



AGENDA

ZONING COMMITTEE

March 20, 2025

10 AM – 12 PM

Community Room

1. Call to Order
2. Updates
 - a. Article 5 – General Provisions
3. Continue Review
 - a. Article 7 – Supplemental Uses
4. Next Meeting

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 in the CBD [add districts] must comply with the Downtown Petoskey Design Guidelines. ~~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 and is subject to review and approval by the Administrative Review Committee.

5.4 BASEMENT DWELLING UNIT(S) – PROHIBITED

No building consisting of only a basement shall be erected or occupied as a dwelling unit in any Zoning District. Basements may be occupied as a dwelling unit as part of a larger structure 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.

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

5.6 CARNIVALS, PUBLIC MEETING TENTS

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

5.7 CERTIFICATE OF OCCUPANCY

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

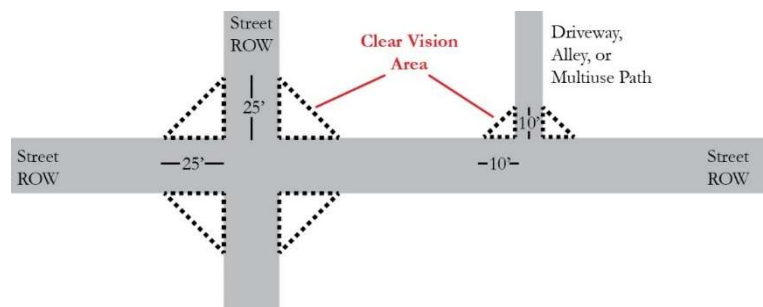
The Zoning Administrator shall confirm that all zoning, site conditions, and Planning Commission conditions of approval, if any, shall be completed before the issuance of a Certificate of Occupancy by the Emmet County Building Department. A record of all certificates shall be kept on file in the office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

5.8 CLEAR VISION AREAS

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

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

1. Driveways: Ten (10) feet
2. Multi-Use Paths: Ten (10) feet
3. Street Intersections: Thirty (30) feet



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

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

5.9 CORNER LOTS

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

5.10 DEMOLITION OF BUILDINGS

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

A. General provisions applicable to all demolitions.

1. An application for a demolition permit shall include the reasons for the demolition and the intended use of the property following demolition. If the intended use is not permitted under the property's current zoning, a demolition permit shall be withheld until approval for the new use is obtained unless the property is deemed a hazard or attractive nuisance to the general public.

A.—

B. Demolition of a structure resulting in a parcel with no structures.

- B.1. Following demolition of the structure and the removal of all required debris, any excavation or foundation shall be backfilled with clean fill, and the site shall be graded to meet existing grades at the property lines and prevent drainage of surface water onto abutting properties within two weeks of demolition:

- ~~G.2.~~ Following grading, all non-paved areas shall be top dressed with a minimum two (2) inches of topsoil and seeded with appropriate plant materials.

C. Demolition of a structure to accommodate a new structure.

1. Any portion of the site that is below grade shall be surrounded by a construction fence subject to the specifications and approval of the Emmet County Construction Resources Department and remain as required by subsequent activity until such time that construction on the new structure commences.
2. If construction does not commence within nine (9) months from the issuance of the Zoning Permit, that portion of the site below grade shall be backfilled with clean fill, and the site shall be graded to meet existing grades at the property lines and prevent drainage of surface water onto abutting properties.

3. ~~Following grading, all non-paved areas shall be top dressed with a minimum two (2) inches of topsoil and seeded with appropriate plant materials.~~

~~D.4.~~ An accessory building remaining on a property following the demolition of the principal structure shall be maintained in good condition.

~~E.D.~~ Reference Section 5.19 for additional requirements regarding the demolition of historic buildings.

5.11 DRIVEWAY REQUIREMENTS

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

A. General provisions apply to all zoning districts.

1. No parking area, driveway, or off-street parking space shall be constructed, expanded, or improved without a zoning permit. Normal maintenance, such as regrading, ~~of legal non-conforming gravel parking areas or~~ or the addition of top coat or sealer to existing paved parking areas, will not trigger full off-street parking compliance.

~~1.2.~~ ~~;~~ ~~however,~~ ~~p~~ Pulverizing an existing asphalt, concrete, or other paved parking surfaces, ~~or~~ 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.

~~2.3.~~ 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.

~~3.4.~~ Any expansion of an existing building shall require a review of the adequacy of on-site parking.

~~4.5.~~ 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.

~~5.6.~~ 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.

6.7. 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.

