



**CITY COUNCIL  
MEETING AGENDA  
May 16, 2024**

**Mark Ammel, Mayor  
Karen Moore, Mayor Pro Tem  
Ronald J. Beauchamp, Council Member  
Tyler DuBord, Council Member  
Todd Flath, Council Member**

**James R. McNeil, City Manager  
Phil DeMay, City Clerk  
Laura J. Genovich, City Attorney**

City Council Chambers located at: City Hall – 410 Ludington Street – Room C101 – Escanaba, MI 49829

The Council has adopted a policy to use a Consent Agenda, when appropriate. All items with an asterisk (\*) are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event, the item will be removed from the General Order of Business and considered in its normal sequence on the Agenda.

Regular Meeting

**Thursday, May 16, 2024, at 7:00 p.m.**

CALL TO ORDER

ROLL CALL

INVOCATION/PLEDGE OF ALLEGIANCE

APPROVAL/CORRECTION(S) TO MINUTES – Regular Meeting – May 2, 2024

APPROVAL/ADJUSTMENTS TO THE AGENDA

CONFLICT OF INTEREST DECLARATION(S)

BRIEF PUBLIC COMMENT(S)

PUBLIC HEARINGS

**1. Public Hearing and Adoption – FY2024-25 Operating Budget.**

**Explanation:** The Council has conducted four (4) public hearings and three (3) budget work sessions to set a proposed FY2024-25 operating budget. This is the final public hearing on the FY2024-25 City operating budget and will establish a City millage rate of 17.442 mills. Administration is recommending Council approval of the FY2024-25 Operating Budget, Capital Improvement Plan and Master fee schedule.

**2. Second Reading, Public Hearing and Adoption of Ordinance No. 1294, Historic Preservation Ordinance of 2024 – Planning & Zoning.**

**Explanation:** Administration is requesting City Council to consider approval and adoption of Ordinance No. 1294, Historic Preservation Ordinance of 2024.

**3. Second Reading, Public Hearing and Adoption of Ordinance No. 1295, Planning Commission Ordinance of 2024 - Planning & Zoning.**

**Explanation:** Administration is requesting the City Council to consider approval and adoption of Ordinance No. 1295, Planning Commission Ordinance of 2024.

UNFINISHED BUSINESS – None

NEW BUSINESS

**1. First Reading of Ordinance No. 1288, the Appropriations Ordinance, Including the Millage Rate of 17.442 Mills and Setting the Date of Thursday, May 23, 2024, for the Second Reading, Public Hearing, and Adoption.**

**Explanation:** Once the City Council approves the budget, the Council must approve a tax levy and authorize appropriations to implement the budget. Administration is recommending a special meeting of the Council for Thursday, May 23, 2024, at 9:00 a.m. be scheduled for the second reading, public hearing, and adoption of Appropriations Ordinance No. 1288.

**2. First Reading of Ordinance No. 1289, the Tax Levy Ordinance, and Setting the Date of Thursday, May 23, 2024, for the Second Reading, Public Hearing and Adoption.**

**Explanation:** Section 9, Chapter VIII, of the City Charter requires the City, by Ordinance, to levy taxes that may be necessary to meet the appropriations' needs for the upcoming fiscal year budget. Administration is recommending a special meeting of the Council for Thursday, May 23, 2024, at 9:00 a.m. be scheduled for the second reading, public hearing, and adoption of Tax Levy Ordinance No. 1289.

**3. First Reading of Ordinance No. 1290, the Electric Rate Ordinance, and Setting the Date of Monday, June 3, 2024, for Second Reading, Public Hearing, and Adoption.**

**Explanation:** Annually, the City Council sets electric utility rates for the next fiscal year. Council is asked to consider this the first reading of Ordinance No. 1290 and to schedule the second reading and public hearing for June 3, 2024, at 9:00 a.m.

**4. First Reading of Ordinance No. 1291, the Water Rate Ordinance, and Setting the Date of Monday, June 3, 2024, for Second Reading, Public Hearing, and Adoption.**

**Explanation:** Annually, the City Council sets water utility rates for the next fiscal year. Council is asked to consider this the first reading of Ordinance No. 1291 and to schedule the second reading and public hearing for June 3, 2024, at 9:00 a.m.

**5. First Reading of Ordinance No. 1292, the Wastewater Rate Ordinance, and Setting the Date of Monday, June 3, 2024, for the Second Reading, Public Hearing, and Adoption.**

**Explanation:** Annually, the City Council sets wastewater utility rates for the next fiscal year. Council is asked to consider this the first reading of Ordinance No. 1292 and to schedule the second reading and public hearing for June 3, 2024, at 9:00 a.m.

**6. First Reading of Ordinance No. 1293, the Solid Waste Ordinance, and Setting the Date of Monday, June 3, 2024, for the Second Reading, Public Hearing, and Adoption.**

**Explanation:** Annually, the City Council sets solid waste rates for the next fiscal year. Council is asked to consider this the first reading of Ordinance No. 1293 and to schedule the second reading and public hearing for June 3, 2024, at 9:00 a.m.

**7. First Reading of Ordinance No. 1296, An Ordinance to Repeal Chapter 14 Solid Waste in its Entirety and Substitute the Following Provisions Governing Solid Waste, and Setting the Date of Thursday, June 6, 2024, for the Second Reading, Public Hearing, and Adoption.**

**Explanation:** Administration is requesting the City Council to consider this the first reading of Ordinance No. 1296, An Ordinance to Repeal Chapter 14 Solid Waste in its Entirety and Substitute the Following Provisions Governing Solid Waste. Administration is requesting that the City Council set June 6, 2024, for the second reading, public hearing adoption of Ordinance No. 1296.

**8. Approval – MERS Plan Amendment – City Controller.**

**Explanation:** IRS guidelines require the City to designate a default contribution rate for our Defined Contribution Pension Plan. This default rate will apply to employees that transfer between divisions and people who have terminated employment and are subsequently rehired. Administration is requesting City Council approval to set the default rate to 3%.

**9. Approval – Paving of 5<sup>th</sup> Avenue South – Public Works.**

**Explanation:** One bid was received for the paving of 5th Ave. S. from 26th-32nd St. Administration is seeking City Council approval to hire Payne and Dolan for \$243,550 to HMA Base crush and shape, and pave 5th Avenue South.

Agenda – May 16, 2024

**10. Approval – Paving of South 5<sup>th</sup> Street – Public Works.**

**Explanation:** One bid was received for the paving of South 5th Street from 2nd-3rd Avenue South. Administration is seeking City Council approval to hire Payne and Dolan for \$17,325 to pave South 5th Street.

**11. Approval – Emergency Water Plant Filter #3 Replacement – Water Department.**

**Explanation:** Administration is requesting City Council approval to hire Staab Construction from Marshfield, WI to conduct emergency filter #3 under drain replacement work at the City of Escanaba Water Treatment Plant in an amount not to exceed \$600,000.00. This is a non-budgeted emergency repair.

APPOINTMENTS

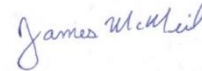
BOARD, COMMISSION, AND COMMITTEE REPORTS

GENERAL PUBLIC COMMENT

ANNOUNCEMENTS

ADJOURNMENT

**Respectfully Submitted,**



**James R. McNeil  
City Manager**

**OFFICIAL PROCEEDINGS  
CITY COUNCIL  
CITY OF ESCANABA, MICHIGAN  
Regular Council Meeting  
Thursday, May 2, 2024**

The meeting was called to order by the Honorable Mayor Mark Ammel at 7:00 p.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Mark Ammel, Council Members, Ronald J. Beauchamp, Tyler DuBord, Todd Flath, and Karen Moore

Absent: None

Also Present: City Manager James R. McNeil, City Clerk Phil DeMay, Department Heads, media, and members of the public.

City Clerk DeMay led Council in the Pledge of Allegiance.

Flath moved, DuBord seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting minutes from April 18, 2024, as submitted.

**ADJUSTMENTS TO THE AGENDA**

Flath moved, DuBord seconded, **CARRIED UNANIMOUSLY**, to approve the City Council Agenda as submitted.

**CONFLICT OF INTEREST DECLARATION** – None

**BRIEF PUBLIC COMMENT** – None

**PUBLIC HEARINGS**

**PH-1 Public Hearing - Proposed 2024-25 Fiscal Year Budget.**

City Council conducted the fourth public hearing and scheduled the final public hearing and approval of the 2024-25 City budget for May 16, 2024.

This being a public hearing, Mayor Ammel asked for public comment.

Hearing no public comment, Mayor Ammel then closed the public hearing.

**PH-1** Beauchamp moved, DuBord seconded, to set May 16, 2024, as the final public hearing and approval of the 2024-25 City budget.

Upon a call of the roll, the vote was as follows:

Ayes: Beauchamp, DuBord, Moore, Flath, Mayor Ammel  
Nays: None

**MOTION CARRIED.**

**UNFINISHED BUSINESS** – None

**NEW BUSINESS**

**NB-1 Presentation – Investment Report – City Manager.**

Bob Valentine of the First Bank Investment Team presented a report of the City's surplus fund investment performance.

**NB-2 Approval – Investment Policy – City Manager.**

Administration sought City Council approval of the Investment Policy. No changes were being requested at this time.

**NB-2** “By Council DuBord, seconded by Council Member Moore;

**Resolved**, To accept the Investment Policy Statement, as presented by City Treasurer Robert Valentine on May 2, 2024, as required by Michigan Public Act 20.

Upon a call of the roll, the vote was as follows:

Ayes: DuBord, Moore, Beauchamp, Flath, Mayor Ammel

Nays: None

**RESOLUTION DECLARED ADOPTED.”**

**NB-3 First Reading of Ordinance No. 1294, Historic Preservation Ordinance of 2024, and Setting the Date of Thursday, May 16, 2024, for the Second Reading, Public Hearing, and Adoption – Planning & Zoning.**

Administration requested the City Council to consider this the first reading of Ordinance No. 1294, Historic Preservation Ordinance of 2024. Administration requested that the City Council set May 16, 2024, for the second reading, public hearing, and adoption of Ordinance No. 1294.

**NB-3** DuBord moved, Moore seconded, to consider this the first reading of Ordinance No. 1294, Historic Preservation Ordinance of 2024, and to set May 16, 2024, for the second reading, public hearing, and adoption of Ordinance No. 1294.

Upon a call of the roll, the vote was as follows:

Ayes: DuBord, Moore, Beauchamp, Flath, Mayor Ammel

Nays: None

**MOTION CARRIED.**

**NB-4 First Reading of Ordinance No. 1295, Planning Commission Ordinance of 2024, and Setting the Date of Thursday, May 16, 2024, for the Second Reading, Public Hearing, and Adoption – Planning & Zoning.**

Administration requested the City Council to consider this the first reading of Ordinance No. 1295, Planning Commission Ordinance of 2024. Administration requested that the City Council set May 16, 2024, for the second reading, public hearing, and adoption of Ordinance No. 1295.

**NB-4** DuBord moved, Moore seconded, to consider this the first reading of Ordinance No. 1295, Planning Commission Ordinance of 2024, and to set May 16, 2024, for the second reading, public hearing, and adoption of Ordinance No. 1295.

Upon a call of the roll, the vote was as follows:

Ayes: DuBord, Moore, Beauchamp, Mayor Ammel  
Nays: Flath

**MOTION CARRIED.**

**NB-5 Approval – Sealcoat Bandshell – Public Works.**

Public Works sought City Council approval to have Draze Sealcoating, seal coat for \$2,627 in front of the band shell and underneath the benches at Ludington Park.

**NB-5** DuBord moved, Flath seconded, to approve to have Draze Sealcoating, seal coat for \$2,627 in front of the band shell and underneath the benches at Ludington Park.

Upon a call of the roll, the vote was as follows:

Ayes: DuBord, Flath, Beauchamp, Moore, Mayor Ammel  
Nays: None

**MOTION CARRIED.**

**NB-6 Approval – Stainless Steel Dump Box – Public Works.**

Public Works requested City Council approval of a stainless steel dump box from one of the three vendors (Casper's, Monroe, Viking Cives).

**NB-6** Moore moved, Flath seconded, to approve of a stainless steel dump box from Viking Cives in the amount of \$26,773.

Upon a call of the roll, the vote was as follows:

Ayes: Moore, Flath, Beauchamp, DuBord, Mayor Ammel  
Nays: None

**MOTION CARRIED.**

**APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES** – None

**BOARD, COMMISSION, AND COMMITTEE REPORTS**

Council Members reviewed City Board and Commission meetings each attended since the last City Council Meeting.

**GENERAL PUBLIC COMMENT**

- Tyler Anthony – Discovered that the “Master Plan” 75<sup>th</sup> Anniversary is this year!

**ANNOUNCEMENTS**

- Reminded residents that the election will be taking place on Tuesday, May 7, 2024.
- Food Truck rally moved to the fairgrounds.
- Esky Cleanup.

Hearing no further public comment, DuBord moved, Flath seconded, the Council adjourned at 8:39 p.m.

Respectfully submitted,

Phil DeMay  
City Clerk

Approved: \_\_\_\_\_  
Mark Ammel, Mayor

**ORDINANCE NO. 1294**

**HISTORIC PRESERVATION ORDINANCE OF 2024**

WHEREAS, The People of the City of Escanaba did establish the Historic District Ordinance of the City of Escanaba of 2009, and it is now desired to repeal the existing ordinance and adopt this ordinance to better provide for a Historic Preservation Commission, and for guidelines related to the establishment and administration of local historic districts, NOW THEREFORE, THE PEOPLE OF THE CITY OF ESCANABA HEREBY ORDAIN:

**CHAPTER I**  
**SECTIONS AMENDED**

*The City of Escanaba Code of Ordinances, Chapter 9, is amended by adding the following:*

Article IV. Historic Preservation

Section 101. Establishment

- (1) There shall be one or more historic districts established by the City Council, pursuant to the Historic Districts Act.
- (2) There shall be a City Historic Preservation Commission, hereinafter referred to as "the Commission", pursuant to the Historic Districts Act, with the powers and duties as set forth therein.
- (3) This article shall be officially known and described as the " Historic Preservation Ordinance of 2024".

Section 102. Definitions

- (1) The terms used herein shall have the same meanings as given to them in the Historic Districts Act, or as hereinafter provided in this section, unless the context clearly indicates to the contrary. Terms hereinafter provided are as follows:
  - A. "Alteration" means work that changes the detail of a resource but does not change its basic size or shape.
  - B. "Certificate of Appropriateness" means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.
  - C. "Construction Code Act" means Public Act 230 of 1972, as amended, being the Stille-DeRossett-Hale single state construction code act, MCL 125.1501 *et seq.*
  - D. "Demolition" means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.
  - E. "Demolition by neglect" means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.
  - F. "Denial" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.
  - G. "Evaluation Criteria" means Code of Federal Regulations, Title 36, Section 60.4, as amended, being the Secretary of the Interior's Criteria for Evaluation.
  - H. "Fire alarm system" means a system designed to detect and announce the presence of fire or by-products of fire. Fire alarm systems include smoke alarms.
  - I. "FOIA" means Public Act 442 of 1976, as amended, being the Freedom of Information Act, MCL 15.231 *et seq.*
  - J. "Historic district" means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.
  - K. "Historic Districts Act" means Public Act 169 of 1970, as amended, being the Michigan Local Historic Districts Act, MCL 399.201 *et seq.*
  - L. "Historic preservation" means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.
  - M. "Historic resource" means a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of the City of Escanaba, State of Michigan, or the United States.
  - N. "Notice to proceed" means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 205(6) of the Historic Districts Act.



- O. "OMA" means Public Act 267 of 1976, as amended, being the Open Meetings Act, MCL 15.261 *et seq.*
- P. "Open space" means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or buffer between other resources.
- Q. "Ordinary maintenance" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this article.
- R. "Proposed historic district" means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.
- S. "Rehabilitation Standards" means Code of Federal Regulations, Title 36, Section 67.7, as amended, being the Secretary of the Interior's Standards for Rehabilitation.
- T. "Repair" means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this article.
- U. "Resource" means one or more publicly or privately owned historic or nonhistoric buildings, structures, sites, objects, features, or open spaces located within a historic district.
- V. "Review Board" means the Michigan State Historic Preservation Review Board.
- W. "SHPO" means the Michigan State Historic Preservation Office.
- X. "Smoke alarm" means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this article, "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. "Multiple-station alarm" means two (2) or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate.
- Y. "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

Section 103. Study Committee

(1) Before establishing, modifying, or eliminating a historic district, the City Council shall appoint an *ad hoc* committee officially known as a "Historic District Study Committee", hereinafter referred to as "Study Committee". Such Study Committees shall consist of five (5) members appointed by the City Council. To be qualified to be a member, individuals shall meet the following qualifications:

- A. shall be a qualified elector of the City;
- B. shall not hold any elected office or employment with the City other than by virtue of membership on the Commission; and
- C. shall not be a declared candidate for any political office.

(2) Most of the persons appointed to a Study Committee shall have a clearly demonstrated interest in or knowledge of historic preservation as follows. The City Council may appoint up to three (3) members of the Commission to a Study Committee.

- A. Two citizen members representing the organized historic preservation interests of the City who meet the following conditions:
  - i. shall be members of non-profit organizations with offices in the City whose bona-fide purpose is to promote historic preservation; and
  - ii. shall be appointed from names nominated by non-profit organizations with offices in the City whose bona-fide purpose is to promote historic preservation;
- B. Two citizen at-large members representing the general historic preservation interests of the City who meet the following conditions:
  - i. shall hold a graduate or bachelor's degree in history or closely related field with:
    - a. at least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic

- institution, historic organization or agency, museum, or other professional institution, or
    - b. substantial contribution through research and publication to the body of scholarly knowledge in the field of history; or
  - ii. shall hold a graduate degree in archeology, anthropology, or closely related field with:
    - a. at least one year of full-time professional experience or equivalent specialized training in archeological research, administration, or management,
    - b. at least four months of supervised field and analytic experience in general North American archeology, and
    - c. demonstrated ability to carry research to completion; or
  - iii. shall hold a graduate or bachelor's degree in architectural history, art history, historic preservation, or a closely related field with coursework in American architectural history with:
    - a. at least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution, or
    - b. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history; or
  - iv. shall hold a professional degree in architecture or be a duly registered architect in the State of Michigan with:
    - a. at least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field, or
    - b. at least one year of full-time professional experience on historic preservation projects; and
  - v. shall be appointed from names submitted in response to advertisements including, but not limited to, in a newspaper with paid circulation in the City;
- C. One citizen at-large member representing the general interests of the City who meets the following conditions:
  - i. shall be appointed from names submitted in response to advertisements including, but not limited to, in a newspaper with paid circulation in the City;
- D. The requirements in subsections A and B are waived if no interested persons are willing to serve on the Study Committee who meet those requirements, except as otherwise required under the Historic Districts Act.

