

CITY COUNCIL MEETING  
APRIL 24, 2018 AT 7:30 P.M.

Present: Mayor Ron LaPorte; Councilors: Rob Splane, Karen Thomson, Jack Wittman, Steve Hegedus, Jason La Fever and Joe Frontiera.

Also Present: City Manager Stan Rickard, City Attorney Julie Springstead-Waltz, Police Chief Juan Salazar, DPW Supt. Brad Whitney, BioPure Supt. Paul Cutter, Hydro Supt. Mike Schiller and Dep. Clerk Gale Goldberg. (See attached list for others in attendance).

The meeting was called to order by Mayor LaPorte at 7:30 p.m. and following roll call he then opened with the Pledge of Allegiance.

The 1<sup>st</sup> Amended Agenda was approved (7-0) upon motion by J. Wittman and supported by R. Splane. The minutes of the April 10, 2018 meeting were approved (7-0) upon motion by J. Wittman and supported by R. Splane.

**PUBLIC COMMENTS, CORRESPONDENCE, EVENTS, PRESENTATIONS**

- Special city council meeting is set for Tuesday, May 15<sup>th</sup> at 7 p.m. MML has requested all members be present to pick finalists who have applied for the city manager opening. This will be a closed session due to applicants' right to confidentiality.
- City-wide cleanup is set for pickup on Tuesday, May 8<sup>th</sup>. Residents can bring items to the curb starting on Saturday, May 5<sup>th</sup>. There is a banner at the fairgrounds corner advertising this.
- Hydro Disc Golf grand opening is Saturday, May 12<sup>th</sup> and will run all day. A city employee will be available to assist with parking. There is also a banner for this at the fairgrounds corner.
- **Public Comment** – Patrice Martin introduced herself and explained she is not anti-business; she supports the city council and the good standards they have set forth; she supports the city's Master Plan which maintains the city's historic look and understands this Master Plan is a product of a community lead vision.

**DEPARTMENT REPORTS**

- Police Chief Juan Salazar: (in addition to his report dated April 24<sup>th</sup>) A Traffic Control Order was submitted to council for their approval; Sgt. Skipski instructed a drug recognition class; lien audit was submitted to the Michigan State Police.
- BioPure Supt. Paul Cutter: Due to the sand present in the Griswold lift station a hole wore into the side of the volute of the #3 pump. When the City replaced the impellers a few years ago the wear was also due to sand. It was suggested by Kennedy Industries (pump representative) that the impellers be coated with a nickel plating, so the coating was applied. Kennedy Industries have been asked if they thought the hole in the volute was due to sand and they are certain that it was, and more than likely, the impeller with the nickel coating was still good. Kennedy Industries also suggested, to prevent this type of wear in the future, to spray a

titanium coating on the volute and this would extend the life of the volute. Paul expressed that the city should take more extreme measures due to the amount of sand the pumps in the Griswold lift station must handle. Also, he noted that 15 people attended the Open House and it went well.

- DPW Supt. Brad Whitney: Plowed snow in April and removed piles from the parking lots; working with McCormick's to locate utilities; due to a leak all the water to the old DPW building was shut off, and this affected the flow on the north side of town; next month they will do the main water flush and will work with processors to have as little impact on them as possible.
- Hydro Supt. Mike Schiller: Working with McCormick's also and things are going well; replaced 6 lights on Polk Road with LED's; working on getting the new building ready; the old digger truck passed inspection and will work till the new one arrives; met with GRP regarding a maintenance plan for the substations; found zebra mussels in the drain for the generators and have cleaned it out for now; and stump grinding is rescheduled for May 1.

### **BILLS, CLAIMS, PAYROLL**

City Manager S. Rickard noted the updated Accounts Payable came to \$521,863.22. The bills, claims, and payroll was approved (7-0) upon motion by R. Splane and supported by J. Frontiera.

### **ACTION ITEMS**

City Manager S. Rickard presented the following:

**RESOLUTION 18-31**  
**Hart City Council**  
*City of Hart, Michigan*

***A RESOLUTION IN SUPPORT OF THE REINSTATEMENT OF STATE  
HISTORIC TAX CREDITS - SENATE BILL 469/ HOUSE BILL 5178***

**WHEREAS**, the historic buildings, neighborhoods and places in Michigan villages, towns and cities distinguish each community and provide character and a sense of place that contribute significantly to the quality of life and the economic benefits enjoyed in and by each community; and

**WHEREAS**, the preservation and rehabilitation of historic buildings, places and neighborhoods contributes to the beauty, character, and economic vitality of Michigan communities; and,

**WHEREAS**, the labor-intensive nature of historic rehabilitation creates jobs and investment in local businesses and has been proven to generate more economic activity than equivalent investment in new construction; and

**WHEREAS**, demolition or destruction of historic buildings creates costs to Michigan and its communities by destroying the often-irreplaceable construction and ornamental materials of

each structure and by adding significantly to landfills, whose makeup is estimated to be more than 40 percent building materials and waste; and

**WHEREAS**, development and redevelopment within established villages, townships and cities is encouraged by Governor Rick Snyder's ten-point program to "Reinvent Michigan" that includes goals to Restore Our Cities, Protect Our Environment, and Create More and Better Jobs; and

**WHEREAS**, many public policies and financial and lending practices and policies create disincentives or barriers to the preservation, renovation and rehabilitation of historic buildings and resources and create a preferential financial environment for new construction; and

**WHEREAS**, Michigan has measured the economic impacts of the former Michigan Historic Tax Credit programs between their enactment in 1999 and their elimination in 2011 and seen significant positive direct impacts on the revitalization of neighborhoods and communities, the preservation and creation of affordable and market-rate housing, the creation of skilled local jobs, and the subsequent private investment in areas surrounding tax-credit-driven revitalization projects; and

**WHEREAS**, each \$1.00 of credit issued leverages \$11.37 in direct economic impact, such that the former Michigan Historic Tax Credit programs during their twelve-year history have leveraged \$251 million in Federal historic tax credits that otherwise would not have returned to Michigan, spurred \$1.46 billion in direct rehabilitation activity, and created 36,000 jobs; and

**WHEREAS**, the Michigan Legislature is presently considering Senate Bill 469 and House Bill 5178 that would reinstate an up-to-25 percent investment tax credit for owners of historic residential and commercial properties who substantially rehabilitate their properties;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hart, Michigan endorses and supports both Senate Bill 469 and House Bill 5178 and calls upon the Michigan Legislature to pass this important legislation and Governor Snyder to sign it, in order to stimulate appropriate development and redevelopment and protect the historic character and quality of life of our communities.

