

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 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.; Awnings or canopies are prohibited in the CBD and adjacent districts unless approved by the 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 Zoning Administrator that the proposed awning will not adversely impact on neighboring buildings or uses in terms of size, color, design, or obstruction of view.

5.3 BARRIER-FREE MODIFICATION

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

5.4 BASEMENT DWELLINGS UNIT(S) – PROHIBITED

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

5.5 BUILDING GRADES

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

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

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

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47 5.6 CARNIVALS, PUBLIC MEETING TENTS

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

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57 5.7 CERTIFICATE OF OCCUPANCY

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

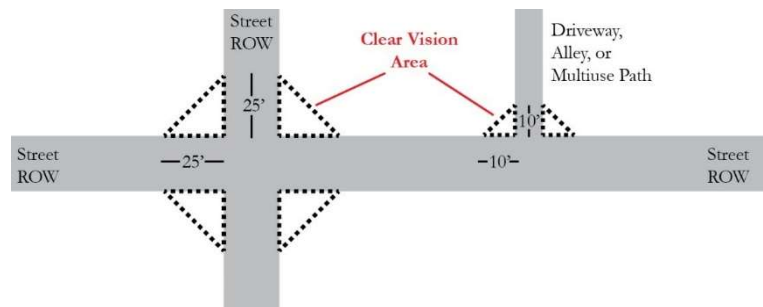
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63 The Zoning Administrator shall confirm that all zoning, site conditions, and Planning Commission conditions
64 of approval, if any, shall be completed before the issuance of a Certificate of Occupancy by the Emmet
65 County Building Department.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

68
69 5.8 CLEAR VISION AREAS

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

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74 B. The following distances shall be used
75 when establishing a clear vision area:

- 76 1. Driveways: Ten (10) feet
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- 78 2. Multi-Use Paths: Ten (10) feet
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- 81 3. Street Intersections: Twenty-
- 82 five (25) feet
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84 C. This shall not prohibit the maintenance of landscaping less than thirty-six (36) inches in height in this
85 area, nor the planting of trees whose lowest branches are higher than ten (10) feet from grade.

86

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

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 93 5.9 CORNER LOTS

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

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 97 5.10 DEMOLITION OF BUILDINGS

98 No structure on a parcel shall be demolished until the Zoning Administrator has issued a demolition permit.
 99 The demolition shall be completed within such reasonable time period as shall be prescribed by the City
 100 and under conditions that may be specified as necessary to protect the public health, safety, and welfare.
 101 The demolition of structures within the City shall comply with the following:

- 102
- 103 A. An application for a demolition permit shall include the reasons for the demolition and the intended
 104 use of the property following demolition. If the intended use is not permitted under the property’s
 105 current zoning, a demolition permit shall be withheld until approval for the new use is obtained
 106 unless the property is deemed a hazard or attractive nuisance to the general public.
- 107
- 108 B. Following demolition of the structure and the removal of all required debris, any excavation or
 109 foundation shall be backfilled with clean fill, and the site shall be graded to meet existing grades at
 110 the property lines and prevent drainage of surface water onto abutting properties.
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- 112 C. Following grading, all non-paved areas shall be top dressed with a minimum two (2) inches of topsoil
 113 and seeded with appropriate plant materials.
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- 115 D. An accessory building remaining on a property following the demolition of the principal structure
 116 shall be maintained in good condition.
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- 118 E. Reference Section 5.19 for additional requirements regarding the demolition of historic buildings.
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120 5.11 DRIVEWAY REQUIREMENTS

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

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- 126 A. General provisions apply to all zoning districts.
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- 128 1. No parking area, driveway, or off-street parking space shall be constructed, expanded, or
 129 improved without a zoning permit. Normal maintenance, such as regrading of legal non-
 130 conforming gravel parking areas or the addition of top coat or sealer to existing paved parking
 131 areas, will not trigger full off-street parking compliance; however, pulverizing an existing

asphalt, concrete, or other paved parking surfaces, the outright removal or substantial modification of the paved surface in preparation for paving and demolition by neglect which serves to return a parking area substantially to gravel or other aggregate surfaces, shall, for this section, be considered new parking.

