, conduits, cables, fire alarm and police call boxes, traffic signals, fire hydrants, post office boxes, street lights, or similar equipment located either entirely underground, or on poles, but not including Essential Public Service Structures or Buildings.

"Family" means (i) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or (ii) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

"Family Day Care Home" means a private residence in which less than seven minor children are given care and supervision for periods of less than 24 hours per day, operated by a person who permanently resides as a member of the household, which is registered with the Michigan Department of Family Independence Agency.

"Existing building" means a building existing or a building for which a legal permit has been issued and the foundations of which are in place or upon which there has been substantial work done prior to the adoption of this Zoning Code.

"Farm animals and fowls" means those animals and fowls usually kept on a farm for the production of income, such as horses, cows, pigs, chickens, turkeys, sheep, ducks and geese.

"Group Day Care Home" means a private residence in which more than six but less than 12 minor children are given care and supervision for periods of less than 24 hours per day, operated by a person who permanently resides as a member of the household, which is regulated by the Michigan Department of Family Independence Agency.

"Home occupation" means a gainful occupation conducted by members of the family and not more than one additional employee within the place of residence.

"Homes for the Elderly, Retired, or those Requiring Assisted Care" means a facility for persons 55 years or older or for those requiring extended care, including convalescent or nursing homes, but not including a hospital, which either: (i) provides or offers a level of care to its residents which is required to be licensed by the State of Michigan; or (ii) contains individual resident rooms or dwelling units with or without separate cooking facilities.

"Hotel" or "motel" means a building in which lodging is provided and offered to the public for compensation and which is open to transient guests (as distinguished from a boarding house or lodging house, apartment hotel or fraternity or sorority house).

"Kennel" means any premises on which three or more dogs or cats four months old or older are kept.

"Lot" means land occupied or to be occupied by one building and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required under this Zoning Code and having not less than twenty five feet of immediate frontage either upon a public highway or a perpetual recorded private road or easement.

"Corner lot" means a lot of which at least two adjacent sides abut for full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees

"Interior lot" means a lot other than corner lot.

"Living Space" means that area of a dwelling, measured from the inside walls, that is heated for living purposes. Living space does not include closets and stairwells and such things as garages, breezeways, or screened-in porches.

"Lot depth" means the mean horizontal distance between the front and rear lot line.

"Lot area" means the computed area inside of lot lines.

"Lot lines" means the lines bounding a lot as defined herein:

- (1) Front lot line. In the case of an interior lot, the line separating the lot from the adjacent public or private street or access easement. Through and corner lots shall be considered to have two front lot lines, consisting of the lines separating said lot from each of the streets abutting the lot. In the case of a waterfront lot, the front lot line is the lot line on the waterfront.

- (2) Rear lot line. That lot line opposite and most distant from the front lot line. In the case of a corner lot, the property owner may treat one of the lot lines opposite either of the two front lot lines as the rear lot line. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line or wholly within the lot. A through lot has no rear lot line.
- (3) Side lot line. The lot lines connecting the front and rear lot lines of an interior lot line or connecting the front lot lines of a through lot and the one lot line connecting the front and designated rear lot line of a corner lot.

"Lot Width" means horizontal straight line distance between the side lot lines of an interior lot or through lot, or designated side and opposite front lot line of a corner lot, measured at the minimum required front yard setback plumbing, heating, air-conditioning and electrical systems contained in the structure.

"Mobile Home" means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes any of the plumbing, heating, air-conditioning and electrical systems contained in the structure.

"Mobile Home Park" means a parcel or tract of land under the control of a person upon which three or more Mobile Homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

"Nonconforming use" means a use which lawfully occupied a structure or land at the time of adoption of this Zoning Code (Ordinance 144, passed October 12, 1982), or any amendment thereto, and which does not conform with the use regulations of the district in which it is located.

"Nonconforming building or structure" means a building structure lawfully existing at the time of adoption of this Zoning Code (Ordinance 144, passed October 12, 1982), or any amendment thereto, which is occupied by a nonconforming use.

"Ordinary High Water Mark" means the line between upland and bottom land which persists through successive changes in water levels, below which the presence and action of water is so common or recurrent that the character of land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present.

"Parking area - commercial" means an area, other than a street or other public way, used for the parking of automobiles and available for public use whether for a fee, free or an accommodation for clients or customers.

"Principal Building" means the building in which the principal use is located.

"Principal Use" means the primary use to which the premises is devoted.

"Private parking area" means an open area, other than a street, for the same use as a private garage.

"Private Road" means a roadway contained within a private road easement which is privately owned and maintained and which provides the principal means of access to more than four lots, dwelling units, or principal buildings.

"Private Road Easement" means an easement which is granted exclusively for private access to more than four dwelling units or principal buildings.

"Public and Institutional Use" means a non-profit or quasi-public use or institution such as a library, public or private school, civic center, parks, playground or any governmental owned or operated use building or structure or any land used for public purpose.

"Residential District" means the A, A1, A2 and A3 Districts.

"Setback" means the minimum horizontal distance between the front line of the building, including steps and unenclosed porches, and the property line, exclusive of a public road right of way.

"Story" means that portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

"Street" means a public or private way, square or lane, permanently open to common and general use, which affords the principal means of access to abutting property, more than twenty feet in width. Street width shall be the perpendicular measurement between right-of-way lines.

"Structure" means anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

"Structural alteration" means any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

"Wood Furnace or Outdoor Wood Stove" means a wood or coal burning, mechanical device which is accessory to and situated outside a structure which is used for heating. Also known as outdoor furnaces, water stoves, or boilers.

"Yard, Front" means an open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

"Yard, Rear" means a space unoccupied except by a building or accessory use as hereinafter permitted, extending for the full width of the lot between the rear line of the main building and the rear lot line.

"Yard, Side" means an open, unoccupied space, situated between the drip line of the building on such lot and the adjacent side line of the lot.

CHAPTER 1242

ADMINISTRATION, ENFORCEMENT AND PENALTY

1242.01 DUTIES OF ZONING ADMINISTRATOR

- (a) It shall be the duty of the Zoning Administrator to administer this Zoning Code and to enforce the provisions contained herein. The Zoning Administrator shall be appointed by the City Council to serve at its pleasure.
- (b) The Zoning Board of Appeals shall interpret this Zoning Code, make decisions on matters coming within its jurisdiction and instruct the Administrator as to the steps necessary to enforce its decisions.
- (c) Upon notice of a violation of this Zoning Code, the City Attorney shall determine and carry out the legal steps necessary to secure prosecution or adherence to this Zoning Code.

1242.02 EXCAVATION, CONSTRUCTION AND ALTERATION; PERMIT REQUIRED

It shall be unlawful for any person to commence excavation for or construction of any building or structure, or structural change in any existing building or structure, without first obtaining approval therefore in writing from the Zoning Administrator. No permit shall be issued for the construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this Zoning Code, showing that the construction proposed is in compliance with the provisions of this Zoning Code.

1242.03 PERMIT APPLICATIONS

Every application for a zoning permit shall be sworn to by the applicant, shall be made as now and hereafter required and shall designate the existing and intended use of the structure or premises or part thereof which it is proposed to alter, erect or extend, and the number of housekeeping units existing and/or intended shall be indicated. The application shall contain other information and shall be accompanied by such drawings and plans as required by the Zoning Administrator.

All dimensions shown on the before mentioned drawings (plans) relating to the location and size of the lot or parcel involved in the permit, other than those lots which are part of a recorded subdivision, shall be based on a survey, which must be signed by a land surveyor.

All building permits which cause application of yard requirements contained in this Zoning Code shall have said yard dimensions indicated on the permit.

In cases of minor alterations, the Zoning Administrator may waive portions of the foregoing requirements which fall under his or her administration and obviously are not necessary for the determination of compliance with this Zoning Code.

All zoning applications shall be kept in a permanent log by the Zoning Administrator, together with copies of the disposition of each application.

1242.04 CERTIFICATES OF OCCUPANCY

It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended or erected until the Zoning Administrator shall have issued a certificate of occupancy stating that the provisions of this Zoning Code have been complied with. It shall be unlawful to use or permit the use of any structure or premises, hereafter changed to a different use, until the Administrator shall have issued a certificate of occupancy showing conformity with the provisions of this Zoning Code. Until such certificate has been issued, no official shall grant a required license for the use proposed.

Under such rules and regulations as may be established by him or her, and in accordance with all ordinances pertaining thereto, the Administrator may issue a temporary certificate of occupancy not to exceed six months in duration for a part of a building or structure.

Upon written request from the owner, the Administrator, after inspection, shall issue a certificate of occupancy for any structure or premises otherwise legally existing for any such use which is permissible under the provisions of this Zoning Code.

A duplicate copy of the application and certificate of occupancy shall be filed with the City Assessor.

1242.05 PERMIT FEES

All applicants for zoning permits, special land use, rezoning, site condominiums, variances, site plan approval, and other land use review or approval required by this Ordinance, shall pay the fee established by resolution of the City Council from time to time.

1242.06 AMENDMENTS

The City Council may from time to time amend or change by ordinance the number, shape or area of any district established on the Zoning Map, or the regulations set forth in this Zoning Code, provided A public hearing shall be noticed not less than fifteen (15) days prior to the meeting and mailing of notice shall be sent to all property owners and occupants within 300 feet of the parcel to be developed, regardless of whether the noticed property or occupants are located in the City. The notice shall include:

1. The nature of the request.
2. The property(s) that are the subject of the request including a listing of all existing street addresses within property(s). If there are no addresses other means of identification may be used.
3. Location and time of the hearing.
4. Where and when written comments may be received.

1242.07 PENALTY; EQUITABLE REMEDIES

- (a) Any person who shall violate any of the provisions of this Zoning Code in any particular, or who fails to comply with any of the regularity measures or conditions of the Zoning Board of Appeals adopted pursuant hereto, shall, upon conviction thereof, be fined not to exceed five hundred dollars (\$500.00) or may be imprisoned not exceeding ninety days or may be both fined and imprisoned in the discretion of the Court, and each day such violation continues shall be deemed a separate offense.

- (b) Any violation of this Zoning Code may be prosecuted in any court for injunctive relief.

CHAPTER 1243**GENERAL PROVISIONS RELATING TO ALL DISTRICTS****1243.01 COMPLIANCE REQUIRED**

No structure, land or premises shall hereafter be used or occupied and no building shall be erected, moved, removed, reconstructed, extended or altered, except in conformity with the regulations herein set forth.

1243.02 STRENGTHENING OR RESTORATION OF UNSAFE STRUCTURES

Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the proper governmental officer or agency.

1243.03 CHANGE OF USE OR FUNCTION; PERMIT OR VARIANCE REQUIRED

No structure shall hereafter be erected, enlarged or altered for a change of use or function until a permit has been secured from the Zoning Administrator or a variance has been secured from the Zoning Board of Appeals.

1243.04 LIMITATIONS ON LOT SPLITS

No lot, yard, parking area or other space shall be so divided, altered or reduced as to make it less than the minimum required under this Zoning Code. If already less than the minimum required, it shall not be further divided or reduced. The Zoning Administrator may waive this provision to avoid legal action where the purpose of the conveyances is to make the property descriptions correspond to the actual occupancy of the property.

1243.05 OBSTRUCTIONS AT INTERSECTIONS

At any intersection of public roads, no fence, structure, wall, shrub, tree or plant shall be permitted within twenty feet of the right-of-way lines of the public highways which will obstruct the view of the users of the highways.

1243.06 RESERVED FOR FUTURE USE**1243.07 MORE THAN ONE DWELLING ON A LOT PROHIBITED**

No dwelling shall be constructed, altered or moved to the rear of a building situated on the same parcel of land, nor shall any building be constructed, altered or moved in front of a dwelling situated on the same parcel of land.

1243.08 STORAGE OF RECREATIONAL VEHICLE

No recreational vehicle shall be stored within twenty-five feet of the street right-of-way line for more than seventy two continuous hours, except by written permit granted by the Chief of Police.

1243.09 USE OF BASEMENTS AS LIVING OR SLEEPING QUARTERS

A basement shall not be used as living or sleeping quarters other than for occasional recreational use by humans. Sleeping quarters in basements shall be permitted only if there are two means of exit from said basement, one of which shall be a door leading directly to the outside of the basement, and only if each room used as sleeping quarters has at least one window opening to the outside, of a minimum of thirty inches by forty-eight inches.

1243.10 HEIGHT LIMITATIONS

The height limitations in any zone may be exceeded upon application to and approval by the Planning Commission, who shall affirmatively find that the proposed height does not create a fire and safety hazard and is so supported as to not endanger persons or property on the public highways or adjoining property.

1243.11 RESERVED FOR FUTURE USE**1243.12 CONSTRUCTION NEAR WATERCOURSES, ETC.**

- (a) No building or structure, except docks, steps, retaining walls, swimming pools, see through fences or bridges, shall be constructed within 50 feet of the ordinary high water mark of any creek, stream, river, lake, bog, swamp or other watercourse or area where water remains for more than ninety days each calendar year.
- (b) A lesser setback for a principal building may be allowed if the average setback for existing principal buildings is less than 50 feet. The average setback for existing buildings shall be determined as set forth in Section 1243.24 of this Ordinance.
- (c) For lots which have a steep bank abutting the watercourse, a principal building shall be set back a minimum of 20 feet from the top of the bank. For purposes of this chapter, a steep bank shall be defined as being at least 10 feet high (measured vertically from the ordinary high water mark to the top of the bank) with a slope of at least 33 percent (determined by dividing the vertical height of the slope by the horizontal distance of the slope).
- (d) Septic disposal fields and tanks and private wells shall be at least 100 feet away from the ordinary high water mark measured horizontally and shall be in conformance with the standards of the Oceana County Health Department.
- (e) All dwellings shall comply with applicable regulations of the Michigan Department of Environmental Quality.

1243.13 RESERVED FOR FUTURE USE**1243.14 REQUIRED STREET FRONTAGE**

No zoning permit shall be issued where the applicant fails to show that the property for which a permit is requested fronts or abuts, for a minimum of twenty- five feet, on a public highway or a permanent recorded nonobstructed easement of access or right of way to a public highway, not less than fifteen feet in width, which easement shall grant a right of way to public vehicles and/or utilities.

1243.15 MOVING OF BUILDINGS INTO CITY

In all areas of the City except that area within the City designated as the Historic District, no structure or building shall be moved into the City unless the same complies or will be made to comply, before being used, with the Building Code, as applied to new buildings and structures. Buildings within the Historic District shall comply with health and safety provisions of the Building Code for existing structures prior to occupancy. (Ord. 144. Passed 10-12-82.)

1243.16 ACCESSORY BUILDINGS AND STRUCTURES

- (a) Accessory buildings are permitted only in connection with, incidental to, and on the same lot or contiguous lots under the same ownership with a principal building which is permitted in the particular zoning district.
- (b) All accessory buildings shall comply with the limitations applicable in the zoning district in which it is located.
- (c) In any district, except as noted elsewhere, an accessory building may be erected detached from the principal building, or it may be erected as an integral part of the principal building.
- (d) No detached accessory building shall be used in any part for residential purposes.
- (e) Detached accessory buildings together shall not occupy more than thirty percent (30%) of any required rear yard.
- (f) Each parcel or lot shall have no more that two (2) detached accessory buildings.
- (g) Detached accessory buildings shall not be erected in the required front yard. When a detached accessory building is located in the rear yard, the foundation of such building shall be set back a minimum of five (5) feet from the side and rear lot lines.
- (h) Detached accessory buildings shall be a minimum of ten (10) feet from the principal building or buildings.

- (i) When a detached accessory building is located on a corner lot it may align or be behind the existing home if required setbacks cannot be met. (amended 11/06)
- (j) In residential zoning districts, a detached accessory building, excluding garages, shall not exceed six hundred (600) square feet in size or twelve (12) feet in height.
- (k) Sheet metal sheds and temporary structures used for storage (e.g., canvas, corrugated plastic, etc.) are prohibited. (amended 11/06).
- (l) Accessory buildings, which need a building permit, shall be of residential construction and properly painted or sided. Storage buildings with sheet metal siding are prohibited in the B1 and all residential zones.

1243.17 BASEMENTS IN HIGH GROUND WATER AREAS

No new building or structure shall have a basement where the City has indicated that the ground water table is so high as to cause water seepage into basements.

1243.18 REGULATION OF ANTENNAE AND TOWERS

Antennae or towers (including satellite dish antennas) are permitted in all zoning districts provided the following provisions are satisfied.

- (a) The antenna or tower shall be permanently secured to a stable foundation.
- (b) No portion of the antenna shall conduct or display any advertising, message, or other graphic representation other than the manufacturer's name.
- (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 setback, whichever is the greater.
- (d) An antenna or tower may be mounted on a principal or accessory building, provided it shall not exceed a height of ten (10) feet, as measured from the base of the antenna or tower.
- (e) All antennas or towers must be grounded to protect against damage from lightning.
- (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.
- (g) Freestanding antennae or towers (including satellite dish antennas, excluding amateur radio antennae) exceeding a height of twenty five (25) feet above grade, or exceeding a dimension of twenty five (25) 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.