**BE IT FURTHER RESOLVED THAT** a copy of this Resolution be forwarded to the Michigan Historic Preservation Network.

Moved by Thomson, supported by Hegedus, and thereafter adopted by the Hart City Council at a regular council meeting held on April 24, 2018.

Ayes: 6  
Nays: 1 – La Fever  
Absent: 0

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.

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Cheryl Rabe, City Clerk

RESOLUTION 18-32  
City Council  
*City of Hart, Michigan*  
*Oceana County*

*RETIREE HEALTH FUNDING VEHICLE (RHFV)*  
*Application for Waiver and Plan*

WHEREAS, the City of Hart offers post-employment benefits (OPEB) for retiree healthcare; and on June 10, 2014 City Council adopted Resolution 14-29 selecting the Municipal Employee Retirement System (MERS) of Lansing, MI to provide a retiree health fund trust program known as the MERS Retiree Health Funding Vehicle ("MERS RHFV") for the City of Hart; and the purpose of the RHFV is to set aside current funds to offset future OPEB obligations; and

WHEREAS, pursuant to PA 202 of 2017 the Michigan Department of Treasury (Treasury) requires local units of government to annually report funding progress of the MERS RHFV; and Treasury has established 40% of net OPEB obligation to avoid underfunded OPEB status or \$964,214; and the current value of the MERS RHFV is \$264,689; and the balance to achieve 40% compliance is \$699,525; and

WHEREAS, Treasury requires local units of government to prepare and submit an Application for Waiver and Plan to document City efforts to reach the 40% funded status; and City staff has prepared the Application for Waiver and Plan; and

WHEREAS, the City desires to achieve a MERS RHFV funded ratio of 40% by 2024; and

WHEREAS, in order to secure the benefits of efficient self-government and to promote and protect our common interests and welfare, the City Council hereby declares:

NOW THEREFORE BE IT RESOLVED THAT THE HART CITY COUNCIL:

*Approves and authorizes an annual \$100,000 contribution to the MERS RHFV for years 2018-2024.*

*Accepts and approves the Application for Waiver and Plan.*

*Authorizes and directs the City Manager to implement the foregoing funding Plan on behalf of the City of Hart.*

Moved by La Fever supported by Splane, and thereafter adopted by the City of Hart, Michigan City Council at a regularly scheduled meeting held on Tuesday, April 24, 2018.

Ayes: 7      Nays: 0      Absent: 0

I hereby certify this to be a true and correct copy of the document on file with the office of the Hart City Clerk.

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Cheryl Rabe

**CITY OF HART**  
**ORDINANCE 2018-01**

**TAX EXEMPTION ORDINANCE**

**First Reading:** April 10, 2018  
**Second Reading & Adoption:** April 24, 2018  
**Publication:** May 3, 2018  
**Effective Date:** Ten days after publication

An Ordinance to provide for a service charge in lieu of taxes for a multiple family dwelling project for persons of low income and moderate income financed with a federally-aided or Authority-aided Mortgage Loan or advance or grant from the Authority pursuant to the provisions of the State Housing Development Authority Act of 1966, as amended.

**THE CITY OF HART ORDAINS:**

**SECTION 1.** This Ordinance shall be known and cited as the "City of Hart Tax Exemption Ordinance – Griswold Townhomes."

**SECTION 2. Preamble.**

It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its low income persons and families and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the Act. The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for low income persons and families is a public necessity, and as the City will be benefited and improved by such housing, the encouragement of the same by providing real estate tax exemption for such housing is a valid public purpose. It is further acknowledged that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of all *ad valorem* taxes during the period contemplated in this Ordinance are essential to the determination of economic feasibility of the housing projects that is constructed or rehabilitated with financing extended in reliance on such tax exemption.

The City acknowledges that the Sponsor (as defined below) has offered, subject to receipt of an allocation under the LIHTC Program by the Michigan State Housing Development Authority, to construct, own and operate a housing project identified as Griswold Townhomes on certain property located on Griswold St, Hart MI, property ID # 64-020-316-003-00, and legally described as QC-L2009P23527 SPL FR 001-00 IN 04 CITY OF HART, STANDARD MAP PLAT

A BLK 116 EXC W 250 FT OF N 230 FT THOF & ALSO COM AT SE COR BLK 116, TH N 20 RDS, TH E 8 RDS, TH S 20 RDS, THE W 8 RDS TO POB in the City to serve low income persons and families, and that the Sponsor has offered to pay the City on account of this housing project an annual service charge for public services in lieu of all *ad valorem* property taxes.

**SECTION 3. Definitions.**

- A. Authority means the Michigan State Housing Development Authority.
- B. Annual Shelter Rent means the total collections during an agreed annual period from or paid on behalf of all occupants of a housing project representing rent or occupancy charges, exclusive of Utilities.
- C. Reserved
- D. LIHTC Program means the Low Income Housing Tax Credit program administered by the Authority under Section 42 of the Internal Revenue Code of 1986, as amended.
- E. Low Income Persons and Families means persons and families eligible to move into a housing project.
- F. Mortgage Loan means a loan that is Federally-Aided (as defined in Section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the housing project.
- G. Sponsor means *Oceana County Housing Commission Nonprofit Corporation* and any entity that receives or assumes a Mortgage Loan.
- H. Utilities means charges for gas, electric, water, sanitary sewer and other utilities furnished to the occupants that are paid by the housing project.

**SECTION 4. Class of Housing Projects.**

It is determined that the class of housing projects to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be housing projects for Low Income Persons and Families that are financed with a Mortgage Loan. It is further determined that Griswold Townhomes is of this class.

**SECTION 5. Establishment of Annual Service Charge.**

The housing project identified as Griswold Townhomes and the property on which it is located shall be exempt from all *ad valorem* property taxes from and after the commencement of construction or rehabilitation. The City acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing project in reliance upon the enactment and continuing effect of this Ordinance, and the qualification of the housing project for exemption from all *ad valorem* property taxes and a payment in lieu of taxes as established in this Ordinance. Therefore, in consideration of the Sponsor's offer to construct and operate the housing project,

the City agrees to accept payment of an annual service charge for public services in lieu of all *ad valorem* property taxes. Subject to receipt of a Mortgage Loan, the annual service charge shall be equal to 4% of the Annual Shelter Rents actually collected by the housing project during each operating year.