- 2. New parking lot construction shall require a detailed site plan in accordance with Article 6 and Planning Commission approval. Driveways in the [add districts] zoning districts are exempt from this requirement.
- 3. Any expansion of an existing building shall require a review of the adequacy of on-site parking.
- 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 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 point as defined in §5.10.
- 8. Driveway curb cuts shall be no wider than 16 feet in [add districts] districts and 24 feet in commercial districts.

5.12 EARTH REMOVAL; COMMERCIAL ENTERPRISES

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.

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.

177 5.13 FENCES

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

180 A. Location.

- 181 1. Corner-front yard. Only decorative and living fences are allowed within a corner-front yard
182 with a minimum setback of two feet from the street-fronting property line.
- 183 2. Side and rear yards. Fences may be placed up to a lot line in the side and rear yards.
- 184 3. Fences shall be located so as to not obstruct corner clearance or vision of motorists exiting
185 driveways.
- 186 4. No fence shall be placed within the city right-of-way and if so placed shall be removed at the
187 owner's expense.
- 188 5. Underground electric fences shall be set a minimum of five feet from a front or corner-front
189 property line.

190 B. Height and design restrictions.

- 191 1. Side and rear yard fences shall not exceed six feet in height and shall not extend beyond the
192 principal structure into a front yard.
- 193 2. Corner-front yard decorative fences shall not exceed three and one-half feet (42 inches) in
194 height and shall not obstruct vision to an extent greater than 50 percent of the total area.
- 195 3. Chain link fences are only allowed in rear and side yards. Fences used along the side yard
196 shall not extend beyond the front façade of the structure.
- 197 4. Living fences shall not exceed three feet in height in a corner-front yard, shall be placed so
198 that growth is kept at least two feet from the property line, and shall not contain invasive
199 species.
- 200 5. Fences that enclose public or institutional parks, playgrounds, or public landscaped areas
201 situated within an area developed with recorded lots shall not exceed eight feet in height,
202 measured from the surface of the ground.
- 203 6. Fences may be placed on retaining walls, berms or similar features with the fence height to
204 be measured from the established grade.
- 205 7. All fences shall have the finished side facing the adjacent property or public right-of-way.

206 C. Maintenance of nuisances.

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224 1. Fences shall be maintained so as not to endanger life or property. Any fence which, through
 225 lack of repair, type of construction, or otherwise, endangers life or property is hereby deemed
 226 a nuisance per Article 12 of this Code.

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 228 5.14 FRACTIONAL MEASUREMENTS

229 When using units of measurement to determine requirements of the standards presented in this Ordinance
 230 result in a fractional number, any number up to one-half (1/2) shall be disregarded, and fractions equal to
 231 one-half (1/2) or more shall be rounded up to the nearest whole number, unless noted otherwise.

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 233 5.15 FRONTAGE ON THE STREET

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

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 237 5.16 GARAGES

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

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 241 A. Attached Garages

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 243 1. Attached Garages. A garage may be attached to the principal structure, however, it shall not
 244 extend into the side yard setback and shall be at least two (2) feet back from the front face
 245 of the primary structure.

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 247 B. Detached Garages

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 249 1. Lots with Alleys. Detached garages shall be accessed from an alley where one exists and is
 250 useable. Lots without Alleys or the Alley is Unusable. Where an alley does not exist or is
 251 deemed by the Zoning Administrator as unusable, a detached garage shall be placed to the
 252 rear or side of principal structures where the side yard setback is three (3) feet to five (5) feet
 253 depending on the height of the structure.

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 255 5.17 HISTORIC BUILDING PRESERVATION

256 A. No existing building listed on the State Register of Historic Sites and/or the National Register of
 257 Historic Places shall be altered on its exterior or demolished until the impact of the proposed action
 258 has been examined by the Planning Commission after a review by a qualified professional.

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 260 B. If the Planning Commission deems it necessary, a preservation plan based on the Secretary of the
 261 Interior's Standards for the Treatment of Historic Properties (2017), may be required from the owner
 262 before a permit to alter the building is granted.