7.8. Driveway curb cuts shall be placed at least 30 feet from an intersection measured from the radius point as defined in §5.10.

8.9. 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.

5.13 EXTERIOR STORAGE

- A. No motor vehicle or recreational vehicle shall be kept, parked, or stored in any district unless it shall be in operating condition and properly licensed or kept inside a building. No motor vehicle or recreational vehicle shall be parked in any front yard or corner side yard except upon a driveway.
- B. No old, rusty, and unsightly machinery, or parts thereof, or machines or parts of machines not suited for use upon the premises, or quantities of old or used building materials shall be kept or stored outside a building.
- C. The open parking and/or storage of a recreational vehicle, camper, or trailer, except a kayak or canoe, exceeding forty-eight (48) consecutive hours on lands not approved for said parking or storage shall be expressly prohibited.
- D. No motor vehicle or recreational vehicle shall be stored or parked on any residential lot on which there is no dwelling, nor shall more than one (1) motor vehicle for each one thousand (1,000) square feet of side and rear yard area be stored or parked on any lot on which a dwelling is located.
- E. No motor vehicle or recreational vehicle shall be parked more than forty-eight (48) consecutive hours on any street, alley, highway, or public space.

5.14 EXTERIOR STORAGE OF RAW MATERIALS 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.

5.135.15 FENCES

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

A. Location.

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 and shall not extend beyond the principal structure into the front yard.
2. Side and rear yards. Fences may be placed up to a lot line in the side and rear yards.
3. Fences shall be located so as to not obstruct corner clearance or vision of motorists exiting driveways.
4. No fence shall be placed within a front yard or the city right-of-way and if so placed shall be removed at the owner's expense.
5. Underground electric fences shall be set a minimum of five feet from a front or corner-front property line. Above ground electric current or charge of electricity is prohibited.

B. Height and design restrictions.

1. Side and rear yard fences shall not exceed six feet in height and shall not extend beyond the principal structure into a front yard.
2. Corner-front yard decorative fences shall not exceed three and one-half feet (42 inches) in height and shall not obstruct vision to an extent greater than 50 percent of the total area so that when viewed at a 90 degree angle the fence is visually open.

3. Chain link fences are only allowed in rear and side yards. Fences used along the side yard shall not extend beyond the front façade of the structure.

~~4.~~ Fences shall not contain barbed wire, razor wire or similar materials intended to cause harm.

~~4.5.~~ Living fences shall not exceed three feet in height in a corner-front yard, shall be placed so that growth is kept at least two feet from the property line, and shall not contain invasive species.

~~5.6.~~ Fences that enclose public or institutional parks, playgrounds, or public landscaped areas situated within an area developed with recorded lots shall not exceed eight feet in height, measured from the surface of the ground.

~~6.7.~~ Fences may be placed on retaining walls, berms or similar features with the fence height to be measured from the established grade.

~~7.8.~~ All fences shall have the finished side facing the adjacent property or public right-of-way.

C. Maintenance of nuisances.

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

~~5.145.16~~ FRACTIONAL MEASUREMENTS

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

~~5.155.17~~ FRONTAGE ON THE STREET

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

~~5.165.18~~ GARAGES

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

A. Attached Garages

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

B. Detached Garages

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

5.175.19 HISTORIC BUILDING PRESERVATION

A. ~~The purpose of this subsection is to preserve, as part of the cultural inheritance of the City of Petoskey, those historic buildings that have been designated by the State Register of Historic Sites and/or the National Register of Historic Places; to preserve the cultural, historic, and architectural character of the City, so as to benefit the City by promoting the tourism industry and the economic health and welfare of the City, as well as preserving places of historic interest~~

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

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

D. ~~The historic buildings and sites governed by this section are those historic resources listed on the State Register of Historic Sites and/or the National Register of Historic Places.~~

E. Historic Districts

~~C. The purpose of this subsection is to preserve, as part of the cultural inheritance of the City of Petoskey, those historic buildings that have been designated by the State Register of Historic Sites and/or the Department of the Interior National Register of Historic Places; to preserve the cultural, historic, and tourist architectural attraction nature of the City, so as to benefit the City by promoting the tourist tourism industry and the economic health and welfare of the City, as well as preserving places of historic interest.~~

~~D. The historic buildings and sites governed by this section are those comprised historic resources listed on the State Register of Historic Sites and/or the National Register of Historic Places of two districts and individual buildings, structures, and sites.~~

E. Historic Districts

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

F. Sites and Individual Buildings

86001973	Allen, J. B., House	822 Grove St.
86001975	Bartram, Isaac, House	508 Wachtel Ave.
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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353 ~~5.185.20~~ LIGHTING, EXTERIOR