**SECTION 6. Contractual Effect of Ordinance.**

Notwithstanding the provisions of section 15(a)(5) of the Act to the contrary, a contract between the City and the Sponsor with the Authority as third party beneficiary under the contract, to provide tax exemption and accept payments in lieu of taxes, as previously described, is effectuated by enactment of this Ordinance.

**SECTION 7. Limitation on the Payment of Annual Service Charge.**

Notwithstanding Section 5, the service charge to be paid each year in lieu of taxes for the part of the housing project that is tax exempt but which is occupied by other than low income persons or families shall be equal to the full amount of the taxes which would be paid on that portion of the housing project if the housing project were not tax exempt.

**SECTION 8. Payment of Service Charge.**

The annual service charge in lieu of taxes as determined under this Ordinance shall be payable in the same manner as general property taxes are payable to the City and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be paid on or before May 1st of the following year. Collection procedures shall be in accordance with the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq.*).

**SECTION 9. Duration.**

This Ordinance shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid or the housing project remains subject to income and rent restrictions under the LIHTC Program.

**SECTION 10. Severability.**

The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance, other than the section or provision so declared to be unconstitutional or invalid.

**SECTION 11. Inconsistent Ordinances.**

All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

**SECTION 12.**

**Effective Date.**

First Reading: April 10, 2018  
Second Reading & Adoption: April 24, 2018  
Publication: May 3, 2018  
Effective Date: Ten days after publication

I, the undersigned, the duly qualified and acting City Clerk of the City of Hart, Oceana County, Michigan, do hereby certify that the foregoing Ordinance amendments and additions were adopted by City of Hart at a regular City Council meeting properly held on the 24<sup>th</sup> day of April, 2018; and that the meeting with held in compliance with notice provisions and all other requirements of Act 267 of the Public Acts of 1976, as amended. I hereby certify that I published the Ordinance amendments and additions in the Oceana Herald Journal on the 3<sup>rd</sup> day of May, 2018.

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.

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Cheryl Rabe, City Clerk

Moved by Mr. Splane supported by Mr. Wittman and thereafter adopted on second and final reading by the Hart City Council at a regular council meeting held on April 24, 2018.

Ayes: 6  
Nays: 1 – La Fever  
Absent: 0

**Discussion:**

The City Manager explained approving a PILOT is the first step and is required at the state level and cannot be built or funded without the PILOT.

**ORDINANCE 2018-02  
COST RECOVERY ORDINANCE**

An ordinance to establish cost-recovery charges and exemptions for fire department and other emergency services under Public Act 33 of 1951, as amended (MCL 41.801, et seq.) (the "Act") and to provide methods for collecting those charges.

THE CITY OF HART, OCEANA COUNTY, MICHIGAN ORDAINS:

## **Section 1: Purpose**

This ordinance is adopted by the City of Hart, pursuant to the Act, to enable the Hart Area Fire Administrative Board, the "Board", to bill for and collect cost recovery charges from those who are not assessed property tax levies but receive direct benefits, including but not limited to, fire protection and/or public safety services provided by the Board. It is the further purpose of the ordinance to provide full funding of the fire protection and other emergency services which remain, in part, an at-large expense based upon the general benefits derived by all property owners within the Township's jurisdiction.

## **Section 2: Definition**

1. Jurisdiction means the City of Hart.
2. Charges means and/or refers to costs for services incurred by the Board in connection with a response to a fire emergency, or a public safety incident, including but not limited to, labor and material costs of the Board, whether or not services are provided by the Board or a third party on behalf of the Board; service charges and interest; attorney fees, litigation costs, and any costs, charges, fines or penalties imposed on the Board by any court or state or federal governmental entity.
3. Emergency Services means and/or refers to emergency medical assistance, hazardous materials incident, public safety services, police, fire, and civil defense services.
4. Hazardous Materials means and/or refers to those elements, substances, wastes including but not limited to combustible liquid, flammable gas, explosives, flammables, ammonia, poisons which are or potentially are harmful to the environment, human or animal life, or which pose an unreasonable or imminent risk to life, health, or safety of persons or property or the ecological balance of the environment as determined by the Fire Chief or senior fire official in charge of the scene.
5. Hazardous Material Incident or Emergency means and/or refers to any occurrence, activity, accident, incident or emergency means and/or refers to situations where the release of hazardous materials occurs or is reasonably imminent and where the Fire Chief or designee has so declared such activity, accident, or emergency a hazardous material incident or emergency.
6. Motor Vehicle means and/or refers to any self-propelled or towed vehicle designed for or used on the public streets, roads, and highways which is required to be registered to use public streets, roads, and highways, to transport passengers or property, or non - registered off-road vehicles and all trailers or appurtenances attached to any motor vehicle.
7. Public Safety Incident means and/or refers to requests for emergency response or assistance including but not limited to downed electric power, cable or telephone lines, gas leaks, and any situation when the public is in danger of injury and/or death.
8. Release means and/or refers to any actual or threatened spilling, leaking, pumping pouring, emitting, emptying, discharging, injecting, leaching, dumping, or disposing into the environment, including but not limited to air, soil, groundwater, and surface water.
9. Responsible Party means and/or refers to any individual, firm, corporation association, partnership, commercial entity, consortium, joint venture, government entity, or any

other legal entity responsible for a public safety or fire emergency incident, or any owner, tenant, occupant, or party in control of real or personal property from which onto which or related to which there is a public safety or fire emergency incident, and their heirs, estates, successors and assigns.

### **Section 3: Cost-Recovery Charges**

The Board will, from time to time, set a schedule of charges due and payable by parties not assessed property taxes for fire protection and other emergency services.

### **Section 4: Time Limit Payment**

All charges are due and payable within 30 days from the date the service is rendered, and in default of payment, are collectable through proceedings in 78<sup>th</sup> District Court or any court of competent jurisdiction as a matured debt. Unpaid charges shall accrue a late fee of 1% per month or fraction thereof that the amount due and any previously imposed late payment fee remains unpaid.

### **Section 5: Exemptions**

1. False Alarms not occurring more than five times in a 365-day period.
2. Fire involving municipal buildings, grounds, and/or property.
3. Fire or other emergency service performed outside the jurisdiction of the Hart Area Fire Board, unless the other municipalities have adopted an ordinance to impose fees for fire and emergency service runs within their respective territories under MCL 41.806a.

