



AGENDA

ZONING COMMITTEE

December 19, 2024

10 AM - Noon

Community Room

1. Call to Order
2. Review
 - a. Article 1 – Title & Purpose 1
 - b. Article 5 – General Provisions 3
3. Update
 - a. Downtown Petoskey Design Guidelines (Discussion)
4. If Time Allows
 - a. Article 12 – Administration and Enforcement 20
 - b. Article 13 – Amendments & Severability 25
5. Next Meeting

Article 1: TITLE & PURPOSE

1.1 TITLE

This Ordinance shall be known and may be cited as the City of Petoskey Zoning Ordinance, as amended, and is referred to throughout as the “Ordinance.”

1.2 PURPOSE

In accordance with the authority and intent of the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006 as amended, the purpose of this Ordinance is to promote, protect, regulate, restrict and provide for the use of land and buildings within the City of Petoskey; to meet the needs of the State's residents for places of residence, recreation, industry, trade, service and other uses of land; to ensure that uses of the land shall be situated in appropriate locations and relationships; to limit the overcrowding of land and congestion of population, and transportation systems and other public facilities; to regulate and limit the height and bulk of buildings, and other structures; to regulate and to determine the size of yards, courts, and open spaces; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs; to preserve and maintain high quality residential neighborhoods; to encourage a more walkable, nonmotorized community, and to promote public health, safety and welfare.

In providing for all these uses, services, and infrastructure, the City of Petoskey shall promote and approve the development of land and the extension of utilities in a logical and consistent pattern consistent with the continuation of historical development patterns and existing street patterns.

The City is divided into districts with regulations designating land uses or activities that shall be permitted or subjected to special regulations.

It is also the purpose of this Ordinance to provide the establishment of a Zoning Board of Appeals and its powers and duties; to provide for its administration and enforcement and for penalties for its violation, and to provide for the repeal of any and all ordinances inconsistent with the intent as outlined in this Ordinance.

1.3 AREA OF JURISDICTION

The provisions of this Ordinance shall apply to all development, public and private, throughout the incorporated areas of the City of Petoskey, Emmet County, Michigan, to the extent permitted by law. The area of jurisdiction is referred to throughout this Ordinance as the “City.”

1.4 RELATIONSHIP TO THE MASTER PLAN

This Ordinance is a tool used by the community to implement the recommendations of the City of Petoskey Master Plan, along with other planning documents, which serve as a guide to the long-term physical growth and redevelopment of the City.

41 1.5 INTERPRETATION OF CODE.

42 In interpreting and applying the provisions of this Chapter, they shall be deemed to be the minimum
43 requirements adopted for the promotion of public safety, health, convenience, comfort, prosperity, and
44 general welfare. This ~~Chapter-Zoning Code~~ does not intend to interfere with or subrogate or annul any
45 ordinances, rules, regulations, or permits previously adopted or issued in the Zoning Code. ~~and not in
46 conflict with any of the provisions of this Chapter, or which shall be adopted or issued, pursuant to the law
47 relating to the use of a building or premises, nor is it intended by this Chapter to interfere with or abrogate or
48 annul any easements, covenants, or other agreements between parties, provided, however, that W~~where
49 this ~~Chapter-Zoning Code~~ imposes a greater restriction upon the use of buildings or requires larger open
50 spaces than are imposed or required by any such ordinances, rules, regulations or permits, or by easements,
51 covenants or agreements, the provisions of this ~~Chapter-Zoning Code~~ shall control.

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53 1.6 CONFLICTING REGULATIONS

54 Wherever any provision of this ~~Chapter-Zoning Code~~ imposes more stringent requirements, regulations,
55 restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, then
56 the provision of this ~~Chapter-Zoning Code~~ shall govern. Whenever the provisions of any other law or
57 ordinance impose more stringent requirements than are imposed or required by this ~~Chapter-Zoning Code~~,
58 then the provisions of such other ordinance shall govern. Whenever any provision of any Zoning District as
59 hereinafter created in this ~~Chapter-Zoning Code~~ imposes more stringent requirements, regulations,
60 restrictions, or limitations than are imposed or required by any other provisions of this ~~Chapter-Zoning Code~~,
61 then the provision contained in the specific Zoning District shall apply.

62
63 The graphics, tables, and text used throughout this Ordinance are regulatory. In case of a conflict, text shall
64 control over tables or graphics; tables shall control over graphics. Photographs and illustrations marked
65 “example” or text marked “commentary” are not regulatory and are provided for illustrative purposes only.
66

Article 5: General Provisions

5.1 GENERAL PROVISIONS

The following provisions shall apply to the interpretation of this Code, and the application of the provisions of this Code to the use of land and the location and use of buildings and other structures within the City of Petoskey.

~~5.2 INTERPRETATION OF CODE.~~

~~In interpreting and applying the provisions of this Chapter, they shall be deemed to be the minimum requirements adopted for the promotion of public safety, health, convenience, comfort, prosperity, and general welfare. This Chapter does not intend to interfere with or subrogate or annul any ordinances, rules, regulations, or permits previously adopted or issued and not in conflict with any of the provisions of this Chapter, or which shall be adopted or issued, pursuant to the law relating to the use of a building or premises, nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Chapter imposes a greater restriction upon the use of buildings or requires larger open spaces than are imposed or required by any such ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provisions of this Chapter shall control.~~

~~5.3 CONFLICTING REGULATIONS~~

~~Wherever any provision of this Chapter imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, then the provision of this Chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Chapter, then the provisions of such other ordinance shall govern. Whenever any provision of any Zoning District as hereinafter created in this Chapter imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by any other provisions of this Chapter, then the provision contained in the specific Zoning District shall apply.~~

~~The graphics, tables, and text used throughout this Ordinance are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics. Photographs and illustrations marked "example" or text marked "commentary" are not regulatory and are provided for illustrative purposes only.~~

5.45.2 AWNINGS AND CANOPIES

No awning or canopy that emits any measurable illumination shall be approved in any district, and reflective material shall not be used on any awning or canopy in any Zoning District. An awning or canopy shall not be used as a sign.; ~~however, letters three (3) inches or less in height may be displayed on an approved awning or canopy, provided such lettering shall be uniformly located only along the lower edge of the awning or canopy in a single line, and further provided, such lettering shall have been approved by the Administrative Review Committee.~~ Awnings or canopies are prohibited in the CBD and adjacent districts unless approved by the ~~Administrative Review Committee~~Zoning Administrator after a review of a plan and drawing depicting the location, appearance, and composition of the proposed awning or canopy and a finding by the

43 ~~Administrative Review Committee~~Zoning Administrator that the proposed awning will not adversely impact
44 on neighboring buildings or uses in terms of size, color, design, or obstruction of view.

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46 5.55.3 BARRIER-FREE MODIFICATION

47 Nothing in this Ordinance shall prevent the unlimited modification of a building only as may be necessary to
48 comply with barrier-free requirements and the Americans with Disabilities Act subject to review and
49 approval by the Administrative Review Committee.

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51 5.65.4 BASEMENT DWELLINGS UNIT(S) – PROHIBITED

52 No building consisting of a basement ~~only~~ shall be erected or occupied as a dwelling unit in any Zoning
53 District. Basements may be occupied as a dwelling unit if they have been approved as an Accessory
54 Dwelling Unit (ADU) under Articles 7 and 9 as part of a larger structure.

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56 5.75.5 BUILDING GRADES

57 Any building located in a district that has a setback requirement shall be located at such an elevation that a
58 gradual sloping grade shall be maintained to cause the flow of surface water to run away from the walls of
59 the building. A sloping grade, beginning at the sidewalk level (or right of way level if there are no sidewalks),
60 shall be maintained and established from the front lot line to the finished grade at the front of the building,
61 provided the change in slope shall not increase the water runoff. However, this shall not prevent the grading
62 of a yard space to provide a sunken or terraced area if proper means are provided and maintained to prevent
63 the runoff of surface water from flowing onto adjacent properties or into the sanitary sewer system.

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65 When a new building is constructed on a vacant lot the existing established grade shall be used in
66 determining the grade around the new building. The yard around the new building shall be graded in such a
67 manner as to meet existing grades , and lots without a structure shall require review and approval from the
68 Zoning Administrator to ensure that grade changes meet the existing grades of adjacent properties.

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70 The Zoning Administrator will approve the final grades. If necessary, a "Certificate of Grading and Location
71 of Building" shall be duly completed and certified by a registered engineer or land surveyor before the grades
72 are approved.