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 264 C. The purpose of this subsection is to preserve, as part of the cultural inheritance of the City of
 265 Petoskey, those historic buildings that have been designated by the State Register of Historic Sites
 266 and/or the Department of the Interior National Register of Historic Places; to preserve the cultural,
 267 historic, and tourist attractive nature of the City, so as to benefit the City by promoting the tourist

268 industry and the economic health and welfare of the City, as well as preserving places of historic
 269 interest.

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271 D. The historic buildings governed by this section are those comprised of two districts and individual
 272 buildings, structures, and sites.

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274 E. Historic Districts

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86001983	East Mitchell Street Historic District	Roughly bounded by Rose, Kalamazoo, State, Howard, Michigan, and Division
86002048	Petoskey Downtown Historic District	Roughly bounded by Rose, Division, Michigan, and Petoskey

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F. Sites

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

86002082	Trinity Evangelical Church	219 State St.
86002083	VanZolenburg, Jacob, House	209 State St.
86002084	Wells, J. M., House	203 W. Lake St.
86002085	West Mitchell Street Bridge	W. Mitchell St. at Bear River

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279 5.18 LIGHTING, EXTERIOR

280 All exterior lighting including lighting for parking areas or for the external illumination of buildings or grounds,
281 or for the illumination of signs and other uses shall be compliant with the provisions in Article 6, Section 6.6
282 Exterior Lighting.

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284 5.19 LIVESTOCK & WILD GAME

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

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289 5.20 LOTS ADJOINING ALLEYS

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

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293 5.21 EXTERIOR STORAGE OF MOTOR VEHICLES, BOATS, MACHINERY, AND RECREATIONAL
294 VEHICLES, AND BUILDING MATERIALS

295 A. No motor vehicle shall be kept, parked, or stored in any district unless it shall be in operating
296 condition and properly licensed or kept inside a building. No motor vehicle shall be parked in any
297 front yard or corner side yard except upon a driveway.

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

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303 C. The open parking and/or storage of a boat, recreational vehicle, camper, or trailers, except a kayak
304 or canoe, exceeding forty-eight (48) hours on lands not approved for said parking or storage shall be
305 expressly prohibited. ,

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307 D. No motor vehicle shall be stored or parked on any residential lot on which there is no dwelling, nor
308 shall more than one (1) motor vehicle for each one thousand (1,000) square feet of side and rear yard
309 area be stored or parked on any lot on which a dwelling is located.

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311 E. Not be parked overnight on any street, alley, highway, or public space.

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313 5.22 NON-CONFORMITIES

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

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

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

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

331
332 If a building permit has been issued for a building prior to the passage of this ordinance, such building shall
333 be permitted, even if nonconforming to the provisions of this ordinance, provided: (1) Construction is begun
334 within 30 days after the effective date of this ordinance, (2) That construction is continuous until the building
335 is completed, (3) That actual construction has been undertaken at the time of the effective date of this
336 ordinance when the building permit was issued more than 60 days prior to the effective date of this
337 ordinance.

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339 **5.22.1 Nonconforming Lots**

340 A. In any district in which single-family dwellings are permitted, notwithstanding limitations
341 imposed by other provisions of this ordinance, a single-family dwelling and customary
342 accessory buildings may be erected on any single lot of record at the effective date of
343 adoption or amendment of this ordinance. This provision shall apply even though such lot fails
344 to meet the requirements for area or width, or both, that are generally applicable in the
345 district, provided that yard dimensions and other requirements not involving area or width or
346 both, of the lot shall conform to the regulations for the district in which such lot is located.
347 Yard requirement variances may be obtained through approval of the Zoning Board of
348 Appeals.