### **Section 6: Collection of Charges**

The Township or, on its behalf, the Board may proceed to 78<sup>th</sup> District Court by suit to collect any monies remaining unpaid from a responsible party and shall have all other remedies provided by and subject to law for the collection of said charges. All monies collected shall be used to cover any costs of recovery and any remaining funds shall be deposited if the Fire Board general fund.

### **Section 7: Multiple Property Protection**

When a particular fire protection or other emergency service rendered by the Board directly benefits more than one person or property, the owner of each property so benefited, and each person so benefited where property protection is not involved, is liable for the payment of the full charge for such service. The interpretation and application of this section is delegated to the Fire Chief, subject to appeal, within time limits for payment, to the Hart Area Fire Board and shall be administered so that charges shall only be collected from recipients of the service.

### **Section 8: Procedure for Appeal**

Any responsible party who receives an invoice for charges shall have the opportunity to request an appeal of those charges to the Board. Such appeal must be made in writing within seven



**CITY OF HART**  
**ORDINANCE NO. 2018-03**

***AMENDMENTS TO CODIFIED ORDINANCES OF HART MICHIGAN***

***PART TWELVE – PLANNING AND ZONING***

***TITLE FOUR-Zoning***

***Chapter 1259 Signs***

Approved on First Reading	April 24, 2018
Approved on Second & Final Reading	May 8, 2018
Publish Date	May 17, 2018
Effective Date	10 days after publishing (May 27, 2018)

**THE CITY OF HART ORDAINS CHAPTER 1259 SIGNS AS FOLLOWS AND REPEALS ALL SIGN REGULATIONS IN CONFLICT WITH THIS ORDINANCE:**

**CHAPTER 1259**  
**Signs**

- 1259.01 Purpose.
- 1259.02 Definitions.
- 1259.03 General Provisions.
- 1259.04 Exempt Signs.
- 1259.05 Prohibited Signs.
- 1259.06 Temporary Signs.

1259.07 Permanent Signs.

1259.08 Illumination.

1259.09 Nonconforming Signs.

1259.10 Sign Permits.

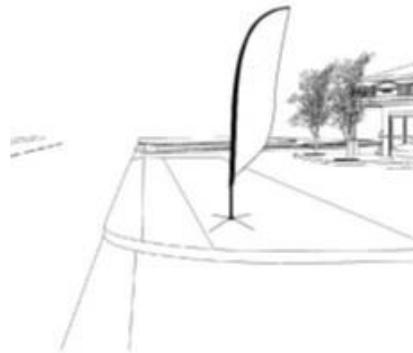
### **1259.01 PURPOSE.**

The purpose of this chapter is to provide a framework within which the identification and informational needs of business and industry and freedom of speech can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained in this chapter to give recognition to the legitimate needs of business, industry, and other activities in attaining their identification and informational objectives and to accommodate free speech. Unrestricted signage does not benefit either the private sector or the community at large and can lead to distracting conditions for drivers, clutter, unsafe conditions, and blight.

### **1259.02 DEFINITIONS.**

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

- (a) "Banner" means a sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. The term "banner" does not include flags or feather signs.
- (b) "Bench sign" means a sign located on any part of the surface of a bench or seat placed anywhere outside a building.
- (c) "Electronic changeable message (ECM) sign" means a sign with a face that can be changed or altered by means of electronically controlled electronic impulses, such as LED and digital displays.
- (d) "Feather sign" means a freestanding sign typically constructed of a shaft, driven in the ground or standing with supports, with an attached pennant that is vertically elongated and attached to the shaft.
- (e) "Flag" means a piece of cloth or bunting, generally of a square or short rectangular shape, affixed at one end.
- (f) "Free standing sign" means a sign which is not attached to any other structure. Includes ground and pole signs.
- (g) "Governmental flag" means a flag representing a nation, state, municipality, nonprofit institution, or nonprofit organization.



*Figure 1 Feather Sign*

- (h) "Governmental sign" means a sign constructed by a public agency, city, township, county, state, or federal government.
- (i) "Ground sign" means a type of free standing sign in which the entire bottom is in contact with the ground or is very close to the ground, such as on a constructed foundation or a brick or block base.

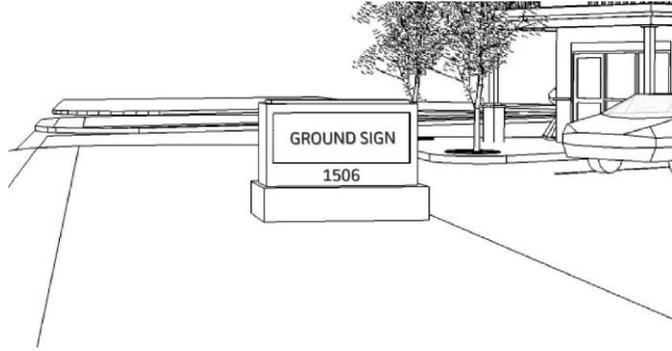


Figure 2 Ground Sign

- (j) "Inflatable sign" means a tethered sign consisting of an envelope inflated with pressurized, blown, or heated air, or a lighter-than-air gas, and displayed for attracting attention.
- (k) "Integral sign" means a sign that is embedded, extruded or carved into the material of a building façade or sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.
- (l) "Neon illumination" means the use of neon, argon, phosphors or a similar gas, to fill tubing made of glass or similar material, which is charged with electricity and used to create illuminated elements of a sign.

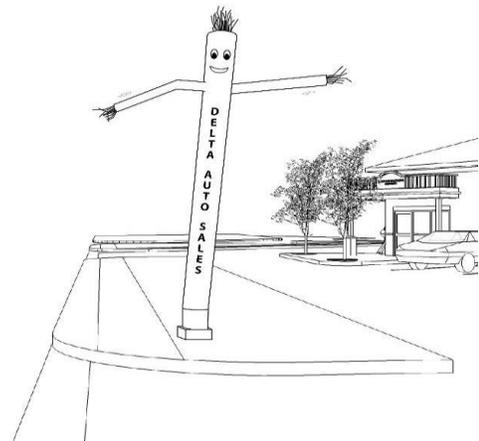


Figure 3 Inflatable Sign

- (m) "Marquee sign" means a sign attached to a marquee, canopy, or awning projecting from and supported by a building, above sidewalk level.
- (n) "Menu board" means a sign board on which a menu of food or services are posted or advertised for drive-in or drive-through businesses.
- (o) "Mural" means a painting or other work of art executed directly on a wall with no commercial message or representation. A mural is not determined to be a sign and is not subject to the requirements of Chapter 1259.