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

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~~5.195.21~~ LIVESTOCK & WILD GAME

No livestock, including but not limited to cows, calves, bulls, steers, horses, mules, burros, donkeys, goats, hogs, sheep, roosters, turkeys, chickens, guinea hens, ducks, geese, or any wild game shall be maintained in any of the zoning districts: ~~unless allowed by another ordinance.~~

5.205.22 LOTS ADJOINING ALLEYS

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

~~5.21— EXTERIOR STORAGE OF MOTOR VEHICLES, BOATS, MACHINERY, AND RECREATIONAL VEHICLES, AND BUILDING MATERIALS~~

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

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

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

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

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

5.225.23 NON-CONFORMITIES

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

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

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

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

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

5.22-15.23.1 Nonconforming Lots

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

5.22-25.23.2 Nonconforming Uses of Land

- A. Nonconforming uses of land. Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
 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 results in a violation of applicable zoning and property maintenance codes or would otherwise give the appearance of neglect or abandonment;~~

e)b) Signages or other indications of the existence of the non-conforming use have been removed.;

d)c) Equipment or fixtures necessary for the operation of the non-conforming use have been removed.;

e)d) 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.

5.22.35.23.3 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~~ ~~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~~ ~~a structure~~ be moved ~~for any reason~~ ~~horizontally~~ for any distance, it shall thereafter conform to the regulations for the district in which it is located.;

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

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

- 489 3. If no structural alterations are made, any nonconforming use of a structure, or structure
490 and land in combination, may be changed to another nonconforming use of the same or
491 a more restricted classification provided that the Zoning Board of Appeals, either by
492 general rule or by making findings in the specific case, shall find that the proposed use is
493 equally appropriate or more appropriate to the district than the existing nonconforming
494 use. In permitting such a change, the Zoning Board of Appeals may require conditions
495 and safeguards in accordance with the purpose and intent of this ordinance. Where a
496 nonconforming use of a structure, land, or structure and land in combination is hereafter
497 changed to a more conforming use, it shall not thereafter be changed to a less
498 conforming use.
- 499 4. Any structure, or structure and land in combination, in or on which a nonconforming use
500 is superseded by a permitted use, shall thereafter conform to the regulations for the
501 district in which such structure is located, and the nonconforming use may not thereafter
502 be resumed.
- 503 5. Where nonconforming use status applies to a structure and land in combination,
504 removal or destruction of the structure shall eliminate the nonconforming status of the
505 land.

506 **5.22.55.23.5 Repairs and Maintenance**

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- 509 A. Nothing in this Ordinance shall prevent the repair, reinforcement, improvement, or rehabilitation of
510 any nonconforming structure, or any part thereof, which results from wear and tear, deterioration,
511 fire, windstorm, snowstorm, rainstorm, flood, or other casualty damage, nor shall it prevent
512 compliance with the provisions of the State Construction Code Act, relative to the maintenance of
513 buildings or structures. Such repair and maintenance shall not be so extensive as to constitute an
514 enlargement of the nonconformity. a replacement of the structure by replacing an exterior wall(s).
515 For the purposes of this subsection, the determination of whether proposed repairs and
516 maintenance constitute replacement shall be made by the Zoning Administrator. The determination
517 of the Zoning Administrator shall be appealable to the Zoning Board of Appeals.

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

526 **5.22.65.23.6 Change of Tenancy or Ownership**

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

531 **5.235.24 OPEN SPACE PRESERVATION**

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

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

1. Recorded deed restrictions.
 2. Covenants that run perpetually with the land,
 3. Conservation easements such as those established by the Natural Resources and Environmental Protection Act; Act 451 of 1994, MCL 324.2144.
- B. Such conveyance shall ensure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed for another use. Such conveyance shall:
1. Indicate the proposed allowable use(s) of the dedicated open space.
 2. Demonstrate to the satisfaction of the City that dedicated open space shall be maintained.
 3. Provide standards for scheduled maintenance of the open space.
 4. Provide for maintenance to be undertaken by the City in the event that the dedicated open space is inadequately maintained or is determined by the City to be a public nuisance, with the assessment of costs upon property owners within the proposed development.

5.245.25 PERMITTED HEIGHT EXCEPTIONS

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

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

- A. Chimneys, church spires, public monuments, ~~enclosures for mechanical equipment,~~ or wireless transmission towers; provided, however, the Administrative Review Committee or the Planning Commission may specify a height limit for any such structure when such structure ~~is above the permitted height for that zoning district.~~ ~~requires authorization as a conditional use.~~

5.255.26 PERMITTED YARD ENCROACHMENTS

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

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

5.265.27 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 to be used as building materials in any zoning district.