- (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) The antenna or tower and the construction, installation, maintenance, and operation thereof shall comply with all federal, state, and local laws, ordinances, and regulations.
- (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 buildings 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 dwellings or other buildings or the construction and use of other structures within a specified isolation distance from an antenna or 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 of Hart's legitimate purpose in regulating such communications.

1243.19 PRIVATE ROADS

Private roads shall be permitted within all zoning districts, and shall comply with the following regulations:

- (a) The private road shall be constructed in accordance with the City standards.
- (b) Residential, commercial, and industrial structures and lots served by a private road shall be subject to the development requirements of the zone in which the structure or lot is located.
- (c) Provisions shall be made to insure the continued repair and maintenance of the private road, and financing of the costs by the property owners benefiting from the private road. This shall be accomplished through the use of a recorded agreement between the parties of interest in the private road or through a restrictive covenant.

- (d) An easement shall be maintained that meets the requirements of this Section and the City's specifications for street construction and shall be continuously maintained in such a way that it will not constitute a danger to health, safety, and welfare of the inhabitants of the City and such that it is accessible and usable to emergency vehicles in all types of weather.
- (e) A private road ending in a cul-de-sac shall not serve more than twenty (20) lots unless a secondary means of access is provided to a public road.
- (f) The private road shall be located within a private road easement of not less than sixty six (66) feet wide.
- (g) The private road shall be given a street name that is not the same or similar to any other street name in the City. A street sign meeting City standards as to design, location, and maintenance shall be erected and maintained where such private roads adjoin any public road.
- (h) The provisions of this Section shall not apply to access roads internal to any individual lot or parcel of land which has direct public street frontage access and is under the control of one person, firm, corporation, or association, provided that the access road does not provide access to any abutting land or parcel of land.
- (i) Procedure for Review of Private Roads
 - (1) An application to establish, extend, improve, or relocate a private road shall be filed with the Zoning Administrator along with a fee as set by the City Council. The application shall contain the following information - The name of the owners and any other parties having any legal interest in the private road or property across which it is to be constructed; permanent parcel number or legal description of the property over which the private road is to be constructed; a site location map to scale which shows the location of the parcel containing the road relative to surrounding properties and roadways; a scaled drawing prepared by a registered engineer showing the precise location, route, elevations, dimensions, specifications, extensions, and design of the private road; existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect; a road maintenance agreement and access easement agreement as required herein.
 - (2) The Zoning Administrator shall review this information to determine compliance with the standards and requirements for private roads. The Zoning Administrator may consult with the Fire Chief, Attorney, Engineer, or Planner as deemed necessary.
 - (3) If the Zoning Administrator finds that the application meets the requirements of this section, the application shall be approved and a permit shall be issued for the construction of the private road. Two (2) copies of the private road plans shall be stamped for approval. One (1) copy shall be kept by the applicant, and one by the City. This construction permit is not a Private Road Permit and does not authorize

the construction of any buildings on the private road. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin.

- (4) If the Zoning Administrator denies the application, the written reasons for denial shall be provided to the applicant within five (5) working days of the date of denial.
- (5) Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator a letter from a registered professional engineer that the road has been constructed in compliance with the approved plans, and documentation that the road maintenance agreement, easement, and deed restrictions have been recorded with the County Register of Deeds.
- (6) Private Road Permit Issuance - Upon approval of all items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- (7) Permits for Buildings on Private Roads - A building permit shall not be issued for any principal building, dwelling, or structure which derives its primary access from a private road unless a Private Road Permit has been issued by the City and the road has either been completed in accordance with the approved permit or the applicant for the building permit or owner of the private road right-of-way have provided the City with cash or irrevocable letter of credit in an amount determined by the City, to insure construction of the private road in accordance with the approved private road construction permit within one(1) year from the issuance of the building permit. The letter of credit shall contain a provision that the City shall have the right to access the letter of credit if such letter is not renewed thirty (30) days before the expiration date of the letter.

1243.20 MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE OF MOBILE HOME PARKS

All dwelling units located outside of mobile home parks shall comply with the following requirements.

- (a) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one half (7.5) feet. If a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- (b) The minimum width of any single family dwelling unit shall be twenty (20) feet for at least sixty seven percent (67%) of its length, measured between the exterior part of the walls having the greatest length.
- (c) Dwelling units shall have a minimum roof pitch of four (4) inches to one (1) foot.
- (d) There shall be a foundation of concrete or block or other material approved by the City's Construction Code, as amended, around the entire exterior perimeter of all dwellings excluding attached accessory buildings. The foundation shall have a minimum depth of

forty two (42) inches below grade. The foundation shall provide a maximum exposed foundation above grade of sixteen (16) inches and a minimum exposed foundation above grade of eight (8) inches.

- (e) All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the city. If a mobile home, it shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards."
- (f) The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
- (g) All dwellings shall be connected to a sewer system and water supply system approved by the City.
- (h) All dwellings shall provide steps or porch areas permanently attached to the foundation where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two (2) points of ingress and egress.
- (i) Additions to the dwelling shall meet all the requirements of this Ordinance.
- (j) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity with either a roof overhang of not less than six (6) inches on all sides or a roof drainage system concentrating drainage at collection points along sides of the dwelling. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design, and appearance of residential dwellings located outside of mobile home parks within two hundred (200) feet of the subject dwelling and on the same block. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (k) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.

1243.21 FENCES AND WALLS

- (a) In all residential zoning districts, solid fences, walls, or landscaping shall not exceed a height of three (3) feet within the required front yard. If a fence is at least thirty percent (30%) open (e.g., picket, chain link, wrought iron, or split rail) fences may be up to four

- (4) feet in height in the required front yard. The height shall be measured from the average grade within a twenty five (25) foot radius of the fence, wall, or landscaping.
- (b) For all other areas, fences or walls shall not exceed six (6) feet in height.
 - (c) For corner lots, a six (6) foot high privacy fence or wall may be parallel to the side of the house which faces the street subject to the restrictions of clear visions corners as contained herein.
 - (d) The finished side of a fence shall be placed to face adjacent property.
 - (e) A permit shall be issued by the Zoning Administrator prior to the installation of any fence or wall regulated herein.

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 non-industrial use or where any parking lot exceeding fifteen (15) 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 (2) trees plus one (1) additional tree for each twenty-five (25) feet in length of the buffer strip measured along the outer periphery of the required landscape area.
 - (2) One (1) shrub for every twenty (20) 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 (1) 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 five thousand (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 (1) canopy and one (1) evergreen tree for every ten (10) parking spaces, with a minimum of two (2) 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 (20) spaces long. Within such rows a landscaped island shall be installed every twenty (20) spaces.
 - (3) Landscape islands or peninsulas at the end of parking rows shall be a minimum of ten (10) 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 (6) 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 (1) 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) 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.

1243.23 DECKS AND RAMPS

- (a) Uncovered patios, rear and side yards: Terraces, patios, porches and decks that are no more than two (2) feet above grade may be built up to the rear or side property line where an established fence line exists. Otherwise, uncovered terraces, patios, porches and decks less than two (2) feet high shall be a minimum of three (3) feet from rear and side property lines. Decks over two (2) feet in height shall meet the setback requirements of the main structure.
- (b) Unenclosed structures, front yard: Unenclosed porches, steps or similar facilities may project into a required front setback for a distance not to exceed five (5) feet. In the case of a handicap wheelchair ramp, the Zoning Administrator may waive setback requirements at his/her discretion, if no other options are available to provide a ramp, provided that the applicant agrees to remove the ramp if it is no longer necessary on the property. A performance letter or performance guarantee may be required. (amended 11/06)

1243.24 REDUCTION OF FRONT YARD SETBACK AND MAXIMUM SETBACK

Except for lots with waterfront access, newly constructed principal structures in the “A Residential” and “B-1” Zones shall align with existing structures in proximity to the building site. If neighboring structures are not present, then the district setback shall apply. In no case shall structures in the B-1 Zone be set back more than fifteen (15) feet.

1243.25 ACCESSORY APARTMENTS

- (a) Intent. It is the intent of this section to permit the establishment of accessory apartments in owner occupied single family dwelling units which will provide older homeowners with a means of obtaining, through tenants in accessory apartments, rental income, companionship, security, and services; provide a means for homeowners to care for elderly or ailing relatives and still allow them to maintain the independence and comfort of separate living quarters; and add inexpensive rental units to the housing stock to meet the smaller household needs of both young and old.

These regulations are also designed to protect the stability, property values, and single family residential character of a neighborhood by ensuring that accessory apartments are installed only in owner occupied houses in such a manner that the appearance of the building remains that of a single family residence.

For purposes of this section, an accessory apartment is defined as a dwelling unit designed for and occupied by one family which is a separate housekeeping unit complete with kitchen and bathroom facilities contained within or attached to the structure of a single family dwelling and which is accessory to it.

- (b) Authorization and Development Standards. The Zoning Administrator shall only issue a permit for an accessory apartment in those zoning districts which permit single family dwelling units when the following development standards have been met:
- (1) The accessory apartment shall be a complete housekeeping unit, containing kitchen and bathroom facilities, which is separate from the principal single family dwelling unit.
 - (2) Only one accessory apartment shall be created within or attached to the principal single family dwelling unit.
 - (3) The accessory apartment and principal single family dwelling unit shall be attached by a common wall, ceiling, or floor and shall be contained within a single building.
 - (4) The owner(s) of a single family dwelling unit in which the accessory apartment is created or to which it is attached shall occupy one of the dwelling units in the building.
 - (5) The entire accessory apartment shall consist of no more than 35 percent of the total square footage of the principal single family dwelling unit but shall not result in the floor area of the principal building being reduced below the requirements of the zoning district in which it is located.
 - (6) A minimum of three parking spaces shall be provided on the premises for use by occupants of the accessory apartment and the principal single family dwelling unit.
 - (7) The accessory apartment shall be installed or constructed so that, to the degree reasonably feasible, the appearance of the building remains that of a single family residence. Exterior doorways constructed to serve the accessory apartment shall, where possible, be located on the side or rear of the building. If an exterior

doorway is to be constructed to face the street, it shall be subject to review and approval of the Zoning Administrator.

- (8) An accessory apartment shall be constructed in compliance with all applicable Zoning Ordinance regulations as contained herein.
 - (9) Occupancy of an accessory apartment shall be subject to the City of Hart Rental Code.
- (c) General Regulations. Accessory apartments shall also comply with the following general regulations:
- (1) The establishment of an accessory apartment in a single family dwelling unit shall not result in any building site or use situation which is nonconforming.
 - (2) An accessory apartment shall not be subject to the regulations contained herein which are applicable to two-family dwelling units.
 - (3) The following shall not be considered as accessory apartments:
 - A. A single family dwelling unit whose occupants share kitchen and bathroom facilities.
 - B. A detached single family dwelling unit located on the same lot with an existing single family dwelling unit.
 - (4) The accessory apartment shall comply with all applicable requirements of the City of Hart Building Code as amended, and shall consist of a minimum of 300 square feet of floor area.

1243.26 WOOD FURNACE OR OUTDOOR WOOD STOVE

Due to the nuisance smoke and concerns regarding the public safety and welfare of residents living in relatively close proximity to one another, outdoor wood furnaces are prohibited in all zoning districts within the City of Hart.

CHAPTER 1244

ZONE DISTRICTS AND ZONING MAP

1244.01 ESTABLISHMENT

For the purpose of this Zoning Code, the City of Hart is divided into the following districts:

- | | |
|--|--|
| (a) Zone A, Residential | (g) Zone C1, Restricted Commercial |
| (b) Zone A1, Residential | (h) Zone C2, Limited Commercial |
| (c) Zone A2, Apartment | (i) Zone D1, Industrial |
| (d) Zone A3, Mobile Home Park | (j) Zone D2, Industrial Park |
| (e) Zone B1, Central Business District | (k) Zone PUD, Planned Unit Development |
| (f) Zone B2, General Commercial | (l) Zone HD, Historic District |

1244.02 ZONING MAP

The map entitled Zoning Map delineating the districts set forth in Section 1244.01 is hereby declared to be a part of this Zoning Code. Except where references by dimensions are shown on said Map, the district boundary lines follow lot lines, Municipal boundary lines, section lines, fractional section lines or the centerlines of highways, streets or alleys, as they existed at the time of the adoption of this Zoning Code.

1244.03 CLASSIFICATION OF LOTS IN MORE THAN ONE DISTRICT

Where a district boundary line of the Zoning Map divides a lot, the lot shall be zoned in the classification in which a majority of the area is located.

1244.04 CLASSIFICATION OF ANNEXED PROPERTY

Any area which is annexed to the City shall be considered to be in the A1, Residential District. The City Council shall, promptly after annexation, request the City Planning Commission to make a recommendation on the appropriate zoning classification of the annexed area. The City Planning Commission shall initiate amendment procedures as provided for in this Ordinance if it determines that the annexed area should be in a district other than A1 Residential.

CHAPTER 1245

A, RESIDENTIAL ZONE

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 Article 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.

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 25 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) Churches, synagogues or other similar places of worship and customary related uses.
- (i) Public and institutional uses.
- (j) Public and private schools and school administration buildings.
- (k) Accessory apartments as regulated by Section 1243.25.

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 Section 1256.

- (a) Antenna and towers exceeding a height of 25 feet as regulated by Section 1243.18.
- (b) Non commercial parks, playgrounds and playfields.
- (c) Essential public service buildings and structures.
- (d) Housing for the elderly, retired or those requiring assisted care including nursing homes.
- (e) Duplexes
- (f) Public and private golf courses.
- (g) Child day care homes which provide care to more than six but not more than 12 minor children.
- (h) Child day care centers.
- (i) Bed and breakfast establishments.
- (j) Foster care group home for seven or more persons.
- (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.

1245.04. DISTRICT REGULATIONS

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

	Min. Lot Area	Min. Lot Width	Min. Front Setback	Min. Rear Setback	Side Setback Total / Min. One Side
Lots w/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. / 5 ft.

- (a) Corner lots - The setback along the principal street shall be the minimum required by Section 1245.04(a) 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.

- (b) Maximum height - 35 feet.
- (c) Minimum floor area
 - (1) One Story - 720 square feet.
 - (2) Two Story - 600 square feet on the ground floor.
 - (3) Split level, bi-level and raised ranch - 800 square feet above grade.
 - (4) Two family dwelling - 720 square feet per dwelling.

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.

CHAPTER 1246

A1, RESIDENTIAL ZONE

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.

1246.02 PERMITTED USES

Land and structures in the A1 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 25 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.

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 25 feet as regulated by Section 1243.18.

- (b) Non commercial parks, playgrounds and playfields.
- (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 (6) but not more than twelve (12) 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.

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 sq. ft. and 100 feet of lot width.
 - (2) Non-residential uses: 15,000 sq. ft. 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 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.
 - (4) Rear yard - 25 feet.

- (c) Maximum building height - 35 feet.
- (d) Minimum Floor area
 - (1) One Story - 720 square feet.
 - (2) Two Story - 600 square feet on the ground floor.
 - (3) Split level, bi-level and raised ranch - 800 square feet total.
 - (4) Two family dwellings - 720 square feet per dwelling unit.

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.

CHAPTER 1247

A2, APARTMENT ZONING DISTRICT

1247.01 DESCRIPTION AND PURPOSE

It is the intent of this district to provide for relatively low density residential development at a maximum density of 12 units per acre in those portions of the City which are served by public water and sanitary sewer.

Relatively low density multifamily residential areas adjacent to low density residential areas should provide for a transition zone to insure compatibility in housing style and appearance between these two different residential zones. Non-residential institutional uses such as schools, churches and day care centers are allowed as special land uses.

1247.02 PERMITTED USES

Land and structures in the A2 Zone may be used for the following purposes only:

- (a) Multiple family dwellings with no more than 16 units per building.
- (b) Two family dwelling units.
- (c) Housing for the elderly, retired or those requiring assisted care including nursing homes subject to the standards of 1256.12.
- (d) Home occupations.
- (e) Private communication antennas not exceeding 25 feet in height as regulated by Section 1243.18.
- (f) Accessory uses, building and structures customarily incidental to any of the above uses as regulated by Section 1243.16.
- (g) Essential public service equipment.

1247.03 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) Antennae and towers exceeding a height of 25 feet as regulated by Section 1243.18.
- (b) Essential public service buildings and structures.

- (c) Child and adult care homes which provide care to more than six but not more than 12 minor children or adults.
- (d) Child day care centers.
- (e) Bed and breakfast establishments.
- (f) Foster care group home for seven or more children or adults.