Figure 4 Marquee Sign

- (p) "Pole sign" is a type of free standing sign mounted on one or more poles, posts or pylons, other than a constructed foundation or base, so that the bottom edge of the sign face is elevated above the average grade.

(q) "Portable sign" means a free standing, temporary structure not permanently anchored or secured to either a building or the ground, capable of being moved from place to place, including but not limited to "A" frame, "T" frame, inverted "T" frame, or signs mounted on wheeled trailers.

(r) "Projecting sign" means a sign which extends out from and is secured to the exterior wall of a building.

(s) "Roof sign" means a sign that is erected, constructed and maintained upon or above the roof of a building, or parapet wall and that is wholly or partially supported by the building.

(t) "Sandwich board sign" means a temporary sign structure placed on the ground that consists of two (2) back-to-back sign faces that are hinged together at the top and separated at the base a sufficient distance to solidly support the structure in an upright position.

(u) "Sign face" means the entire display surface area of a sign upon, against or through which copy is placed.

(v) "Temporary yard sign" means a sign that is not permanently affixed to the ground and is of design and construction that is not intended to be of a permanent nature.

(w) "Wall sign" means a sign attached directly to or painted upon a building parallel to the building wall.

(x) "Window sign" means copy or emblems that are painted or otherwise attached to the window surface, or placed within six (6) inches of the inside face of a window and intended to be viewed from outside the building.

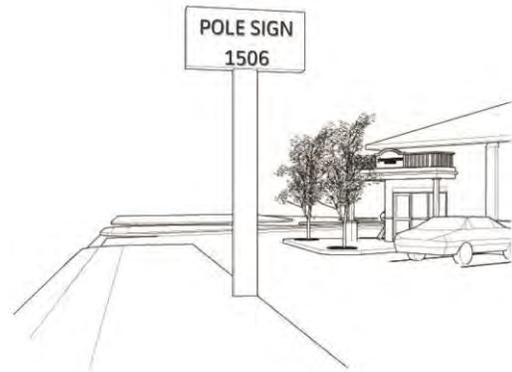


Figure 5 Pole Sign

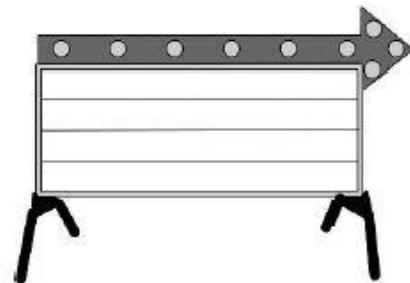
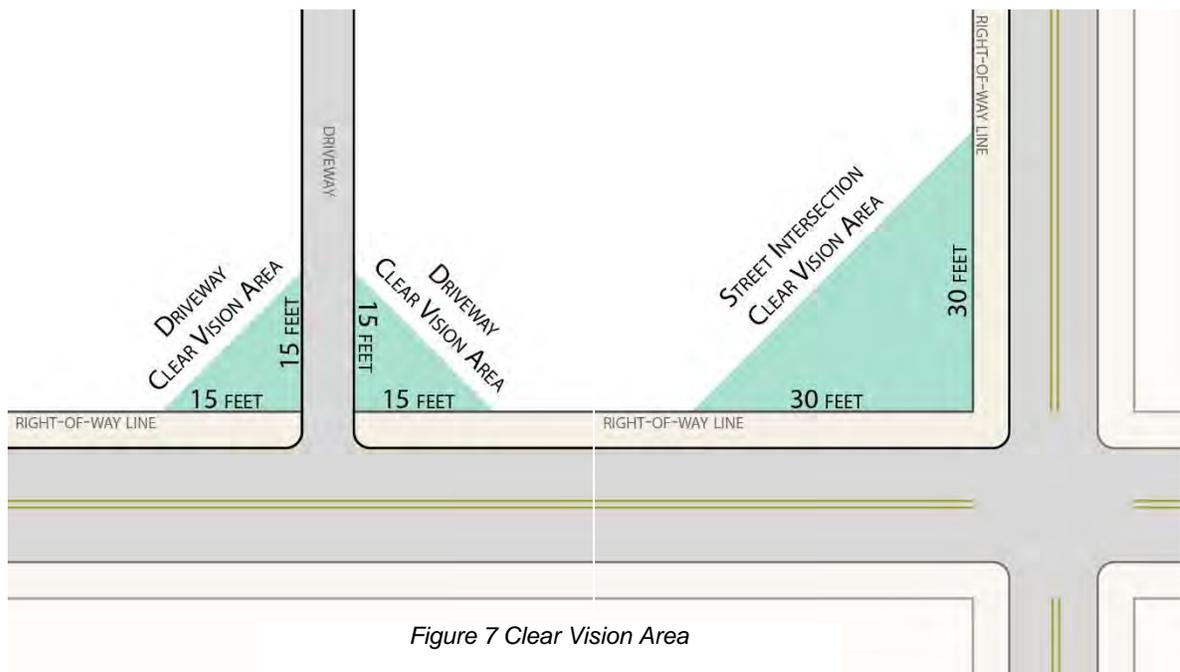


Figure 6 Portable Sign

### 1259.03 GENERAL PROVISIONS.

- (a) All signs shall be properly maintained and shall not be allowed to become unsightly or structurally unsafe or unsecure through disrepair or because of the effects of the weather.
- (a) Signs shall not be placed within or encroach into a public right-of-way, including signs placed on utility poles, utility cabinets, traffic control signs, structures or devices unless permitted by the agency having jurisdiction over the road.
- (b) A sign shall not be erected in any place where it may, because 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.