5.32 SIDEWALK REQUIREMENTS

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

5.33 SIGNS

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

5.34 SWIMMING POOLS-PRIVATE

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

1. No portion of the swimming pool or associated structures shall be permitted to encroach upon any easement or right-of-way that has been granted for public utility use.

~~2. The swimming pool shall not encroach into a required side yard;~~

~~2.3. _____ and the rear yard setbacks shall be a minimum of 15 feet.~~

~~3.4. _____~~ Shall be in compliance with Chapter 13, Section 13.43 of the City Code.

5.35 TEMPORARY STRUCTURES and USES

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

A. Temporary Structures

~~1. Temporary structures shall meet all setbacks, land coverage, off-street parking, lighting, and other requirements to be considered in protecting the public health, safety and welfare of the inhabitants of the City of Petoskey and shall be made at the discretion of the Zoning Administrator, unless referred to the Planning Commission by the Zoning Administrator.~~

~~2. The Zoning Administrator shall determine that temporary structures 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.~~

A.B. Temporary Uses:

1. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.

2. The temporary use shall be granted in writing, stipulating all conditions as to time, the nature of development permitted, and arrangements for removing the use at the termination of said temporary permit.

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

4. No temporary use permit shall be granted without first giving notice to owners of adjacent properties of the time and place of the review.

5.—

B.—Temporary Structures

~~1.—Temporary structure shall meet All setbacks, land coverage, off-street parking, lighting, and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City of Petoskey and shall be made at the discretion of the Zoning Administrator, unless referred to the Planning Commission by the Zoning Administrator.~~

~~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 TEMPORARY STRUCTURES 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.

708 5.39 VOTING PLACE

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

5.22 NONCONFORMITIES

This Ordinance intends to permit legal nonconforming uses, sites, structures, and lots to continue until they are removed but not to encourage their survival. It is recognized that there exists within districts established by this Ordinance and subsequent amendments, uses, sites, structures, and lots that were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

5.22.1 General Standards

- A. Continuation: On or after the effective date of this ordinance or any subsequent amendments, a nonconformity that was lawfully operated, established, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this Section.
- B. Change in Tenancy or Ownership: There may be a change of tenancy, ownership, or management of any existing nonconforming use or structure which does not alter the nonconforming status.
- C. Special Uses and Variances: If a special land use or variance has been approved, the structure or use shall not be considered “nonconforming.”
- D. Issued Zoning Permit: Any zoning permits issued prior to the effective date of this Ordinance, or any subsequent amendments, shall be valid in accordance with its terms, even though not conforming to the provisions of this Ordinance, provided that construction is commenced within twelve (12) months after the date of permit issuance and proceeds meaningfully until completion.
- E. Exception for Repairs Pursuant to Public Order: Nothing in this article shall be deemed to prevent the strengthening or restoration to a safe condition of a building or structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders it to restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this ordinance prohibiting the repair or restoration of partially damaged or destroyed buildings or structures.
- F. Loss of Nonconformity (Abandonment): When a nonconforming use is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period (except when government action impeded access to the premises or if it is a seasonal type use), the use shall not thereafter be continued except in conformity with the regulations of the district in which it is located. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:
 - 1. Whether utilities such as water, gas and electricity to the property have been disconnected.

2. Whether the property, buildings and grounds have fallen into disrepair.
3. Whether signs or other indications of the existence of the nonconforming use have been removed.
4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

5.22.2 Nonconforming Uses

Nonconforming uses may be continued, enlarged, or expanded in accordance with the following provisions:

- A. Continuance: A legal nonconforming use of any structure may be continued, although such use does not conform to the provisions of this ordinance. Such use may be extended throughout the structure, provided that no structural alterations or additions to the structure are made.
- B. Enlargement or Expansion: A conforming structure in which a nonconforming use is operated shall not be enlarged or expanded unless approved by the Zoning Board of Appeals, except as required by law or to comply with an order of the county building official.
- C. Change of Use Regulations:
 1. Changes to Conforming Uses: Any nonconforming use may be changed to a use conforming with the regulations established for the district in which the nonconforming use is located, provided, however, that a nonconforming use so changed shall not in the future be changed back to the former nonconforming use.
 2. Changes to Other Nonconforming Uses: A non conforming use shall be prohibited from changing to another nonconforming use.
- D. Approval Standards: The Zoning Board of Appeals shall only approve the enlargement or expansion of an existing conforming structure for a nonconforming use if it makes findings in support of each of the following:
 1. The expansion will not be contrary to the public interest.
 2. The expansion will not substantially or permanently injure the appropriate use of adjacent conforming property in the same district.
 3. The expansion will be in harmony with the spirit and purpose of these regulations and the master plan goals, objectives, and policies.