1247.04 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) For a duplex building, the minimum lot area shall be 12,000 square feet and 100 feet of lot width.
 - (2) For a multi-family building, each dwelling unit within the building shall have a minimum lot area of 3,630 square feet which is a gross density of 12 dwelling units per acre. The minimum lot width shall be 100 feet.
 - (3) Non-residential uses shall have a lot area of at least 12,000 square feet and 100 feet of lot width.
- (b) Minimum required building setbacks.
 - (1) Front yard - 40 feet.
 - (2) Side yard - For two family and multi-family dwellings, a total of 30 feet provided no side setback shall be less than 10 feet. For all other principal buildings, the side yard setback shall not be less than the height of the building.
 - (3) Distance between multi-family buildings - Minimum of 30 feet.
 - (4) Rear yard - 40 feet.
- (c) Maximum building lot coverage - 30 percent.
- (d) Maximum building height - 35 feet.
- (e) Floor area
 - (1) Two, three and four family buildings - a minimum of 720 square feet per dwelling unit.
 - (2) All multiple-family buildings with more than four dwelling units - a minimum of 600 square feet per dwelling unit.
- (f) Dumpsters shall not be located within the front yard and shall be screened as required by Section 1258.07(1).

1247.04 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 50% of the required open space.

1247.05 ACCESS STANDARDS

During the review of a site plan for a residential development proposed under this chapter, the Planning Commission shall determine the need for and the type of secondary or emergency vehicle access necessary to serve the proposed project. In making this determination, the following criteria shall be considered:

- (a) Number and size of buildings and/or dwelling units which make up the project.
- (b) Type of interior roadway serving the project.
- (c) Interior circulation system.
- (d) Topography and other natural features of the site.
- (e) Adjacent land uses.
- (f) Feasibility of achieving a secondary means of access.
- (g) Comments of the City of Hart administrative staff.
- (h) Availability of public utilities.

1247.06 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.

CHAPTER 1248

A3 MOBILE HOME PARK RESIDENTIAL DISTRICT

1248.01 PURPOSE AND REGULATION

The purpose of this district is to allow for the establishment of mobile home parks and related accessory uses. A mobile home park within this zoning district shall comply with all applicable procedures and requirements of the Mobile Home Commission Act, being Act 96 of 1987, as amended and the Michigan Administrative Code. A mobile home park established within this district shall be subject to the site plan review procedures of this ordinance herein and all other applicable regulations of this zoning ordinance.

CHAPTER 1249**B1, CENTRAL BUSINESS DISTRICT****1249.01 PURPOSE**

This district is intended to serve as the downtown shopping district for the City of Hart. A wide range of retail service, office, governmental, institutional and limited residential uses are permitted. Development standards recognize the special parking, pedestrian and building location needs of an established downtown business district.

1249.02 PERMITTED USES

Land and structures in the B1 Central Business District may be used for the following purposes only.

- (a) Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building, such as, but not limited to: foods, drugs, liquor, furniture, clothing, dry goods, appliances or hardware.
- (b) Any personal service establishment which performs services on the premises within a completely enclosed building, such as, but not limited to: repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors, barber shops, interior decorators and photographers.
- (c) Restaurant, tavern or catering establishment.
- (d) Theater, bowling alley, pool or billiard parlor or similar commercial recreation establishment.
- (e) Medical clinics, general office buildings and facilities for substance abuse treatment.
- (f) Bank or other financial institution.
- (g) Government building and post office.
- (h) Business schools or private schools, operated for profit. Examples of private schools permitted herein include, but are not limited to, the following: dance studios, music and voice schools and art schools.
- (i) Offices and showrooms of plumbers, electricians, decorators, or other similar trades.
- (j) Bakery or confectionery shop.
- (k) Laundry, laundromat, dry cleaning or dyeing establishment.

- (l) Fraternal or social club or lodge.
- (m) Video rental and sales.
- (n) Hotel and motel.
- (o) Public and institutional uses.
- (p) In the B1 Zoning District, dwelling units may be permitted within a building where the principal use is commercial subject to the following conditions:
 - (1) The dwelling unit shall not be located below the second floor of the building.
 - (2) Each dwelling unit shall contain a minimum of 600 square feet of floor area.
 - (3) A building permit shall be obtained to establish a dwelling unit in order to ensure compliance with the requirements of this section and with the Hart Building Code, Fire Code and Oceans County District Health Department. The entire building containing the dwelling unit shall also be brought into compliance with the Hart Building Code and Fire Code before an occupancy permit is issued.
- (q) Private communication antenna not exceeding 25 feet in height as regulated by Section 1243.18.
- (r) Essential public service equipment.
- (s) Accessory uses, buildings and structures customarily incidental to the above uses including necessary incidental manufacturing when clearly accessory for a permitted use.
- (t) Other uses which are determined by the Zoning Administrator to be similar to the above uses and which meet the intent of this district.
- (u) Outdoor seating, provided:
 - (1) The area devoted to outdoor seating must be ancillary to the main use of an indoor restaurant, bakery, coffee shop, delicatessen, specialty food store, or similar establishment.
 - (2) Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of three (3) feet of sidewalk along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances.
 - (3) The seating area shall be limited to the area directly in front of the permitted use to which the seating area is accessory and shall not extend into adjoining sites.
 - (4) Tables, chairs, umbrellas, canopies, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the principal building.
 - (5) Outdoor amplification shall be prohibited unless only to play music in compliance with Codified Ordinances of Hart, Part Six – General Offenses Code, Section

660.01(b)(10)...Noise.”

- (6) The area devoted to outdoor service shall not encroach upon or extend over any public alley or right-of-way.
- (7) A site plan shall be submitted which clearly depicts the seating area and location and style of tables and chairs, reflecting ample aisles for pedestrian traffic.
- (8) The outdoor seating area shall not obstruct visibility of on-coming pedestrians or vehicular traffic.
- (9) The sale of alcoholic beverages is subject to the rules and regulations of the State of Michigan Liquor Control Commission.
- (10) All outdoor furnishings shall be completely removed from sidewalk areas December 1 through March 1 of each year.
- (11) The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.
- (12) Roof seating shall comply with the building code.

1249.03 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) Housing for the elderly, retired or those requiring assisted care including nursing homes subject to the regulations of Section 1256.12.
- (b) Establishments with a drive up or drive through windows.
- (c) Antenna and towers exceeding a height of 25 feet as regulated by Section 1243.18.
- (d) Essential public service buildings and structures.
- (e) Vehicle service and gas stations.

1249.04 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 - None required.
- (b) Minimum required building setbacks.
 - (1) Front yard - None required. See also Section 1243.24.
 - (2) Side yard and Rear yard - None required except where a property abuts a residentially zoned lot then a minimum of ten feet shall be required.
- (c) Maximum lot coverage - No requirement.
- (d) Maximum building height - 35 feet.

- (e) Dumpsters shall not be located within the front yard and shall be screened as required by Section 1258.07(1).

1249.05 ADDITIONAL REGULATIONS

- (a) The off street parking regulations of Chapter 1260 shall not apply to uses in the B1 zone.
- (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.
- (e) Landscaping shall be as regulated by Section 1243.22

CHAPTER 1250

B2, GENERAL BUSINESS DISTRICT

1250.01 PURPOSE

The B2 District is primarily intended to provide for an orderly and concentrated development of business outside the Central Business District in areas designated in the City Master Plan in order to serve the needs of the motoring public and local residents. A wide range of retail service, office governmental, institutional and limited residential uses are permitted.

1250.02 PERMITTED USES

Land and structures in the B2, General Business District may be used for the following purposes only.

- (a) Any use permitted as a matter of right in the B1 zone to have 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.
- (b) Indoor or outdoor commercial recreation facilities such as bowling centers, indoor theaters, skating rinks, racquet clubs, miniature golf, video amusement establishments, pool and billiard establishments or similar uses.
- (c) Mortuaries or funeral homes.
- (d) Retail building supply and equipment stores.
- (e) Retail nurseries and garden centers.
- (f) Printing, lithography, publishing, and photocopy establishments.
- (g) Building contractors such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, and similar uses provided that any materials or equipment kept outside shall be screened from the view of nearby properties and roadways.
- (h) Laboratory, medical or dental.
- (i) Ambulance service establishments.

1250.03 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) Special land uses as permitted in the B1 zone.
- (b) Gas stations with or without vehicle repair facilities.
- (c) Open air businesses including but not limited to: the sale of motor vehicles, farm implements, lawn and garden equipment sales and service, motor homes, mobile or modular homes and similar uses.
- (d) Vehicle repair or body shops provided all work is performed within an enclosed building and storage of vehicles is within an area which is well screened from the view of nearby properties and roadways.

1250.04 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 - None required.
- (b) Minimum required building setbacks.
 - (1) Front yard - 25 feet for local street and 20 feet on any major City street or State Highway.
 - (2) Side yard and Rear yard - None required except where a lot abuts a residential zone or use, a 10 foot side and rear yard shall be provided.
- (c) Maximum building height - 35 feet.
- (d) Dumpsters shall not be located within the front yard and shall be screened as required by Section 1258.07(1).

1250.05 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.
- (e) Landscaping shall be regulated by Section 1243.22.

CHAPTER 1251

C1, RESTRICTED COMMERCIAL

1251.01 PURPOSE

This zoning district is designed to encourage the preservation of existing single family structures on State Street between Wigton and Jefferson. Uses are limited to those offices and retail shops which can operate out of the existing single family structures with only a small amount of on-site parking. The intent of the design standards is to ensure that the appearance of single family dwellings is maintained in order to achieve the purpose of this district.

Office and commercial uses existing within this district shall be considered conforming.

1251.02 PERMITTED USES

Land and structures in the C1, Restricted Commercial Zone may be used for the following purposes only:

- (a) Bed and Breakfast establishments.
- (b) Personal service establishments such as barber or beauty shops, licensed massage clinics or similar uses.
- (c) Tailor shops.
- (d) Clothing stores.
- (e) Card, gifts, flower, and souvenir shops.
- (f) Arts and craft stores.
- (g) Professional offices, including chiropractors and medical.
- (h) Studios for dance, music, art or photography.
- (i) Single and two family dwellings.
- (j) Other uses which are determined by the Zoning Administrator to be similar to the above uses and which meet the intent of this district.

1251.03 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 - None required.
- (b) Front yard - The minimum front yard shall be the average front yard as determined by Section 1243.24 herein. The Planning Commission may increase or decrease this setback in order to achieve a development which is compatible in appearance and function with nearby uses.
- (c) Side yard - None required except where a lot abuts a residential zone or use, a 20 feet side yard shall be provided.
- (d) Rear yard - 10 feet.
- (e) Maximum Lot Coverage - 30 percent.
- (f) Maximum building height - 35 feet.

1251.04 DESIGN STANDARDS

The construction of a new building or the alteration of an existing building which is to be used for non-residential use as permitted by this Chapter shall comply with the following standards:

- (a) The building shall have pitched roofs with shingles similar to adjacent dwellings.
- (b) The exterior walls shall be brick, wood, aluminum or vinyl siding which is similar in appearance to adjacent dwellings.
- (c) A walkway shall be provided from the existing sidewalk to the front building entrance.
- (d) Required parking shall be provided in the side or rear yard. Off street parking shall be designed so vehicles are not required to back onto the public street.
- (e) Landscaping or fences required by this ordinance shall be provided along those lot lines which abut residential uses to provide a measure of visual and sound privacy for adjoining residents.
- (f) The Planning Commission, in reviewing the site plan for permitted uses, may vary these standards in order to achieve the intent and purpose of this District.
- (g) Dumpsters shall not be located within the front yard and shall be screened as required by Section 1258.07(1).

1251.05 ADDITIONAL REGULATIONS

- (a) Off street parking shall be regulated by Chapter 1260.
- (b) Signs shall be regulated by Chapter 1259.
- (c) Site plan review shall be required as regulated by Chapter 1258.
- (d) Site condominiums shall be regulated by Chapter 1257.

CHAPTER 1252A**M-I, MEDICAL – INSTITUTIONAL DISTRICT**

(amended 11/07)

1252A.01 PURPOSE

The Medical – Institutional District is intended to provide for the need for medical facilities, in addition to supportive commercial, service, and residential uses associated with such institutions.

1252A.02 PERMITTED USES

Land and structures in the MI, Medical – Institutional District may be used for the following purposes only, and shall be related to, or associated with, a bona fide medical facility:

- (a) Single family homes
- (b) General medical, surgical hospitals and specialty hospitals, but not including animal hospitals.
- (c) Outpatient diagnostic and treatment centers, day surgery centers, rehabilitation clinics, and urgent care facilities.
- (d) Professional medical offices.
- (e) Offices for non-profit organizations.
- (f) Diagnostic and medical laboratories or research facilities.
- (g) Pharmacies without drive-up window service.
- (h) Medical appliance sales and servicing.
- (i) Educational facilities for the training of interns, nurses, and allied health care personnel.
- (j) Specialized congregate housing for the disabled and senior housing for the elderly meeting the standards of 1256.12, but not requiring special land use approval.
- (k) Conference facilities.
- (l) Ambulance services and associated maintenance facilities.
- (m) Private, indoor, recreational facilities and fitness centers.
- (n) Establishments engaged in providing diagnostic services, extensive medical treatment (including surgical services) and other hospital services, as well as continuous nursing

service.

- (o) Dwellings affiliated with a hospital providing shelter and services for the elderly, which may include meals, housekeeping, personal care assistance and medical services.
- (p) Accessory buildings and accessory uses customarily incidental to the above Permitted Uses.

1252A.03 SPECIAL LAND USES

The following uses may be permitted as a Special Land Use subject to the applicable and specific requirements of Chapter 1256 herein.

- (a) Any permitted use, which includes provision for drive-up window services.
- (b) Pharmacies with drive-up window service.
- (c) Specialized lodging facilities, including those with accessory conference centers and restaurants used for visitors and patients of hospitals.
- (d) Accessory mobile medical technology units which will be stationed outside the grounds of a hospital campus.
- (e) Accessory buildings and accessory uses customarily incidental to the above Special Land Uses Permitted.

1252A.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 – One-half acre and 100 feet of lot width.
- (b) Minimum required building setbacks.
 - (1) Front yard - 30 feet from a major street, 10 feet from a minor street.
 - (2) Side and Rear yard – 15 feet which shall remain landscaped green space.
- (c) Maximum lot coverage - 60 percent.
- (d) Maximum building height - 35 feet.
- (e) Landscaping - Wherever a M-I zone abuts an existing residential zone, landscaping shall be provided as required by Section 1243.22.

- (f) Dumpsters shall not be located within the front yard and shall be screened as required by Section 1258.07(1).

1252A.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 shall be required as regulated by Chapter 1258.
- (d) Site condominiums shall be regulated by Chapter 1257.

CHAPTER 1252

C2, LIMITED COMMERCIAL

1252.01 PURPOSE

This district would allow commercial uses which have some industrial characteristics.

The area proposed for this category is in the eastern part of the City along Oceana Drive. Uses which are allowed include body shops, truck storage and repair, vehicle sales and propane gas distribution establishments.

The uses in this area may not need public utilities as they would not be high employment uses but need larger lots and good access is necessary.

1252.02 PERMITTED USES

Land and structures in the C2, Limited Commercial Zone may be used for the following purposes only:

- (a) Truck terminals including maintenance and repair facilities.
- (b) Contractor equipment establishments including water well drilling, oil and gas drilling, road construction contractors and other similar uses.
- (c) Commercial fuel depots.
- (d) Lumberyards and other building supply establishments.
- (e) Vehicle repair or body shops, including wrecker service, provided all work is done within an enclosed building and that damaged vehicles are not kept on-site for long term storage. Any vehicles being repaired or any materials kept outside must be well screened from the view of nearby properties and roadways.
- (f) Mini warehouses and self storage facilities.
- (g) Building contractors such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, and similar uses, provided that any materials or equipment kept outside shall be well screened from the view of nearby properties and roadways.
- (h) Gas stations with or without repair facilities, or retail sales of food, beverages, and miscellaneous items.
- (i) Propane gas distributorships.

- (j) Open air businesses including but not limited to: the sale of motor vehicles, farm implements, lawn and garden equipment sales and service, motor homes, mobile or modular homes, and similar uses.
- (k) Customary accessory buildings and uses including limited retail sales provided such sales are accessory to the permitted use.
- (1) Other uses which are determined by the Zoning Administrator to be similar to the above uses and which meet the intent of the district.

1252.03 SPECIAL LAND USES

The following uses may be permitted as a Special Land Use subject to the applicable and specific requirements of Chapter 1256 herein.