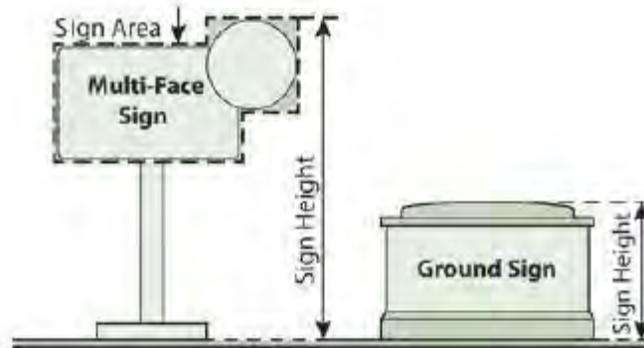
- (c) A sign shall not contain any moving parts and shall not have the appearance of being in motion, whether on a continuous basis or at intervals, and regardless of whether the motion or appearance of motion is caused by natural or artificial sources. However, moving, traveling, and blinking lights are permitted on and around signs on buildings in the B-1 Zoning District, if demonstrated to be historically accurate.
- (d) Signs shall not obstruct free ingress to, or egress from, a required door, window, fire escape, or other required exit way.
- (e) A sign and its supporting mechanisms shall not extend beyond any lot lines of the property on which it is located.
- (f) Corner clearance and visibility. Signs shall not be erected, established or maintained on a corner lot that will obstruct the view of a driver in a vehicle approaching the intersection. A sign shall not be erected, established or maintained where it will obstruct vision between a height of three (3) and 10 feet within the following triangles:
  - (1) Intersection of Streets. Within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines 30 feet from the point of the intersection of the right of way lines.
  - (2) Street and Driveway. Within the triangular area formed by the intersection of a street right-of-way line and a driveway and a line connecting two (2) points that are located on the right-of-way line and the driveway 15 feet from the point of intersection of the right-of-way line and driveway.



- (g) Measurement.
  - (1) 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.

- (2) The area of a freestanding or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size, and are no more than two (2) feet apart at any point the area of the two (2) back-to-back faces shall be counted as one (1) face. If the two back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- (3) 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. Artificially constructed earthen berms used to raise the grade immediately below the sign shall be counted against the maximum.



*Figure 8 Display Area and Sign Height*

#### **1259.04 EXEMPT SIGNS.**

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

- (a) House numbers and wall signs, such as nameplates, not exceeding four (4) square feet in surface display area.
- (b) Permanent plaques, inscriptions, or tablets affixed to a building, not exceeding four (4) square feet in surface display area.
- (c) For sale signs attached to vehicles, not exceeding four (4) square feet in surface display area.
- (d) Governmental flags.
- (e) Flags (see Section 1259.06).
- (f) Traffic or other government signs and notices.
- (g) Private traffic control signs which conform to the Michigan Manual of Uniform Traffic Control Devices.
- (h) Temporary yard signs (see Section 1259.06).
- (i) Window signs. Window sign square footage shall not exceed 25 percent of the first-floor window coverage for each side of a building in B-1, and 50 percent in all other non-residential districts.
- (j) Customary lettering, insignias or symbols which are a permanent or structural part of the gasoline pump shall also be allowed.

- (k) Sandwich board signs (see Section 1259.06).
- (l) Integral signs, not exceeding eight (8) square feet.

**1259.05 PROHIBITED SIGNS.**

The following signs are expressly prohibited:

- (a) Any sign not expressly permitted by this chapter is prohibited.
- (b) In residential zones or on property used for non-transient residential uses, commercial signs are prohibited except for those properties on which a home occupation or a transient residential use has been approved.
- (c) Roof, inflatable, bench, and feather signs.
- (d) Any sign displaying images of nudity or that uses obscene material or words. The zoning administrator shall also consider the following criteria when providing a determination:
  - (1) An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest, is offensive or profane;
  - (2) The material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and
  - (3) The material, taken as a whole, must lack serious literary, artistic, political or scientific value.
- (e) Display or parking of a motor vehicle or trailer upon a lot or premises in a location visible from a public right-of-way, for the primary purpose of displaying a sign attached to, painted on or placed on the vehicle or trailer, except for vehicles used regularly during conducting the principal use located on the premises.
- (f) Use of pennants, ribbons, or other such features which are hung or strung across any property, and which are not an integral, physical part of a building or other permanent structure on the property.

**1259.06 TEMPORARY SIGNS.**

<b>Residential Districts</b>	
<b>Temporary Yard Signs</b>	
Number (max.)	Two (2) per lot or parcel.
Size (max.)	12 square feet total for all signs.
Height (max.)	Four (4) feet.
Setback (min.)	10 feet.
Illumination	Not permitted.

Other	Within a timeframe from 30 days prior to an election to three (3) days after, there is no restriction on the number and height of temporary yard signs. During this timeframe, the maximum size of temporary yard signs is 32 square feet.
<b>Subdivision Temporary Yard Signs</b>	
Number (max.)	One (1) per subdivision or condominium development.
Size (max.)	32 square feet.
Height (max.)	Six (6) feet.
Setback (min.)	15 feet.
Illumination	Not permitted.
Duration	Until 90 percent of lots or units are sold.
<b>Portable Signs on Non-Residential Property</b>	
Number (max.)	One (1) per lot or parcel.
Size (max.)	32 square feet.
Height (max.)	Six (6) feet.
Setback (min.)	15 feet.
Illumination	Not permitted.
Duration (max.)	16 days, no more than four (4) times a year.

<b>Commercial and Industrial Districts</b>	
<b>Banner</b>	
Number (max.)	One (1) per principal building.
Size (max.)	16 square feet.
Height (max.)	Signs shall not extend above the cornice or roof line or above the exterior wall on which it is affixed.

Location	On building exterior walls that face public streets or parking areas.
Illumination	Not permitted.
<b>Flag (non-governmental)</b>	
Number (max.)	One (1).
Size (max.)	24 square feet.
Location	Affixed to a building or placed in the ground in a permanent mounting and 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.
Illumination	Not permitted.
<b>Temporary Yard Signs</b>	
Number (max.)	Two (2) per lot or parcel.
Size (max.)	12 square feet total for all signs.
Height (max.)	Four (4) feet.
Setback (min.)	10 feet.
Illumination	Not permitted.
Other	Within a timeframe from 30 days prior to an election to three (3) days after, there is no restriction on the number and height of temporary yard signs. During this timeframe, the maximum size of temporary yard signs is 32 square feet.
<b>Portable Signs</b>	
Number (max.)	One (1) per lot or parcel.
Size (max.)	32 square feet.
Height (max.)	Six (6) feet.
Setback (min.)	15 feet.
Illumination	Not permitted.
Duration (max.)	16 days, no more than four (4) times a year.
<b>Sandwich Board Signs</b>	

Number (max.)	One (1) per building. Multi-tenant buildings are limited to one (1) sandwich board sign per 50 linear feet of front façade width or one (1) per tenant, whichever is less.
Size (max.)	Six (6) square feet.
Height (max.)	42 inches.
Width (max.)	30 inches.
Location	Shall be located on or adjacent to a sidewalk but shall not interfere with pedestrian, bike, or wheelchair travel.
Illumination	Not permitted.
Duration (max.)	Signs may only be displayed during business hours and must be removed when the business is closed.
Other	For measuring area, only one (1) sign face is considered. Sandwich board sign faces shall be of equal size.