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74 5.85.6 CARNIVALS, PUBLIC MEETING TENTS

75 Carnivals, public meeting tents, and circuses may be given temporary permits for varying periods by the City
76 Council, not to exceed fifteen (15) days, providing adequate traffic and parking provisions shall be made for
77 the use proposed, and any other provisions as set forth by the City Council shall be observed. The City
78 Manager shall have the responsibility of determining whether the traffic and parking provisions of the City
79 Code have been complied with and shall make a recommendation to the City Council as to whether or not
80 such a temporary permit shall be issued and as to what restrictions should be imposed upon said use. The
81 Council may, if it wishes, refer the matter to the Planning Commission for further study and
82 recommendations.

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84 **5-95.7** CERTIFICATE OF OCCUPANCY

85 No vacant land shall be occupied or used, and no building hereafter erected or altered shall be occupied,
86 used, or changed in use until a zoning permit is issued by the Zoning Administrator stating that the building
87 or proposed use of the building or premises complies with all of the building and health laws and
88 Ordinances, including the provisions of this **Chapter Zoning Code**.

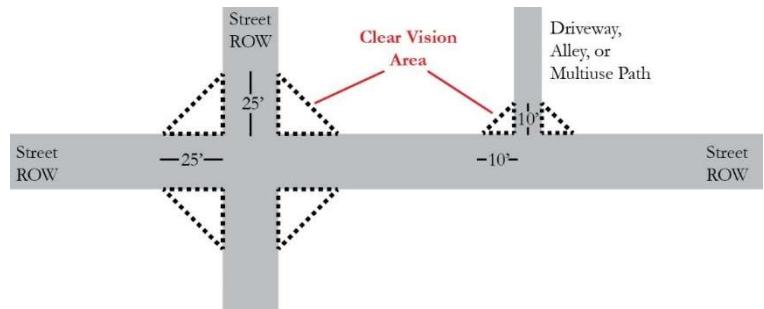
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90 The Zoning Administrator shall confirm that all zoning, site conditions, and Planning Commission conditions
91 of approval, if any, shall be completed before the issuance of a Certificate of Occupancy by the Emmet
92 County Building Department. A record of all certificates shall be kept on file in the office of the Zoning
93 Administrator, and copies shall be issued on request to any person having a proprietary or tenancy interest
94 in the affected building.

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96 **5-105.8** CLEAR VISION AREAS

97 A. No plantings, signs, or structures shall be established or maintained on any corner lot or along any
98 driveway that will likely result in obstructing the view of a vehicle approaching the intersection or
99 entering or exiting a driveway.

100
101 B. The following distances shall be used
102 when establishing a clear vision area:

- 103 1. Driveways: Ten (10) feet
- 104 2. Multi-Use Paths: Ten (10) feet
- 105 3. Street Intersections: Twenty-
- 106 five (25) feet



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109 C. This shall not prohibit the maintenance of landscaping less than thirty-six (36) inches in height in this
110 area, nor the planting of trees whose lowest branches are higher than ten (10) feet from grade.

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112 D. The Zoning Administrator may require a reduction in the height of screening or vegetation where
113 necessary to ensure adequate sight distance and/or corner clearance visibility for drive approaches
114 and public streets in proximity to screening or vegetation. In this case, height shall be reduced only
115 for that portion of the screening or vegetation necessary to provide adequate sight distance and/or
116 corner clearance necessary for traffic safety.

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120 **5-115.9** CORNER LOTS

121 Unless otherwise specified in this Ordinance, corner lots shall have two (2) front **yard** setbacks along the
122 roadways and two (2) side yard setbacks.

123
124 **5-125.10** DEMOLITION OF BUILDINGS

125 No structure on a parcel shall be demolished until the Zoning Administrator has issued a demolition permit.
126 The demolition shall be completed within such reasonable time period as shall be prescribed by the City

127 and under conditions that may be specified as necessary to protect the public health, safety, and welfare.
128 The demolition of structures within the City shall comply with the following:

- 129
- 130 A. An application for a demolition permit shall include the reasons for the demolition and the intended
- 131 use of the property following demolition. If the intended use is not permitted under the property’s
- 132 current zoning, a demolition permit shall be withheld until approval for the new use is obtained
- 133 unless the property is deemed a hazard or attractive nuisance to the general public.
- 134
- 135 B. Following demolition of the structure and the removal of all required debris, any excavation or
- 136 foundation shall be backfilled with clean fill, and the site shall be graded to meet existing grades at
- 137 the property lines and prevent drainage of surface water onto abutting properties.
- 138
- 139 C. Following grading, all non-paved areas shall be top dressed with a minimum two (2) inches of topsoil
- 140 and seeded with ~~an~~ appropriate plant materials.
- 141
- 142 D. An accessory building remaining on a property following the demolition of the principal structure
- 143 shall be maintained in good condition.
- 144
- 145 ~~D.E.~~ Reference Section 5.19 for additional requirements regarding the demolition of historic
- 146 buildings.

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148 **5.135.11 DRIVEWAY REQUIREMENTS**

149 This section shall apply to all zoning districts as provided for herein. The purpose of this section is to make
150 the city safe and accessible for drivers, pedestrians, and cyclists in the design of all parking areas by
151 promoting site designs that help to reduce conflicts, enhance the community, and support a multi-modal
152 transportation mix.

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- 154 A. General provisions apply to all zoning districts.
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- 156 1. No parking area, driveway, or off-street parking space shall be constructed, expanded, or
- 157 improved without a zoning permit. Normal maintenance, such as regrading of legal non-
- 158 conforming gravel parking areas or the addition of top coat or sealer to existing paved parking
- 159 areas, will not trigger full off-street parking compliance; however, pulverizing an existing
- 160 asphalt, concrete, or other paved parking surfaces, the outright removal or substantial
- 161 modification of the paved surface in preparation for paving and demolition by neglect which
- 162 serves to return a parking area substantially to gravel or other aggregate surfaces, shall, for
- 163 this section, be considered new parking.
- 164
- 165 2. New parking lot construction shall require a detailed site plan in accordance with Article 6
- 166 and ~~P~~lanning ~~C~~ommission approval. Driveways in ~~single-family~~the [add districts] zoning
- 167 districts are exempt from this requirement.
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- 169 ~~2.~~
- 170 3. Any expansion of an existing building shall require a review of the adequacy of on-site
- 171 parking.
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- 4. Required off-street parking spaces shall not be replaced by any other use unless and until an equal number of parking spaces are provided elsewhere and are so provided in compliance with this section.
- 5. All parking areas and driveways shall be constructed with an approved ~~hard~~ surface: paved with asphalt, concrete, ~~pervious materials~~, or other similar materials, which shall extend as a continuous, uninterrupted pavement from the garage, parking area, or combination thereof to a street or alley. Driveway approaches shall be concrete and provide for a sidewalk profile. The parking area shall be surfaced within one year of the date the zoning permit is issued.
- 6. To minimize excessive areas of pavement that contribute to higher rates of storm water runoff, exceeding the parking space requirements of Article 6 in non-residential districts shall be prohibited.
- 7. Driveway curb cuts shall be placed at least 30 feet from an intersection measured from the radius ~~sprint~~ point as defined in §5.10.
- 8. Driveway curb cuts shall be no wider than 16 feet in ~~one--and two-family~~~~add districts~~ districts and 24 feet in commercial districts.

5.145.12 EARTH REMOVAL; COMMERCIAL ENTERPRISES

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No earth, soil, sod, sand, gravel, minerals, or similar materials shall be excavated, dug, or removed from any lot or parcel of land for the purpose of sale or resale or for any other commercial purpose whatsoever until a written permit ~~and site plan approval~~ is secured from the Planning Commission.

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A permit for removal as aforesaid shall set out the exact description of the lot or parcel of land to be used, the length of time said permit shall be valid, and such other conditions as the Planning Commission deems necessary to guarantee that the excavating, digging, removal or relocation of said materials will not constitute or tend to create a public nuisance or health hazard. The Planning Commission is authorized to require a bond or cash deposit for the purpose of guaranteeing that at the expiration date of said permit, the area and adjacent lands will be left in a suitable condition for such land uses as are permitted in the district where such lot or parcel of land is located., ~~according to the Master Plan and a site plan approved by the Planning Commission.~~

5.155.13 FENCES

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All fences shall require a zoning compliance permit issued by the zoning administrator and shall comply with the following regulations and requirements.

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A. Location.

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- 1. Corner-front yard. Only decorative and living fences are allowed within a corner-front yard with a minimum setback of two feet from the street-fronting property line.

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- 2. Side and rear yards. Fences may be placed up to a lot line in the side and rear yards.