- (a) Adult businesses as regulated by Section 1256.13

1252.04 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 - One acre and 200 feet of lot width.
- (b) Minimum required building setbacks.
 - (1) Front yard - 50 feet.
 - (2) Side and Rear yard - 25 feet except where a C2 property abuts a residential zoned lot, then the minimum setback shall not be less than 50 feet.
- (c) Maximum lot coverage - 40 percent.
- (d) Maximum building height - 35 feet.
- (e) Landscaping - Wherever a C2 zone abuts an existing residential zone, landscaping shall be provided as required by Section 1243.22.
- (f) Dumpsters shall not be located within the front yard and shall be screened as required by Section 1258.07(1).

1252.05 ADDITIONAL REGULATIONS.

- (a) Off street parking shall be regulated by Chapter 1260.
- (b) Signs shall be regulated by Chapter 1259
- (c) Site plan review shall be required as regulated by Chapter 1258.
- (d) Site condominiums shall be regulated by Chapter 1257.

CHAPTER 1253

D1, INDUSTRIAL DISTRICT

1253.01 PURPOSE

This district includes the older industrial areas within the City which are characterized by older buildings with minimal building setbacks and site improvements. Most generally recognized industrial uses are permitted along with accessory retail sales. As these older buildings are expanded and re-used, improvements should be made to protect nearby non-industrial uses from these industrial operations.

1253.02 PERMITTED USES

Land and buildings in the D1, Industrial Zone may only be used for the following purposes:

- (a) Warehousing, storage, or transfer buildings, but excluding the storage of bulk petroleum or related products, garbage, or rubbish.
- (b) Truck terminals, including maintenance and service facilities.
- (c) Manufacture, compounding, processing, packaging, treating, and assembling from previously prepared materials in the production of
 - (1) Food products, including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionery, beverage, and kindred foods.
 - (2) Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yarn and thread, and other textile goods.
 - (3) Apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials or, any materials kept outside must be well screened from the view of nearby properties and roadways.
 - (4) Lumber and wood products, including mill work, prefabricated structural wood products and containers.
 - (5) Furniture and fixtures.
 - (6) Paperboard containers, building paper, building board, and bookbinding.
 - (7) Printing and publishing.
 - (8) Chemical products such as plastics, perfumes, synthetic fibers.
 - (9) Manufacturing of engineering, measuring, optic, medical, lenses,

photographic, and similar instruments.

- (10) Jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, signs and displays, and similar manufacturing establishments.
- (11) Metals, minerals, and other naturally occurring substances.
- (d) Wholesale establishments, including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.
- (e) Research and development facilities, testing and experimental laboratories.
- (f) Stone yards or monument works.
- (g) Trade and industrial schools.
- (h) Tool and die manufacturing establishments.
- (i) Utility and public service buildings.
- (j) Lumber yards and other building supply establishments.
- (k) Essential public service equipment, structures and buildings.
- (l) Vehicle repair or body shops, including wrecker service, provided all work is done within an enclosed building and that damaged vehicles are not kept on-site for long term storage. Any vehicles being repaired or any materials kept outside must be well screened from the view of nearby properties and roadways.
- (m) Mini warehouses and self storage facilities. A portion of the site may be used for the outdoor storage of materials, equipment and boats if these items are well screened from the view of nearby properties and roadways.
- (n) Building contractors such as painters, plumbers, electrical, cement, heating and air conditioning, fencing, and similar uses, provided that any materials or equipment kept outside shall be well screened from the view of nearby properties and roadways.
- (o) Gas stations with or without repair facilities or retail sales of food, beverages and miscellaneous items.
- (p) Customary accessory buildings and uses including limited retail sales provided such sales are accessory to the permitted use.
- (q) Private communication antennas not exceeding 25 feet in height as regulated by Section 1243.18.

- (r) Other uses which are determined by the Zoning Administrator to be similar to the above uses and which meet the intent of this district.

1253.03 SPECIAL USES

The following uses may be permitted as a Special Land Use subject to the applicable general and specific requirements of Chapter 1256.

- (a) Open air businesses including but not limited to: the sale of motor vehicles, farm implements, lawn and garden equipment sales and service, motor homes, mobile or modular homes, and similar uses.
- (b) Contractor yards for construction equipment such as bulldozers, backhoes, and dump trucks, provided all such equipment and vehicles are stored indoors or otherwise well screened from view of surrounding properties and roadways.
- (c) Antenna and towers exceeding a height of 25 feet.
- (d) Asphalt, concrete, or similar refining and manufacturing.
- (e) Salvage yards and recycling centers.
- (f) Refuse and garbage incinerators.
- (g) Scrap tire collection sites and scrap tire processors.
- (h) Manufacture of gas, coke, or coal tar products.
- (i) Manufacture of ammunition, fireworks, or other explosives.
- (j) Stock yards and slaughterhouses.
- (k) Blast furnaces, drop forges, petroleum refining, metal stamping, and similar uses.
- (l) Solid waste processing facility, including composting as an incidental use.
- (m) Petroleum refining and bulk storage facilities.

1253.04 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 - One acre and 100 feet of lot width.

- (b) Minimum required building setbacks.
 - (1) Front yard - 25 feet if on a local City Street and 20 feet if on a major City Street or State Highway.
 - (2) Side and rear yard - None required except where a D1 property abuts a residential zoned lot then the minimum setback shall not be less than two times the height of the building.
- (c) Maximum lot coverage - 40 percent
- (d) Maximum building height - 35 feet.
- (e) Landscaping - Wherever a D1 zone abuts an existing residential zone, or property, landscaping shall be provided as required by Section 1243.22.

1253.05 SITE DEVELOPMENT STANDARDS

The following development standards are designed to mitigate negative impacts on nearby properties and shall apply to all uses in the Industrial District.

- (a) Any material which is stored or kept outside and which faces or abuts a non-industrial use shall be screened by a solid fence or wall at least six feet in height. Further, all business shall be conducted in such a manner that any noise, smoke, dust, vibration, or like nuisance shall not adversely affect adjoining properties.
- (b) Industrial equipment on a site, including trucks, shall not be operated in a manner such that it produces noise above 75 decibels when measured at the nearest occupied residential dwelling unit.
- (c) Operations which involve the repair or storage of damaged vehicles shall immediately remove all fluids from such vehicles if there is evidence that leaking of fluids is occurring or could occur. This is necessary to minimize fire hazards and to prevent such fluids from contaminating ground water and surface water.
- (d) Any use permitted in the D1 zone shall not create a vibration which is discernable to off-site residents or occupants.
- (e) Dumpsters shall not be located within the front yard and shall be screened as required by Section 1258.07(1).

1253.06 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.
- (e) Landscaping shall be regulated by Section 1243.22.

CHAPTER 1254

D2 INDUSTRIAL PARK DISTRICT

1254.01 PURPOSE

This chapter contains regulations for the Hart Industrial Park which are based on the restrictive covenants adopted for the park. The purpose of these regulations is to develop an industrial area with uniform design standards.

1254.02 PERMITTED USES

Land and buildings in the D2, Industrial Park District may only be used for the following purposes:

- (a) Manufacture, compounding, processing, packaging, treating, and assembling from previously prepared materials in the production of
 - (1) Textile mill products, including woven fabric, knit goods, dyeing and finishing, floor coverings, yarn and thread, and other textile goods.
 - (2) Apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials or any materials kept outside must be well screened from the view of nearby properties and roadways.
 - (3) Lumber and wood products, including mill work, prefabricated structural wood products and containers.
 - (4) Furniture and fixtures.
 - (5) Paperboard containers, building paper, building board, and bookbinding.
 - (6) Printing and publishing.
 - (7) Chemical products such as plastics, perfumes, synthetic fibers.
 - (8) Manufacturing of engineering, measuring, optic, medical, lenses, photographic, and similar instruments.
 - (9) Jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, signs and displays, and similar manufacturing establishments.
 - (10) Metals, minerals, and other naturally occurring substances.
- (b) Research and development facilities, testing and experimental laboratories.
- (c) Tool and die manufacturing establishments.
- (d) Essential public service equipment, structures and buildings.
- (e) Customary accessory buildings and uses including limited retail sales provided such sales are accessory to the permitted use.

- (f) Private communication antenna if accessory to a principal use as regulated by Section 1243.18.

1254.03 DISTRICT REGULATIONS

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

- (a) Minimum required building setbacks.
 - (1) Front yard - 70 feet.
 - (2) Side and rear yard - 30 feet.
- (b) Maximum lot coverage - 40 percent
- (c) Maximum building height - 35 feet.
- (d) Landscaping - Wherever a D2 zone abuts an existing residential zone, or property, landscaping shall be provided as required by Section 1243.22. Front yard landscaping shall also be provided and a minimum 3 feet high berm shall be constructed along the street frontage.

1254.04 SITE DEVELOPMENT STANDARDS

The following development standards are designed to mitigate negative impacts on nearby properties and shall apply to all uses in the Industrial Park District.

- (a) All storage materials related to the use are to be kept within a completely enclosed building or within an area enclosed on all sides by a solid fence, green belt, or wall at least six feet in height. Further, all business shall be conducted in such a manner that any noise, smoke, dust, vibration, or like nuisance shall not adversely affect adjoining properties.
- (b) Industrial equipment on a site, including trucks, shall not be operated in a manner such that it produces noise above 75 decibels when measured at the nearest occupied residential dwelling unit.
- (c) Operations which involve the repair or storage of damaged vehicles shall immediately remove all fluids from such vehicles if there is evidence that leaking of fluids is occurring or could occur. This is necessary to minimize fire hazards and to prevent such fluids from contaminating ground water and surface water.
- (d) Any use permitted in the D2 zone shall not create a vibration which is discernible to off-site residents or occupants.
- (e) Dumpsters shall not be located within the front yard. All dumpsters shall be screened from the view of adjoining properties and streets by fencing or landscaping.
- (f) No more than ten percent of the required parking shall be located within the front yard.

1254.05 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.
- (e) Landscaping shall be regulated by Section 1243.22.
- (f) City of Hart Industrial Park Restrictive Covenants.

CHAPTER 1255**PLANNED UNIT DEVELOPMENT****1255.01 SHORT TITLE**

This chapter shall be known as the Planned Unit Development chapter and may be cited as such. (Ord. 168. Passed 10-9-90.)

1255.02 DESCRIPTION AND PURPOSE

- (a) Planned unit developments are intended to permit flexibility in the regulation of land development.
- (b) Areas may be zoned for planned unit development when problems of size, shape, terrain, topography, adjacent use or natural resources may require special regulation.
- (c) Zoning under this chapter of any area of the City, and all proceedings in regard thereto, shall be done with due consideration for maintenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, vibration, gas, smoke, dust, dirt, litter, odor and light glare, traffic congestion, drainage, lateral land support, effect on property value, light and air, overcrowding of persons, sanitation, general appearance of the area and other similar considerations having an effect on public health and safety and the general welfare of the people of the surrounding community. (Ord. 168. Passed 10-9-90.)

1255.03 SPECIFICALLY PERMITTED USES

The following uses, either separately or in conjunction with the delineated uses, are permitted in a PUD District:

- (a) Single and multifamily housing;
- (b) Hospitals, medical or dental clinics;
- (c) Public, private or nursery schools;
- (d) Housing for the aged, nursing homes and retirement;
- (e) Children's homes;
- (f) Community swimming pools;
- (g) Executive professional or administrative offices;

- (h) Hotels and motels; and
- (i) Athletic and fitness clubs.
(Ord. 168. Passed 10-9-90.)

1255.04 SPECIFICALLY PROHIBITED USES

The following uses are prohibited in a PUD District:

- (a) Mobile home parks;
- (b) Auto and machinery sales; and
- (c) Facilities that produce hazards to the public health.

1255.05 PROCEDURE

Any area in the City may be used for a planned unit development upon application therefor by the title holder of the property in such area.

The title holder or occupant who elects to proceed under this section shall meet with the Planning Commission and shall submit a preliminary development plan for review. The preliminary plan shall exhibit property boundaries and proposed locations of streets and structures. Upon proceeding and filing for rezoning and/or a development plan review for a planned unit development, a final development plan shall be submitted containing the following:

- (a) Maps showing property boundaries, relationship to streets and neighboring properties, internal streets and buildings, pedestrian circulation area, open space and landscaping, topography, professionally prepared landscape plan and utility service layouts;
- (b) A narrative indicating objectives of the development, market to be serviced, phasing of the construction, including an estimated date of commencing and completion of construction, density of development, percentage of the site allocated to building and other impervious ground cover, design and location of signage, and proposed exterior lighting with reference to glare, traffic safety, conformity to the City's Master Plan, impact on public schools and impact on surrounding traffic circulation;
- (c) Preliminary architectural sketches and/or a statement as to the type of construction and materials which will be used throughout the planned unit development;
- (d) Legal description and computation of acreage;
- (e) Current proof of ownership of the land or evidence of contractual ability to acquire the land;

- (f) Computation of the percentage of acreage and building which will be utilized as specified in the permitted uses section (1255.03); and
- (g) Additional details which may be relevant to the site and reasonably necessary to allow proper review prior to approval. Approval of the plan by the Commission may be conditioned upon suggested changes in the plan which are in accordance with the spirit, purpose and intent of this section and the ordinances of the City.
(Ord. 168. Passed 10-9-90.)

1255.06 DEVELOPMENT PLAN REVIEW PROCEDURE

- (a) The Planning Commission may require, in reviewing a plan, independent professional studies, including, but not limited to, traffic studies, soil borings, and/or floodplain determinations to evaluate the suitability of the plan (b) Prior to reaching a finding, the Planning Commission shall conduct a development plan review hearing in accordance with the notice procedures of Section 1242.06

1255.07 DEVELOPMENT STANDARDS

Any PUD development plan shall comply with the following minimum standards:

- (a) Utilities. All buildings shall be served by public sewers and water and shall comply with Municipal drainage requirements.
- (b) Streets. A PUD shall provide either unobstructed frontage on a public street or shall develop a public street to assure public access to the project site. The Planning Commission may require public street dedication within the site and, in any event, streets must be adequate for the provisions of routine and emergency services. Where a PUD includes or abuts an incomplete street, such street shall either be extended or properly terminated in an approved turnaround. When a PUD site is so located as to allow more than one means of ingress and egress, and where additional access has been recommended by the Police and/or Fire Departments to improve the safety of life and property, such additional access shall be provided. Drives and streets within the PUD shall discourage outside traffic to traverse the development and create unnecessary fragmentation of the development into small blocks.
- (c) Sidewalks. Sidewalks shall be required when developing a PUD, where appropriate or when deemed necessary for public safety on any existing street adjacent to a PUD site. The planned unit development shall provide for public safety on any existing street adjacent to a PUD site. The planned unit development shall provide for pedestrian circulation within and adjacent to the site.
- (d) Building Restrictions. In an effort to allow the flexibility in a PUD, building restrictions should be kept to a minimum. Several essential aspects must be adhered to as follows:

- (1) Building setbacks shall be determined by the Planning Commission according to the use of the buildings and character of the neighborhood.
 - (2) All portions of the land not developed must be landscaped with trees, shrubs and suitable ground cover.
 - (3) Portions of a commercial structure or parking area must be screened from any abutting residential area by a wall or berm measuring not less than four feet in height.
 - (4) No portion of the off-street parking area shall be any closer than twenty-five feet to any property line adjoining a street or sidewalk where appropriate. The remaining twenty-five feet between the parking and property line shall be landscaped.
- (e) Environmental Quality. Any development within a PUD District shall be so designed as to reasonably protect residents of such development and residents or occupants of neighboring premises with respect to the emission and transmission of noise, smoke, dust, dirt, litter, odor or light glare and with respect to traffic congestion, ease of routine and emergency services, drainage, erosion, light and ventilation, surface and ground water quality, overcrowding of persons, sanitation, property values, general appearance and character and other similar considerations.
- (f) Signs. Signs shall be in accordance with the City Sign Ordinance (Ord. 168. Passed 10-9-90.)

CHAPTER 1256

SPECIAL LAND USES

1256.01 PURPOSE

The purpose of this article is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district, but which may only be appropriate if restrictions or conditions are imposed by reason of special problems presented by the use itself or its particular location in relation to neighboring properties. The special land use permit procedure established herein is designed to provide the City Planning Commission with an opportunity to review and act upon any application for a special use permit.

1256.02 AUTHORIZATION

The City Planning Commission shall have the power to approve special land use permit applications with such conditions and safeguards as are appropriate under this Ordinance or to deny special land use permit applications where not in harmony with the purpose and intent of this Ordinance.