(3) After appointment, a Study Committee shall research and complete a report as follows:

- A. Conduct a photographic inventory of resources within the proposed historic district following procedures established by SHPO.
- B. Conduct basic research of the proposed historic district and historic resources located within that district. A Study Committee shall consider any previously written reports as pertinent to this research.
- C. Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total.
  - i. In evaluating the significance of historic resources, a Study Committee shall be guided by the Evaluation Criteria, and criteria established or approved by SHPO.
- D. Prepare a preliminary report that addresses:
  - i. The charge of the Study Committee.
  - ii. The composition of the Study Committee's membership.
  - iii. The historic district studied.
  - iv. The boundaries of the proposed historic district in writing and on maps.
  - v. The history of the proposed historic district.
  - vi. The significance of the entire district, as well as enough of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

- E. Transmit copies of the preliminary report for review and recommendations to the Planning Commission, SHPO, the Michigan Historical Commission, and the Review Board.
- F. Make copies of the preliminary report available to the public, pursuant to Section 3(4) of the Historic Districts Act.
- G. Within sixty (60) calendar days after the preliminary report's transmittal, hold a duly noticed public hearing in compliance with OMA.
  - i. Written notice shall be sent, by first class mail not less than fourteen (14) calendar days prior to the hearing, to the property owners within the proposed historic district.
  - ii. The report shall be made available to the public in compliance with FOIA.
- H. Within one year after a public hearing pursuant to Paragraph G, prepare and submit a final report with the Study Committee's recommendations and those of the Planning Commission, if any, to the City Council as to the action on the historic district.
  - i. If the recommendation is to establish a historic district, the final report shall include a draft of the proposed ordinance amending Section 103(4) to include said historic district's boundaries.
  - ii. If the recommendation is to eliminate a historic district, the final report shall show one or more of the following:
    - a. The historic district has lost those physical characteristics that enabled the establishment of the district.
    - b. The historic district was not significant in the way previously defined.
    - c. The historic district was established pursuant to defective procedures.

(4) A writing prepared, owned, used, in the possession of, or retained by a Study Committee in the performance of an official function shall be made available to the public in compliance with FOIA.

(5) City officials and employees shall provide information and records to a Study Committee, and shall meet therewith upon request to assist with its activities.

#### Section 104. Districts

(1) The City Council may establish, modify, or eliminate a historic district by ordinance. Such action shall only be taken after, and within one year of, the receipt of a report pursuant to Section 102(3). Upon adoption of such an ordinance, the City Clerk shall file a copy of said ordinance, including a legal description of the property(ies) located within the historic district with the Delta County Register of Deeds.

(2) The City Council shall not act on an ordinance to establish or enlarge a historic district until the following conditions have been satisfied:

- A. The City Clerk shall circulate a written petition among property owners within the proposed historic district. Said petition shall clearly seek the approval of these property owners to establish or enlarge said historic district.
  - i. If fewer than half of the property owners approve of the proposed historic district, then the City Council shall reject the ordinance.
  - ii. If more than half of the property owners approve of the proposed historic district, then the City Council may adopt the ordinance.
- B. The City Council shall not act on an ordinance until 60 days have passed since the district is approved by written petition pursuant to Paragraph A(ii).

(3) Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Council may adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the Commission pursuant to this Ordinance. The Commission shall review permit applications with the same powers that would apply if the proposed historic district was an established one. The review may continue in the proposed historic district for not more than one year, or until such time as the City Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(4) Established historic district boundaries are as follows:

- A. The Richter Brewery Historic District: Lots 3 through 8 of Block 7 of the S.H. Selden Addition of the City of Escanaba, according to the plat thereof, as recorded in Liber A of Plats, Page 22, Delta County Records.

Section 105. Commission Membership

(1) The Commission shall consist of seven (7) members appointed by the City Council. To be qualified to be a member, and to remain a member of the Commission, individuals shall meet the following qualifications:

- A. shall be a qualified elector of the City;
- B. shall not hold any elected office or employment with the City other than by virtue of membership on the Commission, unless an *ex officio* member; and
- C. shall not be a declared candidate for any political office, unless an *ex officio* member.

(2) Members shall be appointed for three-year terms which shall be arranged so that, as nearly as possible, the terms of one-third of all Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled within sixty (60) days for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all Commission members continue to expire each year. Appointments to the Commission shall be as follows:

- A. In March of each year the City Clerk shall determine which members' terms of office expire, shall determine what organizations qualify to nominate members, and shall contact those organizations to solicit nominations by first class mail.
- B. In April of each year, if the Clerk has not received at least two nominations for each office, then the Clerk shall discard those applications and shall place an advertisement(s) in a newspaper with paid circulation in the City to seek different applications.
- C. In May of each year the City Council shall consider the applications and nominations received and appoint members to the Commission by a majority vote for a three-year term of office which shall begin and end on May 30 at 9:00 a.m. of the respective years.

(3) The terms of office for *ex officio* members shall coincide with their elected terms of office on the City Council.

(4) Most of the membership shall have a clearly demonstrated interest in or knowledge of historic preservation, while the remaining members shall be representative of the City generally, as follows:

- A. Members 1 and 2. Two citizen members representing the organized historic preservation interests of the City shall be appointed for three-year terms of office, or remainders of unexpired terms of office, who meet the following conditions:
  - i. shall be members of non-profit organizations with offices in the City whose bona-fide purpose is to promote historic preservation; and
  - ii. shall be appointed from names nominated by a non-profit organization with offices in the City whose bona-fide purpose is to promote historic preservation;
- B. Members 3 and 4. Two citizen members representing the general historic preservation interests of the City shall be appointed for three-year terms of office, or remainders of unexpired terms of office, who meet the following conditions:
  - i. shall hold a graduate or bachelor's degree in history or closely related field with:
    - a. at least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution, or
    - b. substantial contribution through research and publication to the body of scholarly knowledge in the field of history; or
  - ii. shall hold a graduate degree in archeology, anthropology, or closely related field with:
    - a. at least one year of full-time professional experience or equivalent specialized training in archeological research, administration, or management,

- b. at least four months of supervised field and analytic experience in general North American archeology, and
    - c. demonstrated ability to carry research to completion; or
  - iii. shall hold a graduate or bachelor's degree in architectural history, art history, historic preservation, or closely related field with coursework in American architectural history with:
    - a. at least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution, or
    - b. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history; or
  - iv. shall hold a professional degree in architecture or be a duly registered architect in the State of Michigan with:
    - a. at least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field, or
    - b. at least one year of full-time professional experience on historic preservation projects; and
  - v. shall be appointed from names submitted in response to advertisements including, but not limited to, in a newspaper with paid circulation in the City;
- C. Member 5. One citizen member with an architectural background shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
- i. shall:
    - a. hold a professional degree in architecture plus at least two years of full-time experience in architecture, or
    - b. be a duly registered architect in the State of Michigan; and
  - ii. shall be appointed from names submitted in response to advertisements including, but not limited to, in a newspaper with paid circulation in the City;
- D. Member 6. One citizen at-large member representing interests of the City shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
- i. shall be appointed from names submitted in response to advertisements including, but not limited to, in a newspaper with paid circulation in the City.
- E. Member 7. One member shall be a member of the City Council who meets the following conditions:
- i. shall be the only member who is a member of the City Council; and
  - ii. shall be appointed as an *ex officio* member of the Commission, for a term of office which is concurrent with their elected position on the City Council.

(5) All members of the Commission shall serve as such with compensation equal to, or less than, the *per diem* of the City Council per meeting plus mileage.

(6) Appointed members of the Commission shall attend initial educational programs and other continuing education designed for training members of Historic District Commissions, if the adopted City budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this Subsection shall bar a member who has not had training from finishing his term of office unless the member resigns or is removed by action of the City Council. The member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend training or engage in other continuing education. The Commission shall include in its Bylaws what training programs qualify to meet this requirement, but the City Council may also authorize funding for alternative sources of training.

- A. During the member's first term of office only, they shall have attended an initial educational program within 18 months after appointment.
- B. During the member's first and subsequent terms of office, they shall have attended at least four hours per year of continuing education programs.

(7) The City Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

- A. Failure to disclose a potential conflict of interest shall be considered malfeasance in office.
- B. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office.
- C. Failure to attend initial educational programs or continuing education programs, absent extraordinary circumstances, shall be considered nonfeasance in office.

(8) The Secretary of the Commission shall report any member who has missed three regular meetings in a row to the City Council.

#### Section 106. Commission Liaisons

(1) The Commission, in its Bylaws, may name "liaisons" to the Commission. The purpose of liaisons is to provide certain City and quasi-City officials with the ability to participate in discussion with the Commission, in addition to speaking in public participation, and nothing else. At a minimum, liaisons shall include:

- A. Planning department staff, and their agents and consultants.
- B. City Manager.
- C. City Attorney.
- D. A member of the Planning Commission, as appointed by that body.

(2) Liaisons shall provide information and records to the Commission and its committees, or cause the provision thereof, and shall meet with those bodies upon request to assist with their activities.

#### Section 107. Commission Powers and Duties

(1) The Commission shall have their powers and duties as set forth in the Historic Districts Act. In addition, the City Council may prescribe by resolution other powers and duties to foster historic preservation activities, projects, and programs in the City.

(2) The Commission shall meet at least once quarterly, and a majority count of the total number of seats for members of the Commission, being four (4) members, shall constitute a quorum for the transaction of the ordinary business.

(3) All questions which shall arise at their meetings shall be determined by an affirmative vote of at least a quorum of the Commission's members.

(4) The Commission shall adopt Bylaws for the transaction of business, Design Review Guidelines to carry out its duties under the Historic Districts Act, and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record filed in the office of the City Clerk.

(5) The City Council may accept state or federal grants for historic preservation purposes, may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The City Council may appoint the Historic District Commission to accept and administer grants, gifts, and program responsibilities pursuant to Section 6 of the Historic Districts Act.

#### Section 108. Commission Review

(1) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district or, if required under this Ordinance, work affecting the interior arrangements of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the City.

(2) The Commission shall be responsible for the issuance of Certificates of Appropriateness, and for the review of applications therefor.

- A. In reviewing applications, the Commission shall follow the Rehabilitation Standards. Design review standards and guidelines that address special design characteristics of historic districts administered by the Commission may be followed if they are equivalent in guidance to the Rehabilitation Standards and are established or approved by the State Historic Preservation Office.
- B. In reviewing applications, the Commission shall also consider all of the following:

- i. The historic or architectural value and significance of the resource, and its relationship to the historic value of the surrounding area.
- ii. The relationship of any architectural features of the resource to the rest of the resource, and to the surrounding area.
- iii. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
- iv. Other factors, such as aesthetic value, that the commission finds relevant.
- v. Whether the applicant has certified in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm in compliance with Section 4(c) of the Construction Code Act.

C. The Commission may delegate the issuance of Certificates of Appropriateness for specified minor classes of work to the Planning Department's staff. The Commission shall provide to said Department's staff specific written standards for issuing Certificates of Appropriateness under this paragraph. The Commission shall review the Certificates of Appropriateness issued by the Planning Department on a quarterly basis to determine whether the delegated responsibilities should be continued.

(3) The Commission shall also be responsible for the issuance of Notices to Proceed, and for the review of applications therefor.

A. In reviewing applications, the Commission shall determine if any of the following conditions prevail:

- i. The resource constitutes a hazard to the safety of the public or to its occupants.
- ii. The resource is a deterrent to a major improvement program that will be of substantial benefit to the community, and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- iii. Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
- iv. Retaining the resource is not in the interest of the majority of the community.

B. The proposed work shall also be demonstrated, by a finding of the Commission, to be necessary to substantially improve or correct any of the conditions listed in paragraph A.

(4) The Commission shall review and act upon only exterior features of a resource; they shall not review and act upon interior arrangements, unless interior work will cause visible change to the exterior of the resource. The Commission shall not disapprove an application due to considerations not prescribed in Section 5 of the Historic Districts Act.

(5) The Commission shall file Certificates of Appropriateness, Notices to Proceed, and denials of applications for permits with the inspector of buildings or other delegated authority.

(6) A permit shall not be issued and proposed work shall not proceed until the Commission has acted as prescribed by this section. If a permit application is denied, the decision shall be binding on the inspector or other authority.

A. A denial shall be accompanied by the following items:

- i. A written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for Commission review when suggested changes have been made.
- ii. A notification of the applicant's rights of appeal to the Review Board and to the circuit court.

(7) The failure of the Commission to act within 60 calendar days after the date a complete application is filed with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute approval. Nothing in this Ordinance shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the

city manager or designee or other duly delegated authority before the ordinance was enacted.

Section 109. Resource Conservation

(1) When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a Certificate of Appropriateness, the Commission may do the following:

- A. Require the owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a Certificate of Appropriateness.
- B. If the owner does not comply with the restoration or modification requirement within a reasonable time, seek an order from the Circuit Court to require the owner to restore the resource to its former condition, or to modify the work so that it qualifies for a Certificate of Appropriateness.
- C. If the owner does not or cannot comply with the Court's order, enter the property upon obtaining an order from the Circuit Court and conduct work necessary to restore the resource to its former condition, or to modify the work so that it qualifies for a Certificate of Appropriateness in accordance with the Court's order. The costs of the work shall be charged to the owner and may be levied by the City as a special assessment against the property. The Commission may authorize agents to enter the property for the purposes of this paragraph.

(2) Upon a finding by the Commission that a resource within a historic district, or a proposed historic district, subject to its review and approval is threatened with Demolition by Neglect, the Commission may do of the following:

- A. Require the owner of the resource to repair all conditions contributing to demolition by neglect.
- B. If the owner does not make repairs within a reasonable time, enter the property upon obtaining an order from the Circuit Court and make such repairs as necessary to prevent Demolition by Neglect. The costs of the work shall be charged to the owner and may be levied by the City as a special assessment against the property. The Commission may authorize agents to enter the property for the purposes of this paragraph.

(3) If all efforts by the Commission to preserve a resource fail, or if it is determined by the City Council that public ownership is most suitable, the City Council may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds, if considered to be the public interest. The acquisition shall be based upon a recommendation by the Commission.

- A. The Commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the City Council.
- B. Upon a recommendation by the Commission, the City may sell resources acquired under this section with protective easements included in the property transfer documents.

(4) If the City Council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the City Council may do the following. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

- A. By resolution, declare an emergency moratorium on all such work for a period not to exceed six (6) months.
- B. Extend the emergency moratorium for an additional period not to exceed six (6) months, upon finding that the threat of irreparable harm to resources is still present.

Section 110. Commission Appeals

(1) An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the Review Board. The appeal shall be filed within sixty (60) calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the Review Board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the Review Board.



(2) Any citizen or duly organized historic preservation organization in the City, as well as resource property owners, jointly or severally aggrieved by a decision of the Commission may appeal the decision to the Circuit Court. However, a permit applicant aggrieved by a decision rendered under this Ordinance may not appeal to the court without first exhausting the right to appeal to the Review Board.

Section 111. Violations and Fines

(1) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act is responsible for a civil violation and may be fined not more than \$5,000.00.

(2) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

**CHAPTER II**  
**TRANSITIONAL CLAUSES**

The transition from the previous City Historic District Commission and the Commission established in this ordinance shall be gradual and shall take place over the next three years.

The City Council shall continue to make annual appointments, appointing approximately 1/3 of the membership of the Commission as specified herein, so that three years from the effective date of this ordinance the membership, membership representation, and number of members have completed the transition to fully comply with this Ordinance.

All official actions taken by all City Historic District Commissions preceding the Commission created by this ordinance are hereby approved, ratified, and reconfirmed.

Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created thereby, subject to the requirements thereof, and shall be deemed a continuation of any previous City Historic District Commission.

**CHAPTER III**  
**SAVINGS CLAUSE**

If any section, subsection, sentence, clause, or phrase of this Ordinance is held to be unconstitutional, such decision shall not affect the validity of the remainder of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

**CHAPTER IV**  
**CONFLICTING ORDINANCES REPEALING CLAUSE**

All other Ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

**CHAPTER V**  
**EFFECTIVE DATE**

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich, City Attorney

\_\_\_\_\_  
Mark Ammel, Mayor

Ordinance No. \_\_\_\_\_

ATTEST:

Date Approved: \_\_\_\_\_

Date Published: \_\_\_\_\_

\_\_\_\_\_  
Phil DeMay, City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, State of

Ordinance No. 1294

Michigan, at a regular meeting held on the \_\_\_\_ day of May 2024. Said meeting was conducted, with public notice given, pursuant to and in full compliance with the Open Meetings Act, being MCL 15.261 et seq. Further, said ordinance was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on the \_\_\_\_\_ day of May 2024. The minutes of said meeting were kept and will be or have been made available as required by said Act.

---

Phil DeMay, City Clerk

## ORDINANCE NO. 1295

### PLANNING COMMISSION ORDINANCE OF 2024

WHEREAS, The People of the City of Escanaba did establish the City Planning Commission Ordinance of 2008, and it is now desired to repeal the existing ordinance and adopt this Ordinance to better define the requirements of said Planning Commission, NOW THEREFORE, THE PEOPLE OF THE CITY OF ESCANABA HEREBY ORDAIN:

#### CHAPTER I SECTIONS AMENDED

*The City of Escanaba Code of Ordinances, Chapter 21, is amended by adding the following:*

#### Article I. City Planning Commission

##### Section 1. Establishment

(1) There shall be a City Planning Commission, hereinafter referred to as "the Commission", pursuant to the Planning Act and the Zoning Act, with the powers and duties as set forth therein, and as hereafter provided and staffed a planning department.

(2) This article shall be officially known and described as the "Planning Commission Ordinance of 2024".

##### Section 2. Definitions

(1) The terms used herein shall have the same meanings as given to them in the Planning Act and the Zoning Act, or as herein provided in this Section, unless the context clearly indicates to the contrary. Terms herein provided are as follows:

- A. "Ex officio member" means a member with full voting rights who serves on the Commission by virtue of holding another office, for the term of that other office.
- B. "Master plan" means either of the following:
  - i. As provided in Section 81(1) of the Planning Act, any plan adopted or amended before September 1, 2008 under a planning act repealed under Section 85 of the Planning Act.
  - ii. Any plan adopted or amended under the Planning act.
    - a. This includes, but is not limited to, a plan prepared by a planning commission authorized by said Act and used to satisfy the requirement of Section 203(1) of the Zoning Act, regardless of whether it is entitled a master plan, basic plan, county plan, development plan, guide plan, land use plan, municipal plan, township plan, plan, or any other term.
- C. "Planning Act" means Public Act 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 *et seq.*
- D. "Population" means the population according to the most recent federal decennial census or according to a special census conducted under Section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.
- E. "Zoning Act" means Public Act 110 of 2006, as amended, being the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*
- F. "Zoning commission" means a zoning commission as described under Section 301 of the Zoning Act, MCL 125.3301.