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~~2.~~

- 219 3. Fences shall be located so as to not obstruct corner clearance or vision of motorists exiting
- 220 driveways.
- 221
- 222 4. No fence shall be placed within the city right-of-way and if so placed shall be removed at the
- 223 owner's expense.
- 224
- 225 5. Underground electric fences shall be set a minimum of five feet from a front or corner-front
- 226 property line.
- 227

228 B. Height and design restrictions.

- 229
- 230 1. Side and rear yard fences shall not exceed six feet in height and shall not extend beyond the
- 231 principal structure into a front yard.
- 232
- 233 2. Corner-front yard decorative fences shall not exceed three and one-half feet (42 inches) in
- 234 height and shall not obstruct vision to an extent greater than 50 percent of the total area.
- 235
- 236 3. Chain link fences are only allowed in rear and side yards. Fences used along the side yard
- 237 shall not extend beyond the front façade of the structure.
- 238
- 239 4. Living fences shall not exceed three feet in height in a corner-front yard, shall be placed so
- 240 that growth is kept at least two feet from the property line, and shall not contain invasive
- 241 species.
- 242
- 243 5. Fences that enclose public or institutional parks, playgrounds, or public landscaped areas
- 244 situated within an area developed with recorded lots shall not exceed eight feet in height,
- 245 measured from the surface of the ground.
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- 247 6. Fences may be placed on retaining walls, berms or similar features with the fence height to
- 248 be measured from the established grade.
- 249
- 250 7. All fences shall have the finished side facing the adjacent property or public right-of-way.
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252 C. Maintenance of nuisances.

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- 254 1. Fences shall be maintained so as not to endanger life or property. Any fence which, through
- 255 lack of repair, type of construction, or otherwise, endangers life or property is hereby deemed
- 256 a nuisance per Article 12 of this Code.
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258 5.165.14 FRACTIONAL MEASUREMENTS

259 When using units of measurement to determine requirements of the standards presented in this Ordinance
260 result in a fractional number, any number up to one-half (1/2) shall be disregarded, and fractions equal to
261 one-half (1/2) or more shall be rounded up to the nearest whole number, unless noted otherwise.
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263 ~~5.175.15~~ FRONTAGE ON THE STREET

264 No lot shall be used for any purpose permitted by this ordinance unless said lot abuts a public street unless
265 otherwise provided for in this ordinance.

267 ~~5.185.16~~ GARAGES

268 Garages shall be considered accessory structures and, depending on the accessibility to the subject
269 property, shall meet the following requirements:

- 271 A. ~~Lots with Alleys.~~ Detached garages shall be accessed from an alley where one exists and is useable.
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- 273 B. ~~Lots without Alleys or the Alley is Unusable.~~ Where an alley does not exist or is deemed by the Zoning
274 Administrator as unusable, a detached garage shall be placed to the rear or side of principal
275 structures and shall not protrude into a front yard, nor extend into the side yard or rear yard setbacks.
- 276
- 277 C. ~~Attached Garages.~~ A garage may be attached to the principal structure, however, it shall not extend
278 into the side yard setback and shall be at least to (2) back from the front face of the primary
279 structure.;

281 ~~5.195.17~~ HISTORIC BUILDING RESTRICTION/PRESERVATION

282 ~~D.A.~~ No existing building listed by the State of Michigan and/or the National Register of Historic
283 Places shall be structurally altered on its exterior or demolished until the impact of the proposed
284 action has been examined by the Planning Commission.

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286 ~~E.B.~~ If the Planning Commission deems it necessary, a preservation plan based on the Secretary
287 of the Interior’s Standards for the Treatment of Historic Properties (2017), may be required from the
288 owner before a permit to alter the building is granted.

289

290 ~~F.C.~~ The purpose of this subsection is to protect and guard, as part of the cultural inheritance of
291 the City of Petoskey, those unique historic buildings that have been designated by the State of
292 Michigan and/or the Department of the Interior; to preserve the cultural, historic, and tourist
293 attractive nature of the City, so as to benefit the City by promoting the tourist industry and the
294 economic health and welfare of the City, as well as preserving places of historic interest.

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296 ~~G.D.~~ The historic buildings governed by this section include:

- 297
- 298 1. ~~Chesapeake & Ohio Railway Station – Waterfront Park (#86001979)~~
- 299 2. ~~Grace Methodist Episcopal Church – 625 Connable Street (#86002012)~~
- 300 3. ~~Mineral Well Park – West Lake Street (#86002036)~~
- 301 4. ~~Petoskey Public Works Utility Building – 106 W. Lake Street (#86002056)~~
- 302 5. ~~Seventh Day Adventist Church – 224 Michigan Street (#86002077)~~
- 303 6. ~~Petoskey Downtown Historic District (#86002048)~~
- 304 7. ~~St. Francis Solanus Mission – 475 W. Lake Street (#86002080)~~
- 305 8. ~~Trinity Evangelical Church – 219 State Street (#86002083)~~
- 306 9. ~~West Mitchell Street Bridge (#86002085)~~
- 307 10. ~~Zion Evangelical Lutheran Church – 812 Petoskey Street (#86002086)~~

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<u>86001973</u>	<u>Allen, J. B., House</u>	<u>822 Grove St.</u>
<u>86001975</u>	<u>Bartram, Isaac, House</u>	<u>508 Wachtel Ave.</u>
<u>72000613</u>	<u>Bay View</u>	<u>NE of Petoskey on US 31</u>
<u>86001977</u>	<u>Carmichael, W. S., House</u>	<u>301 Jackson St.</u>
<u>70000270</u>	<u>Chesapeake & Ohio Railway Station</u>	<u>Pioneer Park, W. Lake St.</u>
<u>86001979</u>	<u>Debenham, I. N., House</u>	<u>1101 Emmet St.</u>
<u>86001983</u>	<u>East Mitchell Street Historic District</u>	<u>Roughly bounded by Rose, Kalamazoo, State, Howard, Michigan, and Division</u>
<u>86001998</u>	<u>Fochtman, Gerhard, House</u>	<u>1004 Waukazoo Ave.</u>
<u>86002001</u>	<u>Fourth Ward Polling Place</u>	<u>209 Washington St.</u>
<u>86002002</u>	<u>Fryman, Meyer, House</u>	<u>211 Michigan St.</u>
<u>86002012</u>	<u>Grace Methodist Episcopal Church</u>	<u>625 Connable St.</u>
<u>86002013</u>	<u>Hobbins, Bert and John, House</u>	<u>1024 Emmet St.</u>
<u>86002015</u>	<u>Hosman and Wheeler Meat Market</u>	<u>621 Ingalls Ave.</u>
<u>86002017</u>	<u>Kabler, John, House</u>	<u>415 Jackson St.</u>
<u>86002018</u>	<u>Leshner, Frank, House</u>	<u>122 Sheridan St.</u>
<u>86002020</u>	<u>Malin, A., House</u>	<u>54 Bridge St.</u>
<u>86002023</u>	<u>Markle, George and Eugene, House</u>	<u>701 Kalamazoo St.</u>
<u>86002026</u>	<u>McManus, George, House</u>	<u>121 State St.</u>
<u>86002030</u>	<u>Meyers, Elias, House</u>	<u>912 Baxter St.</u>
<u>86002031</u>	<u>Miller, Jacob, House</u>	<u>307 Jackson St.</u>
<u>86002036</u>	<u>Mineral Well Park</u>	<u>W. Lake St.</u>
<u>86002039</u>	<u>Nyman, John, House</u>	<u>915 Emmet St.</u>
<u>86002042</u>	<u>Olin, G. W., House</u>	<u>610 Kalamazoo St.</u>
<u>86002045</u>	<u>Pennington, Sarah, House</u>	<u>719 Maple St.</u>
<u>86002048</u>	<u>Petoskey Downtown Historic District</u>	<u>Roughly bounded by Rose, Division, Michigan, and Petoskey</u>
<u>86002051</u>	<u>Petoskey Grocery Company Building</u>	<u>616 Petoskey St.</u>
<u>86002056</u>	<u>Petoskey Public Works Utility Building</u>	<u>106 W. Lake St.</u>
<u>86002069</u>	<u>Rehkopf, Phillip, House</u>	<u>918 Howard St.</u>
<u>86002072</u>	<u>Schantz, George, House and Store</u>	<u>534 Wachtel Ave.</u>
<u>86002074</u>	<u>Schapler, Frank, House</u>	<u>106 E. Lake St.</u>
<u>86002077</u>	<u>Seventh Day Adventist Church</u>	<u>224 Michigan St.</u>
<u>86002079</u>	<u>Shafer's Grocery and Residence</u>	<u>1018 Emmet St.</u>
<u>72000614</u>	<u>St. Francis Solanus Mission</u>	<u>W. Lake St.</u>
<u>86002080</u>	<u>Stout House</u>	<u>606 Grove St.</u>
<u>86002082</u>	<u>Trinity Evangelical Church</u>	<u>219 State St.</u>
<u>86002083</u>	<u>VanZolenburg, Jacob, House</u>	<u>209 State St.</u>
<u>86002084</u>	<u>Wells, J. M., House</u>	<u>203 W. Lake St.</u>
<u>86002085</u>	<u>West Mitchell Street Bridge</u>	<u>W. Mitchell St. at Bear River</u>

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310 5.205.18 LIGHTING, EXTERIOR

311 All exterior lighting including lighting for parking areas or for the external illumination of buildings or grounds,
312 or for the illumination of signs and other uses, shall be directed away from and shall be shielded from
313 residential districts and shall also be so arranged and directed as to not adversely affect driver visibility on
314 adjacent streets. Exterior lighting fixtures shall be Dark Sky compliant.