1256.03 PROCEDURE

- (a) Application: An application for a special land use permit shall be made through the Zoning Administrator to the City Planning Commission. The application may be accompanied by an application for a zone change if such change is necessary to accommodate the requested special land use. The required fee shall be as established by City Council resolution.
- (b) Site Plan Requirement: Applications for a special land use permit shall also be accompanied by a site plan which shall contain the information for final site plans required by Section 1258 herein.
- (c) Additional Information: The Planning Commission may also require that the applicant provide additional information about the proposed use. Such information may include but shall not be limited to; traffic analysis, environmental impact statement, and economic analysis justifying the need for a proposed use or uses, impact on public utilities and services and effect on the public school system.
- (d) Planning Commission Hearing: The application shall be referred to the Planning Commission which shall provide notice and hold a public hearing in accordance with the notice procedures of Section 1242.06

1256.04 STANDARDS FOR APPROVAL

To approve a special land use, the Planning Commission must find that all the following general standards are satisfied, in addition to any applicable standards set forth in this ordinance for specific special land uses:

- (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.
- (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.
- (c) Not create excessive additional requirements at public cost for public facilities and services.
- (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.
- (e) Be consistent with the intent and purpose of the zoning district in which such use will be located.
- (f) Be compatible with and in accordance with the City of Hart Master Plan.

1256.05 CONDITIONS AND SAFEGUARDS

- (a) In approving a request for a special land use permit the Planning Commission may impose conditions and safeguards. Such conditions may include but are not limited to conditions necessary to: insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protect the natural environment and conserve natural resources and energy; insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - (1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will utilize the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

- (b) The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Planning Commission and the applicant. The approving Planning Commission shall maintain a record of the conditions which are changed.

1256.06 VALIDITY OF PERMIT

- (a) Planning Commission approval of a special land use permit shall be valid regardless of change of ownership, provided that all terms and conditions are complied with by the new owners.
- (b) In cases where development authorized by a special land use permit has not commenced within one year of issuance, the permit shall automatically terminate. Upon written application and submission of the required fee filed before the termination of the one year period the City Planning Commission may authorize a single extension for a further period of not more than one year.
- (c) The Planning Commission shall have the authority to revoke a special land use permit following a public hearing with notice given as required herein. Such permit may be revoked upon evidence that the applicant, owner or operator has failed to comply with the requirements of the permit as stipulated by the Planning Commission and any other applicable regulations of this Ordinance.

1256.07 AMENDMENT OF AN APPROVED SPECIAL LAND USE

Any person or agency for which a special land use has been approved shall notify the Zoning Administrator of any proposed amendment to the approved use and site plan. Any minor change such as dimension changes, increase in parking, drive relocation, landscaping changes, or movement of lighting or signs may be approved by the Zoning Administrator who shall notify the Planning Commission in writing of such amendments. A copy shall be placed in the file of the original permit requested. Any major changes to any approved special land use shall comply with the filing procedures contained herein for special land use. Major changes shall include but are not limited to increasing the density or number of dwelling units, increasing the number of buildings or land area and the addition of another use or uses not initially authorized under the original site plan. The Zoning Administrator shall determine if other similar changes constitute a major amendment.

1256.08 PERFORMANCE STANDARDS

The following provisions are standards for specific special land uses which must be satisfied to qualify for a special land use, in addition to the general standards set forth in this Chapter.

1256.09 BED AND BREAKFAST

In addition to providing a site plan as required by this Ordinance an applicant for a bed and breakfast shall also provide a floor plan noting total square footage of the dwelling unit and the use and square footage of each room.

The following standards shall be met:

- (a) There shall be no separate cooking facilities in the bedroom area.
- (b) One off-street parking space shall be provided for each transient room in the bed and breakfast. All off-street spaces shall also conform to the requirements of Section 1259 herein.
- (c) The dwelling unit in which the bed and breakfast is located shall be the principal residence of the operator/owner and said operator/owner shall live on premises when the bed and breakfast operation is active.
- (d) The bed and breakfast shall comply with all applicable regulations of the Oceana District Health Department and the State of Michigan.
- (e) A bed and breakfast located in a residential zoning district shall be permitted one sign not to exceed six square feet and shall be setback five feet from the front and side lot lines.

A bed and breakfast located in a nonresidential zoning district shall be permitted to install signs in accordance with the sign requirements of this Ordinance for that zoning district in which the bed and breakfast is located.

1256.10 CHILD DAY CARE IN THE HOME FOR MORE THAN 6 BUT LESS THAN 12

- (a) Day care facilities shall only be located within a single (1) family home, religious institution, or business establishment. If located within a single (1) family home, the owner/operator of the day care facility shall reside on the premises.
- (b) All outdoor play areas shall be enclosed by a fence that is at least fifty four (54) inches high and shall be no nearer than ten (10) feet to any adjacent residential structure.
- (c) The day care facility shall be operated in a manner consistent with the visible characteristics of the neighborhood.
- (d) The day care facility shall not require the modification of the exterior of the dwelling. Play equipment or play areas shall not be located in the front yard.
- (e) Off street parking shall be provided for all employees in addition to the parking required for the residence itself.

- (f) The facility may be inspected by the Zoning Administrator for compliance with these standards prior to occupancy and at any time thereafter.
- (g) The facility shall comply with all applicable rules of Public Act 116 as amended (State Licensing Rules for Child Care Centers).

1256.11 CHILD DAY CARE CENTER OUTSIDE OF HOME

- (a) Child care centers shall be licensed by the State of Michigan under Act 116 of the Public Acts of 1973.
- (b) A child care center shall not be located closer than 600 feet to any of the following facilities as measured along a street, road or other public thoroughfare, excluding an alley:
 - (1) A residential facility offering substance abuse treatment and rehabilitation services which is licensed by the State of Michigan.
 - (2) A community correction center, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
- (c) The minimum lot area shall be 17,000 square feet with a minimum lot width of 132 feet.
- (d) A child drop off / pick up area shall be provided off of the public right of way.
- (e) Child care centers shall comply with the minimum building setbacks specified for principal buildings in the zoning district in which the child care center is located.
- (f) The outdoor play area shall not be located within the required front-yard-building-setback area. Such area shall be enclosed by a fence that is at least 54 inches high and complies with the applicable regulations for fences as required by this Ordinance.
- (g) Where such use abuts existing residential land use or a residential zoning district landscaping shall be provided as specified in Section 1243 herein.
- (h) The facility shall be connected to public water and sanitary sewer.
- (i) A child care center may be located within a church provided all requirements of this section are met.

1256.11(b) Duplexes: conversions and new structures.

- (a) The lot shall be a minimum of eighty (80) feet of frontage.
- (b) The structure shall be aesthetically compatible with single-family homes in the area and shall comply with the standards of section 1243.20.

- (c) At least two (2) off-street parking spaces shall be provided on site for each dwelling unit. In no case shall the parking spaces be in the required front yard. Parking spaces shall be situated so the occupants of one unit do not encumber the parking access of the occupants of the other unit.
- (d) Each dwelling unit shall have a minimum of 750 square feet of living space per dwelling unit exclusive of basements.
- (e) The Planning Commission may require screening if a duplex abuts a lot used for single-family purposes.
- (f) The lot on which the duplex is located must be a minimum of four hundred (400) feet from the property line of another duplex.

1256.12 HOUSING FOR THE ELDERLY, RETIRED OR ASSISTED CARE FACILITIES

- (a) The maximum density shall not exceed 12 units per acre. For purposes of this section, a unit shall include a room in a nursing or convalescent home or a unit with or without kitchen facilities designed for occupancy by not more than four persons.
- (b) Uses permitted shall include but need not be limited to; group dining facilities; recreational facilities; commercial or retail uses for use by residents or their guests, child or adult day care facility, limited medical or therapy facilities for residents.
- (c) Where such use abuts existing residential land use or a residential zoning district landscaping shall be provided as specified in Section 1243 herein.
- (d) The facility shall be connected to public water and sanitary sewer.
- (e) The facility shall be located so as to provide its residents with safe and convenient pedestrian or vehicular access to community services such as transportation, shopping, recreation and medical services.

1256.13 ADULT BUSINESSES

(a) PURPOSES

In the development and execution of this ordinance, it is recognized that there are some uses which, because of their very nature, have serious operational characteristics, particularly when one or more of them are located in near proximity to residential zones, thereby having a deleterious effect upon adjacent areas. Regulation of these uses through location is necessary to ensure that the adverse effects of such uses will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are for the purpose of preventing a

concentration of these uses within any one area or to prevent deterioration or blighting of nearby residential neighborhoods.

(b) DEFINITIONS

As used in this section.

- (1) Adult business includes, but is not limited to, adult book stores, adult video stores, adult personal service businesses, adult cabarets, adult novelty businesses, massage parlors, nude modeling studios and tattoo parlors.
- (2) Adult book store means an establishment which has a substantial or significant portion of its stock-in-trade for sale or rent, which stock-in-trade consists of books, magazines, newspapers, videotapes, video discs and motion pictures which are characterized by an emphasis on specified sexual activities or specified anatomical areas, or which establishment excludes admission to minors by virtue of age.
- (3) Adult cabaret means a cafe, restaurant or bar where patrons are entertained by dancers, strippers or male or female impersonators, whether accompanied by music or not, whose conduct is characterized by an emphasis on specified sexual activities or specified anatomical areas.
- (4) Adult store means all establishment which has in excess of fifty percent (50%) of its stock-in-trade for sale or rental to the public or patrons, video cassettes or video tapes, having as a dominant theme an emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas.
- (5) Adult motion picture theater means any establishment, or part thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein for observation by patrons therein.
- (6) Adult novelty business means a business which has as a principal activity the sale of devices which stimulate human genitals or devices designed for sexual stimulation.
- (7) Adult personal service business means a business having as its principal activity a person, while nude or while displaying specified anatomical areas, providing personal services for another person. Such businesses include, but are not limited to, modeling studios, body painting studios, wrestling studios, conversation parlors and theatrical performances or entertainment.
- (8) Specified sexual activities means:
 - (i) The stimulation or arousal of human genitalia;
 - (ii) Acts of human masturbation, sexual intercourse or sodomy; or,
 - (iii) Fondling or other erotic touching of human genitalia, pubic region, buttock or female breast.
- (9) Specified anatomical areas means:
 - (i) Less than completely and opaquely covered:

- (a). Human genitalia and pubic region;
 - (b) Buttock; or
 - (c) Female breast below a point immediately above the top of the areola; or
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (10) Sexual intercourse includes fellatio, cunnilingus, anal intercourse and any other intrusion, however slight, of any part of a person's body, or of any object into the genital or anal openings of another's body.
 - (11) Sodomy means sexual bestiality.
 - (12) Buttock includes the anus and perineum of any person.
 - (13) Massage Parlor means an establishment wherein private massage is practiced, used or made available as a principle use of the premises.
 - (14). Massage means the manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating, through the use of a physical, mechanical or other device, of the body of another, for a fee.
 - (15) Nude modeling studio means any building, structure, premises or part thereof used primarily as a place which offers as its principal activity the providing of models to display specified anatomical areas for artists and photographers for a fee.
 - (16) Protected use means a church, school or public park.
 - (17) School means a public or private school offering education to students enrolled in pre-kindergarten, kindergarten, one or more grades of one through twelve, or post secondary education.
 - (18) Church means a building used for regular public worship services and exempt from taxation under the General Property Tax Act of the state.
 - (19) Public park means any park owned and maintained by the City.
 - (20) Tattoo parlor means a business having as its principal activity the application or placing, by any method, of designs, letters, scrolls, figures, symbols or other marks upon or under the human skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

(c) AUTHORIZATION.

The Planning Commission may, by the issuance of a Special Use Permit, authorize the uses specified within this Ordinance only in the C2 zoning district and after finding that the following conditions exist:

- (1) The parcel upon which the use is intended is located outside a two hundred (200) foot radius of any parcel upon which is located any residence, dwelling place, daycare facility, church, or school unless a petition requesting waiver of this requirement is received and certified by the City Clerk signed by fifty-one (51) percent of those adult persons or institutions residing within or owning

residential, daycare, school, or church property within a three hundred (300) foot radius of the proposed location in which case the Planning Commission may waive this requirement.

- (2) The use is not located within the two hundred (200) foot radius of one other such use except that such restriction may be waived by the Planning Commission if the following findings are made:
- (i) That the proposed use will not be contrary to the interest or injurious to nearby properties and that the spirit and intent of this section will be observed.
 - (ii) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - (ii) That the establishment of a regulated use, in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program or urban renewal.
 - (iv) That all applicable state laws and local ordinances will be observed.

(d) LIMIT IN REAPPLICATION.

No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said order of denial, except on the ground of new evidence not previously available or proof of changed conditions.

(e) MISCELLANEOUS REQUIREMENTS.

- (1) The height, yard, lot area, lot width, building coverage, sign and parking requirements of an adult business shall conform to the requirements for the zone in which it is located and with the standards for special land use approval contained within the City of Hart Zoning Ordinance.
- (2) The distance between an adult business and a protected use shall be measured in a straight line, without regard to intervening structures or objects, from the lot line of the adult business or building containing an adult business to the nearest lot line of the protected use.

(f) EXCEPTIONS.

The provisions of this ordinance regarding massage parlors shall not apply to licensed masseuse for fitness clubs, hospitals, sanitariums, sanatoriums nursing homes or medical clinics, or to the offices of a physician, surgeon, podiatrist, chiropractor, osteopath or physical therapist, duly licensed by the State, or to barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders of patrons.

CHAPTER 1257

REVIEW AND APPROVAL OF SITE CONDOMINIUM PROJECTS

1257.01 PURPOSE AND SCOPE

The purpose of this Chapter is to provide procedures for the orderly use and development of property which is not otherwise regulated by the City's Subdivision Regulations Ordinance and the Michigan Land Division Act (Act 591 of 1996) as amended. This Chapter insures that a site condominium development shall be reviewed with the objective and intent of achieving many of the same characteristics and land use results as if the proposed development and improvements were being reviewed under the City's Subdivision Ordinance. This Chapter identifies minimum standards for the development of property as site condominiums in the City, and sets forth procedures to be followed by the City in applying these rules, regulations and standards.

Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have all appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit.

Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for purposes of determining compliance with the requirement of the Zoning Ordinance and other applicable laws, ordinances and regulations. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project.

1257.02 ADMINISTRATION

To ensure that site condominium projects comply with the City of Hart Zoning Ordinance, this Chapter requires preliminary review of site condominium project plans by the Planning Commission followed by final review and approval by the City Council, as provided by the Condominium Act (PA59 of 1978) as amended. Site condominium projects may be approved as provided by this Chapter in any zoning district for the uses permitted in the zoning district in which the project is located.

1257.03 SCHEDULE OF FEES

The schedule of fees for the review of projects under this Chapter shall be as required by City Council resolution as amended from time to time.

1257.04 DEFINITIONS

For purposes of this Chapter, the following words and phrases are defined as follows:

- (a) Building Envelope means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium within which the dwelling and any accessory structures may be built.
- (b) Condominium Act means Public Act 59 of 1978, as amended.
- (c) Condominium Structure shall mean the principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g. in a residential development, the condominium structure would refer to the house and any attached garage.
- (d) Condominium Unit means a condominium unit established in compliance with the Condominium Act which consists of all area of vacant land and a volume of vacant air space, designed and intended for separate ownership and use as described in the site condominium project Master Deed, and within which a building or other improvements may be constructed by the condominium unit owner.
- (e) Exempt Change means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this Chapter. Exempt changes shall be limited to the following:
 - (1) A change in the name of the project, in the name of a street within the project, or in the name of the developer of the project;
 - (2) A change in the voting rights of co-owners or mortgages; or
 - (3) Any other change in the site condominium project which, as determined by the Planning Commission, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a project which is subject to regulation under the Zoning Ordinance.
- (f) Lot(s) shall also mean the same as Building Site(s) and is that portion(s) of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the Master Deed. Lot may be further defined as:
 - (1) A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as required by this Ordinance; or
 - (2) The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit for the owner(s) exclusive use, and which, together with the condominium unit, meets the minimum area and yard requirements for lots as required by this Ordinance.
(See Diagram)

- (g) Major Change means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that could result in:
- (1) An increase of 20% or more in the number of site condominium units;
 - (2) Any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this Zoning Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Planning Commission to constitute a major change to the site condominium project.
- (h) Master Deed means the legal document prepared and recorded pursuant to Public Act 59 of 1978, as amended, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.
- (i) Minor Change means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that will result in:
- (1) An increase of less than 20% in the number of site condominium units or a decrease in the number of site condominium units; and
 - (2) Any other minor variation in the site configuration, design, layout, topography or other aspect of the project which is subject to regulation under this Zoning Ordinance, and which, as determined by the Planning Commission, does not constitute a major change.
- (j) Setback - Front, Side and Rear Yard shall mean the distance measured from the respective front, side, and rear of the condominium structure/building envelope to the equivalent of the front, side, and rear lot line respectively.

1257.05 REVIEW OF PRELIMINARY PLANS BY THE PLANNING COMMISSION

Prior to final review and approval of a site condominium project plan by the City Council, a preliminary site condominium project plan shall be reviewed by the Planning Commission in accordance with the procedures, standards and requirements provided by this Chapter.

