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SUBDIVISION II. ADMINISTRATION AND ENFORCEMENT

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Sec. 13-26. Department of property maintenance inspection.

- (a) *General.* The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the code official.
- (b) *Appointment.* The code official shall be appointed by the City Manager for the City of Petoskey.
- (c) *Deputies.* In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the code official.
- (d) *Liability.* The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.
- (e) *Fees.* The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be determined by resolution of the city council from time to time as adopted.

(Ord. No. 716, § 1(§ 103), 7-19-2010)

Sec. 13-27. Duties and powers of the code official.

- (a) *General.* The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.
- (b) *Inspections.* The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.
- (c) *Right of entry.* Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.
- (d) *Identification.* The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.
- (e) *Notices and orders.* The code official shall issue all necessary notices or orders to ensure compliance with this code.
- (f) *Department records.* The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

(Ord. No. 716, § 1(§ 104), 7-19-2010)

Sec. 13-2. Approval.

- (a) *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's representative, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.
- (b) *Alternative materials, methods and equipment.* The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.
- (c)

Required testing. □ whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

- (1) *Test methods.* Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.
- (2) *Test reports.* Reports of tests shall be retained by the code official for the period required for retention of public records.
- (d) *Used material and equipment.* The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.
- (e) *Approved materials and equipment.* Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.
- (f) *Research reports.* Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

(Ord. No. 716, § 1(§ 105), 7-19-2010)

Sec. 13-2. Violations.

- (a) *Unlawful acts.* It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.
- (b) *Notice of violation.* The code official shall serve a notice of violation or order in accordance with [section 13-30](#)
- (c) *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with [section 13-30](#) shall be deemed responsible for a municipal civil infraction, pursuant to [this section](#), subject to payment of a civil fine pursuant to the City of Petoskey Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions for each violation (as authorized by [Section 24](#) of Act 184 of the Public Acts of Michigan of 1943, as amended, the City of Petoskey Municipal Infraction Ordinance and other applicable laws), and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- (d) *Violation penalties.* Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- (e) *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(Ord. No. 716, § 1(§ 106), 7-19-2010)

Sec. 13-3. Notices and orders.

- (a) *Notice to person responsible.* Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in subsections (b) and (c) to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with subsection [13-31\(c\)](#).
- (b) *Form.* Such notice prescribed in subsection (a) shall be in accordance with all of the following
- (1) Be in writing.
 - (2) Include a description of the real estate sufficient for identification.
 - (3) Include a statement of the violation or violations and why the notice is being issued.
 - (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
 - (5) Inform the property owner of the right to appeal.
 - (6) Include a statement of the right to file a lien in accordance with subsection [13-29\(c\)](#).
- (c) *Method of service.* Such notice shall be deemed to be properly served if a copy thereof is
- (1) Delivered personally
 - (2) Sent by certified or first class mail addressed to the last known address or
 - (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- (d) *Unauthorized tampering.* Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.
- (e) *Penalties.* Penalties for noncompliance with orders and notices shall be as set forth in subsection [13-29\(d\)](#).
- (f) *Transfer of ownership.* It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. No. 716, § 1(§ 107), 7-19-2010)

Sec. 13-31. Unsafe structures and equipment.

- (a) *General.* When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.
- (1) *Unsafe structures.* An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not

providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

- (2) *Unsafe equipment.* Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
- (3) *Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- (4) *Unlawful structure.* An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.
- (5) *Dangerous structure or premises.* For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous
 - a. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
 - b. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
 - c. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
 - d. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of 1/2 the original designed value.
 - e. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
 - f. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
 - g. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants,

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(Ord. No. 716, § 1(§ 108), 7-19-2010)

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(Ord. No. 716, § 1(§ 109), 7-19-2010)

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(Ord. No. 716, § 1(§ 110), 7-19-2010)

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(Ord. No. 716, § 1(§ 111), 7-19-2010)

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(Ord. No. 716, § 1(§ 112), 7-19-2010)

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