##### Section 3. Membership

(1) The Commission shall consist of seven (7) members appointed by the City Mayor and confirmed by the City Council. To be qualified to be a member, and to remain a member of the Commission, the individual shall meet the following qualifications:

- A. shall be a qualified elector of the City, except one nonqualified elector may be a member of the Commission as provided in Subsection (4);
- B. shall not hold any elected office or employment with the City other than by virtue of membership on the Commission, unless an *ex officio* member;
- C. shall not be a declared candidate for any political office, unless an *ex officio* member; and
- D. after an individual's first appointment, and before reappointment, shall have attended training for Commission members, pursuant to Subsection (7).

(2) Members shall be appointed for three-year terms which shall be arranged so that, as nearly as possible, the terms of one-third of all Commission members will expire each year. If a vacancy occurs, the vacancy shall be filled within sixty (60) days for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all Commission members continue to expire each year. Appointments to the Commission shall be as follows:

- A. In April of each year, the City Clerk shall determine which members' terms of office expire, shall determine what organizations qualify to nominate members pursuant to Paragraphs (4)B through (4)F, and shall contact those organizations to solicit nominations by first class mail.
- B. In May of each year, if the Clerk has not received at least two nominations for each office pursuant to Paragraphs 4(B) through 4(F), then the Clerk shall discard those applications and shall place an advertisement(s) in a newspaper with paid circulation in the City to seek different applications.
- C. In June of each year, the City Mayor shall consider the applications and nominations received and appoint members to the Commission, subject to approval by a majority vote of the City Council, for a three-year term of office which shall begin and end on June 30 at 9:00 a.m. of the respective years.

(3) The terms of office for *ex officio* members shall coincide with their elected terms of office on the City Council.

(4) The membership shall be representative of the important segments of the population, such as the economic, governmental, educational, and social development of the City, in accordance with the major interests as they exist in the City, as follows:

- A. Member 1. One citizen at-large member representing interests of the City shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - i. Shall be appointed from names submitted in response to advertisements including, but not limited to, in a newspaper with paid circulation in the City;
  - ii. shall not hold any elected office or employment position in the City Government other than by virtue of membership on the Planning Commission; and
  - iii. shall be a qualified elector of the City.
- B. Member 2. One citizen member representing the agricultural, environmental, forestry, and land use interests of the City shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - i. shall, when possible, be:
    - a. a member of the county conservation district board, or
    - b. a member of the board of the county chapter of Farm Bureau, or
    - c. a professional forester with his or her business office in the City, or
    - d. an employee of the United States Forest Service or the Michigan Department of Natural Resources; and
  - ii. shall, when possible, be appointed from names nominated by the county conservation district board, county chapter of Farm Bureau, the United States Forest Service, Michigan Department of Natural Resources, and professional foresters in the City.
- C. Member 3. One member representing communication, recreational, and tourist interests of the City shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
  - i. shall, when possible, be:
    - a. a member of the board for a visitor and convention bureau whose corporate office is in the City, or
    - b. who shall be a member in good standing of one of the county-wide non-profit corporations with its corporate office in the City whose bona-fide purpose is to be a tourist promotion organization; and

- ii. shall, when possible, be appointed from names nominated by visitor and convention bureaus whose corporate offices are in the City, and by county-wide non-profit corporations with their corporate offices in the City whose bona-fide purpose is to be a tourist promotion organization.
- D. Member 4. One citizen member representing the educational interests of the City shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
- i. shall, when possible, be a member of a public school board or an administrative employee of a school district included, in whole or in part, within the City's boundaries; and
  - ii. shall, when possible, be appointed from names nominated by school district board(s) of education included, in whole or in part, within the City's boundaries.
- E. Member 5. One member representing sanitation, environmental health, housing, and human services interests of the City shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
- i. shall, when possible, be:
    - a. an employee of the environmental health division of the public health department or district which has jurisdiction in the City, or
    - b. a member of a City housing commission or county-wide housing organization, or
    - c. a member in good standing of a county-wide human services coordination organization; and
  - ii. shall, when possible, be appointed from names nominated by the environmental health division of the public health department, or district, which has jurisdiction in the City, the housing commission, a housing organization, and a human services coordination organization.
- F. Member 6. One citizen member representing the economic, industrial, and transportation interests of the City shall be appointed for a three-year term of office, or remainder of an unexpired term of office, who meets the following conditions:
- i. shall, when possible, be a member in good standing of one of the county-wide non-profit corporations with its corporate office in the City, or a City funded agency, whose bona-fide purpose is to promote business, commerce, and industry in the City; and
  - ii. shall, when possible, be appointed from names nominated by county-wide non-profit corporations with their corporate office in the City whose bona-fide purpose is to promote business, commerce, and industry in the City.
- G. Member 7. One member shall be a member of the City Council who meets the following conditions:
- i. shall be the only member who is also a member of the City Council;
  - ii. shall be appointed for a term of office which is concurrent with their elected position on the City Council; and
  - iii. shall be appointed as an *ex officio* member of the Commission.

(5) The membership shall also be representative of the entire geography of the City to the extent practicable, and as a secondary consideration to the representation of the major interests.

(6) All members of the Planning Commission shall serve as such with compensation equal to, or less than, the *per diem* of the City Council per meeting.

(7) Appointed members of the Commission shall attend initial educational programs and continuing education programs designed for training members of Michigan planning commissions, if the adopted City budget for that fiscal year includes funds to pay for tuition, registration, and travel expenses for the training. Nothing in this Subsection shall bar a member who has not had training from finishing his term of office unless the member resigns or is removed by action of the City Council. The member shall be ineligible for reappointment at the conclusion of the term of office if they did not attend training.—The Commission shall include in its Bylaws what training programs qualify to meet this requirement.

- A. During the member's first term of office only, they shall have attended an initial educational program within 18 months after appointment.
- B. During the member's first and subsequent terms of office, they shall have attended at least four hours per year of continuing education programs.

(8) The City Council may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

- A. Failure to disclose a potential conflict of interest shall be considered malfeasance in office.
- B. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office.
- C. Failure to attend initial educational programs or continuing education programs, absent extraordinary circumstances, shall be considered nonfeasance in office.

(9) The secretary of the Commission shall report any member who has missed three regular meetings in a row to the City Council.

#### Section 4. Liaisons

(1) The Commission, in its bylaws, may name "liaisons" to the Commission. The purpose of liaisons is to provide certain City and quasi-City officials with the ability to participate in discussion with the Commission in addition to speaking in public participation, and nothing else. At a minimum, liaisons shall include:

- A. Planning department staff, and their agents and consultants.
- B. City Manager.
- C. City Attorney.

(2) Liaisons shall provide information and records to the Commission and its committees, or cause the provision thereof, and shall meet with those bodies upon request to assist with their activities.

#### Section 5. Powers and Duties

(1) The Commission shall have their powers and duties as set forth in the Planning Act.

(2) The powers and duties of a zoning commission shall be exercised and performed by the Commission as set forth in the Zoning Act.

(3) The Commission shall meet at least once every month. A majority of the Commission, being four (4) members, shall constitute a quorum for the transaction of the ordinary business.

(4) All questions which shall arise at their meetings shall be determined by an affirmative vote of at least a quorum of the Commission's members. The affirmative vote of two-thirds (2/3) of the total number of seats for members of the Commission, being five (5) members, shall be necessary for the adoption of any plan or amendment to a plan, or recommendation therefor.

(5) The Commission shall adopt Bylaws for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which shall be a public record filed in the office of the City Clerk.

(6) The Commission shall have authority to apply for and receive grants from any government agency or the federal government and to receive gifts, provided that any matching grant shall require approval from the City Council.

(7) Unless the bylaws provide otherwise, a special meeting of the Commission may be called by the chairperson or by 2 other members, upon written request to the secretary. Unless the bylaws provide otherwise, the secretary shall send written notice of a special meeting to Commission members not less than 48 hours before the meeting.

#### Section 6. Staff

(1) The appointment of the Planning Director and other such employees shall be subject to the same provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of the City.

(2) Employees that are assigned to work with the Commission shall follow the directives of the Commission in matters of planning and zoning public policy issues, but they shall

not be subject to Commission directives concerning employment provisions of law, employment policies, employee roster, employee or union contracts, if any.

**CHAPTER III**  
**TRANSITIONAL CLAUSES**

The transition from the previous City Planning Commission and the Commission established in this Ordinance shall be gradual and shall take place over the next three years.

The City Council shall continue to make annual appointments, appointing approximately 1/3 of the membership of the Commission as specified herein, so that three years from the effective date of this Ordinance the membership, membership representation, and number of members have completed the transition to fully comply with this Ordinance.

All official actions taken by all City Planning Commissions preceding the Commission created by this Ordinance are hereby approved, ratified, and reconfirmed.

Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created thereby, subject to the requirements thereof, and shall be deemed a continuation of any previous City Planning Commission.

All other aspects of this Ordinance shall have immediate effect.

**CHAPTER IV**  
**SAVINGS CLAUSES**

If any section, subsection, sentence, clause, or phrase of this Ordinance is held to be unconstitutional, such decision shall not affect the validity of the remainder of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

**CHAPTER V**  
**CONFLICTING ORDINANCES REPEALING CLAUSES**

The City Planning Commission Ordinance of 2008, being City Code of Ordinances, Chapter 21, Sections 16 through 25, is hereby repealed.

All other ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**CHAPTER VI**  
**EFFECTIVE DATE**

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich, City Attorney

\_\_\_\_\_  
Mark Ammel, Mayor

Ordinance No. \_\_\_\_\_

ATTEST:

Date Approved: \_\_\_\_\_

Date Published: \_\_\_\_\_

\_\_\_\_\_  
Phil DeMay, City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, State of Michigan, at a regular meeting held on the \_\_\_\_ day of May 2024. Said meeting was conducted, with public notice given, pursuant to and in full compliance with the Open Meetings Act, being MCL 15.261 *et seq.* Further, said ordinance was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on the \_\_\_\_\_

Ordinance No. 1295

day of May 2024. The minutes of said meeting were kept and will be or have been made available as required by said Act.

---

Phil DeMay, City Clerk



## ORDINANCE NO. 1288

### "AN ORDINANCE TO MAKE APPROPRIATIONS AND CORRESPONDING REVENUES FOR THE YEAR ENDED JUNE 30, 2025."

THE CITY OF ESCANABA ORDAINS:

The total number of mills of ad valorem property taxes to be levied for fiscal year 2024/2025 is 17.442.

#### CHAPTER I

Section 101. That there is hereby appropriated by the City of Escanaba to various departments and funds for specific purposes, the several amounts set forth in the following tabulation, to be expended in accordance with the budget as approved, except that the City Manager is hereby empowered to transfer appropriations between activities and objects of expenditures, subject to the limitation imposed by Chapter VIII, Section 8, of the City Charter. The appropriations and revenues set forth are for the fiscal year ending June 30, 2025.

#### GENERAL FUND

Revenues:

Taxes	\$6,360,225
Licenses and Permits	11,250
Intergovernmental	1,909,175
Charges for Services/Fines	333,995
Electric Utility Fund Contribution	532,895
Transfer from Land Development Fund	60,000
Transfer from Gas Retirement Fund	80,000
Transfer from Office Equipment Fund	39,200
Transfer from Sanitary Landfill Fund	315,000
Miscellaneous Revenues	<u>232,510</u>
Subtotal	\$9,874,250
Transfer from Fund Balance	<u>\$321,281</u>
Total General Fund Revenues	<u>\$10,195,531</u>

Expenditures:

City Council	\$29,407
City Manager	268,750
City Controller	465,610
City Clerk	167,155
Auditors	22,100
Information Technology	87,025
Board of Review	2,100
Treasurer	287,590
Billing	403,775
Assessor	185,740
Elections	32,795
City Hall and Grounds	81,252
Attorney	111,500
Human Resources	92,755
Insurance/Bonds	6,500
Public Safety	5,288,345
Community Preservation	192,835
Crossing Guards	51,555
Crosswalks	22,245
Sidewalks	53,240
Engineer	355,540
Street Lighting	167,000
Care of Trees and Shrubs	236,815
Solid Waste Collection	523,055
Sanitary Landfill	315,000
Composting Activities	119,725
Snow Plowing for Garbage Collection	20,300
Alley Maintenance	14,265
Celebration - Flags	5,905
Fourth of July	24,565
Zoning	186,560
Planning Commission	1,700
Promotional Community	11,950
Tourism Promotion	47,575
Parks	354,180
Community Services	16,148
Recreation	653,370
Boat Launches	17,030
Band	47,775
Transfer to Parking Maintenance Fund	40,000
Transfer to Library Fund	425,000
Transfer to Marina Fund	1,000
Transfer to Escanaba Building Authority Fund	<u>149,000</u>

Ordinance No 1288 – cont.

Sub-total	\$11,585,732
Less: Overhead to Utilities	<u>1,390,201</u>
Total General Fund Expenditures	<u>\$10,195,531</u>

**MAJOR STREET FUND**

Revenues:	
State Shared Revenues	\$1,527,500
Interest Earnings	<u>25,000</u>
Sub-total	\$1,552,500
Transfer from Fund Balance	<u>405,710</u>
Total Major Street Fund Revenues	<u>\$1,958,210</u>

Expenditures:	
Operating Expenses	\$958,210
Street Construction	1,000,000
Transfer to Local Street Fund	<u>0</u>
Total Major Street Fund Expenditures	<u>\$1,958,210</u>

**LOCAL STREET FUND**

Revenues:	
State Shared Revenues	\$500,000
Interest Earnings	5,000
Property Owner's Share of SA	1,500
Transfer from Major Street Fund	<u>0</u>
Sub-total	\$506,500
Transfer from Fund Balance	<u>1,228,869</u>
Total Local Street Fund Revenues	<u>\$1,735,369</u>

Expenditures:	
Operating Expenses	\$610,369
Street Construction	<u>1,125,000</u>
Total Local Street Fund Expenditures	<u>\$1,735,369</u>

**LIBRARY FUND**

Revenues:	
State Funding	\$26,409
Penal Fines Allocation	83,000
Fines and Fees	29,260
Interest Earnings	0
Donations	6,846
Transfer from General Fund	<u>425,000</u>
Sub-Total	\$570,515
Transfer from Fund Balance	<u>0</u>
Total Library Fund Revenues	<u>\$570,515</u>

Expenditures:	
Operating Expenditures	\$566,729
Total Library Fund Expenditures	<u>\$566,729</u>

**BEZOLD TRUST FUND**

Revenues:	
Interest Earnings	\$2,500
Transfer from Fund Balance	<u>17,500</u>
Total Bezold Trust Fund Revenues	<u>\$20,000</u>

Expenditures:	
Qualifying Expenditures	\$20,000
Total Bezold Trust Fund Expenditures	<u>\$20,000</u>

**GAS RETIREMENT FUND**

Revenues:	
Interest Earnings	\$12,000
Transfer from Fund Balance	<u>68,000</u>
Total Gas Retirement Fund Revenues	<u>\$80,000</u>

Expenditures:	
Transfer to General Fund	\$80,000
Total Gas Retirement Fund Expenditures	<u>\$80,000</u>

**SANITARY LANDFILL FUND**

Revenues:	
Revenue from Sales	\$320,000
Penalties on Collections	1,500
Interest Earnings	<u>600</u>
Sub-total	\$322,100
Transfer from Fund Balance	<u>0</u>

Ordinance No 1288 – cont.

Total Sanitary Landfill Fund Revenues	<u>\$322,100</u>
Expenditures:	
Transfer to General Fund	\$315,000
Administrative Expense	125
City Wide Clean-Up	<u>0</u>
Total Sanitary Landfill Fund Expenditures	<u>\$315,125</u>

**DOWNTOWN DEVELOPMENT AUTHORITY (DDA) FUND**

Revenues:	
TIF Tax Collections	\$335,000
State Reimbursement of Lost PPT	1,700
State Grant	4,000
Miscellaneous Revenues	7,000
Interest Earnings	4,000
Contribution from General Fund	<u>500</u>
Total DDA Fund Revenues	\$352,200
Transfer from Fund Balance	<u>225,220</u>
Total DDA Fund Revenues	<u>\$577,420</u>
Expenditures:	
Operating Expenditures	\$577,420
Total DDA Fund Expenditures	<u>\$577,420</u>

**HOUSING REHABILITATION FUND**

Revenues:	
Interest Earnings	\$3,500
Total Housing Rehabilitation Fund Revenues	<u>\$3,500</u>
Expenditures:	
Administrative Expense	\$650
Total Housing Rehabilitation Fund Expenditures	<u>\$650</u>

**LAND DEVELOPMENT FUND**

Revenues:	
Interest Earnings	<u>\$15,000</u>
Sub-Total	<u>\$15,000</u>
Transfer from Fund Balance	<u>119,100</u>
Total Land Development Fund Revenues	<u>\$134,100</u>
Expenditures:	
Property Improvements	\$11,500
Insurance/Bonds	600
Professional Services	12,000
Transfer to General Fund	60,000
Transfer to Grants Fund	<u>50,000</u>
Total Land Development Fund Expenditures	<u>\$134,100</u>

**PARKING MAINTENANCE FUND**

Revenues:	
D.D.A. Fund Contractual	\$18,000
Transfer from General Fund	<u>40,000</u>
Total Parking Maintenance Fund Revenues	<u>\$58,000</u>
Expenditures:	
D.D.A. Lot Expenditures	\$25,000
City Lot Expenditures	<u>33,000</u>
Total Parking Maintenance Fund Expenditures	<u>\$58,000</u>

**U.D.A.G. REVOLVING LOAN FUND**

Revenues:	
Interest Earnings	\$18,000
Sub-Total	<u>\$18,000</u>
Transfer from Fund Balance	<u>148,640</u>
Total U.D.A.G.R.L.F. Revenues	<u>\$166,640</u>
Expenditures:	
Administrative Costs	\$1,640
Contribution to Grant Fund	<u>165,000</u>
Total U.D.A.G.R.L.F. Expenditures	<u>\$166,640</u>

**DRUG LAW ENFORCEMENT FUND**

Revenues:	
Local Forfeiture Proceeds	\$1,000
Interest Earnings	<u>500</u>
Total Drug Law Enforcement Fund Revenues	<u>\$1,500</u>

Ordinance No 1288 – cont.

