

**ARTICLE IV
GENERAL PROVISIONS**

Sec. 401 SCOPE OF ORDINANCE REGULATIONS.

Sec. 401:1 PROVISIONS HELD TO BE MINIMUM REQUIREMENTS; APPLY UNIFORMLY TO ALL USES.

1. The provisions of this Ordinance shall be held to be the minimum requirements and shall apply uniformly to each kind or class of structure or land.
2. The proposed use is in harmony with the purpose and intent of this Ordinance.
3. The proposed use will not adversely affect the health, safety and welfare of the public and residents of the area and will not be detrimental to the use or development of adjacent properties or of the general neighborhood.
4. The proposed use will comply with all applicable laws, ordinances, and regulations of the Township.
5. The proposed use shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
6. The proposed use shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities (where available).
7. The proposed use will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors, or toxic material.

Sec. 401:2 RESTRICTIONS; MORE RESTRICTIVE SHALL GOVERN.

Where the conditions imposed by any provisions of this Ordinance upon the use of structures or land are either more or less restrictive than comparable conditions imposed by the provisions of any other lawful ordinance or of any law, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

Sec. 401:3 EASEMENTS, COVENANTS AND AGREEMENTS.

This Ordinance is not intended to nullify any easement, covenant or any other private agreement, provided that where the regulations of this Ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements, the regulations of this Ordinance shall govern.

Sec. 401:4 UNLAWFUL STRUCTURES NOT MADE LAWFUL.

Structures or uses which were unlawfully existing at the time of the adoption of this ordinance shall not become or be made lawful solely by reason of adoption of this Ordinance.

Sec. 401:5 SUBSEQUENT STRUCTURES.

All structures erected hereafter, all uses of land or structures established hereafter, all structural alterations or relocations of existing structures occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter, shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such structures, uses or land shall be located.

Sec. 401:6 ORDINANCE NOT CONSENT.

Nothing contained in this Ordinance shall in itself be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structures or facility or to conduct any trade, industry, occupation or activity.

Sec. 401:7 BUILDING PERMITS; VALIDITY.

Any building permit issued prior to the effective date of this Ordinance shall be considered valid and any structure may be completed and used or occupied in accordance with plans so authorized by said building permits, provided that use or occupancy is on the basis for which the building permit was originally designated and provided that construction is begun within sixty (60) days. Any such use which would become non-conforming by virtue of the passage of this Ordinance shall thereafter be considered non-conforming and subject to the provisions of this Ordinance.

Sec. 401:8 STRUCTURE LAWFULLY EXISTING CONTINUED.

Any structure or use lawfully existing at the time of adoption of this Ordinance may be continued except as hereinafter provided in the regulations concerning non-conforming uses in this Ordinance.

Sec. 401:9 PUBLIC SAFETY; RESTORATION OF STRUCTURE.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any structure or part thereof declared to be unsafe by any official charged with protecting the public safety upon such order of such official. (Refer also to Article X, Non-Conforming Uses).

Sec. 401:10 REPAIR AND CLEAN UP OF DAMAGED OR DESTROYED BUILDINGS.

The owner of any building or structure which has been damaged or destroyed by fire, windstorm or other casualty shall repair such damage within one (1) year after its occurrence. In the event the building or structure is damaged beyond repair, any part left standing after such damage or destruction shall be razed pursuant to a permit therefore to be granted pursuant to this Ordinance. (Refer also to Article X, Non-Conforming Uses)

Sec. 401:11 ANNEXED PROPERTY; TERRITORY; R-1 DISTRICT.

All land, property or territory hereafter to be annexed to Pere Marquette Charter Township shall be considered to be in an R-1 District until otherwise classified.

Sec. 401:12 MOBILE HOME EXCLUSION.

Any mobile home, not located in a mobile home park, and which was situated on a parcel of land or lot located in the Township as of the date of the enactment of this Ordinance may remain thereon, for an indefinite period. In addition, said mobile home may be replaced by another mobile home of equal or greater size, which mobile home meets current Federal and State construction standards, regardless of a change in ownership of the mobile home, and/or the premises involved, or the combination of both.

Moreover, it is the specific intent of this section to exclude mobile homes in existence as of the effective date of this Ordinance, as described above, other than those located in mobile home parks, from the non-conforming use provisions of this Ordinance and to further permit their prolongation, replacement and continuation on the particular premises in question.

This section is not to be construed or interpreted as authority to allow the use and/or occupation of any mobile home or other residential dwelling, and/or premises otherwise prohibited in any other section of this Ordinance.