4. The plight of the applicant for which the expansion is sought is due to unique circumstances existing on the property and/or within the surrounding district.
5. Approval of the expansion will not substantially weaken the general purposes of this Section or the regulations established in this Ordinance for the applicable zoning district.
6. The expansion shall not require more off-street parking and loading space unless additional adequate off-street parking and loading space is provided for the increment of the expansion as if the increment were a separate use.
7. The expansion shall conform to all regulations established in Article 6: Site Development Standards and Article 7: Supplemental Use Standards, of this Ordinance.
8. The expansion will not adversely affect the public health, safety, and welfare.

5.22.3 Nonconforming Sites

Nonconforming sites may be continued, enlarged, or expanded in accordance with the following provisions:

- A. Applicable Standards: Various site design standards are established in Article 6: Site Development Standards and Article 7: Supplemental Use Standards of this Ordinance. Consequently, many development sites do not meet current requirements for such items as parking lot standards, landscaping, exterior lighting, storm water requirements and other design specifications. This subsection requires that such nonconforming sites be brought into conformance with all applicable development standards prescribed by this Ordinance.
- B. Authority to Continue: Any legal nonconforming site may be continued so long as it remains otherwise lawful subject to this subsection.
- C. Extensions:
 1. In General: A nonconforming site on which there is a conforming use shall not be expanded or contracted unless the site is brought into conformance with the provisions of this ordinance.
 2. Single Family Residential Exception: A single family residential structure that is located on a legally nonconforming site with respect to required yards, areas, or height may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms with the provisions of this ordinance.
- D. Relocations: No structure shall be relocated to a nonconforming site until the site is brought into conformance with the provisions of this ordinance.

- E. Change in Use: A nonconforming site shall be allowed to be occupied by another use allowed by right in the district so long as no exterior structural or site modifications are to occur. In the event the new occupant desires to provide exterior structural modifications, the site shall be brought into compliance with all applicable site and use standards, unless a nonconforming site variance has been approved by the Zoning Board of Appeals.

5.22.4 Nonconforming Structures

Nonconforming structures may be continued, repaired, replaced, enlarged or expanded in accordance with the following provisions:

- A. Continuance of Nonconforming Structures: Subject to all limitations in this subsection, and the provisions for Exception for Repairs Pursuant to Public Order in General Standards subsection, any nonconforming structure may be occupied, operated, and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless in accordance with the provisions under Enlargement or Expansion in this subsection, provided that such maintenance does not exceed an aggregate cost of thirty (30) percent of the assessed value of the structure.
- B. Repair and Maintenance of Nonconforming Structures: Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of any nonconforming structure, or any part thereof, which results from wear and tear, deterioration, fire, windstorm, snowstorm, rainstorm, flood or other casualty damage, nor shall it prevent compliance with the provisions of the State Construction Code Act, relative to the maintenance of buildings or structures. Such repair and maintenance shall not be so extensive as to constitute a replacement of the structure by replacing an exterior wall(s). For the purposes of this subsection, the determination of whether proposed repairs and maintenance constitute replacement shall be made by the Zoning Administrator. The determination of the Zoning Administrator shall be appealable to the Zoning Board of Appeals.
- C. Replacement of Damaged Nonconforming Structures: Nothing in this Ordinance shall prevent the replacement of any nonconforming building or structure damaged or destroyed by fire, windstorm, snowstorm, rainstorm, flood or other casualty damage beyond the control of the owner, provided such replacement utilizes the original structure footprint and does not increase the original usable floor area or volume of such structure. Such replacement shall commence within twenty four (24) months of the damage or destruction.
- D. Enlargement or Expansion: A nonconforming structure in which only permitted uses are operated may be enlarged or expanded provided that the area of nonconformance is not increased and provided further that compliance with all of the provisions of this Ordinance established for structures in the district in which the nonconforming structure is located. Such enlargement shall also be subject to all other applicable City ordinances.

5.22.5 Nonconforming Lots

- A. Any nonconforming lot of record may be used for any purpose authorized by the district in which it is located, except those uses that specify a minimum lot size. This provision shall apply even though such lot fails to meet the requirements for area or width applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Any required variances may be requested pursuant to the procedures and standards of this Ordinance.
- B. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance or which creates a nonconforming structure.