Expenditures:

City Expenditures	<u>\$1,000</u>
Total Drug Law Enforcement Fund Expenditures	<u>\$1,000</u>

**BROWNFIELD REDEVELOPMENT FUND**

Revenues:

TIF Tax Collections	\$98,000
Interest Earnings	400
Sub-Total	<u>\$98,400</u>
Transfer from Fund Balance	<u>29,600</u>
Total Brownfield Redevelopment Fund Revenues	<u>\$128,000</u>

Expenditures:

Administrative Expense	\$30,000
Developer Reimbursements	<u>98,000</u>
Total Brownfield Redevelopment Fund Expenditures	<u>\$128,000</u>

**OPIOID SETTLEMENT FUND**

Revenues:

Opioid Settlement Revenue	<u>\$2,500</u>
Total Opioid Settlement Fund Revenues	<u>\$2,500</u>

Expenditures:

City Expenditures	<u>\$2,000</u>
Total Opioid Settlement Fund Expenditures	<u>\$2,000</u>

**GRANTS FUND**

Revenues:

Grant Revenue	\$698,000
Transfer from DDA Fund	200,000
Transfer from Land Development Fund	50,000
Transfer from UDAG Fund	<u>165,000</u>
Sub-Total	\$1,113,000
Transfer from Fund Balance	<u>0</u>
Total Grants Fund Revenues	<u>\$1,113,000</u>

Expenditures:

DWAM	\$400,000
Streetscape/Restroom Project	<u>663,000</u>
Total Grants Fund Expenditures	<u>\$1,063,000</u>

The following is provided for informational purposes only, as provided by Michigan P.A. 2 of 1968

**ELECTRIC UTILITY FUND**

Revenues:

Revenue from Sales	\$14,354,381
Rents	55,000
Miscellaneous	211,550
Interest Earnings	<u>125,000</u>
Total Electric Fund Revenues	<u>\$14,745,931</u>

Expenses:

Operating Expenses	\$11,779,952
Depreciation	1,030,355
Overhead to General Fund	568,800
Contribution to General Fund	<u>532,895</u>
Total Electric Fund Expenses	<u>\$13,912,002</u>

**WATER UTILITY FUND**

Revenues:

Revenue from Sales	\$5,000,000
Grant Revenue	10,295,000
Miscellaneous	167,000
Interest Earnings	<u>50,000</u>
Total Water Fund Revenues	<u>\$15,512,000</u>

Expenses:

Operating Expenses	\$3,510,635
Depreciation	980,000
Overhead to General Fund	432,932
Bond Interest Expense	<u>162,350</u>
Total Water Fund Expenses	<u>\$5,085,917</u>

**WASTEWATER UTILITY FUND**

Revenues:	
Revenue from Sales	\$4,315,000
Miscellaneous	17,000
Interest Earnings	30,000
Total Wastewater Fund Revenues	<u>\$4,362,000</u>
Expenses:	
Operating Expenses	\$2,149,525
Depreciation	825,000
Overhead to General Fund	388,469
Bond Interest Expense	282,765
Total Wastewater Fund Expenses	<u>\$3,645,759</u>

**ESCANABA BUILDING AUTHORITY FUND**

Revenues:	
Lease Payments-Transfer from General Fund	\$149,000
Rent Income-City Hall/Library	140,748
Interest Earnings	500
Total Escanaba Building Authority Fund Revenues	<u>\$290,248</u>
Expenses:	
Operating Expenses	\$238,865
Depreciation Expense	161,750
Total Escanaba Building Authority Fund Expenses	<u>\$400,615</u>

**MARINA FUND**

Revenues:	
Fees and Concessions	\$297,750
Interest Earnings	1,000
Contribution from General Fund	1,000
Total Marina Fund Revenues	<u>\$299,750</u>
Expenses:	
Operating Expenses	\$244,596
Interest Expense	4,075
Depreciation	75,475
Total Marina Fund Expenses	<u>\$324,146</u>

APPROVED:

\_\_\_\_\_  
Laura J. Genovich  
City Attorney

Date Approved: (Month) (Date), 2024  
Date Published: (Month) (Date), 2024

APPROVED:

\_\_\_\_\_  
Mark Ammel  
Mayor

ATTEST:

\_\_\_\_\_  
Phil DeMay  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on the (Date) day of (Month), 2024, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Month) (Date), 2024, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
Phil DeMay  
City Clerk

**ORDINANCE NO. 1289**

**AN ORDINANCE TO LEVY SUCH TAXES AS MAY BE NECESSARY TO MEET APPROPRIATIONS MADE AND ALL SUMS REQUIRED BY LAW TO BE RAISED TO DEFRAY THE DEBTS, EXPENDITURES, AND LIABILITIES OF SAID CITY FOR THE FISCAL YEAR ENDING ON THE 30TH DAY OF JUNE 2025, AND REQUIRING AN AUTHORIZED LEVY ON THE JULY 2024, CITY TAX ROLL OF RETURNED UNPAID SPECIAL ASSESSMENTS, TOGETHER WITH SUCH PENALTIES THEREON AS IS PROVIDED BY THE CITY CHARTER.**

**THE CITY OF ESCANABA ORDAINS:**

**CHAPTER I**

**Section 101.** That there shall be raised by levying 17.442 mills upon all of the ad valorem taxable property in the City of Escanaba at the next general City or July, 2024, tax levy, the sum of Six Million, Ninety-Four Thousand Seven Hundred Ninety-One Dollars (\$6,094,791) for the purpose of defraying debts, expenditures, and liabilities of said City of Escanaba for the fiscal year ending on the 30<sup>th</sup> day of June, 2025, in accordance with the 2024 - 2025 Budget of said City as submitted by the Manager, as amended by the Council, and approved.

**Section 102.** That said sum of Six Million, Ninety-Four Thousand Seven Hundred Ninety-One Dollars (\$6,094,791) for the payment of all of the foregoing debts, expenditures, and liabilities herein before mentioned be appropriated for the several funds of the City of Escanaba for the fiscal year ending June 30, 2025, and that the same be forthwith certified by the Clerk of said City of Escanaba to the City Assessor of said City, and the same shall be levied and collected upon the taxable valuation of all taxable property within the said City of Escanaba in accordance with the provisions of the City Charter and the laws of the State of Michigan, for the levying and collection of taxes.

**Section 103.** That the Clerk of the City shall report on June 21, 2024, to the City Assessor the amounts of all the several delinquent special tax assessments becoming due prior to January 1, 2023, and returned unpaid by the City Treasurer on said date of June 21, 2024, for all public improvements hereto before levied upon each, together with the name of the owner or occupant against whom such assessment was made, as contained in the special roll prepared therefore, and on file in the Office of the City Treasurer, and the City Assessor is hereby authorized and directed to levy and spread said sums so assessed, together with the penalties fixed by law, in the July, 2024, tax levy against persons and property charged therewith in such special assessment roll in accordance with the provisions of the City Charter of the City of Escanaba.

**CHAPTER II**

**Section 201.** If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases thereof be declared unconstitutional.

**Section 202.** This ordinance shall be duly published as required by the Charter and shall be in full force and effect ten (10) days after the date of its publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich  
City Attorney

\_\_\_\_\_  
Mark Ammel  
Mayor

Date Approved: (Month) (Date), 2024  
Date Published: (Month) (Date), 2024

ATTEST:

\_\_\_\_\_  
Phil DeMay  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on the (Date) day of (Month), 2024, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Month) (Date), 2024, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

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Phil DeMay  
City Clerk

**ORDINANCE NO. 1290  
ELECTRIC RATES**

**AN ORDINANCE FIXING THE RATES TO BE CHARGED BY THE CITY OF ESCANABA FOR ELECTRIC ENERGY, DEMAND, AND AVAILABILITY OF SERVICE, TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2024, AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE COUNCIL.**

THE CITY OF ESCANABA ORDAINS:

**CHAPTER I  
RATES**

**Section 50.01. General Purpose - Rate Classification:**

**(A) Residential Energy Rate:**

**Applicable:** To residential customers for all purposes except those otherwise specially rated.

\$0.10609 net per KWH used per meter per month.

**(B) Commercial Energy Rate:**

**Applicable:** To commercial customers for all purposes except those otherwise specially rated.

\$0.09925 net per KWH used per meter per month.

**(C) Water Heating Energy Rate:**

**Applicable:** To any customer for separately metered controlled water heating, subject to such wiring rules and regulations as are established by the utility.

\$0.10132 net per KWH used per meter per month.

**(D) Electric Heat Rate:**

**Applicable:** To all customers for such service when separately metered upon application and approval of permanently installed equipment; subject to such rules and regulations as are established by the utility. When air conditioning is installed in an electrically heated area, it may be connected to the same meter for space conditioning purposes.

\$0.10466 net per KWH per meter per month.

Upon application, the total annual charge for this energy may be paid in the following manner:

The estimated annual cost shall be divided into twelve (12) equal payments. Starting in July of each year, these payments shall become due and payable on the date indicated on the monthly bill. The payment for June of each year shall include an adjustment to correct the estimated annual cost to the actual annual cost. A three percent (3%) penalty charge will be made on all payments delinquent after date indicated on the bill.

**(E) Special Street Lighting Rates:**

\$0.13216 net per KWH for City street lighting.

**(F) Temporary Service: Energy used for such installations will be metered and billed under the commercial rate schedule.**



(G) Multiple Use: In the event that a single customer uses energy for more than one of the above uses with a different rate for each, the higher rate will be charged unless the wiring is separated for metering purposes to the satisfaction of the City.

Section 50.02. Availability of Service Charge

(A) The monthly Availability of Service Charge is to cover the cost of maintaining lines and equipment for electric services. The Availability of Service charge is to be added to the monthly billings for energy in Section 50.01. The Availability of Service Charge will also constitute the minimum monthly billing if no energy is utilized. This charge will be computed as follows:

RESIDENTIAL

City: Intra-City \$16.51 per meter per month.

Suburban: Out-City \$20.10 per meter per month.

WATER HEATING

City: Intra-City, \$4.40 per meter per month.

Suburban: Out-City, \$5.78 per meter per month.

ELECTRIC HEAT

City: Intra-City, \$6.06 per meter per month.

Suburban: Out-City, \$7.45 per meter per month.

COMMERCIAL

City: Intra-City \$17.08 per meter per month for a single-phase meter, \$40.75 per meter per month for a three-phase service.

Suburban: Out-City \$22.58 per meter per month for a single-phase service, \$41.86 per meter per month for a three-phase service.

LARGE POWER

\$137.66 per meter per month.

(B) To be fair and equitable to all utility customers, the Availability of Service Charge minimum monthly billing will not be reduced during temporary disconnection of service. Active accounts that are disconnected for any reason will continue to be billed the minimum monthly charge. If the account is inactive for less than 12 months, monthly charges will be back billed and appropriate reconnect fees will be charged at the time of reconnection.

Section 50.022. State of Michigan P.A. 295, of Public Acts 2008, commonly referred to as the Clean, Renewable and Efficient Energy Act mandates the electric utility collect the following charges from each electric utility customer (Amended by PA 342; eff. 12/31/2021 this act has sunset):

(A) Energy Optimization Plan.

Residential \$0.000000/kWh

Commercial \$0.000000/kWh

Large Power \$0.000000/kWh

(B) Renewable Energy Plan.

Residential \$0.00/mo

Commercial \$0.00/mo

Large Power \$0.00/mo

Streetlight \$0.00/mo

Unmetered \$0.00/mo

Section 50.025. Meter Charges:

- (A) A customer who installs a new electric service or upgrades an existing service that requires new instrument transformer metering must pay a meter charge prior to receipt of services. Meter charges and specifications shall be established by the City Electric Utility Director and shall be adjusted as the cost of labor and material change. Customers are not permitted to remove meters at the end of their service contract.

Section 50.03. Special Standby Service Rates:

- (A) A standby or breakdown 60 cycle A. C. electric service will be furnished under this classification to any customer qualifying for the large power rate who desires to self-produce all or part of the energy used in his operation.

The City will install transformers, meters, and service connections at the customer's expense to deliver energy to the customer during periods when his generating equipment is wholly or partially out of use at the following rates and conditions.

- (B) Transformer KVA capacity, as used in these rates, shall be the sizes of the nearest standard rated transformers that will serve the customer's greatest use of electric energy, measured over a 15-minute period and called the yearly kilowatt peak demand for standby rate purposes.

Section 50.04. Standby Equipment Rate.

- (A) The charge for equipment installed for standby or breakdown service and not used shall be \$3.00 per month for each KVA of transformer capacity determined by subtracting the monthly measured kilowatt peak demand of the partial energy used in any month from the KVA capacity as determined in Section 50.03 (B).

All energy supplied to the customer shall be charged at the regular rates applicable to the service rendered.

- (B) The minimum charge shall be the demand charge created by use, if such use is applicable to the large power rate, plus a kilowatt hour charge determined by multiplying the month peak demand by 200 hours, the result being kilowatt hours at the regular rate.
- (C) The customer must agree to isolate the self-produced energy from the City's electrical distribution system. Change-over to City distribution energy shall be accomplished through City approved double-throw switches furnished by the customer. The Electrical Department shall have the authority and access to inspect and seal or padlock the double-throw switch or switches to insure correct operation of the same.
- (D) Where the City has previously installed transformers, meters, and service connections, and where said equipment is not used, the charge for such equipment installed for standby or breakdown service shall be \$2.67 per month for each KVA of transformer capacity determined by subtracting the monthly measured kilowatt peak demand of the partial energy used in any month from the KVA capacity as determined

in Section 50.03 (B) of this ordinance.

Section 50.05.      Dusk to Dawn Rate:

(A) Applicable:      It is understood that the service request will be for a period of not less than one (1) year, and that said service will be installed only on existing utility facilities. If a new pole is required, the customer will furnish the pole, and the City will install the pole. The monthly charges for dusk to dawn lighting service will be:

Urban or Rural

\$12.00 per small lamp

\$18.00 per large lamp

(B) Use and Reservations

The City will provide the necessary fixtures and apparatus and will replace lamps and keep this fixture properly maintained. The City does, however, reserve the right to discontinue service to any location which shows an excessive amount of damage resulting from vandalism or neglect.

Section 50.06.      Large Power Rates:

Applicable:      To any customer desiring power and incidental lighting service for large power use who has a monthly demand of 100 KW or more, for at least six (6) months out of any rolling twelve (12) month period. Services meeting those conditions will be billed under the Large Power Rate. The nature of such service is alternating current, 60 Hertz, three-phase 208, 240 or 480 volts, and is metered on the primary side of the transformer. The City reserves the right to meter power on the secondary side of the transformer and in doing so will add two percent (2%) to the total energy and demand so used. For the purposes of computing rates under this section, each individual meter will be calculated separately, and under no circumstances will meter readings be combined.

\$0.06549 net per KWH for all KWH used per meter per month

Plus Demand Charges of:

\$11.00 net per KW used per meter per month

Monthly maximum KW demand measured over an interval of fifteen (15) minutes.

Section 50.07.      Connection Charge:

For every new meter set at the customer's request, there shall be a charge of \$10.00. Any customers who receive shut-off notices which are not paid by the due date and require final notification will be billed a \$25.00 notification fee.

This charge shall not apply when meters are reset for rotation, for meters reset for high bill complaints unless said meters are found to be accurate within two percent (2%) of registration, and for meters reset for the convenience of the City (landlords, lessors, etc.).

Section 50.08.      Reconnection Charge and Temporary Disconnects:

The reconnection charge for seasonal service requested by any customer, such

as summer cottages, seasonal businesses, or seasonal industries, shall be \$30.00 if the meter is reconnected at the same premises by the same user. The maximum charge per service for multiple metering, such as domestic service, house heating, water heating or commercial, shall be \$30.00.

Reconnections for non-pay which do not require the Electric Department service truck and a two-man service crew, will be \$50.00. Reconnections for non-pay which do require the Electric Department service truck and a two-man service crew, will be \$153.36 per hour for each hour the truck and crew are required.

Non-pay reconnections outside of normal business hours will be billed for actual costs incurred, including labor and equipment.

If an electric service is disconnected and remains inactive for 12 months or longer, the electric service shall require an inspection by the State electric inspector, at the customer's expense, prior to restoring power.

Section 50.09.      New Services, Temporary Services, Service Upgrades, and Service Extensions

For all new services, temporary services and service upgrades, the customer, his agent, representative, contractor or developer shall pay for all materials including wire, conduit, meters, etc. required to install such service in compliance with all applicable codes. Said materials will be charged at actual cost plus 15% overhead. The property owner at the time of the request shall bear responsibility for all such charges. Transformers, conductors, and other materials shall remain the property of the Utility. If an electric service is removed or abandoned, the equipment belonging to the Utility may be removed with no reimbursement to the customer.

Transformers are sized by the Utility based on the size of the service at the time of installation. The Utility monitors actual usage and may replace transformers to match actual load. If transformers are replaced by the Utility at the Utility's discretion, the customer shall not be reimbursed nor charged for the replacement transformer.

Underground services or line extensions will only be done between May 1<sup>st</sup> and November 1<sup>st</sup>. If a customer desires services or line extensions outside of this time frame, the customer will be responsible for providing a trench for such services or line extensions.

Section 50.10.      Special Services

In the event that a customer requires special services from the department, i.e. temporary relocation or metering or other components of a service, the standard charge shall be \$153.36 per hour. Whenever the actual cost of such services exceeds \$153.36 per hour, the City reserves the right to charge the actual cost.

The City Manager will set the charge for any service not covered by this ordinance.

CHAPTER II  
**CONDITIONS OF SERVICE**

Section 50.20.      Late Payment Penalty:

Meters of all customers shall be read or estimated monthly and a three percent (3%) penalty charge will be made on all bills unpaid after the date indicated on bill. The penalty charge will be computed as of date of payment and will be computed on the amount of payment applied to the delinquent balance. The penalty charges may be waived at the discretion of the City for good reason, when the interest of the City would be best served by waiving said penalty, or if the customer proves

that extraordinary circumstances intervened to prevent payment of the bill on the due date; in all cases, it will be the exclusive right of the City to determine the facts and judge the validity of the request to waive penalty payments.

Section 50.21.      Enforcement:

In addition to all other lawful enforcement methods, the City agrees and covenants to enforce all charges for electric energy supplied to any premises, if any such charges shall remain unpaid past the due date.

(A) Utility Liens

Charges for electric services applied by the system shall constitute a lien on the premises served and if not paid within six (6) months, shall be certified by the official in charge of the collection thereof to the tax assessing officer and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of Michigan and the City Charter applicable to the time and manner of certification and collection of delinquent City taxes levied against real estate in the City shall be observed in the certification and collection of such charges.

(B) Landlord Not Responsible

In all cases where a tenant is responsible for the payment of any such charge and the Utility Billing Office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice. In the event of the filing of such notice and after the date of such notice, the City shall render no further service to such premises until a cash deposit in an amount of the projected billing for not less than a one-month period and not more than a three-month period is received, said determination of deposit to be solely at the discretion of the City.

Section 50.22.      Restrictions:

(A) Power Factor:

The City shall not be obligated to furnish service to a customer using equipment having a power factor lower than eighty-five percent (85%), which equipment can be improved by reasonable changes to a minimum of eighty-five percent (85%) lagging. Improvement of the power factor shall be at the customer's expense. The City reserves the right to measure power factor at any time by means of test or permanently installed metering equipment, and if the customer's power factor is found to be less than eighty-five percent (85%) lagging, the billing demand will be increased by the ratio that eighty-five percent (85%) bears to the customer's actual power factor.