Sec. 402 SCOPE OF DISTRICT REGULATIONS.

Sec. 402:1 YARD AND LOTS; AREA; MINIMUM REQUIREMENTS.

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards, lots, parking areas or other spaces created after the effective date of this Ordinance shall meet at least the minimum requirements of this Ordinance.

Sec. 402:2 YARD; OPEN SPACE; PARKING; LOADING SPACE - JOINT USE EXCLUSION.

No part of a yard or other open space or off-street parking or loading space required in connection with any structure for the purpose of complying with this Ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other structure or use unless otherwise provided for in this Ordinance.

Sec. 402:3 LOT; SIDE YARD; REQUIREMENT FOR MORE RESTRICTIVE DISTRICT.

In case of a lot having a side yard along any zoning district boundary line, on the other side of which is a more restrictive district, said side yard shall have a width of not less than that required for the more restrictive district.

Sec. 402:4 FRONT YARD; USE; RESTRICTIONS.

No part of any required front yard shall be occupied for any accessory use or structure or for the storage of vehicles unless otherwise provided for in this Ordinance.

Sec. 402:5 CORNER LOTS; RESTRICTIONS.

On any corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one half (2 1/2) feet and eight (8) feet above the established roadway grade within a triangle formed by the two roadway right-of-way lines and a line connecting them at points twenty-five (25) feet from the intersection of the right-of-way line.

Sec. 402:6 DOUBLE-FRONTAGE LOTS.

On double-frontage lots, the required front yard as prescribed for the district as herein established shall be provided on both streets.

Sec. 402:7 FRONT, REAR AND SIDE YARDS; ACCESS.

Every lot must provide front, side and rear yards as required in the zoning district in which such lot is located. All front yards for a lot shall face upon and have access to a public street, or private road or a duly-recorded perpetual access easement giving access to a public street. Any such private road or access easement must be approved by the Planning Commission and shall, at a minimum, be 16.5 feet in width (which space shall be cleared of all obstructions throughout its length) and shall have an improved surface of at least 10 feet in width over its entire course. Where different requirements may exist or may be established under state law for private roads and/or for access easements, such requirements shall control. To the extent matters of yards and access for lots are provided in or may be established under the provisions of Section 601:6.17, 601:6.27 and 601:6.29, this Section shall not apply. (*Amended Ord. 104, eff. 11/1/02*)

Sec. 402:8 LOTS; WATER FRONTAGE; USE.

Those residential lots or parcels having water frontage and abutting a public or approved street shall maintain the yard on the water side as an open, unobscured yard except for vegetation such as trees or large shrubs, and that a covered and/or uncovered boat well and like accessory structures shall be permitted with Zoning Administrator approval.

Sec. 402:9 BASEMENT AS RESIDENCE PROHIBITED.

The use of an existing basement or the basement of a partially built or planned building as a residence or dwelling unit is prohibited in any zoning district. This provision should not be read to exclude new construction, below grade, to be used as a residence or dwelling unit where such new construction plans have been first approved by the Building Inspector.

Sec. 402:10 STRUCTURE; ON LOT ADJACENT TO PUBLIC STREET.

All structures shall be located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.

Sec. 402:11 MORE THAN ONE STRUCTURE ERECTED OR MAINTAINED ON A SINGLE LOT.

In any zoning district, more than one structure housing a permitted principal use may be erected or maintained on a single lot provided that all other requirements of this Ordinance shall be met for each such structure or for each such use as though it were on an individual lot. Where the above requirements cannot be met, such development may be permitted as a conditional use in certain zoning districts as provided in this ordinance if approved under provisions of Section 601:6.17 of this ordinance relating to planned unit developments and condominium developments. (*Amended Ord. 79, eff. 2/26/96*)

Sec. 402:12 PERMITTED DWELLING AND ACCESSORY STRUCTURE ON LOTS OF RECORD.

In any A-1, A/R, or R-1, R-2 District, a permitted dwelling and permitted accessory structure may be constructed or altered on any single lot of record at the effective date of adoption of this Ordinance, in spite of limitations imposed by other provisions of this Ordinance. However, to the maximum extent possible, all regulations of this Ordinance shall be complied with.

Sec. 402:13 ESSENTIAL SERVICES.