**1259.07 PERMANENT SIGNS.**

<b>Residential Districts</b>	
<b>Wall Sign for Dwelling with a Permitted Home Occupation</b>	
Number (max.)	One (1) wall sign, in addition to exempt wall sign.
Size (max.)	Four (4) square feet.
Location	Must be attached flat against a building wall.
Illumination	May be externally illuminated (see 1259.08).
<b>Ground Sign on a Non-Residential Property</b>	
Number (max.)	One (1).

Size (max.)	32 square feet.
Height (max.)	Six (6) feet.
Setback (min.)	15 feet from right-of-way or any property line.
Illumination	May be externally illuminated (see 1259.08).
<b>Sign for Subdivision or Multi-Family Development</b>	
Number (max.)	One (1) sign, two (2) if more than one (1) entryway.
Size (max.)	32 square feet.
Height (max.)	Six (6) feet.
Setback (min.)	15 feet from right-of-way or any property line.
Illumination	May be externally illuminated (see 1259.08).
Other	Sign must be located on a property owned by a homeowner's association or within a private easement area held by the homeowner's association.

<b>Commercial Districts</b>	
<b>Wall, Marquee, and Projecting Signs</b>	
Number (max.)	No limit.
Size (max.)	Wall and projecting signs: 20 percent of the building face square footage maximum.  Projecting signs: 64 square feet each.
Height (max.)	Projecting signs must preserve an eight (8) foot clear area under the lowest edge of the sign.  Signs shall not extend above the cornice or roof line or above the exterior wall on which it is affixed.
Location	On building exterior walls that face public streets or parking areas.

Illumination	May be illuminated (see 1259.08).
Other	<p>Wall signs shall not extend more than six (6) inches from the building surface.</p> <p>Projecting signs may not project more than four (4) feet from the exterior wall. 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. 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 B-1 Zone.</p>
<b>Ground Sign</b>	
Number (max.)	<p>One (1) per lot or parcel, zero (0) if any other ground or pole sign exists. A second ground sign subject to the same standards is allowed on corner lots, but signs shall be located on separate road frontages.</p> <p>Ground signs are prohibited in B-1.</p>
Size (max.)	<p>48 square feet.</p> <p>90 square feet along Polk Road.</p>
Height (max.)	<p>Six (6) feet.</p> <p>10 feet along Polk Road.</p>
Setback (min.)	10 feet.
Illumination	May be illuminated (see 1259.08).
<b>Pole Sign</b>	
Number (max.)	<p>One (1) per lot or parcel, zero (0) if any other ground or pole sign exists.</p> <p>Pole signs are prohibited in B-1.</p>
Size (max.)	64 square feet maximum.
Height (max./min.)	20 feet, eight (8) foot clearance under bottom of sign.
Setback (min.)	N/A.
Illumination	May be illuminated (see 1259.08).
<b>Entryway Signs</b>	

Number (max.)	One (1) per driveway entry. Entry signs are prohibited in B-1.
Size (max.)	Four (4) square feet.
Height (max.)	Four (4) feet.
Setback (min.)	Five (5) feet.
Illumination	May be internally illuminated (see 1259.08).

<b>Industrial Districts</b>	
<b>Wall Signs</b>	
Number (max.)	No limit.
Size (max.)	20 percent of the building face square footage maximum.
Height (max.)	Signs shall not extend above the cornice or roof line or above the exterior wall on which it is affixed.
Location	On building exterior walls that face public streets or parking areas.
Illumination	May be illuminated (see 1259.08).
Other	Wall signs shall not extend more than six (6) inches from the building surface.
<b>Ground Sign</b>	
Number (max.)	One (1) per lot or parcel, zero (0) if any other ground or pole sign exists. A second ground sign subject to the same standards is allowed on corner lots, but signs shall be located on separate road frontages.
Size (max.)	D-1: 90 square feet. D-2: 32 square feet.
Height (max.)	D-1: 10 feet. D-2: Six (6) feet.

Setback (min.)	D-1: 10 feet. D-2: 15 feet.
Illumination	May be illuminated (see 1259.08).
<b>Industrial Park Sign</b>	
Number (max.)	D-1: One (1) per lot or parcel, zero (0) if any other ground or pole sign exists. D-2: Not permitted.
Size (max.)	200 square feet.
Height (max.)	15 feet.
Setback (min.)	20 feet.
Illumination	May be illuminated (see 1259.08).
<b>Entryway Signs</b>	
Number (max.)	One (1) per driveway entry.
Size (max.)	Four (4) square feet.
Height (max.)	Four (4) feet square feet.
Setback (min.)	Five (5) feet.
Illumination	May be internally illuminated (see 1259.08).

**1259.08 ILLUMINATION.**

- (a) External Illumination. Externally lighted signs are allowed in all commercial and industrial districts and for non-residential uses in residential districts, subject to the following requirements:
  - (1) Sign lighting shall be of low intensity with effective provisions made to minimize spillover of light beyond the actual sign face.
  - (2) The light source shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property.
- (b) Internal Illumination. Internally lighted signs are allowed in all business, commercial and industrial districts. However, internal illumination is prohibited in the B-1 district unless it

is demonstrated to be historically accurate. Sign faces shall be opaque so individual lamps are muted and cannot be distinguished behind the sign face.

(c) Electronic Changeable Messages. One (1) single or double-sided ECM display may be located on free standing and wall signs meeting the requirements of this Chapter in the B-2 General Business District subject to the following restrictions:

- (1) No more than 50 percent of the area of the sign may be dedicated to an ECM display. The remainder of the sign shall consist of permanent graphics and script.
- (2) The entire face of the electronic display shall display no more than one (1) message at a time.
- (3) Each message shall be static and shall not move, flash or otherwise be animated. Each message shall be displayed for a period no less than seven (7) seconds.
- (4) Transitions from one message to the next shall be instantaneous and shall not scroll, fade or otherwise be animated.
- (5) An electronic display sign shall be equipped with automatic dimming technology to adjust the brightness of the sign relative to ambient light conditions.
- (6) No ECM display shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area. The measurement distance shall be the square root of the sign area times one hundred. Example using a 12 square-foot sign: measurement distance =  $(12 \times 100) = 34.6$  feet.
- (7) Notwithstanding the provisions of Section 1259.09 (c), a nonconforming freestanding sign may not be altered to include an ECM display sign unless it is first made conforming to all requirement of this chapter.