(B) Discontinuation of Service:

The City may discontinue service following written notice in case the meter or wiring on the customer's premises is tampered with in any manner to allow unmetered current to be used. The customer shall pay the City the estimated cost of the unmetered energy used as determined by the City, and shall, at his own expense, place the wiring in such condition and meter box in such place as is approved by the City. The unauthorized connection to a utility power source or the bypassing of an electric meter will be construed as a theft of electricity and will be appropriately prosecuted. The City may also discontinue service when an account remains unpaid past the due date. The customer shall pay the full amount of arrears, plus a reconnect fee in order to restore service.

Customers or Electrical Contractors shall not cut a meter seal to perform work

without calling Escanaba Electric Department prior to beginning such work. Meter seals shall not be cut without prior approval except in the case of danger to life or property. In any case, permission will be given only to qualified persons to cut meter seals. Anyone not adhering to the meter seal-cutting paragraph in this ordinance shall be subject to a \$150.00 seal-cutting fee.

(C) Meter Location:

All meters must be located in such manner as to provide safe, reasonable access by City personnel for reading, inspection and maintenance, without the need for advance notice during regular City business hours. Conditions which can prevent access by City personnel include, but are not limited to, dogs, fences, locked gates, shrubbery, ice, snow, vehicles and debris in the way of the meter. Any customer who refuses to remedy a condition which prevents access shall have his or her services disconnected until said condition is corrected to the satisfaction of the utility.

New/Upgraded services: The meter must be located on the side of the house that the service will be fed from, or on one of the adjoining sides. The meter must not be located inside of a fenced area. All new/upgraded residential underground services must have a meter pedestal. Meter bases for underground services will not be allowed. All new/upgraded residential overhead services must have a rigid steel mast with an attachment point high enough to provide necessary clearance for the utility's wires. Meters must be located 4-5 feet above grade, deck or walking surface.

(D) Safety and Code Compliance:

All wiring and electrical equipment must be installed, maintained, and operated in a safe manner so that it is not a hazard to life, health, or property. If an existing electric service installation is deemed to be unsafe by the Electric Utility, the owner will be notified of the unsafe condition and will be given a sufficient amount of time to correct the unsafe condition. If the installation is not corrected within a reasonable amount of time as deemed by the Electric Utility, then the electric service will be disconnected until the problem(s) are corrected by the owner. Electric services that pose an immediate hazard to life, health, or property will be disconnected immediately upon discovery and the owner will be notified of the unsafe condition. If an electric service is temporarily disconnected for any reason and the electric service is deemed to be unsafe by the Electric Utility, the electric service will not be reconnected until the service has been repaired. New and repaired electric services must conform to the National Electrical Code and City of Escanaba Electric Utility rules and policies. The State of Michigan Electrical Inspector must approve all new electric service installations and all repaired electrical service installations that require power to be disconnected to make such repairs before the new or existing electric services will be energized.

(E) Owner Delinquency

If a property owner has an account in his or her name and said account is delinquent or in arrears, then any transfers or name changes shall be prohibited until such time as the owner's account is brought current and is otherwise in good standing. This provision shall also apply to accounts held in the name of an owner's agent or property manager.

Section 50.23. Experience - Good Faith Deposit Requirement:

(A) Deposit Terms

If a customer of the City of Escanaba, whether he be a tenant, owner, or an owner by land contract, has a history of delinquent payments, or if the City has no history of customer's payments, or if owner or tenant customer service is located outside the corporate limits of the City of Escanaba, or if, in the judgment of the City, the existing deposit is insufficient based on current billings, the City may require a sum

not to exceed the projected billing in an average four-month period as a good faith deposit. Projected billing for water, sewer and electricity are combined for purposes of determining a customer's total deposit requirement. In no case will a customer's total deposit requirement be less than four hundred dollars (\$400). In the case of an account which does not include water service or wastewater service, the total deposit requirement shall not be less than two hundred dollars (\$200). This deposit will be held for twelve (12) consecutive months of payments without delinquency.

Deposits for commercial accounts will be estimated on an individual basis. Commercial accounts will pay a deposit of an estimate of four (4) months' utility bills based on the estimated usage for the type of business.

(B) Deposit Interest

Interest will be paid on deposits at the rate of 2.5% per annum effective July 1, 2024.

(C) Escrow and Letter of Credit

If a deposit of over \$500 is demanded from a commercial or large power customer, this deposit may be held in a special escrow account at the bank of the customer's choice, and interest will accrue to the benefit of the customer. Alternately, said customer may furnish an irrevocable bank letter of credit in lieu of a cash deposit.

Section 50.24. Qualification for Rate:

A customer, once placed in a rate classification, will remain in this rate classification unless, in the City's opinion, another rate classification becomes more appropriate. Customers desiring to change from one classification to another must notify the City in writing. It shall not be the City's responsibility to determine the most economical rate classification unless and until said written notice is received. In the event a change in rate classification results in reduced charges, there will be no retroactive adjustments beyond afore-referenced date of application.

In placing a customer in a rate classification, it is understood that such rate classification will remain in effect for said customer until, in the City's judgment, the rate classification is not applicable. Short duration transfers between rate classifications by customers will not be permitted. The City reserves the right of final determination as to when and whom a rate classification may be assigned or changed.

New classifications may be authorized by the City Manager if, in the opinion of the City, these new classifications provide a benefit to both the City and its customers. Customers will be placed in these classifications only at the request of the customer. These classifications will cease to exist at such time as a new rate ordinance is adopted, unless they are specifically included as a permanent rate classification under Section 50.01 and 50.02.

Section 50.25. Non-Sufficient Funds Charges (NSF)

Whenever a customer presents a check or draft instrument for which funds are not immediately available upon presentation for deposit at the City's bank, a charge of \$40 will be placed upon the account for which payment was intended. The NSF charge shall also apply to agreements for ACH account debits.

Section 50.26. Billing Recapture and Customer Credits

Whenever it becomes necessary for the billing department to recapture unbilled charges, the billing department shall use a "look-back" of two years. If it is

determined that unbilled charges are the result of customer fraud, the billing department shall recover all unbilled charges.

If a billing error on the part of the City results in over-billed charges, the City will refund all such over-billings, to the extent that the amount can be reasonably determined.

If an over-billing is not the result of a City error, the billing department shall employ a two year look-back period in determining the amount of credit.

### CHAPTER III

Section 50.30.      Liability:

In case the supply of electricity shall be interrupted or fail, the City shall not be liable for damages by reason of such failure.

### CHAPTER IV

Section 50.40.      Other Ordinances:

All rules, regulations, and provisions which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect until modified or amended.

### CHAPTER V

Section 50.50.      Savings Clause:

If any section, subsection, sentence, clause, or phrase of this ordinance, is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

### CHAPTER VI

Section 50.60.      Effective Date:

In compliance with Section 4 of Chapter XVI of the City Charter, this ordinance shall be in full force and effect on bills for electric energy processed beginning July 1, 2023.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich  
City Attorney

\_\_\_\_\_  
Mark Ammel  
Mayor

Date Approved: (Month) (Day), 2024  
Date Published: (Month) (Day), 2024

Attest:

\_\_\_\_\_  
Phil DeMay  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day) (Month) (Date), 2024, and was published in the Daily



Press, a newspaper of general circulation in the City of Escanaba on (Month) (Date), 2024, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

---

Phil DeMay  
City Clerk

**ORDINANCE NO. 1291  
WATER RATES**

THE ORDINANCE FIXING THE RATES TO BE CHARGED BY THE CITY OF ESCANABA FOR WATER DISTRIBUTION, TREATMENT, AND AVAILABILITY TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2024, AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE COUNCIL.

THE CITY OF ESCANABA ORDAINS:

**CHAPTER I  
RATES**

For water distribution and treatment, there shall be charged by the City of Escanaba the rates herewith set forth as follows:

Section 101. Metered Water Rates (Monthly):

\$6.53 Net Per Thousand Gallons

Plus, a monthly availability charge based on the size of the customer's service to be determined as follows:

5/8" & 3/4" Meter.....	\$35.99	per month
1" Meter.....	44.97	per month
1 1/4" Meter.....	62.85	per month
1 1/2" Meter.....	89.89	per month
2" Meter.....	134.96	per month
3" Meter.....	269.72	per month
4" Meter.....	359.50	per month
6" Meter.....	809.06	per month
8" Meter.....	1,168.98	per month
10" Meter.....	1,618.01	per month
12" Meter.....	1,797.83	per month

Minimum Bill: The minimum monthly bill shall be the "availability" charge herein set forth.

Irrigation Meters: Residential customers who have a secondary meter for non-potable irrigation purposes will not be charged a meter fee for the irrigation meter. Water usage will be charged at the rate listed above.

Section 102. Outside City Metered Water Rates:

The outside City water rates shall be one and one-half times (1.5x) the inside City charge for availability and commodity fees.

Section 103. Construction Service:

103.1 Use of City Hydrants or Standpipes as a Source of Water.

- A deposit of \$100.00 shall be required for each hydrant connection;
- Payment of \$140.00 shall be made at time of application and will include the initial installation and 1<sup>st</sup> month rental fee for both hydrant and backflow device;
- Relocation fee shall be \$55.00 each time the meter is moved;
- Additional month meter rental shall be \$55.00 per month;
- Additional month back flow device rental shall be \$30.00 per month;
- All metered water shall be billed at \$6.53/1,000 gallons.

103.2 When a service line is installed at construction site and it is not feasible to set a meter, the flat rate charge for water used will be as follows:

1" Service Line . . . \$82.31 per month

103.3 Customers will be charged actual cost for construction of all services, regardless of size.

#### Section 104. Special Cases

The City Manager will set the charge for any service not included in this action, including charges for meters which are damaged or faulty. The City retains the right to discontinue service to a customer in order to bring the customer's installation up to City standards.

#### Section 104.1. Exemptions for Unintentional Water Loss

Requests for special exemption for an unintentional water loss of metered water due to extenuating circumstances will be considered by the City Manager or his/her designee. Approved exemptions will receive a 75% billing reduction for any usage over the normal monthly average usage of the account. This reduction will be calculated for the 45-day period immediately preceding the corrective action to eliminate the unintentional loss.

#### Section 105. Unmetered Water Sales

Unmetered water rates shall be charged at the rate of \$6.53 per thousand gallons on the estimated usage for each month, plus, a minimum monthly service charge based upon an estimated meter size requirement, if the consumer were metered, which shall be levied from the metered water rate service charge schedule.

The basis for estimating residential flat rate or unmetered water sales shall consist of a representative average residential usage for each month.

#### Section 106. Fire Protection Charges

Charge per fire hydrant will be computed at \$824.04 per year per hydrant. The annual availability charge for a special water line for a fire protection system shall be \$824.04 for a six-inch line, \$1,461.96 for an eight-inch line, \$2,285.76 for a ten-inch line, \$3,295.68 for a twelve-inch line, and \$5,856.36 for a sixteen-inch line. Rates for hydrant rental in Wells Township will be \$824.04 per year per hydrant.

#### Section 107. Connection To Public Water Supply

(A) No person shall tap any water main or distribution pipe of the water distribution system, or insert therein any corporation cock, stop cock or any other fixture of appliance, or alter or disturb any service pipe, corporation stop, curb stop, gate valve, hydrant, water meter or any other attachment belonging to the water distribution system and attached thereto without the explicit and official permission of an authorized representative of the city. No person shall install any water service pipe or connect or disconnect any such service pipe with or from the mains or distribution pipes of said water distribution system, nor with or from any other service pipe now or hereafter connected with said system, nor make any repairs, additions to, or alterations of any such service pipe, tap, stop cock or any other fixture of attachments connected with any such service pipe, without proper permit for same.

- (B) The owner, tenant or occupant of each lot or parcel of land which abuts upon a street or other public way containing a water main or a water system upon which lot or parcel a building shall have been, is or will be constructed for residential, commercial, or industrial use in the city shall connect such building with such water main and shall cease to use any other source of water supply for any purpose. An exception shall be made for outdoor irrigation purposes.
- (C) Any such owner, tenant or occupant of a lot or parcel of land in the city along a water main constructed prior to July 1, 2021, who has an existing domestic supply or source of potable water shall be exempt from the provision of this section. However, when the existing water source for the parcel is insufficient or requires maintenance or upgrade, the owner, tenant, or occupant shall immediately connect to the city water system. Buildings which are located more than 600 feet from the public water line are exempt from this article.
- (D) Any such owner, tenant or occupant of a lot or parcel of land in the city who has an existing domestic supply or source of potable water who is exempted from the provisions of this section as provided in this section shall be subject to all fees normally charged for non-users of the public water system for fire protection services.
- (E) No well, spring, or other water supply shall be permitted for residential, commercial, or industrial usage when property is adjacent to public water system, with the exception for outdoor irrigation.
- (F) The owner, tenant or occupant of each lot or parcel of land which abuts upon a street or other public way containing a water main or a water system upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use in the city who has an existing water system shall be required to connect to the public water system in the event the owner, tenant or occupant of any such lot shall cease to use the existing domestic supply or source of potable water or it requires maintenance.
- (G) All costs and expense incident to the installation and connection of the water service line shall be borne by the owner. The owner shall indemnify the city from any loss, damage or restoration costs that may be occasioned by the installation of the water service line.
- (H) The materials of construction of a water service line and the methods to be used in excavation, placing of the pipe, testing, disinfection and backfilling the trench shall all conform to the requirement of the building code or applicable state department of environment quality rules, regulations, and engineering standards of the city. All excavations required for the water service line shall be open trench work, unless otherwise approved by the city engineer. No backfill shall be placed until the work has been inspected in accordance with this section.
- (I) Exceptions:
1. Nothing contained in this article shall restrict the use of existing points, wells, springs, or other sources of water supply for outside irrigation use, provided there shall be no interconnection between such water supply and the city's water system.
  2. The city council or its duly designated representative, acting pursuant to rules, regulations and guidelines adopted by the council, may grant exceptions to the requirements of this article based on unusual circumstances existing in a particular case.

### Section 107.1. Service Transfers and Fees

For each service transfer request, there shall be a charge of \$10.00. The transfer fee is limited to those situations which require only a meter reading. For any service calls during regular working hours, including meter sets and valve turning, there shall be a charge of \$15.00. These charges are applicable only to requests for turning on a service. There are no charges for the shut-off of a service. Charges for turning on a service outside of regular hours will be \$120.00.

### Section 108. Reconnection Charge

The reconnection charge for seasonal service requested by any customer, such as people going away for the winter, seasonal businesses, or seasonal industries, shall be \$30.00 if the meter is reconnected at the same premises by the same user within one year of disconnection. Any customers who receive shut-off notices which are not paid by the due date and require final notification will be billed a \$25.00 notification fee. There shall be a reconnection charge of \$50.00 for shut offs due to nonpayment. Non-pay reconnects outside of normal business hours shall be billed at \$120.00.

### Section 109. Meter Charges - New Construction

A customer who installs a new water service that is not a replacement for an existing service must pay a one-time meter charge equal to the actual cost of the meter plus 15% prior to receipt of services. Meter charges and specifications shall be established by the City Water Superintendent and shall be adjusted at his discretion. Customers are not permitted to remove meters at the end of their service contract.

A customer who requests replacement of an existing, properly functioning, meter shall be charged the actual cost of the new meter plus 15%. In addition, such customer shall pay materials at actual cost plus 15%.

### Section 110. Non-Sufficient Funds Charges (NSF)

Whenever a customer presents a check or draft instrument for which funds are not immediately available upon presentation for deposit at the City's bank, a charge of \$40 will be placed upon the account for which payment was intended. The NSF charge shall also apply to agreements for ACH account debits.

### Section 111. Billing Recapture and Customer Credits

Whenever it becomes necessary for the billing department to recapture unbilled charges, the billing department shall use a "look-back" period of two years. If it is determined that unbilled charges are the result of customer fraud, the billing department shall recover all unbilled charges.

If a billing error on the part of the City results in over-billed charges, the City will refund all such over-billings, to the extent that the amount can be reasonably determined.

If an over-billing is not the result of a City error, the billing department shall employ a two-year look-back period in determining the amount of credit.

### Section 112. Frozen Meter Charge

If a water meter freezes and becomes damaged as a result of freezing, the account holder shall be required to pay to the City, the actual replacement cost of the meter plus 15%.

### Section 113. Cross Connections

The city hereby adopts by reference the Water Supply Cross Connection Rules of the state department of environmental quality, being R 325.11401 through R 325.11407 of the Michigan Administrative Code.

It shall be the duty of the water utility to cause inspections to be made of all properties serviced by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the water utility and as approved by the state department of environmental quality.

1. The representative of the city water utility shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
2. The water utility is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this article. The customer will continue to pay monthly meter fees and estimated usage of billing for water services.
3. Anyone performing a test of backflow or cross connection device must forward a copy of the test results to the City Water Department within 30 days of having completed said test. A property owner shall have sole responsibility for compliance with this section. A property owner shall be responsible for all investigation costs if such investigation results in a finding of “non-compliance”. Failure to comply with this section shall be grounds for discontinuation of water service.

## CHAPTER II CONDITIONS OF SERVICE

### Section 201. Late Payment Penalty

Meters of all customers shall be read or estimated monthly and a three percent (3%) penalty charge will be made on all bills unpaid after the due date indicated on bill. Penalty charges may be waived at the discretion of the City for good reason in all cases, it will be the exclusive right of the City to determine the facts and judge the validity of the request to waive the penalty payments.

### Section 202. Enforcement

In addition to all other lawful enforcement methods, the City agrees and covenants to enforce all charges for water supplied to any premises by discontinuing the water service to such premises if any such charges shall remain unpaid past the due date.

(A) Utility Liens

Charges for water services applied by the system shall constitute a lien on the premises served and if not paid within six (6) months, shall be certified by the official in charge of the collection thereof to the tax assessing officer and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of Michigan and the City Charter applicable to the time and manner of certification and collection of delinquent City taxes levied against real estate in the City shall be observed in the certification and collection of such charges.

(B) Landlord Not Responsible

In all cases where a tenant is responsible for the payment of any such charge and the Utility Billing Office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice. In the event of the filing of such notice and after the date of such notice, the City shall render no further service to such premises until a cash deposit in an amount of the projected billing for not less than a one-month period and not more than a three-month period is received, said determination of deposit to be solely at the discretion of the City.

Section 203. Experience - Good Faith Deposit Requirement

(A) Deposit Terms

If a customer of the City of Escanaba, whether he be a tenant, owner, or an owner by land contract, has a history of delinquent payments, or if the City has no history of customer's payments, or if owner or tenant customer service is located outside the corporate limits of the City of Escanaba, or if, in the judgment of the City, the existing deposit is insufficient based on current billings, the City may require a sum not to exceed the projected billing in an average four-month period as a good faith deposit. Projected billing for water sewer and electricity are combined for purposes of determining a customer's total deposit requirement. In no case will a customer's total deposit requirement be less than four hundred dollars (\$400). In the case of an account which does not include electric service or wastewater service, the total deposit requirement shall not be less than two hundred dollars (\$200). This deposit will be held for twelve (12) consecutive months of payments without delinquency.

Deposits for commercial accounts will be estimated on an individual basis. Commercial accounts will pay a deposit of an estimate of four (4) months' utility bills based on the estimated usage for the type of business.