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350 **5.22.2 Nonconforming Uses of Land**

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

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

359 2. No such nonconforming use shall be moved in whole or in part to any other portion of the
360 lot or parcel occupied by such use at the effective date of adoption or amendment of this
361 ordinance;

- 362 3. If the use of any nonconforming structure or land is discontinued through abandonment,
 363 vacancy, lack of operation, or as otherwise provided by law for a continuous period of
 364 365 days or more, then the use of such structure or land shall not be resumed until such
 365 use or structure strictly conforms to the regulations specified by this zoning ordinance
 366 for the district in which such building or land is located. A structure or use of land is
 367 deemed to be discontinued and abandoned if, in addition to the use ceasing for 365 days,
 368 any one or more of the following conditions exist:
- 369 a) Utilities, such as water, gas, and electricity to the property have been
 370 disconnected;
 - 371 b) The property, building, or grounds have fallen into disrepair in a manner that
 372 results in a violation of applicable zoning and property maintenance codes or
 373 would otherwise give the appearance of neglect or abandonment;
 - 374 c) Signs or other indications of the existence of the non-conforming use have been
 375 removed;
 - 376 d) Equipment or fixtures necessary for the operation of the non-conforming use
 377 have been removed;
 - 378 e) Other actions which, in the opinion of the City Manager or Zoning Administrator,
 379 constitute an intention on the part of the property owner or lessee to abandon the
 380 nonconforming use or structure.

382 5.22.3 Nonconforming Use of Structures

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

399 5.22.4 Nonconforming Use of Structures and Land

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- 401 A. If a lawful use of a structure, or a structure and land in combination, exists at the effective
 402 date of adoption or amendment of this ordinance that would not be permitted in the district
 403 under the terms of this ordinance, the lawful use may be continued so long as it remains
 404 otherwise lawful, subject to the following provisions:
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- 406 1. No existing structure devoted to a use not permitted by this ordinance in the district in
 407 which it is located shall be enlarged, extended, constructed, reconstructed, moved, or
 408 structurally altered except in changing the use of the structure to a use permitted in the
 409 district in which it is located.
- 410 2. Any nonconforming use may be extended throughout any parts of a building that were
 411 manifestly arranged or designed for such use and which existed at the time of adoption
 412 or amendment of this ordinance, but no such use shall be extended to occupy any land
 413 outside such building.
- 414 3. If no structural alterations are made, any nonconforming use of a structure, or structure
 415 and land in combination, may be changed to another nonconforming use of the same or
 416 a more restricted classification provided that the Zoning Board of Appeals, either by
 417 general rule or by making findings in the specific case, shall find that the proposed use is
 418 equally appropriate or more appropriate to the district than the existing nonconforming
 419 use. In permitting such change, the Zoning Board of Appeals may require conditions and
 420 safeguards in accordance with the purpose and intent of this ordinance. Where a
 421 nonconforming use of a structure, land, or structure and land in combination is hereafter
 422 changed to a more conforming use, it shall not thereafter be changed to a less
 423 conforming use.
- 424 4. d. Any structure, or structure and land in combination, in or on which a nonconforming
 425 use is superseded by a permitted use, shall thereafter conform to the regulations for the
 426 district in which such structure is located, and the nonconforming use may not thereafter
 427 be resumed.
- 428 5. Where nonconforming use status applies to a structure and land in combination,
 429 removal or destruction of the structure shall eliminate the nonconforming status of the
 430 land.

431 **5.22.5 Repairs and Maintenance**

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

442 **5.22.6 Change of Tenancy or Ownership**

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- 445 A. There may be a change of tenancy, ownership, or management of any existing
 446 nonconforming uses of land, structures, or land and structures in combination.

447 **5.23 OPEN SPACE PRESERVATION**

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- 449 A. Whenever the preservation of open space is required by this Ordinance, the applicant shall provide
 450 a demonstrated means that all open space portions of the development will be maintained in the

451 manner approved. Documents shall be presented that bind all successors and future owners in fee
452 title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of
453 ownership or control, provided notice of such transfer is provided to the City and the land uses
454 continue as approved in the open space community plan. The dedicated open space shall be set
455 aside by the applicant through an irrevocable conveyance that is found acceptable to the City
456 Attorney, such as:

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

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

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

474 475 476 477 478 479 5.24 PERMITTED HEIGHT EXCEPTIONS

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

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

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

490 491 5.25 PERMITTED YARD ENCROACHMENTS

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

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495 A. Architectural projections, may extend or project into a required yard setback not more than twenty-
496 four inches.