Application Submittal Requirements

- (a) An application for preliminary site plan review along with 12 sets of the plan shall be submitted to the City Clerk at least two weeks prior to the next scheduled Planning Commission meeting along with a fee as set by the Hart City Council. The application shall at a minimum, contain the following information:

- (1) The applicant's name, address, and phone number.
- (2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property such as a purchase agreement.
- (3) The name, address and phone number of the owner(s) of record if different than the applicant.
- (4) The address of the property.
- (5) Legal description or permanent parcel number of property.
- (6) Project description.
- (7) Size of the parcel in acres.
- (8) Signature of the applicant and owner of the property.

(b) Technical Review

The Clerk shall transmit the application and project plans to the Zoning Administrator for technical review. Copies may also be sent to the City Planner, Fire Chief and Police Chief as deemed necessary. The site plan shall be reviewed for compliance with the requirements of this ordinance and a report prepared for the Planning Commission.

(c) Requirements for Preliminary Plans

The preliminary plan shall at a minimum contain the following items:

- (1) The name or title of the proposed project.
- (2) Legal description of the proposed plat.
- (3) The name, address and telephone number of the property owner and applicant.
- (4) A statement of the intended use for the proposed plat and showing land intended to be dedicated or set aside for public use or for the common use of property owners in the project, and stating the location, dimensions and purpose of such land.
- (5) A small scale vicinity map showing location of project within the City, and the name and location of abutting projects.
- (6) The location, dimensions and approximate grade and radius of proposed and existing streets, alleys and highways included in the plat.
- (7) The location of all existing features affecting the project, such as railroads, buildings, trees, ditches, watercourses and other physical features.
- (8) Location and size of all existing and proposed public water, sanitary sewer and storm drainage pipes, equipment, fire hydrants, catch basins and other facilities.
- (9) Location of utility and drainage easements.
- (10) If the proposed project is contiguous to other lands owned by the applicant, a map showing the street layout and access for subsequent development.
- (11) Location and dimension and size of lots, radii of all curves and approximate location of all setback lines. Lot width shall be shown for each lot, at the required setback line.

- (12) When any part of the project lies within or abuts a floodplain area the floodplain, as established by the State Department of Natural Resources, shall be shown within a contour line and labeled as such.
- (13) Any restrictions to be imposed upon the use of property in the subdivision.
- (14) Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within one hundred (100) feet of the site.
- (15) Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of fifty (50) feet outside the boundary lines of the site.
- (16) Direction of storm water drainage and how storm water runoff will be handled as well as a statement describing where storm water will be ultimately discharged such as a creek, stream, lake or wetland.
- (17) Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within one hundred (100) feet on either side of the site. Also driveway width, curb radii and design of proposed deceleration lanes.
- (18) Street lighting, if any, including the type of fixture as well as method of shielding illumination from adjacent properties and roadways.
- (19) Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands.
- (20) Zoning and use on adjacent properties.

In addition, the following requirements and standards shall apply:

- (21) A condominium project plan shall include the documents and information required by Section 66 of the Condominium Act including the signature and seal of the architect, land surveyor, or engineer that prepares the plan.
- (22) All public and private streets in a site condominium shall comply with the standards for City of Hart public street construction.
- (23) The location of any and all general and limited common elements, as well as the use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the Master Deed.
- (24) The Planning Commission shall require that portions of the plan as relevant to the reviewing authority in question be submitted to the Oceana District Health Department, County Road Commission, County Drain Commission, Michigan Department of Natural Resources and Department of Environmental Quality, and other appropriate state and county review and enforcement agencies having direct approval or permitting authority over any aspect of the proposed site condominium project.
- (25) The building site for each site condominium unit shall comply with all applicable provisions of this Ordinance for the Zoning District in which it will be located, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height. Building setback lines showing distances from all lot lines shall be illustrated on the project plan.
- (26) The site condominium project shall be connected to the City of Hart water and sanitary sewer facilities, if the location of the existing lines are within 200 feet of

the property proposed for the site condominium. If public water and sanitary sewer facilities, are not available, each condominium unit shall either be served by a private central system (designed for connection to a public system when and if a public system is made available), or shall have a well, septic tank, and drain field located within the condominium unit's building site.

- (27) A map of the entire area scheduled for development if the proposed project is a portion of a larger holding intended for subsequent development.
- (28) Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward final approval of the project.

(d) Planning Commission Review

After reviewing the Preliminary Site Condominium Project Plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant and to the City Council.

If the Preliminary Project Plan does not meet all requirements contained herein, the Planning Commission shall notify the applicant by letter indicating any additional information or changes required.

1257.06 REVIEW AND APPROVAL OF FINAL PLANS BY CITY COUNCIL

- (a) After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the City Clerk 12 copies of a Final Site Condominium Development Plan which complies with the requirements for a Preliminary Site Condominium Project Plan. The applicant shall also submit copies of reviews by those agencies with jurisdiction over the project. The City Clerk shall forward the copies of the final plan and other information to the City Council.
- (b) The Final Site Condominium Project Plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission.
- (c) After receiving the Planning Commission's recommendations on the Preliminary Plan and a Final Site Condominium Development Plan from the applicant, the City Council shall review and may approve, deny or approve with conditions the plan.
- (d) The City Council may grant tentative approval of the project and shall set forth in writing the requirements that must be met for approval.
- (e) The City Council shall not review, approve or reject a Final Project Plan until it has received a report and recommendation from the Planning Commission on the Preliminary Project Plan.

- (f) As a condition of approval of a Final Site Condominium Project Plan, the City Council may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Council covering the estimated cost of improvements associated with the site condominium project for which approval is sought, be deposited with the City Clerk, as provided by Section 1258.10 of the Hart Zoning Ordinance. The City Council may impose additional reasonable conditions of approval necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility load caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
- (g) Expandable or Convertible Condominium Projects:

Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas were specifically reviewed and approved by the City Council in compliance with the procedures, standards, and requirements of this Chapter.

1257.07 CONSTRUCTION IN COMPLIANCE WITH APPROVED FINAL SITE CONDOMINIUM PROJECT PLAN

No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a Final Site Condominium Project Plan as approved by the City Council, including any conditions of approval.

Required permits may be issued by the City of Hart Building Inspector, and the developer may proceed with the project provided:

- (a) A Final Site Condominium Project Plan has been approved by the City Council and the approved plan signed by the Hart Zoning Administrator.
- (b) All conditions to commencement of construction imposed by the City Council have been met; and
- (c) All applicable inspections, approvals, or permits from appropriate County and State review and enforcement agencies have been obtained for the project.

1257.08 REVIEW AND APPROVAL OF CHANGES TO APPROVED SITE CONDOMINIUM PROJECT

Any change proposed in connection with a project for which a Final Site Condominium Project Plan has previously been approved by the City Council shall be subject to review as provided by this Section:

- (a) Any change which constitutes a major change shall be reviewed by the Planning Commission and reviewed and approved by the City Council as provided by this Chapter for the original review and approval of preliminary and final plans.
- (b) Any change which constitutes a minor change shall be reviewed and approved by the Planning Commission alone without the need for a City Council review.
- (c) Any change which constitutes an exempt change shall not be subject to review by the City under this Chapter, but a copy of changes proposed (and of the changes made, if different than proposed) shall be filed with the City Clerk.

1257.09 INCORPORATION OF APPROVED PROVISIONS IN THE MASTER DEED

All provisions of a Final Site Condominium Project Plan which are approved by the City Council as provided by this Chapter shall be incorporated by reference in the Master Deed for the site condominium project. Further, all major changes to a project shall be incorporated by reference in the Master Deed. A copy of the Master Deed as recorded with the Oceana County Register of Deeds shall be provided to the City Clerk within ten days after recording the plan with the County.

1257.10 APPROVAL EFFECTIVE FOR ONE (1) YEAR

No approval of a Final Site Condominium Project plan by the City Council shall be effective for a period of more than one year, unless construction of the project commences within that one year period and is diligently pursued to completion in accordance with the terms and conditions of the approval. This one year period may be extended by the Council in its discretion for additional periods of time as determined appropriate by the Council if the extension is applied for by the applicant within the effective period of the approval.

1257.11 VARIANCES

A variance from the provisions of this Article may be granted if the applicant demonstrates that literal enforcement of any of the provisions of this chapter is impractical, or will impose undue hardship in the use of the land because of special or peculiar conditions pertaining to the land. Upon application, the City Council, after recommendation by the Planning Commission, may permit a variance or variances which are reasonable and within the general policies and purposes of this chapter. The Planning Commission and City Council may attach conditions to the variance. Variances from regulations not contained but required by this Article such as lot width or lot size shall be reviewed by the Zoning Board of Appeals as required by this Ordinance.

CHAPTER 1258

SITE PLAN

1258.01 PURPOSES

The purposes of site plan review are to determine compliance with the provisions of this Zoning Code; to promote the orderly development of the City; to prevent the depreciation of land value through uses or structures which do not give proper attention to siting or area protection; and to provide consultation and cooperation between the applicant and the City Planning Commission and City Council in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this Zoning Code and achieve the purposes of the City of Hart Master Plan. (Ord. 178. Passed 3-26-96).

1258.02 SUBMISSIONS IN GENERAL

A site plan shall be submitted for review and approval prior to the issuance of a building permit as follows:

- (a) Planning Commission Level. The Planning Commission shall review the following site plans:
- (1) Any new principal commercial, office, industrial, business or institutional use or a residential use having more than two dwellings.
 - (2) Special land uses and planned unit developments.
 - (3) Existing commercial, industrial, business or institutional uses and buildings or residential uses having more than two dwellings proposed to be increased in size fifty percent or more of the existing building or use. The existing size shall be determined by the gross square footage of an existing building, or if the principal use is primarily out of doors, then the land area occupied by the use shall be used to determine the existing size.
 - (4) Any use in the M-I District.
- (b) Staff Level. The Zoning Administrator shall review the following site plans or may refer such plans to the Planning Commission.
- (1) Expansion of an existing use or building which comprises less than fifty percent (50%) of a building or less than fifty percent (50%) of the land area occupied by a use which is principally outdoors.
 - (2) Construction of a building or structure which is accessory to the principal building.
 - (3) A change in the use of a property which results in the need for more parking spaces.
 - (4) New or expanded single or two (2) family dwelling units.

1258.03 AUTHORIZATION

The Planning Commission or Zoning Administrator shall have the power to approve, deny, modify, or approve with conditions all site plans submitted under this Ordinance. A building permit shall not be issued until a site plan has been approved as required herein.

1258.04 APPLICATION AND PROCEDURES

An application for site plan review shall be submitted to the Zoning Administrator in accordance with the schedule established by the Planning Commission along with a fee as set by the Hart City Council. The application should at a minimum contain the following information - the applicant's name, address and phone number; certification that the applicant is the owner of the property or has legal or financial interest in the property; signature, name, address and phone number of the owner of record if different from the applicant; the address of the property; legal description of property: current zoning; project description; size of the parcel; signatures of the applicant and owner of the property.

1258.05 SITE PLAN REVIEW

- (a) For site plans requiring submittal to the Planning Commission, twelve (12) copies of such shall be submitted by the applicant along with the application. Site plans should be drawn at a scale of one (1) inch equals one hundred (100) feet and contain the following information, unless waived by the Planning Commission or Zoning Administrator - date site plan was prepared; if the plan was done by a professional architect, engineer or surveyor then the name, address, and professional seal of the preparer must be affixed; north arrow; property lines, dimensions, building and structure setbacks; topographic elevations as requested at two (2) foot intervals on the site and to a distance of fifty (50) feet outside the boundary lines; direction of storm water drainage and how storm water runoff will be managed; location, size, and intended use of existing and proposed buildings and structures; location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site as well as driveway width, curb radii and design of any proposed deceleration lanes; location and size of all known water, sanitary, and storm water sewer lines including fire hydrants and catch basins; location of any septic tanks and drain fields; location of any utility easements; location of any known sidewalks, bike paths, and other walkways; location type and size of any walls, fences or other screening materials; location, type, and size of all proposed landscape materials; roof top and outdoor equipment should be indicated; parking areas, access drives, number and size of spaces and aisles, loading areas, and handicapped access requirements; exterior lighting showing area of illumination, type of fixture, and method of shielding from adjacent properties and roadways; location and type of known significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, flood plains, and wetlands; location and specifications of existing or proposed chemical, salt, flammable material or hazardous material storage facilities and containment structures; architectural elevation drawings of a building and cross-section drawings of a site.

- (b) The Planning Commission may require written statements relative to the effects on the existing traffic capacity of streets and the proposed development's impact on schools, existing utilities, and environment features. The Planning Commission may request additional studies, graphics, or other material from the applicant in order to assist in determining the appropriateness of the site plan.

1258.06 SITE PLAN APPROVAL

- (a) The Planning Commission or Zoning Administrator shall review the site plan according to the general standards for site plan review as contained in this chapter and any other applicable regulations of this Ordinance. Based on these standards and regulations, the Planning Commission or Zoning Administrator shall approve, deny, or approve with conditions the site plan. If approved with conditions, the applicant shall revise the site plan as necessary and submit the revised site plan to the Zoning Administrator to insure that all revisions as required by the Planning Commission have been made.
- (b) Upon final approval of the site plan, three (3) copies of this plan shall be stamped as approved, dated, and signed by the Zoning Administrator. One (1) copy of the approved plan shall be retained by the applicant, one (1) shall be retained by the Building Inspector, and one (1) copy shall be kept by the City Clerk.
- (c) The Building Inspector shall issue a building permit upon receipt of an approved final site plan providing all other applicable City regulations have been met including compliance with the City building code.

1258.07 STANDARDS FOR APPROVAL

Prior to approving a site plan, the Planning Commission or Zoning Administrator shall require that the following standards be satisfied. If these standards and the other requirements noted in the City ordinances are met, the site plan shall be approved.

- (a) Landscaping and buffer strips shall be provided and designed in accordance with the City's landscape provisions.
- (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 type 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 Ordinance.
- (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.
- (d) Areas of natural drainage shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns, and maintain the natural characteristics of the land.

- (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. All buildings shall be arranged so as to permit necessary emergency vehicle access.
- (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, dropping areas, and other uses which generate a considerable amount of pedestrian traffic.
- (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) All streets and driveways shall be developed in accordance with the City Subdivision Control Ordinance or Michigan Department of Transportation specifications, unless developed as a private road in accordance with the requirements for private roads in the City of Hart.
- (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 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 on 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.
- (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.
- (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.

1258.08 CONDITIONS OF APPROVAL

- (a) The Planning Commission or Zoning Administrator, as applicable, may impose additional conditions or limitations as may be necessary for protection of the public interest.
- (b) Conditions shall be related to and ensure that the review standards of Section 1258.07 are met.
- (c) A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

1255.09 VALIDITY OF SITE PLANS

- (a) Approval of a site plan is valid for a period of one (1) year unless extended as allowed. The one (1) year period shall commence on the date when the site plan is signed by the Zoning Administrator. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the site plan shall be null and void.
- (b) Upon written application, filed prior to the termination of the one (1) year period, the Planning Commission or Zoning Administrator may authorize a single extension of the time limit for approval of a site plan for a period of not more than one (1) year. Such extension shall only be granted based upon evidence from the applicant that there is a likelihood of construction commencing within the one (1) year extension.

1258.10 PERFORMANCE GUARANTEE

The Planning Commission may require reasonable performance guarantees to be used to assure the completion of required improvements. Such performance guarantees may include a performance bond, a letter of credit, or other written guarantees or assurances deemed satisfactorily in the circumstances and authorized by law. The amount of the performance guarantee shall be determined by the Planning Commission. Such arrangements shall have such sureties or guarantors as are satisfactory to the Planning Commission and shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved site plan and construction and placement of all of the improvements. In its discretion, the Planning Commission may reduce a proportionate share of the amount specified in a performance bond, a letter of credit, or other written assurance based upon the percent or other portion of improvements completed, as verified by the Planning Commission. The Planning Commission may rebate or refund a proportionate share of an escrow cash bond

1258.11 AMENDMENTS TO APPROVED SITE PLAN

- (a) A person granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.

- (b) A minor change, one that does not substantially change the basic design or alter conditions required by the Planning Commission may be approved by the Zoning Administrator. Determination of a minor change shall rest solely within the discretion of the Administrator.
- (c) A major change, one that does substantially change the basic design or alter conditions required by the Planning Commission may be approved by the Planning Commission. Determination of a major change shall rest solely within the discretion of the Zoning Administrator.

1258.12 ACCESS CONTROL STANDARDS

The Planning Commission shall review site plans according to the following standards relating to vehicle access and circulation. The purpose of specific access standards is to increase traffic safety, lessen congestion, provide adequate access, promote community character, and ensure orderly development.