(B) Deposit Interest

Interest will be paid on deposits at the rate of 2.5% per annum effective July 1, 2024.

(C) Escrow and Letter of Credit

If a deposit of over \$500 is demanded from a commercial or large power customer, this deposit may be held in a special escrow account at the bank of the customer's choice, and interest will accrue to the benefit of the customer. Alternately, said customer may furnish an irrevocable bank letter of credit in lieu of a cash deposit.

Section 204. Discontinuation of Service

Water services may be discontinued if the wastewater charges are not paid.

Section 204.1 Tampering

The City may discontinue service following a written notice in the event that the user has tampered with the metering, bypassed said metering, or cross connected to the City system. Also, the unauthorized cross connection or tampering with the metering will result in the customer being billed for the estimated cost of the water used, as determined by the City, and the act of cross-connecting or bypassing the meter will be construed as a theft of utility water and appropriately prosecuted.

Section 204.2 Seal Cutting (note: broke out into new section)

Neither customers nor plumbing contractors shall cut a meter seal to perform work without calling the Escanaba Utility Billing Department prior to beginning such work. Permission will be given only to qualified persons to cut meter seals. Anyone not adhering to this provision shall be subject to a \$75.00 seal-cutting fee.

Section 205. Liability

In case the supply of water shall be interrupted or fail by reason of accident or causes beyond the control of the City, the City shall not be liable for damages by reason of such failure.

Section 206. Location of Meters

All meters must be located in such manner as to provide safe, reasonable access by City personnel for reading, inspection and maintenance, without the need for advance notice during regular City business hours. Conditions which can prevent access by City personnel include, but are not limited to, dogs, fences, locked gates, shrubbery, ice, snow, vehicles, and debris in the way of the meter. Any customer who refuses to remedy a condition which prevents access shall have his or her services disconnected until said condition is corrected to the satisfaction of the utility.

Section 207. Backflow Device Testing

Anyone performing a test of a backflow or cross connection device must forward a copy of the test results to the City Water Department within 30 days of having completed said test. A property owner shall have sole responsibility for compliance with this section. A property owner shall be responsible for all investigation costs if such investigation results in a finding of “non-compliance.” Failure to comply with this section shall be grounds for discontinuation of water service.

CHAPTER III  
OTHER ORDINANCES

All rules, regulations, and provisions, which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect unless modified or amended by the terms of this ordinance.



CHAPTER IV  
SAVINGS CLAUSE

If any section, subsection, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

CHAPTER V  
EFFECTIVE DATE

In compliance with Section 4 of Chapter XVI of the City Charter, this ordinance shall be in full force and effect for billings processed after June 30, 2024, and after passage of this ordinance and its publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich  
City Attorney

\_\_\_\_\_  
Mark Ammel  
Mayor

Date Approved: (Month) (Date), 2024  
Date Published: (Month) (Date), 2024

Attest:

\_\_\_\_\_  
Phil DeMay  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day) the (Date) day of (Month) 2024 , and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Date), 2024 , and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
Phil DeMay  
City Clerk

**ORDINANCE NO. 1292  
WASTEWATER RATES**

AN ORDINANCE FIXING THE CHARGES TO BE ASSESSED BY THE CITY OF ESCANABA FOR WASTEWATER COLLECTION AND TREATMENT AND THE AVAILABILITY OF SERVICE TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2024, AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE CITY COUNCIL.

THE CITY OF ESCANABA ORDAINS:

Section 1.00      SEWER SERVICE CHARGES

1.01 Charges for operation, maintenance, and replacement shall be levied monthly on the basis of metered water consumption, according to the following:

\$9.27 Net Per Thousand Gallons, plus monthly availability service charge based on the size of a customer's water service to be determined as follows:

5/8"&3/4"	Meter	\$21.94	per month
1"	Meter	27.20	per month
1 1/4"	Meter	38.25	per month
1 1/2"	Meter	54.84	per month
2"	Meter	82.06	per month
3"	Meter	164.31	per month
4"	Meter	219.10	per month
6"	Meter	492.90	per month
8"	Meter	711.95	per month
10"	Meter	985.82	per month
12"	Meter	1,095.36	per month

The minimum monthly bill shall be the "availability" charge herein set forth.

1.015 Customers with a sump pump system, roof/footing drain or another prohibited connection will be charged a fee for each sump pump, roof/footing drain or other prohibited connections of \$5.00 per month per violation.

This additional charge reflects the rainwater and groundwater that enters the sanitary sewer system from the footing drain system that required treatment at the wastewater treatment plant. If you are unsure whether you have a separate pump system or not, please contact the Water-Wastewater Department at 906-786-3291 and schedule an appointment to have an inspection by City staff.

Once a prohibited connection is identified, the customer will have 90 days to remove the connection prior to initiation of the fee.

The fee will increase each year as it is intended to discourage and incentivize customers to remove illegal connections to the sanitary sewer system.

Water may be shut off for non-compliance or refusal of the City's right-to-entry for inspection purposes.

1.02 Outside the City Wastewater Rates

The outside City wastewater fees shall equal one and one-half times (1.5x) the inside City charge for availability and commodity fees.

1.025 The flat rate charge for unmetered residential wastewater services shall be \$67.15 per month.

1.03 In the event that a user introduces a substance into the wastewater system that results in extraordinary treatment, procedures, or costs, the City reserves the right to bill the user in accordance with the Michigan Department of Natural Resources (DNR) approved water charge system, or if the substance cannot be treated feasibly, the City reserves the right to terminate utility service to the user.

1.04 In the event that a user introduces a substance into the system that results in damages to property or environment, said user will be solely responsible for compensatory and/or punitive damages.

1.05 The City Manager will set the charge for any service not covered by this ordinance.

1.06 Non-Sufficient Funds Charges (NSF)

Whenever a customer presents a check or draft instrument for which funds are not immediately available upon presentation for deposit at the City's bank, a charge of \$40 will be placed upon the account for which payment was intended. The NSF charge shall also apply to agreements for ACH account debits.

1.07 Billing Recapture and Customer Credits

Whenever it becomes necessary for the billing department to recapture unbilled charges, the billing department shall use a "look-back" period of two years. If it is determined that unbilled charges are the result of customer fraud, the billing department shall recover all unbilled charges.

If a billing error on the part of the City results in over-billed charges, the City will refund all such over-billings, to the extent that the amount can be reasonably determined.

If an over-billing is not the result of a City error, the billing department shall employ a two year look-back period in determining the amount of credit.

Section 2.00            USER CHARGE SYSTEM

2.01 Established Basis for Computations

Rates and charges for the use of the wastewater system of the City shall be based upon the methodology in the user charge system approved by the Michigan DNR. Revisions to the rates for total sewer service charges are to be established by ordinances as necessary to ensure sufficiency of revenues in meeting operation, maintenance, and replacement costs, as well as debt service.

User charges for operation, maintenance and replacement shall be subject to the annual review of the user charge system. User charges shall be the same for all customers of the system regardless of geographical boundaries.

BOD (Biochemical Oxygen Demand) will be charged \$1.03 /lb, above 300 mg/l.  
SS (Suspended Solids) will be charged \$0.99 /lb, above 300 mg/l.  
Phosphorus will be charged \$ 27.36 /lb, above 12 mg/l.

2.02 Amounts, Billings, Sewer Service Charges

The rates and charges for service furnished by such system shall be levied upon each lot or parcel of land, building or premises, having any sewer connection with such systems, on the basis of the equivalent residential units and shall be collected monthly, except in cases where the character of the sewage from a manufacturer is such that reasonable, additional burden is placed on the system.

2.03 Annual Audit

The rates hereby fixed are estimated to be sufficient to provide for the expenses of operation, maintenance, and replacement of the system as are necessary to preserve the same in good repair and working order.

Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts. An annual audit shall be prepared. Based on said audit, rates for sewage services shall be revised as necessary by the City to meet system expenses and to ensure that all user classes pay their proportionate share of operation, maintenance, and equipment replacement costs.

2.04 Free Services

No free services shall be allowed for any user of the wastewater treatment works.

The customer will continue to pay monthly meter fees and estimated usage of billing for water services when disconnected for non-compliance issues.

2.05 Late Payment Penalty

Meters of all customers shall be read or estimated monthly and a three percent (3%) penalty charge will be made on all bills unpaid after the due date indicated on bill. Penalty charges may be waived at the discretion of the City for good reason. In all cases, it will be the exclusive right of the City to determine the facts and judge the validity of the request to waive the penalty payments.

2.06 Enforcement

In addition to all other lawful enforcement methods, the City agrees and covenants to enforce all charges for wastewater services supplied to any premises, if any such charges shall remain unpaid past the due date.

2.07 Utility Liens

Charges for wastewater services applied by the system shall constitute a lien on the premises served and if not paid within six (6) months, shall be certified by the official in charge of the collection thereof to the tax assessing officer and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general City taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of Michigan and the City Charter applicable to the time and manner of certification and collection of delinquent City taxes levied against real estate in the City shall be observed in the certification and collection of such charges.

2.075 Landlord Not Responsible

In all cases where a tenant is responsible for the payment of any such charge and the Utility Billing Office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice. In the event of the filing of such notice and after the date of such notice, the City shall render no further service to such premises until a cash deposit in an amount of the projected billing for not less than a one-month period and not more than a three-month period is received, said determination of deposit to be solely at the discretion of the City.

2.08 Experience - Good Faith Deposit Requirement

(A) Deposit Terms

If a customer of the City of Escanaba, whether he be a tenant, owner, or an owner by land contract, has a history of delinquent payments, or if the City has no history of customer's payments, or if owner or tenant customer service is located outside the corporate limits of the City of Escanaba, or if, in the judgment of the City, the existing deposit is insufficient based on current billings, the City may require a sum not to exceed the projected billing in an average four-month period as a good faith deposit. Projected billing for water sewer and electricity are combined for purposes of determining a customer's total deposit requirement. In no case will a customer's total deposit requirement be less than four hundred dollars (\$400). In the case of an account which does not include electric service or water service, the total deposit requirement shall not be less than two hundred dollars (\$200). This deposit will be held for twelve (12) consecutive months of payments without delinquency.

Deposits for commercial accounts will be estimated on an individual basis. Commercial accounts will pay a deposit of an estimate of four (4) months' utility bills based on the estimated usage for the type of business.

(B) Deposit Interest

Interest will be paid on deposits at the rate of 2.5% per annum effective July 1, 2024.

(C) Escrow and Letter of Credit

If a deposit of over \$500 is demanded from a commercial or large power customer, this deposit may be held in a special escrow account at the bank of the customer's choice, and interest will accrue to the benefit of the customer. Alternately, said customer may furnish an irrevocable bank letter of credit in lieu of a cash deposit.

2.09 No user shall introduce any substance, including toxic matter, chemicals, or flammable liquids, or water derived from other than metered City sources, into the City sewer system without first receiving specific approval from the Superintendent of Wastewater.

2.095 Right-of-Entry

A representative of the City Water-Wastewater utility shall have the right to enter, at any reasonable time, any property served by a connection to the public wastewater collection system of the city for the purpose of inspecting the piping system thereof for prohibited connections. On request, the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. Refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of prohibited connections.

The water-wastewater utility is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists and to take such other precautionary measures deemed necessary to eliminate any danger of compromising the collection system. Water service to such property shall not be restored until the prohibited connection has been eliminated in compliance with the provisions of this article. The customer will continue to pay monthly availability fees and estimated usage for water-wastewater services, if applicable, during the period of discontinued service.

2.10 Water customers not introducing all of their usage into the sewer system may apply to the Utility Office for exemption from wastewater charges for the usage not introduced, by requesting the installation of a meter to determine, through the use of the meter, the purchased water that is not being introduced into the sewage system.

2.11 Exemptions

Requests for special exemption for an unintentional water loss of metered water due to extenuating circumstances will be considered by the City Manager or his/her designee. Approved exemptions will receive a 75% billing reduction for any usage (for water discharged to the sewer) or a 100% billing reduction (if proven that the water was not discharged to the sewer) over the normal monthly average usage of the account. This reduction will be calculated for the 45-day period immediately preceding the corrective action to eliminate the unintentional loss.

Section 3.00                    VALIDITY, SEVERABILITY, CONFLICT, LIABILITY

- 3.01 The provisions of this article are severable, and if any of the provisions, words, phrases, clauses or terms, or the application thereof to any person, firm, or corporation, or to any circumstances, shall be held invalid, illegal, or unconstitutional by any court of competent jurisdiction, such decision or findings shall not in any way affect the validity, legality, or constitutionality of any other provisions, word phrase, clause or term, and they shall continue in full force and effect.
  
- 3.02 All rules, regulations, and provisions, which have heretofore been enacted by ordinance or otherwise, shall continue to be in full force and effect unless modified or amended by the terms of this ordinance.
  
- 3.03 All laws and parts of laws, all ordinances, codes and regulations which are inconsistent with or in conflict with or repugnant to any provisions of this ordinance, shall be deemed not to apply; provided that nothing herein contained shall be construed to prevent the adoption and enforcement of law, ordinance, or regulation which is more restrictive or establishes a higher standard than those provided in this article.

Section 4.0                    EFFECTIVE DATE

This ordinance shall be in full force and effect for billings processed after June 30, 2024, and after the passage of this Ordinance and publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich  
City Attorney

\_\_\_\_\_  
Mark Ammel  
Mayor

Date Approved: (Month) (Date), 2024  
Date Published: (Month) (Date), 2024

Attest:

\_\_\_\_\_  
Phil DeMay  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day), the (Date) day of (Month), 2024 , and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Day), 2024, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
Phil DeMay  
City Clerk

**ORDINANCE NO. 1293**  
**SOLID WASTE RATES**

**AN ORDINANCE TO AMEND CHAPTER 14, FIXING THE CHARGES TO BE ASSESSED BY THE CITY OF ESCANABA FOR SOLID WASTE, RECYCLING, YARD WASTE AND LITTERING, TO BE IN FULL FORCE AND EFFECT ON THE BILLINGS PROCESSED AFTER JUNE 30, 2024, AND ALL BILLINGS THEREAFTER UNTIL FURTHER AMENDED BY THE CITY COUNCIL OF THE CODE OF ORDINANCES OF THE CITY OF ESCANABA**

**THE CITY OF ESCANABA ORDAINS:**

**CHAPTER I**

**Chapter 14, Section 3, Collection of Charges; Liens**, of the Code of Ordinances shall be amended as follows:

1. Each small garbage customer shall be charged the sum of Four Dollars and Seventy-Five Cents (\$4.75) per month for the collection and disposal of up to three (3) solid waste carts of solid waste per week.

The City may, at its sole discretion, grant a small garbage exemption from solid waste charges if all of the following conditions exist: (a) a building or portion thereof must be unoccupied for the entire billing period in question; (b) a building or portion thereof must have either its electric or water service "shut off" for the entire billing period in question; and (c) no refuse may be placed for pickup at the occupancy in question during the billing period in question. Retroactive exemption will not be granted.

2. Each large garbage customer shall be charged the sum of Nineteen Dollars (\$19.00) per month for the collection and disposal of four (4) or five (5) solid waste carts of solid waste per week.

The City may, at its sole discretion, grant a large garbage exemption from solid waste charges if the customer in question furnishes the billing department with evidence of private collection. Retroactive exemptions will not be granted.

3. Any customer who exceeds five (5) solid waste carts of solid waste per week will be required to provide for the collection and disposal of their solid waste through other methods.
4. Should the State of Michigan or any other duly authorized governmental agency mandate any cost increases for the disposal of solid waste at the Delta Solid Waste Management Landfill, these additional costs will be added to the rates as previously described.
5. There is created and established a special fund to be known and designated as the "Solid Waste Fund" into which all sums collected under this chapter shall be deposited and kept by the City Treasurer and from which all expenses of the administration and operation of this chapter shall be paid.
6. All solid waste collection service charges shall be paid to the City Treasurer.
7. A three (3%) percent penalty charge will be made on all bills unpaid after the date indicated on the bill. The penalty charge will be computed as of the date of payment and will be computed on the amount of payment applied to the delinquent balance. The penalty charges may be waived at the discretion of the city for good reason when the interest of the city would be best served by waiving said penalty or if the customer proves extraordinary circumstances intervened to prevent payment of the bill on the due date. In all cases, it will be the exclusive right of the city to determine the facts and judge the validity of the request to waive the penalty payments.
8. In addition to all other remedies for the collection of delinquent charges or billing authorized by ordinances of the city pertaining to solid waste collection, the city shall have the right to such liens and procedures as may be established for the collection of solid waste utility charges as are now or hereafter authorized by the laws of the state.

**Chapter 14, Section 4. Enforcement**, of the Code of Ordinances shall be amended as follows:

Charges for solid waste disposal shall constitute a lien on the premises served and if not paid within six (6) months shall be certified by the official in charge of the collection thereof to the tax assessing officer, and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general city taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of the state and the city charter applicable to the time and manner of certification and collection of delinquent city taxes levied against real estate in the city shall be observed in the certification and collection of such charges, provided, however, that in all cases where a tenant is responsible for the payment of any such charge and the utility billing office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice.

**CHAPTER II**  
**SAVINGS CLAUSE**

If any section, subsection, sentence, clause, or phrase of the within Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

**CHAPTER III**  
**REPEALING CHAPTER**

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**CHAPTER IV**  
**EFFECTIVE DATE**

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich  
City Attorney

\_\_\_\_\_  
Mark Ammel  
Mayor

Date Approved: (Month) (Date), 2024  
Date Published: (Month) (Date), 2024

Attest:

\_\_\_\_\_  
Phil DeMay  
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a Special Meeting held on (Day), the (Date) day of (Month) 2024, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Date), 2024, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
Phil DeMay  
City Clerk



**ORDINANCE NO. 1296**

**AN ORDINANCE TO REPEAL CHAPTER 14 SOLID WASTE IN ITS ENTIRETY AND  
SUBSTITUTE THE FOLLOWING PROVISIONS GOVERNING SOLID WASTE.**

**THE CITY OF ESCANABA ORDAINS:**

**CHAPTER I**

Chapter 14 Solid Waste is hereby amended by deleting Chapter 14 in its entirety.

**CHAPTER II  
Solid Waste**

Chapter 14 of the Code of Ordinances, Solid Waste, is hereby amended in its entirety to read as follows:

**Chapter 14 - SOLID WASTE**

Article I	In General	§§14-1 – 14-19
Article II	Recycling of Refuse	§§14-20 – 14-29
Article III	Yard Waste Disposal	§§14-30 – 14-39
Article IV	Litter	§§14-40 – 14-49
Article V	Penalties	§14-50

**ARTICLE I. - IN GENERAL**

**Sec. 14-1. - Definitions.**

As used in this chapter, the following terms and terms derived from them shall have the following meanings, unless the context indicates that a different meaning is intended:

*Account* means a single record within the city's utility billing system, which includes one or more occupancies, billed on a single monthly utility bill.