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316 5.215.19 LIVESTOCK & WILD GAME

317 No livestock, including but not limited to cows, calves, bulls, steers, horses, mules, burros, donkeys, goats,
318 hogs, sheep, roosters, turkeys, chickens, guinea hens, ducks, geese, or any wild game shall be maintained
319 in any of the zone districts.

320
321 5.225.20 LOTS ADJOINING ALLEYS

322 In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements of this
323 ordinance, one-half the width of such alley abutting the lot shall be considered as part of such lot.

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325 5.235.21 MOTOR VEHICLES, BOATS, MACHINERY, AND RECREATIONAL VEHICLES – OUTSIDE
326 STORAGE RESTRICTED

- 327 A. No motor vehicle shall be kept, parked, or stored in any district unless it shall be in operating
328 condition and properly licensed or kept inside a building. No motor vehicle shall be parked in any
329 front yard or corner side yard except upon a paved surface.
- 330
331 B. No old, rusty, and unsightly machinery, or parts thereof, or machines or parts of machines not suited
332 for use upon the premises, or quantities of old or used building materials shall be kept or stored
333 outside a building.
- 334
335 C. The open parking and/ or storage of a boat or recreational vehicle not owned by a resident or property
336 owner of the City for periods exceeding twenty-four (24) hours on lands not approved for said parking
337 or storage shall be expressly prohibited, except that the Zoning Administrator may extend temporary
338 permits allowing the parking of a recreation vehicle in a rear yard on private property not to exceed a
339 period of two (2) weeks. All boats and recreational vehicles owned by residents or property owners
340 of real estate within the City and stored on their individual lots shall not be stored within any front
341 yard or any side yard, and the regulations applicable to accessory buildings in Article 3 of this
342 Chapter shall apply to said recreation vehicles, insofar as distances from principal structures, lot
343 lines, and easements are concerned. Except within approved mobile home parks (or upon temporary
344 approval of the Building Inspector as aforesaid), no recreational vehicle shall be connected to
345 sanitary facilities, and no recreational vehicle shall be occupied.
- 346
347 D. No motor vehicle shall be stored or parked on any residential lot on which there is no dwelling, nor
348 shall more than one (1) motor vehicle for each one thousand (1,000) square feet of side and rear yard
349 area be stored or parked on any lot on which a dwelling is located.
- 350

351 **5.245.22** NON-CONFORMITIES

352 It is the intent of this ordinance to permit legal nonconforming lots, structures, or uses to continue until they
353 are removed but not to encourage their survival.

354
355 It is recognized that there exists within the districts established by this ordinance and subsequent
356 amendments, lots, structures, and uses of land and structures that were lawful before this ordinance was
357 passed or amended which would be prohibited, regulated, or restricted under the terms of this ordinance or
358 future amendments.

359
360 Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved.
361 Further, the intent of this ordinance is that nonconformities shall not be enlarged upon, expanded, or
362 extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same
363 district.

364
365 A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and
366 land shall not be extended or enlarged after passage of this ordinance by attachment on a building or
367 premises of additional signs intended to be seen from off the premises, or by addition of other uses of a
368 nature which would not be permitted generally in the district involved.

369
370 If a building permit has been issued for a building prior to the passage of this ordinance, such building shall
371 be permitted, even if nonconforming to the provisions of this ordinance, provided: (1) Construction is begun
372 within 30 days after the effective date of this ordinance, (2) That construction is continuous until the building
373 is completed, (3) That actual construction has been undertaken at the time of the effective date of this
374 ordinance when the building permit was issued more than 60 days prior to the effective date of this
375 ordinance.

376
377 **5.24.15.22.1** Nonconforming Lots

378 A. In any district in which single-family dwellings are permitted, notwithstanding limitations
379 imposed by other provisions of this ordinance, a single-family dwelling and customary
380 accessory buildings may be erected on any single lot of record at the effective date of
381 adoption or amendment of this ordinance. This provision shall apply even though such lot fails
382 to meet the requirements for area or width, or both, that are generally applicable in the
383 district, provided that yard dimensions and other requirements not involving area or width or
384 both, of the lot shall conform to the regulations for the district in which such lot is located.
385 Yard requirement variances may be obtained through approval of the board of appeals.

386
387 **5.24.25.22.2** Nonconforming Uses of Land

388 A. Nonconforming uses of land. Where, at the effective date of adoption or amendment of this
389 ordinance, lawful use of land exists that is made no longer permissible under the terms of
390 this ordinance as enacted or amended, such use may be continued so long as it remains
391 otherwise lawful, subject to the following provisions:

- 392
393 1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a
394 greater area of land than was occupied at the effective date of adoption or amendment
395 of this ordinance;

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- 2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
- 3. If the use of any nonconforming structure or land is discontinued through abandonment, vacancy, lack of operation, or as otherwise provided by law for a continuous period of 365 days or more, then the use of such structure or land shall not be resumed until such use or structure strictly conforms to the regulations specified by this zoning ordinance for the district in which such building or land is located. A structure or use of land is deemed to be discontinued and abandoned if, in addition to the use ceasing for 365 days, any one or more of the following conditions exist:
 - a) Utilities, such as water, gas, and electricity to the property have been disconnected;
 - b) The property, building, or grounds have fallen into disrepair in a manner that result in a violation of applicable zoning and property maintenance codes or would otherwise give the appearance of neglect or abandonment;
 - c) Signs or other indications of the existence of the non-conforming use have been removed;
 - d) Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
 - e) Other actions which, in the opinion of the city manager or zoning administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use or structure.

5.24.35.22.3 Nonconforming Use of Structures

- A. Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - 1. No such structure may be enlarged or altered in a way that increases its nonconformity. Such structures may be enlarged or altered in a way that does not increase their nonconformity.
 - 2. Should such structure be destroyed by any means to the extent of more than 60 percent of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this ordinance.
 - 3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is removed.

5.24.45.22.4 Nonconforming Use of Structures and Land

- A. If a lawful use of a structure, or a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not be permitted in the district

440 under the terms of this ordinance, the lawful use may be continued so long as it remains
441 otherwise lawful, subject to the following provisions:

- 442
- 443 1. No existing structure devoted to a use not permitted by this ordinance in the district in
444 which it is located shall be enlarged, extended, constructed, reconstructed, moved, or
445 structurally altered except in changing the use of the structure to a use permitted in the
446 district in which it is located.
- 447 2. Any nonconforming use may be extended throughout any parts of a building that were
448 manifestly arranged or designed for such use and which existed at the time of adoption
449 or amendment of this ordinance, but no such use shall be extended to occupy any land
450 outside such building.
- 451 3. If no structural alterations are made, any nonconforming use of a structure, or structure
452 and land in combination, may be changed to another nonconforming use of the same or
453 a more restricted classification provided that the board of appeals, either by general rule
454 or by making findings in the specific case, shall find that the proposed use is equally
455 appropriate or more appropriate to the district than the existing nonconforming use. In
456 permitting such change, the board of appeals may require conditions and safeguards in
457 accordance with the purpose and intent of this ordinance. Where a nonconforming use
458 of a structure, land, or structure and land in combination is hereafter changed to a more
459 conforming use, it shall not thereafter be changed to a less conforming use.
- 460 4. d. Any structure, or structure and land in combination, in or on which a nonconforming
461 use is superseded by a permitted use, shall thereafter conform to the regulations for the
462 district in which such structure is located, and the nonconforming use may not thereafter
463 be resumed.
- 464 5. Where nonconforming use status applies to a structure and land in combination,
465 removal or destruction of the structure shall eliminate the nonconforming status of the
466 land.