- (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 determining whether the above or other access control measures are necessary, the following criteria shall be considered:

- (1) The type and location of commercial uses on the site and adjacent to the site.
 - (2) The location, size and design of existing and proposed parking areas.
 - (3) The existing and projected traffic volume of the roadway and adjacent roadways.
 - (4) Compatibility between adjacent land uses and likelihood of change or expansion.
 - (5) Number of parcels involved, location of lot lines and amount of road frontage.
 - (6) Topography and site distance along adjacent roadways and on the site.
 - (7) Distance from intersections.
 - (8) Location of driveways opposite the site.
 - (9) Width of roadway and number of lanes.
 - (10) Environmental limitations (steep slopes, water or vegetation).
 - (11) Sufficient building setback.
- (b) For uses along Polk Road, Oceana Drive, State Street, and other streets as deemed necessary, the following regulations shall apply:
 - (1) A maximum of one driveway shall be provided to an individual parcel or to a contiguous parcel under the same ownership when the property in question has no other reasonable access to another abutting street or access road. Additional driveways may also be permitted in accordance with the driveway spacing

standards herein A one way in, one way out driveway system may be permitted if it is demonstrated that traffic circulation on site and off site will not create hazardous situations.

- (2) Temporary direct access to Polk Road, Oceana Drive, State Street and other streets as deemed necessary may be granted in instances where access roads or adjoining parcels are not yet developed. A temporary driveway permit shall specify the future means of access, location if known, and date the change will be made. This temporary access agreement shall be recorded with the County Register of Deeds

(c) Driveways Permitted.

Driveways for a parcel shall be permitted based on the amount of road frontage for that parcel as follows, except that the Planning Commission may modify this in the interest of public safety based all the criteria in Section 1258.12(a),

<u>Frontage</u>	<u>Driveways Permitted</u>
Less than 300 feet	1
300 to 600 feet	2
More than 600 feet	3

- (d) Driveway spacing from intersections shall be determined during site plan review in conjunction with the Michigan Department of Transportation for driveways along Polk Road and Oceana Drive.

(c) Waivers and Modifications

The Planning Commission shall have the authority to waive or modify the requirements of Section 1258.12 when strict adherence to them would result in unreasonable access to the site. In waiving or modifying these requirements, the criteria of Section 1258.12(a) shall be used.

CHAPTER 1259

SIGNS

1259.01 PURPOSE

The purpose of this Article is to provide a framework within which the identification and informational needs of business and industry can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained in this Article to give recognition to the legitimate needs of business, industry, and other activities in attaining their identification and informational objectives. Unrestricted signage does not benefit either the private sector or the community at large.

1259.02 DEFINITIONS

The following words shall have the meanings as set forth below.

- (a) Advertising Sign: Any sign intended to direct the attention of passersby to a business, profession, commodity, service, or entertainment.
 - (1) On Premises: An advertising sign whose message relates to activities conducted on the same premises.
 - (2) Off Premises: An advertising sign whose message relates to activities conducted on premises other than that upon which the sign is located.
- (b) Banner: A piece of cloth, plastic, or similar material used as a symbol, standard, signal, or emblem for attracting attention to a business, generally of a long rectangular shape affixed at both ends.
- (c) Community Special Event Sign: A portable sign which is erected for a limited time to call attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other groups which are non-profit and whose purpose is charitable, philanthropic, religious or benevolent.
- (d) Election Campaign Sign: A sign advertising candidates or soliciting votes for any proposition or issue at an election.
- (e) Flag: A piece of cloth or bunting used as a symbol, standard, signal, or emblem generally of a square or short rectangular shape affixed at one end.
 - (1) Standard: A flag bearing the official design of a nation, state, municipality, nonprofit institution, or nonprofit organization.
 - (2) Advertising: A flag bearing copy or design, such as a business logo or emblem the words "Open" or "Welcome", intended to attract attention towards a business.
- (f) Free Standing Sign: A sign which is not attached to any other structure.

- (g) Identification Sign: A sign that identifies the business, owner, resident, or street address which sets forth no advertisement.
- (h) Illuminated Sign: A sign that provides artificial light directly or indirectly from a source of light.
- (i) Institutional Bulletin Board: A sign containing a surface area upon which is displayed the name of an institution and the announcement of its services or activities.
- (j) Marquee Sign: An identification device attached to a marquee, canopy, or awning projecting from and supported by a building, above sidewalk level.
- (k) Portable Sign: A free standing structure not permanently anchored or secured to either a building or the ground, capable of being moved from place to place.
- (l) Projecting Sign: A structure which extends out from and is secured to a building.
- (m) Real Estate Sign: A non-illuminated, on premise sign advertising the sale, rent, or lease of land or buildings, including buildings under construction.
- (n) Temporary Sign: An informational device intended for display periods not to exceed 90 days, including seasonal produce sales, decorative holiday displays, or public demonstration or businesses which by their nature are limited in duration.
- (o) Wall Sign: A sign attached directly to or painted upon a building parallel to the building wall.
- (p) Window Sign: Copy or emblems that are painted or otherwise attached to the window surface.

1259.03 SIGNS PERMITTED IN ALL DISTRICTS

The following signs shall be permitted in all districts without requiring a building or sign permit, subject to the requirements stated below.

- (a) House numbers and on premise nameplates identifying the occupant or address, not exceeding four square feet in surface display area.
- (b) On premise manorial signs or tablets affixed to a building such as those containing the building name and construction dates, not exceeding four square feet in surface display area.
- (c) For sale signs attached to vehicles, not exceeding four square feet in surface display area.
- (d) Standard Flags.

- (e) Traffic or other municipal signs and notices. Private traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
- (f) On premise institutional bulletin boards not exceeding thirty-two (32) square feet in surface display area.
- (g) Park, playground, and other governmental signs.
- (h) Election signs which shall not be erected more than 30 days prior to the election to which it pertains and shall be removed within two days following the election, shall not be placed closer than one hundred (100) feet from any polling place entrance, shall not exceed thirty-two (32) square feet in surface display area and shall not be placed within any public rights of way.
- (i) One on premise temporary real estate sign per parcel not exceeding 16 square feet in surface display area.
- (j) On premise construction signs where the total surface display area does not exceed 32 square feet, height shall not exceed eight feet, placement shall be wholly within the property boundaries to which the sign pertains, shall not be erected prior to the issuance of a building permit for the proposed construction, and shall be removed immediately upon the completion of construction.
- (k) Community special event signs are permitted in any District, subject to the following restrictions:
 - (1) One community special event sign located on the lot on which the special event is held. Up to two such signs however may be located off the premises.
 - (2) The display of such signs shall be limited to the 14 days immediately preceding the special event which is being advertised.
 - (3) Such signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height above ground level of six feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet. The front setback shall be as required for signs in the District in which the sign is to be located.
 - (4) Such signs shall be removed within 48 hours of the conclusion of the special event which is being advertised.
- (l) One on premise subdivision sign, not exceeding thirty-two (32) square feet in surface display area, per development advertising the sale of lots or homes which shall be removed upon the sale of 90% of the development.

1259.04 RESIDENTIAL DISTRICTS

Any sign not expressly permitted, is prohibited.

- (a) One non-illuminated, on premise wall sign identifying a home occupation not exceeding four square feet in surface display area.
- (b) One permanent development entry sign, not exceeding thirty-two (32) square feet in surface display area, limited to the name of the development or developer, providing the sign is harmonious in appearance with the existing and intended character of the general vicinity and within the community as a whole.
- (c) One identification, wall sign placed on the main building of the apartment development. Such sign shall not exceed thirty-two (32) square feet in surface display area and may be illuminated.
- (d) For permitted uses other than dwellings, one ground sign per parcel not exceeding thirty-two (32) square feet and eight feet in height. Such sign shall be setback at least five feet from the edge of the right of way line.

1259.05 COMMERCIAL DISTRICTS

Any sign not expressly permitted is prohibited.

- (a) One, on premise free standing sign per parcel, not exceeding 64 square feet in surface display area shall be located in the front yard. The leading edge of the sign may be placed at the right of way line. The bottom of such signs shall be at least 8 feet from the average grade with the top of the sign no higher than 20 feet. This sign may be illuminated.
- (b) On premise wall signs shall not exceed 20% of the building face to which it is attached. Such signs shall not extend more than six inches from the building surface and shall not extend above the cornice or roof line. Wall signs shall be placed only upon the principal building and shall face public streets or parking areas which are on the same premises. These signs may be illuminated.
- (c) One temporary, on premise banner per building not exceeding 16 square feet in surface display area.
- (d) One, on premise advertising flag per lot not to exceed 30 square feet in surface display area. When displayed, such flags shall be affixed to a building or placed in the ground in a permanent mounting. Advertising flags shall be located in a manner that does not interfere with the safe use and operation of motor vehicles or in pedestrian use of public areas, nor create a nuisance to the general public in any way. Advertising flags under this section do not require a sign permit.
- (e) One, on premise marquee sign per marquee not exceeding 20% of the marquee surface to which it is attached. These signs may be illuminated.
- (f) One, on premise projecting sign per building with the surface display area not exceeding 1.5 square feet for each lineal foot of building frontage up to a maximum of 64 square feet. Projecting signs shall be attached directly to a building by means of building mounts

or from a mast arm. Projecting signs must project at a 90 degree angle to the building surface to which it is attached and shall not project above the cornice or roof line. The lowest point of a projecting sign, including guy wires and metal framework shall not be less than ten feet above the ground level. Projecting signs shall not extend beyond the minimum required setback line or into and over a public right of way, except for projecting signs in the B2 zone.

- (g) A gasoline service station may, in addition to the above, have one, two sided, on premise sign indicating price and grade of fuel not exceeding 32 square feet in surface display area. Directional signs over individual doors or bays not exceeding three square feet per sign are also permitted. Customary lettering, insignias or symbols which are a permanent or structural part of the gasoline pump shall also be allowed.
- (h) One, on premise parking lot directional sign at each point of ingress or egress which may bear the owner's advertisement, name, or trademark, the enterprise it is intended to serve and directions of movement. Each sign shall not exceed four square feet in surface display area.
- (i) One off premise sign per parcel subject to the following restrictions:
 - (1) The maximum size shall not exceed four square feet and the maximum height shall not exceed four feet above the average grade beneath the sign.
 - (2) The sign shall be set back at least five feet from the right of way line and shall be located so it does not obstruct the vision of drivers, pedestrians or bicyclists.
 - (3) The sign shall not be located within the road right of way.
 - (4) The sign shall only contain wording which pertains to the name of the off premise business or establishment and/or directional information.

1259.06 INDUSTRIAL DISTRICTS

Any sign not expressly permitted is prohibited.

- (a) Signs in the D1 zone shall be subject to the following regulations:
 - (1) One, on premise free standing sign per parcel, not exceeding two hundred (200) square feet in surface display area. Such signs shall be located in the front yard with the leading edge of the sign at least twenty (20) feet back of the right of way line. The bottom of such sign shall not be any higher than two feet nor any higher than ten (10) feet from ground level. This sign may be illuminated.
 - (2) One, on premise wall sign per building face, not exceeding two per building, with the surface display area not exceeding 20% of the building face to which it is attached. Such signs shall not extend more than six inches from the building surface and shall not extend above the cornice or roof line. Wall signs shall be placed only upon the main building and may only face public streets or parking areas which are on the same premises. These signs may be illuminated.

- (3) One on premise marquee sign per marquee not exceeding 20% of the marquee surface to which it is attached. These signs may be illuminated.
 - (4) One directional parking lot sign at each point of ingress or egress shall be permitted which may bear the owner's advertisement, name, or trademark, the enterprise it is intended to serve and directions of movement. Surface display area, per sign, shall not exceed four square feet.
 - (5) One free standing sign identifying the development near the entrance to an industrial complex. Such signs shall not exceed 200 square feet in surface display area. The bottom of these signs shall not be any higher than two feet nor any higher than ten feet from ground level and shall be a minimum of 20 feet from any street right-of-way.
- (b) Signs in the D2 zone shall be subject to the following regulations:
- (1) Freestanding signs shall be setback a minimum of 15 feet from the front lot line and shall not exceed 30 square feet in area or four feet in height.
 - (2) Signs attached to the building shall be attached flat to the building and shall not exceed 100 square feet in area.

1259.07 DESIGN, CONSTRUCTION AND LOCATION STANDARDS

- (a) All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or as a result of the effects of the weather.
- (b) Signs may be internally or externally illuminated. The source of the light shall be enclosed and directed to prevent the source of light from shining directly or indirectly onto traffic or adjacent or nearby properties.
- (c) Signs shall not be placed in, upon or over any public right of way, alley, or other place, except as may be otherwise permitted by the City of Hart or Michigan Department of Transportation.
- (d) A sign shall not be erected in any place where it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance.
- (e) A sign shall not contain any moving or animated parts except for time and temperature signs and barber pole signs.
- (f) A sign and its supporting mechanism shall not extend beyond any lot lines of the property on which it is located.

1259.08 PORTABLE OR MOVABLE SIGNS

Any sign, excluding those specifically provided for, not permanently anchored or secured to either a building or the ground, including but not limited to "A" frame, "T"

frame, inverted "T" frame, or those mounted on wheeled trailers shall be prohibited.

1259.09 MEASUREMENT OF SIGNS

- (a) The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame of other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, poles or other structure necessary to support the sign.
- (b) The area of a freestanding or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, and are no more than two feet apart at any point the area of the two back-to-back faces shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
- (c) The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign excluding any artificially constructed earthen berms.

1259.10 NONCONFORMING SIGNS, AND SIGNS ACCESSORY TO NONCONFORMING USES

- (a) Every legal permanent sign which does not conform to the height, size, area or location requirements of this Chapter as of the date of the adoption of this Chapter, is hereby deemed to be nonconforming.
- (b) Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained, repaired and restored so as to continue the useful life of the sign.
- (c) For the purposes of this Chapter, a nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of nonconforming uses.
- (d) A sign related to a nonconforming use may be erected in the City in accordance with the sign regulations for the District in which the property is located.
- (e) If a nonconforming sign is damaged or destroyed by fire, explosion, flood, wind or other calamity, the sign may be restored to the condition exactly as it existed immediately prior to the damage or destruction, unless the estimated cost of restoration or replacement exceeds 50% of the appraised replacement cost of the entire sign prior to the loss, as determined by the City. If the estimated cost of restoration or replacement exceeds 50% of that appraised replacement cost, the right to continue using the nonconforming sign

shall thereupon terminate and the sign shall be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.

1259.11 SIGN PERMITS

No signs shall be erected, replaced, altered, enlarged, illuminated, changed in purpose, or relocated without first obtaining a sign permit. Permits shall not be required for signs specifically exempted, banners, or the copy of changeable letter signs. Signs exceeding 32 square feet in surface display area shall require a building permit prior to erection. An electrical permit shall be required for any sign utilizing electricity.

An application for a sign permit shall be made through the City Clerk by submission of a form provided by the City. The application can be made by the owner of the property or by any other interested party with the owner's consent.

The Zoning Administrator shall review all sign permit applications and issue permits only for those applications fully meeting ordinance requirements. The Zoning Administrator shall, absent extenuating circumstances, render a decision within five full working days of receipt of a completed application submittal.

CHAPTER 1260

OFF-STREET PARKING AND LOADING

1260.01 COMPLIANCE REQUIRED

In all districts, except as provided in Section 1260.11, there shall be provided at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking spaces for vehicles, in accordance with the requirements of this chapter.

1260.02 SIZE AND ACCESS

Each off-street parking space shall comprise an area of not less than 180 square feet and shall be of usable shape and condition. There shall be adequate provision for ingress and egress to all parking spaces. No parking space designated for automobiles shall have a width of less than nine feet.

1260.03 VEHICLES PERMITTED IN OFFSTREET PARKING AND LOADING SPACES

Except as otherwise specified in this chapter, off-street parking spaces required herein may be occupied by vehicles owned by the occupants of the property or by visitors, or by self-propelled delivery vehicles incidental to the principal use, but not by vehicles being repaired, stored or displayed for sale or hire or for any other purpose which is classified by this Zoning Code as a principal use.

1260.04 LOCATION

Off-street parking facilities shall be located on the same lot with or on an adjacent lot to the parking generator they are required to serve. The Zoning Administrator, upon application, can permit the location of parking facilities at a greater distance where it is shown that such distance will not impair the functional value of such parking facilities.

1260.05 UNITS OF MEASUREMENT

For the purpose of this chapter, "floor area," in the case of commercial and industrial uses, shall mean the gross building area used or intended to be used for services to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for nonpublic purposes, such as storage, incidental repair, processing or packaging of merchandise, show windows, offices incidental to the management or maintenance of stores or buildings, toilets or restrooms, utilities, or dressing, fitting or alteration rooms. In stadiums, sport areas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty inches of such seating facilities shall be counted as one seat.

1260.06 CHANGE IN USE; ADDITION AND ENLARGEMENTS

Whenever in any building there is a change in use or an increase in floor area or in the number of employees or other unit of measurement specified hereinafter for the purpose of determining the number of required off-street parking spaces, and such change or increase creates a need for an increase of more than ten percent in the number of off-street parking spaces as determined by the requirements of this chapter, additional off-street parking spaces shall be provided on the basis of the increased requirements of the new use or on the basis of the increase in floor area or in number of employees or in other units of measurement.