The erection, construction, alteration or maintenance by public or private utilities or governmental units, boards or commissions of overhead or underground gas, electrical steam or water distribution, transmission, collection, communication or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrant, towers, poles, electrical substations, gas regulator stations, utility pump and meter stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public or private utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district. Notwithstanding the exceptions contained in the immediately preceding sentence:

1. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
2. Public or private utility facilities in any zoning district shall be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.
3. Brine lines, hydrocarbon lines, oil and gas transmission lines, private power lines, including the easements for the same, shall be considered and subject to all provisions set forth for essential services even though all of the same may be maintained and/or owned by a private person.
4. Wireless Communications Towers and Antennas, as those terms are defined in Article VI-A, are not permitted or authorized pursuant to the provisions of this Sec. 402:13 but are, instead, permitted only as provided in Article VI-A. (*Amended Ord. 98, eff. 12/9/99*)

Sec. 402:14 CONTROL OF HEAT, GLARE, FUMES, DUST, SAND, NOISE, VIBRATION AND ODORS.

Every use shall be so conducted and operated that it is not obnoxious, dangerous, or a nuisance by reason of heat, glare, fumes, odors, dust, sand, noise or vibration beyond the lot on which the use is located, except those uses necessary to protect the general public health, safety and welfare. All land shall be stabilized in such manner as is necessary to prevent erosion, sand blows, or other soil conditions which cause dust, sand, dirt or other materials to be blown, washed or otherwise transported to adjoining lots or parcels.

Sec. 402:15 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION.

1. Construction Site - Temporary Yard.

Upon application, the Zoning Administrator may issue a permit for a temporary yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.

2. Subdivision or Housing Project.

Upon application, the Zoning Administrator may issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

3. Temporary Dwelling Unit, Construction Office or Security Building.

Upon application, the Zoning Administrator may issue a permit for a secondary structure as follows. In any district on any single lot where a structure intended for a permitted principal use is being constructed or altered, a secondary structure may be permitted and occupied as a temporary dwelling unit, construction office or security building provided that such secondary structure complies with all other applicable rules and regulations and also provided that occupancy of such secondary structure ceases within fourteen (14) days of the occupancy of the principal use structure.

4. Performance Bond.

As a condition to the issuance of a permit under paragraphs 2 or 3 above, the Zoning Administrator may require the posting of a performance bond issued by a Corporate Surety or Commercial Insurance Carrier in such amounts that will insure the timely removal of any temporary office and/or secondary structure authorized pursuant to Sections 402:15 2 or 402:15 3.

Sec. 402:16 HEALTH DEPARTMENT APPROVAL.

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, does not comply with the Rules and Regulations governing Waste and Sewage Disposal of Manistee-Mason District Health Department.

Sec. 402:17 RESIDENTIAL DWELLING STANDARDS (SINGLE-FAMILY).

GENERAL: It is the intent of this section to set forth minimum standards for single-family residential dwellings. These standards are based on existing housing conditions and building requirements within the Township and shall be in addition to other standards provided for within this Ordinance.

1. All single-family residential dwellings shall comply with the following standards:

- a. A dwelling must meet the minimum restrictions and requirements of this Ordinance for the zone in which it is located.

- b. All dwellings shall have a minimum width of twenty (20) feet as measured from across each front, side, and rear elevation.
- c. All dwellings shall comply with the Township building, electrical, plumbing, mechanical, energy and similar codes. Where said dwelling is a mobile home, the mobile home must either be (i) new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the Department of Housing and Urban Development, or any similar successor or replacement standards which may be promulgated or (ii) used and certified by the manufacturer and/or appropriate inspection agency as meeting the standard referenced in subsection (i) above, and found, on inspection by the Building Inspector or his designee, to be safe and fit for residential occupancy.
- d. All dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the Township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's set up instructions and shall be secured to the premises by an anchoring system or device complying with the rules of the Michigan Mobile Home Commission and shall have a perimeter wall as required above.
- e. No dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- f. All dwellings shall be connected to a public sewer and water supply or to such private facilities approved by the Manistee-Mason District Health Department or its designee.
- g. All dwellings shall have a storage capability area in a basement or crawl space located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to a minimum of ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less. Basements, crawl spaces, and separate structures shall be constructed so as to prevent the entrance of rodents, rain, and surface water drainage, and so as to be reasonably free from dampness to prevent conditions conducive to decay or deterioration of the structure, dwelling, or contents.
- h. Dwellings shall have a maximum length to width ratio of three (3) to one (1).
- i. Dwellings shall be constructed with construction materials of consistent quality. Hybrid construction combining two (2) or more different off-site constructed dwellings is prohibited.
- j. Dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. The compatibility of design and appearance shall be determined in the first instance by the Township Building Inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of said Building Inspector's decision. In making a determination of compatibility, the following standards shall be considered:
 - (1) The general type and kind of architectural design and appearance of the proposed dwelling (as compared with the type and kind of architectural design and appearance of residential dwellings located outside a mobile home park and within two thousand (2,000) feet of the subject dwelling), where such area is developed with dwellings to the

extent of not less than twenty percent (20%) of the lots situated within such area or, where such area is not so developed, the standard shall be the type and kind of architectural design and appearance of residential dwellings located throughout the Township.