467
468 **5.24.55.22.5 Repairs and Maintenance**

- 469
- 470 A. On any building devoted in whole or in part to any nonconforming use, work may be done in
471 any period of 12 consecutive months on ordinary repairs or on repair or replacement of
472 nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 50 percent of the
473 equalized value of the building, provided that the cubic content of the building as it existed
474 at the time of passage or amendment of this ordinance shall not be increased. Nothing in this
475 ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of
476 any building or part thereof declared to be unsafe by any official charged with protecting the
477 public safety upon order of such official.

478
479 **5.24.65.22.6 Change of Tenancy or Ownership**

- 480
- 481 A. There may be a change of tenancy, ownership, or management of any existing
482 nonconforming uses of land, structures, or land and structures in combination.
- 483

484 5.255.23 OPEN SPACE PRESERVATION

485 A. Whenever the preservation of open space is required by this Ordinance, the applicant shall provide
486 a demonstrated means that all open space portions of the development will be maintained in the
487 manner approved. Documents shall be presented that bind all successors and future owners in fee
488 title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of
489 ownership or control, provided notice of such transfer is provided to the City and the land uses
490 continue as approved in the open space community plan. The dedicated open space shall be set
491 aside by the applicant through an irrevocable conveyance that is found acceptable to the City
492 Attorney, such as:

- 493 1. Recorded deed restrictions.
- 494 2. Covenants that run perpetually with the land,
- 495 3. Conservation easements such as those established per the Natural Resources and
496 Environmental Protection Act; Act 451 of 1994, MCL 324.2144.

501 B. Such conveyance shall ensure that the open space will be protected from all forms of development,
502 except as shown on an approved site plan, and shall never be changed for another use. Such
503 conveyance shall:

- 504 1. Indicate the proposed allowable use(s) of the dedicated open space.
- 505 2. Demonstrate to the satisfaction of the City that dedicated open space shall be maintained.
- 506 3. Provide standards for scheduled maintenance of the open space.
- 507 4. Provide for maintenance to be undertaken by the City in the event that the dedicated open
508 space is inadequately maintained, or is determined by the City to be a public nuisance, with
509 the assessment of costs upon property owners within the proposed development.

514
515 5.265.24 OUTDOOR STORAGE OF MOTOR VEHICLES, EXCLUDING RECREATION VEHICLES

516 A. No motor vehicle shall be kept, parked, or stored in any district unless it shall be in operating
517 condition and properly licensed or kept inside a building. No motor vehicle shall be parked in any
518 front yard or corner side yard except upon a driveway with a surface specified in Section 5.13.

519 B. No old, rusty, and unsightly machinery, or parts thereof, or any machines or parts of machines not
520 suited for use upon the premises, or quantities of old or used building materials, shall be kept or
521 stored outside a building.

522 C. The open parking and/ or storage of vehicle not owned by a resident or property owner of the City, for
523 periods exceeding twenty-four (24) hours on lands not approved for said parking or storage, shall be
524 expressly prohibited, except that the Zoning Administrator may extend temporary permits allowing
525 the parking of a recreation vehicle in a rear yard on private property not to exceed a period of two (2)
526 weeks.
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530 D. No motor vehicle shall be stored or parked on any residential lot on which there is no dwelling.

531

532 E. The number of motor vehicles permitted on a residential lot shall be in compliance with Article 6.

533

534 **5.275.25** PERMITTED HEIGHT EXCEPTIONS

535 The height limitations of this ordinance shall not apply to the following items enumerated below; however,
536 the Administrative Review Committee or the Planning Commission may specify a height limit for any such
537 structure when such structure requires authorization as a special or conditional use.

538

539 The following structural appurtenances shall be permitted to exceed the height limitations of the district
540 within which it is located:

541

542 A. Chimneys, church spires, flag poles, public monuments, or wireless transmission towers; provided,
543 however, the Administrative Review Committee or the Planning Commission may specify a height
544 limit for any such structure when such structure requires authorization as a conditional use.

545

546 B. Structural extensions deemed necessary for appropriate building design, such as cornices or
547 parapet walls that may extend to a maximum of forty-two (42”) inches above the height limitations
548 for the district and shall have no openings.

549

550 **5.285.26** PERMITTED YARD ENCROACHMENTS

551 Certain building and architectural features may encroach into required yards as follows:

552

553 A. An open, unenclosed, and uncovered porch or paved terrace may project into a front yard for a
554 distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.

555

556 B. Architectural features, not including vertical projections, may extend or project into a required yard
557 not more than four inches for each foot of width of such side yard and may extend or project into a
558 required front yard or rear yard not more than three feet.

559

560 C. Uncovered and unenclosed ground story decks, patios, pergolas, or terraces less than thirty (30)
561 inches above grade may project into a required yard a maximum of thirty (30%) percent of the
562 required rear yard.

563

564 D. Open porches that extend from the ground floor level of a single-dwelling or duplex residence may
565 project into a required front yard setback of a maximum of seven (7) feet.

566

567 **5.295.27** PUBLIC USES: CRITICAL, ESSENTIAL, & SUPPORTING

568 Critical, essential, and supporting services shall be permitted as authorized and regulated by law, as well as
569 other ordinances by law and other ordinances of the city, the intention hereof being to exempt such essential
570 services from the application of this ordinance.

571

572 **5.305.28** RAW MATERIALS STORAGE AND DUMPING

- 573 A. No lot or parcel of land shall be used for the dumping or storage of soil, sand, gravel, broken
- 574 concrete, or similar materials until a special land use permit is secured from the Planning
- 575 Commission.
- 576
- 577 B. The permit shall set out the specific area to be used for dumping or storage of said materials, the
- 578 length of time the permit shall be valid, and such other conditions as the Planning Commission
- 579 deems necessary to guarantee that the dumping or storage of said materials will not constitute or
- 580 tend to create a public nuisance or health hazard. At the expiration date of said permit, the area and
- 581 adjacent lands will be left in a suitable condition for such land uses as are permitted in the district
- 582 where the dumping or storage was permitted according to a plan approved by the Planning
- 583 Commission.
- 584

585 **5.315.29** RECREATIONAL VEHICLES

586 The outdoor storage of recreational vehicles shall be subject to the following:

- 587
- 588 A. Be limited to one (1) stored in the rear yard and one (1) on a paved driveway in any [INSERT ZONING
- 589 DISTRICTS SUFFIX] Zoning District.
- 590
- 591 B. All boats and recreational vehicles owned by residents or property owners within the City and stored
- 592 on their individual lots shall not be stored within any front yard or any side yard, and the regulations
- 593 applicable to accessory buildings in Article 3 of this Ordinance shall apply to said recreation
- 594 vehicles, insofar as distances from principal structures, lot lines, and easements are concerned.
- 595
- 596 C. Be registered with the occupant of the property unless established for approved storage use.
- 597
- 598 D. Not be parked overnight on any street, alley, highway, or public space.
- 599
- 600 E. No recreational vehicle shall be stored or parked on any residential lot on which there is no dwelling.
- 601

602 **5.325.30** RELOCATION OF BUILDINGS

603 The relocation of a building to a different location in the City shall be the same as erection of a new building,
604 and all applicable provisions, regulations, and required permitting shall be followed and obtained.

606 **5.335.31** RESTORATION OF UNSAFE BUILDINGS

607 Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any
608 building or structure declared unsafe by the Zoning Administrator, Building Inspector, or Public Health
609 Inspector.

611 **5.345.32** REQUIRED WATER SUPPLY AND SANITATION FACILITIES

612 Buildings erected, altered or moved upon any premises and used in whole or in part as either year-round or
613 seasonal dwellings or for recreational, business, commercial, or industrial purposes, including religious

614 institutions, schools, and other buildings in which persons customarily congregate, shall have adequate
615 water and sanitary facilities as determined by the City of Petoskey.

616
617 **5.355.33** SHIPPING (CARGO) CONTAINERS

618 Shipping (cargo) containers are not allowed in any zoning district.

619
620 **5.365.34** SIDEWALK REQUIREMENTS

621 Other Zoning Districts. In all other zoning districts, it shall be the duty of both the owner and occupant of any
622 premises within the City to provide a concrete sidewalk along the full length of every existing street or
623 highway that either abuts or runs through said premises, said sidewalk to be constructed in accordance with
624 applicable standards and specifications of the City, which shall be maintained by the City Clerk and shall be
625 available for public inspection. Whenever any construction is proposed for which a Site Plan is required, the
626 Site Plan as submitted must include the completed construction project, which shall include the placement
627 and construction of a sidewalk as aforesaid.

628
629 **5.375.35** SIGNS

630
631 Signs shall be regulated as provided in Ordinance No. 550 (Appendix C of this Code).