1260.07 MIXED OCCUPANCIES

In the case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately.

1260.08 COLLECTIVE PROVISIONS

Nothing in this chapter shall be construed to prevent collective provision of off-street parking facilities for two or more buildings or uses, provided that the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately.

1260.09 JOINT USE

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.

1260.10 PARKING SPACES REQUIRED

The number of off-street parking spaces required shall be as follows:

- (a) Residential. Two spaces for the first dwelling unit in a building and one space for each additional dwelling unit, or one space for each sleeping unit of a tourist home, motel, or boarding house.
- (b) Commercial. One space required for each 300 square feet of floor space or fraction thereof, and/or each employee on the maximum working shift, whichever produces the greater number of spaces required.

- (c) Industrial. One space required for each 600 square feet of floor space, or for each two employees on the maximum working shift, whichever produces the greater number of spaces required.
- (d) Places of Public Assembly. One parking space for each five seats.

1260.11 EXCEPTIONS

The Planning Commission, in consultation with other City departments and agencies concerned, shall make studies, as found advisable, of various areas within which there is need for the establishment of off-street parking facilities to be provided by the City and to be financed wholly or in part by a special assessment district or by other means. When such need is found, the Planning Commission shall report its recommendation for the acquisition of such off-street parking facilities to the City Council. This report shall include recommendations on the type, size, location and other pertinent features of the proposed off-street parking facilities and the area they are intended to serve. Wherever, pursuant to this procedure, the demand for parking space is satisfied by such a City program, all participating users shall be exempt from the requirements of this chapter for privately supplied off-street parking facilities.

1260.12 DEVELOPMENT AND MAINTENANCE OF PARKING AREAS

Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:

- (a) Minimum Distances and Setbacks. No part of any parking area for five or more vehicles shall be located within a required front yard abutting on a public street of the district in which it is located. When an off-street parking area for five or more vehicles faces across a street or an alley or abuts on a lot in a residential District, the parking area shall adhere to the front yard requirements of the district on which it faces or abuts.
- (b) Restricted Accessory Parking Areas. The establishment and operation of a restricted accessory parking area may be authorized by the Zoning Administrator as a conditional use in such part of a residential zone as abuts, either directly or across an alley, on land in commercial or industrial zone. In serving the needs of commercial or industrial establishments, accessory parking areas shall be so designated and operated as to have a minimum detrimental effect on adjoining residential properties. The requirements such as surfacing, lighting, screening and landscaping shall be as the Zoning Administrator may deem necessary for the protection of neighboring property and the public interest. It is the intent of this chapter that such accessory parking lots shall be so arranged to provide effective buffer zones between commercial and industrial and residential districts.

1260.13 REQUIRED LOADING AND UNLOADING SPACES

There shall be provided adequate space for standing, loading and unloading services of not less than twelve feet in width, twenty-five feet in length and fourteen feet in height open or enclosed

for all uses permitted which involve the receipt and distribution by vehicles of materials, merchandise or bussed passengers.

1260.14 DECISIONS BY ZONING ADMINISTRATOR; REDUCTION OF REQUIRED SPACES

- (a) The decision as to meeting the required parking and loading requirements shall be made by the Zoning Administrator, subject to appeal to the Zoning Board of Appeals.
- (b) The Zoning Administrator may reduce the required parking spaces upon written application of the owner or occupant of a building or buildings and a positive showing that the requirements of this chapter are excessive for the use intended for the building or buildings. Such reduction shall be placed in writing and continue in force only so long as the use does not change and the owner or occupant remains the same. No waiver granted pursuant to this section shall be transferable.

CHAPTER 1261

ZONING BOARD OF APPEALS

1261.01 MEMBERSHIP

- (a) The Zoning Board of Appeals shall consist of five members - one member of the City Council, one member of the Planning Commission, and three citizens of the City appointed by the City Council.
- (b) Term of Office:
 - (1) Members from the City Council and Planning Commission shall serve terms concurrent with their terms on the City Council and Planning Commission.
 - (2) The three citizen members shall serve for three-year terms.
 - (3) Should a vacancy occur, a successor shall be appointed as soon as possible. All vacancies or unexpired terms shall be filled for the remainder of the term of the member being succeeded.
- (c) The Board of Appeals as presently constituted shall continue for the terms established.
- (d) The City Council may appoint two alternate members for three-year terms. An alternate member may serve as a regular member in the absence of a regular member or if a regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member. The alternate member shall serve at the call of the Zoning Administrator.

1261.02 JURISDICTION

- (a) Subject to the provisions of this Chapter, the Board of Appeals, after public hearing, shall have the jurisdiction to decide applications for a variance filed as provided.
 - (1) Where it is alleged by the appellant that there is an error in any order, requirement, permit, interpretation, decision, or refusal made by the Zoning Administrator or any other official or agency in enforcing the provisions of this Ordinance. The Board of Appeals may reverse, affirm, wholly or in part, or may modify the order, requirement, permit, interpretation, decision, or refusal as in its opinion ought to be done, and to that end shall have the powers of the administrative official from whom the appeal was taken.
 - (2) Where by reason of the shape, topographical condition, extraordinary situation, or condition of the land, structure, use, or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause undue hardships.

- (b) The Board of Appeals shall interpret zoning district boundaries.
- (c) The Board of Appeals shall consider and decide upon applications for expansion of nonconforming buildings and structures.
- (d) The Board of Appeals shall hear and decide any other matter referred to it by this Ordinance or any other City ordinance.

1261.03 PROCEDURES

- (a) The Board of Appeals shall adopt rules and regulations to govern its procedures and shall determine a chair and vice-chair. Neither the City Council nor Planning Commission member shall serve as chair.
- (b) Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the City and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.
- (b) Meetings of the Board of Appeals shall be held at the call of the Zoning Administrator and at such other times as the Board may specify in its rules of procedure.
- (c) The concurring votes of a majority of the members (three out of five) shall be necessary to revise any order, requirements, decision, or interpretation of the Zoning Administrator or any other City official or agency, or to decide in favor of an applicant on any matter upon which they are required to pass, or to effect any variation of the Ordinance.
- (d) All meetings and records shall be open to the public. A verbatim record of any public hearing shall be kept for no less than thirty (30) days following the hearing. All minutes shall be filed in the office of the City Clerk and shall be made available to interested parties upon request.

1261.04 FILING OF APPEALS

- (a) Appeals by any person or agency aggrieved shall be made by filing a notice of appeal with the Zoning Administrator on a form provided for that purpose.
- (b) A fee, the amount of which shall be set by the City Council from time to time, shall be paid at the time of the filing of the appeal.

- (c) The filing of an appeal stays all proceedings in furtherance of the action from which appealed, unless the zoning Administrator certifies to the Board of Appeals that by reason of facts stated in the certificate, a stay would, in his opinions cause an imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Circuit Court on application, on notice to the Zoning Administrator and on due cause shown.

1261.05 PUBLIC HEARINGS

- (a) The Zoning Administrator shall fix a reasonable time and date for a public hearing, not to exceed forty-five (45) days from the date of the filing.
- (b) On behalf of the Board of Appeals, the Clerk shall give due notice of the hearing by regular mail to the applicant and to property owners within three hundred (300) feet of the subject properly as shown in the most recent assessment roll. Hearings shall also be noticed in a newspaper of general circulation.
- (c) All notices of a hearing shall be mailed and published not more than ten (10) days nor less than five (5) days prior to the date on which the hearing is to be held.

1261.06 DECISIONS OF THE BOARD OF APPEALS

- (a) The Board of Appeals shall have the power to authorize variances from the provisions of this Ordinance.
- (b) A variance shall not be granted by the Board of Appeals unless evidence is submitted demonstrating that both of the following basic conditions are met:
 - (1) Shall not be contrary to the public interest or to the intent and general purpose of this Ordinance.
 - (2) Shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the zoning district in which the subject parcel is located.
- (c) When both of the foregoing basic conditions can be satisfied, a variance may be granted when any one of the following special conditions can be met:
 - (1) Where there are practical difficulties which prevent carrying out the strict letter of this Ordinance. These difficulties shall not be deemed solely economic, but shall be evaluated in terms of the use of a particular parcel of land.
 - (2) Where absent a variance, a significant natural feature would be negatively affected or destroyed.
 - (3) Where absent a variance, public health, safety, and welfare would be negatively affected.
 - (4) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

- (d) A nonconforming use of land, structure, or building shall not solely constitute grounds for the issuance of a variance.
- (e) The Board of Appeals shall find that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure. The Board of Appeals may authorize a lesser variance than that requested by the applicant.
- (f) In granting any variance or any other ruling the Board of Appeals may prescribe reasonable conditions and safeguards necessary to meet the spirit and intent of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

1261.07 LAND USE VARIANCES

An application of a land use variance to permit a use not otherwise permitted in that zoning district may be considered by the Zoning Board of Appeals but only according to the following procedures.

- (a) Such application shall be made to the City Clerk and all application fee paid in accordance with the fee schedule established by the City Council.
- (b) The City Clerk shall forward the application materials to the Planning Commission for consideration at its next regularly scheduled meeting. The Planning Commission shall review the request with attention to the recommendations of the Hart Master Pan for the property in question. The Planning Commission shall then make a recommendation to the Zoning Board of Appeals.
- (c) The variance request shall then be considered by the Board of Appeals in accordance with the hearing procedures set forth in this chapter.
- (d) In order to approve a use variance request, the Board of Appeals shall determine that an unnecessary hardship exists and that the variance request meets all of the following conditions. The Board of Appeals must ensure that the spirit of the Ordinance is observed, public safety secured, and substantial justice done.
 - (1) The property could not be used or be put to a reasonable use for the purposes permitted in that zone.
 - (2) The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.
 - (3) The use would not alter the essential character of the area.
 - (4) The problem is not self-created.
- (e) In granting a use variance, the Board of Appeals may prescribe reasonable conditions and safeguards necessary to meet the spirit and intent of this Ordinance.

- (f) A two-thirds (2/3) vote of the entire membership of the Zoning Board of Appeals is necessary to approve a use variance.

1261.08 FINDINGS OF FACT

- (a) A verbatim record shall be made of the entire hearing. Minutes shall be kept of each meeting by the City Clerk or appointed agent. The Board of Appeals shall record into the minutes all relevant findings, conditions, facts, and other relevant factors, including the vote of each member upon each question, or if absent, or failing to vote, and all of its official actions.
- (b) The Board of Appeals shall prepare an official record for all appeals and shall base its decision on the record. The official record shall, at a minimum, include the following:
 - (1) The relevant administrative records and orders issued relating to the appeal.
 - (2) The notice of the appeal.
 - (3) Such documents, exhibits, photographs, or written reports as may be submitted to the Board of Appeals for its consideration.
 - (4) The findings of the Board of Appeals shall state the facts of the appeal, the decision, any conditions of the decisions, and the reasons for reaching such a decision, including compliance with the standards of Section 1261.06.
- (c) The Board of Appeals shall decide upon all matters within a reasonable time, not to exceed thirty (30) days from the closing of the public hearing. The time limit may be extended by written agreement between the applicant and the Board of Appeals.
- (d) Decisions and orders of the Board of Appeals shall become effective five days after the decision is reached, unless the Board shall find immediate effect is necessary to preserve a substantial property right and shall so certify in the record.
- (e) If the Board of Appeals determines that a particular variance request occurs so often as to necessitate an amendment to the Zoning Ordinances, the Board shall so advise the City Council.

1261.09 TIME LIMIT FOR VARIANCE GRANTED

- (a) Each variance granted under the provisions of this Ordinance shall terminate unless the construction, occupancy, or other actions authorized by such variances have commenced within one year of the granting of such variances.
- (b) Upon written application filed with the City Clerk prior to the termination of the one year time period, the Board of Appeals may authorize a single extension of the time limit for an additional period of not more than one year upon the finding by the Board of Appeals that the project has a reasonable expectation of being continued to construction.

1261.10 RESUBMISSION

No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted within one year from the date of the original filing of an application for the variance, except on grounds of new evidence or proof of changed conditions relating to the reasons for the denial of the original appeal found by the board of Appeals to be valid.

1261.11 APPEALS OF BOARD OF APPEAL DECISIONS

The decision of the Board of Appeals shall be final. Appeals from decisions of the Board of Appeals shall be to the Circuit Court of Oceana County, as provided by law.

CHAPTER 1262

NONCONFORMING USES AND BUILDINGS

1262.01 PURPOSE

It is the purpose of this Chapter to provide regulations governing lots, buildings, structures and the uses thereof, which were legal before this Ordinance was adopted or amended, including legal non-conforming lots, uses, buildings and structures, that would be prohibited, regulated or restricted under the provisions of this Ordinance. It is the intent of this Chapter to permit these buildings and structures, herein referred to as nonconformities, to remain until the non-conformity is discontinued or removed.

1262.02 NON-CONFORMING USES

- (a) Where, on the date of adoption or amendment of this Ordinance, a lawful principal use of a parcel or lot exists but is no longer permissible under the provisions of this Ordinance, such principal use may be continued so long as it remains otherwise lawful, subject to the provisions of this Chapter.
- (b) Nonconforming uses shall not be changed to another non-conforming use, except after approval of the Board of Appeals. Before granting such approval, the Board of Appeals shall determine that such change in use will be more conforming to the intent of the zone district in which it is located than the existing nonconforming use.
- (c) A nonconforming use which has been changed to a use as per Section 1260.02 (b) or to a use permitted in its zoning district shall not be reestablished.
- (d) A nonconforming use which has been discontinued for more than 12 consecutive months shall not be reestablished. Discontinuance may be defined as the vacating of land or buildings or the non-operative status of the uses which were normally carried on upon the property.

1262.03 NON-CONFORMING BUILDINGS AND STRUCTURES

Nonconforming buildings and structures may be altered or expanded in size provided that such alteration or expansion shall not increase the extent of the nonconformity and shall satisfy all site development regulations which are applicable.

1262.04 REPAIR, MAINTENANCE AND RECONSTRUCTION

- (a) Such repair and maintenance work as is required to keep it in sound condition may be made to a nonconforming building or structure, provided that no structural alterations shall be made in such building or structure except those required by law or ordinance and

those authorized by the Zoning Board of Appeals. A nonconforming building or structure, which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, to the extent of not more than fifty percent of the current market value at the time of damage, may be restored and the occupancy or use of such building, structure or part thereof, which existed at that time of such partial destruction, may be continued or resumed, provided that such restoration is started within a period of one year of the time of such damage and is diligently pursued to completion. In the event such damage or destruction exceeds fifty percent of the current market value of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform with the regulations of this Zoning Code for a new building in the district in which it is located.

- (b) Buildings or structures in which a conforming use is conducted, but which buildings and structures are of themselves nonconforming as to lot size, front yard, rear yard and side yards, may be repaired and restored if damaged by fire, flood, wind, earthquake, or other calamity or act of God, provided that no greater reduction of the requirements of this Zoning Code for new buildings or structures is made. (Ord. 144. Passed 10-12-82.)
- (c) Single family dwelling units and their accessory buildings, located in the B1, B2, C1, C2, D1 and D2 Zoning Districts which are damaged or destroyed by any means, regardless of the extent of damage or destruction, are exempt from the requirements of Section 1260.04(a) provided that such dwelling units and their accessory buildings are reconstructed or repaired in such a manner which will not increase the extent of the non-conformity which existed prior to the damage or destruction. Buildings and structures replaced or restored under the provisions of this subsection, must be setback from the lot lines by at least the same distance or a greater distance and shall not be increased in square footage.

1262.05 STRUCTURES UNDER CONSTRUCTION

The provisions of this Chapter shall not affect any structure, the construction of which was commenced or contracted for as of the effective date of this Zoning Code.

1262.06 BUILDINGS BECOMING NONCONFORMING

The foregoing provisions of this Chapter shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of districts under this Zoning Code or any subsequent change in the regulations of this Zoning Code. (Ord. 144. Passed 10-12-82.)

1262.07 NON-CONFORMING RESIDENTIAL LOTS OF RECORD

A lot existing on the effective date of this Ordinance which does not have sufficient land to conform to the requirements of this Ordinance relating to minimum lot area or width, or both, shall be nonconforming. Such lot may be used as a building site, provided that the other

provisions and requirements of this Ordinance are complied with, except that the side yard setback for a lot which is non-conforming due to lot width shall be 10 percent of the lot width but in no case shall the side yard setback be less than five feet.

EFFECTIVE DATE

This ordinance shall become effective upon its publication or a publication of a summary of the Ordinance in a newspaper of general circulation within the City.

Mitch Johnson, Mayor

Louise Stevens, Clerk

Date

Date

Adopted: 5-12-98

Effective: 6-15-98