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

5.26 PUBLIC USES: CRITICAL, ESSENTIAL, & SUPPORTING

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

5.27 RAW MATERIALS STORAGE AND DUMPING

- A. No lot or parcel of land shall be used for the dumping or storage of soil, sand, gravel, broken concrete, or similar materials until a special land use permit is secured from the Planning Commission.
- B. The permit shall set out the specific area to be used for dumping or storage of said materials, the length of time the permit shall be valid, and such other conditions as the Planning Commission deems necessary to guarantee that the dumping or storage of said materials will not constitute or tend to create a public nuisance or health hazard. 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 the dumping or storage was permitted according to a plan approved by the Planning Commission.

5.28 RELOCATION OF BUILDINGS

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

5.29 RESTORATION OF UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the City, Emmet County, or the Health Department of Northwest Michigan.

5.30 REQUIRED WATER SUPPLY AND SANITATION FACILITIES

Buildings erected, altered or moved upon any premises and used in whole or in part as either year-round or seasonal dwellings or for recreational, business, commercial, or industrial purposes, including religious institutions, schools, and other buildings in which persons customarily congregate, shall have adequate water and sanitary facilities as determined by the City of Petoskey.

5.31 SHIPPING (CARGO) CONTAINERS

Shipping (cargo) containers are not allowed for any purpose or building materials in any zoning district.

537 5.32 SIDEWALK REQUIREMENTS

538 Whenever any construction is proposed for which a Site Plan is required, the Site Plan as submitted must
539 include the completed construction project, which shall include the placement and construction of a
540 sidewalk in accordance with applicable standards and specifications of the City.

541 5.33 SIGNS

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544 Signs shall be regulated as provided in Ordinance No. 550 (Appendix C of this Code).
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546 5.34 SWIMMING POOLS-PRIVATE

- 547 A. Private swimming pools shall be subject to the following:
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- 549 1. No portion of the swimming pool or associated structures shall be permitted to encroach
- 550 upon any easement or right-of-way that has been granted for public utility use.
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- 552 2. The swimming pool shall not encroach into a required side yard, and the rear yard setbacks
- 553 shall be a minimum of 15 feet.
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- 555 3. Chapter 13, Section 13.43 of the City Code.
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557 5.35 TEMPORARY STRUCTURES and USES

558 Temporary buildings and uses for periods not to exceed one year, renewable upon re-application, to the
559 Planning Commission or the Zoning Administrator. The Planning Commission, in granting permits for the
560 above temporary uses, shall do so under the following conditions:

- 561 A. Temporary Uses:
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- 564 1. The granting of the temporary use shall in no way constitute a change in the basic uses
- 565 permitted in the district nor on the property wherein the temporary use is permitted.
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- 567 2. The temporary use shall be granted in writing, stipulating all conditions as to time, the nature
- 568 of development permitted, and arrangements for removing the use at the termination of said
- 569 temporary permit.
- 570
- 571 3. The use shall be in harmony with the general character of the district.
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- 573 4. No temporary use permit shall be granted without first giving notice to owners of adjacent
- 574 property of the time and place of the review.

575 B. Temporary Structures

- 576
- 577 1. All setbacks, land coverage, off-street parking, lighting, and other requirements to be
- 578 considered in protecting the public health, safety, peace, morals, comfort, convenience, and
- 579 general welfare of the inhabitants of the City of Petoskey shall be made at the discretion of
- 580 the Zoning Administrator.

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2. In classifying uses as not requiring capital improvement, the Zoning Administrator 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.

5.36 TEMPORARYSTRUCTURES FOR CONSTRUCTION

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

5.37 TRASH REMOVAL, ENCLOSURE AND SCREENING

- A. Trash dumpsters shall be screened with a wood privacy-type fence or other solid visual barrier at a height equal to or greater than the height of the trash receptacle.
- B. Shall also be in compliance with Chapter 11, Section 11-5 of the City Code.

5.38 WEATHER BARRIERS - EXTERIORS-PROHIBITED

All buildings are prohibited from using any weather barrier materials (i.e. Tyvek™, foam board, tarpaper, etc.) as an exterior surface.

5.39 VOTING PLACE

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