632
633 **5.385.36** SWIMMING POOLS-PRIVATE

634 A. Private swimming pools shall be subject to the following:

- 635
- 636 1. No portion of the swimming pool or associated structures shall be permitted to encroach
- 637 upon any easement or right-of-way that has been granted for public utility use.
- 638
- 639 2. The swimming pool shall not encroach into a required side yard, and the rear yard setbacks
- 640 shall be a minimum of 15 feet.

641
642 **5.395.37** TEMPORARY BUILDINGS and USES

643 Temporary buildings and uses for periods not to exceed one year, renewable upon re-application, to the
644 Planning Commission. The Planning Commission, in granting permits for the above temporary uses, shall
645 do so under the following conditions:

- 646
- 647 A. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in
- 648 the district nor on the property wherein the temporary use is permitted.
- 649
- 650 B. The temporary use shall be granted in writing, stipulating all conditions as to time, the nature of
- 651 development permitted, and arrangements for removing the use at the termination of said temporary
- 652 permit.
- 653
- 654 C. All setbacks, land coverage, off-street parking, lighting, and other requirements to be considered in
- 655 protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of
- 656 the inhabitants of the City of Petoskey shall be made at the discretion of the board of appeals.

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D. In classifying uses as not requiring capital improvement, the board of appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf-driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.

E. The use shall be in harmony with the general character of the district.

F. No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of the review. Further, the board of appeals may seek the review and recommendation of the planning commission prior to taking action on the temporary use request.

5.405.38 TEMPORARY BUILDINGS FOR CONSTRUCTION

670 Temporary buildings or structures may be utilized during construction for the storage of construction
671 materials and for construction offices during a construction period of an approved project. Temporary
672 buildings shall be removed within thirty (30) days after the completion or abandonment of the work. No
673 temporary building or structure shall be used as a dwelling unit.

5.415.39 TRASH REMOVAL, ENCLOSURE AND SCREENING

- 676 A. Trash dumpsters shall be screened with a wood privacy-type fence or other solid visual barrier at a
677 height equal to or greater than the height of the trash receptacle.
- 678
- 679 B. Outdoor trash storage shall be located in a side or rear yard and shall be at least ten feet from any
680 building for fire safety purposes.
- 681
- 682 C. If outdoor storage is added to a property after site plan review approval, it shall be provided with
683 screening and shall meet other standards as required in this section, subject to city approval.
- 684

5.425.40 WEATHER BARRIERS - EXTERIORS-PROHIBITED

686 All buildings are prohibited from using any weather barrier materials as an exterior surface.

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688

5.435.41 VOTING PLACE

689 The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any
690 property as a voting place in connection with a municipal or other public election.

Article 12: Administration & Enforcement

12.1 ZONING ADMINISTRATOR

A Zoning Administrator shall be hired by the City Manager and on such terms as shall be determined by the City Council. The duties of the Zoning Administrator may be delegated by the City Manager to another employee of the City or a consultant approved by the City Council.

12.1.1 Duties

It shall be the duty of the Zoning Administrator to:

- A. Receive applications for land use permits and issue or deny them.
- B. Inspect buildings or structures in order to determine compliance with the land use permits issued in compliance with this Ordinance.
- C. Be in charge of the enforcement of this Ordinance. The City Manager may, at their discretion, instruct the Zoning Administrator to make efforts to obtain voluntary compliance with this Ordinance. The City Manager may instruct the Zoning Administrator, in writing, to initiate a criminal complaint or other legal action. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance or to vary its terms in carrying out the Zoning Administrator’s duties.
- D. Perform pre-application conferences, completeness reviews, and technical reviews for all applications that include a site plan review.

12.2 FEES

The fees for applications, permits and other requests shall be established by the City Council. Fees must be paid before any review of an application is performed or a permit is issued. Certain applications, permits and requests are subject to the City of Petoskey Escrow Policy, as defined in that policy.

12.3 PERFORMANCE GUARANTEES

To ensure compliance with the Ordinance and any conditions imposed, the Planning Commission may require that a cash deposit, irrevocable letter of credit, certified check, or surety bond acceptable to the City covering the estimated cost of improvements be deposited with the City Clerk to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the building permit. The City shall not require the deposit of the performance guarantee until it is prepared to issue the zoning permit. If requested by the applicant of the site plan review, the City shall rebate any cash deposits in reasonable proportion to the ratio of work completed on the required improvements as work progresses.

41 12.4 TAXES

42 When the City receives an application for any new or amended land use or zoning permit, site plan review,
43 special land use permit, any other application, or any request for a permit or approval required by this Zoning
44 Ordinance, the applicant shall be required to present a signed statement from the City Treasurer that all real
45 and personal property taxes, fees, penalties, fines, assessments, general assessments and other monies
46 owed to the City are current and paid up to date. The City Treasurer’s signed statement shall cover the
47 accounts of all named applicants and all properties upon which the application or request is made. The City
48 shall take no action on any application or request until the applicant or requesting party acquires the City
49 Treasurer’s signed statement that all of the above monies owed are current and paid up to date. The City
50 shall make no final decision on any application or request if any of the above monies owed become
51 delinquent or remain unpaid during consideration.

52
53 12.5 PUBLIC HEARINGS

54 The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a
55 completed application, select a reasonable time and place for such hearing. Such hearings shall be held in
56 accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended), and the following:
57

58 12.5.1 Public Notice

59 A. Notice of the public hearing shall be:

- 60
- 61 1. Posted by the City Clerk at the place the hearing will be held.
- 62
- 63 2. Published in a newspaper of general circulation in the City not less than fifteen (15) days
- 64 before the date of the public hearing.
- 65
- 66 3. Sent by mail or personal delivery not less than fifteen (15) days before the date of the
- 67 public hearing to:
- 68
- 69 a. The applicant, owner(s) of property for which approval is being considered, and all
- 70 persons to whom real property is assessed within three hundred (300) feet of the
- 71 boundary of the property in question.
- 72
- 73 b. All occupants of structures within three hundred (300) feet of the boundary of the
- 74 property in question. If the name of the occupant is not known, the term “occupant”
- 75 may be used to make the notification. Notification need not be given to more than
- 76 one (1) occupant of a structure, except that one (1) occupant of each unit or spatial
- 77 area shall receive notice if a structure contains more than one (1) dwelling unit or
- 78 spatial area owned or leased by different individuals, partnerships, businesses, or
- 79 organizations. In the case of a single structure containing more than four (4) dwelling
- 80 units or other distinct spatial areas owned or leased by different individuals,
- 81 partnerships, businesses, or organizations, notice may be given to the manager or
- 82 owner, who shall post the notice at the primary entrance to the structure.
- 83

84 B. The notice shall include all of the following:
85

- 86 1. Describe the nature of the request.
- 87
- 88 2. Indicate the property that is the subject of the request. The notice shall include a listing
- 89 of all existing street addresses within the property. Street addresses do not need to be
- 90 created and listed if no such addresses currently exist within the property. If there are no
- 91 street addresses, other means of identification may be used.
- 92
- 93 3. State when and where the request will be considered.
- 94
- 95 4. Indicate when and where written comments concerning the request will be received.
- 96

97 12.6 ZONING PERMITS

98 12.6.1 General

99 No person shall erect, alter, move, or demolish a structure to the extent of more than one hundred
 100 (100) square feet of floor area or establish a new use or change in use for any parcel without a zoning
 101 permit. The Zoning Administrator shall issue a zoning permit if the proposed structure or use is in
 102 compliance with the provisions of this Ordinance. The applicant shall furnish permits or approvals,
 103 if required, from the Petoskey Department of Public Works, a soil erosion and sedimentation permit
 104 from the Emmet County Planning, Zoning and Construction Resources Department, the Michigan
 105 Department of Transportation, Michigan Department of Natural Resources, and any other applicable
 106 agency, before the Zoning Administrator may issue a permit. A copy of each zoning permit will be
 107 retained by the Zoning Administrator as a part of the city's permanent records. The Zoning
 108 Administrator shall promptly inform the applicant of the denial of a zoning permit if the proposed
 109 structure or use does not comply with the provisions of this Ordinance. Issuance of a zoning permit
 110 or approval of a site plan for a permitted use or special zoning permit does not waive the
 111 requirements to comply with all applicable local, state, and federal codes and statutes, including,
 112 but not limited to, State Construction Code, Electrical Code, Property Maintenance Code,
 113 Mechanical Code, and Fire Prevention Code.