*Cart* means a specifically designed disposal container embossed with a City of Escanaba logo upon the sides which is provided by the city. Carts are categorized as either solid waste carts or recycling carts, with each type of cart restricted as to the specific items which can be placed in them for collection.

*City* means City of Escanaba.

*Customer* means any company, corporation, business, firm, association, individual, sole proprietorship, partnership, municipality, political subdivision, or government entity which occupies any building, dwelling unit, or portion thereof for residential, commercial, or other purposes.

*Disposal site* means the location where any final treatment, utilization, processing, or disposition of solid waste occurs.

*Hazardous toxic waste* means any waste that exhibits the characteristics of a hazardous waste and which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which poses a substantial present or potential hazard to human health, wildlife or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

*Large garbage customer* means any customer who requires four (4) solid waste carts to dispose of their solid waste on a weekly basis.

*Nonhazardous toxic waste* means any waste that does not meet the criteria for being a hazardous waste but through its chemical or other qualities usually kills, injures, or impairs organisms.

*Occupancy* shall be defined as any building or dwelling unit or portion thereof which is occupied for residential, commercial, or other purposes. A building or dwelling unit or portion thereof shall be occupied if electric or water service is provided to that building, dwelling unit or portion thereof.

A *person* means every person, firm, partnership, association, institution, and corporation. The term also means the occupant or the owner, or both, of premises for which service mentioned in this chapter is rendered.

*Recyclable material* means those solid wastes that are separated for recycling or reuse, such as papers, metals and plastic that are identified as recyclable material pursuant to a resolution adopted by the city council.

*Recycling* means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

*Scavenging* means the removal of materials at a residence, disposal site or interim solid waste handling site without the approval of the owner or operator or the city.

A *small garbage customer* means any customer who requires up to three (3) solid waste carts to dispose of their solid waste on a weekly basis.

*Solid waste or waste* means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition, and construction wastes.

*White goods* means any large household appliance or pieces of furniture, including refrigerators, stoves, dishwashers, water heaters, washers, dryers or other similar appliances.

*Yard waste* means plant material (leaves, grass clippings, branches, brush, flowers, roots, etc.) organic debris commonly thrown away while maintaining yards and gardens, including sod and other biodegradable organic material. Yard waste excludes food waste, plastic and synthetic fibers, lumber and soil contaminated with hazardous waste.

(Ord. No. 1077, Ch. II, 11-1-07)

Cross reference— Definitions and rules of construction generally, § 1-2.

**Sec. 14-2. - Utility established.**

For carrying into effect, the provisions and aims of this chapter, there is created and established a utility to be known as the solid waste utility.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-3. - Collection of charges; liens.**

1. Each small garbage customer shall be charged the sum of four dollars and seventy-five cents (\$4.75) per month for the collection and disposal of up to three (3) solid waste carts of solid waste per week.

The city may, at its sole discretion, grant a small garbage exemption from solid waste charges if all of the following conditions exist: (a) a building or portion thereof must be unoccupied for the entire billing period in question; (b) a building or portion thereof must have either its electric or water service "shut off" for the entire billing period in question; and (c) no refuse may be placed for pickup at the occupancy in question during the billing period in question. Retroactive exemption will not be granted.

2. Each large garbage customer shall be charged the sum of nineteen dollars (\$19.00) per month for the collection and disposal of four (4) or five (5) solid waste carts of solid waste per week.

The city may, at its sole discretion, grant a large garbage exemption from solid waste charges if the customer in question furnishes the billing department with evidence of private collection. Retroactive exemptions will not be granted.

3. Any customer who exceeds five (5) solid waste carts of solid waste per week will be required to provide for the collection and disposal of their solid waste through other methods.

4. Should the State of Michigan or any other duly authorized governmental agency mandate any cost increases for the disposal of solid waste at the Delta Solid Waste Management Landfill, these additional costs will be added to the rates as previously described.

5. There is created and established a special fund to be known and designated as the "solid waste fund" into which all sums collected under this chapter shall be deposited and kept by the city treasurer and from which all expenses of the administration and operation of this chapter shall be paid.

6. All solid waste collection service charges shall be paid to the city treasurer.

7. A three (3) percent penalty charge will be made on all bills unpaid after the date indicated on the bill. The penalty charge will be computed as of the date of payment and will be computed on the amount of payment applied to the delinquent balance. The penalty charges may be waived at the discretion of the city for good reason when the interest of the city would be best served by waiving said penalty or if the customer proves extraordinary circumstances intervened to prevent payment of the bill on the due date. In all cases, it will be the exclusive right of the city to determine the facts and judge the validity of the request to waive the penalty payments.

8. In addition to all other remedies for the collection of delinquent charges or billing authorized by ordinances of the city pertaining to solid waste collection, the city shall have the right to such liens and procedures as may be established for the collection of solid waste utility charges as are now or hereafter authorized by the laws of the state.

(Ord. No. 1023, Ch. I, 6-2-03; Ord. No. 1038, Ch. I, 6-7-04; Ord. No. 1051, Ch. I, 6-7-05; Ord. No. 1062, Ch. I, 6-5-06; Ord. No. 1073, Ch. I, 6-4-07; Ord. No. 1077, Ch. II, 11-1-07; Ord. No. 1085, Ch. I, 6-2-08; Ord. No. 1098, Ch. I, 6-1-09; Ord. No. 1108, Ch. I, 6-7-10; Ord. No. 1118, Ch. I, 6-6-11; Ord. No. 1128, Ch. I, 6-4-12; Ord. No. 1139, Ch. I, 6-3-13; Ord. No. 1151, Ch. I, 6-2-14; Ord. No. 1162, Ch. I, 6-1-15; Ord. No. 1172, Ch. I, 6-6-16; Ord. No. 1183, Ch. I, 6-5-17; Ord. No. 1197, Ch. I, 6-4-18; Ord. No. 1210, Ch. I, 6-3-19; Ord. No. 1233, Ch. I, 6-1-20; Ord. No. 1249, Ch. I, 6-7-21; Ord. No. 1266, Ch. I, 6-6-22; Ord. No. 1280, Ch. I, 6-5-23)

**Sec. 14-4. - Enforcement.**

Charges for solid waste disposal shall constitute a lien on the premises served and if not paid within six (6) months shall be certified by the official in charge of the collection thereof to the tax assessing officer, and shall then be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general city taxes against such premises are collected and the lien thereof enforced. All provisions of the laws of the state and the city Charter applicable to the time and manner of certification and collection of delinquent city taxes levied against real estate in the city shall be observed in the certification and collection of such charges, provided, however, that in all cases where a tenant is responsible for the payment of any such charge and the utility billing office is so notified in writing, which notification shall include a true copy of the lease of the affected premises, if there be one, then no such charge shall become a lien against such premises from and after the date of such notice.

(Ord. No. 1023, Ch. I, 6-2-03; Ord. No. 1038, Ch. I, 6-7-04; Ord. No. 1051, Ch. I, 6-7-05; Ord. No. 1062, Ch. I, 6-5-06; Ord. No. 1073, Ch. I, 6-4-07; Ord. No. 1077, Ch. II, 11-1-07; Ord. No. 1085, Ch. I, 6-2-08; Ord. No. 1098, Ch. I, 6-1-09; Ord. No. 1108, Ch. I, 6-7-10; Ord. No. 1118, Ch. I, 6-6-11; Ord. No. 1128, Ch. I, 6-4-12; Ord. No. 1139, Ch. I, 6-3-13; Ord. No. 1151, Ch. I, 6-2-14; Ord. No. 1162, Ch. I, 6-1-15; Ord. No.

1172 , Ch. I, 6-6-16; Ord. No. 1183 , Ch. I, 6-5-17; Ord. No. 1197 , Ch. I, 6-4-18; Ord. No. 1210 , Ch. I, 6-3-19; Ord. No. 1233 , Ch. I, 6-1-20; Ord. No. 1249 , Ch. I, 6-7-21; Ord. No. 1266 , Ch. I, 6-6-22; Ord. No. 1280 , Ch. I, 6-5-23)

**Sec. 14-5. - Containers required, specifications.**

(1) It shall be the duty of every person in possession, charge or control of any dwelling or real property where solid waste is created or accumulated to have a cart, or carts as provided by the city and to deposit or cause to be deposited therein all solid waste as permitted or required by the city manager. **Only city issued carts will be picked up.**

Each customer shall be entitled to one solid waste cart, for which there is no additional cost. At the request of the customer and subject to review by the city manager, or his designee, each customer will be allowed to purchase, at their own cost, up to two (2) additional city approved solid waste carts which will be emptied weekly by the city at no additional monthly charge to said account. Any customer who requests and is approved for more than three (3) solid waste carts in total will be reclassified as a large garbage customer and will be subject to the rate for that qualification. Under no circumstances will the city service customers who require more than five (5) solid waste carts; these customers will be required to provide for collection and disposal of their solid waste through other methods.

The city will provide at the request of the customer one recycling cart. Disposal of the contents of said cart will be included in the monthly charge that the account will be billed monthly. If an account requires additional recycling carts, they will be allowed to purchase, at their own cost, additional recycling carts up to the number of solid waste carts which they have acquired.

(2) All solid waste carts and recycling carts shall be placed for pick-up **no sooner than 24 hours before scheduled garbage date**, in a location **3 feet** in distance ~~at a time and at a~~ from improved public or private streets or alleys as the city manager, or his designee, shall designate. **Carts shall be 3 feet apart from any objects such as (fence, vehicle, building, garbage, other carts, etc.) Solid waste and recycling carts shall be placed for pickup by 6:30 am on scheduled garbage or recycle day. Waste must be able to fit in the cart with the lid closed. Carts shall be brought back to the resident's storage area for carts no more than 24 hours after the scheduled garbage date.**

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-6. - Disposing of solid waste on public or private property prohibited.**

It is unlawful for any person to dump or in any manner dispose of solid waste upon any street, alley, public place, or private property owned by another person within the city.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-7. - Collection and storage.**

All solid waste shall be removed from curb or pick up location and brought back to residence no later than 24 hours after garbage pickup date. At least once weekly from all occupied premises in city residential areas and from all other premises as required by this chapter. Temporary storage of solid waste prior to removal shall comply with this chapter.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-8. - Placing burning material in containers prohibited.**

It is unlawful for any person to deposit in any solid waste container any burning materials or materials sufficiently hot to create combustion when the same come in contact with other solid waste.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-9. - White goods.**

Every person shall dispose of white goods by delivering them to private appliance dealers, scrap yards and/or the county landfill.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-10. - Management of waste motor oil, vehicle batteries, and scrap tires.**

Every person shall manage waste motor oil, vehicle batteries and scrap tires as follows:

(1) Waste motor oil is not collected by the city. Waste oil must be separated for recycling and delivered to private collectors or service stations that accept waste oil.

(2) Vehicle batteries are not collected by the city. Such batteries shall be recycled by delivering them to vehicle battery retailers, commercial installers, auto salvage yards or scrap dealers, some of whom may charge a fee for accepting the same.

(3) Scrap tires are not collected by the city. Scrap tires shall be recycled by delivering them to the county landfill, private tire dealers or scrap yards that may accept them for a fee.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-11. - Hazardous toxic waste and nonhazardous toxic waste.**

Deleterious substances delineated as hazardous toxic waste and nonhazardous toxic waste, including as examples acids, blasting materials, ammunition, paints, lacquers and varnishes, combustible alloys or chemicals and radioactive materials, shall not be included with collection of solid waste or recyclable material. Such unacceptable wastes shall be managed in the following manner:

(1) Household hazardous wastes shall be handled according to EPA safe management methods:

- a. Products containing hazardous substances shall be used and stored carefully to prevent accidents. Such products shall be stored in their original containers with original labels. Corroding containers shall be repackaged and clearly and accurately labeled. Products containing hazardous substances shall never be repackaged or stored in food containers.
- b. Products containing hazardous substances shall never be mixed with other products. Users of such products shall follow product label instructions for proper use and disposal.
- c. Waste products containing hazardous substances shall be taken to an area household hazardous waste collection program.  
(2) Nonresidential hazardous wastes shall be handled and disposed of according to all applicable state and federal laws and regulations.

(Ord.No. 1077, Ch. II, 11-1-07)

**Sec. 14-12. - Authorized waste collectors; condition of collection.**

(1) The collection of all solid wastes is conditioned upon the observance of all provisions of this chapter. Collection is subject to weather and other conditions beyond the city's control.

(2) It shall be unlawful for any person other than municipal employees, solid waste collectors or other authorized persons to interfere with solid waste placed in the streets, alleys, and public places of the city for collection by municipal authorities or to interfere in any manner with solid waste or recycling carts in the city.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-13. - Transportation of waste on streets; vehicle condition.**

(1) The transportation of all garbage, offal, rubbish or other waste material through the streets, alleys or thoroughfares of the city shall be conducted in a manner to create no nuisance.

(2) Vehicles conveying waste must be of such construction and so operated that the contents shall not spill on the public streets or alleys or otherwise create a nuisance.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-14. - Charges for certain services.**

Any person, agency, firm, or entity that intentionally or accidentally causes an incident involving hazardous chemicals and/or materials or a hazardous/toxic materials situation requiring the services of the department of public safety may be charged for the cost of the service. Such costs may include, but are not limited to, incident abatement, mitigation, clean-up, mutual aid and standby of the scene or incident. The decision to require reimbursement of the cost shall be made by the city. Such costs will be based upon resolution of council or at the current rate for equipment and operation of public safety apparatus or equipment.

(1) Time for payment for service. All the foregoing charges shall be due and payable within forty-five (45) days from the date service is rendered and in default payment shall be collectible through proceedings in any court of competent jurisdiction as a matured debt.

(2) Collection of charges. The city may proceed in a court of competent jurisdiction to collect any monies remaining unpaid forty-five (45) days after a bill for emergency public safety department services and may pursue any other remedies provided by law for collection.

(3) Definition. Hazardous materials shall mean any materials which pose a substantial present or potential hazard to human, life, health, and safety, including, but not limited to, hazardous substances as defined in 42 USC section 9601(14) and any other substances that have been classified by the state or federal governments or any of their departments or agencies to be hazardous/toxic.

(4) Personnel, equipment, supplementary costs.

a. Personnel costs. The cost per public safety officer to be assessed by the city will be based upon the current hourly pay scale. The length of service per incident will begin at the time of dispatch and will be terminated one hour after the last apparatus or piece of equipment clears the scene of incident. A factor of twenty-five (25) percent of the cost may be added to cover any administrative costs.

b. Equipment costs. The total cost of all equipment and their operating costs will be established by council resolution or at the current hourly rate. The length of service will begin at the time of dispatch and will be terminated at the time the last public safety apparatus or piece of equipment leaves the scene or incident.

- c. Supplementary costs. Any additional equipment, manpower, suppression agents, technical services, etc. which are directly attributed to an incident as defined in section 3 [40.203] are also chargeable expenses.

(Ord. No. 1077, Ch. II, 11-1-07)

**Secs. 14-15—14-19. - Reserved.**

**ARTICLE II. - RECYCLING OF REFUSE**

**Sec. 14-20. - General rule.**

Each residence, residential unit, place of business, industry, commerce, or other place providing goods or services of any type shall cooperate in the recycling of refuse.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-21. - Recyclable refuse.**

All recyclable material shall be separated from other solid waste and grouped together and placed in a city approved recycling cart. The city council shall by resolution determine which items shall be recycled and the method of disposal.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-22. - Collection.**

(1) Placement for collection. Recycle carts shall be made accessible for collection in the same locations as solid waste carts. Carts shall be placed no sooner than 24 hours before scheduled garbage date, in a location 3 feet in distance from improved public or private streets or alleys as the city manager, or his designee, shall designate. Carts shall be 3 feet in distance away from any objects such as (fence, vehicle, building, garbage, other carts, etc.) Solid waste and recycling carts shall be placed for pickup by 6:30 am on scheduled garbage or recycle day. Recycling must be able to fit in the cart with the lid closed. Carts shall be brought back to the resident's storage area for carts no more than 24 hours after the scheduled recycling date.

(2) Donation to others. Nothing in this article is intended to prevent any person from donating or selling recyclable refuse to any person, club, business, civic organization, charitable organization, or any other organization.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-23. - Ownership of recyclable waste material.**

After recyclable waste material has been placed in a recycling cart for collection by the city or its authorized agent, the recyclable waste material shall become the property of the city or its authorized agent.

(Ord. No. 1077, Ch. II, 11-1-07)

**Secs. 14-24—14-29. - Reserved.**

**ARTICLE III. - YARD WASTE DISPOSAL**

**Sec. 14-30. - Prohibited yard waste disposal.**

No person shall:

- (a) Mix or permit the mixing of yard waste with solid waste for city curbside solid waste collection or place or permit the placing of yard waste out for the city curbside solid waste collection; and/or
- (b) Deposit yard waste in or upon any public street, water or grounds in the city.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-31. - Permitted yard waste disposal.**

It shall be lawful to:

- (a) Deposit yard waste at any authorized compost site in accordance with the rules and regulations promulgated by the city manager;
- (b) Deposit leaves and grass clippings at curbside for collection by the city during the months of October and November, **weather permitting**, if the property is eligible to be served by regular city solid waste collection, in accordance with the rules and regulations promulgated by the city manager; and/or
- (c) Compost yard waste on the lot where it originated in a manner not creating a nuisance.

(Ord. No. 1077, Ch. II, 11-1-07)

**Secs. 14-32—14-39. - Reserved.**

**ARTICLE IV. – LITTER\***

Footnotes:--- (2) ---

\*State Law reference— Littering, MCL 752.901; placing injurious substances on highways, MCL 750.493a.

**Sec. 14-40. - Depositing or scattering of litter prohibited.**

(1) No person shall deposit or cause to be deposited, sort, scatter or leave any rubbish, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, ice, dirt, grass, leaves, twigs, shrubs, garbage or other offensive material in any public street, alley or public property of the city, nor on any private or vacant property, except on approved private or public landfills and except where certain of these materials are used in a normal manner for improving property by grading it, fertilizing or surfacing.

(2) Old newspapers, handbills and waste paper, floor sweepings or other litter shall not be scattered or thrown on public or private property but shall be deposited in public or private receptacles.

(Ord. No. 1077, Ch. II, 11-1-07)

**Sec. 14-41. - Deposit of injurious material in street or alley; removal.**

(1) No person shall deposit or leave in any public street, alley or public place or in any private place or premises, any glass, broken or unbroken, any metal, stone, earthenware, tacks, cinders or other substance of a nature likely to cause injury to travelers or pedestrians or to injure any animal or which might injure, cut or puncture any tire.

(2) In the case of any alley where any substance named in subsection (a) shall exist or be or has been deposited, it shall be the duty of every owner or occupant of any lot or premises to remove from the one-half of the alley adjoining the lot or premises, all



such substances. It shall be the duty of every occupant abutting an alley to keep his half of the alley in a clean, neat, and orderly condition.