- (2) The exterior appearance of dwellings in the neighborhood to the exterior appearance of the proposed dwelling.
- k. Dwellings shall meet or exceed all applicable roof snow loads and strength requirements.
- l. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required by this Ordinance.
- m. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township building code provisions and requirements.

Sec. 402:18 UNWHOLESOME SUBSTANCE. *(Amended Ord. 80, eff. 4/19/96)*

1. No unwholesome substance shall be deposited, dumped, accumulated, or permitted to exist or remain on any property, public or private, in any district in the Township except that this Section shall not apply to the following uses:
 - a. Landfills properly licensed and permitted under Federal, State and/or local law or ordinance.
 - b. Storage or salvage yards as permitted and authorized under this ordinance.
 - c. An automobile body only to the extent that such automobile body is not situated in the front yard and is completely screened or fenced to conceal the automobile body from public view or, alternatively, is housed within an enclosed structure.
 - d. Noxious weeds to the extent they exist in parcels of two acres or more in size.
2. Any unwholesome substance existing on any property within the Township shall be cleaned up, removed to a licensed landfill, deposited in proper receptacles for disposal or waste hauling, stored, cut, eradicated or otherwise lawfully disposed of within the time specified in the notice provided for in subsection 3 of this Section.
3. Determination of the existence of an unwholesome substance shall be made by the Zoning Administrator and/or Township Supervisor. Upon such determination the Zoning Administrator or Township Supervisor shall send by certified mail, return receipt requested, a written notice to the owner of record and/or occupant of the parcel, together with posting the notice on the premises. The notice shall identify the parcel, describe the unwholesome substance and its location on the parcel, and direct and order the removal of the unwholesome substance within a period of time not less than ten (10) days from the date of the notice; provided that, removal of the unwholesome substance can be required in a lesser number of days, upon the determination of the Zoning Administrator or Township Supervisor that the unwholesome substance presents an imminent threat to health, safety and welfare and such determination is stated in the notice. *(Amended Ord. 93 eff. 5/26/98)*
4. Failure to remove an unwholesome substance within the time specified in the notice shall be a violation of the Zoning Ordinance and a nuisance per se.

Sec. 402:19 TOPSOIL, SAND, GRAVEL, OR OTHER SUCH MATERIALS. *(Amended Ord. 101, eff. 11/27/01)*

Removal or addition of soil involving a surface area of over one (1) acre or within five hundred (500) feet of a body of water shall require a conditional use permit under Section 601:6.11. Provided that the earth change is in conjunction with an approved site plan for specific construction purposes, no conditional use permit shall be necessary.

Sec. 402:20 SHIELDING RESIDENTIAL PROPERTIES FROM DISSIMILAR USES.

As part of this site plan review and as a condition to the site plan approval, adequate screening, consisting of a fence, a wall, berms, or planted materials, or a combination of them, may be required to obscure vision, to help in reduction of noise and to provide a separation along the boundary of any non-residential use of land adjoining a parcel used for residential purposes. *(Added Ord. 110, eff. 12/27/04)*

Sec. 402:21. AIRPORT ZONING REGULATIONS.

In any Zoning District that abuts the Mason County Airport, lands may be located within an airport approach plan or an airport hazardous area plan, or both, adopted by the Michigan Aeronautics Commission and/or an authority, board or commission of Mason County under the provisions of the Airport Zoning Act, MCL 259.431, et. seq. The use and development of such lands and the construction or alteration of structures on such lands shall also be subject to the airport zoning regulations adopted by the Michigan Aeronautics Commission and/or Mason County. In the event of a conflict or inconsistency between the provisions of this Ordinance and such airport zoning regulations and plans established pursuant to the Airport Zoning Act, the latter shall control. In any event, the most restrictive provisions under this Ordinance or the airport zoning regulations shall apply. *(Amended Ord. 118, eff. 5/22/07)*