114
115 12.6.2 Application

116 Each application for a zoning permit shall include the following minimum requirements:

- 117
- 118 A. Plot Plan: If the proposed location of the improvement is more than three (3) feet from any
- 119 required zoning setback lines, the Zoning Administrator may waive the survey requirement
- 120 and only require a plot plan. The Plot Plan shall be drawn to scale illustrating:
- 121
- 122 1. The actual shape, location, and dimensions of the lot.
- 123
- 124 2. The shape, size, and location of all buildings or other structures to be erected, altered, or
- 125 moved, and if any building or other structure is already on the lot.
- 126
- 127 3. The existing and intended use of the lot and of all such structures upon it, including
- 128 residential areas and the number of dwelling units that the building is intended to
- 129 accommodate.
- 130

131 4. Such other information concerning the lot or adjoining lots may be essential to
132 determining that the provisions of this Ordinance are being observed.
133

134 B. Site Plan: If the proposed location of the improvement is less than three (3) feet from any
135 required zoning setback lines, the Zoning Administrator may require a survey that includes
136 the following information:
137

- 138 1. The actual shape, location, and dimensions of the lot.
- 139
- 140 2. The shape, size, and location of all buildings or other structures to be erected, altered, or
- 141 moved, and if any building or other structure is already on the lot.
- 142
- 143 3. The existing and intended use of the lot and of all such structures upon it, including
- 144 residential areas and the number of dwelling units that the building is intended to
- 145 accommodate.
- 146
- 147 4. Such other information concerning the lot or adjoining lots may be essential to
- 148 determining that the provisions of this Ordinance are being observed.
149

150 C. Property Boundaries: In cases where property boundaries are not clearly indicated by corner
151 markers or other means, the Zoning Administrator may require, at the applicant’s expense,
152 the property to be located by a registered surveyor. In cases on properties located along Lake
153 Michigan, if there is any question of the location of the ordinary high water mark, the Zoning
154 Administrator may also require this level to be set and marked by a registered surveyor.
155

156 D. Evidence of Ownership: All applications for zoning permits under the provisions of this
157 Ordinance shall include the land owner’s signature authorizing the application for the permit
158 and be accompanied by proof of ownership of all property affected by the coverage of the
159 permit. Proof of ownership shall be established by one of the following means: current title
160 policy or commitment, abstract or attorney’s opinion of title, or such other evidence of
161 ownership as the Zoning Administrator determines acceptable.
162

163 E. Supporting Documentation: In the event that the Zoning Administrator feels additional
164 information is required before determining the suitability of an application for a zoning
165 permit, the Zoning Administrator may request that the applicant submit such additional
166 information as surveys, deed descriptions, soil suitability tests, erosion control surveys,
167 easements, and permits from other governmental agencies.
168

169 12.6.3 Voiding Permit

170 Any permit granted under this Section shall become null and void after one (1) year from the date of
171 granting such permit unless the development proposed shall have passed its first construction code
172 inspection. The applicant shall have the option of extending the permit by a maximum of six (6)
173 months upon written notice to the Zoning Administrator. Said notice shall be filed no later than five
174 (5) working days following the expiration of the permit. If a zoning permit expires, the applicant will
175 have to reapply as a new application.
176

177 12.6.4 Inspection

178 The developer of the property is solely responsible for meeting the conditions and terms of the zoning
179 permit and this Ordinance. The City reserves the right to be compensated by the land owner for on-
180 site inspection services based on the City’s planning and zoning fee schedule.
181

182 12.7 VIOLATIONS AND PENALTIES

183 12.7.1 Nuisance Per Se

184 Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected,
185 altered, razed, or converted in violation of this Ordinance or in violation of any regulations,
186 conditions, permits, or other rights granted, adopted, or issued pursuant to this Ordinance are
187 hereby declared to be a nuisance per se.
188

189 12.7.2 Municipal Civil Infraction

190 Any person, partnership, corporation, or association who creates or maintains a nuisance per se as
191 defined above or who violates or fails to comply with any provision of this Ordinance or any permit
192 issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that
193 such violation continues shall constitute a separate and distinct offense under the provisions of this
194 Ordinance. Nothing in this Section shall exempt the offender from compliance with the provisions of
195 this Ordinance.
196

197 12.7.3 Penalties

198 Any person, partnership, corporation, or association who shall violate any provision of this
199 Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions
200 of the Zoning Board of Appeals adopted pursuant hereto, shall, upon conviction thereof, be fined not
201 to exceed five hundred dollars (\$500.00), and each day such violation continues shall be deemed a
202 separate offense or shall be punished by imprisonment in jail for a period not to exceed ninety (90)
203 days, or both such fine and imprisonment at the discretion of the court.
204

205 12.7.4 Zoning Administrator

206 The Zoning Administrator or other designated city representative is hereby designated as the
207 authorized City official to issue municipal civil infraction citations directing alleged violators of this
208 Ordinance to appear in court.
209

210 12.7.5 Nuisance Abatement

211 In addition to enforcing this Ordinance as a municipal civil infraction, the City may initiate
212 proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of
213 this Ordinance.

Article 13: Amendments & Severability

13.1 AMENDMENTS

The City Council may, after recommendation from the Planning Commission, amend, supplement, or change the provisions of this Ordinance or Official Zoning Map. Such actions shall be consistent with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the following:

13.1.1 Initiation Of Amendment

Amendments to the provisions of this Ordinance may be initiated by the City Council, Planning Commission, City Planner, Zoning Administrator, or by petition from one (1) or more residents or property owners of the City. An amendment to the Official Zoning Map (rezoning) may be initiated by the City Council, Planning Commission, Zoning Administrator, or the titleholder for the property subject to the proposed amendment. No fee shall be charged for amendments initiated by the City Council, Planning Commission, City Planner, or Zoning Administrator.

13.1.2 Application

An amendment to this Ordinance (except those initiated by the City Council, Planning Commission, City Planner, or Zoning Administrator shall be initiated by submission of a complete and accurate application to the City, along with the required fee established by the City Council. In the case of an amendment to the official Zoning Map, the following information shall accompany the application and fee:

- A. A legal description and street address of the subject property with a location map identifying the subject property in relation to surrounding properties.
- B. The name and address of the owner of the subject property and a statement of the applicant’s interest in the subject property, if not the owner of the fee simple title.
- C. The existing and proposed zoning district designation of the subject property and surrounding properties.
- D. A written description of how the requested amendment meets the criteria stated in this Section.

13.1.3 Amendment Review Procedure

Proposed amendments to this Ordinance or Official Zoning Map shall be reviewed in accordance with the following:

- A. Completeness Review: Upon receipt of an application to amend this Ordinance, the Zoning Administrator shall review the application to confirm all required material has been submitted. The Zoning Administrator shall notify the applicant of any outstanding items.

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- B. Technical Review: Prior to the Planning Commission's consideration, the proposed amendment and application materials shall be distributed to appropriate city officials for review and comment. The Zoning Administrator may also submit the application materials to designated City consultants for review.

- C. Public Hearing: The Planning Commission shall hold a public hearing for all proposed amendments in accordance with the procedures in Article 12.

- D. Planning Commission Consideration and Recommendation: Subsequent to the hearing, the Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies, and any public comments. The Planning Commission shall identify and evaluate all relevant factors and shall report its findings and recommendations to the City Council. In considering an amendment to the Official Zoning Map (rezoning) or Ordinance text, the Planning Commission shall consider the following factors in making its findings and recommendations, although not all standards must be met in order to recommend approval of an amendment:
 - 1. Consistency with the Master Plan's goals, policies, and future land use map, including planned timing or sequence of development. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area shall be considered.
 - 2. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, topographical, hydrological, and other environmental features.
 - 3. Compatibility of all the potential uses allowed in the proposed district(s) with surrounding uses and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
 - 4. Capacity of available utilities and public services to accommodate the uses permitted in the district(s) without compromising the health, safety, and welfare of City residents or burdening the City or Emmet County with unplanned capital improvement costs or other unplanned public expenses.
 - 5. The road system must be able to safely and efficiently accommodate the expected traffic generated by uses permitted in the zoning district(s).
 - 6. The apparent demand for the types of uses permitted in the district(s) in relation to the amount of land currently zoned and available in the City and surrounding communities to accommodate the demand.
 - 7. The boundaries of the proposed district(s) in relationship to the surrounding area and the scale of future development on the site.
 - 8. The requested rezoning will not create an isolated or incompatible zone in the neighborhood.