(Ord. No. 1077, Ch. II, 11-1-07)  
Cross reference— Similar provisions, § 27-316.

**Sec. 14-42. - Placing salt or sand on snow or ice permitted.**

When the ice and snow have accumulated on sidewalks, and it is impossible to remove them by the usual methods, sawdust, salt, sand, ashes or cinders may be sprinkled in sufficient quantities to make the sidewalks safe for use. The scattered materials must be cleaned off and disposed of as provided in this chapter immediately upon removal of the hazard.

(Ord. No. 1077, Ch. II, 11-1-07)

**Secs. 14-43—14-49. - Reserved.**

**ARTICLE V. - PENALTIES**

**Sec. 14-50. - Municipal civil infraction; penalties and sanctions.**

A person who violates any provision of chapter 14 is responsible for a municipal civil infraction subject to a payment of a civil fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus costs and other sanctions for each infraction. Repeat offenses shall be subject to all of the provisions of section 1-13 of this Code.

(Ord. No. 1077, Ch. II, 11-1-07)

**CHAPTER III  
Savings Clause**

If any section, subsection, sentence, clause, or phrase of the within Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

**CHAPTER IV  
CONFLICTING ORDINANCES REPEALING CHAPTER**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**CHAPTER V  
EFFECTIVE DATE**

This Ordinance shall be in full force and in effect ten (10) days after its passage and publication.

APPROVED:

APPROVED:

\_\_\_\_\_  
Laura Genovich, City Attorney

\_\_\_\_\_  
Mark Ammel, Mayor

Ordinance No. 1296

ATTEST:

Date Approved: (Month) (Date), 2024

Date Published: (Month) (Date), 2024

\_\_\_\_\_  
Phil DeMay, City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, State of Michigan, at a regular meeting held on (Date) day of (Month), 2024. Said meeting was conducted, with public notice given, pursuant to and in full compliance with the Open Meetings Act, being MCL 15.261 et seq. Further, said ordinance was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Day), (Month) (Date), 2024. The minutes of said meeting were kept and will be or have been made available as required by said Act.

\_\_\_\_\_  
Phil DeMay, City Clerk

Agenda Item: NB-8  
Date: 05-16-2024

## City Council Agenda Item Request

Date: 4/26/2024

Name: Melissa Becotte

Department: City Controller

Item: MERS Plan Amendment

Meeting date requested: 5/16/2024

Explanation for request:

IRS guidelines require the City to designate a default contribution rate for our Defined Contribution Pension Plan. This default rate will apply to employees that transfer between divisions and people who have terminated employment and are subsequently rehired. Administration is requesting Council approval to set the default rate to 3%.

# MERS Defined Contribution Plan Adoption Agreement



1134 Municipal Way Lansing, MI 48917 | 800.767.MERS (6377) | Fax 517.703.9711

www.mersofmich.com

The Employer, a participating municipality or court within the state of Michigan that has adopted MERS coverage, hereby establishes the following Defined Contribution Plan provided by MERS of Michigan, as authorized by 1996 PA 220 in accordance with the MERS Plan Document.

I. Employer Name City of Escanaba Municipality #: 2101

Division name \_\_\_\_\_

Note: This division should reflect how you currently define employees who are eligible to participate, for example, All full-time Employees, New hires after 1/1/2019, etc.

## II. Effective Date

Check one:

A.  If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of \_\_\_\_\_, 20\_\_.

- This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible employee shall be credited as follows (choose one):
  - Vesting credit from date of hire
  - No vesting credit
- This division is for new hires, rehires, and transfers of current Defined Benefit\* division # \_\_\_\_\_ and/or current Hybrid division # \_\_\_\_\_

For divisions that are closing or freezing with or without conversion, the Employer must complete the *Addendum for Plan Freeze, Closure and Conversions*

Divisions:  
106202,  
106471,  
106472 &  
106657

B.  If this is an **amendment** of an existing Adoption Agreement (existing division number \_\_\_\_\_), the effective date shall be the first day of April, 2024.  
Note: You only need to mark **changes** to your plan throughout the remainder of this Agreement.

C.  If this is to **separate employees** from an existing Defined Contribution division (existing division number(s) \_\_\_\_\_) into a new division, the effective date shall be the first day of \_\_\_\_\_, 20\_\_.

D.  If this is to **merge division(s)** \_\_\_\_\_ into division(s) \_\_\_\_\_, the effective date shall be the first of \_\_\_\_\_, 20\_\_.

E.  If this is an amendment to close Defined Benefit division(s) # \_\_\_\_\_ or Hybrid division(s) \_\_\_\_\_ with new hires, rehires, and transfers going into existing Defined Contribution division # \_\_\_\_\_, the effective date shall be \_\_\_\_\_ (month/year).

**Note: Closing this Defined Benefit or Hybrid division(s) will change future invoices to a flat dollar amount instead of a percentage of payroll, as provided in your most recent annual actuarial valuation.**

(The amount may be adjusted for any benefit modifications that may have taken place since then).

# MERS Defined Contribution Plan Adoption Agreement

## III. Plan Eligibility

Only those employees eligible for MERS membership may participate in the MERS Defined Contribution Plan. If an employee classification is included in the plan, then employees that meet this definition are required to participate in the plan and earn time toward vesting. All eligible employees must be reported to MERS and earn time toward vesting. Some excluded classifications require additional information below. Please describe the specific classifications that are eligible for MERS within this division:

(For example: e.g., Full-time employees, Clerical staff, Union Employees participating in XXXX union)

This Division includes **public safety employees**:  Yes  No

To further define eligibility (select all that apply):

Employee Classification	Included	Excluded	Not Employed
<b>Temporary Employees:</b> Those who will work for the municipality fewer than _____ months in total	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Part-Time Employees:</b> Those who regularly work fewer than _____ per _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Seasonal Employees:</b> Those who are employed for tasks that occur at specific times of the year	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Voter-Elected Officials</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Appointed Officials:</b> An official appointed to a voter-elected office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Contract Employees</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Other:</b> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Other 2:</b> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Probationary Periods (select one):

- Contributions will begin after the probationary period has been satisfied. Probationary periods are allowed in one-month increments, no longer than 12 months. During this probationary period, contributions will not be reported and service toward vesting will begin when probationary period has ended.

The probationary period will be \_\_\_\_\_ month(s).

Comments:

- Contributions will begin with the employee's date of hire (no Probationary Period). Effective with the date of hire, wages and any associated contributions must be submitted to MERS.

# MERS Defined Contribution Plan Adoption Agreement

## IV. Provisions

### 1. Leaves of Absence

Regardless of whether an employee is earning a wage while on the following types of leave:

- Third-party wages are not used in determining contributions for periods of leave.
- Vesting under elapsed time continues to accrue even if wages are not earned and contributions are zero.

*Note:* Employers who determine vesting based on an "hours-reported" method, should report actual worked hours for the month where there was a leave.

Types of leave include:

- Short Term and Long Term Disability
- Workers Compensation
- Unpaid Family Medical Leave Act (FMLA)

Leaves of absence due to military service are governed by the federal *Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)*, IRC 414(u), effective January 1, 2007, IRC 401(a)(37). Military reporting requires historical wage and contribution reporting for Defined Contribution as applicable.

### 2. Definition of Compensation

The Definition of Compensation selected must be used when determining both employer and employee contributions. Employers may include wage information along with employee and employer contributions when submitting wage/contribution reports to MERS.

Select your Definition of Compensation:

- Base Wages     Box 1 Wages of W-2     Gross Wages  
 Custom Definition

[Click here to view details of Base, Box 1, and Gross Wages.](#)

(To customize your definition, please complete the Custom Definition of Compensation Addendum.)

### 3. Forfeiture

A forfeiture occurs when a participant separates from employment prior to meeting the associated elapsed time (or hours reported) to receive vesting. The percentage of his/her employer contribution account balance that has not vested as of the date of termination will be forfeit after 12 consecutive months following the termination date reported by the employer, or earlier, if the System distributes the participant's vested portion. MERS will utilize any available forfeiture balance as an automatic funding source applied to reported employer contributions at the time of reporting.

### 4. Vesting

Vesting will be credited using (check one):

- Elapsed time method – Employees will be credited with one vesting year for each 12 months of continuous employment from the date of hire.
- Hours reported method – Employees will be credited with one vesting year for each calendar year in which \_\_\_\_\_ hours are worked

# MERS Defined Contribution Plan Adoption Agreement

Vesting schedule will be (check one):

- Immediate
- Cliff vesting (fully vested after a specified number of years, not to exceed 15 years) will be \_\_\_ years.
- Graded Vesting (the % of vesting acquired after employment for the designated number of years, not to exceed 10 years; or, where full vesting is attained between 10 and 20 years, graded vesting must commence no later than 3 years of service)

% Vested	Years of Service

In the event of disability or death, an employee's (or his/her beneficiary's) entire employer contribution account shall be 100% vested, to the extent that the balance of such account has not previously been forfeited.

Normal Retirement Age (presumed to be age 60 unless otherwise specified) \_\_\_\_\_

*If an employee is still employed with the municipality at the age specified here, their entire employer contribution balance will become 100% vested regardless of years of service.*

## 5. Contributions

- a. **Contributions will be submitted** (check one):  
 Contributions will be remitted according to Employer's "Payroll Period" which represents the actual period amounts are withheld from participant paychecks, or within the month during which amounts are withheld.
 

<input type="checkbox"/> Weekly	<input type="checkbox"/> Semi-Monthly (twice each month)
<input type="checkbox"/> Bi-Weekly (every other week)	<input type="checkbox"/> Monthly
- b. **Employer Contributions**  
 Required Employee Contributions and Employer Contributions are outlined using associated Contribution Addendum for MERS Defined Contribution (MD-073).
- c. Post-tax voluntary employee contributions are allowable into a Defined Contribution account subject to Section 415(c) limitations of the Internal Revenue Code.

**6. Loans:**  shall be permitted       shall not be permitted  
 If Loans are elected, please refer to the Defined Contribution & 457 Loan Addendum.

**7. Rollovers** from qualified plans are permitted and the plan will account separately for pre-tax and post-tax contributions and earnings thereon.

## V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Contribution Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event of any conflict between the MERS Plan Document and the MERS Defined Contribution Plan Adoption Agreement, the provisions of the Plan Document control.

# MERS Defined Contribution Plan Adoption Agreement

## VI. Modification of the terms of the Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of this Agreement is not effective until approved by MERS.

## VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. The Employer acknowledges that employee contributions (if any) and employer contributions must be submitted in accordance with the *MERS Reporting and Contribution Enforcement Policy*, the terms of which are incorporated herein by reference;
4. The Employer acknowledges that late or missed contributions will be required to be made up, including any applicable gains, pursuant to the Internal Revenue Code;
5. Should the Employer fail to make its required contribution(s) when due, MERS may implement any applicable interest charges and penalties pursuant to the *MERS Reporting and Contribution Enforcement Policy* and Plan Document Section 79, and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. It is expressly agreed and understood as an integral and non-severable part of this Agreement that Section 43 of the Plan Document shall not apply to this Agreement and its administration or interpretation. In the event any alteration of the terms or conditions of this Agreement is made or occurs, under Section 43 or other plan provision or law, MERS and the Retirement Board, as sole trustee and fiduciary of the MERS plan and its trust reserves, and whose authority is non-delegable, shall have no obligation or duty to administer (or to have administered) the MERS Defined Contribution Plan, to authorize the transfer of any defined benefit assets to the MERS Defined Contribution Plan, or to continue administration by MERS or any third-party administrator of the MERS Defined Contribution Plan.

## VIII. Execution

### Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by \_\_\_\_\_ on  
the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. (Name of Approving Employer)

Authorized signature: \_\_\_\_\_

Title: \_\_\_\_\_

### Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: \_\_\_\_\_, 20\_\_\_\_ Signature: \_\_\_\_\_  
(Authorized MERS Signatory)



# Contribution Addendum for MERS Defined Contribution (and DC portion of Hybrid)



1134 Municipal Way Lansing, MI 48917 | 800-767-2308 | Fax 517-703-9711 | www.mersmich.com

This is an Addendum to the Adoption Agreement completed by City of Escanaba  
Name of Participating Employer

for the following:

All Employees in DC Divisions  
Employee Group Name

Division Code: 106202, 106471, 106472, & 106657

The Addendum accompanies the MERS 401(a) Defined Contribution (DC) Adoption Agreement. Please complete this addendum for each contribution structure associated with the covered employee group.

## Section 1: Matching Contributions

The Participating Employer will make matching contributions into the DC Plan based on

(CHECK ALL THAT APPLY):

- Employee's MERS 457 program election
- Employee's non-MERS 457 program election
- Employee's one-time election of MERS Defined Contribution required employee contributions
- Other \_\_\_\_\_

For each payroll period in which employee contributions described in Section 1 are made, the Participating Employer will contribute \_\_\_\_\_% of the employee contribution amount.

*For example, if an Employer elects a 50% match, then for every 1% the participant defers to the Program, the Employer will contribute 0.5% to the Program.*

**Employer Cap:** The Employer elects the following matching contribution cap:

- Percentage Cap:** In no event will matching contributions made on behalf of a participant exceed \_\_\_\_\_% of the participant's IRS Section 401(a)(17) includable compensation as defined by the Employers' Adoption Agreement. Match cannot exceed 100% of participant's income.
- Flat Dollar Cap:** In no event will matching contributions made on behalf of a participant exceed a flat dollar amount equal to \$\_\_\_\_\_ per \_\_\_\_\_.

# Contribution Addendum for MERS Defined Contribution (and DC portion of Hybrid)



1134 Municipal Way Lansing, MI 48917 | 800.767.2308 | Fax 517.703.9711 www.mersofmich.com

## Section 2: Required DC Contributions

Select one:

- Employees are required to contribute per pay period: \_\_\_\_\_ (specify \$ or %)
- Range from \_\_\_\_\_ to \_\_\_\_\_ (specify \$ or %) per pay period
  - Employee contributions must be in whole numbers
  - Employee contribution election may be in increments of \_\_\_\_\_% (for example, 0.5% increments)
- Choice of contribution amounts per pay period:

Employee Contribution (\$ or %)	Employer Contribution (\$ or %)

The Employer designates 3.0% (specify \$ or %) as the default contribution

Federal law requires employees only be offered a contribution choice at the time of first eligibility. Therefore, the default will apply when an eligible employee fails to make an election prior to the first payroll reporting in which they qualified for the plan, and those employees who are transferred, rehired, or previously covered under a non-MERS plan.

Direct Required Employee Contributions:  Pre-tax  After-tax

## Section 3: Non-Matching Contributions

The Employer hereby elects to make contributions to the participants' accounts without regard to a participant's contribution amount (check all that apply):

- Annual:** A one-time annual contribution of \$ \_\_\_\_\_ or \_\_\_\_\_% of compensation per participant.
- Pay Period:** \$ \_\_\_\_\_ or \_\_\_\_\_% of compensation per participant for each payroll period.
- One time:** \$ \_\_\_\_\_.

## City Council Agenda Item Request

Date: 5-8-24

Name: Kent Dubord

Department: Public Works

Item: Paving of 5th Ave. S.

Meeting date requested: 5-16-24

Explanation for request:

One bid was received for the paving of 5th Ave. S. from 26th-32nd St. Seeking to hire Payne and Dolan for \$243,550 to HMA Base crush and shape, and pave 5th Ave. South. Plans are for the work to be done between September 1st-October 30th, 2024. Public Works will prepare the drainage structures and leave a steel plate on each structure. The castings will be set to final grade by the contractor. The city will install ADA compliant sidewalks prior to the paving work on each street.

CITY OF ESCANABA  
RECORD OF BIDS

DATE BIDS OPENED: May 8, 2024  
DESCRIPTION OF ITEM: 2024-2025 Paving Bid - 5th Ave S

NAME OF BIDDER	HMA, Base Crush and Shape 10,000 Square Yards		HMA, 4EL 850 Tons		HMA, 5EL 850 Tons		GRAND TOTAL	CHECK BID BOND
	Cost	Total	Cost	Total	Cost	Total		
Payne & Dolan, Inc.	6.25	62,500	105	89,250	108	91,800	243,550	Bid Bond


PRESENT:  
*Larry Liswell*  
*Kent Dubord*

# PROPOSAL

Unit of Work	Quantity	Unit	Cost	Total
HMA, Base Crush and Shape	10,000	Square Yards	\$6.25	\$62,500.00
HMA, 4EL	850	Tons	\$105.00	\$89,250.00
HMA, 5EL	850	Tons	\$108.00	\$91,800.00
		<b>Grand Total</b>		<b>\$243,550.00</b>

\*The breakdown list of streets will have additional information concerning these items

This proposal for work within the city of Escanaba is proposed as stated above.

SUBMITTED BY:	<i>Tom Ritter</i>
FIRM	Payne & Dolan, Inc.
ADDRESS	801 Clark Drive
	Gladstone MI 49837
NAME	Tom Ritter
TITLE	Agent
SIGNATURE	
DATE	5/6/24

Agenda Item: NB-10  
Date: 05-16-2024

## City Council Agenda Item Request

Date: 5-8-24

Name: Kent Dubord

Department: Public Works

Item: Paving of S. 5th St.

Meeting date requested: 5-16-24

Explanation for request:

One bid was received for the paving of 5th St. S. from 2nd-3rd Ave. S. Seeking to hire Payne and Dolan for \$17,325 to pave 5th St. South. Plans are for the work to be done between July 1st-October 30th, 2024.

Public Works will tear up the existing road. With plans to remove the asphalt and concrete from the road. The storm sewer pipe from barrel to barrel will need to be replaced. The barrel on each end will be exposed and have necessary repairs made.




# PROPOSAL

Unit of Work	Quantity	Unit	Cost	Total
HMA, Base Crush and Shape	700	Square Yards	\$2.75	\$1,925.00
HMA, 4EL	110	Tons	\$140.00	\$15,400.00
		<b>Grand Total</b>		\$17,325.00

\*The breakdown list of streets will have additional information concerning these items

This proposal for work within the city of Escanaba is proposed as stated above

<b>SUBMITTED BY:</b>	Tom Ritter
<b>FIRM</b>	Payne & Dolan, Inc.
<b>ADDRESS</b>	801 Clark Drive
	Gladstone MI 49837
<b>NAME</b>	Tom Ritter
<b>TITLE</b>	Agent
<b>SIGNATURE</b>	
<b>DATE</b>	5/7/24



Agenda Item: NB-11  
Date: 05-16-2024

## City Council Agenda Item Request

Date: 5/10/2024

Name: Jeff Lampi

Department: Water Department

Item: Emergency Water Plant Filter #3 Replacement

Meeting date requested: 5/17/2024

Explanation for request:

Administration is requesting City Council's approval to hire Staab Construction from Marshfield, WI to conduct emergency filter #3 under drain replacement work at the City of Escanaba Water Treatment Plant in an amount not to exceed \$600,000.00.

This is a non-budgeted emergency repair.

Additional information will be provided once vetted.