(d) Neon Illumination. Neon illumination is permitted as a secondary element to wall or projecting signs, subject to the following:

- (1) Zoning District. Neon-illuminated signs are restricted to the B-1 and B-2 Districts.
- (2) General Requirements.
  - a. Neon illumination shall be restricted to wall or projecting sign types attached to exterior building walls.
  - b. A building is limited to one (1) neon-illuminated sign.
  - c. Neon-illuminated signs shall be compatible and harmonious with the primary color(s), style, and architecture of the building. No more than three (3) colors shall be used on any one (1) sign.
  - d. Neon illumination shall be used in limited volume to ensure that it does not become visually obtrusive and dominate the street frontage. Luminous neon text, symbols or figures shall comprise of no more than 50 percent of the sign face area, measured in the same manner as sign area. Neon lighting extending beyond the sign face is also considered in the measurement of sign area. Background accent lighting does not count against the maximum percent of neon.
  - e. A neon-illuminated sign shall not obscure portions of a building that contribute to architectural character, including but not limited to, doors, windows and other elements that add to articulation of the façade.
  - f. Neon illumination shall be static and stationary in nature. There shall be no movement, appearance of movement, intermittent illumination, blinking at any interval, or changing of color.

- g. Should any portion of the neon-illuminated display malfunction, all neon illumination shall be discontinued until fully repaired.
- (e) Illuminated window signs.
  - (1) One (1) ECM or electronically illuminated window sign is permitted within commercial buildings per street frontage, per building. Multi-tenant buildings are permitted to have one (1) ECM or electronically illuminated window sign per tenant.
  - (2) Each ECM or electronically illuminated window sign is limited to four (4) square feet in size and count against the total square footage for window signs.
  - (3) ECM or electronically illuminated window signs intended to be viewed from the outside that are more than six (6) inches away from the window shall also count against the total square footage for window signs.
  - (4) Each message shall be static and shall not move, flash or otherwise be animated.
  - (5) Each message shall be displayed for a period no less than seven (7) seconds. Transitions from one message to the next shall be instantaneous and shall not scroll, fade or otherwise be animated.

#### **1259.09 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) 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 fifty percent 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 fifty percent 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.

#### **1259.10 SIGN PERMITS.**

- (a) No sign 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 or the copy of changeable letter signs.
- (b) Signs exceeding 32 square feet in surface display area shall also require a building permit prior to erection. An electrical permit shall be required for any sign utilizing electricity.

- (c) 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.
- (d) A nonrefundable fee as set forth in the uncodified fee schedule adopted by the City must accompany all sign permit applications.
- (e) 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 (5) full working days of receipt of a completed application submittal.

STATE OF MICHIGAN )

) SS.

COUNTY OF OCEANA )

I, the undersigned, the duly qualified and acting City Clerk of the City of Hart, Oceana County, Michigan, do hereby certify that the foregoing Ordinance amendments and additions were adopted by City of Hart at a regular City Council meeting properly held on the 8<sup>th</sup> day of May , 2018; and that the meeting with held in compliance with notice provisions and all other requirements of Act 267 of the Public Acts of 1976, as amended. I hereby certify that I published the Ordinance amendments and additions in the Oceana Herald Journal on the 17<sup>th</sup> day of May, 2018.

I hereby certify this to be a true and correct copy of the document on file with the office of the City of Hart Clerk.

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Cheryl Rabe, City Clerk

It was noted that this is the 1<sup>st</sup> reading and if approved, will have the second reading at the May 8<sup>th</sup> city council meeting. J. Wittman had Patrice Martin clarify her stand on electronic message signs. Ordinance 2018-03, 1<sup>st</sup> reading, was approved (5-2) upon motion by K. Thomson and supported by R. LaPorte.

Ayes: 5

Nays: 2 – Splane, Frontiera

Absent: 0

A Traffic Control Order #313 was presented as follows:

Traffic Control Order #313 was approved (6-1) upon motion by J. Wittman and supported by J. La Fever.

Ayes: 6

Nays: 1

Absent: 0

### **SPECIAL EVENTS PERMIT**

Midwest Brass & Gas – Monday, June 4<sup>th</sup>, from 1 p.m. to 4:30 p.m. – City Manager explained this group had been here last summer and they are estimating 35 cars. It was suggested there be a logistics meeting between Main Street and DPW to work this out. The group will be attending a movie and music at Dale and Gail's. All cars are 1912 or older, and they are requesting the street be closed for one block, State Street between Washington and (Tyler) Main. It was approved (7-0) to close the street as requested, upon motion by J. Frontiera and supported by S. Hegedus.

Ayes: 7

Nays: 0

Absent: 0

### **DISCUSSION ITEMS**

- Capital Improvement Program: City Manager asked the council to review the 6-year program, noting the first two years are very aggressive and gave a short overview of the other planned projects.
- Electric Transmission Easements – EDF Renewables is a wind power company based on the east coast, and they have transmission line plans and would possibly use some of the city property but will have a clear picture later.
- Nine Month Budget: As of March 31<sup>st</sup> funds are on target, and our cash position is good.

### **No City Manager Report**

### **No City Attorney Report**

### **CLOSED SESSION**

It was approved (7-0) to enter into a closed session at 8:27 p.m. upon motion by J. La Fever and supported by J. Frontiera, to discuss property acquisition and collective bargaining. The council returned to open session at 8:40 p.m. There was a motion by J. Frontiera and supported by J. Wittman to pursue property acquisition for future hydroelectric purposes.

### **COMMUNICATIONS**

- J. Frontiera suggested the city have their own shooting range on the city's 40 acres site for our police force. In talking with the police chief, he has learned that it is difficult to get time to use the county's shooting range. It was suggested this be discussed at the next Police Committee meeting.
- J. Frontiera also wondered if the city could remove trees that are causing problems with sewer drains when they are between the sidewalk and the road. It was suggested he get the exact location and give this information to the Hydro Supt. He and Schiller will investigate this.

There being no further business to come before the council the meeting adjourned at 8:47 p.m. upon motion by R. Splane and supported by J. Frontiera.