91
92 9. Other factors deemed appropriate by the Planning Commission and City Council.
93

94 E. City Council Action: The City Clerk shall forward a copy of the proposed amendment,
95 findings, and recommendation from the Planning Commission to the City Council for
96 consideration and final action.
97

98 1. The City Council may adopt or reject the proposed amendment or may refer the
99 amendment back to the Planning Commission for revision or further consideration.
100 The City Council may modify the proposed amendment if the modifications are de
101 minimis. If the City Council requests any substantial revisions to the proposed
102 amendment, the amendment and requested revisions shall be referred to the
103 Planning Commission for further consideration.
104

105 2. The City Council may, at its discretion, hold additional public hearings on the
106 proposed amendment. Furthermore, the City Council shall hold a public hearing if
107 requested by an interested property owner. Any public hearing held by the City
108 Council shall follow the procedures in accordance with the Michigan Zoning Enabling
109 Act, Public Act 110 of 2006, as amended.
110

111 13.1.4 Effective Date

112 A notice of adoption of an approved amendment shall be published in a newspaper of general
113 circulation in the City within fifteen (15) days of adoption. The amendment shall take effect upon the
114 expiration of seven (7) days after publication.
115

116 13.1.5 Re-Application

117 Whenever an application for an amendment to this Ordinance has been rejected by the City Council,
118 a new application for the same amendment shall not be accepted by the City for a period of one (1)
119 year unless the Zoning Administrator determines that one (1) or more of the following conditions has
120 been met:
121

- 122 A. There is a substantial change in circumstances relevant to the issues or facts considered
123 during the review of the application.
- 124
- 125 B. New or additional information that was not available at the time of the review is available.
126
- 127 C. The new application is materially different from the prior application.
128

129 13.2 CONDITIONAL REZONINGS

130 An applicant for a rezoning may voluntarily offer a Conditional Rezoning along with an application for
131 rezoning before or following the public hearing for a proposed rezoning. An election to submit a Conditional
132 Rezoning shall be pursuant to the Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended) and
133 this section.
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13.2.1 General

- A. A Conditional Rezoning shall be a written agreement executed by the applicant and the City, shall be in recordable form, and shall be recorded with the Emmet County Register of Deeds after execution.
- B. A Conditional Rezoning may include limitations on the uses permitted on the property in question, specify lower or varying density or less intensity of development and use, or may impose more restrictive measures on the location, size, height, or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features that would otherwise be provided in this Ordinance.
- C. A Conditional Rezoning may not authorize uses or developments of greater intensity or density or which are not permitted in a proposed zoning district, nor may a Conditional Rezoning permit variations from height, area, setback, or similar dimensional requirements that are less restrictive than a proposed zoning district.
- D. A Conditional Rezoning shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. A Conditional Rezoning may include conditions related to the use and development of the property that are necessary to:
 - 1. Serve the intended use of the property, such as improvements, extension, widening, or realignment of streets, utilities, or other infrastructure serving the site.
 - 2. Minimize the impact of the development on surrounding properties and the City overall.
 - 3. Preserve natural features and open space beyond what is normally required.

13.2.2 Content of Agreement

In addition to any limitations or use or development of the property features or preservation of property features or improvements as described above, a Conditional Rezoning shall also include the following:

- A. An acknowledgment that the applicant proposed conditional zoning voluntarily.
- B. An agreement and understanding that the property shall not be developed or used in any manner that is not consistent with a Conditional Rezoning.
- C. An agreement and understanding that the approval of a rezoning and a Conditional Rezoning shall be binding upon and ensure to the benefit of the property owner and the City and their respective heirs, successors, assigns, receivers, or transferees.
- D. An agreement and understanding that if a rezoning with a Conditional Rezoning becomes void for any reason including, but not limited to, reasons identified in this section, then no further development shall take place, and no permits shall be issued unless and until a new zoning district classification for the property has been established.

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- E. An agreement and understanding that no part of a Conditional Rezoning shall permit any activity, use, or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.
- F. A legal description of the land to which the agreement pertains.
- G. Any other provisions as are agreed upon by the parties.

13.2.3 Process

A Conditional Rezoning shall be reviewed concurrently with a petition for rezoning following the process in this Article and the following:

- A. A Conditional Rezoning may be submitted prior to or following the Planning Commission public hearing. If the agreement is submitted following the Planning Commission public hearing, it must be reviewed by the Planning Commission, and a second public hearing shall be held prior to the Planning Commission's recommendation on the rezoning and conditional rezoning to the City Council. A Conditional Rezoning shall be reviewed by the City Attorney to determine that it conforms with the requirements of this Section, this Ordinance, and the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended, and that the Conditional Rezoning is in a form acceptable for recording with the Emmet County Register of Deeds.
- B. Following a public hearing for a proposed zoning amendment, the Planning Commission shall make a recommendation to the City Council based upon the criteria listed in this Article. In addition, following a public hearing to consider a Conditional Rezoning, the Planning Commission shall consider and address in writing findings whether a proposed Conditional Rezoning:
 - 1. Is consistent with the intent of this Article.
 - 2. Bears a reasonable and rational connection and/or benefit to the property being proposed for rezoning.
 - 3. It is necessary to ensure that the property develops in such a way that it protects the surrounding neighborhood.
 - 4. This leads to better development than would have been likely if the property had been rezoned without conditional Zoning or if the property had been left to develop under the existing zoning classification.
 - 5. Is clearly in the public interest.
- C. If a Conditional Rezoning has been offered by the applicant and recommended for approval by the Planning Commission, the City Council may approve a Conditional Rezoning as a condition to the rezoning if it meets all requirements of this Section. The Conditional Rezoning shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

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- D. If a rezoning and Conditional Rezoning are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned plus a reference to the Conditional Rezoning. The City Clerk shall maintain a listing of all properties subject to the Zoning Agreement and shall provide copies of the Agreements upon request.
- E. All other requirements of this Ordinance or any other City ordinances shall apply to the property to which a Conditional Rezoning applies.

13.2.4 Expiration.

- A. Unless extended by the City Council for good cause, a rezoning and Conditional Rezoning shall expire two (2) years after adoption of the rezoning and Conditional Rezoning, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the City commences within the two-year period and proceeds diligently to completion.
- B. In the event that substantial construction on the approved development has not commenced within the aforementioned two years, or if construction and development do not proceed diligently to completion thereafter, a Conditional Rezoning and rezoning shall be void and of no effect.
- C. Should a Conditional Rezoning become void, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the City is taken to bring the property into compliance with this Ordinance, the City may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
- D. Notwithstanding the above, if the property owner applies in writing for an extension of a rezoning and a Conditional Rezoning at least 30 days prior to the expiration date, the City Council may, in its sole discretion, grant an extension of up to one year. Future extensions may be granted, although the number of previous extensions granted to a particular rezoning and Conditional Rezoning shall be considered by the City Council.

13.2.5 Reversion of Zoning

If a rezoning and conditional rezoning becomes void as outlined above, then the property's zoning classification shall be reverted back to its previous zoning classification. The reversion process shall be initiated by the City Council by requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests, including the notice and hearing as required by the Michigan Zoning Enabling Act (Public Act 110 of 2006), as amended. No building or other permit shall be issued or valid during the process described in this subsection.

271 13.2.6 Continuation

272 Provided that all development and/or use of the property in question is in compliance with a
273 Conditional Rezoning, use, or development authorized there may be continued indefinitely, provided
274 that all terms of a Conditional Rezoning continue to be adhered to.

275
276 13.2.7 Amendment

277 A. During an initial two-year period, or during any extension granted by the City as permitted in
278 this Article, the City shall not add to or alter a Conditional Rezoning, even with the
279 landowner's consent.

280
281 B. A Conditional Rezoning may be amended after the expiration of an initial two-year period and
282 any extensions, in the same manner as was prescribed for the original rezoning and
283 Conditional Rezoning.

284
285 13.2.8 Violation of Agreement

286 Failure to comply with a Conditional Rezoning at any time after approval will constitute a breach of
287 the agreement and also a violation of this Ordinance. Further use of the property may be subject to
288 legal remedies available to the City. Any violation of a Conditional Rezoning that is not cured within
289 30 days after written notice of the violation is given shall permit the City Council, in its sole discretion,
290 to declare a Conditional Rezoning void ab initio and of no effect.

291
292 13.2.9 Subsequent Rezoning of Land

293 Nothing in a Conditional Rezoning, nor any statement or other provision, shall prohibit the City from
294 later rezoning all or any portion of the property that is the subject of a Conditional Rezoning to
295 another zoning classification. Any rezoning shall be conducted in compliance with the Michigan
296 Zoning Enabling Act (Public Act 110 of 2006), as amended.

297
298 13.2.10 Failure to Offer Conditions

299 The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an
300 offer of conditions shall not affect the owner's rights under this Ordinance.

301
302 13.3 SEVERABILITY

303 If any article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid
304 or unconstitutional by any court of competent jurisdiction, the City intends said portion to be disregarded,
305 reduced, and/or revised so as to be recognized to the fullest extent possible by law. The City further states
306 that it would have passed and adopted what remains of this Ordinance following the removal, reduction, or
307 revision of any portion so found to be invalid or unconstitutional.